AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

Vol.41–No.108
6–3–76

PAGES
22329–22547

federal register

THURSDAY, JUNE 3, 1976



highlights

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Ten agencies have agreed to a six-month trial period based on the assignment of two days a week beginning February 9 and ending August 6 (See 41 FR 5453). The participating agencies and the days assigned are as follows:

Monday	Tuesday	Wednesday	Thursday	Friday
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	LABOR			LABOR

Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this trial program are invited. Comments should be submitted to the Director of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

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federal register
Area Code 202 Phone 523-5240

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Title 3—The President

Executive Order 11918 • **June 1, 1976**

Compensation for Damages Involving Nuclear Reactors of United States Warships

By virtue of the authority vested in me by the joint resolution approved December 6, 1974 (Public Law 93–513, 88 Stat. 1610, 42 U.S.C. 2211), and by section 301 of title 3 of the United States Code, and as President of the United States of America, in order that prompt, adequate and effective compensation will be provided in the unlikely event of injury or damage resulting from a nuclear incident involving the nuclear reactor of a United States warship, it is hereby ordered as follows:

SECTION 1. (a) With respect to the administrative settlement of claims or judgments for bodily injury, death, or damage to or loss of real or personal property proven to have resulted from a nuclear incident involving the nuclear reactor of a United States warship, the Secretary of Defense is designated and empowered to authorize, in accord with Public Law 93–513, the payment, under such terms and conditions as he may direct, of such claims and judgments from contingency funds available to the Department of Defense.

(b) The Secretary of Defense shall, when he considers such action appropriate, certify claims or judgments described in subsection (a) and transmit to the Director of the Office of Management and Budget his recommendation with respect to appropriation by the Congress of such additional sums as may be necessary.

SEC. 2. The provisions of section 1 shall not be deemed to replace, alter, or diminish, the statutory and other functions vested in the Attorney General, or the head of any other agency, with respect to litigation against the United States and judgments and compromise settlements arising therefrom.

SEC. 3. The functions herein delegated shall be exercised in consultation with the Secretary of State in the case of any incident giving rise to a claim of a foreign country or national thereof, and international negotiations relating to Public Law 93–513 shall be performed by or under the authority of the Secretary of State.

Gerald R. Ford

THE WHITE HOUSE,
June 1, 1976.

[FR Doc.76–16274 Filed 6–1–76;4:26 pm]

Memorandum of May 31, 1976

Determination Under Section 202(a) of the Trade Act; Iron Blue Pigment

Memorandum for the Special Representative for Trade Negotiations

THE WHITE HOUSE,
Washington, May 31, 1976.

Pursuant to Section 202(b)(1) of the Trade Act of 1974 (P.L. 93–618, 88 Stat. 1978), I have determined the action I will take with respect to the report of the United States International Trade Commission (USITC) dated April 2, 1976, concerning the results of its investigation of a petition for import relief filed by American Cyanamid Co. on behalf of the domestic industry producing ferricyanide and ferrocyanide (iron blue) pigments provided for in item 473.28 of the Tariff Schedules of the United States.

After considering all relevant aspects of the case, including those set forth in Section 202(c) of the Trade Act of 1974, I have determined that provision of import relief is not in the national economic interest of the United States.

Since the period covered by the USITC report, the domestic economy has made very significant progress toward recovery from the recession. Demand for iron blue pigments has risen this year and with inventories drawn down, the capacity of the U.S. industry is not sufficient to supply anticipated consumption in 1976.

In the year of peak import penetration, 1973, imports were necessary to supply domestic demand. Since that time, imports have declined, both in absolute amounts and as a share of domestic consumption.

Employment remained steady at about 135 workers from 1972–74. As production declined sharply in 1975, about 36 workers were laid off. With output now rising, employment should also recover. However, adjustment assistance is available under the Trade Act of 1974 to workers if imports have contributed significantly to their unemployment.

Prices of domestic iron blue pigments have risen substantially, with the current average 15 percent or more above that reported by the USITC for 1975. Import prices have risen even more sharply. The increased tariff protection recommended by the USITC would result in further substantial price increases at a time when curbing inflation is a priority objective of national economic policy.

The great bulk of domestic iron blue pigments production is accounted for by two large multiproduct firms whose overall operations in recent years showed growing profits except in the 1975 recession. Iron blue pigments account for under 0.2 percent of total sales. With the resources available to such large producers, they should be able to finance any investment necessary to improve their competitive position vis-a-vis imports without tariff relief.

The Trade Act of 1974 requires that the President consider the effect of increased import restraints on the international economic interests of the United States. Since the tariff on iron blue pigments is bound in a trade agreement, the United States would face claims from the European Economic Community and Japan for duty reductions on other products of equal trade value. If agreement were not reached on such compensatory reductions, retaliatory duty increases could be levied against U.S. exports.

This determination is to be published in the FEDERAL REGISTER.

Gerald R. Ford

[FR Doc.76-16318 Filed 6-2-76; 11:55 am]

rules and regulations

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

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

Title 7—Agriculture

PART 1—ADMINISTRATIVE REGULATIONS

Adoption of Privacy Act Regulation

On April 1, 1976, a document was published in the FEDERAL REGISTER (41 FR 13938) proposing to amend 7 CFR 1.123 by adding another system of records to those exempted from certain sections of the Privacy Act of 1974 (5 U.S.C. 552a) pursuant to 5 U.S.C. 552a(k). Interested parties were given the opportunity to submit, not later than May 3, 1976, written comments on these proposed regulations.

No comments have been received, and the proposed amendment is hereby adopted as set forth below.

Effective date: June 3, 1976.

Done at Washington, D.C. this 28th day of May, 1976.

JOHN A. KNEBEL,
Acting Secretary.

§ 1.123 Specific exemptions.

* * * * *

FOOD AND NUTRITION SERVICE

* * * * *

FOREST SERVICE

LAW ENFORCEMENT INVESTIGATION RECORDS, USDA/FS–33

* * * * *

[FR Doc.76–16119 Filed 6–2–76;8:45 am]

SUBTITLE A—OFFICE OF THE SECRETARY OF AGRICULTURE

PART 2—DELEGATIONS OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICERS OF THE DEPARTMENT

Foreign Buyer Inquiries

Responsibility for handling foreign buyer inquiries regarding quality or weight discrepancies in export shipments of U.S. agricultural commodities.

Part 2, Subtitle A, Title 7, Code of Federal Regulations, is amended to delegate responsibility within the Department of Agriculture for handling foreign buyer inquiries regarding quality or weight discrepancies in export shipments of U.S. agricultural commodities, as follows:

1. Section 2.21 is amended by adding a new paragraph (d)(27) to read as follows:

§ 2.21 Delegations of authority to the Assistant Secretary for International Affairs and Commodity Programs.

* * * * *

(d) *Related to foreign agriculture.*

* * * * *

(27) Serve as a focal point for handling quality or weight discrepancy inquiries from foreign buyers of U.S. agricultural commodities to insure that they are investigated and receive a timely response and that reports thereof are made to appropriate parties and government officials in order that corrective action may be taken.

2. Section 2.68 is amended by adding a new paragraph (a)(15) to read as follows:

§ 2.68 Administrator, Foreign Agricultural Service.

(a) *Delegations.*

* * * * *

(15) Serve as a focal point for handling quality or weight discrepancy inquiries from foreign buyers of U.S. agricultural commodities to insure that they are investigated and receive a timely response and that reports thereof are made to appropriate parties and government officials in order that corrective action may be taken.

These amendments shall become effective June 3, 1976.

Date: May 26, 1976.

For Subpart C:

EARL L. BUTZ,
Secretary of Agriculture.

For Subpart H:

RICHARD E. BELL,
Assistant Secretary for International Affairs and Commodity Programs.

[FR Doc.76–16081 Filed 6–2–76;8:45 am]

[Amdt. 29]

PART 5—DETERMINATION OF PARITY PRICES

Revising Indices of Prices Paid by Farmers Including the Parity Index

The regulations of the Secretary of Agriculture with respect to the determination of parity prices (21 F.R. 761, as amended) are further amended to provide for the use of a revised parity index (index of prices paid by farmers, including interest, taxes, and farm wage rates) as the official index for the computation of parity prices beginning May 1976. The revised index and related indices will use updated weights based on the period 1971–73 and will include other modifications made in recognition of the changing economic structure of agriculture.

Since the change in the regulations involved only the use of updated weights and other modifications designed to achieve an improved result and proposed restructuring was circulated to data users and some modifications were adopted in recognition of their comments, it is hereby found that public participation requirements with respect to this amendment are impracticable and unnecessary.

1. Section 5.1(a) is amended to read as follows:

§ 5.1 [Amended]

(a) The parity index and related indices for the purpose of calculating parity prices after May 1, 1976, according to the formula contained in section 301(a) of the Agricultural Adjustment Act of 1938, as amended by the Agricultural Acts of 1948, 1949, 1954, and 1956 (hereinafter referred to as section 301 (a)) shall be the index of prices paid by farmers, interest, taxes, and farm wage rates, as revised May 1976 and published in the May 28, 1976, and subsequent issues of the monthly report, "Agricultural Prices." The publication of these indices by the Statistical Reporting Service in the monthly report, "Agricultural Prices", shall be continued.

* * * * *

2. Parity prices and indices heretofore published for periods prior to May 1, 1976, shall not be revised.

Done at Washington, D.C., this 28th day of May 1976.

JOHN A. KNEBEL,
Acting Secretary.

[FR Doc.76–16080 Filed 6–2–76;8:45 am]

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

[Navel Orange Regulation 383]

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

Limitation of Handling

PREAMBLE

This regulation fixes the quantity of California-Arizona Navel oranges that may be shipped to fresh market during the weekly regulation period June 4–10, 1976. It is issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order 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.

§ 907.683 Navel Orange Regulation 383.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, 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 still reasonably strong for first grade fruit, while other grades are showing weakness. Prices f.o.b. averaged $3.20 a carton on a reported sales volume of 991 carlots last week, compared with an average f.o.b. price of $2.96 per carton and sales of 1,186 carlots a week earlier. Track and rolling supplies at 403 cars were up 33 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 rule-making 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 June 1, 1976.

(b) *Order.* (1) The respective quantities of Navel oranges grown in Arizona and designated part of California which may be handled during the period June 4, 1976, through June 10, 1976, are hereby fixed as follows:

(i) District 1: 850,000 cartons;

(ii) District 2: Unlimited movement;

(iii) District 3: Unlimited movement.

(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: June 2, 1976.

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

[FR Doc.76-16311 Filed 6-2-76;11:16 am]

CHAPTER XIV—COMMODITY CREDIT CORPORATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

Subpart—General Regulations Governing Price Support for the 1976 and Subsequent Crops

REVISION

The regulations issued by the Commodity Credit Corporation (CCC) published in 35 FR 7363 and 7781, as amended, and containing the General Regulations Governing Price Support for the 1970 and Subsequent Crops of grains and similarly handled commodities are hereby revised as follows. The material previously appearing in these regulations remains in full force and effect as to the crops to which it was applicable.

Sec.
1421.1 General statement.
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1421.16 Personal liability of the producer.
1421.17 Farm storage loans.
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1421.23 Foreclosure.
1421.24 Weed control laws.
1421.25 Handling payments and collections not exceeding $3.
1421.26 Definitions.
1421.27 Death, incompetency, or disappearance.
1421.28 ASCS Commodity Office and Data Systems Field Office.

AUTHORITY: Secs. 4 and 5, 62 Stat. 1070, as amended (15 U.S.C. 714 b and c); secs. 101, 105, 107, 301, 401, 405, 63 Stat. 1051, as amended (7 U.S.C. 1441, 1441 note, 1445a, 1447, 1421, 1425).

Subpart—General Regulations Governing Price Support for the 1976 and Subsequent Crops

§ 1421.1 General statement.

This subpart contains the regulations which set forth the general requirements with respect to price support for the 1976 crop and each subsequent crop of barley, corn, oats, rice, rye, sorghums, soybeans, farm-stored peanuts, tung oil, farm-stored flue-cured tobacco, and wheat. Price support shall be made available for a particular crop of any such commodity only if an annual commodity supplement applicable to the crop is issued authorizing a price support program. The regulations in this subpart shall also apply to other commodities to the extent specified in the regulations applicable to such commodities. Farm-storage loans will be evidenced by notes and secured by security agreements and in certain cases, chattel mortgages or financing statements. Warehouse storage loans will be evidenced by notes and security agreements and secured by the pledge of warehouse receipts representing an eligible commodity stored in approved warehouse storage. A producer may sell to CCC any or all of his eligible commodity which is not security for a price support loan by delivering the commodity to CCC or by delivering warehouse receipts representing the commodity in approved warehouse storage. As used in the regulations in this subpart, "CCC" means the Commodity Credit Corporation, and "ASCS" means the Agricultural Stabilization and Conservation Service of the U.S. Department of Agriculture.

§ 1421.2 Administration.

(a) *Responsibility.* The Grains, Oilseeds, and Cotton Division, ASCS, will

administer the regulations in this subpart under the general supervision and direction of the Deputy Administrator, Programs, ASCS, in accordance with program provisions and policy determined by the CCC Board of Directors and the Executive Vice President, CCC. In the field, the regulations in this subpart will be administered by the Agricultural Stabilization and Conservation State and county committees (hereinafter called State and county committees), ASCS Commodity Office and the ASCS Data Systems Field Office.

(b) *Documents.* Any member of the county committee, the county executive director, or other employee of the county ASCS office (hereinafter called county office) designated in writing by the county executive director to act in his behalf (such delegation to be filed in the county office) is authorized to approve documents under this program except where otherwise specified in the regulations in this subpart. He may also execute releases or otherwise obtain the release of record of chattel mortgages and security agreements made to CCC to secure loans on agricultural commodities upon payment in full of the loan involved. He may execute indemnity agreements on behalf of CCC where any county recording officer deems such indemnity agreement necessary to releasing a mortgage or security agreement of record.

(c) *Limitation of authority.* County executive directors, State and county committees, ASCS commodity offices, and the ASCS Data Systems Field Office do not have authority to modify or waive any of the provisions of the regulations in this subpart.

(d) *State committee.* The State committee may take any action authorized or required by the regulations in this subpart to be taken by the county committee which has not been taken by such committee. The State committee may also (1) correct or require a county committee to correct any action taken by such county committee which is not in accordance with the regulations in this subpart, or (2) require a county committee to withhold taking any action which is not in accordance with the applicable regulations in this subpart.

(e) *Executive Vice President, CCC.* No delegation herein to a State or county committee, the ASCS commodity office, or the ASCS Data Systems Field Office shall preclude the Executive Vice President, CCC, or his designee, from determining any question arising under the regulations in this subpart or from reversing or modifying any determination made by a State or county committee, the ASCS commodity office, or the ASCS Data Systems Field Office.

§ 1421.3 Eligible producers.

(a) *Producer.* An eligible producer of a crop of a commodity shall be an individual, partnership, association, corporation, estate, trust, State or political subdivision or agency thereof, or other legal entity (1) which produces such crop as landowner, landlord, tenant, or sharecropper, or in the case of rice, furnishes land, labor, water, or equipment for a share of the rice crop, and (2) which meets the requirements for eligibility for price support contained in the regulations in this subpart.

(b) *Estates and trusts.* A receiver or trustee of an insolvent or bankrupt debtor's estate, an executor or an administrator of a deceased person's estate, a guardian of an estate of a ward or an incompetent person, and trustees of a trust estate shall be considered to represent the insolvent or bankrupt debtor, the deceased person, the ward or incompetent, and the beneficiaries of a trust, respectively, and the production of the receiver, executor, administrator, guardian, or trustee shall be considered to be the production of the person or estate he represents. Loan or purchase documents executed by any such person will be accepted by CCC only if they are legally valid and such person has the authority to sign the applicable documents.

(c) *Eligibility of minors.* A minor who is otherwise an eligible producer shall be eligible for price support only if he meets one of the following requirements: (1) The right of majority has been conferred on him by court proceedings or by statute; (2) a guardian has been appointed to manage his property and the applicable price support documents are signed by the guardian; (3) any note signed by the minor is cosigned by a financially responsible person; or (4) a bond is furnished under which a surety guarantees to protect CCC from any loss incurred for which the minor would be liable had he been an adult.

(d) *Joint-loans.* Two or more eligible producers may obtain a joint loan on an eligible commodity produced by them if stored in the same farm storage facility or in the case of a warehouse storage loan, if the warehouse receipt is issued jointly to such producers. Each producer who is a party to a joint loan will be jointly and severally liable for the breach of the obligations set forth in the loan documents and in the regulations applicable to the price support program for the commodity on which the loan was made.

(e) *Approval by county committee.* If a producer has been convicted of a criminal act, or has made a misrepresentation, in connection with any price support program, or has unlawfully disposed of any loan collateral, or if the county committee has had difficulty in settling a loan with the producer because of his failure to protect properly the mortgaged commodity, or for other reasonable grounds, the producer may be denied price support until the county committee is satisfied that both he and the commodity offered for price support meet the eligibility requirements of the program, and that CCC will be fully protected against any possible loss other than a loss assumed by CCC under the regulations in this subpart.

(f) *Warehouse storage loans to warehousemen.* Warehouse storage loans may be made to a warehouseman who, in his capacity as a producer, tenders to CCC warehouse receipts issued by him on a commodity produced by him only in those States where the issuance and pledge of such warehouse receipts is valid under State law.

(g) *Approved cooperative.* A cooperative marketing association which is approved by the Executive Vice President, CCC, pursuant to Part 1425 of this chapter, to obtain price support on a crop of rice, soybeans, or tung oil may obtain price support on eligible production of such crop of the commodity on behalf of its members. The term "producer" as used in this subpart and on applicable forms shall refer both to an eligible producer as defined in paragraphs (a), (b), and (c) of this section and to an approved cooperative marketing association.

§ 1421.4 Eligibility requirements.

(a) *Requesting price support.* To obtain price support on an eligible commodity, a producer must request a loan on, or notify the county office of his intention to sell his eligible commodity by delivering to the county office a completed Purchase Agreement (Form CCC-614), no later than the date(s) specified in the applicable commodity supplement(s).

(b) *Area of availability.* Price support shall be available to eligible producers on barley, corn, oats, rye, sorghum, soybeans, and wheat produced in any area of the United States. Price support shall be available on rice produced only in the continental United States and price support on farm-stored peanuts, tung oil, and farm-stored flue-cured tobacco shall be available only in the States specified in the regulations applicable to such commodities. Commodities must not have been produced on land owned by the Federal Government if such land is occupied without lease, permit, or other right of possession. Tobacco and peanuts produced on land owned by the Federal Government in violation of the lease shall not be eligible for price support.

(c) *Beneficial interest.* To be eligible for price support, the beneficial interest in the commodity must be in the producer tendering the commodity as security for a loan or for purchase and must always have been in him or in him and a former producer whom he succeeded before it was harvested, except that heirs who (1) succeed to the beneficial interest of a deceased producer, (2) assume the decedent's obligation under a loan if a loan has already been obtained, and (3) assure continued safe storage of the commodity if under farm storage loan, shall be eligible for price support as producers whether such succession occurs before or after harvest of the commodity. A producer shall not be considered to have divested himself of the beneficial interest in the commodity if he enters into a contract to sell or gives an option to buy his commodity if, under the contract or option, he retains control, risk of loss and title to the commodity subject to such agreements and retains control of its production. Commodities obtained by purchase shall not be eligible for price

support. If price support is made available through an approved cooperative marketing association, the beneficial interest in the commodity must always have been in the producer-members who delivered the commodity to the approved cooperative or its member cooperatives or must always have been in them and former producers whom they succeeded before the commodity was harvested, except as provided in the case of heirs of a deceased producer. Commodities so delivered to a cooperative marketing association shall not be eligible for price support if the producer-members who delivered the commodity to the cooperative or its member cooperatives do not retain the right to share in the proceeds from the marketing of the commodity as provided in Part 1425 of this chapter.

(d) *Succession of interest.* To meet the requirements of succession to the beneficial interest of a former or deceased producer under paragraph (c) of this section, the rights, responsibilities, and interest of the former producer with respect to the farming unit on which the commodity was produced shall have been substantially assumed by the person claiming succession. Mere purchase or inheritance of a crop prior to harvest without acquisition of any additional interest in the farming unit on which the crop is produced, does not constitute succession to such beneficial interest.

(e) *Doubtful cases.* Any producer in doubt as to whether his interest in the commodity complies with the requirements of this section, before requesting price support, shall make available to the county committee all pertinent information which will permit a determination to be made by CCC.

(f) *Redeemed loan collateral.* A producer may reoffer as security or repledge as collateral for a loan any commodity that has been previously so mortgaged or pledged. Such loan shall have the same maturity date as the original loan.

§ 1421.5 Miscellaneous requirements.

(a) *Revenue stamps.* Farm Storage Note and Security Agreements and Warehouse Storage Note and Security Agreements must have State and documentary revenue stamps affixed thereto where required by law.

(b) *Restrictions in use of agents.* A producer shall not delegate to any person (or his representative) who has any interest in storing, processing, or merchandising any commodity eligible for price support under a program to which this subpart is applicable, authority to exercise on behalf of the producer any of the producer's rights or privileges under such program or any note and security agreement, or other instrument executed in obtaining price support under such program, unless the person (or his representative) to whom authority is delegated is serving in the capacity of a farm manager for the producer. Any delegation of authority given in violation of this paragraph shall be without force and effect and shall not be recognized by CCC.

§ 1421.6 Program availability, disbursement, and maturity of loans.

(a) *Where to request price support.* A producer should request price support at the local county ASCS office. An approved cooperative marketing association must request price support at a servicing bank approved by CCC or at the county ASCS office for the county in which the principal office of the cooperative is located unless the State ASC committee designates some other county ASCS office.

(b) *Disbursement of loans.* Disbursement of loans will be made by county ASCS offices by drafts drawn on CCC or by credit to the producer's account, except that loans may be disbursed by approved servicing banks to approved cooperative marketing associations. The loan documents shall not be presented for disbursement unless the commodity covered by the mortgage or pledge is in existence and in good condition. If the commodity was not in existence and in good condition at the time of disbursement, the total amount disbursed under the loan shall be refunded promptly.

(c) *Availability and maturity dates.* Final availability and maturity dates applicable to loans and purchases will be specified in the annual commodity supplements to the regulations in this subpart. Whenever the final date of availability or the maturity date falls on a nonworking day for county offices, the applicable final date shall be extended to include the next workday. Loans on commodities, other than rice, farm-stored flue-cured tobacco, farm-stored peanuts, and tung oil mature on demand but not later than the last day of the eleventh calendar month following the month in which the loan was disbursed, except that loans made on warehouse receipts which show that the eleven month storage charge has been paid but the date of tender to CCC is after the date the warehouse receipt was issued, mature on the date through which such charges have been paid.

(d) *Loan repayment acceleration.* CCC may at any time accelerate the time for repayment of a price support loan indebtedness. In the event of any such acceleration, CCC will give the producer notice of such acceleration at least 10 days in advance of the accelerated loan maturity date.

§ 1421.7 Approved storage.

Loans will be made only on commodities in approved storage as defined below:

(a) *Farm storage.* Approved farm storage shall consist of a storage structure located on or off the farm (excluding public warehouses) which is determined by a representative of the county committee to afford safe storage of the commodity.

(b) *Warehouse storage.* Approved warehouse storage shall consist of a public warehouse for which a CCC storage agreement for the commodity is in effect and which is approved by CCC for price support purposes. Such warehouse is referred to in the regulations in this subpart as an "approved warehouse". The names of approved warehouses may be obtained from the ASCS commodity office or from State and county offices.

§ 1421.8 Applicable forms.

The forms for use in connection with this program shall be as follows: Form CCC–614, Purchase Agreement; Form CCC–677, Farm Storage Note and Security Agreement; Form CCC–678, Warehouse Storage Note and Security Agreement; Form CCC–679, Lien Waiver; Form CCC–681, Authorization for Removal of Farm Storage Collateral; Form CCC–685, Authorization to Release Warehouse Receipts; Form CCC–687–1, Approval to Move Loan Collateral; Form CCC–691, Commodity Delivery Notice; Form CCC–692, Settlement Statement; Form CCC–693, Price Support Settlement Intention (Farm Storage); Form CCC–694, Price Support Settlement Intention (Warehouse Storage); Form CCC–864, Lienholder's Subordination Agreement; and such other forms as may be prescribed by CCC. These forms may be obtained in State and county offices.

§ 1421.9 Warehouse receipts.

(a) *General.* Warehouse receipts tendered to CCC under this program must meet all of the requirements of this section and any other requirements contained in the regulations in this subpart and in the applicable commodity supplement.

(b) *Manner of issuance and endorsement.* Warehouse receipts must be issued in the name of the eligible producer or CCC. If issued in the name of the eligible producer, the receipts must be properly endorsed in blank so as to vest title in the holder. Receipts must be issued by an approved warehouse and, except in the case of rice, must represent a commodity which is deemed to be stored commingled. The receipts must be negotiable, must cover the eligible commodity actually in storage in the warehouse of original deposit, and must be registered or recorded with appropriate State or local officials when required by State law. Warehouse receipts must show that storage charges have been paid or otherwise provided for through the applicable maturity date.

(c) *Where warehouseman is also owner.* If the receipt is issued for a commodity which is owned by the warehouseman, either solely, jointly or in common with others, the fact of such ownership shall be stated on the receipt. In States where the pledge of warehouse receipts issued by a warehouseman on his own commodity is not valid under State law and the warehouseman elects to deliver the commodity to CCC for purchase, the warehouse receipt shall be issued in the name of CCC.

(d) *Insurance.* Each warehouse receipt or accompanying supplemental certificate representing a commodity stored in an approved warehouse which has a storage agreement with CCC shall indicate that the commodity is insured in

accordance with such agreement. The cost of such insurance shall not be for the account of CCC.

§ 1421.10 Liens.

If there are any liens or encumbrances on the commodity, waivers that will fully protect the interest of CCC must be obtained even though the liens or encumbrances are satisfied from the loan or purchase proceeds. Notwithstanding the foregoing provisions, in lieu of waiving his prior lien on a commodity tendered as security for a loan, a lienholder may execute a Lienholder's Subordination Agreement (Form CCC–864) with CCC in which he subordinates his security interest to the rights of CCC in the commodity subject to the loan or such other quantity of the commodity as is delivered in satisfaction of a loan under applicable program provisions. No additional liens or encumbrances shall be placed on the commodity after the loan is approved.

§ 1421.11 Fees and charges.

(a) *Loan service fee.* A producer shall pay a loan service fee of $10 for each farm storage loan disbursed, plus $1 for each bin over one, and $6 for each warehouse storage loan disbursed, plus $1 for each warehouse receipt over one. The loan service fee is not refundable.

(b) *Delivery charge.* A delivery charge, in addition to the loan service fee, shall be paid by producers on the quantity of the commodity delivered to CCC. The rate is one-half cent per bushel for commodities handled on a bushel basis and 1 cent per hundredweight for commodities handled on a hundredweight basis. In the case of farm storage loans, identity preserved and modified commingled warehouse storage loans, and purchases, such delivery charge shall be paid at time of settlement. In the case of commingled warehouse storage loans, such delivery charge shall be deducted from loan proceeds and will be credited to the producer's account on any quantity redeemed.

§ 1421.12 Interest rate.

Loans shall bear interest at the rate announced in a separate notice published in the FEDERAL REGISTER.

§ 1421.13 Insurance on farm storage loans.

CCC does not require the producer to insure the commodity placed under a farm storage loan; however, if the producer insures such commodity and an indemnity is paid thereon, such indemnity shall inure to the benefit of CCC to the extent of its interest after first satisfying the producer's equity in the commodity involved in the loss.

§ 1421.14 Setoffs.

(a) *Facility and drying equipment loans.* If any installment or installments on any loan made by CCC on farm storage facilities or drying equipment are due and payable under the provisions of the note evidencing such loan out of any amount due the producer under the regulations in this subpart, the amount due the producer, after deduction of applicable fees and charges and amounts due prior lienholders, shall be applied to satisfy the amounts due and payable on such installment(s).

(b) *Producers listed on county claim control record.* If the producer is indebted to CCC or to any other agency of the United States and such indebtedness is listed on the county claim control record, amounts due the producer under the regulations in this subpart, after deduction of amounts due and payable on farm storage facilities or drying equipment and other amounts provided in paragraph (a) of this section, shall be applied as provided in the Secretary's Setoff Regulations, Part 13 of this title, to such indebtedness.

(c) *Producer's right.* Compliance with the provisions of this section shall not deprive the producer of any right he would otherwise have to contest the justness of the indebtedness involved in the setoff action, either by administrative appeal or by legal action.

§ 1421.15 Loss or damage to the commodity.

The producer is responsible for any loss in quantity or quality of the commodity placed under a farm storage loan or identity preserved warehouse storage loan, or for any loss in quality of the commodity placed under a modified commingled warehouse storage loan. Notwithstanding the foregoing, any such loss occurring and reported to the county office after disbursement of the loan funds and prior to redemption or delivery to CCC will be assumed by CCC to the extent of the settlement value at the time of destruction of the quality of the commodity destroyed up to a quantity not in excess of that required to secure the outstanding loan (or if the commodity is not destroyed, in an amount equivalent to the extent of the loss or damage as determined by CCC), less any insurance proceeds to which CCC may be entitled and the salvage value of the commodity, if the producer establishes to the satisfaction of CCC each of the following conditions: (a) The physical loss or damage occurred without fault or negligence on the part of the producer or any other person having control of the storage structure; (b) the physical loss or damage resulted solely from an external cause (other than insect infestation, rodents, or vermin), such as theft by a person not entrusted with possession of the commodity and occurring without the knowledge or consent (express or implied) of the producer, fire, lightning, explosion, windstorm, cyclone, tornado, flood, or other act of God; (c) the producer has given the county office immediate notice of such loss or damage prior to redemption or delivery to CCC; and (d) the producer has made no fraudulent representation in the loan documents or in obtaining the loan. No physical loss or damage occurring prior to the date of disbursement of the loan funds to the producer will be assumed by CCC.

§ 1421.16 Personal liability of the producer.

(a) *Fraud relating to farm storage and warehouse storage loans and unlawful dispositions.* The making of any fraudulent representation by a producer in the loan documents, in obtaining a loan, or in connection with settlement or delivery under a loan, or the unlawful disposition of any portion of the commodity by him, shall render the producer subject to criminal prosecution under Federal law. Any such loans shall become payable upon demand and the producer shall be personally liable, aside from any additional liability under criminal and civil frauds statutes, for the amount of the loan, for any additional amount paid to the producer in connection with the commodity, and for all costs which CCC would not have incurred had it not been for the producer's fraudulent representation or unlawful disposition, together with interest on such amounts. Notwithstanding the provisions of section 6(b) of the Farm Storage Note and Security Agreement (Form CCC–677) and section 6(b) of the Warehouse Storage Note and Security Agreement (Form CCC–678), if a producer has made any such fraudulent representation or unlawful disposition, the amount with which he will be credited for any commodity delivered to or removed by CCC will be, whichever is applicable, (1) the market value as determined by CCC as of the date of delivery to or removal by CCC or the loan settlement value, whichever is the lower, in the case of farm storage loans, (2) the market value of the commodity at the close of the market on the final date for repayment or the loan settlement value, whichever is the lower, in the case of warehouse storage loans, or (3) the sales price, less any costs sustained by CCC, if the commodity is sold by CCC in order to determine its market value, or the loan settlement value, whichever is the lower. If the unlawful disposition of the loan collateral is determined by CCC not to have been a willful conversion, the value of the commodity, or part thereof delivered to CCC or removed by CCC, shall be the same as the settlement value for an eligible commodity acquired by CCC as provided in the applicable commodity supplement.

(b) *Fraud relating to purchases.* If the producer has made a fraudulent representation in a price support purchase by CCC or in the purchase documents, he shall be personally liable, aside from any additional liability under criminal or civil fraud statutes, for any loss which CCC sustains upon the commodity delivered under the purchase agreement. For the purpose of this program, such loss shall be deemed to be the price paid to the producer on the commodity delivered under the purchase agreement plus all costs sustained by CCC in connection with the commodity together with interest on such amounts, less the lowest of the following: The market value, as determined by CCC, of the commodity as of the close of the market on the date of delivery; the sales price

if the commodity is sold in order to determine its market value; or CCC's purchase price.

(c) *Poisonous substances and contamination.* A producer shall be personally liable for any damages resulting from delivering to CCC a commodity containing mercurial compounds or other substances poisonous to man or animals or food commodities which are contaminated.

(d) *Overdisbursement.* If the amount disbursed under a loan or purchase or in settlement thereof, exceeds the amount authorized under these regulations and the applicable commodity supplement to this subpart, the producer shall be personally liable for repayment of the amount of such excess.

(e) *Undercollection.* If the amount collected from the producer in satisfaction of the loan is less than the amount required according to this part, the producer shall be personally liable for repayment of the amount of such deficiency.

(f) *Joint loans.* In the case of joint loans, the personal liability for the amounts specified in this section shall be joint and several on the part of each producer signing the note.

§ 1421.17 Farm storage loans.

(a) *Quantity for loan.* Farm storage loans shall not be made on more than a percentage (hereinafter called the "loan percentage"), as established by the State committee, of the certified or measured quantity of the eligible commodity stored in approved farm storage and covered by the note and security agreement. The maximum loan percentage shall be 85 percent in the case of ear corn and peanuts and 90 percent in the case of all other farm stored commodities. The State committee shall establish the loan percentage each year for each commodity on a statewide basis or for specified areas within the State. Prior to the establishment of a loan percentage, the State committee shall consider conditions in the State or areas within a State to determine if the loan percentage should be below the maximum loan percentage in order to provide CCC with the adequate protection. Loan percentages previously determined shall be lowered if warranted by changed conditions but new loan percentages shall apply only to new loans and not to loans already made. Factors to be considered by the State committee in determining the loan percentages are: (1) General crop conditions, (2) factors affecting quality peculiar to an area or State, and (3) climatic conditions affecting storage ability. The loan percentages established by the State committee may be lowered by the county committee on an individual farm or producer basis when determined to be necessary in order to provide CCC with adequate protection. Factors to be considered by the county committee are: (i) Condition or suitability of the storage structure, (ii) condition of the commodity, (iii) hazardous location of the storage structure, such as a location which exposes the structure to danger of flood, fire, and theft by a person not entrusted with possession of the commodity and occurring without the knowledge and consent (express or implied) of the producer (when the percentage is lowered for one or more of these hazards, the producer shall be notified in writing that CCC will not assume any loss or damage to the loan collateral resulting from the particular hazards to which the structure was exposed), (iv) disagreement on the quantity, (v) producers who have been approved under § 1421.3(e), and (vi) factors peculiar to individual farms or producers as reported by the commodity loan inspector or as known to the county office which relate to the preservation or safety of the loan collateral. Farm storage loans may be made on less than the maximum quantity eligible for loan at the producer's request. In any event, the mortgage shall cover all of the commodity in the bin, crib, or lot in which the commodity on which the loan is made is stored.

(b) *Commingling eligible and ineligible commodity.* Except when stored in an approved warehouse, if a quantity of an eligible commodity (other than rice) is commingled with a quantity of the commodity which is ineligible for price support, the entire quantity shall be ineligible for price support.

(c) *Transfer from farm storage loan to warehouse storage loans.* Upon request by the producer, the county committee may approve the transfer of a commodity or part thereof which is under a farm storage loan to a warehouse storage loan at any time during the loan period. In the case of emergency transfers, the producer must make the request in writing describing the emergency. Liquidation of the farm storage loan or part thereof shall be made through the pledge of warehouse receipts for the commodity placed under warehouse storage loan and the immediate payment by the producer of the amount by which the warehouse storage loan is less than the farm storage loan or part thereof plus interest. Any amounts due the producer shall be disbursed by the county office.

(d) *Producer certification.* In addition to loan quantity determinations based on measurement, as provided in paragraph (a) of this section, in any county, State, or area designated by the Executive Vice President, CCC, such determinations may be made on the basis of the quantity of commodity which an eligible producer certifies in writing on Form CCC–666 is eligible, if in an approved farm storage, and is available for loan purposes.

(e) *Producer incorrect certification.* (i) If the county committee determines, by measurement or otherwise, that the actual quantity serving as collateral for a loan based on certification by the producer is less than the loan quantity, the county committee shall call the loan. In addition, the county committee may refuse to approve any further farm-stored loans for the producer on any commodity through the end of the next crop year after the crop year in which the incorrect certification was made and, if the county committee feels the seriousness of the matter justifies such action, refer the case to the State committee which may request the Office of Inspector General of the United States Department of Agriculture (hereinafter referred to as OIG) to make an investigation.

(ii) If the producer has incorrectly certified such quantities on more than one occasion, the county committee shall call the loan or loans involved and approve no further farm-stored loans for the producer on any commodity through the end of the next crop year after the crop year in which the incorrect certification was made. If the county committee feels the seriousness of the matter so justifies they may deny further farm-stored loans to the producer for more than one year. They may also refer the case to the State committee which may request OIG to make an investigation.

(f) *Unauthorized removal.* If there has been an unauthorized removal of any part of farm-stored collateral, the county committee shall, on the first offense, call the loan involved. In addition, the county committee may refuse to approve any further farm stored loans for the producer on any commodity through the end of the next crop year after the crop year in which the unauthorized removal occurred, and if the county committee feels the seriousness of the matter justifies such action, refer the case to the State committee which may request an OIG investigation by the Office of Inspector General. If the unauthorized removal is the second offense the county committee shall: Call the loan involved and approve no further farm-stored loans for the producer on any commodity through the end of the next crop year after the crop year in which the unauthorized removal occurred. The county committee may also, if they feel the seriousness of the matter so justifies, deny farm-stored loans to the producer for more than one year and may also refer the case to the State committee which may request an OIG investigation.

§ 1421.18 Release of the commodity under loan.

(a) *Obtaining release—farm storage loan.* A producer shall not remove any collateral until he has received prior written approval for such removal from the county committee on one of the applicable forms listed in § 1421.8. A producer may at any time obtain release of all or part of the commodity remaining under loan by paying to CCC the amount of the loan made with respect to the quantity of the commodity released plus interest. CCC will permit removal of a quantity of the commodity from storage, without any payment on the loan, if the principal amount outstanding on the loan does not exceed the maximum loan which may be obtained based on the quantity remaining in storage after removal of the quantity requested by the producer. When the proceeds of the sale of the commodity are needed to repay a farm storage loan, the producer must

request and obtain prior written approval of the county office on a form prescribed by CCC to remove a specified quantity of the commodity from storage. Any such approval shall be subject to the terms and conditions set out in the applicable form, copies of which may be obtained by producers at the county office. Any such approval shall not constitute a release of CCC's security interest in the commodity or release the producer from liability for any amounts due on his loan indebtedness if full payment of such amounts is not received by the county office.

(b) *Release of chattel mortgage.* The chattel mortgage shall not be released until the loan has been satisfied in full. After satisfaction of a loan, the county executive director shall release the chattel mortgage.

(c) *Obtaining release, warehouse storage loans.* The producer may arrange with the county office for release of all or part of the commodity under warehouse storage loan on or prior to maturity by repayment of the amount of the loan with respect to the quantity of the commodity to be released plus interest. Each partial release must cover all of the commodity represented by one warehouse receipt. Subject to provisions of § 1421.5(b), warehouse receipts redeemed by repayment shall be released only to the producer or his authorized agent, except that redeemed warehouse receipts may be released to persons designated in a written authorization filed with the county office by the producer or his properly authorized agent and dated within 15 days prior to the date of repayment.

§ 1421.19 Liquidation of farm storage loans.

(a) *General.* In the case of farm storage loans, the producer is required to pay off his loan or deliver to CCC a sufficient quantity of the eligible commodity having a price support value equal to or greater than the outstanding balance of the loan. Deliveries may be either of the identical commodity which is subject to the note and security agreement or of other eligible commodity of the same kind and of the same crop year. Deliveries shall be made in accordance with written instructions issued by the county office which shall set forth the time and place of delivery. Any quantity delivered in excess of the quantity necessary to settle the amount due on the loan may be delivered to CCC with settlement as provided in § 1421.22.

(b) *Notice to county office.* If the producer desires to deliver the commodity to CCC he should, on or before maturity, give the county office notice in writing of his intention to do so.

(c) *Commodity going out of condition.* If, either before or after maturity, the commodity is going out of condition or is in danger of going out of condition, the producer shall so notify the county office and confirm such notice in writing. If the county committee determines that the commodity is going out of condition or is in danger of going out of condition and the commodity cannot be satisfactorily conditioned by the producer and delivery cannot be accepted within a reasonable length of time, the county committee shall arrange for an inspection and grade and quality determination. When delivery is completed, settlement shall be made subject to the provisions of § 1421.15 on the basis of such grade and quality determination or on the basis of the grade and quality determination made at the time of delivery, whichever is higher, for the quantity actually delivered.

(d) *Delivery before maturity date.* If the producer loses control of the storage structure, or if there is insect infestation that cannot be controlled, danger of flood, or damage to the storage structure making it unsafe to continue storage of the commodity on the farm, the commodity may be delivered before the maturity date of the loan upon prior approval of the county committee. Settlement will be made with the producer as provided in § 1421.22.

§ 1421.20 Liquidations of Warehouse storage loans.

If a producer does not repay the loan indebtedness upon maturity of the loan, CCC shall have the right to sell or acquire title to the commodity pledged as security for the loan indebtedness.

§ 1421.21 Purchase agreements.

(a) *Quantity eligible for purchase.* An eligible producer may sell to CCC any or all of his eligible commodity which is not mortgaged to CCC under a farm-storage loan or pledged to CCC under a warehouse-storage loan: *Provided,* That he executes and delivers to the county office on or prior to the final maturity date for the commodity a Purchase Agreement (Form CCC–614) indicating the approximate quantity of the commodity he will sell to CCC.

(b) *Delivery period.* In the case of an eligible commodity not in an approved warehouse, the producer must make delivery of the commodity he desires to sell to CCC within the period of time after the final loan maturity date as specified in delivery instructions issued by the county office. In the case of eligible commodities stored in an approved warehouse, the producer must submit to the county office, not earlier than 10 days before the final maturity date nor later than the day after the final maturity date warehouse receipts for the quantity of the commodity he elects to sell to CCC. Notwithstanding any of the provisions of this § 1421.21, in the case of an eligible farm stored commodity covered by an approved Purchase Agreement (Form CCC–614) the county committee may on request of the producer authorize delivery of the commodity before the final maturity date for the commodity if the producer loses control of the storage structure or if there is insect infestation that cannot be controlled, danger of flood, or damage to the storage structure, making it unsafe to continue storage of the commodity on the farm.

§ 1421.22 Settlement.

(a) *General.* Settlement with producers for commodities acquired by CCC under loans or purchases made under this subpart will be made as provided in this section and in the applicable commodity supplement. The support rate at which settlement will be made shall be determined under the provisions of the applicable commodity supplement. Settlement will be made on the basis of the grade, quality, and quantity of the commodity delivered by the producer. In the case of rice, paragraphs (b), (c), and (e) of this section shall not apply.

(b) *Warehouse storage.* Settlement for eligible commodities stored in an approved warehouse and acquired by CCC shall be made on the basis of the weight, grade, and other quality factors shown on the warehouse receipts or accompanying documents, as applicable, issued by such warehouse.

(c) *Other than approved warehouse storage.* (1) Settlement for corn, oats, and soybeans delivered from other than approved warehouse storage shall be based on the applicable support rate for the county in which the producer's customary delivery point is located, and (ii) on the quality and quantity delivered as shown on the warehouse receipts and accompanying documents issued by an approved warehouse to which delivery is made, or if applicable, the quality and quantity delivered as shown on a form prescribed by CCC for this purpose.

(2) Settlement for barley, sorghums, rye, and wheat delivered from other than approved warehouse storage shall be based on the applicable support rate for the county in which the producer's customary shipping point (as determined by the county committee) is located, except that if the producer is directed to deliver his commodity to a warehouse located within switching limits of a designated terminal market, and such movement is made by truck or barge, settlement shall be made in the manner prescribed in the support rate section of the applicable commodity supplement. If the producer is directed to ship his commodity by rail to a designated terminal market or to a warehouse for storage in line of transit to such market, settlement shall be based on the support rate established for the county from which the commodity was shipped plus the amount of freight charges per bushel actually paid in and the truck receiving and rail load-out charges charged by the shipping warehouse. Settlement shall be based on the quality and quantity delivered as indicated on warehouse receipts and accompanying documents issued by an approved warehouse to which delivery is made, or, if applicable, the quantity and quality delivered as shown on a form prescribed by CCC.

(d) *Ineligible commodity inadvertently accepted by CCC.* If an ineligible commodity is inadvertently accepted by

CCC, the settlement value of the ineligible commodity shall be the market value as of the date of delivery as determined by CCC, but in no event more than the applicable loan value. If CCC sells the commodity for the purpose of determining its market value, the settlement value shall be the lower of the sales price or the loan value after applying applicable premiums and discounts. If a commodity is delivered to CCC which contains mercurial compounds or other substances poisonous to man or animals, any sale by CCC shall be for seed (in accordance with applicable State seed laws and regulations), fuel, or industrial uses where the end product will not be consumed by man or animals. The provisions of § 1421.6 shall be applicable to settlement on ineligible commodities where there has been a fraudulent representation on the part of the producer.

(e) *Compensation for hauling.* When a producer is directed by the county office to haul his commodity a greater distance than would have been necessary to make delivery to his customary delivery point, he will be allowed compensation (as determined by the State committee at not to exceed the common carrier truck rate or the rate available from local truckers) for hauling the eligible commodity the additional distance: *Provided, however,* That, in the case of barley, sorghums, rye, and wheat, if the producer is directed to deliver his commodity to a warehouse located within the switching limits of a designated terminal market, no compensation shall be allowed for hauling. In determining the rate of payment for excess hauling, the State committee may establish reasonable mileage minimums below which producers will not receive compensation for hauling.

(f) *Trackloading—(1) Delivery.* Producers may request trackloading where approved warehouse space is not available locally or where the county office determines that it would be to the benefit of CCC. Where local weighing facilities are not available or when requested by producers, destination weights may be used for settlement purposes. All producers loading in the same car must sign an agreement stating the percentage share of the total quantity to be credited to each. When requested by producers prior to delivery of the commodity, settlement may be made on the basis of destination grades. Such destination grade determination for a car shall be applied to the entire quantity of a commodity loaded into the same car, irrespective of the grade or quality of a commodity loaded into the car by any producer.

(2) *Payments.* A trackloading payment of 8 cents per bushel (or 14¼ cents per hundredweight in the case of sorghum and rice) shall be made to the producer on an eligible commodity delivered to CCC on track at a country point.

(g) *Storage deduction for early delivery.* If a farm stored commodity is delivered in advance of the applicable loan maturity date as provided in §§ 1421.19 and 1421.21, a deduction for storage charges shall be made. The deduction shall be made for the period from the date of delivery to the applicable maturity date for the commodity. Such deduction shall be at the rate charged by the warehouse to which the commodity was delivered. No deduction for storage charges shall be made for early delivery of a farm stored commodity if the loan maturity date is accelerated by CCC under a general acceleration of the maturity date in a particular area.

(h) *Warehouse storage loans called prior to maturity and not redeemed.* A refund of warehouse storage charges will be made by CCC to the producer if the maturity date of a warehouse storage loan is accelerated by CCC for reasons other than any wrongful act or omission on the part of the producer, and the commodity is not redeemed. The amount of the storage charges to be refunded shall be computed at the rate prepaid by the producer for the period of unearned storage.

(i) *Refund of prepaid handling charges.* If a warehouseman charges the producer for the receiving or the receiving and loading out charges on an eligible commodity in an approved warehouse, the producer shall, upon delivery to CCC of warehouse receipts representing the commodity stored in such warehouse, be reimbursed or given credit by the county office for such prepaid charges at the rate prepaid by the producer. The producer must furnish to the county office, written evidence signed by the warehouseman that such charges have been paid.

(j) *Payment of amount due producer.* If the settlement value of the commodity delivered exceeds the amount due on the loan (excluding interest), such excess amount shall be paid to the producer.

(k) *Payment of deficiency by producer.* If the settlement value of the commodity is less than the amount due on the loan (excluding interests), the amount of the deficiency plus interest thereon shall be paid to CCC, except as provided in § 1421.15, and may be set off against any payment which would otherwise be due the producer under any agricultural program administered by the Secretary of Agriculture or any other payments which are due or many become due the producer from CCC or any other agency of the United States.

(l) *Storage payment where CCC is unable to take delivery.* A producer may be required to retain a commodity stored in other than an approved warehouse under loan or for sale to CCC for a period of 60 days after the maturity date without any cost to CCC. If CCC is unable to take delivery of the commodity within the 60-day period after maturity, the producer shall be paid a storage payment upon delivery of the commodity to CCC: *Provided,* That, in the case of sales to CCC, a storage payment shall be paid a producer whose commodity is stored in other than an approved warehouse only if he had properly given notice of his intention to sell the commodity to CCC. The period for earning such storage payment shall begin the day following the expiration of the 60-day period after the maturity date and extend through the final date of delivery, or the final date for delivery as specified in the delivery instructions issued to the producer by the county office, whichever is earlier. The storage payment for grains shall be computed at the rate furnished by the storing warehouse. The storage payment for rice shall be computed at the rate for commodities stored on an identity-preserved basis at the rate furnished by the storing warehouse.

§ 1421.23 Foreclosure.

(a) *Removal from storage.* If the loan indebtedness (i.e., the amount of the note, interest, and charges) is not satisfied upon maturity, CCC may remove the commodity from storage, and assign, transfer, and deliver the commodity or documents evidencing title thereto at such time, in such manner, and upon such terms as CCC may determine, at public or private sale. Any such disposition may similarly be effected without removing the commodity from storage. The commodity may be processed before sale and CCC may become the purchaser of the whole or any part of the commodity.

(b) *When CCC takes title to commodity.* Upon maturity and nonpayment of the producer's note, title to the unredeemed collateral securing the note shall, at CCC's election, immediately vest in CCC without a sale thereof. When CCC acquired title to the unredeemed collateral, CCC shall have no obligation to pay for any market value which such collateral may have in excess of the loan indebtedness, i.e., the unpaid amount of the note plus interest and charges.

(c) *Payments to producer.* Nothing herein shall preclude the making of the following payments to the producer, or to his personal representative only, without right of assignment to or substitution of any other party: (1) Any amount by which the settlement value of the mortgaged or pledged commodity exceeds the loan indebtedness, or (2) the amount by which the proceeds of sale exceed the loan indebtedness if the loan collateral is sold to third persons rather than CCC acquiring title to such loan collateral.

(d) *Commodity sold at less than amount due on loan.* If a farm-stored commodity removed by CCC from storage is sold at less than the amount due on the loan (excluding interest) the producer shall pay to CCC the difference between the amount due on the loan and the higher of the sales proceeds or the settlement value of the commodity removed by CCC plus interest on such difference. The amount of the deficiency may be set off against any payment which would otherwise be due the producer under any other agricultural program administered by the Secretary of Agriculture, or any other payments which are due or may become due the

producer from CCC, or any other agency of the United States.

§ 1421.24 Weed control laws.

Where the State committee determines that State, district, or county weed control laws, as administered, affect the commodity, the price support rate shall be reduced by the discount as shown in the applicable commodity supplement. The discount will not apply, however, if the producer furnishes a certification from the appropriate weed control official that the commodity complies with the weed control laws, or the storing warehouseman in the case of approved storage furnishes a certification that the commodity complies with the weed control laws, and that he will hold CCC harmless from loss or penalty. The certification of the warehouseman shall be in substantially the following form:

CERTIFICATION

This is to certify that the commodity evidenced by warehouse receipt No. ____ issued to _____ is not subject to seizure or other action under weed control laws or regulations in effect at point of storage. It is further certified and agreed that if such commodity be taken over by CCC in settlement of a loan or be purchased by CCC the undersigned will save CCC from loss or penalty under weed control laws or regulations in effect at the point the commodity was stored under the above warehouse receipt.

_____
(Signature)

_____

§ 1421.25 Handling payments and collections not exceeding $3.

In order to avoid administrative costs of making small payments and handling small accounts, amounts of $3 or less which are due the producer will be paid only upon his request. Deficiencies of $3 or less, including interest, may be disregarded unless demand for payment is made by CCC.

§ 1421.26 Definitions.

As used in the regulations in this subpart, and in all instructions, forms, and documents in connection therewith, the words and phrases listed in this section shall have the meaning assigned to them herein unless the context or subject matter otherwise requires.

(a) *General.* The following words or phrases: "Person", "State committee", "State Executive Director", "county committee", "county executive director", and "farm", respectively, shall each have the same meaning as the definitions of such term in the Regulations Governing Reconstitution of Farms, Allotments, and Bases, Part 719 of this title and any amendments thereto.

(b) *Settlement value.* The term "settlement value" means the value at which settlement is made with the producer on the mortgaged or pledged commodity or the commodity offered for purchase, as determined under the provisions of the regulations in this part.

(c) *Charges.* The term "charges" means all fees, costs, and expenses incident to insuring, carrying, handling, storing, conditioning, and marketing the commodity and otherwise protecting the interest in the loan collateral of CCC or the producer, including foreclosure costs.

(d) *Basic price support rate.* The term "basic price support rate" means the support rate for a commodity for an applicable area or county before adjustment for premiums and discounts.

(e) *County committee.* The term "county committee" means only the committee and not its representative.

(f) *Representative of the county committee and county committee representative.* The terms "representative of the county committee" and "county committee representative" means a member of the county committee, the county executive director or a person designated by the county executive director to act in his behalf.

(g) *The regulations in this subpart.* The term "the regulations in this subpart" means the regulations in Subpart—General Regulations Governing Price Support for the 1976 and Subsequent Crops, and in the applicable commodity supplements together with any amendments thereto.

(h) *Request for price support.* The term "request for price support" means a request for loan or execution of Purchase Agreement (Form CCC–614) as applicable.

(i) *Chattel mortgage.* The term "chattel mortgage" means any security instrument which secures a farm storage loan.

§ 1421.27 Death, incompetency, or disappearance.

In case of the death, incompetency, or disappearance of any producer who is entitled to the payment of any sum in settlement of a loan or a purchase, payment shall, upon proper application to the county office which made the loan or purchase, be made to the persons who would be entitled to such producer's payment under the regulations contained in Part 707 of this title—Payments Due Persons Who Have Died, Disappeared, or Have Been Declared Incompetent.

§ 1421.28 ASCS Commodity Office and Data Systems Field Office.

(a) Prairie Village ASCS Commodity Office, P.O. Box 8377, Shawnee Mission, Kansas, 66208, will serve all States.

(b) Accounting, recording, and reporting for all States will be handled through Data Systems Field Office, P.O. Box 205, Kansas City, Missouri, 64141.

The operating provisions contained herein have been publicly announced and are currently being administered. Such provisions are needed to effectively administer price support programs; therefore, it is found and determined that compliance with the notice of proposed rulemaking procedure would be impracticable and contrary to the public interest. Therefore, this revision is issued without compliance with such procedure.

Effective date: These regulations shall be effective on June 3, 1976.

Signed at Washington, D.C., on May 27, 1976.

SEELEY G. LODWICK,
Acting Executive Vice President,
Commodity Credit Corporation.

[FR Doc.76–16079 Filed 6–2–76;8:45 am]

Title 10—Energy

CHAPTER II—FEDERAL ENERGY ADMINISTRATION

PART 205—ADMINISTRATIVE PROCEDURES AND SANCTIONS

PART 213—OIL IMPORT REGULATIONS

Guidelines for Granting Exception Relief From the Mandatory Oil Import Program

On April 2, 1976, the Federal Energy Administration (FEA) issued proposed regulations amending Parts 205 (Administrative Procedures and Sanctions) and 213 (Oil Import Regulations) of Chapter II, Title 10, Code of Federal Regulations, in order to establish guidelines for granting exceptions from Part 213 on a more equitable basis (41 FR 14900, April 8, 1976). FEA has now analyzed the written and oral comments made by interested persons with regard to these amendments, and hereby adopts such amendments as proposed, with certain modifications as described below.

I. PUBLIC COMMENTS

A major concern expressed by some persons, was that FEA's proposal to permit utilities and other end-users to become eligible for fee-exempt allocations, would allow imports of a far greater quantity of fee-exempt oil and thereby undermine the purpose of the fee to encourage construction of domestic refinering capacity. This suggestion, however, reflects a misunderstanding of the proposal, and ignores the fact that FEA specifically rejected any option which would simply enlarge the class of eligible applicants. It is, rather, FEA's expectation that by using the standards promulgated today, there will be no significant increase in fee-exempt allocations. In this connection, a new guideline has been added so that FEA shall now consider, in evaluating a particular application, whether the applicant has been able to demonstrate that "adequate domestic supplies of suitable product at competitive prices are not available."

Another concern expressed by importers was that as a result of the more stringent standards proposed by FEA, persons who have traditionally been dependent on imports would be unable to satisfy these standards in future requests for fee-exempt allocations. Some persons expressed concern that only when a firm is on the verge of bankruptcy would it be able to obtain a fee-exempt allocation. This concern is misplaced. FEA stated in its proposal that these amendments are not intended to affect the types of relief available to importers under Proclamation No. 3279, as amended, and that all persons for whom the fee is a "genuine burden" would still be eligible for fee-exempt allocations. Furthermore, as FEA

has indicated in numerous decisions issued prior to these amendments, Proclamation No. 3279, as amended, requires that eligibility for a fee-exemption be determined pursuant to an annual review of a person's status, and must be independent of his previous eligibility. In this connection, FEA also has rejected suggestions that such previous eligibility should constitute a presumption in favor of continued fee-exemption. It is, rather, FEA's intention to continue procedures whereby an adjudicatory determination will be made for each allocation period for which a person seeks an exception from the fee. Moreover, under existing precedents issued by the FEA Office of Exceptions and Appeals, a showing of imminent bankruptcy is not a prerequisite to obtaining exception relief. Exception relief will be awarded on the grounds of gross inequity based on a finding that a particular FEA regulatory requirement uniquely or disproportionately affects the firms in a manner which produces a significant adverse affect on its operations. Crown Central Petroleum Corporation, 2 FEA Par. 80,560 (March 27, 1975). Alternatively, exception relief is appropriate if a showing is made that a regulation affects a firm more adversely than other firms and significantly impedes that firm's operations. Id. Exception relief on grounds of serious hardship is appropriate if it can be demonstrated that a firm's current profitability is significantly below historic levels and its competitive viability is jeopardized as a result of a particular FEA regulation. Midway Gas, Inc., 2 FEA Par. 83,154 (May 16, 1975).

Another concern expressed by some persons was that the proposal contained standards which were so difficult to satisfy that they merely perpetuated a closed "club," in which only firms which have historically been involved in petroleum marketing and refining could actually obtain fee-exemptions. Any such result would be directly opposite to FEA's announced intention, and Guideline 2 for example is clearly intended to apply in the case of public utilities. Several useful suggestions were made, however, as to the manner in which the proposal could articulate with greater clarity the circumstances under which fee-exemptions are intended to be made available, and the FEA has concluded that certain of these suggestions should be taken into account where possible. Accordingly, Guideline 1 is being modified to include the "furtherance of competition at any level of distribution in the petroleum industry and the encouragement of market entry" as an "important national energy policy objective" which constitutes a possible ground for granting fee-exemptions.

Some persons suggested that the guidelines should be modified to enable nonhistorical importers, utilities, and other end-users to obtain fee-exempt allocations on a regular basis, without the need for any further showings relating to their economic status. FEA believes that such a revision of the basic premises of the Mandatory Oil Import Program should not be carried out through the exceptions process, but should be made, if at all, through revision of the substantive regulatory provisions.

Finally, it was suggested by some persons that present procedures for granting fee exemptions are adequate, and that FEA should permit such procedures to remain unchanged.

However, as indicated in FEA's proposal, any continuation of the present criteria for granting fee-exempt allocations would perpetuate a serious inequity in the Mandatory Oil Import Program by excluding from its benefits a wide range of importers. Therefore, FEA has determined not to accept this suggestion, and to issue the amended regulations effective today.

II. Guidelines for Granting Exceptions From Part 213

Under the new guidelines, which appear as the second appendix to Subpart D of Part 205, the Office of Exceptions and Appeals will decide applications for exceptions from Part 213, which are based on a claim of exceptional hardship, by considering the principles set forth in the Decisions and Orders issued with respect to applications for exception from other generally applicable FEA regulations, to the extent that such precedents are relevant and consistent with Proclamation No. 3279, as amended. This body of precedent has been published and made generally available in the Federal Energy Guidelines. However, FEA will also give particular weight to the following factors in connection with applications for exception from Part 213:

1. Whether payment of the fee (or other action required under Part 213) would lead to a result unintended by Proclamation No. 3279, as amended, or would impede important national energy policy objectives, including the furtherance of competition at any level of distribution in the petroleum industry and the encouragement of market entry.

2. Whether payment of the fee (or other action required under Part 213) would so affect the operations of the firm applying for exception relief as to cause a significant reduction in service or threaten interruptions in service to present customers.

3. Whether payment of the fee would adversely affect the firm applying for exception relief in a manner which threatens its financial viability in terms of its profitability, liquidity, or the stability of its operations, would place the firm at a significant competitive disadvantage in a market in which the firm operates, or would otherwise significantly reduce competition.

4. Whether the firm applying for exception relief is likely to incur a significant deterioration in its current operating posture in contrast with historic levels as a result of its inability due to competitive conditions to increase its prices to reflect import license fees.

5. Whether the firm applying for exception relief makes a convincing showing that adequate domestic supplies of suitable product at competitive prices are not available.

Guideline 3 has been modified in order to provide that in addition to examining the effect on market-wide competition of granting a fee-exemption—e.g., enabling a newcomer to gain entry—FEA will also consider the competitive situation of an individual firm.

These considerations, as well as the others derived from precedents under Subpart D, would provide only guidelines for establishing "exceptional hardship" under section 5 of Proclamation No. 3279, as amended, as implemented in § 205.50 (a)(2) of FEA regulations. They are not meant to, and under the law cannot, enhance or diminish the scope of relief provided by the Proclamation. Their purpose is only to permit the Proclamation to be interpreted in a manner which increases FEA's ability to provide equitable relief from the Mandatory Oil Import Program, without decreasing the Program's effectiveness.

Procedural Amendment of § 213.26

In accordance with the foregoing, § 213.26 is revised to facilitate the transition to the new guidelines. Under the revised § 213.26, applications for exception from Part 213 based on a claim of exceptional hardship, which request exception relief with respect to the allocation period beginning on May 1, 1976 or any allocation period subsequent thereto, shall be considered in accordance with the new guidelines.

In addition, § 213.26 is amended to provide that appeals from an adverse determination of an exception request, and from such actions of the Director of Oil Imports as are specified in § 205.100(a)(2), shall be filed within thirty days of such adverse determination.

Previously, Part 213 lacked a time period during which appeals could be considered timely under Subpart H of Part 205 (Appeals).

Finally, § 205.100(a)(2)(ii) is amended in order to correct the reference to the provision providing for refunds from license fees. Since the revision of § 213.35 in accordance with the elimination of the supplemental fee, refunds are made under § 213.35(d) rather than § 213.35(e) as stated in § 205.100.

(Federal Energy Administration Act of 1974, Pub. L. 93-275; E.O. 11790, 39 FR 23185; Trade Expansion Act of 1962, Pub. L. 87-794, as amended; Proclamation No. 3279, as amended).

In consideration of the foregoing, Parts 205 and 213 of Chapter II, Title 10 of the Code of Federal Regulations are amended as set forth below, effective immediately.

Issued in Washington, D.C., May 28, 1976.

David G. Wilson,
Acting General Counsel,
Federal Energy Administration.

1. Section 205.50 is amended in paragraph (a)(2) by redesignating (a)(2)

(ii) as (a)(2)(iii), and by inserting a new (a)(2)(ii) to read as follows:

§ 205.50 Purpose and scope.

(a) * * *

(2) * * *

(ii) In its consideration of any application filed pursuant to this subparagraph (2), which is based on a claim of exceptional hardship in accordance with clauses (i) (A), (C), and (D) hereof, the FEA shall, subject to the provisions of § 213.26, follow the guidelines set forth in Appendix II of this Subpart.

* * * * *

2. The Appendix to subpart D following § 205.58 is redesignated "Appendix I—Applications for Exceptions by Persons Affected by Part 213," and a further Appendix immediately following thereon is added to read as follows:

APPENDIX II—GUIDELINES FOR THE DISPOSITION OF REQUESTS FOR EXCEPTIONS FROM PART 213

In its consideration of any application filed pursuant to § 205.50(a)(2) which is based on a claim of hardship in accordance with clauses (i) (A), (C), and (D) thereof, the FEA shall consider the principles set forth in the Decisions and Orders issued with respect to applications for exception from other generally applicable FEA regulations to the extent that such precedents are relevant and consistent with Proclamation No. 3279, as amended, and shall give particular weight to the following factors:

1. Whether payment of the fee (or other action required under Part 213) would lead to a result unintended by Proclamation No. 3279, as amended, or would impede important national energy policy objectives, including the furtherance of competition at any level of distribution in the petroleum industry and the encouragement of market entry.

2. Whether payment of the fee (or other action required under Part 213) would so affect the operations of the firm applying for exception relief as to cause a significant reduction in service or threaten interruptions in service to present customers.

3. Whether payment of the fee would adversely affect the firm applying for exception relief in a manner which threatens its financial viability in terms of its profitability, liquidity, or the stability of its operations, would place the firm at a significant competitive disadvantage in a market in which the firm operates, or would otherwise significantly reduce competition.

4. Whether the firm applying for exception relief is likely to incur a significant deterioration in its current operating posture in contrast with historic levels as a result of its inability due to competitive conditions to increase its prices to reflect import license fees.

5. Whether the firm makes a convincing showing that adequate domestic supplies of suitable product at competitive prices are not available.

3. Section 205.100(a)(2)(ii) is revised to read as follows:

§ 205.100 Purpose and scope.

(a) * * *

(2) * * *

(ii) Denial of refunds pursuant to §213.35(d) of license fees, whether in whole or in part, theretofore paid by a person.

* * * * *

4. Section 213.26 is revised to read as follows:

§ 213.26 Exceptions and appeals.

(a) Effective August 15, 1975, the Oil Import Appeals Board is abolished, and procedures for exceptions from any regulation, ruling, or generally applicable requirement under this Part, and for appeals from the disposition of applications therefor and from such actions of the Director as are specified in § 205.100(a)(2), are established in Part 205.

(b) Applications for exception from this Part 213 shall be filed in accordance with Subpart D of Part 205. Appeals from the disposition thereof, and from such actions of the Director as are specified in § 205.100(a)(2), shall be taken, in accordance with Subpart H of Part 205, within thirty (30) days of the disposition of the application for exception or of the action of the Director, whichever is applicable.

(c) Applications for exception which are filed in accordance with § 205.50(a)(2), are based on a claim of exceptional hardship in accordance with clauses (i) (A), (C) and (D) thereof, and request relief for the allocation period beginning on May 1, 1976 or any allocation period subsequent thereto, shall be considered in accordance with Appendix II of Subpart D of Part 205.

[FR Doc.76-16118 Filed 5-28-76;4:46 pm]

PART 211—MANDATORY PETROLEUM ALLOCATION REGULATIONS

Extension of Effectiveness of Special Rule No. 7 for Subpart C

On April 30, 1976, FEA issued an emergency amendment adopting Special Rule No. 7 for Subpart C of Part 211 (41 FR 18646; May 6, 1976). The Special Rule exempted from the export sales deduction requirements of § 211.67(d)(2) volumes of Bunker C and Navy Special fuel oils and No. 4 diesel for marine use sold in April and May 1976. The temporary exemption adopted thereby was intended to provide FEA an opportunity to issue a ruling that specified the types of transactions that would be considered export sales under § 212.53. A public hearing was held on May 18, 1976 and written comments were received from a number of refiners and consumers of bunker fuels.

After evaluating the comments and further considering the issues involved, FEA has determined to extend the effectiveness of Special Rule No. 7 for an additional three month period through August 31, 1976 to enable FEA to review this matter further.

Accordingly, FEA hereby extends the effectiveness of section 2 of Special Rule No. 7 for subpart C of Part 211, Chapter II of Title 10, Code of Federal Regulations to be applicable to the volumes of refiners' crude oil runs to stills for the months June, July and August, 1976.

(Emergency Petroleum Allocation Act of 1973, as amended by Pub. L. 94-163; Federal Energy Administration Act of 1974, Pub. L. 93-275; E.O. 11790, 39 FR 23185).

Issued in Washington, D.C. May 28, 1976.

DAVID G. WILSON,
Acting General Counsel.

[FR Doc.76-16117 Filed 5-28-76;4:46 pm]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 76-NW-9-AD; Amendment 39-2630]

PART 39—AIRWORTHINESS DIRECTIVES

Boeing 737 Series Airplanes

There have been four instances of cracks in the elevator rear spar at the tab inboard hinge on the Boeing 737. Complete loss of the hinge attachment could result in hazardous elevator/tab flutter. Since this condition is likely to exist or develop in other Boeing 737 airplanes of the same type design, an airworthiness directive is being issued to require inspection of the elevator tab inboard hinge support structure on Boeing 737 airplanes certificated in all categories.

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

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

BOEING: Applies to Boeing Model 737 Series aircraft certificated in all categories listed in Boeing Alert Service Bulletin No. 737-55-A1020 including military T43 series aircraft. Compliance required as indicated.

To prevent hazardous flutter of the elevator/horizontal stabilizer, accomplish the following:

A. Upon receipt of a pilot report of vibration in the longitudinal control system, prior to further flight accomplish the inspection of paragraph C. If the relative deflections are less than specified in paragraph C, investigate in accordance with existing procedures for the cause of vibration.

B. In addition to paragraph A, within the next 300 hours time-in-service after the effective date of this AD unless accomplished within the last 700 hours time-in-service and at intervals thereafter not to exceed 1000 hours time-in-service, conduct the inspection of paragraph C.

C. Inspect for excessive deflection of the elevator tab right and left hand, in accordance with option "A" or option "B" specified in Boeing Alert Service Bulletin No. 737-55-A1020 Section III Part I, or in a manner approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region. If the elevator tab to elevator relative deflection exceeds 1/10 inch or if there is relative movement between the elevator rib and tee clip, prior to further flight, modify the elevator in accordance with the terminating action of paragraph D.

D. Terminating action is one of the modifications specified in Boeing Alert Service Bulletin No. 737-55-A1020 Section III Part II including installation of the bolt retainer

clips, or a modification approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region.

E. Upon request of an operator, through an appropriate FAA maintenance inspector, subject to approval by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region, the repetitive inspection period herein may be adjusted for that operator if the request contains adequate substantiating data to justify the increase.

F. Airplanes having cracked parts which require replacing under this AD may be flown in accordance with FAR 21.197, and 21.199 but must observe the limits specified in Boeing Operators' Manual Bulletin 76-2 dated May 13, 1976.

The manufacturers' specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

All persons affected by this directive, who have not already received these documents from the manufacturer, may obtain copies upon request to Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. The documents may also be examined at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective June 7, 1976.

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

Issued in Seattle, Washington, May 24, 1976.

C. B. WALK, Jr.,
Director,
Northwest Region.

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

[FR Doc.76-16063 Filed 6-2-76;8:45 am]

[Airspace Docket No. 76-EA-18]

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

Alteration of Transition Area

The Federal Aviation Administration is amending section 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the Great Bend, N.Y., Transition Area (41 FR 503).

The proposed rule was published on page 12903 of the FEDERAL REGISTER for March 29, 1976, and interested parties were given 30 days in which to submit written comments.

The only objection was submitted by Mr. Edgar Countryman, operator of Countryman's Landing Strip. However, Mr. Countryman was objecting to extension of a control zone to cover his strip when in fact the docket only proposes to alter the transition area which has been effective over the strip since 1970. It appears that the objection therefore is not well based.

In consideration of the foregoing, the proposed regulation is hereby adopted, effective 0901 GMT July 8, 1976.

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

Issued in Jamaica, N.Y., on May 20, 1976.

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

1. Amend Section 71.181 of Part 71 of the Federal Aviation Regulations by amending the description of the Great Bend, N.Y. transition area as follows:

Delete, "and within 3 miles each side of the Watertown, N.Y., VORTAC 069° radial, extending from the 6.5-mile radius area to the VORTAC." and insert in lieu thereof; "within 4.5 miles each side of the Watertown, N.Y. VORTAC 066° radial, extending from the 6.5-mile radius area and the 10.5-mile radius area to the VORTAC, and within 5 miles each side of the Watertown, N.Y. VORTAC 069° radial, extending from the 6.5-mile radius area and the 10.5-mile radius area to the VORTAC."

Delete, "This transition area is effective from April 1 through September 30."

[FR Doc.76-16062 Filed 6-2-76;8:45 am]

Title 28—Judicial Administration

CHAPTER I—DEPARTMENT OF JUSTICE

PART 2—PAROLE, RELEASE, SUPERVISION AND RECOMMITMENT OF PRISONERS, YOUTH OFFENDERS, AND JUVENILE DELINQUENTS

Paroling, Recommitting and Supervising Federal Prisoners; Correction

In FR Doc.76-13444 appearing at page 19326 in the FEDERAL REGISTER of May 12, 1976, § 2.20 appearing on page 19333 is corrected by inserting after the NARA guidelines the following table relating to a prisoner's salient factor score. This table was inadvertently omitted.

SALIENT FACTOR SCORE

Case name_____ Register No_____

Item A_____ ☐
No prior convictions (adult or juvenile)=2
One or two prior convictions=1
Three or more prior convictions=0

Item B_____ ☐
No prior incarcerations (adult or juvenile)=2
One or two prior incarcerations=1
Three or more prior incarcerations=0

Item C_____ ☐
Age at first commitment (adult or juvenile) 18 years or older=1
Otherwise=0

Item D_____ ☐
Commitment offense did not involve auto theft=1
Otherwise=0

Item E_____ ☐
Never had parole revoked or been committed for a new offense while on parole=1
Otherwise=0

Item F_____ ☐
No history of heroin or opiate dependence=1
Otherwise=0

Item G_____ ☐
Has completed 12th grade or received GED (prior to this commitment)=1
Otherwise=0

Item H_____ ☐
Verified employment (or full-time school attendance) for a total of at least 6 months during the last 2 years in the community=1
Otherwise=0

Item I_____ ☐
Release plan to live with spouse and/or children=1
Otherwise=0

Total score_____ ☐

Dated: May 27, 1976.

MAURICE H. SIGLER,
Chairman,
U.S. Parole Commission.

[FR Doc.76-10643 Filed 6-2-76;8:45 am]

Title 32—National Defense

CHAPTER VI—DEPARTMENT OF THE NAVY

PART 770—RULES LIMITING PUBLIC ACCESS TO PARTICULAR INSTALLATIONS

Hunting and Fishing at Marine Corps Base, Quantico, Virginia

Pursuant to the authority conferred under 5 U.S.C. 301; 10 U.S.C. 6011; and as delegated in 32 CFR § 700.702 and 32 CFR § 700.714, the Commanding General, Marine Corps Development and Education Command, Quantico, Virginia, on October 16, 1974, adopted the Marine Corps Base Fishing and Hunting Regulations (MCDECO 1700.2c) for the Marine Corps Base Reservation, Quantico, Virginia. These regulations are applicable to all persons who engage in, or desire

to engage in, hunting or fishing activities within the limits of the aforesaid Marine Corps Base Reservation. A new Part 770 of Title 32, CFR, entitled, "Rules Limiting Public Access to Particular Installations," is established, and a new Subpart A, entitled "Hunting and Fishing at Marine Corps Base, Quantico, Virginia," is added to Part 770 of Title 32, CFR.

These regulations are not published for public comment prior to adoption, because they relate to military functions that are exempt from the rulemaking provisions under 5 U.S.C. 553 and were adopted prior to the effective date of the nonstatutory rulemaking provisions that were administratively established for the Departments of Defense and the Navy in 32 CFR Part 296 and 32 CFR § 701.57. Accordingly, Title 32, CFR, is hereby amended by adding a new Part 770, and a Subpart A to Part 770, providing as follows:

Subpart A—Hunting and Fishing at Marine Corps Base, Quantico, Virginia

Sec.
770.1 Purpose.
770.2 Licenses.
770.3 Fishing regulations.
770.4 Hunting regulations.
770.5 Safety regulations.
770.6 Restrictions.
770.7 Violations.
770.8 Reports.
770.9 Miscellaneous.

AUTHORITY: 5 U.S.C. 301; 10 U.S.C. 6011; 32 CFR 700.702; 32 CFR 700.714.

Subpart A—Hunting and Fishing at Marine Corps Base, Quantico, Virginia

§ 770.1 Purpose.

This Subpart provides regulations and related information governing hunting and fishing on the Marine Corps Base Reservation, Quantico, Virginia.

§ 770.2 Licenses.

(a) Every person who hunts or fishes on Marine Corps Base, Quantico, Virginia, must possess appropriate valid licenses in compliance with the Laws of the United States and the State of Virginia.

(b) In addition, hunting and fishing privilege cards, issued by the authorities at Marine Corps Base, Quantico, Virginia, are required for all persons between the ages sixteen and sixty-four, inclusive.

(1) The privilege card may be purchased from the Game Warden at the Natural Resources Management Division Headquarters, Building 5–9, Marine Corps Base, Quantico, Virginia.

(2) The card is effective from 1 July–30 June.

(c) All hunters must obtain a Base hunting permit, and a parking permit, if applicable, from the Game Warden for each day of hunting. The permits must be displayed on the left dashboard of parked vehicles. The hunting and parking permits must be returned at the end of each day's hunting.

(d) Eligibility for a Base hunting permit is predicated on:

(1) Possession of required Federal and State licenses for the game to be hunted including Marine Corps Base hunting privilege card;

(2) attendance at a safety lecture given daily except Sunday during hunting season;

(3) understanding of Federal, State and Base hunting regulations;

(4) and, if civilian, an executed release of U.S. Government responsibility in case of accident or injury.

§ 770.3 Fishing regulations.

(a) All persons possessing the proper state license and Base permit are permitted to fish in the areas designated by the Base Game Warden on Marine Corps Base, Quantico, Virginia, on any authorized fishing day. With the exception of military personnel, active and retired and their dependents, persons from the civilian community will be limited to 100 persons per day on a first come, first served basis.

(b) Fishing is permitted on all waters within the boundaries of Marine Corps Base, Quantico, Virginia, unless otherwise posted, during the periods provided and under the conditions and restrictions, by the Marine Corps Base, Quantico, Virginia, Game Warden. Information regarding specific regulations for each fishing area must be procured from the Game Warden located in Natural Resources Management Division Headquarters prior to utilization of Base fishing facilities.

(c) In addition to the requirements of the Laws of Virginia, the following additional prohibitions and requirements are in effect at Marine Corps Base, Quantico, Virginia.

(1) Live minnows will not be used as bait in any impounded waters on the Marine Corps Base, Quantico, Virginia;

(2) No trot lines are permitted in Marine Corps Base waters;

(3) No Large Mouth Bass will be taken, creeled or possessed under the size of twelve (12) inches in length;

(4) All Large Mouth Bass under this size will be immediately returned to the water;

(5) All persons fishing in the waters of Marine Corps Base, Quantico, Virginia, will possess and utilize a creel card furnished by the Game Warden, and the creel card will be returned, accurately and completed, to the Game Warden's Office or other designated collection point at the end of each day of fishing.

§ 770.4 Hunting regulations.

All persons possessing the proper State, Federal and Base licenses and permits are permitted to hunt in the areas designated daily by the Game Warden on Marine Corps Base, Quantico, Virginia, on any authorized hunting day. In addition, a minimum of ten percent of the daily hunting spaces will be reserved to civilians on a first come, first served basis until 0600 on each hunting day, at which time, the Game Warden may fill vacancies from any authorized persons waiting to hunt.

§ 770.5 Safety regulations.

(a) Hunting is not permitted within 200 yards of the following: ammunition dumps, built-up areas, rifle or pistol ranges, dwelling or other occupied structures, and areas designated by the Game Warden as recreation areas.

(b) From the end of the special archery season until the end of the regular winter hunting season, except for duck hunters in approved blinds, hunters will wear an outer garment with at least one square foot of blaze orange visible both front and back above the waist and a blaze orange cap while hunting, or while in the woods for any reason, during the hours that hunting is authorized. Any person traveling on foot in or adjacent to an area open for hunting will comply with the above requirement.

(c) Weapons will be unloaded while being transported in vehicles, and will be left in vehicles by personnel checking in or out at the Game Warden's Office. Weapons will not be discharged from vehicles, or within 200 yards of hard surfaced roads.

(d) Certain hunting areas contain numerous unexploded munitions (duds) which are dangerous and must not be removed or disturbed. Hunters should mark such duds with stakes or other means and report their location to the Game Warden.

(e) Hunters must stay in their assigned areas when hunting.

§ 770.6 Restrictions.

(a) There will be no hunting on Christmas Day; New Year's Day, or after 1200 on Thanksgiving Day and Christmas Eve.

(b) Hunters under 16 years of age must be accompanied by an adult while on the Marine Corps Base Reservation.

(c) The following practices or actions are expressly forbidden: use of rifles, except muzzleloaders of .40 caliber or larger as specified below, revolvers or pistols; use of shotguns larger than 10 gauge or crossbows (this prohibition extends to carrying such weapons on the person or in a vehicle while hunting), use of buckshot to hunt any game; use of a light, attached to a vehicle or otherwise, for the purpose of spotting game; use of dogs for hunting or tracking deer; training deer dogs on the Reservation; training or running dogs in hunting areas between 1 March and 1 September; driving deer; baiting or salting traps or blinds; hunting on Sunday; molesting beaver or bald eagles.

(d) Hunting will not commence before one half hour before sunrise, and will end not later than sunset, except that dove hunting is from noon to sunset, and gobbler hunting during the spring season is limited to one half hour before sunrise until 1100.

(e) Weapons will not be loaded outside of hunting hours.

§ 770.7 Violations.

Violations of hunting regulations, fishing regulations, safety regulations, or principles of good sportsmanship are subject to administrative restriction of hunting or fishing privileges and possible judicial proceedings in State or Federal courts.

(a) The Marine Corps Base Game Warden and Wildlife Manager are com-

missioned as Virginia and Federal game wardens and they can issue summons to appear in civil court for violations of Federal and State game laws.

(b) Offenders in violation of a Federal or State hunting or fishing law will be referred to a civil court.

(c) Offenders in violation of a Federal, State or Base hunting or fishing law or regulation will receive the following administrative actions.

(1) The Base Game Warden or the Wildlife manager shall have the authority to temporarily suspend hunting and fishing privileges.

(2) And for the first minor offense a letter of warning will be issued.

(3) For the second minor offense hunting or fishing privileges will be revoked for one year.

(4) For the first serious offense hunting or fishing privileges will be revoked for a minimum of one year.

(5) For the second serious offense hunting or fishing privileges will be permanently revoked.

(d) Civilians found in violation of a hunting or fishing regulation or law may be permanently restricted from entering the base.

(e) Serious hunting and fishing offenses include, but are not limited to: spotlighting, false statement on a license, hunting under the influence, employment of a light in an area that deer frequent, and taking game or fish during closed seasons.

§ 770.8 Reports.

Upon killing a deer or turkey, a hunter must attach the appropriate tab from his big game license to the carcass before moving the game from the place of kill. The game will then be taken to the Game Warden's Office where the tab will be exchanged for an official game tag. All other game killed on the Reservation will be reported to the Game Warden when checking out at the end of a hunt.

§ 770.9 Miscellaneous.

Duck blinds may be placed on waters within the bounds of the Reservation when specifically authorized by the Wildlife Manager. Muzzleloading rifles .40 caliber and larger will be permitted for deer hunting during the established seasons in those numbered hunting areas located entirely in Fauquier and Stafford Counties within the boundaries of the Marine Corps Base. Deer will only be hunted with the bow and arrow, and shotguns loaded with slugs, with exception of the preceding sentence.

Dated: May 26, 1976.

LARRY G. PARKS,
Captain, JAGC, U.S. Navy, Assistant Judge Advocate General (Civil Law).

[FR Doc.76-16044 Filed 6-2-76;8:45 am]

Title 33—Navigation and Navigable Waters

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 3-75-6-T]

PART 127—SECURITY ZONES

Termination

The security zone at the Aardvark Salvage Company, Chester, Pa. established June 5, 1975 by the Captain of the Port of Philadelphia, Pa., as published on July 2, 1975 (40 FR 27939) was terminated on July 16, 1975.

In consideration of the foregoing Part 127 of Title 33 of the Code of Federal Regulations is amended by revoking S 127.321.

(50 U.S.C. 191; 49 U.S.C. 1655(b); E.O. 10173, E.O. 10277, E.O. 10352, E.O. 11249; 3 CFR, 1949–1953 Comp. 356, 778, 873, 3 CFR, 1964–1965 Comp. 349, 33 CFR Part 6, 49 CFR 1.46 (b).)

Effective date: This amendment was effective on July 16, 1975.

Dated: 18 February 1976.

D. C. GOODWIN,
Captain of the Port, Philadelphia.

[FR Doc.76-16065 Filed 6-2-76;8:45 am]

[CGD 3-75-2-T]

PART 127—SECURITY ZONES

Termination

The security zone at Marcus Hook, Pa.—Delaware River established February 3, 1975 by the Captain of the Port of Philadelphia, Pa., as published on February 10, 1975 (40 FR 6205) was terminated on December 10, 1975.

In consideration of the foregoing Part 127 of Title 33 of the Code of Federal Regulations is amended by revoking S 127.317.

(50 U.S.C. 191; 49 U.S.C. 1655(b); E.O. 10173, E.O. 10277, E.O. 10352, E.O. 11249; 3 CFR, 1949–1953 Comp. 356, 778, 873, 3 CFR, 1964–1965 Comp. 349, 33 CFR Part 6, 49 CFR 1.46 (b).)

Effective date: This amendment was effective on December 10, 1975.

Dated: 18 February 1976.

D. C. GOODWIN,
Captain of the Port, Philadelphia.

[FR Doc.76-16066 Filed 6-2-76;8:45 am]

CHAPTER II—CORPS OF ENGINEERS, DEPARTMENT OF THE ARMY

[ER 1130-2-412]

PART 273—AQUATIC PLANT CONTROL

Implementation

On February 5, 1975 a notice was given in the FEDERAL REGISTER (40 FR 5489) that the Secretary of the Army, proposed a regulation prescribing policies and procedures to implement section 302 of the Rivers and Harbors Act of 1965. This section authorizes the Secretary of the Army, acting through the Chief of Engineers, to establish programs in cooperation with other states and agencies for the control of aquatic plants in the combined interest of navigation, flood control, drainage, agriculture, fish and wildlife conservation, public health and related purposes, including continued research for the development of the most effective and economic control measures.

Comments were received from several Corps of Engineers field offices, Georgia Department of Natural Resources, Ohio Department of Natural Resources, and the Office of Federal Activities of the United States Environmental Protection Agency.

Requirements of the Environmental Protection Agency on the use of 2,4-D in the Aquatic Plant Control Program are published in the FEDERAL REGISTER, 16 December 1975 and are cited in Section 273.12 (c).

To clarify program policy, comparable programs of the Department of Defense Military Installations, the Tennessee Valley Authority, Bureau of Reclamation, Bureau of Sport Fisheries and Wildlife, the Department of Agriculture and the Environmental Protection Agency have been excluded from the program. However, close coordination will be maintained with these agencies to avoid duplication of applied research or reduce it to a minimum under an interagency advisory committee. Personnel of Corps offices attend these meetings to hear firsthand results of new research and take part in the discussions.

Comments have been received that undesirable short-term or long-term efforts may be inadvertantly recommended under the program. The hazards of particular control methods are evaluated to the process of pesticide labeling under the planning procedure, and consideration is given to alternate methods, including physical, chemical and biological means. Biological methods will be given priority where feasible. The process of such evaluation is undertaken in the environmental analysis, prior to funding.

Based on comments received, the following changes have been made to the regulation:

1. *Section 273.15* is titled "Work Progress Report" instead of annual work plan.

2. *Section 273.12(c).* 40 CFR 180, Tolerances and Exemptions from tolerances for pesticide chemicals, 2,4-D, Subpart C(F) 16 December 1975, is cited in support of the program.

3. *Section 273.13.* To clarify program procedure, the words "except as indicated in Section 273.13b" have been added.

4. *Section 273.13b.* To clarify the scope and coordination of the Corps program, add "Aquatic Plant Control Work for the Operation and Maintenance of Federal Projects are eligible to be included under this authority for the purpose of cost-sharing with participating State or local agencies, but are not eligible for budgeting or funding under the Aquatic Plant Control Program."

5. *Section 273.13(c).* Attendance of the Technical Advisory Committee meetings by Corps personnel has been authorized.

6. *Section 273.13 (e)(c).* To clarify program methods, the words, "protects will not be recommended which produce undesirable short-term or long-term damage to the human or natural environment," have been added.

7. *Section 273.14(b).* To define planning procedures for methods, the following has been added: "Consideration will be given in the planning procedure to include physical, chemical and biological methods of control. Priority will be given to biological systems where feasible."

8. *Section 273.14(c)(d).* To clarify the procedure for environmental analysis, the words "Prior to funding of a plant control project" have been added.

9. *Section 273.18.* Clearinghouse Coordination. Procedures prescribed under Section 384.15 of Chapter II will be observed.

With the above changes, and additional editorial revisions, the proposed regulation is adopted as set forth below.

Effective date. This regulation is effective May 28, 1976.

Dated: May 26, 1976.

RUSSELL J. LAMP,
Colonel, Corps of Engineers,
Executive.

Sec.
273.10 Purpose.
273.11 Applicability.
273.12 References.
273.13 Program policy.
273.14 Planning procedures.
273.15 Work Progress Report.
273.16 Operations.
273.17 Annual budget request.
273.18 Clearing house coordination.

AUTHORITY: Section 302, Title III, Pub. L. 89-298, River and Harbor Act of 1965 (33 U.S.C. 610), October 27, 1965.

§ 273.10 Purpose.

This regulation prescribes policies, procedures and guidelines for research, planning and operations for the Aquatic Plant Control Program under authority of section 302 of the Rivers and Harbors Act of 1965.

§ 273.11 Applicability.

This regulation is applicable to all OCE elements and all field operating agencies having civil works responsibilities.

§ 273.12 References.

(a) Section 302, Pub. L. 89-298, (79 Stat. 1092), Rivers and Harbors Act of 1965, (Appendix A).

(b) Pub. L. 92-516, Federal Insecticide, Fungicide and Rodenticide Act of 1972, (86 Stat. 973), 21 October 1972.

(c) 40 CFR 180, Tolerances and exemptions from tolerances for pesticide chemicals, 2,4-D, subpart C (F) 16 December 1975.

(d) Pub. L. 91-596, Occupational Safety and Health Act of 1970, (84 Stat. 1609, 29 U.S.C. 668), 29 December 1970.

(e) 29 CFR 1960, Safety and Health Provisions for Federal Employees, FEDERAL REGISTER, Vol. 39, No. 9, 9 October 1974.

(f) ER 11-2-240, "Civil Works Activities, Construction and Design."

(g) ER 70-2-3, "Civil Works Research and Development Management System."

(h) ER 1105-2-507, "Preparation and Coordination of Environmental Statements." (33 CFR 209.410)

(i) ER 1105-2-811.

§ 273.13 Program policy.

(a) *Program orientation.* The Aquatic Plant Control Program is designed to deal primarily with weed infestations of major economic significance including those that have reached that stage (such as water-hyacinth) and those that have that potential (such as alligatorweed and Eurasian watermilfoil) in navigable waters, tributaries, streams, connecting channels and allied waters. This does not imply that the infestation must have countrywide distribution. However, the infestation should constitute a known problem of economic importance in the area involved. Initial planning should constitute investigation of a specific problem weed or weed complex, not generalized surveys of aquatic vegetation. The common submersed aquatics and floating or emergent, wetland, marsh, and swamp vegetation do not generally meet those criteria for special problems merely because they may qualify as "obnoxious aquatic plants" under the language of the legislation authorizing the program except as indicated in section 273.13b.

(b) *Work not eligible under this program.* Weed control for operation and maintenance of reservoirs, channels, harbors, or other water areas of authorized projects under jurisdiction of the Corps of Engineers or other Federal agencies will not be undertaken as a part of the Aquatic Plant Control Program, except as such areas may be used for experimental purposes in research performed for the program. Aquatic plant control work for the operation and maintenance of Federal projects are eligible to be included under this authority for the purpose of cost-sharing with participating State or local agencies, but are not eligible for budgeting or funding under the Aquatic Plant Control Program.

(c) *Applied research.* Applied research developed by OCE with the assistance of the Interagency Aquatic Plant Control Research Advisory Committee and the appropriate Division Engineer will be an all Federal cost. This research will be accomplished through contracts with Federal, State and private research institutions. A research planning meeting will be held the last quarter of each calendar year to provide professional presentation of current research projects, review of current operation activities, and review new research proposals. Requested programs, estimated cost, and other information will be developed in the field and submitted to HQDA (DAEN-CWD-R) Washington, DC 20314, for approval and financing as prescribed by ER 70-2-3. Attendance of the Technical Advisory Committee meetings by Corps personnel has been authorized.

(d) *Planning.* Planning will be an all Federal cost item, will be developed by reporting officers in accordance with their needs and will be fully justified for funds requested. Normally, the program will be initiated with a reconnaissance report (§ 273.14(a)) and will be accomplished under a State design memorandum (§ 273.14(b)). Supplement design memorandums will be used to implement changes in the program. These memorandums will establish a continuing program and will be used to enable the Chief of Engineers to allot available funds on a priority basis in accordance with the urgency of the needs of each area.

(e) *Criteria for recommending a Federal project.* (1) A recommendation favorable to adoption of the project under the authority provided by section 302, as amended, will be warranted when the following conditions exist:

(i) The problem and practical measures of improvement are of such nature that there is a clear and definite Federal interest warranting Federal participation under the purview of this special authority.

(ii) The proposed work will result in an independent and complete-within-itself project.

(iii) Analysis based on sound economic principles clearly demonstrates that the project will provide information and/or control of aquatic plants.

(iv) Each separable element of the project, as well as the entire project, is economically justified.

(iv) Local interests are legally and financially able and willing to meet fully all requirements of local cooperation.

(2) Recommendations for preparation of a detailed planning report for new work on a new problem in a District or Division where control of other aquatic plant problems is currently underway should consider whether such new work represents an equal or higher priority of need for allocation of funds in the same State. Projects will not be recommended which produce undesirable short-term or long-term damage to the human or natural environment.

§ 273.14 Planning procedures.

Investigation of new problems and/or additional control operations not covered by previously approved plans will begin with preparation of a preliminary report based on reconnaissance-type investigations. If it is determined that further planning of a more detailed nature is warranted, approval of a reconnaissance report by HQDA (DAEN-CWO-R) Washington, D.C. 20314 will be followed by further investigations. Normally, a detailed State design memorandum en-

compassing all aspects of the problem and a proposed plan of action for dealing with it will be prepared.

(a) *Reconnaissance reports.* Investigations for reconnaissance reports will be limited to readily available data and information. Field surveys and office studies should be limited to minimum essentials for further detailed planning. The reconnaissance report will be used for the overall program planning and should contain adequate information for these purposes.

(1) *Authorization.* Preparation of a reconnaissance report will be authorized by OCE granting of work allocations and allotment of funds based on requests submitted by reporting officers. Funds for such reports may be requested in annual submissions of budget requests and subsequently to DAEN–CWO–R as required to meet unanticipated needs. Since the program is proceeding under a limited budget, costs should be limited to minimum requirements. Only in exceptional cases will more than $3,000 be made available for a reconnaissance report on a problem in any one district.

(2) *Content of reports.* Where findings and conclusions are unfavorable to undertaking further detailed planning, a brief letter report summarizing the problem and findings should be submitted to OCE to provide a basis for answering outstanding inquiries. Where findings and conclusions are favorable, a more detailed report should include, but not be limited to, the information contained in Appendix B.

(b) *State design memorandum.* When authorized to prepare a detailed planning report, the reporting officer will proceed with necessary investigations and develop plans and data in sufficient detail to assure a complete and fully operable aquatic plant control operation. The report will be in the form of a State design memorandum (SDM). The SDM will be prepared by the District, reviewed by the Division, then forwarded to DAEN–CWO–R for review and approval. The data presented will be used to set priorities and request funds to finance activities on various projects. Fund requirements are divided into four categories: applied research; planning; control operations; and development.

(c) *Review of the proposed design Memoranda.* Review of State design memoranda should insure that:

(1) The work involved is not the type normally provided by local entities or private interests as a local responsibility.

(2) The cost of control operation will be shared between the Federal Government (70 percent) and the State receiving the benefit (30 percent).

(3) The actual control operation can be done by Federal, State, and/or private company facilities, under agreements specifying the details and standards of work to be performed.

(4) Consideration will be given in the planning procedure to include physical, chemical and biological methods of control. Priority will be given to biological systems where feasible.

(d) *Environmental impact statement requirements.* Prior to funding of a plant control project programs which involve pest control operations, such as aquatic plant control, and affect either man's health or his environment (soil, flora, fauna, aesthetics, water resources), are candidates for review and possible preparation of an environmental impact statement (EIS) under the National Environmental Policy Act. (The information outlined in Appendix C should be included in the analysis section of an EIS in addition to the treatment prescribed by 33 CFR 209.410.)

§ 273.15 Work progress report.

Reporting officers will prepare and submit to DAEN-CWO–R a detailed description of anticipated Aquatic Plant Control projects for the next calendar year. Submissions must reach OCE by 15 December of the preceding calendar year, in the format prescribed by Appendix D.

§ 273.16 Operations.

Operational activities will be conducted by reporting officers in accordance with approved annual work plans and State design memoranda. Questions should be referred to HQDA (DAEN-CWO–R) WASH DC 20314.

(a) *Certification of pesticide applicators.* Activities will be subject to the provisions of the Federal Insecticide, Fungicide and Rodenticide Act of 1972, (reference § 273.12(b) and (c)), regarding the training and certification of pesticide supervisors and/or applicators.

(b) *Safety in use of herbicides.* Use of herbicides will be in accordance with the Occupational Safety and Health Act of 1970, reference § 273.12 (d) and (e), Some herbicides are toxic chemicals and must be used with utmost care. Operators and applicators are required to use respiratory protective devices to prevent inhalation of toxic dusts, vapors, or gases; protective clothing to protect the skin; and eye protection. Some of the primary precautions which must be observed in handling herbicides are listed in Appendix E. Questions concerning safety should be referred to HQDA (DAEN–SO) Washington, D.C. 20314.

§ 273.17 Annual budget request.

The Aquatic Plant Control Program is a continuing activity funded under Construction, General, subject to monetary limitations of $5,000,000 on annual appropriations authorized for the program. Recommendations and supporting data will be submitted in accordance with ER 11–2–240. The amounts requested should be the minimum requirements for the purpose of the authorized program to meet essential needs and should be within the Division's capability to utilize within the budget year taking into account the foreseeable availability of local funds to meet cost-sharing requirements for control operations.

§ 273.18 Clearinghouse coordination.

Procedures prescribed under § 384.15 of Chapter II will be observed.

For the Chief of Engineers.

RUSSELL J. LAMP,
Colonel, Corps of Engineers,
Executive.

APPENDIX A

AQUATIC PLANT CONTROL PROGRAM LEGISLATIVE AUTHORITY

Section 104 of the Rivers and Harbors Act, approved 3 July 1958 (72 Stat. 297, 300), as amended by section 104 of the Rivers and Harbors Act of 1962 (76 Stat. 1173, 1180), and as amended by section 302 of the Rivers and Harbors Act, approved 27 October 1965 (79 Stat. 1092) states as follows:

SEC. 302 (a) There is hereby authorized a comprehensive program to provide for control and progressive eradication of waterhyacinth, alligatorweed, Eurasian watermilfoil, and other obnoxious aquatic plant growths, from the navigable waters, tributary streams, connecting channels, and other allied waters of the United States, in the combined interest of navigation, flood control, drainage, agriculture, fish and wildlife conservation, public health, and related purposes, including continued research for development of the most effective and economic control measures, to be administered by the Chief of Engineers, under the direction of the Secretary of the Army, in cooperation with other Federal and State agencies. Local interests shall agree to hold and save the United States free from claims that may occur from control operations and to participate to the extent of 30 per centum of the cost of such operations. Costs for research and planning undertaken pursuant to the authorities of this section shall be borne fully by the Federal Government.

(b) There are authorized to be appropriated such amounts not in excess of $5,000,000 annually, as may be necessary to carry out the provisions of this section. Any such funds employed for control operations shall be allocated by the Chief of Engineers on a priority basis, based upon the urgency and need of each area, and the availability of local funds.

APPENDIX B

INFORMATION REQUIREMENTS FOR AQUATIC PLANT CONTROL PROGRAM REPORTS

1. Location and brief description of problem area if necessary for understanding environmental factors, including a suitable map (appendix).

2. Statement of problem with brief description of physical factors pertaining thereto, including identication by common and scientific name of the plant or plants concerned, origin of infestation and likely source of reinfestation; extent of infestation including estimated surface area, depth or density; nature of physical and economic damages occasioned by presence of the infestation; and other information clarifying the nature and magnitude of the problem. Explanation should be given of how and why the infestation meets the principal criteria governing the program.

3. Preliminary plan of procedure, if any, for control operations or engineering works, including control methods, materials, equipment and procedures that may be employed. If sufficient information is not available to outline a preliminary plan for operation control, the report should include a brief statement of the special problems in control methods that need to be resolved before detailed planning can be undertaken.

4. Preliminary project cost estimates broken down into planning and operation costs for Federal and non-Federal budgeting. The report should present sufficient data concerning cost estimates for review by item and unit price.

5 Preliminary economic evaluation with approximation of benefits and brief summary of supporting data classified as general or local.

6. Discussion of availability of authority for State participation in the program, the interest of State agencies in such participation, and the likelihood of State funds being

available for cost-sharing required for any control operations.

7. Cost estimate for subsequent preparation of a detailed planning report, and estimated length of time to complete after receipt of funds, and schedule of funding by fiscal years.

APPENDIX C

INFORMATION REQUIREMENTS FOR AQUATIC PLANT CONTROL PROGRAM ENVIRONMENTAL IMPACT STATEMENTS

1. Description of the problem.

a. *Pests.* Identify the pest to be controlled by common name. Be as specific as possible.

b. *Location and size of infestation.* Describe the target area as specifically as possible.

c. *Severity of infestation.* Discuss the degree and importance of the pest problem.

d. *History of infestation.* Discuss obvious development as established.

e. *Criteria for identification of the treatment areas.* Include technical details as established.

f. Possible cumulative effects of the proposed action in relation to other Federal or non-Federal pesticides application in the treatment area.

g. *Relationship to environmental situation.* Non-target organisms and integrated pest management programs.

2. Program Accomplishments:

a. *Goals.* Discuss practical control levels.

b. Monitoring accomplishment level.

3. Identification of each chemical:

a. *Name.* Use common or coined names, and/or chemical name.

b. *Active ingredient.* Give name and percentage.

c. *Status of Federal registration.* Give registration number.

4. Application:

a. *Form applied.* Dust, granule, emulsion, bait solution, gas, etc.

b. *Choice of equipment and techniques.* Discuss general details of method of application.

c. *Use strength.* Give concentration of the active ingredient as applied.

d. *Rate.* Give rate of application in pounds per acre or other rate.

e. *Frequency.* Discuss probable frequency of application.

f. *Acreage or other descriptive unit.* Discuss area of proposed control.

g. *Site description.* Lake, river, drainage canal, irrigation canal, etc.

h. *Sensitive areas.* Discuss areas of potential contamination.

i. *Container disposal.* Discuss disposal requirements.

j. *Safety precautions.* Discuss hazards of exposure.

5. Alternative measures: Discuss details of alternative methods of control.

APPENDIX D

WORK PROGRESS REPORT

Aquatic Plant Control Program

(Example)

District: Vicksburg. Year Ending: 1 December 1974.

Division: Lower Mississippi Valley. Date Submitted: 15 December 1974.

1. *Status of contracts scheduled for award in current fiscal year.*

Contract	Scheduled award date	Actual award date
Plant control operations	July 1973	July 31, 1973

2. *Comparison of scheduled and actual current FY obligations and expenditures to date.*

	Approved Mar. 28, 1974	Actual	Difference
Obligations	$4.7	$3.2	−$1.5
Expenditures	4.1	2.9	−1.2

3. *Explanation of difference.* Not applicable.

4. *Outlook for meeting programmed objectives.*

a. *Programmed objectives.* Full utilization of work allowance.

b. *Outlook.* We expect to meet our programmed objectives.

5. *Problems and corrective action taken or proposed action.* Not applicable.

6. *Status of over-all program progress.* Contract for plant control operations was awarded in July 1973 to take advantage of last part of plant growing season. Plant control operations began in October 1973 and have been completed for this fiscal year. Surplus funds in the amount of $21,700 will be revoked.

APPENDIX E

PREVENTIVE SAFETY MEASURES IN HANDLING OF HERBICIDES

1. Follow the label on each container before using the contents. The manufacturers are required by law to list recommendations and precautions.

2. Weather conditions are important. Winds could carry toxic sprays and dusts to areas not under your control, causing accidental poisoning to the public or domestic animals.

3. Smoking is not permitted while herbicides are being handled.

4. All herbicides must be handled in well ventilated areas to minimize inhalation of toxic vapors.

5. Shower and washing facilities must be near herbicides mixing areas.

6. Any contamination of the skin, particularly with liquid concentrations or solutions, must be immediately washed off with detergent and water.

7. Protective clothing is used in conjunction with respiratory protective devices to prevent skin contact and inhalation of herbicides. Recommended articles of protective clothing are rubber aprons, coveralls, chemical splash goggles, safety shoes and hard hats. A lightweight water and chemical resistant throw away type protective clothing that is impervious to herbicides is now available. In warm geographical areas this type of lightweight protective clothing would be beneficial in reducing physical stress to applicators. Additional protection is afforded by protective skin cream.

8. Clothing contaminated by spillage must be removed immediately and thoroughly laundered before wearing. Special care is required to prevent contamination of the inside of gloves.

9. Approved respirators must be worn while herbicides are being mixed, and when dusts or liquids are being handled or sprayed. Care should be exercised when selecting the respirator type to insure that it is designated specifically for the substance to be used. Each canister must be labeled and approved by the Bureau of Mines or HEW (NIOSH). Filters or canisters must be changed after 8 hours use and more often if odor of the herbicide is detected. (Always have extra cartridges available when needed.)

10. Herbicide storage, mixing and formulation facilities.

a. All herbicides must be stored in a dry, well ventilated, separate room, building or covered area not accessible to authorized personnel or the public and placed under lock and key.

b. Identification signs should be placed on rooms, buildings, and fences to advise of the contents and warn of their hazardous nature.

c. Where applicable, label the outside of each storage with the "Danger," "Poison," and "Pesticide Storage" signs.

d. Fire extinguishers must be installed near door of material storage room. Diluted oil based herbicides are flammable and must be stored separate from other materials.

e. All herbicide storage, mixing and formulation areas must have adequate ventilation in order to reduce inhalation of toxic vapors. Sparkproof lighting fixtures should be installed in closed storage areas to eliminate ignition hazards.

11. Empty herbicide containers must be disposed of properly. Do not burn them. When herbicides or defoliants volatize, the resulting vapors may be poisonous to humans, and they may damage nearby plants, crops or shrubbery; also, herbicides or defoliants containing chlorates may be a serious fire hazard when heated.

12. Glass herbicide containers should be disposed of by breaking. Chop holes in top, bottom, and sides of meta containers or crush them so they cannot collect water or be reused. After breaking or puncturing them, bury the containers at least 18 inches deep in an isolated area provided for this purpose, away from water supplies or high water tables. Records to locate such buried herbicides within the landfill site should be maintained. Post warning signs.

13. Safety programs developed for the safe handling and mixing of toxic chemicals should be coordinated with the Safety Office prior to implementation.

[FR Doc.76-15885 Filed 6-2-76;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL 551-3]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Nebraska: Approval of Compliance Schedules

On May 31, 1972 (37 F.R. 10842), pursuant to Section 110 of the Clean Air Act and 40 CFR Part 51, the Administrator approved portions of state plans for implementation of the national ambient air quality standards.

Revisions to the State Implementation Plan submitted by the State after adoption on February 22, 1974, were approved by the Environmental Protection Agency on September 9, 1975 (40 F.R. 41778). These revisions included the establishment of a July 31, 1976, date for the attainment of National Ambient Air Quality Standards (NAAQS).

After submittal of the emission limitations having statewide applicability, but prior to their September 9, 1975, approval, the State of Nebraska revised the numbering sequence of the emission limitations effective June 17, 1975. The emission limitations themselves were not changed.

In this promulgation, the numbering sequence which became effective June 17, 1975, is used. Pertinent Rule Numbers and descriptive titles are listed below:

Rule No.	Rule Title
5	Process operations; particulate emission limitations for existing sources.
	Fuel burning equipment; particulate emission limitations for existing sources.
	Incinerators; emission standards.
10	Nitrogen oxides (calculated as nitrogen dioxide); emission standards for existing stationary sources.
13	Visible emissions; prohibited (exceptions: See rule 18).
14	Dust; duty to prevent escape of.

The State of Nebraska submitted to the Environmental Protection Agency compliance schedules to be considered as proposed revisions to the approved plan pursuant to 40 CFR 51.6. The approvable schedules were adopted by the State and submitted to the Environmental Protection Agency after notice and public hearings in accordance with the procedural requirements of 40 CFR 51.4 and 51.6 and the substantive requirements of 40 CFR 51.15 pertaining to compliance schedules. These compliance schedules have been determined to be consistent with the approved control strategy of Nebraska.

Accordingly, the Administrator proposed approval of these schedules on March 29, 1976, in the FEDERAL REGISTER, 41 F.R. 12905. The proposed approval of these schedules published in the March 29, 1976, FEDERAL REGISTER provided for a 30-day comment period. No comments concerning these schedules were received. Set forth below are specific compliance schedules which the Administrator approves pursuant to 40 CFR 51.8.

Each approved revision establishes a new date by which the individual source must comply with the applicable emission limitation in the federally approved State Implementation Plan. This date is indicated in the table below, under the heading "Final Compliance Date." In all cases, the schedules include incremental steps toward compliance with the applicable emission limitations. While the tables below do not include these interim dates, the actual compliance schedules do. The "Effective Date" column in the table refers to the date the compliance schedule becomes effective for purposes of federal enforcement.

In the indication of approval of individual compliance schedules, the individual schedules are included by reference only. In addition, since the large number of compliance schedules preclude setting forth detailed reasons for approval of individual schedules in the FEDERAL REGISTER, an evaluation report has been prepared for each individual compliance schedule. Copies of these evaluation reports are available for public inspection at the Environmental Protection Agency Regional Office, 1735 Baltimore, Kansas City, Missouri. The compliance schedules and State Implementation Plans are available for public inspection at the Environmental Protection Agency Regional Office; the Environmental Protection Agency, Division of Stationary Source Enforcement, 401 M Street, Washington, D.C.; and the Nebraska Department of Environmental Quality, 1424 P Street, Lincoln, Nebraska.

This rulemaking will be effective immediately upon publication. The Agency finds that good cause exists for not deferring the effective date of this rulemaking because the compliance schedules are already in effect under State law and federal approval imposes no new burdens.

This rulemaking is promulgated pursuant to the authority of Section 110 of the Clean Air Act of 1970, as amended, 42 U.S.C. 1857c-5.

Dated: May 24, 1976.

JOHN QUARLES,
Acting Administrator.

Part 52 of Chapter I, Ttile 40, of the Code of Federal Regulations is amended as follows:

Subpart CC—Nebraska

1. A new § 52.1425 is added as follows:

§ 52.1425 Compliance Schedules.

(a) The compliance schedules for the sources identified below are approved as revisions to the plan pursuant to § 51.6 and § 51.15 of this chapter. All regulations cited are air pollution control regulations of the State, unless otherwise noted.

Nebraska—Compliance schedules

Source	Location	Regulation involved	Date adopted	Variance expiration date	Final compliance date
Allied Mills, Inc.: 3 drums and 2 hammermills.	Elm Creek plant.	Rules 5, 13	Aug. 22, 1974	May 1, 1976	May 1, 1976
Cominco American, Inc.: Nitric acid absorption tower.	Beatrice	Rule 10	do	July 31, 1976	July 31, 1976
Dobson Bros. Construction Co.: Portable asphalt plant.	Outstate	Rule 5	do	May 1, 1976	May 1, 1976
Beerman Bros. Dehydrating: Dryers and hammermill.	Dakota City	do	do	do	Do.
Behrens Blacktop: B/G 845 asphalt plant.	Beaetice	do	do	July 31, 1976	July 31, 1976
W. A. Biba Engineering:					
(a) Asphalt plant—Model G-80	Geneva	Rule 13	do	June 25, 1976	June 25, 1976
(b) Asphalt plant—Model G-40	do	Rule 5	do	do	Do.
Board of Public Utilities Power Plant No. 1: Boilers Nos. 4 and 5.	Fremont	Rule 6	do	June 1, 1976	June 1, 1967
Bram, Inc.: Drum and hammermill	Arlington	Rule 5	do	July 31, 1976	July 31, 1976
CF Industries, Inc.: Nitric acid plant	Fremont	Rule 10	do	do	Do.
Consolidated Blenders, Inc.: Drum and hammermill.	Arlington	Rule 5	do	June 1, 1976	June 1, 1976
Consolidated Blenders, Inc.: Old plant drums and hammermills.	Gothenburg	do	do	do	Do.
Consolidated Blenders, Inc.: Drum and hammermill.	Lexington	do	do	do	Do.
Consolidated Blenders, Inc.: Drums and hammermills.	Loomis	do	do	do	Do.
Consolidated Blenders, Inc.: Drum and hammermill.	Mead East	do	do	do	Do.
Consolidated Blenders, Inc.: Drums and hammermills.	Schuyler	do	do	do	Do.
Consolidated Blenders, Inc.: Drum and hammermill.	Wausa	do	do	do	Do.
Consolidated Blenders, Inc.: Drums and hammermill.	Wood River	do	do	do	Do.
Do	York	do	do	do	Do.
Dawson County Feed Products, Inc.: Drum and hammermill.	Brule	do	do	June 30, 1976	June 30, 1976
Dudden Alfalfa Farms, Inc.: Drum and hammermills.	Venango	do	do	May 15, 1976	May 15, 1976
Edison Dehy. Co., Inc.: Drums and hammermills.	Edison	do	do	July 31, 1976	July 31, 1976
J. L. Healy Construction Co.: Portable asphalt plant No. 606.	Outstate	do	do	do	Do.
J. L. Healy Construction Co.: Portable asphalt Plant No. 692.	do	do	do	do	Do.
Hillside Dehy. Inc.: Drums and hammermill.	Vehling	do	do	May 5, 1976	May 5, 1976
Land O'Lakes, Inc.: Drums and hammermill.	David City	do	do	July 24, 1976	July 24, 1976
Do	West Point	do	do	July 3, 1976	July 3, 1976
Loup Valley Alfalfa, Inc.: Drum and hammermill.	Burwell	Rule 13	do	June 30, 1976	June 30, 1976
Magnus Metal Division: Reverberatory furnaces.	Fremont	do	do	July 1, 1976	July 1, 1976
Missouri Valley Construction Co.: Asphalt concrete plant.	do	Rule 5	do	June 30, 1976	June 30, 1976
Missouri Valley Construction Co.: Asphalt plant (B/G Model 845).	Columbus	do	do	do	Do.
Missouri Valley Construction Co.: Asphalt plant (B/G Model 848).	Norfolk	do	do	do	Do.
Missouri Valley Construction Co.: Portable asphalt plant.	Grand Island	do	do	do	Do.
Do	McCook	do	do	do	Do.
Morrison & Quirk, Inc.: Drum and hammermill.	Lyons	do	do	July 31, 1976	July 31, 1976
Do	Oakland	do	do	do	Do.
Do	Pender	do	do	do	Do.
North Bend Alfalfa, Inc.: Drums and hammermills.	North Bend	do	do	Jan. 15, 1976	Jan. 15, 1976
Shofstall, Inc.: Drums and hammermills.	Odessa	do	do	July 1, 1976	July 1, 1976
Table Rock Lumber Co.: Incinerator	Table Rock	Rule 7	do	July 31, 1976	July 31, 1976

Source	Location	Regulation involved	Date adopted	Variance expiration date	Final compliance date
Western Alfalfa Corp.: Drums and hammermill.	Cozad	Rules 5 and 13.	do	do	Do.
Western Alfalfa Corp.: Drums and hammermills.	Elm Creek	do	do	do	Do.
Do	Kearney	do	do	do	Do.
Gothenburg Feed Products Co.: Drum and hammermill.	Willow Island	Rule 5	Jan. 14, 1975	July 1, 1976	July 1, 1976
Sargent Alfalfa Products, Inc.: Drums and hammermill.	Sargent	Rule 13	do	July 15, 1976	July 15, 1976
Transco Feed Products, Inc.: Drums and hammermills.	Nickerson	Rule 5	May 6, 1975	May 1, 1976	May 1, 1976
Kaw Dehydrating Co., Inc.:					
Drums 1 and 2, hammermills	Brady	do	do	June 1, 1976	June 1, 1976
8 by 24 Heil dryer	do	do	do	do	Do.
Hanna & Lamb Milling Co.: Drums and hammermills.	Gothenburg	do	do	July 1, 1976	July 1, 1976
Central Alfalfa, Inc.:					
8 by 24 Heil dryer	Josselyn plant.	do	do	July 31, 1976	July 31, 1976
12 by 42 MEC dryer	do	do	do	do	Do.
Cedar Bluffs Dehydrating: 2 drums and 3 hammermills.	Cedar Bluffs	do	do	May 28, 1976	May 28, 1976
Albers Dehydrating Co.: Drums 1 and a, and hammermill.	Wisner	do	do	July 1, 1976	July 1, 1976
Central Alfalfa, Inc.: Drums and hammermills.	Lexington	do	do	July 31, 1976	July 31, 1976
Coleridge Dehydrating, Inc.: Drums and hammermills.	Coleridge	do	do	July 1, 1976	July 1, 1976
Ebel Alfalfa Co., Inc.: Drum and hammermill.	Scribner	do	do	do	Do.
Fox Grain Co. (Division of Scoular-Bishop).	Gibbon	Rule 14	do	June 15, 1976	June 15, 1976
Endicott Clay Products Co.: Lingitunnel kiln.	Fairbury	Rule 13	Sept. 2, 1975	July 31, 1976	July 31, 1976
Iowa Beef Processors, Inc.: Raymond dryers.	Dakota City	do	do	do	Do.
Island Dehydrating, Inc.: Drums and hammermills.	Cozad	Rule 5	do	June 1, 1976	June 1, 1976
Progressive Livestock & Feed, Inc.: Drum and hammermill.	Bertrand	do	do	July 1, 1976	July 1, 1976
Progressive Products Co., Inc.	Overton	do	do	do	Do.
Mid-America Dairymen: Spray dryer	Norfolk	do	Jan. 6, 1976	July 31, 1976	July 31, 1976
Do	Superior	do	do	do	Do.
Consolidated Blenders, Inc.: Drum and hammermill.	Mead West	do	do	do	Do.
Consolidated Blenders: Drum and hammermill.	Darr East	do	do	do	Do.
Consolidated Blenders: New plant—drum and hammermill.	Gothenburg	do	do	do	Do.
Consolidated Blenders: Drum and hammermill.	Grand Island	do	do	do	Do.
Do	Ord	do	do	do	Do.
Do	Stanton	do	do	do	Do.
Cozad Alfalfa, Inc.: Drum and hammermill.	Cozad	do	do	July 1, 1976	July 1, 1976
Kearney Alfalfa Mills, Inc.: Drums and hammermills.	Kearney	do	do	May 30, 1976	May 30, 1976
Orleans Milling Co., Inc.: Drum and hammermill.	Orleans	do	do	do	Do.

[FR Doc.76-15381 Filed 6-2-76;8:45 am]

[FRL 536-3]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Florida: Southeast Florida SO_2 Standards

Correction

In FR Doc. 76-14189 appearing in the issue for Friday, May 14, 1976, in the first column in the middle of the column, the line which reads as follows: "1. 8.6 ug/m^3 (0.003 ppm)—annual arithmatic mean." should be changed to read as follows: "1.60 ug/m^3 (0.02 ppm)—annual arithmetic mean."

Title 41—Public Contracts and Property Management

CHAPTER 3—DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 3-3—PROCUREMENT BY NEGOTIATION

Small Purchases

On July 15, 1975, the Departmental implementation of Federal Procurement Regulation, Temporary Regulation 33, was published in the FEDERAL REGISTER. The federal regulation implemented Public Law 93-356 which amends the Federal Property and Administrative Services Act of 1949 to increase the authority to negotiate small purchases from $2,500 to $10,000.

Although the regulation was published in final form, comments were solicited. No comments were received from the general public. However, a component of the Department suggested a number of minor changes for the purpose of clarifying various parts of the regulation. As a result of our evaluation of the comments the Small Business regulation will be amended as set forth below.

In part 3-3, Subpart 3-3.6 is amended as set forth below.

1. The fourth sentence of § 3-3.600 is revised as set forth below.

2. Section 3-3.601(b)(1)(i) is revised as set forth below.

3. In § 3-3.602(a) the reference to § 1-3.302 is changed to § 1-3.203, and the second and third sentences are revised as set forth below.

4. In § 3-3.603-50, the following amendments are made:

a. The first sence of paragraph (b)(6)(ii) is revised to read as set forth below.

b. Paragraph (b)(6)(ii)(D) is deleted and paragraphs (b)(6)(ii)(E) through (H) are redesignated as (b)(6)(ii)(D) through (G).

c. Paragraph (b)(8) is revised as set forth below:

d. Paragraph (b)(10)(iii) is deleted and paragraphs (b)(10)(iv) and (v) are redesignated as (b)(10)(iii) and (iv).

e. Redesignated paragraph (b)(10)(iii)(A) is revised as set forth below.

f. Paragraphs (b)(12) and (13) are redesignated as paragraphs (b)(11) and (12).

g. Paragraph (c) is revised as set forth below.

5. Section 3-3.606-4 is revised as set forth below.

(5 U.S.C. 301; 40 U.S.C. 486(c).)

Effective date: These amendments shall be effective June 3, 1976.

It is hereby certified that economic and inflationary impacts of this proposed regulation have been carefully evaluated in accordance with OMB Circular A-107.

Dated: May 24, 1976.

JOHN OTTINA,
Assistant Secretary for Administration and Management.

In Part 3-3, Subpart 3-3.6 is amended by revising §§ 3-3.600, 3-3.601, 3-3.602, 3-3.603-50, and 3-3.606-4 as follows:

§ 3-3.600 Scope of subpart.

This subpart prescribes the policies and procedures for purchases of supplies and nonpersonal services when the aggregate dollar amount in any one transaction does not exceed $10,000. Purchases not in excess of $10,000 which are accomplished in accordance with the policies and procedures of this subpart 3-3.6 shall be termed "small purchases." Small purchase methods included in this subpart include solicitations made either orally, or in writing using a SF-18, and award via Standard Form 147 (Order for Supplies or Services); Standard Form 44 (Purchase Order-Invoice-Voucher); Blanket Purchase Agreements (BPA), or Imprest Funds. Procurements not in excess of $10,000 which are accomplished by more formal negotiation methods other than those prescribed in this subpart and which are negotiated pursuant to 41 U.S.C. 252(c)(3), are also defined as small purchases. In arriving at the "aggregate dollar amount" involved, all supplies and services must be included which would be properly grouped together in a single advertisement for bids if the procurement were being effected by formal advertising. The amount of $10,000 includes the total price of the order including all estimated handling and freight charges to be paid to the prospective contractor. Requirements aggregating more than $10,000 shall not be broken down into several purchases which are $10,000 or less merely for the purpose of permitting negotiation or utilizing the

small purchase methods authorized under §§ 1–3.6 and 3–3.6.

§ 3–3.601 Purpose and applicability.

(a) *Purpose.* The objective of the simplified small purchase methods prescribed herein is to reduce administrative costs to the extent possible within the limits of applicable laws and regulations.

(b) *Applicability.* (1) The policies and procedures in 1–3.6 and this subpart shall not be used for the following:

(i) Procurements which are accomplished through delivery orders issued under indefinite delivery contracts, e.g., definite quantity contracts, requirements contracts, and indefinite quantity contracts.

(ii) Procurements made by formal advertising or negotiation other than by § 1–3.203, which were initially estimated to exceed $10,000, but ultimately resulted in a preaward price of $10,000 or less.

(iii) Small purchases which are initially estimated not to exceed $10,000, but ultimately result in a preaward price in excess of $10,000. If the price exceeds $10,000, the authority of 41 U.S.C. 252(c)(3) may not be used.

(iv) Construction requirements estimated to exceed $2,000. However, if the initial estimate is $2,000 or less but the ultimate preaward dollar amount resulting from quotations received exceeds $2,000, but does not exceed $2,500, award may be made pursuant to the policies and procedures of § 1–3.6, this subpart, and the authority in 41 U.S.C. 252(c)(3) which is permitted by § 1–18.302. (See § 1–18.3 for policies and procedures pertaining to the procurement of construction by negotiation.)

(v) Procurement of architect-engineer professional services of any dollar amount. (See §§ 1–4.10 and 1–16.7 for policies, procedures, and forms pertaining to the procurement of A & E services.)

(2) This subpart does not preclude the use of bilateral purchase orders, Standard Forms 19 and 19B for construction contracts under $2,000 (see § 1–16.402–1), or a negotiated two-party formal contract for procurement not in excess of $10,000 where the procurement requires a specific contract provision relating to technical inspection or test, specification changes, government furnished property, insurance, patents, price adjustments, or the like.

§ 3–3.602 Policy.

(a) *Negotiation Authority.* Negotiated contracts or purchases aggregating $10,000 or less shall be made under the authority of 41 U.S.C. 252(c)(3) and § 1–3.203 rather than under any of the other sections in § 1–3.2. For example, small purchases for expert or consultant services shall be made under 41 U.S.C. 252(c)(3) and 1–3.203 rather than 41 U.S.C. 252(c)(15) and 5 U.S.C. 3109, and small purchases which are set-aside for small business unilaterally or jointly shall be made under the authority of 41 U.S.C. 252(c)(3) and 1–3.203 rather than 41 U.S.C. 252(c)(1) or 41 U.S.C. 252(c)(15). The negotiation authority shall be cited on the face of the Standard Form 147.

(b) Placement of small purchases with small business concerns, labor surplus area concerns, and minority business enterprises shall be encouraged to the extent consistent with the objectives of this subpart. When source lists are maintained for procurements of $10,000 or less, these source lists should include known concerns in these categories. These concerns and enterprises shall be given opportunities, at least equal to other firms, to submit quotations in response to small purchase solicitations.

(c) *Mandatory Sources.* Purchases shall be made in the open market only when requirements cannot be satisfied by requisition or order from mandatory sources in accordance with Part 1–5 or Federal Supply Schedule contracts in accordance with FPMR 101–26.4.

(d) *Limitations on the use of Small Purchase Methods.* (1) The contracting officer has the responsibility and authority to determine which purchase method is most suitable, efficient, and economical for use in meeting the immediate requirement.

(2) The small purchase methods are designed to procure defined, off-the-shelf, standard supplies, equipments, or services which may be awarded on the basis of a fixed price quotation. Small purchase methods should not be used to procure R & D, complex studies, services, and the like (which require judgmental technical evaluations and involved negotiations) where the award cannot be confidently made on the low price. Where procurements are not suitable for accomplishment using small purchase methods more formal negotiation methods or formal advertising should be used.

(3) Small purchases accomplished in accordance with this subpart may not be awarded on a cost-reimbursement basis.

(4) *Consultants.* Small purchase methods should be used with great prudence for the procurement of consultants to avoid the increased possibility at the higher dollar level of $10,000, of using consultants in an improper personal service capacity. Consideration should be given to § 3–22.2, *Procurement of Expert and Consultant Services,* prior to each purchase for consultant or expert services.

(5) Delegations of contracting officer authority for small purchases may be selectively increased from $2,500 up to $10,000 provided purchasing agents have met the selection requirements in § 3–1.404–1 and have a working knowledge of the requirements of this subpart. Personnel responsible for making and approving small purchases should acquire formal training in this area.

§ 3–3.603–50 Conduct of small purchases.

(a) *Purchases not in excess of $500.* (1) Competition. Purchases not in excess of $500 may be accomplished without securing competitive quotations. Such purchases are exempt from § 3–3.802–50 which requires a written justification for noncompetitive procurement. Purchases shall be distributed equitably among qualified sources. Purchases not in excess of $500 shall not be made repetitively to one source except for reasons which will clearly and convincingly justify a noncompetitive procurement in accordance with § 3–3.802–50. Where there are multiple sources available to provide an item or service, a quotation should be solicited from other than the previous source prior to placing a repeat order.

(2) Solicitation of Quotations. Quotations for purchases not in excess of $500 should usually be made orally but may be made in writing. If written solicitations are used, they must be accomplished in accordance with § 3–3.603–50(b)(6)(ii).

(3) Evaluation of price. The administrative cost of verifying the reasonableness of the price of purchases not in excess of $500 may more than offset potential savings in detecting instances of overpricing; therefore, action to verify the reasonableness of the price need be taken only when the buyer or contracting officer suspects that, or has information to indicate that, the price may not be reasonable, e.g., comparison to previous price paid, personal knowledge of the item involved No written determination as to the reasonableness of the price is required except in instances where there is serious doubt as to the reasonableness of the price.

(b) *Purchases in excess of $500 up to $10,000.* The following describes the major considerations and steps involved in making purchases in excess of $500 up to $10,000.

(1) *Specification-statement of work.* The purchase requirement as described in a specification or statement of work must be clear and complete. Clarity is important to achieve effective competition because it enables all potential quoters to reach a common understanding of the requirement. A complete expression of the Government's requirement reduces potential misunderstandings in competitive procurements and increases the probability that the Government will receive what is actually required.

(2) *Notice of intention to make a service contract.* The requirement in § 1–12.905–3 to forward a Standard Form 98, Notice of Intention to Make a Service Contract, to the Department of Labor for any contract exceeding $2,500 also applies to small purchases over $2,500.

(3) *Competition.* Solicitation of competitive quotations from a reasonable number of qualified sources of supply shall be made to assure that the procurement is to the advantage of the Government, price and other factors considered. Generally, three is a reasonable number of sources for purchases in excess of $500 but under $5,000. More than three sources may be solicited at the discretion of the contracting officer. A reasonable number of sources for purchases of $5,000 up to $10,000 is a minimum of three. A maxi-

mum number cannot be specified apart from considering the nature of the requirement to be purchased.

(4) *Noncompetitive purchases.* Purchases in excess of $500 up to $10,000 which are made noncompetitively require justification as to why competition was not obtained. The justification, which may be in the form of a statement in the request for contract or requisition must address the considerations in § 3–3.802–50. The contracting officer may approve or disapprove the justification. Award of the contract or purchase order up to $10,000 by the contracting officer shall constitute approval of the justification.

(5) *Synopsis (1–1.10).* Small purchases of $5,000 and above shall be synopsized in the Commerce Business Daily in accordance with § 1–1.10 unless one of the exceptions in § 1–1.1003–2 applies. Synopses shall be sent to the Commerce Business Daily and due dates for receipt of quotations shall be timed so that there is a reasonable time for potential quoters to request RFQ's and submit quotations. Generally the synopsis should be mailed to the Commerce Business Daily 10 days prior to but not later than the day the SF–18 is released. Approximately 30 days should be planned between publishing of the synopsis and the due date for receipt of quotations. The synopsis should contain notice that the requirement is a small purchase.

(6) *Solicitation of quotations.* (i) Solicitations for purchases under $5,000 may be solicited either orally or in writing. Data to support oral solicitations shall be in accordance with § 1–3.603–2. Written solicitations should be used when (A) the sources are located outside the local area, (B) special specifications are involved, (C) a large number of items are included in a single proposed procurement, or (D) obtaining oral quotations is not considered efficient. Written solicitations for purchases under $5,000 shall be prepared in accordance with the following paragraph § 3–3603–50(b)(6)(ii).

(ii) Written solicitations should be used for all purchases estimated to be $5,000 up to $10,000. Standard Form 18, Request for Quotations, shall be used for written solicitation of quotations in accordance with § 1–16.201. Written competitive solicitations shall contain the following elements as a minimum.

(A) Specification or Statement of Work.

(B) Delivery schedule.

(C) Quantity.

(D) Add the clauses as required by § 3–3.605–2(b) (3) and (4).

(E) Add the Certifications and Representations as required by § 3–3.605–2 (b)(5).

(F) Cite the negotiation authority of 41 U.S.C. 252(c)(3).

(G) State the due date for receipt of quotations and include the provision prescribed by § 1–3.802–1 regarding consideration of late proposals.

(iii) Amendment of Request for Quotation—Prior to Closing Date.

(A) If after issuance of a request for quotations, but before the closing date of their receipt, it becomes necessary to make significant changes in quantity, specifications, delivery schedules or any change in closing dates, or to correct a defect or ambiguity, such change shall be accomplished by issuance of an amendment to the request. Requests for quotations using the SF–18 may be amended by letter. Oral requests for quotations may be amended orally.

(B) When it is considered necessary to issue an amendment to a request for quotations, the period of time remaining before closing and the need for extending this period by postponing the time set for closing must be considered. Where only a short time remains before the time set for closing, extension of time may be made by telegram or telephone. Such notification should be confirmed in the amendent.

(C) Any information given to one potential quoter concerning a request for quotations shall be furnished promptly to all other potential quoters in an amendment to the request, if such information is necessary to potential quoters in submitting quotations, or if the lack of such information would be prejudicial to uninformed potential quoters.

(7) *Late quotations.* The policy of § 1–3.802–1, *Consideration of Late Proposals,* is made applicable by this regulation to written small purchase quotations received after the time set for receipt at the purchasing office. Any oral quotation received at the purchasing office after the time set for receipt shall not be accepted. Because late written quotations shall not be considered except as provided for in § 1–3.802–1 it is important to allow potential quoters enough time to submit their quotations.

(8) *Selection of quoter for award.* Awards will be made to the lowest responsible quoter.

(9) *Evaluation of price.* Some form of price or cost analysis should be made on each small purchase over $500 to determine that the proposed price is reasonable in accordance with the guidance in § 1–3.807–2. When competitive quotations are received and award is made to the lowest priced quoter, and the contracting officer concludes that the lowest price is reasonable, no written determination of price reasonableness is required. When other than the lowest quotation is used as the basis for the purchase, the reason(s) for rejecting the lower quotation shall be included in the purchase order file by notation on the worksheet or by a separate memorandum. When only one quotation is received, a written determination of price reasonableness is required.

(10) *Award documents.* (i) Small purchase awards shall generally be made using the Standard Form 147 in § 1–16.–301–2. If special conditions require, a two party formal contract may be issued under $10,000.

(ii) Clauses required by § 3–3.605–2(b) (3) and (4) shall be incorporated in the SF–147 by reference or shall be physically attached.

(iii) *Modifying a purchase order.* (A) Standard Form 30 or other functionally equivalent forms shall be used to modify the purchase order for administrative or other changes.

(B) Modifications making administrative changes such as the correction of typographical errors, changes in paying office and changes in accounting and appropriation data do not require contractor acceptance. In addition, the issuance of no cost amended shipping instructions which modify unilateral purchase orders and which have been concurred in by the contractor by telephone or letter do not require contractor acceptance by signature on the Standard Form 30.

(C) To otherwise modify the purchase order, and if not previously included in the purchase order, the changes clause in § 1–7.102–2 shall be incorporated in the Standard Form 30 (Amendment of Solicitation/Modification of Contract), and the contractor acceptance obtained by his signature on the Standard Form 30. Subsequent changes pursuant to the Changes clause shall not require contractor acceptance. However, other modifications outside the scope of the changes clause, such as the addition of the Government Property Clause, shall require contractor acceptance by signature on the Standard Form 30.

(iv) *Termination of purchase orders.* A purchase order which has not been accepted in writing or by delivery by the prospective contractor may be withdrawn or canceled by the contracting officer any time prior to acceptance. Notice of withdrawal or cancellation shall be in writing and shall request the prospective contractor's acknowledgement thereof. If the contractor has accepted the purchase order in writing or on a subsequently issued Standard Form 30, and it later becomes necessary to terminate the purchase order, the contractor should be asked to agree to cancellation of the order without cost or liability to either party. If he agrees, the cancellation shall be effected by use of Standard Form 30, as a No-Cost settlement in accordance with § 1–8.209–4, signed by the contracting officer and the contractor. If the contractor does not agree to a no-cost settlement of a purchase order which has been accepted, termination of a purchase order will be processed in accordance with the Termination for Convenience clause and Part 1–8 of Title 41.

(11) *Debriefings and notification of unsuccessful quoters.*

(i) Debriefings shall be provided in accordance with § 3–3.103–50 to unsuccessful quoters upon their request.

(ii) The notification of unsuccessful offerors in § 3–3.103–50(b)(2) is not applicable to procurements of $10,000 or less.

(12) *Protests.* There is nothing which prevents a quoter or an interested party from protesting against the placement or manner of handling a small purchase. Protests against small purchases shall be processed in accordance with § 3–2.407–8.

(c) *Close out.* Purchasing offices shall initiate the close out of small purchase files upon determination by the office accumulating the file that the order is complete. An order is completed when (1) the contractor has completed the required deliveries or supplies and the Government has inspected and accepted such supplies, (2) the contractor has performed all services and the Government has accepted such services, or (3) notice of termination has been given to the contractor by the Government or the parties mutually agree to a no cost cancellation. Rental, use, and storage agreements shall be considered to be complete when a notice of termination has been issued or the period has expired.

(d) *Reports of small purchases.* [Reserved.]

§ 3–3.606 Blanket purchase arrangements.

§ 3–3.606–4 Documentation.

(a) Each blanket purchase arrangement (BPA) shall be documented by issuance of a contractual instrument appropriately numbered. Each BPA shall contain the following provisions:

(1) Authorization to the supplier to furnish the supplies or services described in general terms, when ordered by authorized personnel listed therein.

(2) A statement that individual orders will not exceed $5,000 per call.

(3) A statement that the Government will be obligated only to the extent of the calls placed against the BPA by authorized personnel.

(4) A stipulation that the supplier's established discounts will apply to calls placed against the BPA.

(5) A requirement that all shipments be accompanied by delivery tickets containing the name of the supplier, BPA number, call number, date of call, name of individual placing the call, an itemized list of supplies or services furnished including unit price and extension of each item, applicable discount, date of delivery and the signature of the Government employee receiving the item or service.

(6) A requirement that the supplier shall submit an itemized invoice at least once each month or upon expiration of the BPA, whichever occurs first, covering all deliveries made during the billing period for which payment has not been received.

(7) Each BPA shall cite 41 U.S.C. 252(c)(3) as authority for negotiation.

[FR Doc.76–15650 Filed 6–2–76;8:45 am]

CHAPTER 101—FEDERAL PROPERTY MANAGEMENT REGULATIONS

[FPMR Amendment H–97]

PART 101–47—UTILIZATION AND DISPOSAL OF REAL PROPERTY

Explanatory Statements for Negotiated Sales of Surplus Real Property

Section 101–47.304–12(c) is revised to delete the requirement that disposal agencies shall mimeograph or use a similar type process in reproducing explanatory statements. Section 101–47.304–12(d) is revised to delete the requirement that the disposal agency shall furnish the General Services Administration 20 copies of the duplicated explanatory statement. Section 101–47.4911 is revised to illustrate the new outline to be followed by disposal agencies in preparing explanatory statements for proposed negotiated sales of surplus real property under section 203(e)(3)(G) or (H) of the Federal Property and Administrative Services Act of 1949, at amended. The outline was changed at the request of the House Subcommittee on Government Activities and Transportation, Committee on Government Operations.

1. Sections 101–47.304–12 (c) and (d) are revised as follows:

§ 101–47.304–12 Explanatory statements.

* * * * *

(c) An outline for the preparation of the explanatory statement is shown in § 101–47.4911. A copy of the statement shall be preserved in the files of the disposal agency.

(d) Each explanatory statement when prepared shall be submitted to the Administrator of General Services for review and transmittal by the Administrator of General Services by letters to the Committees on Government Operations and any other appropriate committees of the Senate and House of Representatives. The submission to the Administrator of General Services shall include such supporting data as may be relevant and necessary for evaluating the proposed action.

* * * * *

2. Section 101–47.4911 is revised as follows:

§ 101–47.4911 Outline for explanatory statements for negotiated sales.

EXPLANATORY STATEMENT OF PROPOSED NEGOTIATED SALE OF SURPLUS REAL PROPERTY SUBMITTED PURSUANT TO THE PROVISIONS OF SECTION 203(e)(6) OF THE FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949, AS AMENDED (40 U.S.C. 484(e)(6))

Property:
Location:
Reported excess by:
Date excess:
Date surplus:
Description:
Acquisition cost and date:
All income received from rentals:
Proposed purchase price:
Fair market value as estimated on basis of GSA market analysis:
Proposed purchaser:
Proposed use:
Background and justification:

NOTE.—State specifically in the background and justification paragraph whether the sale is being negotiated under section 203(e)(3)(G) or (H) of the Federal Property and Administrative Services Act of 1949, as amended.

(a) For sales of Government-owned, contractor-operated facilities to the operating contractor, include in the background and justification section of the statement appropriate additional narrative discussion concerning the situation and circumstances surrounding the sale including the following:

(1) What party; i.e., the Government or contractor, initiated the sale.

(2) What the purchaser intends to do with the property.

(3) Approximate percentage of time annually that the property being sold is used by the contractor for Government purposes and for non-Government purposes.

(4) Whether the purchaser is a prime or a lower tier contractor under Department of Defense contracts which would involve use of the property being sold.

(5) Whether all of the Government-owned property at the facility is being disposed of. If not, indicate why not and include a brief description of the property not being disposed of and any plans for disposing of it.

(6) Whether the selling price represents the special use value of the property to the purchaser.

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

Effective date: This regulation is effective on June 3, 1976.

Dated: May 25, 1976.

TERRY CHAMBERS,
Acting Administrator of General Services.

[FR Doc.76–16019 Filed 6–2–76;8:45 am]

Title 49—Transportation

CHAPTER III—FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER A—GENERAL REGULATIONS

SUBCHAPTER B—FEDERAL MOTOR CARRIER SAFETY REGULATIONS

DELEGATIONS OF AUTHORITY BY THE FEDERAL HIGHWAY ADMINISTRATOR AND ASSOCIATE ADMINISTRATOR FOR SAFETY PERTAINING TO MOTOR CARRIER SAFETY

● Purpose. These amendments to Parts 301, 385, 386, and 389 consolidate in Part 301 delegations of authority by the Federal Highway Administrator to the Associate Administrator for Safety and the Regional Federal Highway Administrators, and redelegations to the Director of the Bureau of Motor Carrier Safety. ●

Under Title 49, Subtitle A, Part 1, of the Code of Federal Regulations (CFR) and pursuant to his power under the Department of Transportation Act (49 U.S.C. 1655, 1657(e)), the Secretary of Transportation delegated authority to the Federal Highway Administrator to carry out certain functions, powers, and duties relating to motor carrier safety. The relevant delegations by the Secretary are set forth in 49 CFR 1.48 (a), (d), (e), (f), (g), (h), (k), (p), (u), and (v).

The purpose of this notice is to amend certain sections of 49 CFR Parts 301, 385, 386, and 389 to reflect this recent transfer of responsibility and to consolidate the delegations in § 301.60. Since the Associate Administrator for Safety (here-

inafter referred to as the Associate Administrator) is retaining certain functions while delegating others to the Director of the Bureau of Motor Carrier Safety (hereinafter referred to as the Director), various sections of Title 49 CFR, Chapter III, Subchapter B are affected as explained below.

Section 385.2, which contains certain delegations of authority concerning collection and compromise of civil forfeitures by the Associate Administrator and the Regional Administrators, is revised to eliminate the delegations from that section. The delegations previously contained therein are now transferred to § 301.60, paragraphs (d)(1)(v) and (d)(2)(i). The revised § 385.2 also defines the term "claimant" for the purposes of Part 385 civil forfeiture claims.

Section 386.45, dealing with incorporation of cease and desist orders in agreements for settlement of civil forfeiture claims, is amended to reflect the delegations of authority from the Federal Highway Administrator to the Associate Administrator and to the Regional Administrators. The amendment provides that in civil forfeiture claims of less than $25,000 in the aggregate, the Regional Administrators are delegated the authority to negotiate consent orders, whereas in civil forfeiture claims of $25,000 or more, the Associate Administrator or his delegate is delegated the authority to negotiate such orders.

Section 389.4 dealing with the authority of the Director to issue, amend, or revoke rules under certain sections of the Interstate Commerce Act (49 U.S.C. 304, 320, and 324) is revoked. Under the new § 301.60, subparagraph (e)(2), the Associate Administrator delegated to the Director the authority to issue rules, notices, and advance notice of proposed rules while not precluding the Associate Administrator from also issuing rules.

Finally, § 301.60 entitled "Delegations of Authority Relating to Motor Carrier Safety" is added to consolidate the delegations, define cease and desist orders, consent orders, and civil forfeitures. This new section prohibits redelegations unless specifically provided and allows deputies to act in place of officials to whom authority is delegated.

Since these amendments relate to the organization, procedure or practice of the Federal Highway Administration, notice and public procedure are not necessary. Since these amendments do not relate to substantive rules, they are effective less than 30 days after publication.

In consideration of the foregoing, 49 CFR Parts 301, 385, 386, and 389 are either amended, revised, or revoked as set forth below.

PART 301—ORGANIZATION AND DELEGATION OF POWERS AND DUTIES OF THE FEDERAL HIGHWAY ADMINISTRATION

1. Part 301 of Chapter III of Title 49 CFR is amended by adding a new § 301.60 to read as follows:

§ 301.60 Delegations of Authority Relating to Motor Carrier Safety.

(a) Definitions:

(1) *Cease and desist orders.* An order issued pursuant to 49 U.S.C. 304(c) and Part 386 of this chapter.

(2) *Consent orders.* A cease and desist order entered into voluntarily by the parties and issued pursuant to §§ 386.21 or 386.45 of this chapter.

(3) *Civil forfeiture.* A civil penalty imposed pursuant to 49 U.S.C. 322(h).

(b) The delegations of authority in this section may not be redelegated unless specifically provided.

(c) The authority delegated to officials under this section may be exercised by their deputies except that such deputies may not exercise the power of redelegation.

(d) The functions, powers, and duties of the Federal Highway Administrator are delegated as follows:

(1) To the Associate Administrator for Safety the authority to:

(i) Perform the functions, powers, and duties enumerated in § 1.48, paragraphs (a), (d), (e), (f), (g), (h), (k), (p), (u), and (v) in Part 1 of this title.

(ii) Issue, amend, and revoke rules, notices, and advance notices of proposed rules necessary for the implementation of the powers, functions, and duties delegated to him by this section.

(iii) Issue administrative interpretations of the Federal Motor Carrier Safety Regulations, Parts 390–398 of this chapter.

(iv) Issue notices of investigation pursuant to § 386.11 of this chapter commencing proceedings under section 204(c) of the Interstate Commerce Act (49 U.S.C. 304(c)).

(v) Initiate, collect, and compromise claims of the United States for civil forfeitures under section 222(h) of the Interstate Commerce Act (49 U.S.C. 322(h)), of $25,000 or more in the aggregate, and to suspend and terminate actions to collect such claims.

(vi) Issue consent orders as defined in this section.

(vii) Issue cease and desist orders as defined in this section.

(viii) Issue administrative subpoenas under sections 12(1) and 205(d) of the Interstate Commerce Act (49 U.S.C. 12(1), 305(d)) in connection with motor carrier safety inspections and investigations.

(2) To the Regional Administrators the authority to:

(i) Initiate, collect, and compromise claims of the United States for civil forfeitures under section 222(h) of the Interstate Commerce Act (49 U.S.C. 322(h)) of less than $25,000 in the aggregate, and to suspend and terminate actions to collect such claims.

(ii) Issue administrative subpoenas under sections 12(1) and 205(d) of the Interstate Commerce Act (49 U.S.C. 12(1), 305(d)) in connection with motor carrier safety inspections and investigations.

(iii) Issue consent orders pursuant to § 386.45 of this chapter.

(e) The Associate Administrator for Safety delegates to the Director of the Bureau of Motor Carrier Safety the authority to:

(1) Perform the functions, powers, and duties enumerated in § 1.48, paragraphs (a), (d), (e), (f), (g), (h), (k), (p), (u), and (v) in Part 1 of this title.

(2) Issue, amend, and revoke rules, notices, and advance notices of proposed rules necessary for the implementation of the functions, powers, and duties delegated to him by this section. This delegation of authority does not preclude the Associate Administrator for Safety from also issuing, amending, or revoking rules.

(3) Issue administrative interpretations of the Federal Motor Carrier Safety Regulations, Parts 390–398 of this chapter.

(4) Issue notices of investigation pursuant to § 386.11 of this chapter commencing proceedings under section 204(c) of the Interstate Commerce Act (49 U.S.C. 304(c)).

(5) Initiate, collect, and compromise claims of the United States for civil forfeitures under section 222(h) of the Interstate Commerce Act (49 U.S.C. 322(h)) of $25,000 or more in the aggregate, and to suspend and terminate actions to collect such claims.

(6) Issue consent orders as defined in this section.

PART 385—COLLECTION AND COMPROMISE OF CLAIMS FOR FORFEITURES UNDER SECTION 222(h) OF THE INTERSTATE COMMERCE ACT

2. In 49 CFR 385.2 the last sentence is deleted and the following is substituted:

§ 385.2 Delegation of authority.

* * * The Associate Administrator for Safety or his delegate, and the Regional Administrators are hereinafter referred to as the Claimant.

* * * * *

PART 386—RULES OF PRACTICE FOR MOTOR CARRIER SAFETY PROCEEDINGS UNDER SECTION 204(c) OF THE INTERSTATE COMMERCE ACT

3. 49 CFR 386.45 is revised to read as follows:

§ 386.45 Incorporation of order in settlement agreement.

(a) In a proceeding under Part 385 of this chapter, the Regional Administrator, in claims of less than $25,000 in the aggregate, and the Associate Administrator for Safety or his delegate, in claims of $25,000 or more in the aggregate, are authorized to negotiate for the incorporation of and, with the consent of the respondent, to incorporate a consent order compelling respondents' compliance with Part II of the Interstate Commerce Act, 18 U.S.C. 831–835, or any regulation issued thereunder in a settlement

agreement compromising a claim for forfeiture under section 222(h) of the Interstate Commerce Act (49 U.S.C. 322(h)).

(b) The Regional Administrator in claims of less than $25,000 in the aggregate, and the Associate Administrator or his delegate in claims of $25,000 or more in the aggregate, are authorized to execute orders incorporated in settlement agreements as prescribed in paragraph (a) of this section. When an order is incorporated into a fully executed agreement, such an order has the same force and effect as an order issued pursuant to the rules in this part.

PART 389 — RULE-MAKING PROCEDURES—FEDERAL MOTOR CARRIER SAFETY REGULATIONS

§ 389.4 [Removed].

4. 49 CFR 389.4 is hereby revoked.

Effective date: These changes become effective on June 3, 1976.

(18 U.S.C. 831–835; 49 U.S.C. 304, 320, 324; P.L. 93–633, 88 Stat. 2156 (49 U.S.C. 1801, 1808, 1809, 1810); (42 U.S.C. 4917); (49 U.S.C. 1655, 1657(e)), and the delegations of authority at 49 CFR 1.48.)

NORBERT T. TIEMANN,
Federal Highway Administrator.
HOWARD L. ANDERSON,
Associate Administrator for Safety.

[FR Doc.76-16058 Filed 6-2-76;8:45 am]

CHAPTER V—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

[Docket No. 75–3; Notice 04]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Bus Emergency Exit Requirements

This notice amends Standard No. 217, *Bus Window Retention and Release,* to modify the emergency exit requirements of the standard in response to a petition for reconsideration of recent amendments and after consideration of comments on the agency's proposal to specify new performance options and labeling for emergency exits.

PETITION FOR RECONSIDERATION OF NOTICE 2

The National Highway Traffic Safety Administration (NHTSA) recently amended Standard No. 217 (49 CFR 571.217) to provide emergency exit requirements for school buses (41 FR 3871, January 27, 1976 (Notice 2)). Section S5.2.3.1 of the standard (as it becomes effective for school buses on October 26, 1976) specifies that a rear emergency door shall be hinged on the right side. Chrysler Corporation has petitioned for reconsideration of this provision, asking that a manufacturer option be provided so that the rear emergency door or doors on van-type school buses may be hinged on the right or left.

The purpose of specifying that the rear emergency door hinge to the right is based on the NHTSA finding that school buses often operate on rural highways that are bordered by drainage ditches, and that a school bus that leaves the highway and rolls over is likely to come to rest in the right-hand ditch on its right side. When a bus comes to a rest on its side, the emergency door on the rear of the bus is easier to operate, particularly by small children, if it is hinged so that its operation is assisted by gravity.

Chrysler pointed out that the rear emergency door on van-type school buses is often used routinely for loading and unloading passengers. For this reason, Chrysler offers a single rear door that hinges at the left side, so that the door swings out of the way to safely accommodate curb-side loading. In the case of larger buses, routine loading and unloading does not occur through the rear emergency door.

The NHTSA agrees with Chrysler that the common practice of curb-side loading through the rear door of van-type school buses justifies a manufacturer option in selecting the side of the door which should be hinged. On balance, the agency considers that the increase in safety for routine curb-side loading through a left-hinged door would outweigh any potential loss of safety benefit for emergency evacuation from a van-type bus that comes to rest on its right side. Accordingly, S5.2.3.1 of the standard is appropriately amended. The agency also takes the opportunity to correct an inadvertent reference to emergency "exist" in S5.2.3.2 when the requirements are actually intended to apply only to an emergency "door."

In a matter unrelated to the Chrysler petition, some uncertainty has arisen over the form of S5.4 as it was revised in Notice 2 to become effective October 26, 1976. Also, the division between buses with a GVWR of 10,000 pounds or less and those with a greater GVWR was imperfectly stated in amending S5.4. For this reason, the amendment of S5.4 is republished in the correct form in this notice. No substantive changes are made in this republication of S5.4.

EMERGENCY EXIT AND LABELING PROPOSAL—NOTICE 3

At the time the amendments just discussed were published, the NHTSA published a proposal to clarify certain emergency exit labeling for all buses, and to replace the established option for school bus emergency exits with a new option (41 FR 3878, January 27, 1976; Notice 3). Comments were received from the Lanai Road Elementary School Parent-Teachers Association, Gillig Brothers (Gillig), Chrysler Corporation, Mr. Allen Braslow, Crown Coach Corporation (Crown), and International Harvester (IH). No comment was received from manufacturers of transit or intercity buses, or from the manufacuturers of body-on-chassis school buses. The National Motor Vehicle Safety Council did not comment on this proposal.

With regard to emergency exit labeling, Mr. Braslow suggested two labeling changes intended to assist bus occupants, as well as a requirement for regular testing of emergency exits in buses in highway service. While the latter suggestion lies beyond the authority of the agency under the National Traffic and Motor Vehicle Safety Act (15 U.S.C. § 1391, et seq.), the agency will consider for future action the suggestion to label all bus exits in the same manner as school bus exits, as well as the suggestion to develop a universal emergency exit insignia with diagramatic instructions. For the moment, the agency is limited by the extent of its proposal, and accordingly, makes final the changes as proposed.

Standard No. 217 requires (effective October 26, 1976) school buses to provide either a rear emergency door or two side emergency doors in satisfaction of the emergency exit requirements. In Notice 3, the agency proposed to modify this option to require either provision of a rear emergency door or, at the option of the manufacturer, provision of a left-side emergency door and a "California rear window" exit at the rear of the bus. This type of rear window exit provides a large (16 by 48 inch) opening which is more easily utilized than a side emergency door if a bus has rolled onto its side. In the alternative, the agency proposed that the option to use a rear window exit only be allowed in rear-engine buses.

The two manufacturers of transit-type school buses supported the new option, but objected to the alternative proposal that would limit use of the option to rear-engine buses. Both Gillig and Crown build mid-engine school buses with essentially the same configuration as rear-engine buses and consider the rear window exit equally useful in these buses. The agency has considered the mid-engine design and agrees with the argument made by Crown and Gillig. Accordingly, the agency amends the standard as proposed to apply the option to all school buses. Crown Coach pointed out that the NHTSA proposal to limit rear-window-exit release mechanisms to a single release would necessitate a change in existing hardware. The NHTSA has investigated the available hardware (consisting in all cases of two release mechanisms that are located within 36 inches of each other) and concludes that the only significant safety hazard in some of the designs is that some require simultaneous operation for release. For this reason, the agency will allow not more than two release mechanisms, provided that the two mechanisms do not have to operate simultaneously to effect release. If new designs present a problem of any nature, further rulemaking will be undertaken.

In accordance with recently-enunciated Department of Transportation policy encouraging adequate analysis of the consequences of regulatory action (41 FR 16201, April 16, 1976), the agency herewith summarizes its evaluation of the economic and other consequences of this proposal on the public and private sectors, including possible loss of safety benefits. The option to hinge some rear emergency doors on the right or left, and

the option to use a "California rear window" do not involve additional expenditures. The agency estimates that these additional exit arrangements will not significantly reduce the level of safety provided in the affected bus categories. The new requirements for more specific operating instructions for school bus emergency exits are calculated to involve annual costs of about $67,000. Although the agency is unable to quantify the benefit of clearer exit labeling, it is estimated that better instructions will serve to reduce the possibility of death and injury involved in an attempt to use the emergency exits. Therefore, the agency concludes that the amendments should issue as set forth in this notice.

For the benefit of interested persons, it is noted that Docket 75–6 concerning labeling of bus emergency exits is related to this rulemaking.

In consideration of the foregoing, Standard No. 217 (49 CFR 571.217) as it is amended to become effective for school buses on October 26, 1976, is amended as follows:

§ 571.217 [Amended]

1. Section S5.2.3.1 is amended to read:

S5.2.3.1 Each school bus shall comply with either one of the following minimum emergency exit provisions, chosen at the option of the manufacturer:

(a) One rear emergency door that opens outward and is hinged on the right side (either side in the case of a bus with a GVWR of 10,000 pounds or less); or

(b) One emergency door on the vehicle's left side that is in the rear half of the bus passenger compartment and is hinged on its forward side, and a push-out rear window that provides a minimum opening clearance 16 inches high and 48 inches wide. This window shall be releasable by operation of not more than two mechanisms which are located in the high force access region as shown in Figure 3C, and which do not have to be operated simultaneously. Release and opening of the window shall require force applications, not to exceed 40 pounds, in the directions specified in S5.3.2.

2. The word "exit" in S5.2.3.2. is changed to "door."

3. Section S5.4 is clarified by restatement to read:

S. 5.4 Emergency exit extension.

S. 5.4.1 After the release mechanism has been operated, each push-out window or other emergency exit not required by S5.2.3 shall, under the conditions of S6, before and after the window retention test required by S5.1, using the reach distances and corresponding force levels specified in S5.3.2, be manually extendable by a single occupant to a position that provides an opening large enough to admit unobstructed passage, keeping a major axis horizontal at all times, of an ellipsoid generated by rotating about its minor axis an ellipse having a major axis of 20 inches and a minor axis of 13 inches.

S5.4.2 *School bus emergency exit extension.*

S5.4.2.1 *School bus with a GVWR of more than 10,000 pounds.* After the release mechanism has been operated, the emergency door of a school bus with a GVWR of more than 10,000 pounds shall, under the conditions of S6, before and after the window retention test required by S5.1, using the force levels specified in S5.3.3, be manually extendable by a single person to a position that permits—

(a) In the case of rear emergency door, an opening large enough to permit unobstructed passage of a rectangular parallelepiped 45 inches high, 24 inches wide, and 12 inches deep, keeping the 45-inch dimension vertical, the 24-inch dimension parallel to the opening, and the lower surface in contact with the floor of the bus at all times; and

(b) In the case of a side emergency door, an opening at least 45 inches high and 24 inches wide. A vertical transverse plane tangent to the rearmost point of a seat back shall pass through the forward edge of a side emergency door.

S5.4.2.2 *School bus with a GVWR of 10,000 pounds or less.* A school bus with a GVWR of 10,000 pounds or less shall conform to all the provisions of S5.4.2, except that the parallelepiped dimension for the opening of the rear emergency door or doors shall be 45 inches high, 24 inches wide, and 6 inches deep.

4. Section S5.5.1 is amended to read:

S5.5.1 In buses other than school buses, except for windows serving as emergency exits in accordance with S5.2.2(b) and doors in buses with a GVWR of 10,000 pounds or less, each emergency door shall have the designation "Emergency Door" or "Emergency Exit" and each push-out window or other emergency exit shall have the designation "Emergency Exit" followed by concise operating instructions describing each motion necessary to unlatch and open the exit, located within 6 inches of the release mechanism.

5. Section S5.5.3 is amended to read:

EXAMPLES

(1) Lift to Unlatch
Push to Open
(2) Lift Handle and
Push out to Open

When a release mechanism is not located within an occupant space of an adjacent seat, a label meeting the requirements of S5.5.2 that indicates the location of the nearest release mechanism shall be placed within the occupant space.

EXAMPLE

Emergency exit instructions located next to seat ahead.

S5.5.3 *School Bus.* Each school bus emergency exit provided in accordance with S5.2.3.1 shall have the designation "Emergency Door" or "Emergency Exit," as appropriate, in letters at least 2 inches high, of a color that contrasts with its background, located at the top of or directly above the emergency exit on both the inside and outside surfaces of the bus. Concise operating instructions describing the motions necessary to unlatch and open the emergency exit, in letters at least three-eighths of an inch high, of a color that contrasts with its background, shall be located within 6 inches of the release mechanism on the inside surface of the bus.

EXAMPLE

(1) Lift to Unlatch
Push to Open
(2) Lift Handle
Push Out to Open

Effective date: October 26, 1976. The effective date of the amendments numbered 1, 2, 3 and 5 is established as 9 months after the date of issuance of the amendments on which they are based, as required by the Motor Vehicle and Schoolbus Safety Amendments of 1974, Pub. L. 93–492, section 202 (15 U.S.C. 1397(i)(1)(A)). The effective date of the amendment numbered 4 is also established as October 26, 1976, although a manufacturer can meet the requirements at an earlier date if the manufacturer so chooses.

(Sec. 103, 119, Pub. L. 89–563, 80 Stat. 718 (15 U.S.C. 1392, 1407); Sec. 202, Pub. L. 93–492, 88 Stat. 1470 (15 U.S.C. 1392); delegation of authority at 49 CFR 1.50.)

Issued on May 25, 1976.

JAMES B. GREGORY,
Administrator.

[FR Doc.76–16042 Filed 6–2–76;8:45 am]

CHAPTER VIII—NATIONAL TRANSPORTATION SAFETY BOARD

PART 802—RULES IMPLEMENTING THE PRIVACY ACT OF 1974

On August 29, 1975, the National Transportation Safety Board (NTSB) published in the FEDERAL REGISTER (40 FR 40134 et seq.) Part 802—Rules Implementing the Privacy Act of 1974 (Act). On April 15, 1976, the NTSB published at 41 FR 15874 et seq. proposed amendments to Part 802. It was proposed to amend Part 802 as follows:

Section 802.1 is revised to include a procedure to correct and amend records; a requirement that records be annotated with respect to disagreements, explanations and resolution thereof and notifying recipients of these annotations, and a provision that rights of access granted to an individual under the Act would not be curtailed by the Freedom of Information Act (FOIA).

Section 802.6 is revised to provide for types of requests and the specification of records. A new § 802.7, embodies and expands the provisions of former § 802.6 and prescribes how, when, and where requests should be presented; and prescribes procedures for acknowledgment of requests. The new section differentiates between requests that are written and those made in person.

Section 802.8 permits notification of the granting of a request, either orally or in writing, and permits the General Manager, or his designee, to carry out the functions described therein.

Section 802.14 adds the word "actual" before the phrases "receipt of a denial notice" and "receipt of the appeal." Paragraph (c) clarifies review of denial of access and clarifies review of denial of correction and/or amendment of the

record in whole or in part. Paragraph (d) provides that the requester shall receive a courtesy copy of the corrected record. The following paragraphs have been added to this section:

(g) Statement of Disagreement.

(h) Notices of correction and/or amendment, or dispute.

(i) Disclosure to others of records concerning individuals.

(j) Notices of subpoenas.

(k) Notices of emergency disclosures.

Section 802.15 applies the same fee schedule as the Appendix to Part 801 of this chapter, implementing the FOIA, but excludes the cost for any search for or review of the record.

Interested persons were invited to submit written data, views, or argument regarding the proposed amendments on or before May 17, 1976. No comments were received. The proposed amendments to Part 802 are therefore adopted with minor editorial changes.

Accordingly, 49 CFR 802 is revised as set forth below.

Effective Date: June 3, 1976.

Signed at Washington, D.C. on May 28, 1976.

WEBSTER B. TODD, Jr.,
Chairman.

Subpart A—Applicability and Policy

Sec.
802.1 Purpose and scope.
802.2 Definitions.

Subpart B—Initial Procedures and Requirements

802.5 Procedures for requests pertaining to individual records in a record system.
802.6 Types of requests and specification of records.
802.7 Requests: how, where, and when presented; verification of identity of individuals making requests; accompanying persons; and procedures for acknowledgment of requests.

Subpart C—Initial Determinations

802.8 Disclosure of requested information.

Subpart D—Correction or Amending the Record

802.10 Request for correction or amendment to record.
802.11 Agency review of request for correction or amendment of record.
802.12 Initial adverse agency determination on correction or amendment.

Subpart E—Review of Initial Adverse Determination

802.14 Review procedure and judicial review.

Subpart F—Fees

802.15 Fees.

Subpart G—Penalties

802.18 Penalties.

Subpart H—Specific Exemptions

802.20 Security records.

AUTHORITY: Privacy Act of 1974, Pub. L. 93-579, 88 Stat. 1896 (5 U.S.C. 552a); Independent Safety Board Act of 1974, Pub. L. 93-633, 88 Stat. 2166 (49 U.S.C. 1901 et seq.); and Freedom of Information Act, Pub. L. 93-502, November 21, 1974, amending 5 U.S.C. 552.

Subpart A—Applicability and Policy

§ 802.1 Purpose and scope.

The purpose of this part is to implement the provisions of the Privacy Act of 1974 (Act) with respect to the availability to an individual of records of the National Transportation Safety Board (NTSB) maintained on individuals, whether the records predate or postdate September 27, 1975, the effective date set forth in section 8 of the Act. NTSB policy encompasses the safeguarding of individual privacy from any misuse of Federal records, or the retention of incorrect data therein. To this end, this part: Provides individuals with access to NTSB records concerning them personally and provides a procedure for correcting errors which might be contained in the records; prohibits the dissemination of such records, except as provided in published routine uses of the named system of records involved, or in exceptions provided in this part or in the Act; and provides for annotating the records with information concerning disagreements, explanations, and resolution thereof, and notifying recipients of disagreements, explanations, and corrections made in such records. The provisions of the Freedom of Information Act (FOIA) shall not curtail any right of access granted an individual under this Act.

§ 802.2 Definitions.

In this part:

"Board" means the five Members of the National Transportation Safety Board, or a quorum thereof;

"Individual" means a citizen of the United States or an alien lawfully admitted for permanent residence;

"National Transportation Safety Board (NTSB)" means the agency set up under the Independent Safety Board Act of 1974;

"Record" means any item, collection, or grouping of information about an individual that is maintained under the control of the NTSB pursuant to Federal law or in connection with the transaction of public business, including, but not limited to, education, financial transactions, medical history, and criminal or employment history, and that contains a name, or an identifying number, symbol, or other identifying particular assigned to an individual, such as a finger or voice imprint or photograph;

"Routine use" means the use of such record for a purpose compatible with the purpose for which it was collected, including, but not limited to, referral to law enforcement agencies of violations of the law and for discovery purposes ordered by a court referral to potential employers, and for security clearance;

"Statistical record" means a record in a system of records maintained for statistical research or reporting purposes only and which is not used wholly or partially in any determination concerning an identifiable individual;

"System Manager" means the agency official who is responsible for the policies and practices of his particular system or systems of record, as specified in the NTSB notices of systems or records; and

"System of records" means a group of any records under the control of the NTSB from which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to the individual, whether presently in existence or set up in the future.

Subpart B—Initial Procedures and Requirements

§ 802.5 Procedures for requests pertaining to individual records in a record system.

The NTSB may not disclose any record to any person or other agency, except pursuant to a written request by, or with the prior written consent of, the individual to whom the record pertains, provided the record under the control of the NTSB is maintained in a system of records from which information is retrieved by the name of the individual or by some identifying number, symbol, or other particular assigned to such individual. Written consent is not required if the disclosure is:

(a) To officers or employees of the NTSB who require the information in the official performance of their duties;

(b) Required under 5 U.S.C. 552, Freedom of Information Act;

(c) For a routine use compatible with the purpose for which it was collected;

(d) To the Bureau of the Census for uses pursuant to Title 13, U.S. Code;

(e) To a recipient who has provided the NTSB with advance adequate assurance that the record will be used solely as a statistical research or reporting record and that it is to be transferred in a form not individually identifiable; or

(f) Pursuant to the order of a court of competent jurisdiction.

§ 802.6 Types of requests and specification of records.

(a) *Types of requests.* An individual may make the following request respecting records about himself maintained by NTSB in any system of records subject to the Act:

(1) Whether information concerning himself is contained in any system of records.

(2) Access to a record concerning himself. Such request may include a request to review the record and/or obtain a copy of all or any portion thereof.

(3) Correction or amendment of a record concerning himself.

(4) Accounting of disclosure to any other person or Government agency of any record concerning himself contained in any system of records controlled by NTSB, except (i) disclosures made pursuant to the FOIA; (ii) disclosures made within the NTSB; (iii) disclosures made to another Government agency or instrumentality for an authorized law enforcement activity pursuant to subsection (b)(7) of the Act; and (iv) disclosures expressly exempted by NTSB from the requirements of subsection (c)(3) of the Act, pursuant to subsection (k) thereof.

(b) *Specification of records.* All requests for access to records must reasonably describe the system of records and the individual's record within the system of records in sufficient detail to permit identification of the requested record. Specific information regarding the system name, the individual's full name, and other information helpful in identifying

the record or records shall be included. Requests for correction or amendment of records shall, in addition, specify the particular record involved, state the nature of the correction or amendment sought, and furnish justification for the correction or amendment.

(c) *Inadequate identification of record.* Requests which do not contain information sufficient to identify the record requested will be returned promptly to the requester, with a notice indicating what information is lacking. Individuals making requests in person will be informed of any deficiency in the specification of the records at the time the request is made. Individuals making requests in writing will be notified of any such deficiency when their request is acknowledged.

§ 802.7 Requests: how, when, and where presented; verification of identity of individuals making requests; accompanying persons; and procedures for acknowledgment of requests.

(a) *Requests—general.* Requests may be made in person or in writing. Assistance regarding requests or other matters relating to the Act may be obtained by writing to the General Manager, National Transportation Safety Board, 800 Independence Avenue, SW., Washington, D.C. 20594. The General Manager or his designee, on request, will aid an individual in preparing an amendment to the record or to an appeal following denial of a request to amend the record, pursuant to subsection (f) (4) of the Act.

(b) *Written requests.* Written requests shall be made to the General Manager at the address given above, and shall clearly state on the envelope and on the request itself, "Privacy Act Request," "Privacy Act Statement of Disagreement," "Privacy Act Disclosure Accounting Request," "Appeal from Privacy Act Adverse Determination," or "Privacy Act Correction Request," as the case may be. Actual receipt by the General Manager, or his designee, shall constitute receipt.

(c) *Requests made in person.* Requests may be made in person during official working hours of the NTSB at the office where the record is located, as listed in the "Notice of Systems of Records" for the system in which the record is contained.

(d) *Verification of identity of requester.* (1) For written requests, the requester's identity must be verified before the release of any record, unless exempted under the FOIA. This may be accomplished by adequate proof of identity in the form of a driver's license or other acceptable item of the same type.

(2) For requests in person, the requester's identity may be established by a single document bearing a photograph (such as a passport or identification badge) or by two items of identification containing name, address, and signature (such as a driver's license or credit card).

(3) Where a request is made for reproduced records which are to be delivered by mail, the request must include a notarized statement verifying the requester's identity.

(e) *Inability to provide requisite documentation of identity.* A requester who cannot provide the necessary documentation of identity may provide a notarized statement, swearing or affirming his identity and the fact that he is aware of the penalties for false statement imposed pursuant to 18 U.S.C. 1001, and subsection (i) (3) of the Act. Where requested, the General Manager, or his designee, will assist the requester in formulating the necessary document.

(f) *Accompanying persons.* A requester may wish to have a person of his choice accompany him to review the requested record. Prior to the release of the record, the NTSB will require the requester to furnish the General Manager, or his designee, with a written statement authorizing disclosure of the record in the accompanying person's presence.

(g) *Acknowledgment of requests.* Written requests to verify the existence of, to obtain access to, or to correct or amend records about the requester maintained by NTSB in any system of records subject to the Act, shall be acknowledged in writing by the General Manager, or his designee, within 3 working days after the date of actual receipt of the request by the General Manager, or his designee. The acknowledgment shall advise the requester of the need for any additional information to process the request. Wherever practicable, the acknowledgment shall notify the individual whether his request has been granted or denied. When a request is made in person, every effort will be made to determine immediately whether the request will be granted. If such decision cannot be made, the request will be processed in the same manner as a written request. Records will be made available for immediate inspection whenever possible.

Subpart C—Initial Determination

§ 802.8 Disclosure of requested information.

(a) The System Manager may initially determine that the request be granted. If so, the individual making the request shall be notified orally, or in writing, and the notice shall include:

(1) A brief description of the information to be made available;

(2) The time and place where the record may be inspected, or alternatively, the procedure for delivery by mail to the requesting party;

(3) The estimated cost for furnishing copies of the record;

(4) The requirements for verification of identity;

(5) The requirements for authorizing discussion of the record in the presence of an accompanying person; and

(6) Any additional requirements needed to grant access to a specific system of records or record.

(b) Within 10 working days after actual receipt of the request by the General Manager, or his designee, in appropriate cases, the requester will be informed:

(1) That the request does not reasonably describe the system of records or record sought to permit its identification, and shall set forth the additional information needed to clarify the request; or

(2) That the system of records identified does not include a record retrievable by the requester's name or other identifying particulars.

(c) The System Manager shall advise the requester within 10 working days after actual receipt of the request by the General Manager, or his designee, that the request for access has been denied, and the reason for the denial, or that the determination has been made to grant the request, either in whole or in part, in which case the relevant information will be provided.

Subpart D—Correction or Amending the Record

§ 802.10 Request for correction or amendment to record.

All requests for correcting or amending records shall be made in writing to the General Manager, National Transportation Safety Board, 800 Independence Avenue, SW., Washington, D.C. 20594, and shall be deemed received upon actual receipt by the General Manager. The request shall clearly be marked on the evelope and in the letter with the legend that it is a "Privacy Act Correction Request." The request must reasonably set forth the portion of the record which the individual contends is not accurate, relevant, timely, or complete.

§ 802.11 Agency review of requests for correction or amendment of record.

Within 10 working days after actual receipt of the request by the General Manager, or his designee, to correct or amend the record, the System Manager shall either make the correction in whole or in part, or inform the individual of the refusal to correct or amend the record as requested, and shall present the reasons for any denials.

§ 802.12 Initial adverse agency determination on correction or amendment.

If the System Manager determines that the record should not be corrected or amended in whole or in part, he will forthwith make such finding in writing, after consulting with the General Counsel, or his designee. The requester shall be notified of the refusal to correct or amend the record. The notification shall be in writing, signed by the System Manager, and shall include—

(a) the reason for the denial;

(b) the name and title or position of each person responsible for the denial of the request;

(c) the appeal procedures for the individual for a review of the denial; and

(d) notice that the denial from the System Manager is appealable within 30 days from the receipt thereof by the requester to the Board.

The System Manager is alloted 10 working days (or within such extended period as is provided in the section concerning "unusual circumstances" *infra*) to respond to the request for review. If the requester does not receive an answer within such time, the delay shall constitute a denial of the request and shall per-

mit the requester immediately to appeal to the Board, or to a district court.

Subpart E—Review of Initial Adverse Determination

§ 802.14 Review procedure and judicial review.

(a) A requester may appeal from any adverse determination within 30 days after actual receipt of a denial from the System Manager. The appeal must be in writing addressed to the Chairman, National Transportation Safety Board, 800 Independence Avenue, SW., Washington, D.C. 20594, and shall contain a statement on the envelope and in the appeal: "Appeal from Privacy Act Adverse Determination."

(b) The Board shall make a determination with respect to the appeal within 30 working days after the actual receipt of the appeal by the Chairman, except as provided for in "unusual circumstances" infra.

(c) (1) *Review of denial of access.* If the appeal upholds the denial of access to records, the Board shall: Notify the requester in writing, explaining the Board's determination; state that the denial is a final agency action and that judicial review is available in a district court of the United States in the district where the requester resides or has his principal place of business, or where the agency records are located, or in the District of Columbia; and request a filing with the Board of a concise statement enumerating the reasons for the requester's disagreement with the denial, pursuant to subsection (g) of the Act.

(2) *Review of denial of correction or amendment.* If the appeal upholds the denial in whole or in part for correction or amendment of the record, the same notification and judicial review privileges described in paragraph (c)(1) of this section shall apply.

(d) If the denial is reversed on appeal, the Board shall notify the requester in writing of the reversal. The notice shall include a brief statement outlining those portions of the individual's record which were not accurate, relevant, timely, or complete, and corrections of the record which were made, and shall provide the individual with a courtesy copy of the corrected record.

(e) Copies of all appeals and written determinations will be furnished by the System Manager to the Board.

(f) In unusual circumstances, time limits may be extended by not more than 10 working days by written notice to the individual making the request. The notice shall include the reasons for the extension and the date on which a determination is expected to be forthcoming. "Unusual circumstances" as used in this section shall include circumstances where a search and collection of the requested records from field offices or other establishments are required, cases where a voluminous amount of data is involved, and cases where consultations are required with other agencies or with others having a substantial interest in the determination of the request.

(g) *Statements of Disagreement.* (1) Written Statements of Disagreement may be furnished by the individual within 30 working days of the date of actual receipt of the final adverse determination of the Board. They shall be addressed to the General Manager, National Transportation Safety Board, 800 Independence Avenue, S.W., Washington, D.C. 20594, and shall be clearly marked, both on the statement and on the envelope, "Privacy Act Statement of Disagreement."

(2) The General Manager, or his designee, shall be responsible for ensuring that:

(i) The Statement of Disagreement is included in the system of records in which the disputed item of information is maintained; and

(ii) The original record is marked to indicate the information disputed, the existence of the Statement of Disagreement, and its location within the relevant system of records.

(3) The General Manager, or his designee, may, if he deems it appropriate, prepare a concise Statement of Explanation indicating why the requested amendments or corrections were not made. Such Statement of Explanation shall be included in the system of records in the same manner as the Statement of Disagreement. Courtesy copies of the NTSB Statement of Explanation and the notation of dispute, as marked on the original record, shall be furnished to the individual who requested correction or amendment of the record.

(h) *Notices of correction and/or amendment, or dispute.* After a record has been corrected or a Statement of Disagreement has been filed, the General Manager, or his designee, shall, within 30 working days thereof, advise all previous recipients of the affected record as to the correction or the filing of the Statement of Disagreement. The identity of such recipients shall be determined pursuant to an accounting of disclosures required by the Act or any other accounting previously made. Any disclosure of disputed information occurring after a Statement of Disagreement has been filed shall clearly identify the specific information disputed and shall be accompanied by a copy of the Statement of Disagreement and a copy of any NTSB Statement of Explanation.

(i) *Disclosure to others of records concerning individuals.* Neither the Board nor other NTSB personnel shall disclose any record which is contained in a system of records maintained by NTSB, by any means of communication, including oral communication, to any person, or to another Government agency, except pursuant to a written request by, or with the prior written consent, of the individual to whom the record pertains, unless disclosure of the record is:

(1) To the Board and NTSB personnel who have a need for the record in the performance of their duties;

(2) Required under the FOIA;

(3) For a routine use published in the FEDERAL REGISTER;

(4) To the Bureau of the Census for purposes of planning or carrying out a census or survey, or related activity pursuant to the provisions of Title 13 of the United States Code;

(5) To a recipient who has provided NTSB with adequate advance written assurance that the record will be used solely as a statistical research or reporting record and that the record is transferred in a form that is not identifiable with respect to individuals; [1]

(6) To the National Archives of the United States as a record which has sufficient historical or other value to warrant its continued preservation by the U.S. Government, or to the Administrator of the General Services Administration, or his designee, for evaluation to determine whether the record has such value;

(7) To another agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if the head of the agency or instrumentality has made a written request to NTSB specifying the particular portion of the record desired and the law enforcement activity for which the record is sought; [2]

(8) To any person upon a showing of compelling circumstances affecting the health or safety of any individual;

(9) To either House of Congress or, to the extent of matter within its jurisdiction, to any committee, or subcommittee thereof, or to any joint committee of the Congress, or to any subcommittee of such joint committee;

(10) To the Comptroller General, or any of his authorized representatives, in the course of the performance of the duties of the General Accounting Office; or

(11) Pursuant to the order of a court of competent jurisdiction.

(j) *Notices of subpoenas.* When records concerning an individual are subpoenaed or otherwise disclosed pursuant to court order, the NTSB officer or employee served with the subpoena shall be responsible for assuring that the individual is notified of the disclosure within 5 days after such subpoena or other order becomes a matter of public record. The notice shall be mailed to the last known address of the individual and shall contain the following information: (1) The date

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[1] The advance written statement of assurance shall state the purpose for which the record is requested and certify that it will be used only for statistical purposes. Prior to release under this paragraph, the record shall be stripped of all personally identifiable information and reviewed to ensure that the identity of any individual cannot reasonably be determined by combining two or more statistical records.

[2] A record may be disclosed to a law enforcement agency at the initiative of NTSB if criminal conduct is suspected, provided that such disclosure has been established as a routine use by publication in the FEDERAL REGISTER, and the instance of misconduct is directly related to the purpose for which the record is maintained.

the subpoena is returnable; (2) the court in which it is returnable; (3) the name and number of the case or proceeding; and (4) the nature of the information sought.

(k) *Notices of emergency disclosures.* When information concerning an individual has been disclosed to any person under compelling circumstances affecting health or safety, the NTSB officer or employee who made or authorized the disclosure shall notify the individual at his last known address within 5 days of the disclosure. The notice shall contain the following information: (1) The nature of the information disclosed; (2) the person or agency to whom the information was disclosed; (3) the date of the disclosure; and (4) the compelling circumstances justifying the disclosure.

Subpart F—Fees

§ 802.15 Fees.

No fees shall be charged for providing the first copy of a record, or any portion thereof, to individuals to whom the record pertains. The fee schedule for other records is the same as that appearing in the Appendix to Part 801 of this chapter, implementing the FOIA, as amended from time to time, except that the cost of any search for and review of the record shall not be included in any fee under this Act, pursuant to subsection (f)(5) of the Act.

Subpart G—Penalties

§ 802.18 Penalties.

(a) An individual may bring a civil action against the NTSB to correct or amend the record, or where there is a refusal to comply with an individual request or failure to maintain any record with accuracy, relevance, timeliness and completeness, so as to guarantee fairness, or failure to comply with any other provision of 5 U.S.C. 552a. The court may order the correction or amendment. It may assess against the United States reasonable attorney fees and other costs, or may enjoin the NTSB from withholding the records and order the production to the complainant, and it may assess attorney fees and costs.

(b) Where it is determined that the action was willful or intentional with respect to 5 U.S.C. 552a(g)(1) (c) or (d), the United States shall be liable for the actual damages sustained, but in no case less than the sum of $1,000 and the costs of the action with attorney fees.

(c) Criminal penalties may be imposed against an officer or employee of the NTSB who fully discloses material which he knows is prohibited from disclosure, or who willfully maintains a system of records without meeting the notice requirements, or who knowingly and willfully requests or obtains any record concerning an individual from an agency under false pretenses. These offenses shall be misdemeanors with a fine not to exceed $5,000.

Subpart H—Specific Exemptions

§ 802.20 Security Records.

Pursuant to, and limited by, 5 U.S.C. 552a(k)(5), the NTSB's system of records, which contains the Security Records of NTSB employees, prospective employees, and potential contractors, shall be exempt from disclosure of the material and the NTSB's handling thereof under subsections (d), (e)(1) and (e)(4) (H) and (I) of 5 U.S.C. 552a.

[FR Doc.76-16133 Filed 6-2-76;8:45 am]

Title 50—Wildlife and Fisheries

CHAPTER I—U.S. FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 26—PUBLIC ENTRY AND USE

Back Bay National Wildlife Refuge, Virginia

Proposed special regulations were published in the FEDERAL REGISTER on March 26, 1976 (41 FR 12689), concerning public use, access, and recreation at the Back Bay National Wildlife Refuge for the remainder of calendar year 1976. The proposed regulations would modify the previous criteria for granting vehicular access privileges across the refuge beach and further restrict the hours of vehicular access.

Previous special regulations for Back Bay, 40 FR 12090, expired on December 31, 1975. Only general regulations under Title 50 of the Code of Federal Regulations have been in effect during the interim.

For many years, the Back Bay refuge was open to the public for a number of purposes, and free access to the beach by vehicles was permitted.

In 1961, persons using the refuge for various purposes numbered less than 10,000. During the late 1960's, the development of lands south of the refuge for recreational and residential purposes, and the increase in the availability and popularity of off-road recreational vehicles resulted in a sharply accelerated rate of public activities. By 1970, the number of persons using the refuge had increased to 235,000; and in 1971, to 348,000. All but a small fraction of this increase involved off-road vehicular use over the ocean beach portion of the refuge.

It became evident by 1969 that unlimited public use had resulted in environmental degradation to the extent that a serious conflict existed with respect to the administration of the entire refuge for its intended purposes.

Following careful analysis, it was determined that certain control of vehicular uses of the beach was required to reverse the trend of refuge habitat destruction. Consequently, the U.S. Fish and Wildlife Service adopted regulations in 1973 that required authorized users to obtain permits for access. Recreational vehicle traffic was prohibited. Permits were issued to property owners in the proposed False Cape State Park area, permanent full-time residents of the Outer Banks of North Carolina and their visitors, commercial fishermen, emergency, service and public utility vehicles, and school buses.

Regulations restricting access were unsuccessfully attacked in federal district court after the filing of a lawsuit in 1973 to enjoin the first set of restrictive regulations. In February 1975, the district court ruled that the Department could so limit access. The decision was upheld in July 1975, by the United States Court of Appeals for the Fourth Circuit.

The matter of regulating beach use at Back Bay National Wildlife Refuge has continued to be the subject of considerable discussion and concern by the many persons now denied vehicular access to properties in North Carolina.

This rulemaking would extend limited access privileges to owners of certain improved property, in addition to previous permittees, under a permit system administered by the refuge manager.

The vehicle use restrictions apply to the refuge beach from the north boundary in the vicinity of Virginia Beach, to the south boundary, adjacent to False Cape State Park, a distance of 4.2 miles.

Access would be granted to approximately 42 persons permanently residing, owning, or leasing land in the False Cape State Park acquisition area or permanent, full-time residents of the Outer Banks of Currituck County, North Carolina meeting improved property criteria. This is the major group to which beach access privileges were extended in 1975.

Access would also be granted to approximately 70 owners of certain improved property on the Outer Banks of Currituck County, North Carolina, to and including the Village of Corolla. The number of permits issued is expected to total approximately 110, or about 70 more than were issued under special regulations in 1975.

An environmental assessment, dated December 12, 1975, was prepared by the Fish and Wildlife Service describing the anticipated impacts from increasing the numbers of vehicular users of the refuge beach. After consideration of this preliminary assessment, changes were made in the proposal with a view toward eliminating conflicts with the refuge program that were identified in the assessment. The assessment was correspondingly revised to reflect new provisions of the proposal. Copies of the final environmental assessment are available from the Regional Director, U.S. Fish and Wildlife Service, U.S. Post Office and Courthouse, Boston, Massachusetts 02109.

A restriction of one round trip per day would be imposed, as well as a permit fee of $90, with the revenues being available to the refuge for payment of necessary expenses for administering the permit program. As a direct result of the concerns for the various impacts associated with the initial access proposal, the $10,000 from permit fees and supplemental departmental funding of $50,000 would also be available to the refuge. A policy decision was made that the Department would issue no permits authorizing access through the refuge after December 31, 1979, thus giving notice to other property owners and land developers that alternative routing must be available by that date.

The additional funding of $60,170, plus the existent budget of $37,700 for a permit program under the 1975 criteria, represents a 160 percent increase in support for administering the permit program, i.e., $97,870 in 1976 compared to $37,700 in 1975. The increase in funding would offset administrative costs of the permit system at the refuge, help to relieve the burden of previous years on other refuge programs at Back Bay, and provide for substantially increased enforcement generally, including better control of trespassers, to allow management personnel to attend to refuge resource management programs. There will be four enforcement employees under the 1976 permit program instead of only one as under the 1975 program.

October 6, 1975, was established as the cutoff date for having to meet certain criteria before individuals could qualify for the privilege of a permit. That date—representing the day that the former litigation over access came to an end—was considered to be an equitable resolution of the question as to an appropriate point in time for determining eligibility for access permits. It was the last day that an appeal could have been filed from the July 7, 1975, decision of the United States Court of Appeals for the Fourth Circuit. March 2, 1972, was the last day that mobile homes could be situated on the Outer Banks under local zoning ordinances.

Public comments on the proposed rulemaking were invited. All comments submitted by April 26, 1975, were given due consideration. In summary, the 142 comments received included 108 comments opposing increased access, 22 comments supporting the proposal with minor modifications, and 12 comments requesting that no restrictions be placed on property owner access.

It is recognized that major concerns regarding vehicular access across the beach at the Back Bay National Wildlife Refuge are that resource management programs have been neglected for the past several years in order to support the beach travel regulation effort and that use of the beach for nesting of shorebirds and by other wildlife will be discouraged.

Having carefully considered these impacts and weighed all of the environmental and other consequences of this proposal, including consideration of recommendations and comments from the public, the Assistant Secretary for Fish and Wildlife and Parks, the Director of the United States Fish and Wildlife Service, and the Solicitor of the Department of the Interior, it is found that any impacts from an anticipated 70 more vehicles on the refuge beach will be offset or minimized by additional funding, manpower, and restrictions on access. This conclusion is also reached after considering options to limit beach access to those parties eligible under the special regulations of 1975, restrict all vehicular access to the beach, and other alternatives referenced in the environmental assessment and discussed in the environmental impact statement, FES 72–33. Based on a review and evaluation of the aforementioned input, including the environmental assessment and environmental impact statement, it is found that:

(1) The impact on refuge administration will be minimal due to $50,000 in additional departmental funding and approximately $10,000 income from permit fees, a 160 percent increase in support of the permit program. This additional money will offset administrative costs of the permit system at the refuge, help to relieve the burden of previous years on other refuge programs at Back Bay, and provide for substantially increased enforcement generally, including better control of trespassers, to allow management personnel to attend to refuge resource management programs. There will be four enforcement employees under this permit program as compared to only one under the 1975 program. The increased funding and restrictions on access will reduce the adverse impacts of the proposal to a level commensurate with, if not less than, the impacts under the 1975 permit program;

(2) The environmental impacts associated with this proposal involve an approximate increase of 70 vehicular permits beyond the previously qualified group of 42. While there is an increase in the number of permitted vehicles, there will be a new control on overall impacts compared to the 1975 program because the travel periods are being reduced from 15 hours per day (6 a.m. to 9 p.m.) of unlimited trips to two, three-hour periods with permittees restricted to one round trip per day. The increase in vehicles is a minor influx over restricted access to Back Bay previously sanctioned by the courts. Access to approximately 110 vehicles represents an inconsequential use of the beach as compared to the 20,000 vehicles which used the beach in the summer of 1972 or use of off-road vehicles over the ocean beach portion of the refuge by over 100,000 persons in 1971;

(3) The unfavorable impacts on beach-oriented wildlife will be temporary in nature and not lasting or irreversible. Populations of wildlife should respond when vehicular access permits are no longer issued after December 31, 1979, since the basic habitat components are not limited by disturbance or destruction;

(4) The impacts on the physical environment of the beach will be minimal;

(5) The refuge manager can close the beach to promote public safety or prevent potential beach or dune destruction during extreme high tides, storms, or other emergencies;

(6) Greater manpower, for enforcement efforts, made possible by the additional funding, should counter the potential for accidental damage to the dunes from increased numbers of vehicles;

(7) While the policy of the Department will be to issue no more access permits to Back Bay National Wildlife Refuge after December 31, 1979, this rulemaking is not a commitment to an access program following the termination of these rules on December 31, 1976. The 1976 permit program will be reviewed upon its completion to ascertain if its impacts are anything but minimal as indicated by the current environmental assessment;

(8) Access to the refuge is a privilege, and not a right, granted under authority of the National Wildlife Refuge System Administration Act of 1966, 16 U.S.C. 668dd et seq. This privilege may be withdrawn at any time and, in any event in this case, will terminate in seven months. While the impacts articulated in the environmental assessment are expressed in terms of an annual permit program, the associated effects of this rulemaking will involve much less than one year since the regulations expire on December 31, 1976, seven months hence;

(9) The use of the refuge for this limited, restricted, and controlled access is compatible with the major purposes for which the refuge was established within the meaning of 16 U.S.C. 668dd of the National Wildlife Refuge System Administration Act;

(10) Negative Declaration: Allowance for this restricted access across the Refuge is not a major federal action which would significantly affect the quality of the human environment within the meaning of 42 U.S.C. 4332(2)(C) of the National Environmental Policy Act of 1969. Accordingly, the preparation of an environmental impact statement on the proposed action is not required.

As a result of comments received during the public comment period, the following changes have been made:

1. In paragraph (b)(3), not more than two (2) permits may be issued for an improved property having more than one owner of record as of October 6, 1975, provided such owners are not in the same immediate family, i.e., spouse or minor children;

2. In paragraph 5(i)(b), criteria for determining "improved property" have been amended to require proof of taxes levied and paid as improved properties;

3. In paragraph 5(ii)(a), clarification is made of the eligibility criteria, nature of permit, and amount of fee required for access privileges as a commercial fisherman;

4. Section 8 lists those requirements for vehicles under permit, while on the refuge beach;

5. Section 9 requires mandatory revocation of vehicular access permits for failure to observe regulations pertaining to the refuge;

6. New section 10 requires revocation of permits described in 5(i)(a) and (b) in the event alternate access is provided during the permit period;

7. Additional minor modifications constitute administrative clarifications of the proposed regulations.

The Administrative Procedure Act requires that publication of substantive rules be made 30 days before their effective date except, "as otherwise provided by the agency for good cause found and published with the rule." 5 U.S.C. 553(d)(3). Because (1) there are no special regulations governing public access, use,

and recreation for the Back Bay National Wildlife Refuge, such regulations having expired on December 31, 1975, (2) a hardship would result to permanent full-time residents, certain improved property owners, certain full-time commercial fishermen whose livelihood depends on crossing the refuge, and individuals needing the services of school buses and service and public utility vehicles, should these special access regulations be delayed, and (3) the warmer weather and advancing tourist season will place great demands on the refuge administration for access and use of the refuge, it is hereby found that good cause exists to make these rules effective on June 3, 1976.

(16 U.S.C. 668dd; 16 U.S.C. 460k–3; and 16 U.S.C. 715s.)

Accordingly, with the changes and additions referred to above, the special regulations are adopted as set forth below and are effective during the period from June 3, 1976, through December 31, 1976.

§ 26.34 Special regulations concerning public access, use and recreation for individual national wildlife refuges.

VIRGINIA

BACK BAY NATIONAL WILDLIFE REFUGE

(a) *General Use.* (1) Entry on foot or by motor vehicle on designated travel routes in public use areas is permitted for the purpose of nature study, sightseeing, wildlife observation, photography, hiking, surf fishing, surfing, swimming, and bicycling during daylight hours.

(2) Swimming and surfing are permitted only on that portion of the beach lying between the north boundary of the refuge and the dune crossing at the field headquarters. No lifeguards are provided. Swimming and surfing will be at the visitor's own risk.

(3) The parking lot at the field headquarters is reserved for persons engaged in surf fishing and nature study. Surf fishing is permitted in accordance with applicable State regulations.

(4) Open fires are not permitted. Portable grills with a contained fuel supply are permitted on the beach north of the field headquarters.

(5) Pets on a leash not exceeding 10 feet in length are permitted on refuge public use areas.

(6) Bicycles and registered motor vehicles are permitted on the paved refuge access road and on the parking area at field headquarters. All other types of motorized vehicles are prohibited except as specifically authorized pursuant to these regulations.

(b) *Access Permits.* (1) Access to and travel along the ocean portion of the refuge by motorized vehicles may be allowed between the dune crossing entrance at the field headquarters and the south boundary of the refuge only after a permit has been issued by the refuge manager or his designated representative.

(2) Permits will be issued for such period of time as appears justifiable to the refuge manager, taking into account the need for and duration of access required by the applicant. In no case will the permit remain in effect beyond December 31 of the year in which it is granted. Permits may be renewed upon the submittal of a proper application and the payment of required fees.

(3) No more than one permit per piece of improved property or per owner of multiple properties as defined herein will be issued to owners of such property meeting the specified qualifications, as determined by the refuge manager, except that not more than two permits may be issued for an improved property meeting the specified qualifications having more than one owner of record as of October 6, 1975, provided that such owners are not in the same immediate family, i.e., spouse or minor children. Permits must be permanently displayed at all times while on refuge property in such a manner as to be readily visible on any motor vehicle. Permits shall be nontransferable. No more than one vehicle owned by the permit holder shall be registered with the refuge manager for use in accordance with these regulations. That vehicle shall be operated only by the permit holder or a member of his immediate family and household on the refuge beach.

(4) All permittees qualifying as described in 5(i) (a) and (b) and (ii) (a) below are required to pay a $90.00 fee per permit to defray cost of administering the permit program prior to the granting of a permit for the privilege of vehicular access across the refuge beach.

(5) Permits will be issued only to those owners of property and non-residential users who meet the following qualifications:

(i) *Residential.* (A) To persons now residing on, owning, or leasing land with permanent habitable dwelling south of the refuge in the False Cape State Park acquisition area, Virginia

(B) To owners as of October 6, 1975, of improved property on the Outer Banks of Currituck County, North Carolina, from the North Carolina line south to and including, the village of Corolla, North Carolina, which improved property met the following criteria:

(*1*) *Mobile Homes:* Mobile homes having minimum dimensions of 8' x 32' located on a lot prior to March 2, 1972, and for which real and personal property taxes have been levied and paid as of October 6, 1975;

(*2*) *Dwellings:* A habitable abode on which taxes in excess of those paid on unimproved land have been levied and paid as of October 6, 1975.

(3) The burden of proof of showing that a mobile home or dwelling meets these qualifications shall be on the property owner by presentation of appropriate documentation.

Such permitted vehicles shall be restricted to one round trip per day. Travel is restricted to the designated route of travel between the hours of 6 am to 9 am and 5 pm to 8 pm.

(ii) *Non-residential:* (A) (*1*) To full-time commercial fishermen who have verified their dependence for a livelihood since on or before 1972 upon ingress, egress or crossing refuge land. Not more than three (3) special use permits for commercial fishing on the refuge will be in force at one time. Selection of refuge fishing permits will be determined by a lottery when the number of qualified applicants, as described above, exceeds the number of permits available.

(*2*) *Commercial fisherman:* a commercial fisherman shall be described as one who performs the act of harvesting finfish by gill net or haul seine in the Atlantic Ocean, and who has owned and operated a commercial fishing business since on or before 1972.

(B) For a school bus transporting resident students to and from the False Cape area during the school term.

(C) For service vehicles on business calls during the hours of 8 am to 5 pm, Monday through Friday, upon written verification of a request from a resident as described in (b) (5) (i) above.

(*iii*) *Service vehicles.* Any vehicle owned or operated by or on behalf of an individual, partnership, or corporation engaged entirely in the business of furnishing construction, maintenance, or repair services, including but not limited to building, plumbing, septic tanks, installation or repair of household appliances, carpentry, painting, landscaping, garbage collection, and delivery services.

(D) For public utility vehicles on official business calls upon written verification of a request from a resident as described in (6) (5) (i) above.

(iv) *Public utility vehicles:* Any vehicles owned or operated by a public utility company enfranchised to supply Outer Banks residents with electricity or telephone service.

(6) Excluded from the restrictions of these regulations are any military, fire, emergency, or law enforcement vehicle when used for emergency purposes and official use by an employee, agent, or designated representative of the Federal, State, or local government in the course of his official duties.

(7) In an emergency, the refuge manager may suspend, for such period or periods as he shall deem advisable, any or all of the foregoing restrictions on vehicular travel, and he may announce such suspension by whatever means are available. In the event of high winds and waves, storms, adverse weather conditions or high tides, the refuge manager may close all or any portion of the refuge to vehicular travel for such period as he shall deem advisable in the interest of public safety, or may adjust the periods of access otherwise prescribed pursuant to (5) (i) (b) above.

(8) (i) The refuge manager may prescribe restrictions as to the types of vehicles to be permitted to insure public safety and adherence to all applicable rules and regulations.

(ii) All vehicles registered with the refuge manager must be equipped with four-wheel drive or oversand tires and carry, at all times on the refuge beach a shovel, jack, tow rope or chain, board or

similar support for the jack and a low-pressure tire gauge.

(9) Violators of these special regulations and all other regulations pertaining to the Back Bay National Wildlife Refuge will be subject to legal action as prescribed by 50 CFR 28.31, including mandatory revocation by the refuge manager of such permits for the duration of the permit period. Such revocation shall constitute forfeiture of the $90.00 permit fee.

(10) All permits issued under 5(i)(a) will be terminated in the event that alternate access is provided during the permit period.

(11) The provisions of this special regulation are effective through December 31, 1976. They supplement the regulations which govern recreation on wildlife refuge areas generally, which are set forth in Title 50.

The refuge, comprising approximately 4,600 acres, is delineated on a map available from the Refuge Manager, Back Bay National Wildlife Refuge, Pembroke Bldg., Suite 218, 257 Pembroke Office Park, Virginia Beach, Virginia 23462, from the Regional Director, U.S. Fish and Wildlife Service, U.S. Post Office and Courthouse, Boston, Massachusetts 01209.

KENT FRIZZELL,
Under Secretary.

MAY 27, 1976.

[FR Doc.76-16023 Filed 6-2-76;8:45 am]

proposed rules

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

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

[24 CFR Part 1917]

[Docket No. FI-2000]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Flood Elevation Determination for the Borough of Burnham, Mifflin County, Pennsylvania

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 (Section 1917.4(a)) hereby gives notice of his proposed determinations of flood elevations for the Borough of Burnham, Mifflin County, Pennsylvania.

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 Borough 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 Borough Office, 1st Avenue, Burnham.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mayor Robert H. Aurand, First Avenue, Burnham, Pennsylvania 17009. 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.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Hungry Run	Oak St. (extended)	528	230	40
	Pine St.	525	90	190
	Unnamed road	524	100	190
	Unnamed road	524	130	150
	Unnamed road	523	100	200
	Walnut St.	516	40	310
	Confluence with Kishacoquillas	510	20	1,160
Kishacoquillas Creek	Corporate limits	528	(1)	(2)
	6th St. (extended)	527	250	(2)
	5th St. (extended)	526	590	720
	4th St. (extended)	525	500	(2)
	3rd St. (extended)	524	500	(2)
	2nd St. (extended)	522	520	
	Freedom Ave.	512	820	820
	4th St. (extended)	506	10	900
	Dry Walnut Ave.	502	20	700

[1] Penn Central R.R.
[2] 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: May 17, 1976.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.76-15931 Filed 6-2-76;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-1197]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Flood Elevation Determination for the Borough of Plymouth, Luzerne County, Pennsylvania

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 (Section 1917.4(a)) hereby gives notice of his proposed determinations of flood elevations for the Borough of Plymouth, Luzerne County, Pennsylvania.

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 Borough 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 Lobby in the Municipal Building, 162 Shawnee Avenue, Plymouth.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mayor Edward F. Burns, Municipal Building, 162 Shawnee Avenue, Plymouth, Pennsylvania 18651. 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.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Susquehanna River	Hanover St. (Fellows St.) Bridge	544	(1)	200
	Bridge St. (State Route 309)	545	(1)	25

(1) Outside 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: May 17, 1976.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.76-15930 Filed 6-2-76;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-1196]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Flood Elevation Determination for the Borough of Royalton, Dauphin County, Pennsylvania

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 (Section 1917.4 (a)) hereby gives notice of his proposed determinations of flood elevations for the Borough of Royalton, Dauphin County Pennsylvania.

Under these Acts, the Administrator, to whom the Secretary has relegated 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 Borough 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 Royalton Borough office, Burd and Dock Streets, Middletown, Pennsylvania.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mr. William F. Clouser, Royalton Borough office, Burd and Dock Streets, Middletown, Pennsylvania 17057. 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.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream within corporate limits
Susquehanna River	Southwest corporate limits	299	360
	End of Old Donegal St. (extended southwest to corporate limits).	299	620
Swatara Creek	Northeastern corporate limits	302	460
	Grubb St.	299	480
	Penn Central R R	299	200
	Route 441	299	270
	Swatara St.	299	200
	Penn St. (extended)	299	675
	Market St. (extended)	299	600

(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: May 17, 1976.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.76–15928 Filed 6–2–76;8:45 am]

[24 CFR Part 1917]

[Docket No. FI–1199]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Flood Elevation Determination for the Borough of Kingston, Luzerne County, Pennsylvania

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 (Section 1917.4(a)) hereby gives notice of his proposed determinations of flood elevations for the Borough of Kingston, Luzerne County, Pennsylvania.

Under these Acts, the Administrator, to whom the Secretary has delegated the stautory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the Borough 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 Borough Building, 500 Wyoming Avenue Kingston, Pennsylvania.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Charles A. Bankes, Mayor, 500 Wyoming Avenue, Kingston, Pennvania 18704. The period for comments will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Susquehanna River	Church St. (extended)	551		800
	James St. (extended)	550		500
	North St. Bridge	549		440
	Market St. Bridge	548		900

(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: May 17, 1976.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.76–15929 Filed 6–2–76;8:45 am]

[24 CFR Part 1917]

[Docket No. FI–1198]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Flood Elevation Determination for the Township of Pine Creek, Clinton County, Pennsylvania

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 (Section 1917.4 (a)) hereby gives notice of his proposed determinations of flood elevations for the Township of Pine Creek, Clinton County, Pennsylvania.

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 Township 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 Township Building, Penn Avenue, Pine Creek.

Any person having knowledge, information, or wishing to make a comment

on these determinations should immediately notify Mr. Curtis W. Getz, Chairman of the Board of Supervisors, P.O. Box 61, Woolrich, Pennsylvania 17779. 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.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
West Branch Susquehanna River.	Township Road 434	560	400	
	Maryland St	556	5,000	
Pine Creek	Sixth Ave	556		3,600
	Fifth Ave	556		3,600
	Tiadaughton Ave	555		2,000+
	Valley View Rd	562		800
	Dutch Hollow Rd	566		1,000
Chatham Run	Gravel Hill Road (Township Road 439)	(1)	350	100

[1] Zone A.

(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: May 17, 1976.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.76–15927 Filed 6–2–76;8:45 am]

[24 CFR Part 1917]

[Docket No. FI–1195]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Flood Elevation Determination for the City of Sunbury, Northumberland County, Pennsylvania

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 (Section 1917.4 (a)) hereby gives notice of his proposed determinations of flood elevations for the City of Sunbury, Northumberland County, Pennsylvania.

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 lobby in the City Hall, Municipal Building, 225 Market Street, Sunbury, Pennsylvania.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mayor Donald R. Morgan, City Hall, 225 Market Street, Sunbury, Pennsylvania 17801. 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.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Shamokin Creek	Route 147	444		180
	Penn RR	444		140
	10th St	444		140
	State Route 61 (upstream)	448		460
Susquehanna River	Dam (upstream)	446	50	
	Route 25 (upstream)	447	40	
	Reading RR	448	80	

(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: May 17, 1976.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.76–15932 Filed 6–2–76;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2001]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Flood Elevation Determination for the Township of Buffalo, Union County, Pennsylvania

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 (Section 1917.4 (a)) hereby gives notice of his proposed determinations of flood elevations for the Township of Buffalo, Union County, Pennsylvania.

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 Township 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 Township Secretary's office, R.D. 2, Lewisburg.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mr. John C. Snyder, Chairman of the Board of Supervisors, R.D. 2, Lewisburg, Pennsylvania 17837. 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.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Buffalo Creek	East corporate limits	462	(1)	440
	North 16th St	462	(1)	640
	Strawbridge Rd	464	(1)	80
	Extention of unnamed and unimproved road.	466	(1)	220
	Private road	469	(1)	60
	L R 59020	473	(1)	60
	L R 628	490	400	360
	L R 59035	501	1,120	40
	Route 192	523	420	340
	T 361 (extended)	526	520	520
	West corporate limits	528	440	380
North Fork Limestone Run.	Corporate limits	462	240	160

(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: May 17, 1976.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.76-15933 Filed 6-2-76;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-1194]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Flood Elevation Determinations for the City of Franklin, Wisconsin

The Federal Insurance Administration, 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 (Section 1917.4 (a)), hereby gives notice of his proposed determinations of flood elevations for the City of Franklin, Wisconsin.

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 of Franklin, Wisconsin 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 City Hall, 9229 West Loomis, Franklin, Wisconsin 52132.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mayor Theodore Fadrow, City Hall, 9229 West Loomis, Franklin, Wisconsin 52132. 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.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level	Width from shoreline or bank of stream (facing downstream) to 100-yr flood boundary (feet)	
			Right	Left
Root River	W. Rawson Ave	122	340	60
	West Drexel Ave	115	60	480
	West Ryan Road	106	180	30
	West Oakwood Rd	102	1,980	220
	South 60th St	101	1,280	290
	West South County Line Road: upstream side of road.	99	700	60
Tess Corners Creek	West St. Martin's Rd.:			
	Upstream side of road	189	120	80
	Downstream side of road	188	100	60
	North Cape Rd.:			
	Upstream side of road	186	40	120
	Downstream side of road	185	100	100
Tess Corners Creek	West Forest Home Ave.:			
	Upstream side of road	179	210	140
	Downstream side of road	178	180	220
East Branch Root River.	Trailer Park Rd	177	80	100
	West Rawson Ave	165	270	180
	West Drexel Ave.:			
	Upstream side of road	135	40	40
	Downstream side of road	135	60	40
	South 51st St.:			
	Upstream side of road	134	130	100
	Downstream side of road	133	140	30
Woods Creek	West College Ave	178	40	220
Oak Creek	West Puetz Rd.: (downstream side of road).	169	120	140
	Crest Ct	166	180	80
	West Maplecrest Dr	165	380	40
	West Glenwood Dr	164	530	100
	West Woodward Dr.:			
	Upstream side of road	155	200	120
	Downstream side of road	155	420	180
	West Southland Dr.:			
	Upstream side of road	152	160	40
	Downstream side of road	151	20	50
	West Ryan Rd.:			
	Upstream side of road	131	200	160
	Downstream side of road	130	40	30
	South 31st St.:			
	Upstream side of road	118	340	310
	Downstream side of road	117	50	170
	South 27th St.: Upstream side of road	113	60	460

(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: May 17, 1976.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.76–15934 Filed 6–2–76;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 76–RM–12]

ALTERATION OF TRANSITION AREA

Quirt Intersection

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations which would alter the transition area at Jackson, Wyoming.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Division, Federal Aviation Administration, 10455 East 25th Avenue, Aurora, Colorado 80010. All communications received on or before July 6, 1976, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the office of the Regional Counsel Federal Aviation Administration, 10455 East 25th Avenue, Aurora, Colorado 80010.

Additional controlled airspace is required to protect aircraft in holding patterns established at the Quirt Intersection.

In consideration of the foregoing, the FAA proposes the following airspace action:

In FAR 71.181 (41 F.R. 440) amend the description of the 1200 foot transition area to read as follows:

* * * and that airspace extending upward from 1200 feet above the surface within 8 miles west and 12 miles east of the Jackson VOR 020° radial extending from the VOR to 38.5 miles north of the VOR; within 5 miles each side of the Jackson VOR 107° radial extending from the VOR to 15 miles east of the VOR; and within 6 miles north and 9 miles south of the Dunoir, Wyoming, VOR 102° and 282° radials extending from 8 miles east to 21 miles west of the Dunoir VOR.

(Sec. 307(a) of the Federal Aviation Act of 1958, as amended, (49 U.S.C. 1348(a)), and of Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Aurora, Colorado, May 24, 1976.

M. M. MARTIN,
Director, Rocky Mountain Region.

[FR Doc.76–16064 Filed 6–2–76;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 76–RM–5]

TRANSITION AREA

Proposed Alteration

Correction

In F.R. Doc. 76–14951 appearing on page 21203 of the issue for Monday, May 24, 1976, the description of the Hayden, Colorado transition area contains several errors, and should read as follows:

HAYDEN, COLORADO

That airspace extending upward from 700 feet above the surface within 5 miles each side of the Hayden, Colorado, VOR 248° radial extending from the VOR to 18 miles southwest of the VOR; and that airspace extending upward from 1,200 feet above the surface within an area bounded by a line beginning at 40°06'00'' N., longitude 107°00'00'' W.; to latitude 40°43'00'' N., longitude 107°00'00'' W.; to latitude 40°43'00'' N., longitude 107°45'00'' W.; to latitude 40°35'00'' N., longitude 107°45'00'' W.; to latitude 40°35'00'' N., longitude 108°08'00'' W.; to latitude 40°22'00'' N., 108°08'00'' W., to latitude 40°-22'00'' N., longitude 107°45'00'' W., to latitude 40°07'30'' N., longitude 107°45'00'' W.; thence along the north edge of V–200 to the point of beginning.

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Parts 2 and 87]

[Docket No. 20123; FCC 76–461; RM–2622]

AERONAUTICAL ADVISORY FREQUENCIES

Utilization and Assignment

In the matter of utilization and assignment of aeronautical advisory frequencies.

Amendment of Part 87 of the FCC rules and regulations regarding utilization and assignment of the aeronautical advisory and aeronautical multicom frequencies.

1. This Notice of Proposed Rule Making covers the above two matters which are essentially the same. Under Docket 20123 the Commission published a Notice of Inquiry in the FEDERAL REGISTER on August 14, 1974, (39FR29221). The period for comments and reply comments has passed.

2. On November 11, 1975, the Aircraft Owners and Pilots Association (AOPA) petitioned the Commission concerning this matter. That petition has been assigned RM–2622. They requested expedited action on Docket 20123 and proposed a specific frequency plan. This plan is presented and discussed in paragraphs 19 and 20 of this Notice.

3. The purpose of the Notice of Inquiry (Docket 20123) was "* * * to re-

view problems relating to the growing congestion on the frequency 122.800 MHz assigned to aeronautical advisory stations (called unicoms) at uncontrolled airports. These stations are used for advisory and civil defense communications primarily with private aircraft stations." Based upon the comments received, and the petition by AOPA, the Commission now proposes a realignment of certain frequencies within the frequency band of 121.9625–123.0875 MHz.

4. As pointed out in the Notice of Inquiry the congestion on the primary unicom frequency (122.800 MHz) has been steadily increasing for the past decade. The congestion has grown to the point that Safety of Flight may be compromised, particularly in the more densely populated areas of the United States.

5. Preliminary meetings were held with the Federal Aviation Administration (FAA) industry liaison representatives and aviation user groups. As a result of these meetings the Notice of Inquiry was developed and subsequently adopted by the Commission on July 31, 1974, to solicit comments that would first confirm the problem and second, serve as a basis for the design of an effective and equitable solution.

6. Frequencies in the band 121.9625–123.0875 MHz are allocated for use by private aircraft. Ground stations are permitted operation on these frequencies for the purpose of providing service to private aircraft operation. The latter provision permits the FAA to operate Air Traffic Control stations and non-Government licensees to operate advisory and multicom stations in the band. The Notice of Inquiry was concerned primarily with the portion of the band from 122.800 MHz to 123.075 MHz, which is listed below by frequency and present authorized use. Based upon a November 1975 count, the approximate number of assignments for each frequency are as listed:

		Assignments
122.800	Aeronautical Advisory at fields without a tower or Flight Service Station (FSS)	2,044
122.825	Air Traffic Control [1]	
122.850	Aeronautical Advisory high altitude [2]	90
122.875	Air Traffic Control [1]	
122.900	Multicom	[3] 626
122.925	Multicom-Natural Resources	
122.950	Aeronautical Advisory high altitude [2]	43
122.975	Air Traffic Control [1]	
123.000	Aeronautical Advisory at tower or FSS fields	439
123.025	Air Traffic Control [1]	
123.050	Aeronautical Advisory Helicopter	206
123.075	Air Traffic Control [1]	

[1] No plans at this time by FAA for use as air traffic control frequencies although so designated. Hence it is being considered for aeronautical advisory or other private aircraft use.

[2] Frequencies referred to as high altitude are for use when communicating with aircraft which are at altitudes greater than 10,000 feet above field elevation. These frequencies are assigned in addition to either 122.800 or 123.000 MHz. These frequencies may also be assigned to airfields not open to the public.

[3] Government participation.

7. Over the years, unicom has been expanded to include five frequencies. The frequencies 122.800 and 123.000 MHz are standard unicom; 122.800 MHz, where there is no control tower or FAA flight service station at the landing area and 123.000 MHz where there is a control tower or FAA flight service station at the landing area. The frequency 123.050 MHz is assigned to heliports. The frequencies 122.850 and 122.950 MHz are for additional assignment when such additional assignment is requested for communication with aircraft at altitudes greater than 10,000 feet above the runway elevation and for assignment to private fields. In addition to these five unicom frequencies, the frequency 122.9 is termed multicom and is assigned for the purpose of directing activities air-to-air, air-to-ground or ground-to-air, such as agriculture, ranching and conservation, forest fire fighting, advertising, and parachute jumping. The frequency 122.925 MHz was recently made available for multicom use on natural resources programs.

8. Separating these special purpose communications as discussed above has not provided a corresponding distribution of usage. The special frequencies are being used very lightly while the congestion on 122.800 MHz grows daily. For example, records show 90 assignments for 122.850 MHz and 43 assignments for 122.950 MHz throughout the entire nation. On the other hand, there are 2044 unicom ground stations in the country operating on 122.800 MHz. An informal survey made by the FAA in 1973 of New York aeronautical charts of an area 50NM in radius around New York City revealed that of the 123 unicoms listed on the map, there was one ground station on 122.950 MHz, one on 122.850 MHz, three on 123.050 MHz, nineteen on 123.000 MHz, and ninety-nine on 122.800 MHz. This means two air fields closed to all public traffic had the exclusive use of two frequencies; three heliports laid claim to a third frequency of their own; and the pilots flying into and out of 99 public-use air fields must operate on a single frequency—122.800 MHz. While we realize the figures are not exact, we believe they are still representative of the unequal loading on the frequencies.

9. In response to the Notice of Inquiry 131 comments were received. There was one reply comment filed on behalf of the Aerospace and Flight Test Radio Coordinating Council (AFTRCC).

10. While not all replies alluded to the fact of congestion on 122.800 MHz, the vast majority either agreed directly that there was congestion or this fact could be directly concluded from other statements made. There were three respondents who noted that in their particular part of the country there was not a congestion problem. These three comments were from personnel whose flying was in the more sparsely populated areas.

11. Generally most respondents felt that the uncontrolled airports should be assigned only 100 kHz channels.[1] A large segment also felt that 50 kHz channels could be assigned to controlled airport unicoms with less adverse effect, in that most aircraft utilizing those locations were already equipped with 360 channel equipment. This concept would require the fixed base operators at these locations to change frequencies. Several comments noted that this would be much less expensive than any alternative plan which would necessitate a large number of aircraft changing to 360 or 720 channel equipment.

12. With a few exceptions all respondents felt that 25 kHz channels are undesirable at uncontrolled airports. The same was true to a lesser degree for the controlled airport unicoms. There were some suggestions that the 25 kHz channels within the aeronautical advisory band be introduced in a variety of optional methods as an inducement for personnel to gradually convert to the 25 kHz equipment.

13. Forty-six respondents felt that convenience type communications should be allowed on the aeronautical advisory frequencies, i.e., calls concerning food, lodging and transportation. Some personnel were concerned about radio usage to determine aircraft maintenance and fuel availability. The Commission feels that communications concerning maintenence and fuel are already covered in the "safe and expeditious operation of aircraft" and, hence, are not a matter of consideration at this time. There were only two respondents who felt the removal of convenience type communications, such as ordering a cab or requesting information on hotels or restaurants,

[1] For the purpose of this docket whenever the term "100 kHz channel" or "100 kHz frequency" is used, a frequency ending in ".X00" is meant. As an example: 122.700, 122.800, 123.000 or 123.000 MHz. When the term "50 kHz channel" or "50 kHz frequency" is used, a frequency ending in ".X50" is meant. As an example: 122.750, 122.850 or 123.050 MHz. When the term "25 kHz channel" or "25 kHz frequency" is used, a frequency ending in ".X25" or ".X75" is meant. As an example: 122.925, 122.975 or 123.075 MHz. Further, reference to 360 channel equipment indicates that this equipment normally will tune to 50 kHz in addition to 100 kHz channels. Reference to 720 channel equipment indicates that the equipment will tune to 25 kHz, 50 kHz and 100 kHz channels.

would help alleviate the congestion. Most of those commenting on this, however, were in favor of retaining convenience communications and felt that this service provided them with considerable saving of time.

14. Several comments were received pointing out that general aviation had a disproportionately small frequency assignment. Along this same line, several suggestions were received to utilize frequencies assigned to other aviation services, for one reason or another. While the Notice of Inquiry did not propose consideration of frequencies other than those listed in paragraph 6, we have reviewed all suggestions made.

15. There were several comments received concerning the 25 kHz channels between 122.800 and 123.100 which are presently designated for air traffic control use. It was felt by all persons commenting on this item that they should be redesignated for either unicom or multicom use; either present or future.

16. In general all helicopter users and associations which include helicopter owners/users strongly supported retention of 123.050 MHz for unicom for helicopters. It was further pointed out by several commenters that due to the rapid growth of helicopters that in addition at least one additional 25 kHz frequency should be designated for helicopters to split the load in areas where congestion is already or soon will be occurring.

17. There were a number of proposals made concerning the multicom service including several recommendations to utilize 122.900 MHz for unicom. There were also recommendations to utilize a 50 kHz channel for multicom in lieu of 122.900 MHz. Conversely there were recommendations to retain 122.900 MHz for use of multicom.

18. Many people expressed the feeling that some form of splitting the load that 122.800 MHz carries was the solution. Their method of accomplishing this was proposed in several different manners. In an effort to obtain additional 100 kHz channels the use of instructional or flight test frequencies was suggested but not widely supported. We are inclined to agree that more frequencies are needed for uncontrolled airports and that 100 kHz channels are desirable. Certainly the safety related communications provided at uncontrolled airports support these arguments.

19. One method of obtaining more frequencies for unicoms has been proposed in the AOPA petition, RM 2622. This involves transferring a band segment of 122.6875—122.7875 mHz which is utilized presently for communication with flight service stations to unicom and multicom use. This would require those flight service stations presently on 122.7 and 122.75 MHz to be changed to other flight service station frequencies. The AOPA supported this proposal with these remarks:

> With regard to the transfer of the 127 MHz (sic, 122.7 MHz) channels from the FSS, where the FAA currently has them, this should pose no great problem since the FAA was able to transfer three 100 kHz channels from the control tower guard category for general aviation to FSS use as aircraft in the fleet obtained more multichannel equipment. These channels were 122.4, 122.6 and 122.7 MHz. The need for additional channels in the aeronautical advisory service is more pressing than that of the FSS, which is expected to lessen somewhat as the FSS modernization program moves along. Thus, the shift of the 127 Mhz (sic, 122.7 MHz) channels to aeronautical advisory is logical and in the interest of maximum frequency utilization. We believe that this is the main point of objection raised by the FAA to the proposals made in connection with the Notice of Inquiry. The objection is not valid in our view.

20. Some of the proposals made by AOPA in RM–2622 are presented here by quotation, in part, of their petition.

> The recommendation set forth below will require a change in a number of frequency assignments. It is recognized that any change to the existing setup will require frequency changes, but it is believed that the impact can be minimized if the changes are made at time of station license renewal or on issuance of license to new stations. The fact that some functions will be sharing channels during the transition is not considered to be of serious impact.
>
> We are recommending to FAA and NOAA that sectional and local charts carry the actual frequency assigned to aeronautical advisory stations, rather than a designation such a "U–2" as is the current procedure.
>
> The thrust of our recommendations is to provide three 100 kHz channels, 122.7, 122.8 and 123.0 mHz, for assignment on a geographic spaced basis to airports that now have 122.8. The selection of 100 kHz channels for these airports is based on the premise that most of the aircraft with limited channel equipment are based at or use these airports.
>
> This will require that the channels 122.700, 122.725, 122.750, 122.755 MHz be reassigned from air traffic control operations to aeronautical advisory use. Further, the six 25 kHz spaced channels 122.825, 122.875, 122.925, 122.975, 123.025 and 123.075 should have their designation in the Rules changed from "air traffic control" to "aeronautical advisory" or "multicom" as appropriate. They were designated for air traffic control in the process of the rule making on 25 kHz aeronautical communications, although no mention was made of that intent in the proposed rule making. We therefore contend that these channels should be changed to reflect the usage of the band, i.e., aeronautical advisory or multicom. One of these channels (122.925) already has been designated for environmental operations.
>
> The aeronautical advisory stations on airports where there is a control tower should be shifted to 122.95 MHz, replacing the previous 123.0 assignment. This is based on the premise that aircraft based at control tower airports are more likely to have more sophisticated equipment and could better accommodate the 50 kHz spaced channel.
>
> The present multicom assignments on 122.9 and 122.925 MHz would not be changed. Present use of both 122.85 and 122.95 for private use airports or high altitude unicom should be phased out.
>
> The present use of 123.05 MHz for heliports should be continued.
>
> We strongly recommend that the use of the aeronautical advisory channels for information relating to the flight and servicing of the aircraft, including arrangements for ground transportation, service and related information be continued as an authorized use of the frequencies.
>
> Air-to-air communications continue to pose a problem and are necessary to different types of general aviation flying activity. Examples include formation flights, glider towing, coordination of fire fighting operations, coordination of group flights, etc. We believe that air-to-air should be conducted on the same channel assigned to the base airport as much as possible. For operations conducted away from the base airport, 122.75 MHz is recommended.
>
> Various 25 kHz spaced channels, as indicated below, would be available for expansion and assignment to the various needs within the aeronautical advisory and multicom services to meet future demands.
>
> The spectrum assignment would look like this:
>
> 122.700 Aeronautical advisory, primary—nontower airports.
> 122.725 Aeronautical advisory, private use airports—future use.
> 122.750 Aeronautical advisory, private use airports and air-to-air.
> 122.775 Aeronautical advisory, future use.
> 122.800 Aeronautical advisory, primary—nontower airports.
> 122.825 Aeronautical advisory, future use.
> 122.850 Multicom, future use.
> 122.875 Multicom, future use.
> 122.900 Multicom, primary.
> 122.925 Multicom, environmental.
> 122.950 Aeronautical advisory, primary—tower airports.
> 122.975 Aeronautical advisory, high altitude.
> 123.000 Aeronautical advisory, primary—nontower airports.
> 123.025 Aeronautical advisory, future use.
> 123.050 Aeronautical advisory, heliports.
> 123.075 Aeronautical advisory, heliports—future use.
>
> Transition to the new assignments would take place over a five year period during which all existing stations would have their licenses renewed and get their new assignments as appropriate. Procedures for showing current information on aeronautical charts and publications would be worked out with the FAA and the National Ocean Survey. Appropriate information could be carried in the Airman's Information Manual.
>
> As a separate action, AOPA and other user groups are recommending modernization of the FSS system that includes a discontinuance of airport advisory service by FSS on 123.6. Since the FAA has been pushing the procedure of aircraft announcing their position in a traffic pattern at uncontrolled airports AOPA is suggesting that the FSS stop giving airport advisory service and that 123.6 be assigned for the purpose of announcing position in the traffic pattern. This will remove those announcements from the frequencies used for unicom and remove a great deal of use at traffic pattern altitude so as to reduce the distance that it could interfere with the traffic at other airports. Where airports are in very close proximity with overlapping traffic patterns, the fact that a pilot in one could hear a pilot in the other would be an added safety feature.

21. In general, we agree with the proposals made by AOPA. We agree that there is a need for additional channels for uncontrolled airports to relieve the pressure on 122.8 MHz. We agree also that, at least for now, 100 kHz channels are desirable for unicoms at uncontrolled airports. Obtaining additional 100 kHz channels, while simultaneously satisfying other requirements, necessitates some other action. We believe the AOPA proposal to utilize the frequency spectrum from 122.6875 to 122.7875 MHz for improving unicom and multicom service has merit. FAA representatives have pointed out that this will increase

the possibilities for interference on the other FSS frequencies through compression of the FSS band. They have also pointed out that the resulting reassignment of FSS operations presently on 122.700 MHz to the other FSS channels, will necessitate an increase in the number of 50 kHz FSS assignments. Nevertheless the arguments presented by AOPA coupled with the extreme need to alleviate the congestion on 122.8 MHz convince us that this proposal should be considered. We are allowing 90 days for comment and will take extensive steps to publicize this Notice. We hope it will prompt widespread comment upon which a final decision can be based.

22. As suggested by AOPA we are proposing to utilize the frequencies between 122.6875 MHz and 122.7875 for unicom and multicom. We proposed to assign three 100 kHz channels for unicom use at airports where there is no airdrome control station (control tower). Those channels are 122.700, 122.800 and 123.000 MHz. The 122.700 MHz channel is derived from its former FSS use. The 122.800 MHz channel is retained as previously used. The 123.000 MHz channel is obtained from its previous use at controlled and FSS airports because, as has been previously pointed out, a larger proportion of aircraft at controlled airports has 360 channel equipment. By assigning three 100 kHz there should eventually be approximately 700 ground stations on each of these frequencies. This should significantly reduce congestion on 122.8 MHz. We propose to allow applicants to request which of the frequencies they prefer. We believe that this method should gradually provide most nearly equal utilization. We will, however, reserve the right to assign a particular frequency.

23. As a separate but related matter, we note that FAA has under consideration a request from AOPA to utilize 123.600 MHz for position reporting while in the traffic pattern of an uncontrolled airport. This AOPA request assumes a discontinuance of airport advisory service by FSS's on 123.6 MHz. FAA has advised that it plans to issue a NOI on this subject, the results of which will not be known for some time. The FAA further advises that it has urgent ATC requirements for additional frequencies which must be considered should the FSS airport advisory service on 123.6 MHz be discontinued. The future disposition of 123.6 MHz is not considered a part of this docket.

24. We propose, as nearly all those commenting on the Notice of Inquiry suggested, to redesignate all those 25 kHz frequencies between 122.8 and 123.1 MHz as aeronautical advisory or multicom for either present or future use.

25. The two high altitude unicom frequencies (122.850 and 122.950 MHz) have been underused as is apparent in paragraph 6. Further, in view of FAA's planned use of 25 kHz channels for high altitude enroute control, it seems consistent to similarly place the high altitude unicom on a 25 kHz channel. We concur with AOPA's recommendation to use the frequency 122.975 MHz for this purpose. This makes the two frequencies, 122.850 and 122.950 MHz available for other purposes.

26. As discussed in paragraph 22 we propose to utilize 123.0 MHz for unicoms at uncontrolled airports; i.e., those at which no control tower exists. AOPA recommended this in their petition for rule making as did many respondents to the Docket 20123 Notice of Inquiry. Accordingly we propose to assign 122.950 MHz for use at airports at which there is a control tower.

27. The Commission has received many requests for multicom uses. A large number of these requires a 100 kHz channel. We, therefore, support retention of 122.9 MHz. There is, however, an increasing number of requirements which can be accommodated on a 50 kHz channel. We, therefore, propose that 122.850 MHz be designated for general multicom use.

28. As a separate but related matter, paragraph 87.271(a) of the Rules now requires that operation on 122.900 MHz shall cause no harmful interference to the aeronautical advisory service. We have no history of such interference and therefore are proposing to delete this condition from the Rules.

29. AOPA suggests the deletion of the use of 122.850 and 122.950 MHz at private airports and the substitution of 122.725 and 122.750 MHz. The frequency 122.750 MHz is to be shared with air-to-air use. This seems reasonable in that a 50 kHz frequency is still available, as before, for this purpose, however, the 25 kHz frequency, 122.725 MHz, is available should this provide less interference. We therefore are proposing it as part of this Notice of Proposed Rule Making.

30. We concur in retaining 123.050 MHz for use of aeronautical advisory at heliports. In some areas helicopter operators report that congestion exists on 123.050 MHz. In others they predict congestion in the near future. They have requested an additional 25 kHz frequency for that purpose. We concur and are proposing 123.075 MHz for that purpose.

31. As noted by AOPA in their petition, air-to-air communications pose a special problem related to this proceeding. Conducting these communications on the channel assigned to the base airport is one possible solution. However, in the case of formation flying it would seem that most actual flying would be done well away from the base airport and above approach altitudes. It therefore seems that interference to the basic aeronautical advisory frequencies (in particular 122.7, 122.8 and 123.0 MHz) would result which would be counterproductive to the basic objective of the docket and the petition of AOPA. Glider towing is another use of air-to-air communication. However, coordination between gliders and ground stations is already permitted on 121.95, 123.3 and 123.5 MHz. It would seem logical to allow the air-to-air coordination between glider and its tow-plane on the same frequency as glider to ground; since most communications would generally concern the glider operation. The third category of air-to-air communications mentioned by AOPA is the coordination of fire fighting. This category of communication falls under multicom type operation and we see no particular gain to placing this function upon another frequency. The last specific category mentioned by AOPA is group flights. This seems to us to be functionally related to formation flying and again for the same reasons it would seem more appropriate to place these on frequencies other than the basic unicom frequencies of 122.7, 122.8, 122.95 or 123.3 MHz. We therefore are proposing to designate 122.75 MHz as a general air-to-air frequency for general aviation. We propose to expand the use of 121.95, 123.3 and 123.5 MHz to include glider to towship communications. We are not proposing to allow air-to-air communications on the basic unicom frequencies mentioned above. We also propose to add a new paragraph 87.183(m) and to modify Sections 87.183(g), 87.201(c), 87.277(a) and 87.345 to implement and emphasize these concepts.

32. Incorporating the changes as proposed above would make the frequency spectrum assignment listing look as follows:

MHz	*AA: Aeronautical Advisory*
122.700	AA, uncontrolled fields.
122.725	AA, private airports not open to the public.
122.750	AA, private airports not open to the public and air-to-air communications.
122.775	Future AA or multicom use.
122.800	AA, uncontrolled airports.
122.825	Future AA or multicom use.
122.850	Multicom.
122.875	Future AA or multicom use.
122.900	Multicom.
122.925	Multicom-Natural Resources.
122.950	AA, Airports with a control tower.
122.975	AA, high altitude.
123.000	AA, uncontrolled airports.
123.025	Future AA or multicom use.
123.050	AA, Heliports.
123.075	AA, Heliports.

33. We recognize that these proposed amendments will involve frequency changes by ground stations. We propose to do this over a time period of approximately 3 years to reduce the impact. There will be frequency sharing during the transition period but this should not be a serious problem.

34. In addition to the above changes we propose to change the definition of Aeronautical Advisory Station to include the term unicom. The popular usage of the term unicom has previously been recognized in Section 87.251(b) of the rules and in the Notice of Inquiry in Docket 20123. We, therefore, propose to include it in the definition and will subsequently utilize the terms interchangeably.

35. In the Notice of Inquiry under this docket it was pointed out that, in reference to 50 kHz frequencies, ". . . . we are nearing the time when greater utilization of these frequencies should be made." This Notice of Proposed Rule Making promotes this concept to a limited degree. We intend to begin other

actions, in the near future, to further promote the use of both 50 kHz and 25 kHz channels.

36. In view of the foregoing the Commission therefore proposes to make the changes in frequency as outlined in paragraph 33 of this Notice.

37. In addition, the following administrative changes are proposed.

(a) Footnote 1 to § 87.65(a) is reworded to clearly express the original intent of the rulemaking. It was intended that the transmitters first type accepted after January 4, 1974, meet the 0.002 percent tolerance. Similarly, it was intended that those types of transmitters meeting a tolerance of 0.005 percent which were type accepted before January 1, 1966, and those types of transmitters meeting a tolerance of 0.003 percent first type accepted during the period January 1, 1966 to January 1, 1974, may continue to operate with the exception of the stated carrier offset restriction. The use of date of type acceptance as a criteria was stated in the Report and Order and this interpretation has been used to date.

(b) Footnote 2 to § 87.65(a) is reworded along the same lines as Footnote 1 in paragraph (a) above.

(c) The intent of §§ 87.253(a) and 87.253(d) is not to require someone to provide service, but rather to require the use of a particular frequency when providing service. We are therefore changing the wording to more clearly reflect this intent.

(d) Footnote US29 in § 2.106 is no longer current and is being deleted.

(e) In the Table of Frequency Allocations in Part 2 of the Rules, the Aviation Instructional frequency 121.950 MHz is being moved to the next higher frequency table along with other private aircraft frequencies.

38. The proposed amendments to the rules as set forth below are issued pursuant to the authority contained in sections 4 (i), 303 (b), (c), (f) and (r) of the Communications Act of 1934, as amended.

39. Pursuant to applicable procedures set forth in § 1.415 of the Commission's rules, interested persons may file comments on or before August 31, 1976 and reply comments on or before September 14, 1976. All relevant and timely comments and reply comments will be considered by the Commission before final action is taken in the proceeding. In reaching its decision in this proceeding, the Commission may also take into account other relevant information before it, in addition to the specific comments invited by this notice.

40. In accordance with the provision of § 1.419 of the Commission's rules, an original and 11 copies of all statements, briefs or comments filed shall be furnished to the Commission. Responses will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

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

Adopted: May 19, 1976.

Released: May 26, 1976.

Parts 2 and 87 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 GENERAL RULES AND REGULATIONS

§ 2.106 [Amended]

1. In § 2.106 the table is amended by changing the frequency band in columns 5 and 7 from 117.975–121.9625 to 117.975–121.9375; In the frequency band 117.975–121.9625 MHz, under column 10, the frequency 121.950 (NG67) is deleted, and in column 11 directly opposite, the service "Aviation Instructional" is deleted; under columns 5 and 7, the frequency band 121.9625–123.0875 MHz is changed to read from 121.9375–123.0875 MHz. Footnote US 29 is deleted; In column 10, in the frequency band 121.9375–123.0875 MHz, 121.950 (NG67) is added immediately before 121.975–123.075 MHz (NF67), in column 11 it is listed as "aviation instructional" and the table of footnote is amended by deleting US 29 and modifying US 30 and US 31 to read as follows:

* * * * *

Band (MHz) 5	Band (MHz) 7	Frequency (MHz) 10	Nature of stations (OF SERVICES) 11
* *	* *	* *	* *
117.975–121.9375 (273)	117.975–121.9375	118.000–121.400 (NG67).	Airdrome control.
(US26) (US28) (US85)		121.500	Aeronautical mobile. Maritime search and rescue.
		121.600–121.925 (NG67).	Aeronautical utility mobile.
			Aeronautical utility land. ELT test.
121.9375–123.0875 (US30) (US31) (US80) (US85) (US102) (US 213).	121.9375–123.0875	121.950 (NG67) 121.975–123.075	Aviation instructional. Private aircraft.
* *	* *	* *	* *

* * * * *

US 29 [Delete].

US 30 The band 121.9375–123.0875 MHz is available to FAA aircraft for communications pursuant to flight inspection functions in accordance with the Federal Aviation Act of 1958.

US 31 Except as provided below the band 121.9375–123.0875 MHz is for use by private aircraft stations.

The frequencies 122.700, 122.725, 122.750, 122.800, 122.950, 122.975, 123.000, 123.050 and 123.075 MHz may be assigned to aeronautical advisory stations.

The frequency 122.850, 122.900 and 122.925 MHz may be assigned to aeronautical multicom stations. In the case of 122.925 MHz, US 213 applies.

Air carrier aircraft stations may use 122.000 MHz for communication with aeronautical stations of the Federal Aviation Administration and 122.700, 122.800 and 123.0 MHz for communications pertaining to safety of flight with and in the vicinity of landing areas not served by a control tower.

Frequencies in the band 121.9375–122.6875 MHz may be used by aeronautical stations of the Federal Aviation Administration for communication with private aircraft stations only, except that 122.0 MHz may also be used for communication with air carrier aircraft stations concerning weather information.

PART 87—AVIATION SERVICES

1. In § 87.5 the definition of Aeronautical Advisory Station is amended as follows:

§ 87.5 Definition of terms.

* * * * *

Aeronautical advisory station. An aeronautical station used for advisory and civil defense communications primarily with private aircraft stations. Also called unicom station.

* * * * *

2. Section 87.183(g) is amended and (m) is added as follows:

§ 87.183 Frequencies available.

* * * * *

(g) 122.9 and 123.1 MHz: When engaged in search and rescue activities in accordance with Subpart K of this part, these frequencies may be used by aircraft for:

(1) Air-to-air communications with other aircraft engaged in search and rescue activities.

(2) Air-to-ground communications with aeronautical search and rescue stations.

* * * * *

(m) 122.750 MHz: This frequency is authorized for use by private aircraft in air-to-air communications for formation flying, group flights or other air-to-air usage by general aviation not specifically authorized elsewhere in this part of the rules provided, however, that communications on this frequency shall be limited to those directly related to the operation of the aircraft.

* * * * *

3. Section 87.195(f) is amended to read as follows:

§ 87.195 Frequencies available.

* * * * *

(f) The frequencies 122.700, 122.800 and 123.000 MHz are available to air carrier aircraft for communications pertaining to safety of flight in the vicinity of landing areas not served by airdrome control or FAA flight service stations. Such communications are permitted with aeronautical advisory stations in accordance with Subpart C of this part.

4. In § 87.201, paragraphs (b), (c) and (d) are amended, and paragraphs (e) and (f) are deleted, to read as follows:

§ 87.201 Frequencies available.

* * * * *

(b) These frequencies are available to private aircraft for air traffic control operations:

MHz	MHz	MHz
121.975	122.225	122.475
122.000	122.250	122.500
122.025	122.275	122.525
122.050	122.300	122.550
122.075	122.325	122.575
122.100	122.350	122.600
122.125	122.375	122.625
122.150	122.400	122.650
122.175	122.425	122.675
122.200	122.450	

(c) These frequencies are available to private aircraft stations for communications with aeronautical advisory stations in accordance with Subpart C of this part.

122.700, 122.725, 122.750, 122.800, 122.950, 122.975, 123.000, 123.050 and 123.075 MHz.

In addition, brief keyed RF signals may be transmitted on these frequencies for the control of airport lights from aircraft on the condition that no harmful interference is caused to authorized voice communications.

(d) 122.850, 122.900 and 122.925 MHz, 6A3 emission: Private aircraft stations to aeronautical multicom stations and to Government stations in accordance with Subpart D of the Rules. Between private aircraft stations and between private aircraft stations and Government aircraft stations while in flight for communications pertaining to safety; agricultural, ranching and conservation activities; forest fire fighting; aerial application; aerial advertising; and parachute jumping.

(e) [Reserved]

(f) [Reserved]

(g) * * *

5. Section 87.253 is amended to read as follows:

§ 87.253 Frequency assignment.

(a) Aeronautical advisory stations at landing areas open to the public, upon application, will be assigned a frequency in accordance with the paragraphs below. Where more than one frequency is available the applicant may state a preference for a specific frequency; however, the Commission reserves the right to specify the frequency of assignment.

(1) Landing area other than a heliport, where there is not a control tower; 122.700, 122.800 or 123.000 MHz;

(2) Landing area, other than a heliport, where there is a control tower; 122.950 MHz;

(3) Landing area that is used exclusively as a heliport; 123.050 or 123.075 MHz.

(b) Upon a showing of need, stations authorized to operate on 123.050 or 123.075 MHz also may be assigned 122.700, 122.800 or 123.000 MHz for communications primarily with fixed wing aircraft, and stations authorized use of 122.700, 122.800, 122.950 or 123.000 MHz may also be assigned 123.050 or 123.075 MHz for communications primarily with helicopters.

(c) Stations at landing areas not open to the public normally will be assigned a frequency in accordance with the provision of paragraph (a) of this section. An alternate frequency of 122.725 or 122.750 MHz may be authorized upon request.

(d) Stations authorized to provide service on 122.700, 122.800, 122.950 or 123.000 MHz may be assigned the additional frequency 122.975 MHz when such frequency is requested for communication with aircraft at altitudes greater than 10,000 feet above the elevation of the landing area.

* * * * *

6. Section 87.257 is amended by changing paragraph (d) (4) as follows:

§ 87.257 Scope of service.

* * * * *

(d) * * * (4) When assigned in accordance with 87.253(d), 122.975 MHz may be used for communication only with aircraft at altitudes greater than 10,000 feet above the elevation of the landing area.

* * * * *

7. Section 87.271 is amended by changing paragraph (a) and deleting paragraph (c).

§ 87.271 Frequencies available.

(a) 122.850 or 122.900 MHz, 6A3 emission:

* * * * *

8. In § 87.277, paragraph (a) and the introductory paragraph of (b) are amended as follows:

§ 87.277 Scope of service.

(a) Except as provided in paragraph (b) of this section, communications by an aeronautical multicom station shall pertain to activities of a temporary, seasonal or emergency nature which depend upon an aircraft in flight for the successful or safe conduct of the activity. Such communications shall be limited to the directing of ground activities from the air, the directing of aerial activities from the ground, and air-to-air communications where such communications are directly connected with the air-to-ground or ground-to-air activity herein authorized; provided however that communications by a multicom station may not include those air/ground communications provided for elsewhere in this part.

(b) Where advisory service is not authorized at a landing area and an applicant is unable to meet the special requirements for an aeronautical advisory station under § 87.251, the Commission, upon a proper showing by the applicant, and until such time as an aeronautical advisory station is established at the landing area, may authorize service at such landing area on 122.850 or 122.900 MHz, in accordance with the following provisions:

* * * * *

9. Section 87.345 is revised as follows:

§ 87.345 Scope of service.

Communications shall be limited to the necessities of pilot training, coordination of soaring activities between gliders, tow aircraft and ground stations and the promotion of safety of life and property.

[FR Doc.76-15941 Filed 6-2-76;8:45 am]

POSTAL SERVICE

[39 CFR Part 111]

MAIL CLASSIFICATION CHANGES

Proposed Implementing Regulations

Under the provisions of 39 CFR 111.3 the Postal Service proposes to amend various sections of Chapter I of the Postal Service Manual, in preparation for implementing six changes in mail classification. The Governors of the Postal Service have expressed agreement in principle with the classification schedule recommended by the Postal Rate Commission (Rate Commission Docket No. MC73-1, Phase I, issued April 15, 1976), and have expressed the view that postal management should prepare to implement the recommended classifications, except for business reply, no later than July 6, 1976.

The purpose of this document is to make public the proposed regulations of the Postal Service to carry out these classification changes, on the assumption that the Governors will give final approval to them in the near future. The Postal Service solicits the views of interested persons on all aspects of these proposed regulations, except the proposed rates.

As noted above, the Governors have requested that preparation be made to implement the recommended classifications no later than July 6, 1976, which is the anniversary date for annual increases in the phasing schedules adopted under 39 U.S.C. § 3626. Certain of the rates affected by these classification changes are subject to phasing, *i.e.*, the rates for special fourth-class mail (including the presort categories). Any such changes in the phasing schedules can be readily and efficiently made at the same time other phased rates increase. Accordingly, the Postal Service believes there is good cause in this instance for shortening the usual comment period in this case of proposed rulemaking from thirty days to fifteen days. Otherwise, there would be little or no time left at the end of the comment period to analyze comments and take appropriate action.

The following are the highlights of the proposed new mail classifications:

First-Class & Airmail.—First-class mail and airmail classification will distinguish between single-piece and presorted mailings (post cards and ounce rate mail only). For mailings of 500 or more presorted pieces, the rate shall be the rate for single-piece mail, less one cent per piece for each piece of a group of 10 or more pieces grouped for the same five-digit ZIP, or of a group of 50 or more pieces grouped for the same three-digit ZIP. All other pieces in a mailing shall pay the same rate as single-piece mail. Each presorted-rate mailer must pay an annual mailing fee of $30 at each office of mailing.

Business Reply Mail.—A new system of annual permit fees and accounting fees will be established. Business reply mail fees for mailers who maintain an advance deposit account which are lower than the fees for those mailers who do not maintain such an account also are established. To qualify for the lower business reply mail fee, an advance deposit account must be maintained at the post office facility from which the business reply mail is offered for delivery. An accounting charge is to be applied to each account maintained by the recipient. The permit fee is to be applied to each business reply permit now required. The lower business reply mail fee for recipients with advance deposits is to be applicable only if there are sufficient funds in the account to cover the total postage and fees for the mail.

Nonstandard Surcharges.—In order to encourage the use of standard mail pieces, and to compensate the Postal Service for the added costs of handling nonstandard items, first-class mail and airmail weighing one ounce or less, and single piece third-class mail weighing two ounces or less which (i) has a height to length ratio which does not fall between 1:1.3 and 1:2.5 inclusive, or (ii) exceeds any of the following limitations:

	Inches
Height	6.125
Length	11.5
Thickness	0.25

will be declared nonstandard, and will, at a later date, be made subject to surcharge in addition to the applicable postage and fees.

No surcharge will be applied to nonstandard mail until after April 15, 1978 in order to allow mailers sufficient time to adapt to these requirements. The amount of the surcharge will be determined at a later date.

Undersized & Nonrectangular Mail.—The present regulations on the minimum sizes for mail matter will be expanded to all classes of mail and types of service and be amended to prohibit (1) all items which are less than .007 inch thick, and (2) all items, other than keys and identification devices, which are 0.25 inch thick or less and (a) are not rectangular, and/or (b) are less than 3.5 inches in height, and/or (c) are less than 5 inches in length.

Even mail which is rectangular will be prohibited if it is 0.25 inch thick or less, but less than 3.5 inches in height and/or less than 5 inches in length. These provisions will not take effect before April 15, 1978, to give mailers sufficient time to adjust to them.

Parcel Post.—The present fourth-class parcel post category shall be amended to provide a bulk rate for zone rated fourth-class mail. The bulk category shall be defined to encompass mailings of 300 or more pieces separated by postage zone. The rate for each piece in a bulk mailing shall be the single-piece rate, applied to the average weight per piece, per zone. Where the average weight per piece is not a full pound, the average weight shall be rounded to the next highest pound.

Special Fourth-Class.—The present classification will be amended to distinguish between single-piece and presorted mailings. No change in the definition of items mailable as special fourth-class rate is made. For mailings of 500 or more sackable pieces presorted to five digits, with a minimum of eight pieces, 20 pounds or one-third of a sack for each five-digit ZIP the full (unphased) rate shall be the single-piece rate, less four cents per piece. The discount also shall be available to mailings of 500 or more non-sackable pieces (outsides) presorted to five digits and presented in a manner that effectively preserves the presort. For mailings of 2,000 or more pieces presorted to five and three digits, with a minimum of eight pieces or 20 pounds, or one-third of a sack to three digits, and a minimum of four pieces or 20 pounds, or one-third of a sack to five digits, the full (unphased) rate shall be the single-piece rate less three cents for each piece. Presort requirements for mailings subject to this discount will provide that the mailing must be presorted to five digits to the greatest extent possible, and the remainder presorted to three digits. Each presorted rate mailer must pay an annual mailing fee of $30 at each office of mailing. Mailers will be required to present mailings in a manner that preserves the presort. Depending on local conditions, this may include use of sacks or other containers for sackable mail, and pallets or containers for outsides.

Pieces which do not meet the above criteria shall be subject to the single piece rate, but need not be presorted.

Bound Printed Matter.—The present fourth-class catalog category—both bulk rate and single-piece rate—shall be amended to include both catalogs and similar bound printed matter. The present bulk rate and single-piece rate structure, and the rates, are not changed. Presort and minimum volume requirements now applicable to bulk rate catalogs will be applied to bulk bound printed matter.

The extension of fourth-class catalog rates to similar bound printed matter does not include books eligible for mailing as special-rate fourth-class mail.

Accordingly, the following sections of the Postal Service Manual would be amended:

1. New sections 131.11–.13 would be added to describe the method of determining the rate for single piece first-class mail, to establish a bulk presort rate, and to anticipate a future surcharge on nonstandard first-class mail. New section 131.227 would be added describing presorted first-class mail.

2. Sections 131.232 and .233 would be amended to discontinue the existing business reply mail fee structure and to establish a fee structure for such mail based upon whether or not the user maintains an active advance deposit with the Postal Service.

3. New section 131.34 would be added defining nonstandard first-class mail, and corresponding changes would be made in 131.222a, 131.33c and 134.32c.

4. Section 131.4 would be amended to specify the method of paying postage on mailings made at presort rates and to establish an annual fee for first-class presort mail.

5. New sections 131.5 and .6 would be added dealing with the preparation of presort mail for mailing, and the verification by a postal employee that such mail has been properly prepared and qualifies for the presort rate.

6. New sections 134.224 and 134.33 would be added defining nonstandard third-class mail and anticipating a future surcharge for such mail.

7. New section 135.112 would be added providing bulk zone rates for 300 or more pieces of fourth-class (parcel post) mail.

8. Section 135.12 would be amended to include both fourth-class catalogs and similar bound printed matter in a subclass called bound printed matter. The presort and minimum volume requirements now applicable to bulk rate catalogs would be applicable to bulk bound printed matter.

9. New section 135.132 would be added providing bulk presort rates for special fourth-class matter.

10. Section 135.22 would be redesignated 135.15 and would be amended to describe the postal zones and otherwise clarify the regulation.

11. Section 135.2, dealing with classification of fourth-class mail, would be completely revised for clarity and to take into account the special fourth-class presort rate.

12. Section 135.3 would be amended to refer to the size and weight limitations of bulk rate parcel post and bound printed matter.

13. Section 135.4 would be amended to require that mailers of fourth-class matter at presort and bulk rates pay postage by permit imprint.

14. New section 135.52li would be added dealing with enclosures or attachments to fourth-class mail on which the first-class rate has been paid.

15. The material in section 135.6 would be redesignated and added to section 135.5; section 135.7 would be redesignated 135.6, and new section 135.7 would be added requiring a ZIP code on all fourth-class matter mailed at bound printed matter, bulk parcel post, library, and special rate fourth-class rates.

16. Section 135.8 would be amended to require mailings at bulk or presort rates to be made at a station or branch specified by the postmaster.

17. New section 136.13 would be added establishing a presort rate for presorted airmail.

18. New section 136.33 would be added defining nonstandard airmail and advising that a surcharge on such mail would be anticipated in the future.

19. Section 136.4 would be amended to require payment only by meter stamps or permit imprints for mailings made at presort airmail rates. There would also be an annual first-class presort mailing fee.

20. Section 137.262 would be amended to authorize mailing of official mail at presorted and bulk rates.

21. New section 145.2b would be added providing that the position of the imprint on fourth-class bound printed matter may be varied so that automatic data processing equipment could be used.

22. Section 145.33 would be redesignated 145.34 and new section 145.33 would be added providing certain information to be displayed by permit mail with special services.

23. Section 145.4 would be amended to show new forms of permit imprints reflecting the various new bulk and presort rate categories.

24. Section 145.51 would be amended to add first-class presort and fourth-class bulk rate mail to the list of permit imprint mailings that must be mailed in certain minimum quantities.

25. Section 145.565 would be amended requiring verification that presort requirements had been met.

26. Section 145.84 would be amended to establish approval of optional procedures according to the weights of the pieces mailed.

Interested persons who wish to do so may submit written data, views, or arguments concerning these proposed revised regulations to the Director, Office of Mail Classification, Rates and Classification Department, U.S. Postal Service, Washington, D.C. 20260. All comments received on or before June 18, 1976 will be considered by the Postal Service prior to taking action on the proposed amendments. Comments received after June 18, 1976 will be considered to the extent permitted by the time available.

Accordingly, although exempt from the requirements of the Administrative Procedure Act (5 U.S.C. 553(b), (c)) regarding proposed rulemaking, 39 U.S.C. 410(a), the Postal Service invites public comment on the following proposed revisions of the Postal Service Manual:

(39 U.S.C. 401, 3623)

LOUIS A. COX,
General Counsel.

PART 131—FIRST CLASS

1. Section 131.1 is revised to read as follows:

131.1 Rates (Effective December 31, 1975)

.11 Single piece rates. The single piece rate is applied to each letter or piece of first-class mail according to its weight.

Kind of mail	*Rate*
All first-class mail weighing 13 ounces or less except postal and post cards. See 136.12 for rates on first-class mail weighing more than 13 ounces.	13¢ for the first ounce or fraction of an ounce, 11¢ for each additional ounce or fraction of an ounce.
Single postal cards sold by the post office (see 141.13).	9¢ each.
Double postal cards sold by the post office (see 141.13).	18¢ (9¢ each portion).
Single post cards (see 131.-222).	9¢ each.
Double post cards (see 131.-222) (Reply portion of double post card does not have to bear postage when originally mailed.)	18¢ (9¢ each portion).

.12 Bulk presort discount.

.121 Identical pieces. A bulk discount of one cent applies to each piece that is part of a group of ten or more pieces sorted to the same five-digit ZIP Code, or of a group of fifty or more pieces sorted to the same three-digit ZIP Code, when they are presented at one post office as part of a single mailing of not less than 500 pieces of first-class mail of identical size, each weighing 13 ounces or less. All pieces must be individually addressed to different addresses, and must be sorted to the maximum extent; i.e. all five-digit sorts in groups of ten or more must be exhausted before proceeding to make up all three-digit sorts in groups of fifty or more, etc. Full first-class postage must be paid on the residue not sorted to groups of 5 or 3 ZIP Code digits as described above. The mailing must be presented at a place and between the hours designated by the postmaster and must comply with the preparation requirements in 131.5. Deposit of metered presort discount mail at other than these designated places will be considered misuse of a postage meter and grounds for revocation of the meter license in accordance with 144.23.

.122 Nonidentical pieces. A group of 500 or more nonidentical pieces within the same postage rate increment which otherwise qualify under 131.121 may be mailed at the discount rate when postage is paid by meter stamps. Nonidentical pieces of the same or different postage rate increments which otherwise qualify under 131.121 may be mailed at the discount rate under permit imprint only when authorized by the Postal Service as part of an optional procedure in accordance with § 145.8, Postal Service Manual, or an experimental procedure under the provisions of § 145.9. Optional procedures for mailing nonidentical pieces must be approved by the Office of Mail Classification.

.13 Nonstandard surcharge. There is currently no surcharge for nonstandard mail as defined in 131.34. However, it is anticipated that such a surcharge will be imposed sometime in calendar year 1978.

2. In section 131.211c strike out the phrase "in 135.214 and 135.215" and insert "in 135.24 and 135.26" in lieu thereof.

3. In section 131.222a strike out the final phrase and insert the following in lieu thereof: "A ratio of width (height) to length between 1 to 1.3 and 1 to 2.5 is recommended."

4. In section 131.225 the first sentence is revised to read as follows:

"Matter which is in the form of a single or double card but which does not conform to the specifications for a single or double post card stated in 131.222a and b may not be mailed at the first-class postage rate for post cards."

5. In § 131.232a strike out the third sentence and the first word of the fourth sentence; strike out the period at the end of the second sentence, insert a comma in lieu thereof, and add the following: "except as follows: if".

6. In 131.232b add the following after the third sentence: "Numbers of cancelled permits may be used when issuing new permits."

7. In section 131.2 add new .227, add new .232 c and d, and revise .233 to read as follows:

131.2 Classification

* * * * *

.22 Postal and post cards

* * * * *

.227 Presorted first-class mail. Presorted First-Class Mail is mail presented in a manner that preserves the orientation, facing and ZIP Code sequence of the pieces.

* * * * *

.23 Business reply mail.

* * * * *

.232 Permit.

* * * * *

c. When payment is not by use of an advance deposit trust account, postage is collected on each piece of business reply mail at the time it is delivered. Postage due stamps for the amount due will be affixed to the mail or to Form 3582–A, Postage Due Bill. The stamps will be canceled and delivered to the addressee with the mail when he pays the amount due. Business reply mail will not be mixed with other mail in direct packages or sacks for individuals or concerns. See 131.1 and 136.1 for amount to be collected which may not include fees for any special services.

d. Cards which do not conform to the specifications contained in 131.222 are to be charged postage at the regular first-class rate, and *not* at the card rate.

.233 Postage and fees. a. An annual fee of $30 will be charged for each permit issued. The $30 permit fee is applicable at each office where mail will be returned except that if the business reply is to be distributed from a central office for return to branches or dealers in other cities, one permit obtained from the post office where the central office is located may be used to cover all the business reply mail of the distributor. The permit holder guarantees payment of postage and fees on any returns refused by such branches or dealers.

b. Permit holders will have the option of keeping an advance deposit at the post office or paying postage due charges to the carrier upon delivery. A $75 accounting fee will be charged for each advance deposit account at each post office where the mail is to be returned. This fee will be paid each calendar year or portion thereof. No accounting fee will be charged to customers who do not maintain an advance deposit.

c. When payment is by an advance deposit account as provided for in 131.-

233b, the amount to be collected is the appropriate first-class, airmail, or priority postage plus a surcharge of 3.5 cents per piece.

d. When no advance deposit is maintained, the amount to be collected is the appropriate first-class, airmail or priority postage, plus a surcharge of 12 cents per piece.

8. In section 131.3 revise .33c and add new .34 reading as follows:

131.3 Weight and size limits.

* * * * *

.33 * * *

c. Pieces having a ratio of width (height) to length between 1 to 1.3 and 1 to 2.5 are recommended.

.34 Nonstandard first-class mail. First-class mail weighing one ounce or less is nonstandard unless it meets the following size standards:

a. Length not greater than 11.5 inches, and

b. Height not greater than 6.125 inches, and

c. Thickness not greater than .25 inch, and

d. An aspect (ratio of height to length) between 1:1.3 and 1:2.5 inclusive.

Nonstandard mail often results in delays or damage to mail because it does not lend itself to machine processing. For this reason, mailers are encouraged to avoid mailing nonstandard first-class mail. It is anticipated that a surcharge will be imposed sometime in calendar year 1978 for nonstandard first-class mail.

9. Sections 131.5 and 131.6 are redesignated sections 131.7 and 131.8; section 131.4 is revised to read as follows and new sections 131.5 and 131.6 are added as follows:

131.4 Payment of postage

.41 Single piece rate. Mailers of first-class matter at single piece rates may pay postage by adhesive stamps, stamped envelopes and postal cards, meter stamps, and permit imprints.

.42 Bulk rate. Mailings made at presort discounted rates must be paid only by meter stamps or permit imprints. Metered postage must be for the first-class rate less the discount for qualifying pieces and the full first-class rate for residual pieces.

.43 Annual fee. A first-class presort mailing fee of $30 must be paid once each calendar year at each office of mailing by or for any person who mails first-class or airmail matter at presort discount rates. Any person who engages a business concern or another individual to mail for him must pay the $30 fee. This fee is separate from the fee that must be paid for a permit to mail under the permit imprint system (145.1).

131.5 Preparation of presort discount mail.

.51 Addresses. The address on each piece must include the ZIP Code.

.52 Markings Required. Identifying words "Presorted First-Class" or "Presorted Airmail" must be incorporated as part of the permit imprint or be printed or rubber stamped by the mailer on each piece above the address and immediately below or to the left of the meter stamps or permit imprints. The marking may be printed by a postage meter, special slug, or "ad plate". All pieces in the mailing including residual pieces, must be so marked.

.53 Mailing Statement. Mailers who qualify for the first-class presort discount (see 131.121) must complete, and submit a mailing statement with each mailing. The statement must be signed by the mailer or his authorized agent.

a. Form 3602, Statement of mailing—permit imprint, for mail with permit imprints. If editions of the form earlier than December 1975 are used, two forms must be used; one for those qualifying for the discount, and one for those which do not. The form for those qualifying for the discount must be marked "PRESORT DISCOUNT RATE" across the top of the form, and should only list the items which qualify for the discount. The form for the non-qualifying pieces must be marked "Presort Discount Residual" across the top of the form and should only list the items which do not qualify for the discount.

b. Form 3602-PC, Mailing statement—bulk rates, for mail bearing meter stamps. If editions of the form earlier than May, 1976 are used, two forms must be used; one for those qualifying for the discount, and one for those which do not. The form for the qualifying pieces must be marked "Presort Discount Rate" across the top of the form, and should only list the items which qualify for the discount. The form for the non-qualifying pieces must be marked "Presort Discount Residual" across the top of the form and should only list the items which do not qualify for the discount.

.54 Sorting requirements.

.541 Packages. When there are 10 or more pieces to the destinations described in 131.545a and/or 50 or more pieces to the destination described in 131.545b and c, they must be secured together as a package by the mailer. Rubber bands are the only acceptable means of securing packages in trayed mail.

.542 Rubber Bands. Rubber bands will be used by mailers to secure packages of bulk mail under the following conditions:

a. Packages of pieces measuring up to 5 by 11½ inches are to be secured in packages with rubber bands.

b. Packages should not exceed approximately 4 inches in thickness.

c. Rubber bands used on bulk mailings are not returnable or exchangeable for others.

d. Rubber bands must meet the following specifications:

(1) Compounded of natural rubber;

(2) Overall length—approximately 2¾ inches;

(3) Breaking strength—approximately 50 pounds;

(4) Width—approximately ⅜ inch;

(5) Maximum stretch—800 percent with ability to return to within 15 percent of original length;

(6) Shape—round or oval when resting on flat surface; and

(7) Weight—approximately 400 bands to a pound.

.543 Labeling of Packages. Package labels must be used to identify the makeup of presorted bundles of mail.

a. Place coded pressure sentitive labels in the lower lefthand corner on the address side of the top piece in the package.

b. Do not date package labels.

.544 Traying. Packages are to be made up into trays in accordance with 131.545. Two letter state abbreviations are to be used on lavels. In lieu of traying, postmasters may authorize pouching or other suitable containerization of presorted discount mail when mutually beneficial to the mailer and the Postal Service and when the integrity of the presort can be maintained.

Pouches must be made up in accordance with the procedures prescribed for trays in 131.545 and with the prescribed pouch tags. Packages must be pouched by the mailer when there are enough for the same destination to fill approximately one-third of a pouch. The total weight of pieces placed in one pouch must not exceed 70 pounds. The unsorted residual must be clearly segregated from the presorted mail.

.545 Sortation. a. Five-digit ZIP Code delivery unit packages and trays. (1) Packages. When there are 10 or more pieces but less than a full tray addressed to the same five-digit ZIP Code delivery unit, they must be prepared in packages of 10 or more pieces not more than 4 inches thick by the mailer. The pieces in the packages must be faced in the same direction and secured with one or two rubber bands around each package. Red label D must be affixed in the lower corner on the address side of the top piece in each package.

(2) Presorted Trays. When there is enough mail for the same five-digit ZIP Code delivery unit to fill a tray, (approximately 500 pieces) a direct five-digit tray must be prepared. Mail left over after filling direct trays must be bundled and placed in the appropriate city or SCF tray with the same first three digits. A pouch label must be firmly affixed to the end of the tray. Direct five-digt trays or containers must be labeled in the following manner:

PHILADELPHIA PA 19118 FCM PRESORTED FC JC COMPANY BOSTON MA

b. City packages and Trays. (1) Packages. When there are 50 or more pieces but less than a full tray remaining for a city with a unique three digit ZIP Code prefix after the five-digit ZIP Code delivery unit packages required by 131.545a(1) have been prepared, they must be made as City packages and must be secured with one or two rubber bands. Cities with unique 3 digit ZIP Code are listed in the upper case letters in the listing of "ZIP Code Prefixes" contained in the Directory of Post Offices. Yellow

label C must be affixed in the lower left corner on the address side of the top piece in each package.

(2) Presorted trays. City mail plus any packages for five-digit ZIP Code delivery units within those cities not trayed as provided for by 131.545a(2) must be prepared in City trays. Mail left over after filling trays must be bundled and placed in a mixed states tray. A mixed city pouch label must be firmly affixed to the end of each tray. City trays must be labeled in the following manner:

PHILADELPHIA PA 191
FCM PRESORTED
FR JAY MAILING CO
CINCINNATI OH

c. Sectional Center Facility (SCF) packages and trays. (1) Packages. When there are 50 or more pieces but less than a full tray remaining for the same three-digit ZIP Code prefix after the packages required by 131.545a(1) and b(1) have been prepared, they must be bundled as SCF packages to that three digit ZIP Code prefix. The pieces in the packages must be faced in the same direction and secured with one or two rubber bands. Green label 3 must be affixed in the lower left corner on the address side of the top piece in each package.

(2) Presorted trays. SCF packages plus any five-digit and city packages not trayed as provided for by 131.554a(2) and b(2) and which are destined for the same Sectional Center Facility must be prepared in SCF trays. Presorted mail left over after filling SCF trays must be bundled and placed in a Mixed States tray. An SCF pouch label must be firmly affixed to the end of each tray. SCF trays must be labeled in the following manner:

SCF PHILADELPHIA PA 190
FCM PRESORTED
FR Q MAILERS BALTO MD

d. Mixed states trays. (1) Presorted Trays. Packages remaining after traying in accordance with 131.545a(2), b(2), and c(2), must be prepared in "Mixed States" trays. A mixed states pouch label in the following format must be firmly affixed to the end of the tray.

DIS CHICAGO IL 600
MIXED STATES FCM PRESORTED
Fr Record Chicago IL

e. Residual mail. (1) Pieces remaining after bundles have been prepared into packages in accordance with 131.545a (1), b(1), and c(1) are residual mail and are ineligible for the presort discount. Packages of residual mail must be placed in trays in such a way as to maintain the orientation and the ZIP Code sequence of the presort. Trays containing residual mail are not to bear a pouch label. The mail must be presented together with the discount portion of a mailing, but must be clearly segregated therefrom to facilitate verification of the quantities of both the discount and residual pieces.

(2) In order to speed processing of the mail, it is recommended, but not required, that the mailer prepare state packages when there are 10 or more pieces to the same state. Orange label S must be affixed to the lower left-hand corner of the address side of the top piece in each package.

f. Exceptions to bundling. (1) The bundling requirements for presorted mail left over after filling full trays described in a(2), b(2) and c(2) above may be waived when the use of separating tabs is approved by the local postmaster.

(2) The local postmaster may also waive the bundling requirements for loose-packed presorted flat mail sorted to one five-digit ZIP Code destination when there is enough quantity to fill a number 3 sack. The flats must measure not less than approximately 8 inches high by 10 inches long.

131.6 Presort verification.

.61 Procedure. A designated employee in the weighing section or other location where bulk mailings are accepted shall verify that each mailing made at the presort discount rate is properly made up and presorted and qualifies for the discount rate. This is in addition to the postage computation verification performed for permit imprint mailings in accordance with 145.57. The designated employee must:

a. Verify that each mailing consist of at least 500 presorted pieces.

b. For each 10 trays or fraction thereof in a mailing:

(1) Select 2 trays of five-digit makeup and randomly withdraw and inspect by riffling 3 handfuls (about 120 letters) from each of the 2 trays to determine whether the tray contains letters bearing other than the five-digit ZIP Code as shown on the tray label.

If a discrepancy of 10 or more pieces is found, the mailing is disqualified.

(2) Select 2 trays of three-digit makeup and follow the procedures in (a) above.

(3) For the trays in (a) and (b) above, check if the proper labels are attached. If one improper label is found, check a total of ten trays. More than one improper label on ten trays is considered disqualifying.

(4) Check one tray of bundled mail to determine if the proper color-coded pressure sensitive package label is used on packages. If a wrong label is encountered, check a total of ten packages. More than one occurrence in ten packages is considered disqualifying.

(5) Check two packages to see if all pieces are in the proper bundles. If any improper bundling is detected, a total of five packages are to checked. If more than four such improper pieces are in the five packages the mailing is disqualified.

c. If a mailing is disqualified, the next mailing by the customer at presort discount rates shall have twice the amount of pieces checked as called for above. In addition, one-fifth of the customer's mailings over the next six months shall receive such intensified checks.

d. For permit mailings, verify that the quantity of presorted discount mail agrees with Form 3602. This is done by weighing the presorted mail and dividing the weight by the weight of a single piece.

e. For permit mailings, verify that the quantity of residual mail agrees with Form 3602. This is done by weighing the residual mail and dividing the weight by the weight of a single piece.

f. Return permit imprint mailings to the mailer for corrective action or apply full rates as prescribed in 131.62 when one or more trays or pouches are found to be improperly presorted or when the mailing does not qualify for the discount.

g. For metered mail spot check at least one tray of qualifying pieces and one tray of nonqualifying mail to verify that proper postage is applied. If the pieces are not of identical weight, several of the heavier pieces are to be weighed and verified.

h. Return metered mailings and Form 3602–PC to the mailer for corrective action when one or more trays or pouches are found to contain mail improperly presorted or with incorrect postage affixed, or improperly dated, or when the mailing does not qualify for the discount (see 131.62).

.62 Acceptance of unqualified metered or permit imprint mailings at full undiscounted Rates. When the verification prescribed by 131.61 reveals a disqualification for the one-cent per piece presort discount on a mailing, the mailer may elect to pay the full undiscounted first-class or airmail rate in lieu of correcting the disqualification. Mailers may correct the Form 3602 or Form 3602–PC for unqualified mailings to indicate postage is to be paid at full undiscounted first-class or airmail rates in 131.11 and 136.11. All other provisions of Part 145 are applicable to such mailings. Mailers of unqualified metered mailings must pay the difference in cash at the window and present their copy of the cash receipt at the acceptance point before their mail can be released for processing.

PART 134—THIRD CLASS

10. In section 134.2 add new .224 reading as follows:

134.2 Classification.

* * * * *

.22 Application of Rates

* * * * *

.224 Nonstandard Surcharge

There is currently no surcharge for nonstandard mail as defined in 134.33. However, it is anticipated that such a surcharge will be imposed sometime in calendar year 1978.

11. In §134.3 revise .32c and add new .33 reading as follows:

134.3 Weight and Size Limitations

* * * * *

.32 * * *

c. Pieces having a ratio of width (height) to length between 1 to 1.3 and 1 to 2.5 are recommended.

.33 Nonstandard third-class mail. Third-class single piece rate mail weighing 2 ounces or less is nonstandard unless it meets the following size standards:

a. Length not greater than 11.5 inches, and

b. Height not greater than 6.125 inches, and

c. Thickness not greater than .25 inch, and

d. As aspect ratio (ratio of height to length) between 1:1.3 and 1:2.5 inclusive.

Nonstandard mail often results in delays or damage to other mail because it does not lend itself to machine processing. For this reason mailers are encouraged to avoid mailing nonstandard third-class mail.

It is anticipated that a surcharge will be imposed sometime in calendar year 1978. The nonstandard surcharge will also apply to the forwarding and/or return of nonstandard pieces originally mailed at bulk rates, because on this second handling they have to be processed as single pieces.

PART 135—FOURTH CLASS

12. In § 135.1 strike out .11b–d; redesignate .11e as .11b; add new heading immediately following .11 as follows: ".111 Single Piece Zone Rates"; and strike out § 135.12–.14 and § 135.2 and insert in lieu thereof the following:

.112 Bulk zone rates. Mailings of 300 or more pieces of identical weight may be mailed at bulk zone rates if separated by postal zones. Mailings of pieces of nonidentical weight may only be made at bulk zone rates when authorized by the Office of Mail Classification in accordance with 145.8 or 145.9.

The rate of postage to be paid on each piece of a bulk zone rate mailing shall be the single piece rate for that zone for an item equal to the average weight per piece for parcels going to that zone, rounded up to the next highest whole pound.

.12 Bound printed matter rates.

.121 Single piece zone rate.

Weight (pounds)	Zones							
	Local	1 and 2	3	4	5	6	7	8
	(cents)	(cents)	(cents)	(cents)	(cents)	(cents)	(cents)	(cents)
1.5	45	54	56	58	61	64	68	73
2	46	57	58	62	65	69	74	81
2.5	48	60	61	66	70	74	81	89
3	50	62	65	59	74	81	88	97
3.5	52	65	68	73	80	86	94	105
4	53	68	70	77	84	92	102	114
4.5	54	69	73	81	88	97	109	122
5	56	72	76	84	93	102	115	130
6	60	77	82	92	102	114	129	146
7	62	82	88	98	110	125	142	162
8	66	88	94	106	120	137	156	178
9	69	93	100	113	129	148	170	196
10	72	97	105	121	138	158	184	212

.122 Bulk rates for bulk mailings of separately addressed identical pieces in quantities of not less than 300 mailed at one time.

Zones	Piece rate	Bulk pound rate	Zones	Piece rate	Bulk pound rate
	(cents)	(cents)		(cents)	(cents)
Local	26	2.8	5	31	7.8
1 and 2	31	4.4	6	31	9.6
3	31	5.2	7	31	11.6
4	31	6.4	8	32	13.9

NOTE: The total charge for each bulk mailing shall be the sum of the charges derived by applying the applicable pound rate to the total number of pounds and by applying the applicable piece rate to the total number of pieces.

.13 Special fourth-class rate.

.131a Single piece rate.

Kind of mail (rate restricted to items specifically named)	Rate in cents (without regard to zone)		
	1st pound or fraction of a pound	Each additional pound or fraction through 7 lb	Each additional pound or fraction over 7 lb
Books; 16-mm or narrower width films and catalogs of such films (rate applies for films and catalogs except when mailed to or from commercial theaters); printed music, printed objective test materials, sound recordings, playscripts and manuscripts for books, periodicals and music; printed educational reference charts permanently processed for preservation; looseleaf pages, and binders therefor, consisting of medical information for distribution to doctors, hospitals, medical schools, and medical students. (See 135.214)	21	9	
* * * *	*	*	*
b. Present discount rate:			
Level A	19.9		
Level B	20.2		

.132 Bulk presort discount. The discounts from the single piece rates in 135.131a on mailings of properly presorted special fourth-class rate matter shall be applied as follows:

a. Discount Level A.—Applies to 500 or more sackable pieces presorted in accordance with 135.251a or for 500 or more unsackable pieces presorted in accordance with 135.251b.

b. Disount Level B.—Applies to 2000 or more sackable pieces presorted in accordance with 135.251c.

c. Annual fee. A $30 fourth-class presort mailing fee must be paid once each calendar year at each office of mailing by or for any person who mails at the presorted special fourth-class disount rate.

.14 Library rate.

Kind of mail (rate restricted to items specifically named mailed by or to organizations mentioned in 135.261)	Rate in cents (without regard to zone)	
	1st pound or fraction of a pound	Each additional pound or fraction
Books; printed music; bound volumes of academic theses; sound recordings; periodicals; other library materials; museum and herbarium materials; 16-mm or narrower width films, filmstrips, transparencies, slides, microfilms; scientific or mathematical kits, instruments, or other devices; also, catalogs, guides or scripts for some of these materials. See 135.215	8	4

.15 Application of rates.

.151 The rates in 135.11 and 135.12 are applied on the basis of weight of the individual piece and the distance the mail is sent.

To administer these rates, the earth is considered to be divided into units of area thirty minutes square, identical with a quarter of the area formed by the intersecting parallels of latitude and meridians of longitude. The distance between these units of area are the basis of the postal zones and shall be measured from the center of the unit of area containing the dispatching sectional center facility or multi-ZIP Coded post office not serviced by a sectional center facility. A post office of mailing and a post office of delivery shall have the same zone relationship as their respective sectional center facilities or multi-ZIP Coded post offices, but this shall not cause two post offices to be regarded as within the same local zone. The postal zones are defined as follows:

a. The local zone, the extent of which is defined by the Postal Service. This local rate currently applies to parcels mailed at any post office for local delivery at that office; at any city letter-carrier office or at any point within its delivery limits for delivery by carriers from that office; at any office from which a rural route starts for delivery on the same route; and on a rural route for delivery at the office from which the route starts or on any rural route starting from that office.

b. The first zone includes all territory within the quadrangle in conjunction with every contiguous quadrangle, representing an area having a mean radial distance of approximately fifty miles from the center of a given unit of area. The zone one rate applies to parcels mailed between two post offices in the same sectional center.

c. The second zone includes all units of area outside the first zone lying in whole or in part within a radius of approximately one hundred and fifty miles from the center of a given unit of area.

d. The third zone includes all units of area outside the second zone lying in whole or in part within a radius of approximately three hundred miles from the center of a given unit of area.

e. The fourth zone includes all units of area outside the third zone lying in whole or in part within a radius of approximately six hundred miles from the center of a given unit of area.

f. The fifth zone includes all units of area outside the fourth zone lying in whole or in part within a radius of approximately one thousand miles from the center of a given unit of area.

g. The sixth zone includes all units of area outside the fifth zone lying in whole or in part within a radius of approximately one thousand four hundred miles from the center of a given unit of area.

h. The seventh zone includes all units of area outside the sixth zone lying in whole or in part within a radius of approximately one thousand eight hundred miles from the center of a given unit of area.

i. The eight zone includes all units of area outside the seventh zone.

.152 For articles mailed between Postal facilities, including armed forces post offices, wherever located, the rates according to zone apply, except that the rates of postage for mail transported between the United States, the Canal Zone, Puerto Rico, or the possessions or territories of the United States, including the Trust Territory of the Pacific Islands, on the one hand, and Army, Air Force and Fleet post offices on the other, or among the latter, shall be the applicable zone rates for mail between the place of mailing or delivery and the city of the postmaster serving the Army, Air Force or Fleet post office concerned.

.153 Gold coin, gold bullion, and gold dust, between any two points in Alaska, or between any point in Alaska and any point in the other States or U.S. possessions are charged the rate in 135.111b. The gold must be enclosed in sealed packages not exceeding 50 pounds in weight and sent by registered mail.

.154 An official zone chart may be obtained free by request to the postmaster at the office of mailing. For ZIP Code numbers, consult the National ZIP Code Directory.

.155 The rates in 135.13 and 135.14 are computed on the basis of the weight of the piece regardless of the zone to which addressed.

.156 The single piece rates and conditions are applicable to forwarding and returning of parcels mailed at bulk rates.

135.2 Classification.

.21 Fourth-class mail. Fourth-class mail consists of mailable matter:

(1) Not mailed or required to be mailed as first-class mail;

(2) Weighing sixteen ounces or more; and

(3) Not entered as second-class mail (except as specifically provided for transient rate matter).

.22 Fourth-class bulk zone rates.

.221 The bulk fourth-class zone rates in 135.112 are applied to mailings of 300 or more pieces of fourth-class mail of identical weight. Parcels need not be of identical size or content. Parcels which weigh less than 15 pounds and measure over 84 inches in length and girth combined may not be mailed at these rates.

.222 Mailings of nonidentical pieces may only be made if the mailer has demonstrated that adequate records are maintained to verify and audit such mailings and if the procedure has been specifically authorized by the Director, Office of Mail Classification, in accordance with 145.8 or 145.9.

.223 Separation. The mailer must separate mailing pieces by parcel post zones so that postage may be verified. This requirement may be waived by the Postal Service if the mailer demonstrates to the satisfaction of the Postal Service that records are maintained to enable the Postal Service to accurately verify and audit mailings of fourth-class bulk rate parcels. The Director, Office of Mail Classification, must specifically approve systems for the acceptance of such mailings.

.224 Special services. The insurance, special delivery, special handling, and COD services may be used on mailings sent at bulk fourth-class zone rates. However, special services may not be used selectively for individual parcels mailed at these rates. Selective special services may be used in conjunction with postage payment verification systems approved under the conditions stated in 135.222.

.225 Markings Required. The words "Fourth-Class Bulk Rates" or "Fourth-Class Blk. Rt." must be incorporated as part of the permit indicia or be printed or rubber stamped above the address and to the left or below the permit imprint.

.23 Bound printed matter.

.231 Only the following specifically descried material may be mailed at the Bound Printed Matter rates in 135.12. "Bound Printed Matter" is fourth-class matter that weighs one pound or more but less than 10 pounds and which:

a. Consists of advertising, promotional, directory or editorial material, or any combination of these.

b. Is securely bound by permanent fastenings such as staples, spiral binding, glue, stitching, etc. Loose leaf binders and similar fastenings are not considered permanent.

c. Consists of sheets of which at least 90 percent are imprinted with letters, characters, figures or images or any combination of these, by any process other than handwriting or typewriting.

d. Does not have the nature of personal correspondence.

e. Is not a book eligible for mailing as special fourth-class rate mail.

f. Is not a book which would be eligible for mailing as special fourth-class rate mail but for the inclusion of advertising

matter other than incidental announcements of books that either (1) is not permanently bound in the book itself or (2) does not form an integral part of the book itself.

g. Is not stationery, such as pads of blank printed forms.

.232 Markings Required. The words "Bound Printed Matter" must be incorporated as part of the permit indicia or be printed or rubber stamped above the address to the left or below the permit indicia. Mailings under the bulk rates in 135.122 must also be marked "Bulk Rate" or "BLK RT."

.233 Separation Required for Bulk Mailings. The mailer must separate mailing pieces by parcel post zones so that postage must be verified. Mail for each parcel post zone must be further separated and placed in sacks by cities or States of destination in each instance where there are 10 or more pieces for the same post office or State, or where 5 or more catalogs weigh 10 or more pounds. Use No. 3 mail sacks except when greater volume requires the use of No. 2 mail sacks. When there is insufficient volume for a direct sack or a State sack, combine the pieces in sacks for mixed States by parcel post zones. Label each sack to include parcel post zone separation and destination. The total weight of pieces placed in one sack must not exceed 70 pounds.

.234 Separations Recommended. In addition to the separations required in 135.233, it is recommended that the mailer separate the pieces to the finest extent possible in the manner prescribed by 134.43.

.235 Optional Handling of Bulk Mailings of Bound Printed Matter weighing in excess of 2 pounds when addressed for delivery in local parcel post zone only.

Address labels and unaddressed pieces weighing in excess of 2 pounds, at the option of the mailer, may be mailed separately for local delivery at the office of mailing subject to all of the following conditions:

a. The address labels, which may not measure less than 3 by 4¼ inches, must show the full name and ZIP Coded address of the sender and addressee and must be sorted by the mailer to the fourth and fifth digit of the ZIP Code.

b. Postage must be paid by permit imprints for each label, including labels returned as undeliverable. The imprint may be placed on the pieces or on the label. See § 145.11.

c. The mailer must submit a completed Form 3605 with each mailing.

d. The total weight of pieces placed in sacks, cartons, crates or any other types of containers must not exceed 70 pounds.

e. The address labels must be sent to the postmaster at the mailing (delivery) office by the mailer.

f. Address labels bearing incorrect, nonexistent or any other undeliverable addresses will be corrected or endorsed to show why they are undeliverable and returned under cover to the mailer. Each envelope shall be rated with postage due at the address correction rate for each address label contained inthe envelope. At the request of the mailer, the postmaster will notify the mailer, at mailer's expense and by means specified by mailer, of the number of address labels being returned. The request for notification must accompany the labels. Correctly addressed labels will be held awaiting arrival of the pieces.

g. Pieces will be deposited at the acceptance point designated by the postmaster. If the number of pieces deposited is not enough or too many to match the number of address labels, the postmaster will notify the sender, or his designated representative or agent, of the number of pieces required to complete the delivery or the number in excess. If the additional pieces are not delivered to the post office within fifteen days, the excess address labels will be returned under cover to the mailer. As soon as deliveries are completed, the postmaster will notify the sender or his representative of the number of any excess pieces on hand. Excess pieces may be called for by the mailer without charge. Any excess pieces not called for within fifteen days will be returned to sender postage due at the single piece bound printed matter rate.

.24 Special fourth-class mail

Only the following specifically described articles may be mailed at the special fourth-class rate provided by 135.13:

a. Books, including books issued to supplement other books, of 24 pages or more, at least 22 of which are printed, consisting wholly of reading matter or scholarly bibliography or reading matter with incidental blank spaces for notations and containing no advertising matter other than incidental announcements of books. Advertising includes paid advertising and publishers' own advertising. Advertising may be in display, classified, or editorial style. The identification statement *Special Fourth-Class Rate—Books* must be placed conspicuously on the address side of each package.

b. 16-millimeter films or narrower width films which must be positive prints in final form for viewing, and catalogs of such films of 24 pages or more, at least 22 of which are printed, except films and film catalogs sent to or from commercial theaters. The identification statement *Special Fourth-Class Rate—16 mm or narrower Films or 16 mm or narrower Film Catalog* must be placed conspicuously on the address side of each package.

c. Printed music whether in bound form or in sheet form. The identification statement *Special Fourth-Class Rate—Printed Music* must be placed conspicuously on the address side of each package.

d. Printed objective test materials and accessories thereto used by or in behalf of educational institutions for testing ability, aptitude, achievement, interests, and other mental and personal qualities with or without answers, test scores, or identifying information recorded thereon in writing or by mark. The identification statement *Special Fourth-Class Rate—Objective Test Materials* must be placed conspicuously on the address side of each package.

e. Sound recordings, including incidental announcements of recordings and guides or scripts prepared solely for use with such recordings. Player piano rolls are classified as sound recordings. Miscellaneous advertisements, including trademarks, of persons or concerns other than the record manufacturer, are not permissible on title labels, protective sleeves, jackets, cartons, and wrappers, and such advertisements may not be mailed as enclosures. The identification statement *Special Fourth-Class Rate—Sound Recordings* must be placed conspicuously on the address side of each package.

f. Playscripts and manuscripts for books, periodicals, and music. The identification statement *Special Fourth-Class Rate—Manuscript* must be placed conspicuously on the address side of each package.

g. Printed educational reference charts, permanently processed for preservation. The identification statement *Special Fourth-Class Rate—Educational Reference Charts* must be placed conspicuously on the address side of each package.

h. Looseleaf pages, and binders therefor, consisting of medical information for distribution to doctors, hospitals, medical schools, and medical students. The identification statement *Special Fourth-Class Rate—Medical Information* must be placed conspicuously on the address side of each package.

NOTE.—When two or more articles described in this section are mailed in the same package, the appropriate descriptive terms shall be combined in the identification statement placed on the address side. Example: *Special Fourth-Class Rate—Books and Sound Recordings.*

.25 Special fourth class presort discount.

.251 Applicability. The volume discount rates contained in 135.132 apply to special fourth-class rate matter presorted by ZIP Codes, and mailed in minimum quantities shown below at a place designated by the postmaster.

.252 Minimum Quantities. To qualify as a presorted piece subject to the bulk special fourth-class rate, a piece must be one of a mailing of:

a. At least 500 identical pieces receiving identical service and properly prepared and presented in full sacks (see 135.252e) destined for five-digit ZIP Code locations; or

b. Mailings of at least 500 identical outsides as described in 334.5 may qualify for the discount if they are made up to preserve the five-digit ZIP Code presort as prescribed by the postmaster. The postmaster may require notification up to 24 hours before the mailing is ready for presentation. The mailer must comply with the postmaster's instructions on how to separate and present mailings of outsides. The postmaster will coordinate such mailings and obtain procedures for separation of parcels through the Regional Logistics Office.

c. At least 2000 identical sackable pieces receiving identical service and properly prepared and presented:

(1) In full sacks or substantially full sacks (see e(2) below) destined to five-digit ZIP Code locations. Mail must be separated and sacked to five-digit destinations in this manner to the maximum extent possible. (See e(1) below).

(2) The remainder in full sacks destined to three-digit locations. All material in such sacks must be addressed to the same three-digit destinations.

d. A mailing will receive only one level of discount; under 135.252a, 135.252b, or 135.252c. A customer may however, elect to send a product as two or more mailings with separate mailing statements in order to avail himself of the two levels of discount.

e. For purposes of the bulk special fourth-class rate schedule the following definitions shall apply:

(1) Full sack shall mean at least eight pieces or pieces sufficient in volume to fill at least one-third of a standard No. 2 postal sack, or pieces sufficient in weight to equal at least 20 pounds; but not to exceed 70 pounds.

(2) Substantially full sack shall mean a postal sack containing at least four pieces or either at least 20 or more pound or pieces sufficient in volume to fill one-third of a standard No. 2 postal sack but not to exceed 70 pounds.

(3) To qualify as identical pieces subject to this rate schedule, all pieces must be identical in weight. However, the size and content of each piece need not be identical.

.253 Non qualifying pieces. Pieces which are not sacked to five-digit or three-digit destinations as set forth in 135.251 are not considered presorted for purposes of this rate schedule. Pieces which are sacked to three or five-digit destinations but when sacked, do not meet the "full" or "substantially full" sack criteria do not qualify for the discount and must be presented for mailing under a separate mailing statement if mailed under permit imprint.

.254 Nonidentical Pieces. Nonidentical pieces, including those of different postage values, may be merged, presorted together, and presented as a single mailing only when it has been demonstrated by the mailer that records are maintained to enaple the Postal Service to accurately verify and audit mailings of such matter and the procedure has been specifically authorized by the Director, Office of Mail Certification, Washington, D.C.

.255 Markings Required. The appropriate identification Statement prescribed by 135.24 must appear on the address side of each piece preceded by the word PRESORTED.

.256 Sack Labeling Requirements. Sacks must be labeled according to the following examples:

a. Five-Digit Destination

CLEVELAND OH 44101
5-DIGIT PRESORTED PP
FR J COMPANY BOSTON MA

b. City with unique 3-digit ZIP Code

CLEVELAND OH 441
MACHINABLE PRESORTED PP
FR J COMPANY BOSTON MA

or

CLEVELAND OH 441
NONMACHINABLE PRESORTED SPR
FR J COMPANY BOSTON MA

c. Sectional center facility

SCF CLEVELAND OH 440
MACHINABLE PRESORTED PP
FR J COMPANY BOSTON MA

or

CLEVELAND OH 440
NONMACHINABLE PRESORTED SPR
FR J COMPANY BOSTON MA

.257 Container or pallet labelling requirements.

a. Five-digit destination

CLEVELAND OH 44101
5-DIGIT PRESORTED PP
FR J COMPANY, BOSTON MA

b. City with unique 3-digit ZIP Code

CLEVELAND OH 441
MACHINABLE PRESORTED PP
FR J COMPANY BOSTON MA

or

CLEVELAND OH 441
NONMACHINABLE PRESORTED PP
FR J COMPANY BOSTON MA

c. Sectional center facility

CLEVELAND OH 441
MACHINABLE PRESORTED PP
FR J COMPANY BOSTON MA

or

CLEVELAND OH 441
NONMACHINABLE PRESORTED PP
FR J COMPANY BOSTON MA

.258 Bulk mail center machineability criteria for special fourth-class matter.

The Parcel Sorter machineability criteria are:

Weight: At least 1 pound but not over 25 pounds

Length: At least 6 inches but not over 34 inches

Height: At least 3/8 inches but not over 17 inches

Width: At least 3 [1] inches but not over 17 inches

(a) Mailing pieces that fall below the minimum dimensions specified above are considered SPR's.

(b) Those exceeding the maximum dimensions or irregular in shape are considered non-machineable parcels.

(c) Mailers who are not sure of the size classification of their pieces are advised to consult with their local postmaster.

.259 Presort verification. Accepting post offices shall verify the presort as follows:

a. For each 50 sacks or fraction thereof in a mailing:

1. Select two sacks of 5-digit makeup and verify that no pieces are included bearing other than the 5-digit ZIP Code shown on the sack label. If a discrepancy of more than one piece is found, the mailing is disqualified.

2. For mailings that include sacks of mail presorted to 3-digit ZIP Code destination, select three sacks and verify that all pieces in a sack bear ZIP Codes having the same first three digits of ZIP Code as that shown on the sack label and that no identical 5-digit ZIP Codes are contained in quantities sufficient to make up a full or a substantially full sack, as appropriate in terms of the discount level, for mail addressed to the same 5-digit ZIP Code destination. If it is found that one 5-digit sack could have been made up separately from the pieces in a 3-digit sack, the mailing is disqualified. If more than two pieces are found in any sack made up to the same 3-digit ZIP Code destination that bear a different first three digits of ZIP Code, the mail is disqualified.

3. If a mailing is disqualified, the next mailing by the customer at presort discount rates should have twice the number of sacks verified as specified in 1. and 2. above, and such intensified verification shall be extended to one-fifth of the customer's mailings during the following six month period.

.26 Fourth-class library rate

Only the articles specifically described in this section may be mailed at the fourth-class library rate provided by 135.14. The identification statement *Library Rate* must be placed conspicuously on the address side of each package. Each package must show in the address or return address the name of a school, college, university, public library, or name of a nonprofit religious, educational, scientific, philanthropic, agricultural, labor, veterans, or fraternal organization or association. No permit is required.

.261 The following specific items when loaned or exchanged between schools, colleges, or universities and public libraries, museums and herbaria, nonprofit religious, educational, scientific, philanthropic, agricultural, labor, veterans, or fraternal organizations or associations; or when cooperatively processed by libraries; or loaned or exchanged between libraries, organizations, or associations, and their members, readers, or borrowers, may be mailed at the library rate:

a. Books, consisting wholly of reading matter, scholarly bibliography, or reading matter with incidental blank spaces for notations and containing no advertising other than incidental announcements of books.

b. Printed music, whether in bound form or in sheet form.

c. Bound volumes of academic theses in typewritten or duplicated form.

d. Periodicals, whether bound or unbound.

e. Sound recordings. (See also 136.-262b).

f. Other library materials in printed, duplicated, or photographic form or in the form of unpublished manuscripts.

g. Museum materials, specimens, collections, teaching aids, printed matter, and interpretative materials intended to inform and to further the educational work and interests of museums and herbaria.

.262 The following specific items when set to or from schools, colleges, universities, public libraries, museums and herbaria and to or from nonprofit religious, educational, scientific, philanthropic, agricultural, labor, veterans, or fraternal organizations or associations, may be mailed at the library rate:

a. 16-millimeter or narrower width films; filmstrips; transparencies; slides; microfilms; all of which must be positive prints in final form for viewing.

b. Sound recordings.

c. Museum materials, specimens, collections, teaching aids, printed matter, and interpretative materials intended to inform and to further the educational work and interests of museums and herbaria.

d. Scientific or mathematical kits, instruments, or other devices.

e. Catalogs of the materials in 135.262 a–d and guides or scripts prepared solely for use with such materials.

.263 The address on each piece mailed at the rates provided by 135.13 and 135.14 must include the complete ZIP Code.

13. In § 135.3 revise .31 and revise the heading and description of .311 to read as follows:

135.3 Weight and size limits.

.31 Limits. The following size and weight limitations apply to all fourth-class parcels. Additional limitations for Bulk Zone rate and Bound Printed Matter are contained in 135.22 and 135.23.

.311 Parcels mailed between post offices with over 949 revenue units. Parcels mailed at these post offices in the 48 contiguous States of the United States addressed for delivery at the same office or to another such post office in the 48 contiguous States. (See exceptions in in 135.312.)

14. In 135.312a strike out the words "of the second, third, or fourth class" and insert "with 949 revenue units or less" in lieu thereof; in 135.312b strike out the words "class of".

15. Section 135.4 is revised to read as follows:

135.4 Payment of postage.

.41 Single piece rate mailings. Mailers of articles at single piece rates may use any method of paying postage.

.42 Bulk rate mailings.

.421 Mailers of fourth-class matter at bulk rates must pay postage by permit imprint and shall complete and submit with each mailing a Form 3602, or Form 3605, as appropriate.

16. In 135.512 strike out "135.214, 135.-215, and 138.3" and insert "135.255, 135.232, and 139" in lieu thereof.

17. In 135.5 strike out the heading of .52 and insert "Parcel Post" in lieu thereof.

18. At the end of § 135.521 add new i reading as follows:

.521 * * *

i. Enclosures or attachments for which postage is paid at the first-class rate in accordance with Part 139.

19. In section 135.6 strike out the entire section heading, including the section number; strike out the next entire section heading, including section number of .61 and insert ".53 Bound Printed Matter" in lieu thereof; strike out the first word of the sentence following redesignated .53 and insert "Only the" in lieu thereof; redesignate .62, .621–.623, as .54, .541–.543; strike out "135.621c" from redesignated .541b and insert "c" in lieu thereof; strike out "in 135.621b" from redesignated .541c; strike out "in 135.621c" from redesignated .541d; strike out "135.622c" from redesignated .542b and insert "c" in lieu thereof; strike out "in 135.622b" from redesignated .542c; strike out "135.622c" from redesignated .542e and insert "135.542c" in lieu thereof; strike out the period at end of redesignated .543, insert a comma in lieu thereof and add the words "and 139.3".

[1] A width of 4 inches is required for parcels less than 9 inches long

20. Redesignate § 135.7 as 135.6, and add new section 135.7 reading as follows:

135.7 Addressing. The address of all fourth-class matter mailed at bound printed matter, bulk parcel post, library, and special rate fourth-class rates must contain a complete ZIP code.

21. In § 135.8 redesignate .82 as .83; revise .81 and add .82 to read as follows:

135.8 Place of mailing.

.81 Articles mailed at single piece fourth-class rates may be mailed at a post office, branch, or station, or handed to a rural or star route carrier.

.82 Mailings at bulk or presort discount rates must be made at a station or branch specified by the postmaster.

PART 136—AIR AND PRIORITY MAIL

22. In section 136.1 revise .11 and add new .13 to read as follows:

136.1 [Amended].

.11 Airmail.

Weight	Kind of mail	Rate
10 oz. or less...	Air postal or post cards.	14 cents each.
	Letters and packages.	17 cents for the 1st ounce or fraction; 15 cents for each additional ounce or fraction.

* * * * *

.13 Bulk presort discount. A bulk rate discount of one-cent from the single piece is applied to each piece of presorted airmail of identical size and weight, presented in quantities of not less than 500 pieces in a single mailing at one post office. The provisions of 131.12, 131.4, and 131.5 are applicable to such mailings.

23. In § 136.2 strike out the words "Air parcel post" and "airmail" in .234 and insert "Priority Mail" in lieu thereof; in .235 and .236 strike out the word "airmail" and insert "Priority Mail" in lieu thereof.

24. In § 136.3 strike out the word "Airmail" in .31 and .32 and insert "Priority Mail" in lieu thereof; add new .33 reading as follows:

136.3 [Amended]

* * * * *

.33 Nonstandard airmail. Airmail weighing one ounce or less is nonstandard unless it meets the following size standards:

a. length not greater than 11.5 inches, and

b. height not greater than 6.125 inches, and

c. thickness not greater than .25 inch, and

d. an aspect ratio (ratio of height to length) between 1:1.3 and 1:1.5 inclusive.

Nonstandard mail often results in delays or damage to mail because it does not lend itself to machine processing. For this reason, mailers are encouraged to avoid mailing nonstandard airmail. It is anticipated that a surcharge will be imposed sometime in calendar year 1978 for nonstandard airmail.

25. Section 136.4 is revised to read as follows:

136.4 Payment of postage.

.41 Single Piece Rate. Mailers of airmail matter at single piece rates may pay postage by adhesive stamps, stamped envelopes and postal cards, meter stamps, and permit imprints.

.42 Bulk Rate. Mailings made at presort discount rates must be paid by meter stamps or permit imprints. Metered postage must be for the airmail rate less the discount for qualifying pieces and the full airmail rate for nonqualifying residual pieces.

.43 Annual Fee. A first-class presort mailing fee of $30 must be paid once each calendar year at each office of mailing by or for any person who mails first-class or airmail matter at presort discount rates. Any person who engages a business concern or another individual to mail for him must pay the $30 fee. This fee is separate from the fee that must be paid for a permit to mail under the permit imprint system (145.1).

26. In section 137.2 revise .262 to read as follows:

137.2 [Amended].

* * * * *

.26 ZIP coding of Mail.

* * * * *

.262 Presorting and postage charges. When identical pieces of individually addressed matter are included in a single mailing at the bulk rates in 131.12, 134.12, 135.122, 135.132, and 136.13, the mail must be prepared as prescribed for each bulk category.

PART 145—PERMIT IMPRINTS

27. In section 145.1 strike out "$15" in .11 and insert "$20" in lieu thereof.

28. In section 145.2 add the letter "a." immediately before the first sentence, and add new b. as follows:

145.2 [Amended].

* * * * *

b. The position of the imprint on fourth-class bound printed matter may be varied so that automatic data processing equipment may be utilized to simultaneously print the address, imprint and other postal information. The permit may be placed on the parcel or on the label for items mailed under the provisions of 135.235.

29. In § 145.3 add the following sentence at the end of .32: "Permit indicia may include: amount of postage paid, weight of piece, and markings required by 131.5, 134.436 or 135.2."; redesignate .33 as .34 and add new .33 reading as follows:

145.3 Content of permit imprints.

* * * * *

.33 Mail with special srevices. Permit mail wtih special services paid by permit must show First-Class Mail, if first-class mail; U.S. Postage and Fees Paid; City and State; and Permit number. The company may be shown in place of the city and permit number in accordance with 145.34.

30. In section 145.4 strike out a.-d. and insert in lieu thereof the following:

145.4 Form of permit imprints.

a. First-Class Mail:



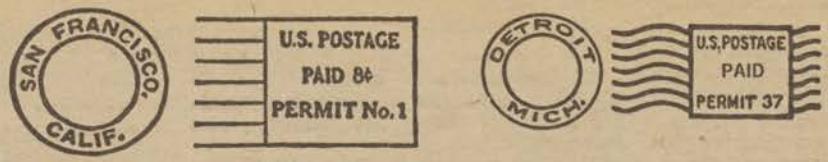


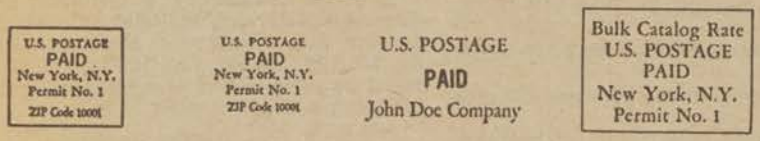


FIRST-CLASS MAIL
U.S. POSTAGE
PAID
New York, N.Y.
Permit No. 1

PRESORTED
FIRST CLASS MAIL
US POSTAGE PAID
NEW YORK, NY
Permit No. 1

b. Second-, Third-, and Fourth-Class Mail (Date and First-Class Mail omitted)):







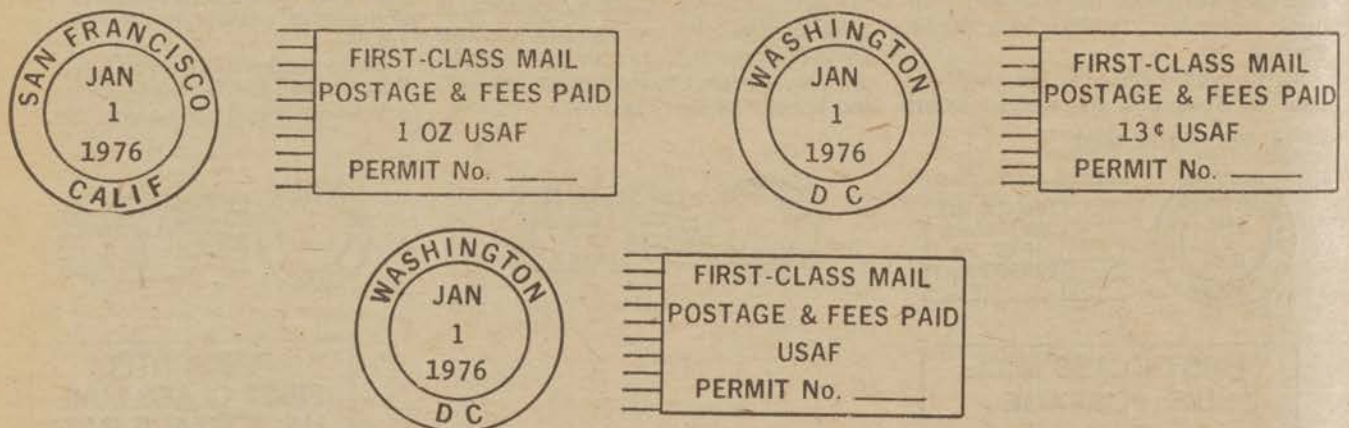
c. Bulk Third-Class Mail:



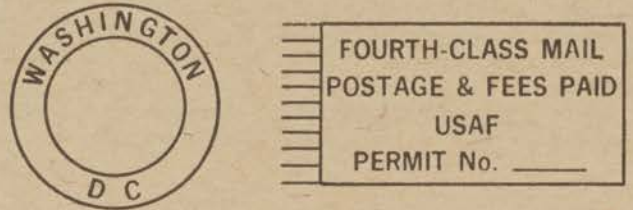
d. SPECIAL RATES FOR AUTHORIZED ORGANIZATIONS ONLY



e. OFFICIAL MAIL (FIRST-CLASS)



f. OFFICIAL MAIL (FOURTH-CLASS)
Date and First-Class Mail omitted



31. In section 145.5 redesignate .51b, c, and d as .51c, d, and f respectively; strike out the words "Form 3602" in .53 and .55 and insert "Form 3602 or 3605" in lieu thereof; strike out the words "Form 3602" in .566b and insert "(Form 3602 or 3605)" in lieu thereof; strike out the words "Forms 3602" in .566c and insert "statement of mailing" in lieu thereof; redesignate. 565c as .565d; add new .51b and e reading as follows; redesignate .565b as .565c and revise to read as follows; add new .565b reading as follows:

145.5 Mailings with permit imprints.

.51 Minimum quantities.

* * * * *

b. First-class bulk presort discount rate. 500 pieces of identical size and weight.

* * * * *

e. Fourth-class zone bulk rate mail. 300 or more pieces of identical weight.

* * * * *

.56 Payment of postage.

* * * * *

b. Verify mail is properly prepared. See 131.43, 131.5, and 135.25 for presort requirements.

c. Fill out the back of the mailing statement (Form 3602 or 3605) and at the same, by carbon, prepare Form 3607. If the mailer requests a receipt, he must present a duplicate copy of the mailing statement which will be delivered to him after the back is filled out.

31. In section 145.84 strike out the first sentence and insert the following in lieu thereof: "An optional procedure for items of identical weight must be approved by the Regional Postmaster General. An optional procedure for items of nonidentical weight must be approved by the Office of Mail Classification."

[FR Doc.76-16120 Filed 6-2-76;8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[Order No. 12 (Rev. 6)]

ACTING SUPERVISORY OFFICIALS

Delegation Order

Pursuant to authority vested in the Commissioner of Internal Revenue by Treasury Department Order No. 177-19, Revision No. 1; Administrative Circular No. 46 and Supplement 1 thereto; and Chapter 250, Treasury Personnel Manual; there is hereby delegated the authority to designate acting supervisory officials in the Internal Revenue Service, *unless or until the official making the designation, or a line superior of the official making the designation, designates another employee to serve as acting* as follows.

1. All Internal Revenue Service employees in supervisory positions other than positions specifically provided for in Sections 2 through 9 of this Order are authorized to designate an employee to serve as acting during their absence and, in case a supervisory position under their supervision and control becomes vacant, to designate an employee to serve as acting.

2. The Commissioner shall designate an Acting Deputy Commissioner when necessary.

3. In an Office of Assistant Commissioner having a Deputy Assistant Commissioner, such Deputy Assistant Commissioner shall automatically become Acting Assistant Commissioner in case of the absence of the Assistant Commissioner or a vacancy in the office. The Assistant Commissioner shall designate an employee who shall serve as Acting Assistant Commissioner in the absence of both the Assistant Commissioner and Deputy Assistant Commissioner. If the position of Deputy Assistant Commissioner becomes vacant, the Assistant Commissioner shall designate an employee who shall serve as Acting Deputy Assistant Commissioner. In an Office of Assistant Commissioner where there is no Deputy Assistant Commissioner, the Assistant Commissioner shall designate an employee who shall serve as Acting Assistant Commissioner in the absence of the Assistant Commissioner and the Commissioner shall designate an employee who shall serve as Acting Assistant Commissioner in case the position of Assistant Commissioner becomes vacant.

4. In the Office of the Assistant to the Commissioner (Public Affairs), the Assistant Director shall serve as Acting Assistant to the Commissioner (Public Affairs) in the absence of the Assistant to the Commissioner (Public Affairs) or during a vacancy in the office. The Assistant to the Commissioner (Public Affairs) shall designate an employee to serve as Acting Assistant to the Commissioner (Public Affairs) when both the Assistant to the Commissioner (Public Affairs) and the Assistant Director are absent.

5. Each Regional Commissioner shall designate an Assistant Regional Commissioner, District Director or Service Center Director who shall serve as Acting Regional Commissioner in the absence of the Regional Commissioner.

If the position of Regional Commissioner becomes vacant, the Commissioner shall designate an employee to serve as Acting Regional Commissioner.

6. In an Office of Assistant Regional Commissioner having an Executive Assistant to the Assistant Regional Commissioner, such Executive Assistant shall automatically become Acting Assistant Regional Commissioner in case of the absence of the Assistant Regional Commissioner or a vacancy in the office. The Assistant Regional Commissioner shall designate an employee who shall serve as Acting Assistant Regional Commissioner in the absence of both the Assistant Regional Commissioner and the Executive Assistant. If the position of Executive Assistant becomes vacant, the Assistant Regional Commissioner shall designate an employee who shall serve as Acting Executive Assistant. If the position of Assistant Regional Commissioner becomes vacant in an office where there is no Executive Assistant, the Regional Commissioner shall designate an employee to serve as Acting Assistant Regional Commissioner.

7. In a District Office having an Assistant District Director of Internal Revenue, such Assistant shall automatically become Acting District Director in case of the absence of the District Director or a vacancy in the office. The District Director shall designate an employee who shall serve as Acting District Director in the absence of both the District Director and the Assistant District Director. If the position of Assistant District Director becomes vacant, the District Director shall designate an employee who shall serve as Acting Assistant District Director. In a District Office where there is no Assistant District Director, the District Director shall designate an employee who shall serve as Acting District Director in the absence of the District Director and the Regional Commissioner shall designate an employee who shall serve as Acting District Director in case the position of District Director becomes vacant.

8. In case of the absence of a Director, Internal Revenue Service Center, or a vacancy in office, the Assistant Director of the Service Center shall automatically become Acting Director. The Service Center Director shall designate an employee who shall serve as Acting Service Center Director in the absence of both the Service Center Director and the Assistant Service Center Director. If the position of Assistant Service Center Director becomes vacant, the Service Center Director shall designate an employee who shall serve as Acting Assistant Service Center Director.

9. In case of the absence of the Director, Internal Revenue Service Data Center, or the Director, National Computer Center, or a vacancy in the office, the Assistant Director of the Center shall automatically become Acting Director. The Data Center Director and the National Computer Center Director shall designate an employee who shall serve as Acting Director in the absence of both the Director and the Assistant Director. If the position of Assistant Director becomes vacant, the Director shall designate an employee who shall serve as Acting Assistant Director.

10. All designations as acting shall be made in writing and retained as a record, and a record shall be maintained of the periods during which an official automatically became acting under the provisions of this delegation order or by automatic designations issued under authority of this delegation order. The loss of such records, or the failure to maintain such records, will not invalidate the authority of the individual acting pursuant to this delegation order.

11. The authority delegated herein may not be redelegated.

12. This Order supersedes Delegation Order No. 12 (Rev. 5), issued May 10, 1972.

Issued: May 28, 1976.

Effective date: June 14, 1976.

DONALD C. ALEXANDER,
Commissioner.

[FR Doc.76-16080 Filed 6-2-76;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Air Force

ACQUISITION OF EAST COAST WEAPONS RANGE, N.C.

Evaluation of Environmental Impact

MAY 27, 1976.

The United States Air Force indicated in the second quarter FY 76 report to the Council on Environmental Quality its intention to prepare an Environmental

Impact Statement on a proposal to acquire fee title to land for an East Coast weapons range in North Carolina.

A comprehensive evaluation of the environmental impact of the proposed action was performed, and on 16 April 1976 the USAF determined that the proposed acquisition was not a major Federal action with significant, adverse effect on the quality of the human environment. This determination was based on the following considerations:

a. The proposed action is to acquire fee title to the same 47,000 acre tract of land in Dare County, N.C. which the Air Force has used as a weapons range under leasing arrangements since 1965. The principal impact will be a minor economic property tax revenue by 0.7%. Continued use as a range will prevent other agricultural development which could have increased the county employment an estimated 0.86% by 1980.

b. The main ecological impact occurred at the time of range establishment, and continued use will only cause incremental effects which are small as compared to the original. Noise is a negligible matter because of the remoteness of the range site.

c. Continued use of the range will have no irretrievable effect on the basic land resource. Decontamination would pose no serious problem to a different future use.

d. Any feasible alternatives to use of the present tract would necessitate clearing some other comparable area of land and would result in new impacts on the environment.

e. There has been no evidence of public opposition to present range operations. There is no indication that Government ownership of the range land, as distinguished from the current leasing arrangement, will be controversial with the public.

For the reasons outlined above, the United States Air Force has decided not to file a Draft Environmental Statement with the Council on Environmental Quality but has prepared a Negative Environmental Determination. Any questions or comments on this action should be directed to the Special Asisstant for Environmental Quality (SAF/ILE) United States Air Force, Pentagon, Room 4C885, Washington, D.C. 20330. Copies of the environmental assessment and negative determination are available for review at the following locations:

HQ USAF/PREVP, Rm 5D367, Pentagon, Washington D.C. 20330, ph 695-1422.

Office of Information, 4th Combat, Support Group, Seymour-Johnson, AFB, NC 27531, ph 919-736-5411.

Public Relations Office, Dare County Administrative Bldg. Rm 308, Manteo, North Carolina 27964, ph 919-473-2143-ext. 219.

JAMES L. ELMER,
Major, USAF Executive, Directorate of Administration.

[FR Doc.76-16056 Filed 6-2-76;8:45 am]

Office of the Secretary of Defense

DEFENSE SCIENCE BOARD TASK FORCE ON THEATER NUCLEAR FORCES R&D REQUIREMENTS

Advisory Committee Meeting

The Defense Science Board Task Force on Theater Nuclear Forces R&D Requirements will meet in closed session on 29-30 June and 1 July 1976 in the Pentagon, Washington, D.C.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Director of Defense Research and Engineering on overall research and engineering and to provide long range guidance in these areas to the Department of Defense.

The Task Force will provide an analysis of technology and systems applicable to theater nuclear forces and indicate promising solutions to the problem area for possible implementation within the Department of Defense.

In accordance with section (10d) of Appendix I, Title 5, United States Code, it has been determined that this Task Force meeting concerns matters listed in section 552(b) of Title 5 of the United States Code, specifically paragraph (1) thereof, and that accordingly this meeting will be closed to the public.

MAURICE W. ROCHE,
Director, Correspondence and Directives OASD (Comptroller).

MAY 27, 1976.

[FR Doc.76-16027 Filed 6-2-76;8:45 am]

DEFENSE SCIENCE BOARD TASK FORCE ON INDUSTRIAL READINESS PLANS AND PROGRAMS

Meeting

The Defense Science Board Task Force on Industrial Readiness Plans and Programs will meet in closed session on 22 and 23 June 1976 at the Pentagon, Arlington, Virginia. The overall mission of this Task Force is to advise the Secretary of Defense, the Director of Defense Research and Engineering, and the Assistant Secretary of Defense for Installations and Logistics on Scientific and Technical matters as they relate to the needs of the Department of Defense (DoD). This Task Force will examine the process of transforming DoD logistics planning guidance into mobilization requirements, war reserve inventories, and related industrial preparedness measures.

In accordance with Section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Defense Science Board Task Force meeting concerns matters listed in Section 552(b) of Title 5 of the United States Code, specifically subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

MAY 27, 1976.

MAURICE W. ROCHE,
Director, Correspondence and Directives, OASD (Comptroller).

[FR Doc.76-16026 Filed 6-2-76;8:45 am]

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration

PRIVATE SECURITY ADVISORY COUNCIL, ALARM COMMITTEE

Meeting

Notice is hereby given that the Alarm Committee of LEAA's Private Security Advisory Council (PSAC) will meet Thursday and Friday, June 24 and 25, 1976. The meeting will convene at 9:00 a.m., June 24 at the Imperial House, 4343 Everhard Road, in Canton, Ohio. The meeting is scheduled to adjourn by noon, June 25.

Topics under discussion will be: (1) communication problems of the alarm industry; and (2) requirements of a proposed national study of the false alarm problem. The meeting will be open to the public.

For further information, please contact: Mr. Irving Slott, Director, Program Evaluation and Monitoring Staff, Office of Regional Operations, LEAA, 633 Indiana Avenue, N.W., Washington, D.C. 20531. 202/376-3830.

JAY A. BROZOST,
Attorney-Adviser, Office of General Counsel.

[FR Doc.76-16057 Filed 6-2-76;8:45 am]

NATIONAL MINORITY ADVISORY COUNCIL ON CRIMINAL JUSTICE

Notice of Establishment

The Law Enforcement Assistance Administration (LEAA) hereby determines that the establishment of the National Minority Advisory Council on Criminal Justice (NMCCJ), as described hereafter, is in the public interest and necessary, appropriate and consistent with the purposes of the Crime Control Act of 1973, Pub. L. 93-83. Accordingly, the Administration establishes the NMACCJ in accordance with the provisions of the Federal Advisory Committee Act, Pub. L. 92-463; OMB Circular A-63; and LEAA Instruction I 2100.1. The required fifteen-day period for the publication of this notice of establishment prior to the filing of the Committee's charter has been waived by the OMB Secretariat for good cause shown.

1. *Designation.* National Minority Advisory Council on Criminal Justice (NMACCJ).

2. *Purpose.* To advise and make recommendations to LEAA in order to assist

State and local governments in their efforts to improve law enforcement and criminal justice systems as they impact on minority communities.

3. *Establishment Da e and Termination.* The Committee will be established on June 18, 1976, and will terminate on June 18, 1978.

4. *Meetings.* NMACCJ will hold meetings quarterly or as required to carry out its purpose and fulfill its duties.

5. *Membership.* The membership will be drawn from LEAA, State and local public law enforcement agencies, private businesses, and social agencies and institutions, with the representation corresponding to the minority group designation found at 28 C.F.R. 42.301, Subpart E. The Special Assistant to the Administrator for Minorities and Women of LEAA will be the designated Federal officer.

6. *Authority.* NMACCJ will operate pursuant to the provisions of the Federal Advisory Committee Act, Pub. L. 92–463; OMB Circular No. A–63; LEAA Instruction I 2100.1; and any other orders and directives issued in implementation of the Act.

PAUL K. WORMELI,
Deputy Administrator for Administration.

[FR Doc.76–16163 Filed 6–2–76;8:45 am]

NATIONAL MINORITY ADVISORY COUNCIL ON CRIMINAL JUSTICE

Notice of Meeting

Notice is hereby given that the National Minority Advisory Council on Criminal Justice (NMACCJ) will meet Friday and Saturday, June 18 and 19, 1976, in Washington, D.C. The meeting is scheduled to convene at 1:00 p.m. on Friday, June 18 at the L'Enfant Plaza Hotel, located at 480 L'Enfant Plaza East SW., Washington, D.C., telephone 202/484–1000. This meeting is scheduled to run Friday afternoon and evening, all day Saturday and will adjourn by 5:00 p.m. on Saturday, June 19.

Discussion at the meeting will focus on the goals and objectives of the Council, and the methodology to be utilized in accomplishing the national needs assessment of minorities and their relationship with the criminal justice system. The meeting will be open to the public.

For further information, please contact Mr. Lewis W. Taylor, Special Assistant to the Administrator for Minorities and Women, 633 Indiana Avenue NW., Washington, D.C. 20531, telephone number 202/376–3936.

JAY A. BROZOST,
Attorney Advisor, Office of General Counsel.

[FR Doc.76–16169 Filed 6–2–76;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Group 653]

CALIFORNIA

Notice of Filing of Plat of Survey; Filing Date Suspended

MAY 26, 1976.

FR Doc. 76–10083, appearing on page 14911 of the issue for April 8, 1976, prescribed that a plot of survey for certain lands in Sections 31 and 32, T. 31 N., R. 4 W., Mount Diablo Meridian, California, would be officially filed in the California State Office, Bureau of Land Management, Sacramento, California, effective at 10:00 a.m. on May 20, 1976.

The official filing date is herewith suspended.

ELEANOR K. WILKINSON,
Chief, Branch of Records and Data Management.

[FR Doc.76–16046 Filed 6–2–76;8:45 am]

MEDFORD DISTRICT ADVISORY BOARD

Notice of Meeting

Notice is hereby given that the Medford District Advisory Board will conduct a field trip and meeting on June 29, 1976. The field trip will begin from the National Guard Armory on Armory Drive, Medford, Oregon, at 8:00 a.m.

The agenda will include a variety of subjects involved with land use planning in the Josephine Master Unit.

A short business meeting will be held during the tour at the Rand Administrative Site at approximately 1:00 p.m.

The field trip and meeting are open to the public. Persons wishing to attend must furnish their own food and transportation. Anyone wishing to make an oral statement should contact the board chairman, Mr. Martin Craine, % Bureau of Land Management, prior to the meeting. Any interested person may file a written statement for consideration by the board by sending it to the Medford District Manager, Bureau of Land Management, 310 W. Sixth Street, Medford, Oregon 97501.

Dated: May 25, 1976.

GEORGE C. FRANCIS,
District Manager, Medford.

[FR Doc.76–16045 Filed 6–2–76;8:45 am]

CALL FOR INDUSTRY NOMINATIONS AND AREAS OF PUBLIC CONCERN

Request for Information on Areas of Interest With Respect to Areas Suitable or Unsuitable for Federal Coal Leasing

Correction

In FR Doc. 76–15565 appearing at page 22133 of the issue for Tuesday, June 1, 1976, in the seventh full paragraph, third column, page 22133, "West Central Colorado" should be added to the list of areas for which coal environmental impact statements are being undertaken or have been scheduled.

MULTIPLE USE ADVISORY BOARD

Notice of Postponement of Meeting

Notice is hereby given that the June 4, 1976, meeting of the Bureau of Land Management, Susanville District Multiple Use Advisory Board has been postponed. Notice of this meeting appeared in Federal Register Document 76–13599, page 19233 in the issue of Tuesday, May 11, 1976. A new date, place and time will be published at a later date.

HERMAN KAST,
Acting District Manager.

[FR Doc.76–16210 Filed 6–2–76;8:45 am]

National Park Service

SOUTHEAST REGIONAL ADVISORY COMMITTEE

Notice of Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Southeast Regional Advisory Committee will be held at 1:30 p.m., e.d.t., on June 21 and 1:30 p.m. on June 22, 1976, at the Wade Hampton Hotel, 1201 Main Street, Columbia, South Carolina.

The purpose of the Southeast Regional Advisory Committee is to provide for the free exchange of ideas between the National Park Service and the public and to facilitate the solicitation of advice or other counsel from members of the public on problems and programs pertinent to the Southeast Region of the National Park Service.

The members of the Advisory Committee are as follows:

Dr. Michael V. Gannon (Chairman), Gainesville, Florida
Dr. John M. King (Secretary), Jackson, Mississippi
Mrs. Ann Smith Bedsole, Mobile, Alabama
Mr. Tutt S. Bradford, Maryville, Tennessee
Dr. Arthur W. Cooper, Raleigh, North Carolina
Mr. Robert Gable, Frankfort, Kentucky
Mr. Alfredo Heres Gonzalez, Santurce, Puerto Rico
Mr. Charles Edward Lee, Columbia, South Carolina
Mrs. Jane Hurt Yarn, Atlanta, Georgia

The matters to be discussed at this meeting include: (1) Establishment of Cape Lookout National Seashore, (2) Congaree Swamp National Preserve (Proposed), and (3) Old Ninety Six National Historic Site (Proposed).

The meeting will be open to the public. However, facilities and space for accommodating members of the public are limited and it is expected that not more than 25 persons will be able to attend. Any member of the public may file with the committee a written statement concerning the matters to be discussed.

Persons wishing further information concerning this meeting or who wish to submit written statements, may contact Paul C. Swartz, Chief, Cooperative Services Division, Southeast Regional Office, at FTS 404/289-9253 or local 404/996-2520 Extension 253. Minutes of the meeting will be available for public inspection approximately four weeks after the meeting at the Southeast Regional Office, 1895 Phoenix Boulevard, Atlanta, Georgia 30349.

Dated: May 25, 1976.

PAUL C. SWARTZ,
Chief, Cooperative Services Division, Southeast Region, National Park Service.

[FR Doc.76-16183 Filed 6-2-76;8:45 am]

Office of the Secretary

GARY E. ADAMS

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of May 1, 1976.

Dated: April 26, 1976.

G. E. ADAMS.

[FR Doc.76-16047 Filed 6-2-76;8:45 am]

WILLIAM A. DAVIS

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of May 12, 1976.

Dated: April 26, 1976.

WILLIAM A. DAVIS,
DEPA Deputy Director, WSCC(C-N).

[FR Doc.76-16048 Filed 6-2-76;8:45 am]

EDWARD C. GLASS

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of May 23, 1976.

Dated: April 21, 1976.

E. C. GLASS.

[FR Doc.76-16049 Filed 6-2-76;8:45 am]

DONALD B. GREGG

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of May 5, 1976.

Dated: May 13, 1976.

DONALD B. GREGG.

[FR Doc.76-16050 Filed 6-2-76;8:45 am]

EVAN W. JAMES

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) Director and officer of Dolores Bench General Partner, Inc.—a subsidiary of Wisconsin Public Service Corp.

(2) Transferred joint ownership in stock of following companies to Lois H. James: American Natural Gas Company, W. A. Krueger Company, Pacific Gas & Electric Company, Peavey Company, U.S. Steel Company, Wisconsin Gas Company, Wisconsin Power & Light Company and Wisconsin Public Service Corporation. Purchased bonds—Bellin Memorial Hospital.

(3) No change.
(4) No change.

This statement is made as of April 27, 1976.

Dated: April 27, 1976.

E. W. JAMES.

[FR Doc.76-16051 Filed 6-2-76;8:45 am]

MARTIN T. QUIGLEY

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) None.

(2) Jointly own 100 shares of Potomac Electric Power Company common stock. None.

(3) None.
(4) None.

This statement is made as of May 1, 1976.

Dated: April 26, 1976.

M. T. QUIGLEY.

[FR Doc. 76-16052 Filed 6-2-76;8:45 am]

NICHOLAS A. RICCI

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) No change.
(2) Add: Redken Labs Nuveen Fund Ser. 79.
(3) No change.
(4) No change.

This statement is made as of April 20, 1976.

Dated: April 29, 1976.

N. A. RICCI.

[FR Doc.76-16053 Filed 6-2-76;8:45 am]

JOHN ROLFING

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of May 20, 1976.

Dated: April 23, 1976.

J. ROLFING, Jr.

[FR Doc.76-16054 Filed 6-2-76;8:45 am]

DEPARTMENT OF AGRICULTURE

Forest Service

MULTIPLE USE PLAN BASIN PLANNING UNIT

Availability of Final 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 final environmental statement for the Multiple Use Plan—Basin Planning Unit, Forest Service Report Number USDA-FS-R1 (09)-FES-Adm-76-1.

The environmental statement concerns the proposed implementation of a re-

vised Multiple Use Plan for the Basin Planning Unit, Jefferson Ranger District, Deerlodge National Forest, Jefferson County, Montana. About 57,100 acres of National Forest land are affected. The planning unit is subdivided into six management areas.

This final environmental statement was transmitted to CEQ on May 25, 1976.

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, DC 20250.
USDA, Forest Service, Northern Region, Federal Building, Missoula, MT 59801.
USDA, Forest Service, Deerlodge National Forest, Federal Building, P.O. Box 400, Butte, MT 59701.
USDA, Forest Service, Jefferson Ranger District, 405 W. Legion, Whitehall, MT 59759.

A limited number of single copies are available upon request to:

USDA, Forest Service, Deerlodge National Forest, Federal Building, P.O. Box 400, Butte, MT 59701.
USDA, Forest Service, Jefferson Ranger District, 405 W. Legion, hWitehall, MT 59759.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ guidelines.

KEITH M. THOMPSON,
Acting Regional Forester
Northern Region, Forest Service.

MAY 25, 1976.

[FR Doc.76-16018 Filed 6-2-76;8:45 am]

WENATCHEE NATIONAL FOREST, R-6 OFF ROAD VEHICLE USE AND POLICY

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 Off-Road-Vehicle Use and Regulation on the Wenatchee National Forest, USDA-FS-R6-DES(adm)-76-13.

The environmental statement concerns proposed regulation for the use of off-road-vehicles and the impacts of various intensities of use on National Forest lands in Chelan, Kittitas, Yakima Counties, Washington.

This draft environmental statement was transmitted to CEQ on May 26, 1976.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Bldg., Room 3230, 12th St. and Independence Ave., S.W., Washington, D.C. 20250.
USDA, Forest Service, Pacific Northwest Region, Multnomah Building, 319 S.W. Pine Street, Portland, Oregon 97204.
Supervisor's Office, Wenatchee National Forest, 301 Yakima Street, Wenatchee, Washington 98801.

and at each of the following District Ranger offices:

Chelan Ranger District, Box 189, Chelan, Washington 98816.
Entiat Ranger District, Box 476, Entiat, Washington 98822.
Leavenworth Ranger District, 600 Sherbourne, Leavenworth, Washington 98826.
Lake Wenatchee Ranger District, Star Route, Box 109, Leavenworth, Washington 98826.
Cle Elum Ranger District, W. 2nd Street, Cle Elum, Washington 98922.
Ellensburg, Ranger District, P.O. Box 217, Ellensburg, Washington 98926.
Naches Ranger District, 16680 Highway 410, Naches, Washington 98937.
Tieton Ranger District, Star Route, Box 189, Tieton, Washington 98937.

and at selected public and university libraries within the state of Washington. A limited number of single copies are available upon request to Forest Supervisor, Wenatchee National Forest, Box 811, Wenatchee, Washington 98801.

Copies of the draft 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 Forest Supervisor, Wenatchee National Forest, Box 811, Wenatchee, Washington 98801. Comments must be received by July 25, 1976, in order to be considered in the preparation of the final environmental statement.

CURTIS L. SWANSON,
Regional Environmental Coordinator Planning, Programing and Budgeting.

MAY 26, 1976.

[FR Doc.76-16017 Filed 6-2-76;8:45 am]

Soil Conservation Service

SALLACOA CREEK AREA WATERSHED, GEORGIA

Availability of Negative Declaration

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for a portion of the Sallacoa Creek Area Watershed, Bartow, Cherokee, Gordon, and Pickens Counties, Georgia.

The environmental assessment of this federal action indicates that this portion of the project will not create significant adverse local, regional, or national impacts on the environment and that no significant controversy is associated with this portion of the project. As a result of these findings, Mr. Dwight M. Treadway, State Conservationist, Soil Conservation Service, has determined that the preparation and review of an environmental impact statement is not needed for this portion of this project.

The project concerns a plan for watershed protection and flood prevention. The planned work of improvement, as described in the negative declaration, includes one floodwater retarding structure.

The negative declaration is being filed with the Council on Environmental Quality and copies are being sent to various federal, state, and local agencies. The basic data developed during the environmental assessment is on file and may be reviewed by interested parties at the Soil Conservation Service, USDA, 206 Federal Building, 355 East Hancock Avenue, Athens, Georgia 30601. A limited number of copies is available from the same address to fill single copy requests.

No administrative action on implementation on the proposal will be taken until 15 days after the date of this publication.

(Catalog of Federal Domestic Assistance Program No. 10.904, National Archives Reference Services.)

Dated: May 25, 1976.

JOSEPH H. HAAS,
Deputy Administrator for Water Resources, Soil Conservation Service.

[FR Doc.76-16055 Filed 6-2-76;8:45 am]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration, National Marine Fisheries Service

FRASER RIVER SOCKEYE SALMON FISHERY

Interpretation of 1976 Regulations

On March 16, 1976, the International Pacific Salmon Fisheries Commission (IPSFC), acting under authority of the Convention between Canada and the United States for the protection, preservation, and extension of the sockeye and pink salmon fisheries of the Fraser River System, forwarded to the Governments of Canada and the United States for the approval required by Article VI of the Convention the regulations to be applicable during the 1976 fishing season in Convention waters. The United States, acting through the Department of State, has approved the regulations.

Paragraph 5 of the regulations applicable in U.S. Convention waters provides as follows:

5. Insofar as the foregoing regulations prescribe the type of gear to be used during times open to fishing for sockeye and pink salmon, such regulations shall be implemented to the extent permissible under the laws of the Parties.

As the Federal agency responsible for the enforcement of the provisions of the Convention, the regulations of the Commission, and the Sockeye Salmon or Pink Salmon Fishing Act of 1947, 16 U.S.C. 776, the National Marine Fisheries Service has determined that the only domestic laws limiting the applicability of the

gear regulations of the Commission are the treaties between the United States and certain Pacific Northwest Indian tribes, as interpreted by the United States District Court for the Western District of Washington in the case of *United States v. State of Washington*, 384 F. Supp. 312 (1974).

The Service has, therefore, determined that the regulations of the Commission which prescribe the type of gear to be used while fishing for sockeye and pink salmon shall be fully implemented in U.S. Convention waters, except that the implementation of such gear regulations is not permissible under the laws of the United States as to treaty Indian fishermen of those Indian tribes which shall have been found by the United States District Court for the Western District of Washington to be entitled to exercise treaty-secured fishing rights in U.S. Convention waters, provided, however, that

(1) No vessel or fishing gear may be used by such treaty Indian fishermen with respect to any fishery or in any area over which the IPSFC is exercising control until such vessel or gear has been specifically registered with and its use in such fishery or area authorized by the tribal authorities of the user's tribe, and notice of such registration and authorization has been given by the tribal authorities to the Regional Director, National Marine Fisheries Service, Seattle, and to the Washington Department of Fisheries; and

(2) Such registration and notice shall contain at least the following information: name and address of the owner and operator; type and name, if any, of the vessel; tribal identification number; type of gear to be used; and areas for which the vessel and gear is registered; and

(3) The Regional Director of the Service and the Washington Department of Fisheries shall be immediately notified of the cancellation, suspension, or modification of any such registration or authorization; and

(4) No such registered and authorized vessel or fishing gear may be used by such treaty Indian fishermen with respect to any fishery or in any area over which the IPSFC is exercising control unless there is affixed to it an identification tag, the style and type of which and the location at which affixed shall have been previously agreed to by the Regional Director of the Service or the Director, Washington Department of Fisheries.

(5) Such treaty Indian fishermen shall report their catch of sockeye and pink salmon in Convention waters in the manner prescribed by Washington Administrative Code 202-69-030 to 110.

The 1976 regulations of the Commission applicable in U.S. Convention waters are reprinted verbatim below.

Issued at Washington, D.C., this 28th day of May, 1976.

ROBERT SCHONING,
Director,
National Marine Fisheries Service.

INTERNATIONAL PACIFIC SALMON FISHERIES COMMISSION

1. No person shall fish for sockeye or pink salmon with nets in the Convention Waters of the United States of America from the 27th day of June, 1976 to the 17th day of July, 1976, both dates inclusive.

2. (1) No person shall fish for sockeye or pink salmon with purse seines in the Convention Waters of the United States of America lying westerly of a straight line drawn from Angeles Point in the State of Washington across Race Rocks to William Head in the Province of British Columbia:

(a) From the 18th day of July, 1976 to the 14th day of August, 1976, both dates inclusive, except from five o'clock in the forenoon to half past nine o'clock in the afternoon of Monday and Tuesday of each week; and

(b) From the 15th day of August, 1976 to the 21st day of August, 1976, both dates inclusive, except from five o'clock in the forenoon to nine o'clock in the afternoon of Monday and Tuesday.

(2) No person shall fish for sockeye or pink salmon with gill nets in the waters described in subsection (1) of this section:

(a) From the 18th day of July, 1976 to the 24th day of July, 1976, and from the 1st day of August, 1976 to the 7th day of August, 1976, all dates inclusive, except from seven o'clock in the afternoon of Sunday to half past nine o'clock in the forenoon of Monday and from seven o'clock in the afternoon of Monday to half past nine o'clock in the forenoon of Tuesday of each week; and

(b) From the 25th day of July, 1976 to the 31st day of July, 1976, and from the 8th day of August, 1976 to the 14th day of August, 1976, all dates inclusive, except from seven o'clock in the afternoon of Monday to half past nine o'clock in the forenoon of Tuesday and from seven o'clock in the afternoon of Tuesday to half past nine o'clock in the forenoon of Wednesday of each week; and

(c) From the 15th day of August, 1976 to the 21st day of August, 1976, both dates inclusive, except from six o'clock in the afternoon of Sunday to nine o'clock in the forenoon of Monday and from six o'clock in the afternoon of Monday to nine o'clock in the forenoon of Tuesday.

(3) No person shall fish for sockeye or pink salmon with commercial trolling gear in the waters described in subsection (1) of this section from the 18th day of July, 1976 to the 21st day of August, 1976, both dates inclusive, except from Monday through Friday of each week on those days when purse seine fishing is permitted within that area.

3. (1) No person shall fish for sockeye or pink salmon with purse seine in the Convention Waters of the United States of America lying easterly of a straight line drawn from Angeles Point in the State of Washington across Race Rocks to William Head in the Province of British Columbia:

(a) From the 18th day of July, 1976 to the 14th day of August, 1976, both dates inclusive, except from five o'clock in the forenoon to half past nine o'clock in the afternoon of Monday and Tuesday of each week; and

(b) From the 15th day of August, 1976 to the 11th day of September, 1976, both dates inclusive, except from five o'clock in the forenoon to nine o'clock in the afternoon of Monday and Tuesday of each week.

(2) No person shall fish for sockeye or pink salmon with reef nets in the waters described in subsection (1) of this section:

(a) From the 18th day of July, 1976 to the 24th day of July, 1976, and from the 1st day of August, 1976 to the 7th day of August, 1976, all dates inclusive, except from three o'clock in the afternoon to half past nine o'clock in the afternoon of Monday, from five o'clock in the forenoon to half past nine o'clock in the afternoon of Tuesday and from five o'clock in the forenoon to three o'clock in the afternoon of Wednesday of each week; and

(b) From the 25th day of July, 1976 to the 31st day of July, 1976, and from the 8th day of August, 1976 to the 14th day of August, 1976, all dates inclusive, except from half past ten o'clock in the forenoon to half past nine o'clock in the afternoon of Sunday, from five o'clock in the forenoon to half past nine o'clock in the afternoon of Monday, and from five o'clock in the forenoon to half past ten o'clock in the forenoon of Tuesday of each week; and

(c) From the 15th day of August, 1976 to the 21st day of August, 1976, and from the 29th day of August, 1976 to the 4th day of September, 1976, all dates inclusive, except from three o'clock in the afternoon to nine o'clock in the afternoon of Monday, from five o'clock in the forenoon to nine o'clock in the afternoon of Tuesday and from five o'clock in the forenoon to three o'clock in the afternoon of Wednesday of each week; and

(d) From the 22nd day of August, 1976 to the 28th day of August, 1976, and from the 5th day of September, 1976 to the 11th day of September, 1976, all dates inclusive, except from half past ten o'clock in the forenoon to nine o'clock in the afternoon of Sunday, from five o'clock in the forenoon to nine o'clock in the afternoon of Monday and from five o'clock in the forenoon to half past ten o'clock in the forenoon of Tuesday of each week.

(3) No person shall fish for sockeye or pink salmon with gill nets in the waters described in subsection (1) of this section:

(a) From the 18th day of July, 1976 to the 24th day of July, 1976, and from the 1st day of August, 1976 to the 7th day of August, 1976, all dates inclusive, except from seven o'clock in the afternoon of Sunday to half past nine o'clock in the forenoon of Monday and from seven o'clock in the afternoon of Monday to half past nine o'clock in the forenoon of Tuesday of each week; and

(b) From the 25th day of July, 1976 to the 31st day of July, 1976, and from the 8th day of August, 1976 to the 14th day of August, 1976, all dates inclusive, except from seven o'clock in the afternoon of Monday to half past nine o'clock in the forenoon of Tuesday and from seven o'clock in the afternoon of Tuesday to half past nine o'clock in the forenoon of Wednesday of each week; and

(c) From the 15th day of August, 1976 to the 21st day of August, 1976, and from the 29th day of August, 1976 to the 4th day of September, 1976, all dates inclusive, except from six o'clock in the afternoon of Sunday to nine o'clock in the forenoon of Monday and from six o'clock in the afternoon of Monday to nine o'clock in the forenoon of Tuesday of each week; and

(d) From the 22nd day of August, 1976 to the 28th day of August, 1976, and from the 5th day of September, 1976 to the 11th day of September, 1976, all dates inclusive, except from six o'clock in the afternoon of Monday to nine o'clock in the forenoon of Tuesday and from six o'clock in the afternoon of Tuesday to nine o'clock in the forenoon of Wednesday of each week.

4. No person shall fish for sockeye or pink salmon with nets in that portion of the waters described in paragraph (1) of section 3 lying northerly and westerly of a straight line drawn from Iwersen's Dock on Point Roberts in the State of Washington to Georgina Point Light at the entrance to Active Pass in the Province of British Columbia

from the 5th day of September, 1976 to the 18th day of September, 1976, both dates inclusive.

5. Insofar as the foregoing regulations prescribe the type of gear to be used during times open to fishing for sockeye and pink salmon, such regulations shall be implemented to the extent permissible under the laws of the Parties.

6. The foregoing recommended regulations shall not apply to the following United States Convention Waters:

(1) State Fishing Area No. 7 including all Convention Waters known as Bellingham Bay lying inside of a line extending from Point Frances through Post Point Bell Buoy to the mainland, and

(2) That portion of State Fishing Area No. 3 lying easterly and inside of a line protected from Carter Point on Lummi Island to the most northerly tip of Vendovi Island, thence to Clark Point on Guemes Island including the waters of Samish Bay, and

(3) State Fishing Area No. 4, and

(4) Preserves previously established by the Director of Fisheries of the State of Washington for the protection of other species of food fish.

All times hereinbefore mention shall be Pacific Daylight Saving Time.

[FR Doc.76-16024 Filed 6-2-76;8:45 am]

National Oceanic and Atmospheric Administration

DEPARTMENT OF MARINE RESOURCES, STATE OF MAINE

Notice of Receipt of Application for Public Display Permit

Notice is hereby given that the following Applicant has applied in due form for a permit to take marine mammals for public display as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Regulations Governing the Taking and Importing of Marine Mammals.

Department of Marine Resources, State of Maine, State House, Augusta, Maine 04333, to take up to six (6) harbor seals (*Phoca vitulina*) for public display.

The requested seals will be on public display at a State of Maine facility at Boothbay Harbor, Maine. This facility has been maintained by the Applicant for many years.

The requested seals will be taken by facility staff, under the direction of a senior staff supervisor with 15 years experience in handling pinnipeds. They will be taken, with a gill net from the Sheepscot River and transported to the facility by boat.

The animals will be maintained in a pool 22½' x 14' x 4' deep with a 4' x 6' haul out shelter.

The faciilty is open daily, at no charge to the public, through the summer months with an estimated 20 to 30 thousand seasonal visitors.

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above described application have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammals involved.

Documents submitted in connection with the above application are available for review in the following offices:

Director, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Northeast Region, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930.

Concurrent with the publication of this notice in the FEDERAL REGISTER, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Director, National Marine Fisheries Service, Washington, D.C. 20235, on or before July 6, 1976. The holding of such a hearing is at the discretion of the Director.

All statements and opinions contained in this notice in support of this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Dated: May 28, 1976.

MORRIS M. PALLOZZI,
Acting Associate Director for Resource Management, National Marine Fisheries Service.

[FR Doc.76-16070 Filed 6-2-76;8:45 am]

Notice of Receipt of Application for a Scientific Research Permit

Notice is hereby given that the following Applicant has applied in due form for a permit to take and import marine mammals for scientific research as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407).

Museum of Natural History of Los Angeles County, 900 Exposition Blvd., Los Angeles, California, 90007, to conduct scientific research on an undetermined number of dead or stranded marine mammals found anywhere in the world as well as marine mammals taken by Eskimo or other native fisheries.

The proposed research plans to collect data on such aspects as food, parasites, reproduction, sexual and morphological maturity, color pattern body proportions and variations in size and structure.

The Applicant will in no way cause or participate in the death of any marine mammal but will only salvage the skeleton and parts thereof found dead on beaches or from carcasses taken by Eskimo and other native fisheries. All materials obtained will become part of the research collections of the Museum, and will be available for study by competent investigators.

The Applicant states that no marine mammals or parts thereof which are covered under the Endangered Species Act of 1973 will be taken.

The Applicant also states that the collector(s) will hold a scientific collecting permit from the State or Country in which the specimens will be collected.

All specimens will be salvaged by personnel of the National History Museum of Los Angeles county or by individuals working immediately under their direction.

Documents submitted in connection with this application are available in the following offices:

Director, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.;

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731;

Concurrent with the publication of this notice in the FEDERAL REGISTER the Secretary of Commerce is sending copies of the application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Written views or data, or requests for a public hearing on this application should be submitted to the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, on or before July 6, 1976. The holding of such hearing is at the discretion of the Director.

All statements and opinions contained in this notice in support of this application are those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Dated: May 28, 1976.

MORRIS M. PALLOZZI,
Acting Associate Director for Resource Mangement, National Marine Fisheries Service.

[FR Doc.76-16071 Filed 6-2-76;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[DOCKET NO. 76N-0192]

IN VITRO DIAGNOSTIC PRODUCT STANDARDS

Draft of Proposed Product Class Standard for Quantitative Measurement of Glucose in Serum or Plasma and Related Product Evaluation Protocol; Notice of Availability

The Food and Drug Administration (FDA) announces the availability of a draft of proposed Product Class Standard and related Product Evaluation Protocol for products intended for use in the Quantitative Measurement of Glucose in Serum or Plasma.

On April 26 and 27, 1976, in an open session of a joint meeting of the Statistics and Clinical Chemistry Subcommittees of the Diagnostic Products Advisory Committee, the Bureau of Medical Devices and Diagnostic Products conducted a discussion of the subject draft. The Commissioner of Food and Drugs, in advance of the meeting, granted permission for this discussion to take place in open session. At the conclusion of the meeting, a limited number of both the draft Product Class Standard and the related Product Evaluation Protocol, which is not considered part of the stand-

ard, were made available to attendees at the meeting.

Since these documents are undergoing review and modification within FDA, the copies on display do not necessarily represent final agency positions. However, because the drafts have been made available to some industry and professional users, they should be made available to all interested persons.

Accordingly, a copy of both the draft standard and the evaluation protocol has been placed on display in the office of the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20852, and may be seen during working hours, Monday through Friday.

All interested persons will be afforded an opportunity to comment when the documents are published in the FEDERAL REGISTER.

Dated: May 26, 1976.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.76-16030 Filed 6-2-76;8:45 am]

[DOCKET NO. 76N-0060; DESI 5970]

SODIUM TETRADECYL SULFATE

Followup Notice and Notice of Opportunity for Hearing

A notice (DESI 5970) was published in the FEDERAL REGISTER of July 30, 1970 (35 FR 12233), in which the Food and Drug Administration announced its conclusion that sodium tetradecyl sulfate injection is probably effective as a sclerosing agent for varicose veins and internal hemorrhoids, and that additional evidence is required to establish its effectiveness. On the basis of additional information submitted by Elkins-Sinn, Inc., and review of previously submitted data it is now concluded that the product is effective as a sclerosing agent for varicose veins, but lacks substantial evidence of effectiveness as a sclerosing agent for internal hemorrhoids. This notice announces those conclusions. Persons wishing to request a hearing concerning the internal hemorrhoid indication may do so on or before July 6, 1976.

Accordingly, the previous notice is amended to read as follows:

NDA 5–970; Sotradecol Sterile Solution, containing sodium tetradecyl sulfate 1 percent or 3 percent; Elkins-Sinn, Inc., 2 Esterbrook Ln., Cherry Hill, NJ 08002.

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new drug applications are required to revise the labeling in and to update previously approved applications providing for such drugs. An approved new drug application is a requirement for marketing such drug product.

In addition to the holder of the new drug application specifically named above, this notice applies to all persons who manufacture or distribute a drug product, not the subject of an approved new drug application, which is identical, related, or similar to a drug product named above, as defined in 21 CFR 310.6. It is the responsibility of every drug manufacturer or distributor to review this notice to determine whether it covers any drug product he manufactures or distributes. Any person may request an opinion of the applicability of this notice to a specific drug product he manufactures or distributes that may be identical, related, or similar to a drug product named in this notice by writing to the Food and Drug Administration, Bureau of Drugs, Division of Drug Labeling Compliance (HFD–310), 5600 Fishers Lane, Rockville, MD 20852.

A. Effectiveness classification. The Food and Drug Administration has considered the Academy's report, as well as other available evidence, and concludes that:

1. Sodium tetradecyl sulfate is effective as a sclerosing agent for varicose veins.

2. The drug lacks substantial evidence of effectiveness as a sclerosing agent for internal hemorrhoids.

B. Conditions for approval and marketing. The Food and Drug Administration is prepared to approve abbreviated new drug applications and abbreviated supplements to previously approved new drug applications under conditions described herein.

1. Form of drug. Sodium tetradecyl sulfate preparations are in sterile solution form suitable for parenteral administration.

2. Labeling conditions. a. The label bears the statement, "Caution: Federal law prohibits dispensing without prescription."

b. The drug is labeled to comply with all requirements of the Act and regulations, and the labeling bears adequate information for safe and effective use of the drug(s). The Indications section is as follows: For the treatment of small uncomplicated varicose veins of the lower extremities. The benefit-to-risk ratio should be considered in selected patients who are great surgical risks due to conditions such as old age.

3. Marketing status. a. Marketing of such drug product which is now the subject of an approved or effective new drug application may be continued provided that, on or before August 2, 1976, the holder of the application submits (i) a supplement for revised labeling as needed to be in accord with the labeling conditions described in this notice, and complete container labeling if current container labeling has not been submitted, and (ii) a supplement to provide updating information with respect to items 6 (components), 7 (composition), and 8 (methods, facilities, and controls) of new drug application form FD–356H (21 CFR 314.1(c)) to the extent required by abbreviated applications (21 CFR 314.1(f)).

b. Approval of an abbreviated new drug application (21 CFR 314.1(f)) must be obtained prior to marketing such products. Marketing prior to approval of a new drug application will subject such products, and those persons who caused the products to be marketed, to regulatory action.

C. Notice of opportunity for hearing. On the basis of all the data and information available to him, the Director of the Bureau of Drugs is unaware of any adequate and well-controlled clinical investigation, conducted by experts qualified by scientific training and experience, meeting the requirements of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and 21 CFR 314.111(a)(5), demonstrating the effectiveness of the drug(s) for the indication(s) lacking substantial evidence of effectiveness referred to in paragraph A.2. of this notice.

Notice is given to the holder(s) of the new drug application(s), and to all other interested persons, that the Director of the Bureau of Drugs proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)), withdrawing approval of the new drug application(s) (or, if indicated above, those parts of the application(s) providing for the drug product(s) listed above) and all amendments and supplements thereto providing for the indication(s) lacking substantial evidence of effectiveness referred to in paragraph A.2. of this notice on the ground that new information before him with respect to the drug product(s), evaluated together with the evidence available to him at the time of approval of the application(s), shows there is a lack of substantial evidence that the drug product(s) will have all the effects it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling. An order withdrawing approval will not issue with respect to any application(s) supplemented, in accord with this notice, to delete the claim(s) lacking substantial evidence of effectiveness.

In addition to the ground for the proposed withdrawal of approval stated above, this notice of opportunity for hearing encompasses all issues relating to the legal status of the drug products subject to it (including identical, related, or similar drug products as defined in 21 CFR 310.6), e.g., any contention that any such product is not a new drug because it is generally recognized as safe and effective within the meaning of section 201(p) of the act or because it is exempt from part or all of the new drug provisions of the act pursuant to the exemption for products marketed prior to June 25, 1938, contained in section 201(p) of the act, or pursuant to section 107(c) of the Drug Amendments of 1962; or for any other reason.

In accordance with the provisions of section 505 of the act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR 310, 314), the applicant(s) and all other persons who manufacture or distribute a drug product which is identical, related, or similar to a drug product named above (21 CFR 310.6), are hereby given an opportunity for a hearing to show why approval of the new drug application(s) providing for the claim(s) involved should not be

withdrawn and an opportunity to raise, for administrative determination, all issues relating to the legal status of a drug product named above and all identical, related, or similar drug products.

If an applicant or any person subject to this notice pursuant to 21 CFR 310.6 elects to avail himself of the opportunity for a hearing, he shall file (1) on or before July 6, 1976, a written notice of appearance and request for hearing, and (2) on or before August 2, 1976, the data, information, and analyses on which he relies to justify a hearing, as specified in 21 CFR 314.200. Any other interested person may also submit comments on this proposal to withdraw approval. The procedures and requirements governing this notice of opportunity for hearing, a notice of appearance and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and a grant or denial of hearing, are contained in 21 CFR 314.200.

The failure of an applicant or any other person subject to this notice pursuant to 21 CFR 310.6 to file timely written appearance and request for hearing as required by 21 CFR 314.200 constitutes an election by such person not to avail himself of the opportunity for a hearing concerning the action proposed with respect to such drug product and a waiver of any contentions concerning the legal status of such drug product. Any such drug product labeled for the indication(s) lacking substantial evidence of effectiveness referred to in paragraph A.2 of this notice may not thereafter lawfully be marketed, and the Food and Drug Administration will initiate appropriate regulatory action to remove such drug products from the market. Any new drug product marketed without an approved NDA is subject to regulatory action any time.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for the hearing that there is no genuine and substantial issue of fact which precludes the withdrawal of approval of the application, or when a request for hearing is not made in the required format or with the required analyses, the Commissioner will enter summary judgment against the person(s) who requests the hearing, making findings and conclusions, denying a hearing.

All submissions pursuant to this notice of opportunity for hearing shall be filed in quintuplicate. Such submissions, except for data and information prohibited from public disclosure pursuant to 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the office of the Hearing Clerk (address given below) during working hours Monday through Friday.

Communications forwarded in response to this notice should be identified with the reference number DESI 5970, directed to the attention of the appropriate office listed below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20852.

Supplements (identify with NDA number): Division of Surgical-Dental Drug Products (HFD-160), Bureau of Drugs Rm. 18B-08.

Original abbreviated new drug applications (identify as such): Division of Generic Drug Monographs (HFD-530), Bureau of Drugs.

Submissions pursuant to the notice of opportunity for hearing (identify with docket number appearing in the heading of this notice): Hearing Clerk, Food and Drug Administration (HFC-20), Rm. 4-65, Parklawn Building.

Requests for the Academy's report: Data Preparation Branch (HFD-614), Division of Drug Information Resources, Bureau of Drugs.

All other communications regarding this notice: Drug Efficacy Study Implementation Project Manager (HFD-101), Bureau of Drugs.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-1053, as amended; (21 U.S.C. 352, 355) and under the authority delegated to the Director, Bureau of Drugs (21 CFR 2.121).

Dated: May 26, 1976.

J. RICHARD GROUT,
Director, Bureau of Drugs.

[FR Doc.76-16031 Filed 6-2-76;8:45 am]

[Docket No. 75N-0070]

HARVEY D. KARKUS, M.D.

Availability of Methadone Treatment Program Agreement

The Food and Drug Administration (FDA) announces the availability of an agreement between the Harvey D. Karkus, M.D., Methadone Treatment Program (Application No. MY-10,086M) and FDA concerning the applicant's authority to continue to dispense methadone.

On May 4, 1976, Administrative Law Judge Daniel J. Davidson issued his Initial Decision in this matter, requiring compliance by applicant with the Federal methadone regulations (21 CFR 310.505) as per the terms of a "Settlement Agreement" entered into by stipulation of the parties. The period for filing of exceptions to said Initial Decision having expired May 24, 1976 and no exceptions having been filed, the Order of the Administrative Law Judge became effective as the Order of the Commissioner.

Copies of the Initial Decision and the "Settlement Agreement" are available from the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852.

Dated: May 26, 1976.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.76-16032 Filed 6-2-76;8:45 am]

Office of the Secretary

SECRETARY'S ADVISORY COMMITTEE ON POPULATION AFFAIRS

Meeting

The Advisory Committee on Population Affairs, established to advise the Secretary regarding all significant aspects of family planning and population research activities coming under the purview of the Department of Health, Education, and Welfare, is scheduled to hold a meeting on June 30, 1976. The meeting will be held in the Department's north building located at 330 Independence Ave., S.W., Washington, D.C., Room 5169. The meeting is scheduled to convene at 9:00 a.m. and adjourn at 3:00 p.m.

The Committee will discuss services to and research on teenagers, sterilization, impact of national health insurance, etc.

The meeting is open for public observation.

Dated: May 26, 1976.

LOUIS M. HELLMAN, M.D.,
Chairman and Executive Secretary.

[FR Doc.76-16074 Filed 6-2-76;8:45 am]

Office of Education

NATIONAL ADVISORY COUNCIL ON EQUALITY OF EDUCATIONAL OPPORTUNITY

Public Meeting

Notice is hereby given, pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public L. 92-463), that the Legislative Subcommittee of the National Advisory Council on Equality of Educational Opportunity will convene at 9:30 a.m. on Thursday, June 17, until 4:30 p.m., and reconvene at 9:30 a.m. on Friday, June 18, until 4:30 p.m., at Conference Room No. 1555, U.S. Office of Education, 1200 Main Tower Building, Dallas, Texas.

The National Advisory Council on Equality of Educational Opportunity is established under section 716 of the Emergency School Aid Act (P.L. 92-318, Title VII, as amended by Pub. L. 93-380). The Council is established to: (1) Advise the Assistant Secretary for Education with respect to the operation of the program authorized under the Emergency School Aid Act (ESAA), including the preparation of regulations and the development of criteria for the approval of applications; and (2) review the operation of the program with respect to its effectiveness in achieving its purpose as stated in the Act and with respect to the Assistant Secretary's conduct in the administration of the program.

The meeting of the Legislative Subcommittee, which shall be open to the public, will be for the purpose of discussing the need for possible legislative change in the Emergency School Aid Act. Presentations will be made by various agencies and organizations that are familiar with the present legislation.

Signed at Washington, D.C., on June 1, 1976.

LEO A. LORENZO,
Executive Director.

[FR Doc.76-16291 Filed 6-2-76;10:47 am]

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[FRA Petition No. 84]

BALTIMORE & OHIO RAILROAD CO.

Voice Train Control System Supplemental Report and Order

On October 7, 1974, the Railroad Safety Board (Board) of the Federal Railroad Administration (FRA) issued a report and order on the petition filed by the Baltimore and Ohio Railroad Company (B&O) which requested approval of the installation of a Voice Train Control System (VTCS) on specific segments of the B&O railroad in central Ohio. That Report and order also involved a similar proceeding, FRA Petition No. 83, which requested approval of the general concept of VTCS. The report and order was not published in the FEDERAL REGISTER. That report and order has been made an appendix to this supplemental report and order.

In that report and order the request for approval of the general concept, FRA petition No. 83, was denied without prejudice because the Board concluded that such a decision was premature at that time. That report and order did grant approval for the installation of this system on a particular segment of the B&O railroad on a test basis. In granting the approval of this test installation the Board prescribed terms and conditions concerning the test installation.

Among the terms and conditions were provisions which required the submission of the details of the specifications for all of the essential elements of the system prior to December 31, 1974 and that the B&O would have the test installation fully operative within one year after FRA acted to approve the details of the specifications for the essential elements.

The B&O subsequently submitted a large volume of technical information concerning the details of these specifications. The B&O has been tardy in filing those submissions. The provision of the order which called for the submission to be made by December 31, 1974 proved to be infeasible for B&O. The carrier then requested an extension of this deadline until March 3, 1975. The Board acquiesced in this request by a letter to the B&O. On March 3, 1975 the B&O filed four documents identified as the general description; the maintenance plan, the training plan; and the safety qualification plan. In accordance with the terms of the report and order these documents were also provided to all of the interested parties in this proceeding. The B&O subsequently elected to revise the submission entitled the safety qualification plan. This revision was provided to FRA on August 27, 1975. In this instance B&O did not initially adhere to the original terms and conditions to the proceeding until September 10, 1975. In view of the volume of the material submitted and the basis of the modifications to the test installation programs suggested by the B&O in these submissions, FRA provided all of the parties with an opportunity to offer additional comments. This additional comment period terminated on October 31, 1975.

Analysis of the data submitted by the B&O has prompted the Board to reevaluate the provisions of the report and order initially issued in this proceeding. In conducting that analysis the Board has had the benefit of subsequent written comments submitted by the United Transportation Union and the Brotherhood of Railroad Signalmen. On the basis of that analysis the Board has determined that a supplemental order was appropriate in this proceeding.

In issuing the report and order of October 7, 1974, the Board determined that approval of the VTCS concept would be premature since the equipment and hardware to be utilized in the system had never been subjected to any operational use thereby precluding any analysis of the safety or reliability of this system. It appeared, therefore, that a test installation of the equipment, which it had been indicated to FRA could be accomplished in a relatively short time frame, was the proper method for FRA to obtain the needed experimental data. The information which has now been submitted by B&O clearly demonstrates that the facts concerning the availability of the hardware and equipment are different from those upon which the Board premised that initial decision. The current information indicates that a period of design fabrication and testing will be required before the system will be ready for installation and operational testing.

In the absence of the hardware and equipment ready for installation Board is faced with a situation analogous to that which prompted the decision to deny the approval of the general concept as premature.

B&O has urged, in the submissions to FRA, that a review body be created to monitor the design, fabrication and development testing of this hardware and equipment. Participation in that manner would permit a technical analysis of the hardware components as they are designed and fabricated. The review body would be known as the VTCS Joint Review Committee. The submissions made by E&O envision that this design, fabrication and development testing will take approximately two years. At the conclusion of that two year effort it is anticipated that all of the hardware and equipment would either be ready for installation or actually installed and ready for operational testing.

In view of the absence of the hardware and equipment which has been the subject of design, fabrication and testing effort, the Board is still unable, at this point in time, to approve the details of the specifications for the test installation. The Board has considered, at some length, the proposal of B&O to participate in the design, fabrication and development testing process. The Board has determined that such action would constitute a major alteration of FRA's traditional role in railroad safety which has been to monitor the safety of rail operations. FRA participation, in the manner suggested, would place FRA in a position where it was involved in the product development process, which is beyond the proper function of FRA and, hence, is not acceptable to the Board.

In concluding that approval of the details of the specifications of the system is premature and that FRA should not participate in the design, fabrication and development testing; the Board has not altered its conclusion that the proposed VTCS appears to have substantial merit. Likewise, the Board still believes that an operational test is warranted for VTCS. The current facts, however, require that the present terms and conditions for that test installation be altered.

The FRA hereby continues the approval of the test installation of VTCS given in the report and order of October 7, 1974. That test installation is authorized under the following modified terms and conditions:

(1) The B&O is authorized to proceed with the installation of the hardware and equipment components for the VTCS whenever that equipment becomes available.

(2) Prior to the commencement of the full operational testing of the VTCS equipment, B&O shall file in final form the details concerning all the essential technical equipment to be utilized in the test installation.

(3) The Associate Administrator for Safety shall review these final specifications prior to the full operational testing of VTCS.

(4) The final specifications submitted by B&O shall be made a part of the public record in this proceeding and shall be provided to all parties to the proceeding.

(5) The B&O is authorized to commence the full operational testing 90 days after the date of the filing of the final specifications for period not to exceed three years after the system becomes fully operational.

(6) The B&O shall submit to the Associate Administrator for Safety reports which fully reflect the operating experience of VTCS. These reports shall be submitted at least every six months during the test program and made a part of the public record in this proceeding.

(7) The Associate Administrator for Safety shall monitor the installation and operation of VTCS and is authorized to terminate the test program or modify the terms, if necessary, to ensure the safety of operations.

(8) The Associate Administrator for Safety, after the completion of one year of full operational testing shall review and analyze the results of the operational testing to evaluate the test program.

In conducting the review of the initial report and order in this proceeding it has been noted that no specific reference was made to two issues that are inherent in this proceeding. The first of these involves the fact that a small portion of the proposed territory in which the VTCS is to be installed is currently equipped with a conventional signal system. In deciding to grant approval for the test installation of VTCS the Board did not act to grant approval to B&O to remove the signals involved in this test territory. The Board has concluded

that the signals should be retained at this time. The other issue involves the fact that the speed of operations over this territory for the duration of the test period was not provided for in the report and order. In deciding to grant approval for the test installation the Board has not given approval for the operation of trains in excess of 49 miles per hour over the test territory unless higher speeds are permissible due to the existence of a functional conventional signal system.

Issued in Washington, D.C. on May 27, 1976.

DONALD W. BENNETT,
Chairman,
Railroad Safety Board.

OCTOBER 7, 1974.

[FRA Petitions Nos. 83, 84]

BALTIMORE AND OHIO RAILROAD COMPANY
VOICE TRAIN CONTROL SYSTEM

REPORT AND ORDER

The Baltimore and Ohio Railroad Company (B&O) has filed two petitions with the Federal Railroad Administration (FRA) concerning a Voice Train Control System (VTCS). FRA Petition No. 83 requests approval by the FRA of the general concept of VTCS. FRA Petition No. 84 is a specific petition for approval of the installation of a VTCS system on specific lines of railroad in central Ohio. The petitions were filed pursuant to 49 CFR Parts 235, 236.

Following public notice, FRA held a public hearing on these petitions on January 22 and March 5, 1974. The proceeding was held open until April 15, 1974, for the receipt of additional comments and data. The FRA has received considerable material and comments covering the proposed VTCS from the B&O and interested parties. The public docket contains a complete description of the proposed new signal system for directing train movements.

The proposed Voice Train Control System contemplates the control of train operations by direct voice control via continuously available radio communication between a train radio controller (TRC) and each train. Train movement instructions will be continuously displayed on a console in the cab of the locomotive. These instructions will be transmitted by a controller from a console that is designed to logically monitor the voice and data messages transmitted.

Engineers, controllers and all others involved are provided with a set of operating rules constructed specifically as a part of the voice train control system. The rules, in combination with the system equipment constitute the total voice train control system.

The subject VTCS proposal involves petitioner's line of railroad generally described as follows: (1) Beginning at Benwood Jct., West Virginia northwestwardly to Warwick, Ohio (near Akron) (2) Belaire, Ohio westwardly to Newark, Ohio thence generally north to Willard, Ohio (3) Russ, Ohio (near Columbus) southwesterly to Midland, Ohio (4) Dayton, Ohio southeasterly to Musselman, Ohio (near Chillicothe) and (5) Zanesville, Ohio southerly to Belpre, Ohio.

Presently, petitioner operates freight trains only in the proposed VTCS territory. Trains are operated by time table, train order and Rule 99 operation except for two areas of manual block operation (1) between Newark and Shick and (2) between Russ and Midland City. In addition, there are 2.2 miles of traffic control system between Benwood Jct. and DK Tower and 1.5 miles of automatic block signals between Bellaire and Shick, Ohio. The total number of train movements is 54 per day on the 552 miles of track proposed for installation of VTCS. On March 14, 1974 the B&O submitted a chart of total train and engine movements in this territory during a twenty four hour period. The chart indicated a low of 7 train movements at 8:00 a.m. and a high of 17 train movements at 1:00 p.m.

The B&O proposed VTCS operation contemplates substituting direct voice control via radio between the dispatcher and the locomotive engineer for the present method of operation except that trains will comply with all applicable fixed signals.

DISCUSSION OF B&O TESTIMONY

The B&O testified that the proposed VTCS system was the result of an in-depth analysis made of the Chessie System man failure accidents. These analyses, when concentrating on over the road trains, developed that there was a need for detailed monitoring of train crew performance with back-up techniques available for instantaneous communication with the engineer and the ability to control certain types of accident-producing situations before an incident actually occurs. One of the conclusions of the analyses showed that there was a large portion of the Chessie System still controlled by time table, train order operation and a considerable amount of automatic block signal territory where the volume of traffic did not justify the installation of a traffic control signal system due to the prohibitive cost. It was their recommendation that there had to be developed a system that could timely warn the dispatcher when an accident-producing situation was in the making and depending upon the design characteristics and capability under certain circumstances, automatically initiate necessary action to control and/or stop one or more trains that may be potentially involved in an incident.

The VTCS technique of constant monitoring will warn trains on adjacent tracks when others have sustained operating difficulties. It will permit for the first time the realistic application of flagging as may be required depending upon the circumstances.

The B&O indicated that the VTCS is basically a manual system operated by humans with an automatic monitoring and back-up capability. It is not an automatic system with human back-up. In addition, it utilizes only proven technology throughout. From a safety standpoint it has been designed to have at the very minimum a double layer of safety functions, where one is human the other is machine. Further, in the case of the machine it has been designed so that no single failure can cause an unsafe condition. In addition, in most cases many single independent failures would have to occur before unsafe conditions could be generated.

Furthermore, the B&O stated that there are a number of automatic sequences which utilize the ability of the automatic equipment to monitor the movements and warn the engineers and the dispatcher of impending or actual difficulties. The stop button flashes yellow as a warning, and red to indicate to the engineer that he should stop as soon as he can safely do so. The engineer must acknowledge by operation of the stop button receipt of any of these indications within 15 seconds or else the dispatcher is notified of his failure to acknowledge and the dispatcher can then take whatever action is appropriate. If the dispatcher in turn fails to acknowledge this warning to him, within the next 15 seconds, we have a situation where both men have failed to acknowledge a warning or a command to stop, in which case the automatic equipment causes the service brakes on the train to be applied and the locomotive diesel engines returned to idle speed. This enforced stop can subsequently be released only by action of the dispatcher. This enforced stop is the only case where the train is under the physical control of the automatic equipment rather than the engineer. At all other times the train is under the immediate physical control of the engineer not the automatic equipment.

The VTCS is primarily a manual system operated by people and the automatic equipment is used to monitor and check those operations and to step in only when the people involved have appeared to be unable or unwilling to recognize a safety related situation. Some of the things which can trigger an automatic sequence are (1) engines proceeding into a control zone for which they have no authorization to occupy. (This is equivalent to running a stop signal on a conventional system); (2) overspeed by locomotives; and (3) trains in emergency braking and approaching trains on parallel tracks are warned to stop immediately.

DISCUSSION OF OTHER VIEWS

A representative of the Brotherhood of Locomotives Engineers stated that the organization is on record as desiring and wanting a better signal system, a safer system. He stated further that if VTCS is, as presented at the hearing, a system that will work and function properly in the day-to-day operation, that organization would not oppose it. However, he hastened to add that there were 5 areas of concern—

(1) Training for locomotive engineers, dispatchers, or any other person affected by its use;

(2) Testing of the components which make up the VTCS;

(3) The maintenance of that system;

(4) The use of yard engines in VTC territory; and

(5) The use of non-equipped locomotives in VTCS territory.

A representative of the American Train Dispatchers Association voiced concern in four areas related to the safety of train operation. First, was the need for adequate records for the dispatcher to properly perfrom his duties. In addition to meeting the schedule of oncoming and moving trains, he must keep other interested officers and employees informed on the location of trains and their expected arrival at destination points. He must provide working time for maintenance crews and arrange for trains to perform work along the route. He is frequently required to answer inquiries about past events. With these tasks at hand he must have adequate records available to him.

Second, if VTCS is approved, they urge that it be limited to a small area until it has been thoroughly tested.

Third, it is essential that adequate training be provided for all affected employees, and, fourth, that the best available radio equipment be installed and maintained.

A representative of the Brotherhood of Railroad Signalmen stated that the organization has gone on record over the years as being very interested in the safe operation of trains on all rail carriers. He further stated that his organization at the time of the hearing is on record as being opposed to a non-tried and unheard-of system that, in any way, would replace any of the existing signal systems.

The United Transportation Union was concerned with the use of non-equipped locomotives in VTCS territory. It was also concerned because the conductor would not have a copy of the movement authority presented to him in the caboose although the

conductor bears considerable responsibility for the train's operation.

Several of the objections to the installation of the system related primarily to the fact that the system is new and untried. It was suggested that the system be tested at the FRA test facility at Pueblo, Colorado. However, the sole fact that the system is new is not reason to prohibit its use in an appropriate test environment. FRA agrees that testing should be undertaken on VTCS. Research and testing sponsored by FRA does not take place only at Pueblo, Colorado. Many FRA research projects are cooperative efforts taking place with and on various individual railroads depending upon the nature of the project. Here the B&O is willing to participate in a test installation of VTCS.

SUMMARY

It is appropriate to review the issues raised at the hearings in the context of 6 categories: equipment, training, operating rules, records, installation of the system, and the scope of the testing.

Equipment

It has been presented at the hearing that while the system is based on presently available technology and techniques, no equipment for this installation has been constructed. It is clearly evident that this system can function properly only if high quality equipment is constructed and maintained to provide its intended function.

According to the B&O, "While the VTCS as such has not been installed yet on a railroad the principles of operation which it employs and much of the hardware implementation of the principles have been well-proven in other similar systems. The nation's Air Traffic Control System is very similar and it can hardly be termed a non-tried or unheard-of system."

In letter dated February 18, 1974 from Glenayre Electronics, Ltd., Mr. John Francis indicated that prototype models of the transponders (the component of VTCS which identifies the presence of a train) had been in field service in British Columbia for approximately 8 months beginning January 1972 under difficult environmental conditions without major difficulties being reported.

Another issue raised was the extent to which the equipment would be installed. This issue included the operation of non equipped locomotives and installation of monitoring equipment in a caboose.

Training

The success of any new system is dependent in part upon a thorough understanding of the requirements of that system by its intended users.

The B&O stated in the hearing that they recognize this need for proper training and are prepared to begin to develop a comprehensive training program for all affected employees as soon as an affirmative decision is rendered on this petition.

Tentatively the B&O envisions classroom training for employees as follows:

Engineers & Fireman—5 eight-hour sessions with class size limited to 8 employees;

Conductors & Brakeman—3 eight-hour sessions with class size limited to 10 employees;

Train Dispatchers—8 eight-hour sessions with class size limited to 6 employees;

Maintenance Employees—10 to 30 eight-hour sessions depending on category of equipment to be maintained with class size limited to 6 employees per category.

Operating Rules

These rules have been developed by the B&O railroad and are contained in appendix "D" of the petition. Appendix "D" is a document entitled, "General Description of a Voice Train Control System for Use on the Chessie System" with the operating rules found on pages 19 through 36.

These rules describe the action to be taken by employees affected by this system and address such issues as yard locomotive and non-equipped locomotive in use in VTCS territory.

Records

A full explanation of the records produced by VTCS can be found in Section 11, pages 131 through 133 of Appendix "D".

There are 3 major records produced by the VTCS:

(1) The permanent magnetic tape record;

(2) The instant replay tape record; and

(3) The significant events log.

No train sheet per se is produced since the significant events log provides that information.

Installation

It was of general concern to the protestants in this proceeding that the B&O proposed to install the VTCS on 522 miles of railroad. They argued that the installation should be on lesser mileage until its operational reliability could be validated.

The B&O offered these arguments to justify the size and location of the installation:

(1) In order to most thoroughly verify the flexibility and wide application of VTCS, a territory containing a broad diversity of operating circumstances is desirable.

(2) The pole line deterioration in this territory which affects the present communication system is among the most acute of any large area in the entire system.

(3) Much of the present dispatching in this territory is already accomplished from a few points.

(4) The light-to-medium traffic densities found in this territory make it an appropriate initial test installation.

(5) A territory of at least this size is necessary not only to provide the operational diversity desired but also in consideration of the costs associated with the development effort

FINDINGS AND DECISION

The proposed VTCS is within the scope of the Signal Inspection Act, 49 USC § 26, and the FRA has jurisdiction to approve the installation of the system and provide for inspection and testing of the system. That Act provides for the installation of appliances, methods and systems intended to promote the safety of employees and travelers, such as block signal systems, interlocking, automatic train stop, cab signal devices and "other similar appliances, methods and systems." In addition, the FRA has jurisdiction under the Federal Railroad Safety Act of 1970, 45 USC § 421, to authorize development and testing with respect to railroad safety.

Basically, the VTCS is a new method or system for controlling train operations relying solely on radio communications and new devices for transmitting and receiving train orders. Despite the fact that VTCS does not utilize track circuit control systems, it does utilize many of the concepts and devices of present signal systems including cab signals and automatic train stop. VTCS will provide protection for opposing and following trains, although it does not provide complete protection for broken rails, open switches and track occupancy situations.

Clearly the system can provide more protection than that provided in non-signalled territory where operations are conducted by a time table and train order method of operation. VTCS does not provide the full protection provided by a traffic control system or a cab signal system.

From the information submitted at the public hearing, FRA has concluded that VTCS appears to have merit over the present method of timetables and train orders and warrants further consideration and testing. A test program is warranted so that the new concept can be fully developed and the reliability and features of the system can be fully considered. The VTCS contains many significant safety improvements over unsignalled territory and its development should be fully encouraged.

Many aspects of the proposed system relate to matters that the FRA is considering in its rulemaking proceedings under the Railroad Safety Act. The information developed through the test of the VTCS system will be used by FRA in the revision of existing and proposed safety regulations.

The FRA has concluded that FRA Petition No. 83, for general approval of the concept of VTCS, is premature at this time. Therefore, that petition will be denied, without prejudice to the right of B&O to refile this petition at a proper time after the test of the VTCS in Petition No. 84 is concluded. At this time there is not adequate justification or specific information for general approval of the concept. FRA believes that only following an adequate test of the VTCS can general approval of the system be given.

In regard to approval of the specific installation of VTCS, FRA Petition No. 84, FRA, has decided that a test installation should be permitted under the following terms and conditions.

1. Approval is given for installation of a Voice Train Control System for the purpose of testing the installation and operation of such a system for a period of three years after the system becomes fully operational.

2. The VTCS shall be installed and fully operational within one year from approval of the specifics of the system referred to in condition number 3.

3. (a) Before December 31, 1974, the B&O shall file in final form with FRA its proposed specifications for installation of the VTCS including all essential elements of the system, including operating rules, training, types and numbers of devices included in the system, territory on which it is to be installed, responsibility of all train crew members, and procedures for providing total safety of operations in the test territory.

(b) The FRA Office of Safety shall approve the final specifications for the test installation.

(c) The final specifications shall be filed with the Railroad Safety Board and served on all parties to this proceeding and made a part of the public record of this case.

5. Installation and operation of the VTCS system shall be monitored by the FRA Office of Safety. Reports shall be submitted by the B&O every six months during the test which fully reflect the operating experience of the VTCS.

Dated: October 7, 1974.

G. ROGERS,
Chairman, Railroad Safety Board, Federal Railroad Administration.

[FR Doc.76-16041 Filed 6-2-76;8:45 am]

Office of Hazardous Materials Operations

MOTOR, RAIL, CARGO AND AIRCRAFT TRANSPORTATION

Notice of Grants of Applications for Exemptions

In accordance with the procedures governing the application for, and the processing of, exemption from the Department of Transportation's Hazardous

Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given of the exemptions granted April 1976. The modes of transportation involved are identified by a number in the "Nature of Exemption" portion of the table below as follows: 1—Motor vehicle; 2—Rail freight; 3—Cargo vessel; 4—Cargo-only aircraft; 5—Passenger-carrying aircraft.

Application number prefixed by the letters EE represent applications for Emergency Exemptions.

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption
			Grants	
E76-52	DOT-E 2805	Dow Chemical Co., Midland, Mich.	49 CFR 172.5, 173.315 (a)(I).	To ship liquefied ethylene in insulated cargo tanks equipped with safety relief valves and complying with § 173.315(i). (Mode 1.)
E76-22	DOT-E 3897	Dow Chemical Co., Midland, Mich.	49 CFR 173.139(a)(6); 46 CFR 146.21-100.	To ship ethylene imine, inhibited in DOT 4B240 and 4BW240 cylinders. (Modes 1, 3).
E76-58	DOT-E 4291	Pacific Engineering and Products Co. of Nevada, Henderson, Nev., and United Technologies, Sunnyvale, Calif.	49 CFR 173.239a(a)(2).	To ship ammonium perchlorate in a 74 ft³ capacity aluminum portable tank. (Modes 1, 2).
E76-95	DOT-E 4652	U.S. Industrial Chemicals Co., New York, N.Y.	49 CFR 173.119(b)(2), 173.125(a)(1).	To ship alcohols and flammable liquids, n.o.s. having flash points above 20° F in metal drums of 5-gal capacity each, made of 26 gauge steel and otherwise complying with DOT specification 17-E except that they are not embossed with the specification number. (Modes 1, 2.)
E76-93	DOT-E 4988	Advanced Instruments, Inc., Needham Heights, Mass.	49 CFR 173.124(a)(3); 14 CFR 103.9(a)(3).	To ship ethylene oxide in inside aluminum cartridges each containing no more than 135 g of ethylene oxide, with no more than 12 cartridges individually separated and packed in an outside DOT specification 12B fiberboard box with top and bottom pads and an inside perimeter liner. (Modes 1, 2, 4.)
E75-141	DOT-E 5022	Aerojet Solid Propulsion Co., Sacramento, Calif., and The Boeing Co., Seattle, Wash.	49 CFR 174.525(c), 174.526(L), 174.529 (a), 177.835(c)(1).	To become a party to Exemption 5022. (See application No. E75-118 and E76-313). (Modes 1, 2.)
E75-134	DOT-E 5112	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.	49 CFR 173.62(a), 177.834 (L)(3).	To become a party to Exemption 5112. (Mode 1.)
E76-133	DOT-E 5615	E.I. du Pont de Nemours & Co., Inc., Wilmington, Del.	49 CFR Part 173; 46 CFR 146.21-100, 146.23-100, and 146.25-200.	To ship certain hazardous materials in a 6½-gal non-DOT specification glass carboy overpacked in an expandable polystyrene overpack made from beads or granules of polystyrene and having a minimum density of 1.7 lb/ft³. (Modes 1, 2, 3.)
E76-128	DOT-E 5690	Dow Chemical Co., Midland, Mich.	49 CFR 173.182(c).....	To ship nitro carbo nitrate in a DOT specification 44P plastic bag made of film not less than 0.005 in thick. (Modes 1, 2.)
E76-47	DOT-E 5854	Sea-Land Service, Inc., Elizabeth, N.J.	49 CFR Part 173; 46 CFR 146.21-100, 146.26-100.	To ship flammable and combustible liquids in portable tanks having a design pressure of 14.9 lb/in²g and complying with DOT specification MC-306 with certain exceptions. (Modes 1, 2, 3.)
E76-32	DOT-E 6092	Fisher Scientific Co., Fair Lawn, N.J.	49 CFR 173.25(b).....	To become a party to Exemption 6092. (See application No. 75-194). (Modes 1, 2.)
E76-88	DOT-E 6126	Dow Chemical Co., Midland, Mich.	49 CFR 173.253(a).....	To ship chloracetyl chloride in a new DOT specification 6D cylindrical steel overpack with either a DOT 2S polyethylene container or a polyethylene container complying with DOT specification S2L with certain exceptions. (Mode 1.)
E75-203	DOT-E 6128	U.S. Navigation Inc., New York, N.Y.	49 CFR 173.119(f), 173.125(a), 173.245(a); 46 CFR 146.21-100, 146.23-100.	To ship certain flammable liquids and certain corrosive liquids in stainless steel portable tanks, each having a nominal water capacity of 5,940 U.S. gal. (Modes 1, 2, 3.)
E76-63	DOT-E 6170	Eaton Corp., Southfield, Mich.	49 CFR 173.302(a).....	To ship nitrogen charged to 3500 lb/in²g. at 70° F in an inside non-DOT specification nonrefillable steel cylinder of not over 277 in³ volumetric capacity. (Mode 1.)

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption
			Grants	
E76-28	DOT-E 6174	Great Lakes Chemical Corp., Eldorado, Ark.	49 CFR 173.357 (b)	To ship chlorpicrin mixtures in a new DOT specification 5B metal drum having a capacity not greater than 33 gal. (Mode 1.)
E76-94	DOT-E 6211	Foote Mineral Co., Exton, Pa.	49 CFR 173.247 a(a)	To ship vanadium oxytrichloride in a DOT specification MC-310, MC-311 or MC-312 cargo tank. (Mode 1.)
E76-97	DOT-E 6220	Economics Laboratory, Inc., St. Paul, Minn.	49 CFR 173.377(a)(4)	To ship hypochlorite solutions in a DOT specification 21P fiber drum overpack with an inside DOT specification 2S, 2SL, 2T, or 2U polyethylene container. (Mode 1.)
E75-202	DOT-E 6253	U.S. Navigation, Inc., New York, N.Y.	49 CFR 173.119, 173.125, 173.245, 173.247, 173. 266, 173.294; 46 CFR 146.21-100, 146.23-100.	To ship certain flammable and corrosive liquids in non-DOT specification portable tanks having a nominal water capacity of 5,040 U.S. gal. with certain exceptions. (Modes 1, 2, 3.)
E75-167	DOT-E 6299	Airco, Inc., Springfield, N.J., and	49 CFR 173.315(a)(1)	To ship cryogenic liquid oxygen, nitrogen and argon in a non-DOT specification portable tank having a stainless steel inner tank, insulated with multiple layers of aluminum foil and fiber glass sheeting, and evacuated, and having a protective outer steel jacket. (Mode 1.)
E75-147	DOT-E 6299	Minnesota Val. Eng., New Prague, Minn.		
E76-40	DOT-E 6333	Allied Chemical Corp., Morristown, N.J.	49 CFR 173.245 (a)(31), 173.263 (a)(10), 173.268 (b)(3), 173.272 (i)(25), 178.343-1(b).	To ship certain corrosive liquids in one French-made glass lined cargo tank meeting all requirements of DOT specification MC-312, except for the ASME code symbol required in S178.343-1(b). (Mode 1.)
E76-124	DOT-E 6475	FMC Corp., Philadelphia, Pa.	49 CFR 173.266(b); 46 CFR 146.23-100.	To ship hydrogen peroxide solution in a DOT specification 37P steel drum with an inside DOT specification 2U polyethylene container having a minimum thickness of .015 mil, not over 15-gal capacity. (Modes 1, 2, 3.)
E76-83	DOT-E 6589	Lear Siegler Inc., Anaheim, Calif., and Robertshaw Controls Co., Anaheim, Calif.	49 CFR 173.302(a)(1)	To ship compressed air in a pressure vessel assembly consisting of 5/16-in diameter stainless steel tubing in a double coil configuration. (Modes 1, 2, 4.)
E76-31	DOT-E 6614	GPS Industries, Industry, Calif.	49 CFR 173.263(a)-(28), 173.277(a)(6).	To ship hydrochloric acid or hypochlorite solutions in polyethylene bottles of 1-gal capacity, inside an open-top heavy wall, high density polyethylene box. (Mode 1.)
E76-41	DOT-E 6632	Roper Plastics, Inc., Norwalk, Calif.	49 CFR 173.217(a)	To ship certain oxidizing materials in a 6-gal or 3½-gal capacity single trip, molded polyethylene "Saturn 6" or "Saturn 3½" container with a self-fastening hi-head cover without overpack. (Modes 1, 2.)
E75-182	DOT-E 6692	Eaton Corp., Washington, D.C.	49 CFR 173.302(a)(1), 178.65.	To ship compressed gas, n.o.s., in a non-refillable, seamless steel cylinder built in compliance with DOT specification 39, with certain exceptions. (Modes 1, 2, 4.)
E76-59	DOT-E 6731	Department of Defense, Washington, D.C.	49 CFR 173.286(b)	To ship chemical kits in inside small vials and ampoules, cushioned with sufficient absorbent cushioning material to completely absorb the contents in the event of leakage. (Modes 1, 4.)
E76-8	DOT-E 6756	Stauffer Chemical Co., Westport, Conn.	49 CFR Part 173; 46 CFR 146.21-100, 146.23-100, 146.25-200.	To become a party to DOT-E 6756. (See application No. 75-163). (Modes 1, 2, 3.)
E76-130	DOT-E 6757	FMC Corp., Philadelphia, Pa.	49 CFR 173.266(f)(2); 46 CFR 146.23-100.	To ship hydrogen peroxide in a non-DOT specification aluminum portable tank having 25/32-in Sillan rockwool insulation. (Modes 1, 3.)
E76-123	DOT-E 6764	Hercules, Inc., Wilmington, Del.	49 CFR 173.11(a)(1)	To ship detonating fuzes, class C explosives in a DOT specification 12H fiberboard box as specified in 49 CFR 173.113(a)(1) with a suitable filler or lining material in lieu of inside pasteboard cartons. (Mode 1.)
E76-64	DOT-E 6765	Airco Industrial Gases, Murrayhill, N.J.	49 CFR 172.5, 173.315; 46 CFR 146.24-100.	To ship liquefied hydrogen and liquefied helium in an insulated containerized portable tank having a design pressure of 64 lb/in ²g and a nominal water volume of 11,000 gal. (Modes 1, 3.)
E76-116	DOT-E 6768	Air Products & Chemicals, Inc. Allentown, Pa.	49 3FR 173.315(a)(1)	To ship carbon monoxide, cryogenic liquid in a non-DOT specification insulated cargo tank having a nominal capacity of 6,500 gal. (Mode 1.)
E76-116	DOT-E 6768	PPG Industries, Barberton, Ohio.		
E76-116	DOT-E 6768	Van de Mark Chemical Co., Lockport, N.Y.		
E76-44	DOT-E 6926	Union Carbide Corp., Bound Brook, N.J.	49 CFR 173.365(a)(6), 178.238-3 and Note 1 thereto; 46 CFR 146.25-200.	To ship a poisonous solid, n.o.s., or insecticide, dry in a 5-ply DOT specification 44D extensible kraft paper bag having a minimum total basis weight of 260 lb and an outer ply of no less than 60 lb basis weight. (Modes 1, 2, 3.)

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption
		Grants		
E76-84	DOT-E 6963	I.S.C. Chemicals Ltd., (U.S. agent: Rio-Tinto Delaware, Inc.)	49 CFR 173.264(a), 173.264(b); 46 CFR 146.23-100.	To ship hydrofluoric acid and anhydrous hydrofluoric acid in a non-DOT specification portable tank. (Modes 1, 3.)
E75-177	DOT-E 6964	Union Carbide Corp., Bound Brook, N.J.	49 CFR 173.365(a); 46 CFR 146.25-200.	To ship a class B poisonous solid in non-DOT specification multiwall reinforced bag fabricated of polybutylene film, having a maximum volumetric capacity of 50 ft³. (Modes 1, 2.)
E-75-171	DOT-E 6969	State of Kansas, Wichita, Kans.	49 CFR 171.6(b)(1); 14 CFR 103.7(a) and 103.31(a).	To become a party to DOT-E 6969. (Mode 5.)
E76-174	DOT-E 6971	Chem Service Inc., West Chester, Pa.	49 CFR 173.286(b); 46 CFR 146.23-100.	To ship chemical kit in metal boxes or single or multiple drawer metal cases having inside glass bottles each containing not more than 20 ml or 10 g of a corrosive material or other hazardous materials packed with or without non-regulated articles. (Modes 1, 2, 3, 4.)
E76-45	DOT-E 6976	Monsanto Co., St. Louis, Mo.	49 CFR 173.304(a)(1)..	To ship a liquefied flammable compressed gas, in a non-DOT specification steel tank designed to ASME code, for 225 lb/in²g service pressure and having a volumetric capacity not exceeding 108 gal. (Mode 1.)
E76-82	DOT-E 6992	Grumman AeroSpace Corp., Bethpage, N.Y.	49 CFR 173.302(a)(1)..	To ship anhydrous ammonia or anhydrous ammonia-nitrogen mixture in a reservoir-condenser unit forming an integral part of a radiator panel. (Modes 1, 4.)
E75-115	DOT-E 7025	Airco Cryoplants Corp., Providence, N.J.	49 CFR 172.5, 173.315(a)(1).	To ship helium and hydrogen in a 12,700-gal nominal water capacity cargo tank having a stainless steel inner tank, insulated with myiar between glass sheets and evacuated, with a protective outer steel jacket, without liquid nitrogen shield. (Mode 1).
E76-87	DOT-E 7035	Owens-Illinois, Toledo, Ohio.	49 CFR Part 173 and 178.19; 46 CFR 146.23-100.	To ship corrosive liquids and a corrosive solid in a non-DOT specification reusable molded polyethylene container of 55 gal (T-55B) capacity for use without overpack. (Modes 1, 2, 3.)
E76-85	DOT-E 7036	McDonnell Douglas Astronautics Co., Huntington Beach, Calif.	49 CFR 173.304(a)(1); 46 CFR 146.24-100.	To ship anhydrous ammonia in nonrefillable heat pipes (with attached heat dissipating fins) fabricated from ¾-inch Schedule 40 pipe and 1½-in tubing both fabricated from 6063-T1 aluminum. (Modes 1, 2, 3, 4, 5.)
E76-131	DOT-E 7071	Philip A. Hunt Chemical Corp., Palisades Park, N.J.	49 CFR 173.242(d); 46 CFR 146.23-100.	To ship corrosive liquids, n.o.s., in two securely closed inside non-DOT specification polyethylene bottles containing not over 5 qts each. (Modes 1, 2, 3.)
E76-69	DOT-E 7082	Igloo Corp., Houston, Tex.	49 CFR Part 173 and 178.19; 46 CFR 146.23-100.	To ship corrosive liquids in a non-DO specification molded polyethylene container of 55-gal marked (rated) capacity, for use without overpack. (Modes 1, 2.)
E76-72	DOT-E 7090	Ireco Caribbean, Inc., San Juan, P.R.	46 CFR 146.22-40(b)....	To extend the expiration date of DOT-E 7090. (Mode 3.)
E76-11	DOT-E 7229	Dow Chemical Co., Midland, Mich.	49 CFR 173.304(a)(2)..	To ship sulfuryl fluoride in a DOT specification 3E cylinder having a service pressure of not more than 1800 lb/in²g with an outside diameter of not more than 2 in and a length of not more than 24 in. (Modes 1, 2, 3, 4.)
E76-15	DOT-E 7231	American Cyanamid Co., Wayne, N.J.	49 CFR 173.245(a).....	To ship corrosive liquid, n.o.s., in a collapsible rubber container named "Sealdtank." (Mode 1.)
E76-4	DOT-E 7232	Virginia Chemicals, Inc., Portsmouth, Va.	49 CFR 172.5, 173.119 (a)(3), (4), (12), (17), 173.148; 46 CFR 146.21-100.	To ship monoethylamine, 70 percent in water as prescribed for flammable liquids, n.o.s., in 49 CFR 173.119(a)(3), (4), (12), and (17) with certain exceptions.[1](Modes 1, 2, 3.)
E76-2	DOT-E 7234	E. I. du Pont de Nemours & Co., Wilmington, Del.	46 CFR 146.21-100(g), 146.23-100.	To ship corrosive liquids and flammable liquids in a DOT specification 17E metal drum of 55-gal capacity which may be stowed "under deck." (Mode 3.)
E75-145	DOT-E 7235	Luxfer USA Ltd., Riverside, Calif.	49 CFR 173.302(a)(1)..	To ship compressed air in a non-DOT Specification seamless aluminum cylinder with hoop reinforcement provided by filament-wound reinforced plastic. (Mode 1.)
E76-9	DOT-E 7236	Airwick Industries, Inc., Carlstadt, N.J.	49 CFR 173.217(b); 46 CFR 146.22-200.	To ship trichloro-s-triazinetrione in four high-density polyethylene containers, each containing not more than 4 lb of material and each sealed in a 2-mil polyethylene bag, overpacked with a high density polyethylene container. (Modes 1, 2, 3.)

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption
		Grants		
E76-37	DOT-E 7237	Phillips Petroleum Co., Bartlesville, Okla.	46 CFR 146.07-40(b), 146.24-55(a).	To ship flammable compressed gases and flammable liquids properly packaged in accordance with the applicable requirements of 46 CFR and 49 CFR in the same "container." (Mode 3.)
E75-164	DOT-E 7238	Aluminum Co. of America, New York, N.Y.	46 CFR 146.27-100	To ship uncoated aluminum powder in steel barrels or drums meeting the standard packaging requirements of 49 CFR 173.24, not exceeding 650 lb gross weight per barrel or drums. (Mode 3.)
E-76-5	DOT-E 7240	Hysol Division, The Dexter Corp., Olean, N.Y.	49 CFR 173.249; 46 CFR 146.23-100.	To ship alkaline corrosive liquids, n.o.s., in a DOT specification 12B fiberboard box with inside metal containers. (Modes 1, 2, 3.)
E76-76	DOT-E 7241	Thiokol/Dynachem Corp., Tustin, Calif.	46 CFR 146.23-100	To ship corrosive liquid, n.o.s., in a DOT-34, specification high density polyethylene container of not more than 5-gal capacity. (Mode 3.)
E76-118	DOT-E 7243	Alken-Murray Corp., New York, N.Y.	46 CFR 146.23-100	To ship 32 percent Hydrochloric acid solution in a DOT-34 5-gal polyethylene container. (Mode 3.)
E76-89	DOT-E 7244	United Airlines, San Francisco, Calif.	14 CFR 103.3(a), 103.7(b)(3).	To transport organ transplant modules containing certain compressed gases. (Mode 5.)
E76-119	DOT-E 7245	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.	49 CFR 173.249a; 46 CFR 146.23-100.	To ship certain corrosive liquids in open-head fiber drums lined or coated on the inside with a plastic material, or open-head metal drums, neither exceeding 55-gal capacity. (Mode 3.)
E76-91	DOT-E 7246	Department of the Navy, Washington, D.C.	46 CFR 146.29-11(c)(16), 146.29-42.	To ship military explosives in U.S. Army MILVAN containers with certain exceptions. (Mode 3.)
E76-120	DOT-E 7247	Naval Weapons Station, Concord, Calif.	46 CFR 146.29-11(c)(19), 146.29-75(b)(2).	To authorize the use of 4 by 6 in uprights in lieu of the required 6 by 6 in uprights. (Mode 3.)
E76-133	DOT-E 7248	M. J. Baxter Drilling Co., El Cajon, Calif.	46 CFR 146.22-30(c)(1), 146.22-40(b).	To authorize nitro carbo nitrate and ammonium nitrate fertilizer packaged in multiwall paper bags with a polyethylene liner to be loaded/handled/off-loaded at nonisolated facilities. (Mode 3.)
E75-162	DOT-E 7249	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.	49 CFR 173.128(a)	To ship certain flammable liquids in DOT specification 34 reusable molded polyethylene container of 30-gal capacity. (Mode 1.)
E76-79	DOT-E 7259	Stauffer Chemical Co., Westport, Conn.	46 CFR 146.22-100	To ship phosphorus pentasulfied in DOT specification 56 metal portable tanks with a maximum gross weight of 5,000 lb per tank. Mode 3.)
E76-107	DOT-E 7261	Monsanto Co., St. Louis, Mo.	49 CFR 173.190(d)	To ship phosphorus solid sludge residue in three 10,400-gal and two 2,800-gal non-DOT specification storage tanks. (Mode 2.)
E75-111	DOT-E 7262	Hercules Inc., Wilmington, Del.	49 CF 173.268(c)(2), 179.201-1(a).	To ship nitric acid of 98 percent concentration in a DOT specification 111A60ALW2 tank car with a safety relief valve setting of 45 lb/in.². (Mode 3.)
		Emergency exemptions		
EE76-398	DOT-E 6243	Liquid Carbonic Corp., Chicago, Ill.	49 CFR 173.315 (a)	To ship liquefied carbon monoxide in accordance with the terms of SP 6243 as it was in effect on Apr. 30, 1976. (Mode 1.)
EE76-399	DOT-E 7250	Atlantic Container Lines, New York, N.Y., and	46 CFR Part 146	Authorizes the stowage and segregation of hazardous commodities in accordance with the recommendations in the International Maritime Dangerous Goods Code in lieu of 46 CFR 146. (Mode 3.)
EE76-277	DOT-E 7250	U.S. Lines, Inc., New York, N.Y., and		
EE76-285	DOT-E 7250	Seatrain Lines, Inc., Weehawken, N.J.		

DENIALS

D-7414—Request by Seaboard World Airlines, Jamaica, New York—14 CFR 103.9—to ship detonating fuzes aboard a DC-8 aircraft from John F. Kennedy Airport to Frankfurt, Germany, denied 4/22/76 (mode 4).

D-7415—Request by Atomized Metal Powder Co., Flemington, New Jersey—46 CFR 146.21-100—to ship aluminum powder in 55 gallon drums at a weight of 650 pounds each, denied 4/22/76 (mode 3).

D-7416—Request by Bermite Division, Whitaker Corporation, Saugus, California—49 CFR 173.91—to transport special fireworks from California to Georgia, denied 4/30/76 (mode 1).

ALAN I. ROBERTS,
Director, Office of Hazardous Materials Operations.

[FR Doc.76-16950 Filed 6-2-76;8:45 am]

[Docket No. EX76-4; Notice 1]

National Highway Traffic Safety Administration

DAIHATSU MOTOR CO. LTD.

Petition for Temporary Exemption From Federal Motor Vehicle Safety Standard

Daihatsu Motor Co. Ltd. of Osaka, Japan, has petitioned for an exemption until July 15, 1978, from portions of two Federal motor vehicle safety standards that apply to motorcycles. The basis of the petition is that it will facilitate the development and field evaluaion of a low-emission electric vehicle.

The vehicle for which exemption is sought is the Daihatsu Trike, Model B20, an electric tricycle which has been developed for short distance on-road use. The B20's headlamp does not meet minimum photometric requirements specified for headlamps of motor-driven cycles in Motor Vehicle Safety Standard No. 108, Lamps, Reflective Devices, and Associated Equipment, nor will its parking brake system hold it for 5 minutes on a 30 degree grade in the reverse direction as required by Motor Vehicle Safety Standard No. 122, Motorcycle Brake Systems. The company argues that these nonconformances do not degrade the overall safety of the vehicle. The Daihatsu headlamp is said to be able to reveal an individual or vehicle at a distance of 300 feet, while it has its ability to stop within 15 feet from its top speed of 17.5 mph. Its maximum climbing ability is only 10.5 degrees which renders it unlikely ever to be parked on a grade that exceeds it. Its parking brake system however, holds it in a reverse direction on a 20-degree grade, but the vehicle begins to slide at any grade exceeding 20 degrees. Petitioner argues that the exemption would allow evaluation of "one step of electric motor vehicle evolution". It will work to conform by July 15, 1978, and in the interim will not export more than 2,500 units of exempted B20's to the United States in any 12-month period for which an exemption is granted.

This notice of receipt of a petition for a temporary exemption is published in accordance with the NHTSA regulations on this subject (49 CFR 555.7), and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

Interested persons are invited to submit comments on the petition for exemption of Daihatsu Motor Co. Ltd. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street, S.W., Washington, D.C. 20590. It is requested but not required that five copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered. The application and supporting materials, and all comments received, are available

for examination in the docket both before and after the closing date. Comments received after the closing date will also be filed and will be considered to the extent practicable. Notice of final action on the petition will be published in the FEDERAL REGISTER.

Comment closing date: June 25, 1976.

(Sec. 3, Pub. L. 92-548, 86 Stat. 1159 (15 U.S.C., 1410); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8.)

Issued on May 25, 1976.

ROBERT L. CARTER,
Associate Administrator,
Motor Vehicle Programs.

[FR Doc.76-15716 Filed 6-2-76;8:45 am]

[Docket No. IP76-6; Notice 1]

GENERAL MOTORS CORP.

Petition for Exemption From Notice and Recall for Inconsequential Noncompliance

General Motors Corporation of Warren, Michigan ("GM" herein) has petitioned to be exempted from the notification and recall requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 et seq.) for an apparent noncompliance with 49 CFR 571.-110, Motor Vehicle Safety Standard No. 110, Tire Selection and Rims for Passenger Cars, on the basis that it is inconsequential as it relates to motor vehicle safety.

A total of 4,964 station wagons with front bucket seats have been manufactured in the 1974, 1975, 1976 model Chevrolet Malibu and Buick Century passenger lines. The tire inflation placard on these station wagons indicate that their front occupant capacity is "3" when it is in fact two. Corrections have been made in production. GM argues that the noncompliance is inconsequential since loading a vehicle to the 1200 pounds shown on the incorrect placard as its total vehicle capacity "will not exceed the total load carrying capacity of these vehicles because they are identical in this regard to station wagons equipped with bench seats".

This notice of receipt of a petition is published under section 157 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1417) and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

Interested persons are invited to submit written data, views and arguments on the petition of General Motors Corporation described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street, S.W., Washington, D.C. 20590. It is requested but not required that five copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice will be published in the FEDERAL REGISTER pursuant to the authority indicated below.

Comment closing date: July 12, 1976.

(Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8.)

Issued on May 25, 1976.

ROBERT L. CARTER,
Associate Administrator,
Motor Vehicle Programs.

[FR Doc.76-15944 Filed 6-2-76;8:45 am]

AMERICAN INDIAN POLICY REVIEW COMMISSION

NOTICE OF HEARINGS

Notice is hereby given pursuant to the provision of the Joint Resolution establishing the American Indian Policy Review Commission (Pub. L. 93-580), as amended, that hearings related to their proceedings will be held in conjunction with Task Force No. 5's investigation of "Indian Education."

Hearings have been scheduled June 18, 1976, from 9:00 a.m. to 5:00 p.m. at the Pierre Indian Learning Center, Route No. 3, Pierre, South Dakota.

The American Indian Policy Review Commission has been authorized by Congress to conduct a comprehensive review of the historical and legal developments underlying the unique relationships of Indians to the Federal Government in order to determine the nature and scope of necessary revision in the formulation of policies and programs for the benefit of Indians. The Commission is composed of eleven members, three of whom were appointed from the Senate, three from the House of Representatives and five members of the Indian Community elected by the Congressional members.

The actual investigations are conducted by eleven task forces in designated subject areas. These hearings will focus on issues related to Task Force No. 5's investigation of Indian Education.

Persons wishing to testify or desiring further information should call Albert Jones at 605-224-8661 or Yvonne Misiaszek at 509-456-6824.

Dated: May 28, 1976.

KIRKE KICKINGBIRD,
General Counsel.

[FR Doc.76-16201 Filed 6-2-76;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket 29326; Order 76-5-138]

VARIOUS CARRIERS

Capacity-Controlled Excursion Fares; Order of Investigation and Suspension

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 27th day of May, 1976.

By tariff revisions[1] marked to become effective on June 1, 1976, all of the trunkline carriers and all but one local service carrier propose various revisions in the discount structure of the capacity-controlled excursion fares.[2] The proposed revisions would reduce the effective discount of the various fare options as follows:

Round-trip excursion fare

Excursion fare option[3]	Percentage of 1-way coach fare[4]	
	Present	Proposed
Peak/day	160	170
Peak/night	150	[5] Canceled
Offpeak/day	140	160
Offpeak/night	130	150
Peak/economy	(6)	(6)
Offpeak/economy	(6)	(6)

[1] Excursion fares are typically published in the tariff at the full round-trip price. Coach fares, on the other hand, appear only for 1-way transportation.

[2] Peak is presently defined as the period June 1 through Sept. 15 inclusive. Offpeak is the corresponding period from Sept. 16 of 1 year through May 31 of the following year, inclusive. Night is generally defined as the period from 10 p.m. to 4 a.m., with exceptions ranging from as early as 9 p.m. to as late as 7:30 a.m.

[3] Under the pattern of proposed revisions, peak/night fares would be superfluous because the applicable discount (20 pct) would be identical to the 1-way standard night coach discount.

[4] 90 pct of the applicable peak/day or offpeak/day fare.

National Airlines, Inc. (National) also proposes to cancel entirely its "Freedom" fares in short-haul markets (under 750 miles).

In support of their proposed changes, the carriers allege that excessively steep promotional discounts have seriously depressed yield; that with the recent upward trends in traffic growth there is no longer a need for such steep discounts; and that over the past six to eight months the Board has repeatedly admonished the carriers to reevaluate the role which discount fares play in the overall fare structure, with an eye toward reducing their number as well as the size of the discounts. As additional support for its proposed cancellation in short-haul markets, National alleges that it "was forced into these fares on a system-wide basis against its better judgment by action of competitive carriers," and that "Freedom" fares in short-haul markets have excessively eroded yield. Many of the carriers have supplied profit impact analyses which demonstrate the positive net effect on yield and profits which will ensue. National has included a breakdown of the alleged additional costs it has incurred in marketing "Freedom" fares.

A complaint has been filed by the Board's Office of the Consumer Advocate (OCA) (Docket 29265) requesting either rejection, or suspension and investigation of the proposed changes in the "Free-

[1] Airline Tariff Publishing Company, Agent, C.A.B. 259.

[2] These fares are known by such copyrighted names as "Revolutionary" fares (for American Airlines, Inc.), "Discover America" fares, (for Trans World Airlines, Inc.), and "Freedom" fares (for United Air Lines, Inc.). For convenience, we shall refer to these fares by the name copyrighted by United which first proposed the capacity-control concept on which they are all based.

dom" fare discount structure,[3] unless "the Board require(s) the carriers to transport—at the discount percentage level in effect on the date of purchase—all passengers who have purchased, booked and/or confirmed space for air travel under the referenced (*i.e.* "Freedom") discount fares on or before May 31, 1976 or as of the date of the Board's decision * * *." The complainant alleges that the proposed changes have been insufficiently justified by the proponent carriers, especially with respect to considerations relating to elasticity of demand; that the original discount-fare structure was heavily advertised at the time of its inception and many passengers made long-term advance reservations in good faith, believing that the advertised structure would apply when they intended to travel; that the aggregate impact of three general-fare increases[4] on top of the proposed structural increases in the percentage relationship to coach fares may significantly depress traffic growth; and that passengers who made their reservations for the peak summer season as long ago as last January (when "Freedom" fares were first announced) now face additional collections on their tickets of as much as 11.5 percent if they still wish to travel. OCA points to a recent precedent when National advanced the expiration date of its "No Frills" fares but applied for, and was granted, exemption authority to carry passengers already ticketed at those fares for travel beyond the effective date of cancellation, and that in the instant case no carrier proposing structural changes in the "Freedom" fare discount has applied for similar exemption authority. It is contended that the proposed restructuring is "nothing more than a bait-and-switch scheme * * * constituting little more than a deceptive business practice and an unfair method of competition."

American and United have answered OCA's complaint. American alleges that OCA does not challenge the carriers' right of managerial discretion to establish the type and level of discount fares; that American shares OCA's concern about the burden the fare increase places upon passengers who have made plans and purchased tickets prior to the effectiveness of the increase; and that American has taken all possible steps to avoid hardship for such passengers. United alleges that contrary to OCA's suggestion that the carriers have increased discount fares solely because much less price stimulation is needed to generate additional discretionary travelers, the increases are necessitated by the carriers' current dire financial need and by the Board's discount-fare disallowance methodology; that in view of the latter consideration the Board cannot now logically find the proposed increases unlawful; and that the Board cannot find that the instant proposal is not unlawful and, at the same time, find under section 416(b) of the Act that enforcement of that tariff is an undue burden and not in the public interest. United further alleges that adherence to the tariff will not be an undue burden to the passenger—that there is no compulsion in the "Freedom" fare tariff rules to make reservations and to purchase the tickets significantly in advance of travel.

Upon consideration of the various tariff filings, the justifications, the complaint, and answers thereto, and all other relevant matters, the Board finds that the proposed fares may be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and should be investigated. The Board further concludes that the proposals should be suspended pending investigation.

The Board has previously found[5] that, in the long run, the cost of carrying discount-fare passengers is indistinguishable from the fully allocated cost of carrying full-fare passengers. However, the Board also recognized that excess capacity can and will exist from time to time in the short run, and that corresponding adjustments in capacity cannot readily be accomplished within the same short period of time in which demand fluctuates. This characteristic of scheduled air transportation is, essentially, the justification for discount fares—to fill otherwise empty seats during temporary periods of lagging traffic demand. The fares here under consideration were proposed at such a time and the outlook, although encouraging, was uncertain.

Subsequently, however, traffic and load factors have improved dramatically. In these circumstances, a decrease in the "Freedom" fare discounts (as well as National's proposed elimination in shorter-haul markets) seems an entirely appropriate reflection of the industry's lessening need to fill the diminishing number of "otherwise empty seats." Conversely, with load factors improving in recent months, the possibility of displacing full passengers by those traveling at reduced fares becomes increasing probable. This can only lead to unnecessary dilution in yield and/or the operation of additional capacity to accommodate discount-fare traffic. Either result would further widen the gap between the industry's "actual" and "ratemaking" return on investment (ROI), and make more difficult its efforts toward a much needed improvement in earnings.[6] We are therefore unable to conclude that the proposed reduction in the excursion fare discounts is unreasonable, *per se*.

We share the complainant's concern, however, with the impact which these changes will have on passengers long ticketed for travel commencing on or after June 1. Several conditions inherent in "Freedom" fares encourage early bookings. This factor is compounded for the traveler since the fares must be paid for no later than 10 days after reservations are made. Moreover, aside from the reduction in this discount, "Freedom" fares reflect the three general-fare increases which have been implemented this year. The carriers' tariffs have long contained a rule that the applicable fare is that in effect on the date transportation commences and, in our opinion, this rule is generally equitable, particularly in the absence of an advance-purchase requirement. On the other hand, in view of the advance-reservation and purchase requirements of the "Freedom" fares, we question the equity of operation of the rule in this instance.

To date, no carrier has proposed to provide relief for passengers who made reservations under the "Freedom" fares prior to the present filings, although precedent for such action exists. This past April, when National elected to cancel its "No Frill" fares prior to their marked expiration date, the Board approved its request for an exemption to carry advance-booked "No Frill" passengers booked prior to the fares' expiration date without an additional fare collection.[7] In approving that request the Board stated that:

> Failure to do so would clearly work an undue hardship on those passengers who purchased "No Frill" tickets in the reasonable expectation that the fares would be in effect for the period of their intended travel.

Notwithstanding our conclusion that the proposed increase in excursion fares is not unreasonable, *per se*, in our opinion it would place an undue burden upon the many passengers who were encouraged to utilize air transportation for their Bicentennial summer vacations and to buy their tickets early by the initial low level of the "Freedom" fares. In many instances passengers made their reservations weeks or months in advance because of the limited availability of the fares and, due to the advance-purchase requirement (within 10 days after reservations are made), these passengers tied up their funds for long periods of time. The Board recognizes that the carriers are faced with a very real problem, and we do not wish to unnecessarily delay increases which are sound in principle. However, factors other than the economic impact on the carriers must be considered, and in all the circumstances we are unable to conclude that it would be in the public interest to subject affected passengers to the additional increases proposed (in addition to cost-based general-fare increases previously noted).

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[3] While OCA's complaint is specifically directed only toward those carriers who filed "Freedom" fare changes on or after April 30, 1976, its substance goes to the heart of the issues here involved. For convenience we have chosen to consolidate the filings in this order and will thus consider OCA's complaint to have broad application.

[4] Orders 76-1-113, January 29, 1976; 76-2-120, February 27, 1976; and 76-4-182, April 30, 1976.

[5] *Domestic Passenger-Fare Investigation*, Phase 5.

[6] By Order 76-5-93, the Board suspended a two-percent fare increase proposed by Eastern Air Lines, Inc. Although the industry's actual ROI for the base period used to evaluate revenue need was only 2.41 percent, the ratemaking ROI after all adjustments, was 13.76 percent, including the proposed two-percent increase. The present extensive use of discount fares is worth almost four ROI points of this disparity.

[7] Order 76-4-63, April 14, 1976.

We are prepared to grant on short notice, proposals which provide for the carriage of "Freedom" fare passengers, who made reservations based on the original discounts approved (Order 75-9-84), at those same discounts from the full coach fare in effect at the time the passenger commences travel. This can be accomplished by publishing appropriate provisions in the governing rules tariff. In this event, and to expedite matters, we are also prepared to vacate this suspension insofar as it applies to carriers who have made the change described above.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204, 403, 404 and 1002 thereof,

It is ordered, That:

1. An investigation be instituted to determine whether the fares and provisions described in Appendix A attached hereto,[8] and rules, regulations, and practices affecting such fares and provisions, are or will be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and, if found to be unlawful, to determine and prescribe the lawful fares and provisions, and rules, regulations, or practices affecting such fares and provisions;

2. Pending hearing and decision by the Board, the fares and provisions described in Appendix A hereto [8] are suspended and their use deferred to and including August 29, 1976, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board;

3. Except to the extent granted herein, the complaint in Docket 29265 is hereby dismissed;

4. The investigation ordered herein be assigned before an Administrative Law Judge of the Board at a time and place hereafter to be designated; and

5. Copies of this order be filed in the aforesaid tariff and be served upon all scheduled certificated air carriers and the complainant in Docket 29265.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board:

PHYLLIS T. KAYLOR,
Acting Secretary.

[FR Doc.76-16078 Filed 6-2-76;8:45 am]

[8] The appendix referred to in ordering paragraphs 1 and 2 will be issued separately unless said order is vacated as discussed herein.

COMMISSION ON CIVIL RIGHTS

MICHIGAN ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Michigan Advisory Committee (SAC) to this Commission will convene at 3:00 pm. and end at 5:00 pm. and reconvene the same day at 7:00 pm. and end at 10:00 pm. on June 24, 1976, at the Common Board Room, Calvin College, Knollcrest Campus, Grand Rapids, Michigan 49506 for a regular planning meeting. On the same day at 1:00 pm. until 2:30 pm., at the Press Club of Grand Rapids, Suite 159, Frey Building, 300 Ottawa St., NW., Grand Rapids, Michigan, there will be a press conference to release the report, Civil Rights and The Housing and Community Development Act of 1974: Volume II-A Comparison With Model Cities.

Persons wishing to attend this meeting should contact the Committee Chairperson, or the Mid-western Regional Office of the Commission, 230 South Dearborn St., 32nd Floor, Chicago, Illinois 60304. Public participation is invited during that portion of the meeting designated for that purpose by Chairperson JoAnn Terry. Written statements are welcome, before or after the meeting, and may be sent to the Chairperson at 163 Madison, Detroit, Michigan 48226, or the Midwestern Regional Office. Oral statements during the meeting may be made by arrangement with staff or chairperson.

The purpose of this meeting is to review results of interim recommendations on Sault Ste. Marie Native American issues; review draft of final report to Sault Ste. Marie and to plan future programming, etc.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., May 28, 1976.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.76-16033 Filed 6-2-76;8:45 am]

NEW MEXICO ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the New Mexico Advisory Committee (SAC) to this Commission will convene at 10:00 a.m. and end at 6:00 p.m. on June 26, 1976, at the Santa Fe Hilton Inn Conference Room, 100 Sandoval, Santa Fe, New Mexico 87501.

Persons wishing to attend this meeting should contact the Committee Chairperson, or the Southwestern Regional Office of the Commission, New Moore Building, Rm. 231, 106 Broadway, San Antonio, Texas 78205.

The purpose of this meeting will serve as an orientation and planning meeting for the New Mexico SAC which was rechartered approximately one year ago and has never previously met.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., May 28, 1976.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.76-16034 Filed 6-2-76;8:45 am]

COMMODITY FUTURES TRADING COMMISSION

ADVISORY COMMITTEE ON THE ECONOMIC ROLE OF CONTRACT MARKETS

Advisory Committee Meeting

Notice is hereby given, pursuant to section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. App. I, § 10(a), that the Commodity Futures Trading Commission Advisory Committee on the Economic Role of Contract Markets ("Advisory Committee on Economic Role of Contract Markets") will conduct a public meeting on June 17, 1976 at 2033 K Street NW., Washington, D.C., in Room 531, beginning at 8:30 a.m. The objectives and scope of activities of the Advisory Committee on Economic Role of Contract Markets will be to consider and submit reports and recommendations to the Commission on the following subjects:

(1) Economic functions of futures trading. This will include consideration of such matters as:

(i) Benefits of commodity futures trading;

(ii) Appropriate standards to be utilized by the Commission under the Commodity Exchange Act, as amended, in developing a definition of bona fide hedging transactions or positions;

(iii) Appropriate standards to be utilized by the Commission under the Commodity Exchange Act, as amended, in developing a definition of international arbitrage; and

(iv) Appropriate policy criteria to be utilized by the Commission in establishing trading and position limits under the Commodity Exchange Act, as amended.

(2) Criteria for economic evaluation of existing contracts and new contract applications, including such matters as:

(i) Proliferation of contracts;

(ii) Commercial viability of contracts (including delivery points); and

(iii) Trading potential (new and inactive contracts).

At the meeting, the Committee will continue consideration of the final report to be submitted to the Commission.

The meeting is open to the public. The Chairman of the Committee is empowered to conduct the meeting in a fashion that will, in his judgement, facilitate the orderly conduct of business. Any member of the public that wishes to file a written statement with the Committee should mail a copy of that statement to Dennis Avery, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581, on or before June 8, 1976.

The Commission is maintaining a list of persons interested in the operations of this advisory committee and will mail notice of the meetings of the Committee to those persons. Interested persons may have their names placed on this list by writing Director, Office of Public Information, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581.

Dated: May 27, 1976.

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

[FR Doc.76-16016 Filed 6-2-76;8:45 am]

COUNCIL ON WAGE AND PRICE STABILITY

RISING HEALTH CARE COSTS

Public Comments and Hearings

This notice invites interested members of the public to submit written comments and to participate in public hearings concerning the problem of rising health care costs.

The Council on Wage and Price Stability (COWPS), has the responsibility to monitor and analyze inflationary developments in individual sectors of the economy The Council on Wage and Price Stability Act, as amended, directs the Council to "work with labor and management in the various sectors of the economy having special economic problems, as well as with appropriate government agencies, to improve * * * the performance of those sectors in restraining prices." It further directs that the Council shall "conduct public hearings necessary to provide for public scrutiny of inflationary problems in various sectors of the economy." (P.L. 93-387, August 24, 1974 as amended by P.L. 94-78 August 9, 1975)

The Council is particularly concerned with the problem of rising medical care costs and their potential impact upon the individual household, labor, industry and government, especially since many experts predict that inflation in this sector will continue to be of serious concern in future years.

The Council has recently published a background paper *The Problem of Rising Health Care Costs*. This report documents the extent of inflation in this sector and reviews possible explanations for the unusual behavior of medical care prices, including some of the unique structural characteristics of the industry. It also reviews the impact of rising medical care costs upon the individual household, labor, industry and government.

Notice is hereby given that, in view of the widespread interest in this subject and this paper, the Council intends to hold a series of public hearings throughout the country; the purpose of these hearings is to gather further information concerning the reasons for rapid medical cost and price increases, their impact, and possible remedies.

The first hearing will be held on June 29 in New York. Subsequent hearings will be held on July 20 in Chicago, and August 10 in San Francisco. Specific locations in those cities and times of day will be announced subsequently.

Interested members of the public, including consumers, medical care providers, insurers, government officials, and labor and management representatives are invited to present their oral or written views at these public hearings.

Comments are particularly solicited in connection with the following topics.

(1) What factors are responsible for the rapid rise in health care costs.

(2) What can and is being done by the medical care industry, by third-party payers, by the consumer, or by labor and management in other sectors of the economy to stem the increase in costs?

Requests to appear and present oral and written testimony should be submitted by June 9, 1976, together with a brief outline of the topics to be presented by the testimony, to the Council on Wage and Price Stability, 726 Jackson Place, N.W., Washington, D.C. 20506, Room 4002, Attn: Health Hearings. Inquiries should be directed to Susanne Tierney at (202) 456-7113.

The scheduling of oral testimony may be limited, depending on the number of persons requesting to be heard. A COWPS official will be designated to preside at the hearings. These will not be judicial or evidentiary-type hearings. Questions may be asked only by those conducting the hearings, and there will be no cross-examination of persons presenting statements. Other procedural rules will be announced at the beginning of each hearing.

Any written comments and information from parties not wishing to appear at the hearings should be submitted to the above address no later than August 13, 1976. All comments and information submitted will be available to the public under the provisions of the Freedom of Information Act (5 U.S.C. S552).

WILLIAM LILLEY III,
Acting Director.

MAY 28, 1976.

[FR Doc.76-16121 Filed 6-2-76;8:45 am]

GENERAL SERVICES ADMINISTRATION

[Temporary Regulation F-390]

FEDERAL PROPERTY MANAGEMENT REGULATIONS

Delegation of Authority

Subject: Delegation of authority

1. *Purpose.* This regulation delegates authority to the Secretary of Defense to represent the interests of the executive agencies of the Federal Government in a rate increase proceeding.

2. *Effective date.* This regulation is effective immediately.

3. *Delegation.*

a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government before the Federal Communications Commission (Tariff FCC Nos. 254 and 257, Series 1000), involving proposed tariff revisions by the Western Union Telegraph Company for increases in existing revenues.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

Dated: May 25, 1976.

TERRY CHAMBERS,
Acting Administrator of General Services.

[FR Doc.76-16020 Filed 6-2-76;8:45 am]

PRIVACY ACT OF 1974

Changes to Systems of Records

On August 27, 1975, there was published in the FEDERAL REGISTER (40 FR 39137 through 39195) notices of systems of records pursuant to the provisions of the Privacy Act of 1974, Public Law 95-579, 5 U.S.C. 552a. On September 23, 1975, there was published in the FEDERAL REGISTER (40 FR 43860 and 43861) additional notices of systems of records. On October 7, 1975, there was published in the FEDERAL REGISTER (40 FR 46421 and 46422) corrections to several systems of records. This notice deletes three systems of records and renumbers 10 systems of records.

The system of records identified as "Equipment Control Records, GSA/OAD 25" (40 FR 39149) is deleted.

The system number of the system of records identified as "Credentials (includes Passes and Licenses)" (40 FR 39150) is changed from "GSA/OAD 26" to "GSA/OAD 25."

The system number of the system of records identified as "Application and physical fitness evaluation for motor vehicle operators" (40 FR 46422) is changed from "GSA/OAD 27" to "GSA/OAD 26."

The system number of the system of records identified as "Roster of GSA Officials (GSA Form 2177)" (40 FR 39150) is changed from "GSA/OAD 28" to "GSA/OAD 27."

The system number of the system of records identified as "Essential Residence Telephone Service" (40 FR 39151) is changed from "GSA/OAD 29" to "GSA/OAD 28."

The system of records identified as "Manpower Management GSA/OAD 30" (40 FR 39151) is deleted.

The system of records identified as "Congressional Support Control Sheet (GSA Form 2690) GSA/OAD 31" (40 FR 39151) is deleted.

The system number of the system of records identified as "Disbursement and accounts payable files" (40 FR 39152) is changed from "GSA/OAD 32" to "GSA/OAD 29."

The system number of the system of records identified as "Accounts receivable claims files" (40 FR 39152) is changed from "GSA/OAD 33" to "GSA/OAD 30."

The system number of the system of records identified as "Travel System" (40 FR 39153) is changed from "GSA/OAD 34" to "GSA/OAD 31."

The system number of the system of records identified as "Manpower and Payroll Statistics System (MAPS)" (40 FR 39153) is changed from "GSA/OAD 35" to "GSA/OAD 32."

The system number of the system of records identified as "Employee payroll

and time and attendance reporting system" (40 FR 39155) is changed from "GSA/OAD 36" to "GSA/OAD 33."

The system number of the system of records identified as "Employee Credit Reports" (40 FR 43860) is changed from "GSA/OAD 37" to "GSA/OAD 34."

Dated at Washington, D.C., on May 26, 1976.

G. C. GARDNER,
Director of Administration.

[FR Doc.76-16021 Filed 6-2-76;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[OPP-33000/409; FRL 552-4]

NOTICE OF RECEIPT OF APPLICATION FOR PESTICIDE REGISTRATION DATA TO BE CONSIDERED IN SUPPORT OF APPLICATIONS

On November 19, 1973, the Environmental Protection Agency (EPA) published in the FEDERAL REGISTER (39 FR 31862) its interim policy with respect to the administration of Section 3(c)(1)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended ("Interim Policy Statement"). On January 22, 1976, EPA published in the FEDERAL REGISTER a document entitled "Registration of a Pesticide Product—Consideration of Data by the Administrator in Support of an Application" (41 FR 3339). This document described the changes in the Agency's procedures for implementing Section 3(c)(1)(D) of FIFRA, as set out in the Interim Policy Statement, which were effectuated by the enactment of the recent amendments to FIFRA on November 28, 1975 [P.L. 94-140], and the new regulations governing the registration and reregistration of pesticides which became effective on August 4, 1975 (40 CFR Part 162).

Pursuant to the procedures set forth in these FEDERAL REGISTER documents, EPA hereby gives notice of the applications for pesticide registration listed below. In some cases these applications have recently been received; in other cases, applications have been amended by the submission of additional supporting data, the election of a new method of support, or the submission of new "offer to pay" statements.

In the case of all applications, the labeling furnished by the applicant for the product will be available for inspection at the Environmental Protection Agency, Room EB-31, East Tower, 401 M Street, S.W., Washington DC 20460. In the case of applications subject to the new Section 3 regulations, and applications not subject to the new Section 3 regulations which utilize either the 2(a) or 2(b) method of support specified in the Interim Policy Statement, all data citations submitted or referenced by the applicant in support of the application will be made available for inspection at the above address. This information (proposed labeling and, where applicable, data citations) will also be supplied by mail, upon request. However, such a request should be made only when circumstances make it inconvenient for the inspection to be made at the Agency offices.

Any person who (a) is or has been an applicant, (b) believes that data he developed and submitted to EPA on or after January 1, 1970, is being used to support an application described in this notice, (c) desires to assert a claim under Section 3(c)(1)(D) for such use of his data, and (d) wishes to preserve his right to have the Administrator determine the amount of reasonable compensation to which he is entitled for such use of the data or the status of such data under Section 10 must notify the Administrator and the applicant named in the notice in the FEDERAL REGISTER of his claim by certified mail. Notification to the Administrator should be addressed to the Information Coordination Section, Technical Services Division (WH-569), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW, Washington DC 20460. Every such claimant must include, at a minimum, the information listed in the Interim Policy Statement of November 19, 1973.

The Interim Policy Statement requires that claims for compensation be filed on or before August 2, 1976. With the exception of 2(c) applications not subject to the new Section 3 regulations, and for which a sixty-day hold period for claims is provided, EPA will not delay any registration pending the assertion of claims for compensation or the determination of reasonable compensation. Inquiries and assertions that data relied upon are subject to protection under Section 10 of FIFRA, as amended, should be made on or before July 6, 1976.

Dated: May 25, 1976.

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

APPLICATIONS RECEIVED (OPP-33000/409)

EPA Reg. No. 8612-72. B&G Co., 10539 Maybank, Dallas TX 75220. B&G TAPP-1.3. Active Ingredients: Pyrethrins 1.3%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement submitted. Application for reregistration. PM17

EPA Reg. No. 5887-15. Black Leaf Products Co., 667 N. State St., Elgin IL 60120. BLACK LEAF NICO-FUME LIQUID. Active Ingredients: Nicotine Alkaloid 40%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM11

EPA Reg. No. 5887-5. Black Leaf Products Co. BLACK LEAF NICO-FUME SMOKE FUMIGATOR FOR FUMIGATING GREENHOUSES. Actice Ingredients: Nicotine (Expressed as Alkaloid) 14%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM11

EPA Reg. No. 456-100. Chemical Formulators, Inc., PO Box 26, Nitro WV 25143. METHOXYCHLOR 100% TECHNICAL CHIP-FLAKE. Active Ingredients: Technical Methoxychlor 100.0%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM13

EPA Reg. No. 15567-1. Creative Chemicals Inc., 3 Church St., Palmer MA 01069. CREATIVE BOWL CLEANER & DISINFECTANT. Active Ingredients: Hydrogen Chloride 23.00%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM32

EPA Reg. No. 779-13. Faesy & Besthoff, Inc., 143 River Rd., Edgewater NJ 07020. F&B EMBLEM TOBACCO DUST. Active Ingredients: Nicotine 0.5%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM17

EPA Reg. No. 11037-6. Hacienda Enterprises, 565 Charles St., San Jose CA 95112. HACIENDA MITE-MILDEW CONTROL. Active Ingredients: 2,4-Dinitro-6-octyl phenyl crotonate 4.4%; 2,6-Dinitro-4-Octyl phenyl crotonate Nitrooctyl phenols (principally dinitro) 0.3%. Method of Support: Application proceeds under 2(b) of interim policy. Application for registration. PM13

EPA Reg. No. 1021-252. McLaughlin Gormley King Co., 8810 Tenth Ave N., Minneapolis MN 55427. PYRETHRUM POWDER AN INSECTICIDE FOR FORMULATING USE. Active Ingredients: Pyrethrins 0.9%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM17

EPA Reg. No. 1021-774. McLaughlin Gormley King Co. PYROCIDE FORMULA NO. 6471 AN INSECTICIDE FOR FORMULATING USE. Active Ingredients: Pyrethrins 20.00%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM17

EPA Reg. No. 1021-951. McLaughlin Gormley King Co. PYRETHRUM FORMULA 6808 AN INSECTICIDE FOR FORMULATING USE. Active Ingredients: Pyrethrins 20.00%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM17

EPA Reg. No. 5204-18. M&T Chemicals, PO Box 1104, Rahway NJ 07065. BIOMET YELLOW ANTIFOULING PAINT NO. 14122. Active Ingredients: Tri-butyltin fluoride 7.5%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM24.

EPA Reg. No. 5204-19. M&T Chemicals. BIOMET TRI-BUTYLTIN FLUORIDE. Active Ingredients: Tri-butyltin fluoride 95%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM24

EPA Reg. No. 5204-17. M&T Chemicals, Inc. BIOMET WHITE ANTIFOULING PAINT NO. 11122. Active Ingredients: Tri-butyltin fluoride 7.5%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM24.

EPA Reg. No. 11717-1. Plas-Chem Coatings, Eagle-Picher Industries, Inc., 6300 Bartmer Industrial Dr., St. Louis MO 63130. CHEM-FLEX NO. 1816R ANTI-FOULANT COATING. Active Ingredients: Tributyl Tin Fluoride 11.8%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM24

EPA Reg. No. 25028-2. Porter Coatings, Div., Porter Paint Co., PO Box 1439, Louisville KY 50201. CHLORINATED RUBBER ANTIFOULING PAINT 1195-RED. Active Ingredients: tributyltin fluoride 13.45%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM24

EPA Reg. No. 1202-196. Pure-Gro Co., 1052 W. 6th St., Los Angeles CA 90017. PUREGRO KARATHANE DUST 1. Active Ingredients: 2,4-Dinitro-6-octyl phenyl crotonate 0.9%; 2,6-Dinitro-4-octyl phenyl crotonate) Nitrooctyl phenols (principally dinitro) 0.1%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM24.

EPA Reg. No. 1827–50. The Puro Co., Inc., 2801 Locust St., St. Louis MO 63103. LIQUID TOILET BOWL CLEANER. Active Ingredients: Hydrogen Chloride 26%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM32

EPA Reg. No. 707–53. Rohm and Haas, Independence Mall West, Philadelphia PA 19105. KARATHANE WD AGRICULTURAL FUNGICIDE AND MITICIDE. Active Ingredients: 2,4-iDnitro-6-octyl (phenyl crotonate) 18.25%; 2,6-Dinitro-4-octyl phenyl crotonate Nitrooctyl phenol 1.25%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM13

EPA Reg. No. 201–167. Shell Chemical Co., 2401 Crow Canyon Rd, San Ramon CA 94583. PLANAVIN 75 WETTABLE POWDER HERBICIDE. Active Ingredients: 4-(methylsulfonyl)-2,6-dinitro - N,N - dipropylaniline 75%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM25

EPA Reg. No. 201–218. Shell Chemical Co. TECHNICAL PLANAVIN HERBICIDE FOR MANUFACTURING PURPOSES ONLY. Active Ingredients: 4-(methylsulfonyl)-2,6-dinitro-N,N-dipropylaniline 94%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM25

EPA Reg. No. 3743–329. Southern Agricultural Chemicals, Inc., PO Drawer 527, Kingstree SC 29556. HORNFLY DUST. Active Ingredients: Methoxychlor Technical 10%; Equivalent to 8.8% 2,2 bis (p-methoxyphenyl)-1,1,1-trichloroethane and 1.2% other isomers and related compounds. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM13

EPA Reg. No. 829–230. Southern Agricultural Insecticides, Inc., PO Box 218, Palmetto FL 33561. SASO BRAND KARATHANE FUNGICIDE AND MITICIDE. Active Ingredients: 2,4-Dinitro-6-octyl phenyl crotonate 18.25%; 2,6-dinitro-4-octyl phenyl crotonate Nitrooctyl phenols (principally dinitro) 1.25%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM 13

EPA Reg. No. 226–25. Tobacco States Chemical Co., Inc., PO Box 479, Lexington KY 40501. TASCO 50% METHOXYCHLOR WETTABLE POWDER. Active Ingredients: Methoxychlor, Technical 50%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM13

EPA Reg. No. 226–45. Tobacco States Chemical Co. TOBACCO STATES BRAND 7½% METHOXY GARDEN DUST. Active Ingredients: Methoxychlor, Technical 7.5% Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM13

EPA Reg. No. 226–204. Tobacco States Chemical Co. TOBACCO STATES BRAND BEEF CATTLE DUST. Active Ingredients: Methoxychlor, technical 5.0%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM13

EPA Reg. No. 7401–264. Voluntary Purchasing Groups, Inc., PO Box 460, Bonham TX 75418. FERTO–LOME TENDER PLANT GREENHOUSE SPRAY. Active Ingredients: Petroleum Oil 0.650%; Nicotine, as alkaloid 0.070%; Triethanoeamine 0.043%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM17

CORRECTED ITEMS

The following are corrections to the list of Appplications Received previously published in the FEDERAL REGISTER.

EPA File Symbol 12050–A. Chemco Chemical Co., 115 Cole St., Dallas, TX 75207. SANITIZE 45. Active Ingredients: N-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 2.25%; Sodium Carbonate 3.00%. (Originally published with incorrect chemical names) PM31 41 FR 19370 (5/12/76)

EPA Reg. No. 37370–O. American Water Purification, 1025 Contra Costa Blvd., Pleasant Hill CA 94523. SILVERATOR SUPER STRAW. (Originally published with incorrect Reg. No.) PM33 41 FR 19757 (5/13/76)

EPA Reg. No. 37532–G. Mogul Maintenance Systems Div., Mogul Corp., Pine and Mogul Sts., Chagrin Falls OH 44022. MOGUL–CIDE 64–128. (Originally published with incorrect state) PM33 41 FR 19758 (5/13/76)

EPA File Symbol 572–GNU. Rockland Chemical Co., Inc., Box 809, Passaic Ave., West Caldwell NJ 07006. ROCKLAND ORAL LARVICIDE. (Originally published with incorrect File Symbol) PM15 4; FR 19758 (5/13/76))

[FR Doc.76–16011 Filed 6–2–76;8:45 am]

[PF38; FRL 552–3]

PESTICIDE PETITIONS

Filing

Pursuant to the provisions of Section 408(d)(1) of the Federal Food, Drug, and Cosmetic Act, the Environmental Protection Agency gives notice that the following petitions have been submitted to the Agency for consideration.

PP 6F1777. Dow Chemical Co., PO Box 1706, Midland MI 48640. Proposes that 40 CFR 180.342 be amended by establishing a tolerance for combined residues of the insecticide chlorpyrifos [0,0-diethyl 0-(3,5,6-trichloro-2-pyridyl) phosphorothioate] and its metabolite 3,5,6-trichloro-2-pyridinol in or on the raw agricultural commodities almonds, apples, pears, plums, and prunes at 0.05 part per million (ppm). Proposed analytical method for determining residues is a gas chromatography method. PM12

PP 6F1778. Sandoz, Inc., PO Box 1489, Homestead FL 33030. Proposes that 40 CFR 180.356 be amended by establishing a tolerance for residues of the herbicide norflurazon(4-chloro-5-(methylamino)-2 - (a, a,a-trifluoro-m-tolyl) - 3(2H) - pyridazinone) in or on the raw agricultural commodities apricots, cherries, filberts, peaches, plums, prunes, nectarines, and walnuts at 0.1 part per million. Proposed analytical method for determining residues is by gas chromatography using an electron capture detector. PM24

Interested persons are invited to submit written comments on any petitions referred to in this notice to the Federal Register Section, Technical Services Division (WH–569), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW, East Tower, Room 401, Washington, DC 20460. Three copies of the comments should be submitted to facilitate the work of the Agency and others interested in inspecting them. The comments should bear a notation indicating the number of the petition to which the comments pertain. Comments may be made at any time while a petition is pending before the Agency. All written comments filed pursuant to this notice will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4:00 p.m. Monday through Friday.

Dated: May 25, 1976.

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

[FR Doc.76–16010 Filed 6–2–76;8:45 am]

[FRL 552–6]

OFFICE OF RADIATION PROGRAMS

Interim Recommendations on Exposure Limits—Carlsbad Caverns

Following a report from the New Mexico Institute of Mining and Technology that naturally occurring radon-222 was present in some areas of Carlsbad Caverns, part of the Carlsbad Caverns and Guadalupe Mountains National Park, the Park Superintendent arranged for the Albuquerque Field Office of the Mining Enforcement and Safety Administration (MESA) and MESA's Denver Technical Support Center to perform a thorough monitoring program and analysis of the radon daughter concentration in the Caverns. Field measurements were completed on November 7, and a report documenting observed radon daughter concentrations and recommendations proposing various control methods was received by the Park Superintendent on December 12, 1975. On December 17, 1975, the Park Superintendent contacted the EPA Regional Administrator in Region VI outlining this problem and requesting advice as to appropriate guidance for the control of radon daughter exposures received by Park personnel, concessionaires, and visitors.

Subsequent preliminary investigations of other caves and caverns under the jurisdiction of the National Park Service have indicated that the situation at Carlsbad Caverns is not unique, and that radon and radon daughters are detectable in many caves due to ongoing geological processes. The interim recommendations made below were developed specifically for the case of the Carlsbad Caverns. The Agency requests comments on the general applicability of these recommendations to other caves and caverns open to the public.

At the time of the MESA radiation survey of the Carlsbad Caverns in November, radon daughter concentrations averaged 0.25 Working Level[1] (range, 0 to 0.4 WL) in developed portions of the cave. A series of measurements made in August yielded an average concentration of about 0.4 Working Level. Data obtained at no less than weekly intervals since September demonstrate that the radon daughter concentrations vary seasonally. Concentrations have averaged less than 0.3 Working Level since November, with some weeks averaging less

[1] One working level is any combination of radon daughters in one liter of air that will ultimately release 1.3 x 10^5 MeV of alpha energy during decay through radium C' (^{214}Po). If 100 pCi/l ^{222}Rn in air is present at equilibrium with its short-lived daughters through radium C', the ultimate energy released will be 1.3 x 10^5 MeV or one working level.

than 0.1 Working Level. Continuation of the monitoring program is required to determine the pattern of the seasonal variation.

Pending the results of additional studies, the Agency has prepared Interim Recommendations based on presently available information, including recommendations by MESA to the National Park Service. These Interim Recommendations have been made on the basis of existing Federal Guidance for the protection of underground uranium miners, 36*FR*9480, which recommends against cumulative exposures to employees in excess of 4 Working Level Months [2] in any calendar year and are designed to limit the health risk to those employed within the Caverns to a minimum while not unduly restricting the enjoyment of this natural phenomena by the general public.

The Interim Recommendations to the National Park Service (NPS) for limiting radon daughter exposures within the Carlsbad Caverns are as follows:

1. Exposures to individual NPS employees and individual employees of the concessionaire shall be limited to a cumulative exposure to radon daughters of 4 Working Level Months per calendar year. Practical measures to keep exposures below these limits should be implemented where feasible. Rotation of long-term employees working in areas having the higher radon daughter concentrations is advisable.

2. Based on the findings to date, the Agency does not believe a specific guide applicable to visitors is warranted. Because of the short time of exposures during visitation, implementation of the guidance provided for employee protection will be sufficient to protect tourists.

3. NPS should continue to sample the developed portions of the Caverns for radon daughter concentrations and record the estimated exposures to underground personnel. The present record-keeping system of documenting exposures should be continued unless OSHA requires a different format.

4. Because of the evidential association between radon daughter exposures and smoking and the induction of lung cancer, the ban on smoking in the Caverns should be continued and an educational program to discourage smoking by employees initiated.

5. Employees should be informed of the nature of this occupational hazard, the rules governing their exposure, and any steps taken to minimize their risks.

Comments on the above subject should be sent to the Director, Criteria and Standards Division (AW-460), Office of Radiation Programs, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

Dated: May 27, 1976.

ROGER STRELOW,
Assistant Administrator, for Air and Waste Management.

[FR Doc.76-16098 Filed 6-2-76;8:45 am]

[2] A working level month (WLM) is defined as exposure to 1 WL for 170 hours, a working month.

[FRL 552-8; OPP-42013A]

PUERTO RICO

Approval of State Plan for Certification of Pesticide Applicators

Section 4(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136) and the implementing regulations of 40 CFR Part 171 require each State desiring to certify applicators to submit a plan for its certification programs. Any State certification program under this section shall be maintained in accordance with the State Plan approved under this section.

On March 10, 1976, notice was published in the FEDERAL REGISTER (40 FR 10255) of the intent of the Regional Administrator, Environmental Protection Agency (EPA) Region II, to approve, on a contingency basis, the Commonwealth of Puerto Rico Plan for Certification of Commercial and Private Applicators of Restricted Use Pesticides (Commonwealth of Puerto Rico Plan). Contingency approval was requested by the Commonwealth of Puerto Rico pending enactment of an amendment to the Puerto Rico Pesticides Act (the Act) to provide for enforcement tools regarding misuse of any pesticide, and pending approval of implementing regulations. Complete copies of the Commonwealth of Puerto Rico Plan were made available for public inspection at the Analysis and Registration of Agricultural Materials Laboratory, Puerto Rico Department of Agriculture, Dorado, Puerto Rico; Pesticides Branch, Environmental Programs Division, EPA Region II, New York, New York and the Federal Register Section, Technical Services Division, Office of Pesticide Programs, EPA Headquarters, Washington, D.C.

There were no comments received concerning the State Plan during the 30 day public comment period.

The Commonwealth of Puerto Rico Plan will remain available for public inspection at the Analysis and Registration of Agricultural Materials Laboratory, Puerto Rico Department of Agriculture, Road #693, KM 4.0, Bario Atiguillar, Dorado, Puerto Rico.

It has been determined that the Commonwealth of Puerto Rico Plan will satisfy the requirements of Section 4(a)(2) of the amended FIFRA and of 40 CFR Part 171 if an amendment to the Puerto Rico Pesticides Act to provide for enforcement tools regarding misuse of any pesticide is enacted and if necessary implementing regulations are promulgated by the Puerto Rico Department of Agriculture. Accordingly, the Commonwealth of Puerto Rico Plan is approved contingent upon enactment of such amendments and upon promulgation of implementing regulations in accordance with and as prescribed in the Commonwealth of Puerto Rico Plan.

This contingency approval shall expire one (1) year from its effective date, if these terms and conditions are not satisfied by that time. On or before the expiration of the period of contingency approval, a notice shall be published in the FEDERAL REGISTER concerning the extent to which these terms and conditions have been satisfied, and the approval status of the Commonwealth of Puerto Rico Plan as a result thereof.

Effective date: Pursuant to Section 4(d) of the Administrative Procedures Act, 5 U.S.C. 553(d), the Agency finds that there is good cause for providing that the one year contingency approval granted herein to the Commonwealth of Puerto Rico Plan shall be effective immediately. Neither the Commonwealth of Puerto Rico Plan itself nor this Agency's contingency approval creates any direct or immediate obligations on pesticide applicators or other persons in the Commonwealth of Puerto Rico. Delays in starting the work necessary to implement the plan, such as may be occasioned by providing some later effective date for this contingency approval, are inconsistent with the public interest. Accordingly, this contingent approval shall become effective immediately.

Dated April 30, 1976.

GERALD M. HANSLER, *P. E.*
Regional Administrator, U.S. Environmental Protection Agency, Region II

[FR Doc.76-16099 Filed 6-2-76;8:45 am]

[FRL 554-8; OPP-50157]

ABBOTT LABORATORIES

Issuance of Experimental Use Permit

Pursuant to section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136), an experimental use permit has been issued to Abbott Laboratories, North Chicago, Illinois 60064. Such permit is in accordance with, and subject to, the provisions of 40 CFR Part 172; Part 172 was published in the FEDERAL REGISTER on April 30, 1975 (40 FR 18780), and defines EPA procedures with respect to the use of pesticides for experimental purposes.

This experimental use permit (No. 275-EUP-9) allows the use of 3,000 pounds of the plant regulator 5-chloro-3-methyl-4-nitro-1H-pyrazole on oranges to evaluate its use as an abscission agent. A total of 1,225 acres is involved; the program is authorized only in the States of Arizona, California, Florida, and Texas. The experimental use permit is effective from April 30, 1976, to April 30, 1977. A temporary tolerance for residues of the active ingredient in or on oranges has been established.

Interested parties wishing to review the experimental use permit are referred to Room E-315, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St., S.W., Washington, D.C. 20460. It is suggested that such interested persons call 202/755-4851 before visiting the EPA Headquarters Office, so that the appropriate permit may be made conveniently available for review

purposes. These files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

Dated: May 27, 1976.

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

[FR Doc.76-16115 Filed 6-2-76;8:45 am]

[FRL 554-4; OPP-50163]

AVITROL CORPORATION

Issuance of Experimental Use Permit

Pursuant to section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136), an experimental use permit has been issued to Avitrol Corporation, Tulsa, Oklahoma 74145. Such permit is in accordance with, and subject to, the provisions of 40 CFR Part 172; Part 172 was published in the FEDERAL REGISTER on April 30, 1975 (40 FR 18780), and defines EPA procedures with respect to the use of pesticides for experimental purposes.

This experimental use permit (No. 11649-EUP-5) allows the use of 270 pounds of the bird repellent 4-aminopyridine on sorghum. A total of 1,200 acres is involved; the program is authorized only in the States of Kansas, Oklahoma, and Texas. The experimental use permit is effective from May 7, 1976, to May 7, 1977. A temporary tolerance for residues of the active ingredient in or on sorghum has been established.

Interested parties wishing to review the experimental use permit are referred to Room E-315, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St., S.W., Washington, D.C. 20460. It is suggested that such interested persons call 202/755-4851 before visiting the EPA Headquarters Office, so that the appropriate permit may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

Dated: May 27, 1976.

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

[FR Doc.76-16111 Filed 6-2-76;8:45 am]

[FRL 553-3; OPP-50170]

AGSCO AGRICULTURAL DIVISION

Issuance of Experimental Use Permit

Pursuant to section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136), an experimental use permit has been issued to AGSCO Agricultural Chemicals, Grand Forks, North Dakota 58201. Such permit is in accordance with, and subject to, the provisions of 40 CFR Part 172; Part 172 was published in the FEDERAL REGISTER on April 30, 1975 (40 FR 18780), and defines EPA procedures with respect to the use of pesticides for experimental purposes.

This experimental use permit (No. 554-EUP-1) allows the use of 41 pounds of a fungicide/insecticide combination including maneb, lindane, and carboxin on wheat and barley seeds to evaluate control of seed-borne diseases and wireworms. A total of 400 bushels of seed will be treated; the program is authorized only in the State of North Dakota. The experimental use permit is effective from May 18, 1976, to May 18, 1977. A permanent tolerance for residues of the active ingredient carboxin in or on wheat and barley has been established (40 CFR 180.301).

Interested parties wishing to review the experimental use permit are referred to Room E-315, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St., S.W., Washington, D.C. 20460. It is suggested that such interested persons call 202/755-4851 before visiting the EPA Headquarters Office, so that the appropriate permit may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

Dated: May 27, 1976.

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

[FR Doc.76-16102 Filed 6-2-76;8:45 am]

[FRL 553-2, OPP-50169]

CHEMAGRO AGRICULTURAL DIVISION

Issuance of Experimental Use Permit

Pursuant to section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136), an experimental use permit has been issued to Chemagro Agricultural Division, Kansas City, Missouri 64120. Such permit is in accordance with, and subject to, the provisions of 40 CFR Part 172; Part 172 was published in the FEDERAL REGISTER on April 30, 1975 (40 FR 18780), and defines EPA procedures with respect to the use of pesticides for experimental purposes.

This experimental use permit (No. 3125-EUP-128) allows the use of 20,250 pounds of the fungicide O-ethyl S,S-diphenyl phosphorodithioate on rice to evaluate control of rice blast. A total of 16,700 acres is involved; the program is authorized only in the States of Arkansas, California, Louisiana, Mississippi, and Texas. The experimental use permit is effective from May 13, 1976, to May 13, 1977. A temporary tolerance for residues of the active ingredient in or on rice has been established; a food additive tolerance for residues of the active ingredient has also been established.

Interested parties wishing to review the experimental use permit are referred to Room E-315, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St., SW., Washington, D.C. 20460. It is suggested that such interested persons call 202/755-4851 before visiting the EPA Headquarters Office, so that the appropriate permit may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

Dated: May 27, 1976.

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

[FR Doc.76-16101 Filed 6-2-76;8:45 am]

[FRL 553-6; OPP-50166]

CHEVRON CHEMICAL CO.

Issuance of Experimental Use Permit

Pursuant to section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136), an experimental use permit has been issued to Chevron Chemical Company, Richmond, California 94804. Such permit is in accordance with, and subject to, the provisions of 40 CFR Part 172; Part 172 was published in the FEDERAL REGISTER on April 30, 1975 (40 FR 18780), and defines EPA procedures with respect to the use of pesticides for experimental purposes.

This experimental use permit (No. 239-EUP-79) allows the use of 8,020 pounds of the insecticide acephate on forest areas to evaluate control of the Spruce Budworm, Western Spruce Budworm, Gypsy Moth larvae, and Larch Casebearer. A total of 13,565 acres is involved; the program is authorized only in the States of Idaho, Maine, Montana, and Pennsylvania. The experimental use permit is effective from May 11, 1976, to May 11, 1977.

Interested parties wishing to review the experimental use permit are referred to Room E-315, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St., SW., Washington, D.C. 20460. It is suggested that such interested persons call 202/755-4851 before visiting the EPA Headquarters Office, so that the appropriate permit may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

Dated: May 27, 1976.

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

[FR Doc.76-16105 Filed 6-2-76;8:45 am]

[FRL 554-3; OPP-50161]

CREATIVE SALES, INC.

Issuance of Experimental Use Permit

Pursuant to section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136), an experimental use permit has been issued Creative Sales, Inc. Fremont, Nebraska 68025. Such permit is in accordance with, and subject to, the provisions of 40 CFR Part 172; Part 172 was published in the FEDERAL REGISTER on April 30, 1975 (40 FR 18780), and defines EPA procedures with respect to the use of pesticides for experimental purposes.

This experimental use permit (No. 37979-EUP-1) allows the use of 170 pounds of the insecticide acephate on ornamental trees to evaluate control of aphids, scale insects, cambial feeding borers, and lepidopterous larvae. Up to 20,000 trees are involved; the program is authorized only in the States of Arizona, California, Colorado, Connecticut, Florida, Georgia, Hawaii, Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland, Michigan, Minnesota, Missouri, Nebraska, New Jersey, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, Texas, Wisconsin and Wyoming. The experimental use permit is effective from May 5, 1976, to May 5, 1977.

Interested parties wishing to review the experimental use permit are referred to Room E-315, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St., SW., Washington, D.C. 20460. It is suggested that such interested persons call 202/755-4851 before visiting the EPA Headquarters Office, so that the appropriate permit may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

Dated: May 27, 1976.

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

[FR Doc.76-16110 Filed 6-2-76;8:45 am]

[FRL 554-7; OPP-240011]

STATES OF IOWA, MISSOURI, NEVADA, WEST VIRGINIA, AND UTAH

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 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 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 Iowa, Missouri, Nevada, West Virginia, and Utah. 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 Iowa, Missouri, Nevada, West Virginia, and Utah as described below, subject to the terms set forth in the FEDERAL REGISTER document of September 3, 1975.

Iowa, Nevada, and Utah

These Requests 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. 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 Iowa Department of Agriculture, the Nevada Department of Agriculture, and the Utah Department of Agriculture. These agencies were notified on May 7, 1976, that their Requests had been approved.

Missouri

The Missouri Request for Interim Certification sought authority to register new products, to amend EPA registrations which involve changed use patterns, and to amend FPA registrations which do not involve changed use patterns. It is noted that authority was not requested to register antimicrobial agents (see 40 CFR 162.3(ff)(1)), fungicides, other than agricultural-use fungicides (see 40 CFR 162.3(ff)(8)), or slimicides (see 40 CFR 162.3(ff)(16)). The Agency has found that the specific requirements of the Interim Certification program are satisfied in the Request. Procedures for product hazard review and efficacy determination are part of the State's registration program; these procedures are adequate to assure that special local needs registrations issued by this State will be in accord with the purposes of FIFRA.

The State agency which has been designated responsible for issuance of such registrations, the Missouri Department of Agriculture, was notified on May 7, 1976, that its Request had been approved.

West Virginia

The West Virginia Request 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. The Agency has found that the specific requirements of the Interim Certification program are satisfied in the Request. Procedures for product hazard review and efficacy determination are part of the State's registration program; these procedures are adequate to assure that special local needs registrations issued by this State will be in accord with the purposes of FIFRA.

The State agency which has been designated responsible for issuance of such registrations, the West Virginia Department of Agriculture, was notified on May 7, 1976, that its Request had been approved.

Copies of the Iowa, Missouri, Nevada, West Virginia, and Utah Requests for Interim Certification, along with letters reflecting the Agency's decision to approve the Requests, are available at the following locations:

Federal Register Section, Technical Services Division, (WH-569), Office of Pesticide Programs, EPA, Room 401, East Tower, 401 M St., S.W., Washington, D.C. 20460.
Pesticide Branch, Hazardous Materials Control Division, EPA, 1735 Baltimore Ave.,

Kansas City, Missouri 64108. (*Iowa and Missouri Requests only*).

Pesticide Branch, Hazardous Materials Control Division, EPA, 100 California St., Room 340, San Francisco, California 94111. (*Nevada Request only*).

Pesticide Branch, Hazardous Materials Control Division, EPA, Curtis Bldg., 6th and Walnut Streets, Philadelphia, Pennsylvania 19106. (*West Virginia Request only*).

Pesticide Branch, Hazardous Materials Control Division, EPA, 1860 Lincoln St., Suite 900, Denver, Colorado 80203. (*Utah Request only*).

Dated: May 27, 1976.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.76-16114 Filed 6-2-76;8:45 am]

[FRL 554-2; OPP-50160]

LOWDEN, INC.

Issuance of Experimental Use Permit

Pursuant to section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136), an experimental use permit has been issued to Lowden, Inc., Needham Heights, Massachusetts 02194. Such permit is in accordance with, and subject to, the provisions of 40 CFR Part 172; Part 172 was published in the FEDERAL REGISTER on April 30, 1975 (40 FR 18780), and defines EPA procedures with respect to the use of pesticides for experimental purposes.

This experimental use permit (No. 23614-EUP-1) allows the use of 9,000 grams of the fungicide nystatin on elm and maple trees to evaluate control of Dutch elm disease and *Verticillium* wilt. A total of 300 trees is involved; the program is authorized only in the States of Maryland, Massachusetts, Nevada, New Hampshire, and Rhode Island.

Interested parties wishing to review the experimental use permit are referred to Room E-315, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St., S.W., Washington, D.C. 20460. It is suggested that such interested persons call 202/755-4851 before visiting the EPA Headquarters Office, so that the appropriate permit may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

Dated: May 27, 1976.

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

[FR Doc.76-16109 Filed 6-2-76;8:45 am]

[FRL 553-8; OPP-50158]

MOBIL CHEMICAL CO.

Issuance of Experimental Use Permit

Pursuant to section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136), an experimental use permit has been issued to Mobil Chemical Company, Richmond, Virginia 23261. Such permit is in accordance with, and subject to, the provisions of 40 CFR Part 172; Part 172 was published in the FEDERAL REGISTER on April 30, 1975 (40 FR 18780), and defines EPA procedures with respect to the use of pesticides for experimental purposes.

This experimental use permit (No. 2224-EUP-15) allows the use of 1,200 pounds of the insecticide ethoprop on tobacco to evaluate the control of nematodes, fleabeetles, and wireworms. A total of 100 acres is involved; the program is authorized only in the States of Florida, Georgia, Kentucky, North Carolina, South Carolina, Tennessee, and Virginia. The experimental use permit is effective from May 5, 1976, to May 5, 1977. This permit is issued with the limitation that all treated tobacco be destroyed or used for research purposes only.

Interested parties wishing to review the experimental use permit are referred to Room E-315, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St., S.W., Washington, D.C. 20460. It is suggested that such interested persons call 202/755-4851 before visiting the EPA Headquarters Office, so that the appropriate permit may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

Dated: May 27, 1976.

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

[FR Doc.76-16107 Filed 6-2-76;8:45 am]

[FRL 554-1; OPP-50159]

PPG INDUSTRIES, INC.

Issuance of Experimental Use Permit

Pursuant to section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136), an experimental use permit has been issued to PPG Industries, Inc., Pittsburgh, Pennsylvania 15222. Such permit is in accordance with, and subject to, the provisions of 40 CFR Part 172; Part 172 was published in the FEDERAL REGISTER on April 30, 1975 (40 FR 18780), and defines EPA procedures with respect to the use of pesticides for experimental purposes.

This experimental use permit (No. 748-EUP-13) allows the use of 3,284 pounds of the fungicide sodium azide on peanuts for control of soilborne fungi. A total of 82 acres is involved; the program is authorized only in the States of Alabama, Georgia, North Carolina, and Virginia. The experimental us permit is effective from May 4, 1976, to May 4, 1977. A temporary tolerance for residues of the active ingredient in or on peanut has been established.

Interested parties wishing to review the experimental use permit are referred to Room E-315, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St., S.W., Washington, D.C. 20460. It is suggested that such interested persons call 202/755-4851 before visiting the EPA Headquarters Office, so that the appropriate permit may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

Dated: May 27, 1976.

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

[FR Doc.76-16108 Filed 6-2-76;8:45 am]

[FRL 553-1 OPP-50168]

SANDOZ, INC.

Issuance of Experimental Use Permit

Pursuant to section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136), an experimental use permit has been issued to Sandoz, Inc., Homestead, Florida 33030. Such permit is in accordance with, and subject to, the provisions of 40 CFR Part 172; Part 172 was published in the FEDERAL REGISTER on April 30, 1975 (40 FR 18780), and defines EPA procedures with respect to the use of pesticides for experimental purposes.

This experimental use permit (No. 11273-EUP-11) allows the use of 338 pounds of the insecticide Elcar and 675 pounds of the insecticide chlordimeform on cotton to evaluate control of the cotton bollworm and the tobacco budworm. A total of 300 acres is involved; the program is authorized only in the States of Alabama, Arkansas, Louisiana, Mississippi, Tennessee, and Texas. The experimental use permit is effective from May 12, 1976, to May 12, 1977. Permanent tolerances for residues of the active ingredients in or on cotton have been established.

Interested parties wishing to review the experimental use permit are referred to Room E-315, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St., S.W., Washington, D.C. 20460. It is suggested that such interested persons call 202/755-4851 before visiting the EPA Headquarters Office, so that the appropriate permit may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

Dated: May 27, 1976.

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

[FR Doc.76-16100 Filed 6-2-76;8:45 am]

[FRL 553-4; OPP-50172]

SELLERS CHEMICAL CORP.

Issuance of Experimental Use Permit

Pursuant to section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136), an experimental use permit has been issued to Sellers Chemical Corporation, Harahan, Louisiana 70183. Such permit is in accordance with, and

subject to, the provisions of 40 CFR Part 172; Part 172 was published in the FEDERAL REGISTER on April 30, 1975 (40 FR 18780), and defines EPA procedures with respect to the use of pesticides for experimental purposes.

This experimental use permit (No. 9583-EUP-1) allows the use of 918 pounds of fatty alcohols (0.4% C6, 45.1% C8, 54.5% C10) used as a herbicide on tobacco to evaluate control of sucker growth on Burley and Flue-Cured tobacco. A total of 76 acres is involved; the program is authorized only in the States of Georgia, North Carolina, and Kentucky. The experimental use permit is effective from May 18, 1976, to May 18, 1977.

Interested parties wishing to review the experimental use permit are referred to Room E-315, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St., S.W., Washington, D.C. 20460. It is suggested that such interested persons call 202/755-4851 before visiting the EPA Headquarters Office, so that the appropriate permit may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

Dated: May 27, 1976.

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

[FR Doc.76-16103 Filed 6-2-76;8:45 am]

[FRL 554-5; OPP-50164]

THOMPSON-HAYWARD CO.

Issuance of Experimental Use Permit

Pursuant to section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136), an experimental use permit has been issued to Thompson-Hayward Company, Kansas City, Kansas 66110. Such permit is in accordance with, and subject to, the provisions of 40 CFR Part 172; Part 172 was published in the FEDERAL REGISTER on April 30, 1975 (40 FR 18780), and defines EPA procedures with respect to the use of pesticides for experimental purposes.

This experimental use permit (No. 148-EUP-18) allows the use of 390 pounds of the insecticide N-[[(4-chlorophenyl) amino] carbonyl]-2,6-difluorobenzamide on forests to evaluate control of gypsy moth, spruce and jackpine budworm, and tent caterpillars. A total of 2,100 acres is involved; the program is authorized only in the States of Alabama, Maine, Michigan, New Jersey, Pennsylvania, and Wisconsin. The experimental use permit is effective from May 7, 1976, to May 7, 1977.

Interested parties wishing to review the experimental use permit are referred to Room E-315, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St., S.W., Washington, D.C. 20460. It is suggested that such interested persons call 202/755-4851 before visiting the EPA Headquarters Office, so that the appropriate permit may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

Dated: May 27, 1976.

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

[FR Doc.76-16112 Filed 6-2-76;8:45 am]

[FRL 553-7; OPP-50167]

UNION CARBIDE CORP.

Issuance of Experimental Use Permit

Pursuant to section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136), an experimental use permit has been issued to Union Carbide Corporation, Washington, D.C. 20006. Such permit is in accordance with, and subject to, the provisions of 40 CFR Part 172; Part 172 was published in the FEDERAL REGISTER on April 30, 1975 (40 FR 18780), and defines EPA procedures with respect to the use of pesticides for experimental purposes.

This experimental use permit (No. 1016-EUP-32) allows the use of 1,800 pounds of the insecticide carbaryl on cotton to evaluate control of diapausing boll weevils. A total of 360 acres is involved; the program is authorized only in the States of Arkansas and Texas. The experimental use permit is effective from May 10, 1976, to May 10, 1977. A permanent tolerance for residues of the active ingredient in or on cottonseed and forage has been established (40 CFR 180.169).

Interested parties wishing to review the experimental use permit are referred to Room E-315, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St., S.W., Washington, D.C. 20460. It is suggested that such interested persons call 202/755-4851 before visiting the EPA Headquarters Office, so that the appropriate permit may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

Dated: May 27, 1976.

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

[FR Doc.76-16106 Filed 6-2-76;8:45 am]

[FRL 553-5; OPP-50165]

DEPARTMENT OF INTERIOR

Issuance of Experimental Use Permit

Pursuant to section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136), an experimental use permit has been issued to the U.S. Fish and Wildlife Service of the U.S. Department of the Interior, Washington, D.C. Such permit is in accordance with, and subject to, the provisions of 40 CFR Part 172; Part 172 was published in the FEDERAL REGISTER on April 30, 1975 (40 FR 18780), and defines EPA procedures with respect to the use of pesticides for experimental purposes.

This experimental use permit (No. 6704-EUP-8) allows the use of 1.76 pounds of the avicide 3-chloro-*p*-toluidine hydrochloride on herring gulls and great black-backed gulls. The program is authorized only in the State of Maine. The experimental use permit is effective from May 5, 1976, to May 5, 1977.

Interested parties wishing to review the experimental use permit are referred to Room E-315, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St., S.W., Washington, D.C. 20460. It is suggested that such interested persons call 202/755-4851 before visiting the EPA Headquarters Office, so that the appropriate permit may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

Dated: May 27, 1976.

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

[FR Doc.76-16104 Filed 6-2-76;8:45 am]

[FRL 554-6; OPP-42022]

TERRITORY OF THE VIRGIN ISLANDS

Submission of State Plan for 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. 983; 7 U.S.C. 136b), and 40 CFR Part 171 [39 FR 36446 (October 9, 1974) and 40 FR 11698 (March 12, 1975)], the Honorable Cyril E. King, Governor of the Virgin Islands of the United States has submitted a Virgin Islands Territorial Plan for Certification of Commercial and Private Applicators of Restricted Use Pesticides to the Environmental Protection Agency (EPA) for approval on a contingency basis. Contingency approval is being requested pending approval of implementing regulations, which proposed regulations are set forth in the plan.

Notice is hereby given of the intention of the Regional Administrator, EPA Region II, to approve this plan on a contingency basis.

A summary of the plan follows. The entire plan together with all attached appendices (except for sample examinations), may be examined during the normal business hours at the following locations:

Building 129, Subbase, Charlotte Amalie, St. Thomas, U.S. Virgin Islands (Bureau of Pesticides, Division of Natural Resources Management, Department of Conservation and Cultural Affairs, tel. (809) 774-6420).

Room 907, 26 Federal Plaza, New York, New York 10007 (Pesticides Branch, Environmental Programs Division, EPA Region II, tel. (212) 264-3358).

Room 401, East Tower, Waterside Mall, 401 M Street, S.W., Washington, D.C. 20460 [Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, EPA, tel. (202) 755-4854.]

SUMMARY OF STATE PLAN

The Virgin Islands Department of Conservation and Cultural Affairs (VIDCCA) has been designated as the State lead agency for the administration of the pesticide applicator certification program, with the Bureau of Pesticides in the Division of Natural Resources Management responsible for the program's implementation. The Virgin Islands Cooperative Extension Service (VICES) is a cooperating agency having responsibility for the pesticide applicator certification training and testing program including preparing training materials, distributing training manuals and other materials, preparing and conducting the training courses and examinations.

Legal authority for the program is contained in the Virgin Islands Pesticide Control Act, Act #3750 of October 21, 1975 and the Proposed Pesticide Applicator Regulations.

The plan indicates that the lead agency and the cooperating agency have or will have sufficient qualified personnel and funds necessary to carry out the proposed program. The Bureau of Pesticides has a budget of $50,000 for fiscal year 1976. Additional funding is anticipated for fiscal year 1976.

The lead agency will submit an annual report to EPA on or before January 30 of each year and special reports to meet specific needs.

The Virgin Islands estimates that 200 commercial applicators and 350 private applicators will need to be certified. Wallet size identification cards containing all necessary information will be furnished to all certified applicators, to be presented to dealers at the time of restricted use pesticide purchase.

The commercial applicator categories proposed are those which are listed in 40 CFR 171.3 with the omission of the following major categories:

1. Forest Pest Control.
2. Seed Treatment.
3. Aquatic Pest Control.
4. Right-of-way Pest Control.

It is proposed that these categories are deleted as they are not needed in the Virgin Islands.

The Virgin Islands plans to conduct training programs for commercial applicators covering the Federal standards contained in 40 CFR 171. These standards are set forth in detail in the EPA *Apply Pesticides Correctly*, a guide for commercial applicators to be used for core training, and in specific category/subcategory materials developed by EPA and modified to reflect conditions in the Virgin Islands. Training will be offered by the VICES. Two written examinations are required: one covering the general or "core" material and the other covering the specific requirements of the category or subcategory. Information about the courses and examination times may be obtained from the VICES or the VIDCCA's Bureau of Pesticides.

The Virgin Islands plans to conduct training programs for private applicators covering the Federal standards contained in 40 CFR 171. These standards are set forth in detail in the EPA *Apply Pesticides Correctly*, a guide for private applicators to be used for training private applicators. Training will be offered by the VICES at several locations each on St. Croix, St. Thomas and St. John. An examination is required: it can be written, oral or a combination of both. The type of examination given will depend on place of residence: type of farming enterprise; age; educational, social and economic level; and experience of the applicator. Information about the courses and examination times may be obtained from the VICES or the VIDCCA's Bureau of Pesticides.

Those persons who wish to be certified as a private pesticide applicator who cannot read or write or do not know the English language will be offered specialized training by the VICES or other public employee authorized by the Commissioner of the Department of Conservation and Cultural Affairs. Certification will be limited to the pesticide products on particular sites for which the individual has demonstrated competency.

Sample examinations are attached to the plan, as provided for by 40 CFR 171.7 (e)(1)(i)(D) and (ii)(C). However in view of the need to preserve the confidentiality of the examination format, the Virgin Islands has requested that the examination not be made available for public inspection. EPA agrees with this position, and has removed sample examinations from the public inspection copies of the plan.

Certification for commercial and private applicators shall expire four (4) years after the date of issuance and may be renewed for an additional four (4) years. For renewal all applicators must attend one (1) approved training course within one (1) year prior to the expiration date of the certificate or take a recertification examination.

The Virgin Islands Territorial Plan also indicates that within sixty (60) days of the final approval of the Government Agency Plan (GAP) by EPA, a statement concerning acceptance of GAP qualified Federal employees will be forwarded for inclusion in the Virgin Islands plan.

Reciprocal agreements may be made with any other States which have substantially the same standards; however, there are no plans at present to establish reciprocal agreements for acceptance of certified applicators from other States.

Enforcement will be carried out by inspectors who will spot check commercial and private applicators to ensure that they comply with Territorial and Federal laws and regulations. They will perform regulator inspections and follow-up reports of suspected violations.

PUBLIC COMMENTS

Interested persons are invited to submit written comments on the proposed Virgin Islands Plan to the Regional Administrator, Region II, Environmental Protection Agency, 26 Federal Plaza, New York, New York 10007. The comments must be received on or before July 6, 1976, and bear the identifying notation [OPP-42022]. All written comments filed pursuant to this notice will be available for public inspection at the above mentioned locations from 8:30 a.m.–3:30 p.m. Monday through Friday.

Dated: April 16, 1976.

GERALD M. HANSIER, P.E.,
Regional Administrator, U.S. Environmental Protection Agency, Region II.

[FR Doc.76-16113 Filed 6-2-76;8:45 am]

FEDERAL ENERGY ADMINISTRATION

INDUSTRIAL PETROLEUM RESERVE

Hearing and Request for Comments

The Energy Policy and Conservation Act (Public Law 94-163) provides for the creation of a Strategic Petroleum Reserve of up to one billion barrels of crude oil, residual fuel oil and refined petroleum products, the purpose of which is to reduce the impact of any future disruptions in supplies of petroleum. The Act authorizes several different oil storage programs as components of the Strategic Petroleum Reserve. Section 156 of the Act provides discretionary authority to require importers and refiners to store up to three percent of their imports or throughput for the previous calendar year. Specifically, Section 156 of the Act provides that:

(a) The Administrator may establish an Industrial Petroleum Reserve as part of the Strategic Petroleum Reserve.

(b) To implement the Early Storage Reserve Plan or the Strategic Petroleum Reserve Plan which has taken effect pursuant to section 159(a), the Administrator may require each importer of petroleum products and each refiner to (1) acquire, and (2) store and maintain in readily available inventories, petroleum products in amounts determined by the Administrator, except that the Administrator may not require any such importer or refiner to store such petroleum products in an amount greater than 3 percent of the amount imported or refined by such person, as the case may be, during the previous calendar year. Petroleum products imported and stored in the Industrial Petroleum Reserve shall be exempt from any tariff or import license fee.

(c) The Administrator shall implement this section in a manner which is appropriate to the maintenance of an economically sound and competitive petroleum industry. The Administrator shall take such steps as are necessary to avoid inequitable economic impacts on refiners and importers, and he may grant relief to any refiner or importer who would otherwise incur special hardship, inequity, or unfair distribution of burdens as the result of any rule, regulation, or order promulgated under this section. Such relief may include full or partial exemption from any rule, regulation, order and the issuance of any order permitting such an importer or refiner to store petroleum products owned

by such importer or refiner in surplus storage capacity owned by the United States.

FEA estimates that maximum utilization of this authority to establish an Industrial Petroleum Reserve (IPR), as part of the Early Storage Reserve and Strategic Petroleum Reserve, could result in storage by industry of approximately 186 million barrels of petroleum products (including crude oil). The term "petroleum products," as used in the Act, means "crude oil, residual fuel oil, or any refined petroleum product (including any natural [gas] liquid and any natural gas liquid product)."

Further information about the Strategic Petroleum Reserve program is contained in FEA's Early Storage Report submitted to Congress on April 22, 1976.

Subject of Written Comment and Public Hearing

FEA is now beginning its initial consideration of whether to establish an IPR. This notice is not a proposed rulemaking. Its purpose is to obtain, through a public hearing and submission of written comments, information regarding this very complex issue, particular public and industry views about whether there should be an IPR, and if so, how it should be established and operated; information, including answers to specific question, which may be useful in resolving these issues; and any other data, views, arguments, analyses, suggestions or proposals with respect to creation of an IPR, whether or not in response to specific inquiries or solicitations contained in this notice.

Among the issues FEA would like persons commenting or presenting statements to address are the following (persons responding need not feel obliged to address all of these issues; conversely, FEA welcomes responses addressing the entire IPR structure):

1. What would be the economic impact on the industry of requiring importers and refiners to store three percent of their imports or thoughput by the end of 1978, 1980 or 1982? Please indicate on what assumptions, including the method of storage, your answer is predicated. What would be the effect if any, on the world petroleum market; on the capital market; on exploration; on competition; and on the location of new refineries?

2. Assuming that, if the IPR is adopted, the acquisition and storage costs will be financed by industry, and further assuming that industry will be permitted to pass acquisition and/or storage costs through to customers, what effect would the IPR be likely to have on competitive relations within the petroleum industry? What would be the effects on demand/supply and price with respect to their products? What related impacts can be foreseen, such as on the tanker industry?

3. FEA solicits comments as to the manner in which the IPR should interrelate with FEA's other crude oil and product allocation and pricing regulations that will be applicable to the petroleum industry for the next 36 months. In particular FEA is concerned whether adjustments would be necessary in its current regulatory programs, including the crude oil entitlements program, the buy/sell program, other allocation programs, and in the refiner and reseller price regulations, to assure that no undue economic burden would be put on any segment of the industry. What categories of costs should be allowed to be passed through under FEA price regulations, and over what period of time?

4. (a) In what manner can "readily available inventories" be identified or defined with greater specificity?

(b) Much of the Strategic Petroleum Reserve will be stored in underground facilities, which FEA believes will be substantially cheaper than storage in steel tanks. If an IPR is established, should the IPR be stored locally, predominantly in steel tanks, or should industry have the option of storage in central bulk facilities which could be underground facilities owned and operated collectively, by third parties, or by the Federal Government? Should the Federal Government acquire extra underground storage and make this available to industry? If so, what would be an appropriate method for computing the rental obligation to the Government for use of the underground facilities? In addition to comments on the desirability of Federal Govenrment storage facilities, FEA would be interested in knowing the extent to which industry would utilize Government storage if it were available.

5. If industry were to meet its obligations under the IPR by storing petroleum products (including crude oil) on its own premises, or in other suitable discrete facilities under static conditions, use of such facilities would have to be subject to FEA's approval, and to satisfactory control, reporting, and FEA audit and inspection. FEA seeks estimates from interested persons on currently available storage capacity in excess of that required for minimum working inventories or for other unavailable stocks such as those required for meeting seasonal demands, and on the costs and leadtimes involved if industry were to meet IPR requirements by building tankage. FEA also seeks comments with regard to means of assuring that participants maintain the requisite types and quantities of petroleum products (including crude oil) in a manner exclusively devoted to the IPR.

6. To what extent do there presently exist stocks and supplies of petroleum products, in excess of minimum working inventories or other unavailable stocks such as those required for meeting seasonal demand, which in an emergency could be used or distributed without affecting the ability of their refiner or importer owner to operate at normal capacity? What types of petroleum products (including crude oil) are they? Where are they stored and in what manner? How much of these stocks, if any, are stored in discrete and static facilities? Could such stocks and supplies be made part of an IPR?

7. Taking account of the facts that different grades of crude oil sell for widely different prices, most refined products cost more than the same volume of crude oil, and the effects of a supply interruption are likely to fall unevenly on different importers and refiners, FEA requests comments on a method of determining the types of petroleum products (including crude oil) that would be required in an IPR so that the security of the country could best be protected, and so that the burden of the IPR would be equitably borne by all participants. Among the possibilities on which FEA solicits comments are:

(a) Requiring refiners and importers to maintain the same mix of petroleum products (including crude oil) in their share of the IPR that they refined or imported during a base period;

(b) Specifying the composition of the IPR and assigning quality and quantity requirements to each participant regardless of the participant's base period mix;

(c) Requiring different quantity storage obligations for different classes of refiners and importers;

(d) Controlling the composition of the Reserve by making Federal Government storage available for specified grades of petroleum (including crude oil); or

(e) Having FEA, acting as agent for consenting participants, acquire the desired mix of petroleum products (including crude oil) for the account of each participant, at a composite cost to each.

8. The Act gives FEA considerable discretion in determining who should store petroleum products (including crude oil) and in what forms and quantities. Among the issues presented in exercising this discretion are the following:

(a) How should the quantitative and qualitative storage obligations of each "importer" or "refiner" be determined?

(b) Should there be an exemption from storage obligations for "importers" or "refiners" whose volumes of imported or refined products in the previous calendar year were below certain levels, and if so, what should those levels be? If some type of exemption were appropriate, what form should it take? How should new entrants into importing or refining activities be treated with regard to storage obligations? Should "importers" be exempted altogether, and all storage requirements imposed exclusively on "refiners," or vice versa, and if so, what would be the competitive effects on the petroleum industry? Is some other kind of exemption desirable for reasons of fairness or competitiveness?

(c) How should storage obligations be implemented when related firms include one or more "importers" and one or more "refiners," or two or more refiners of the same imported oil, or when an "importer" or "refiner" is owned by more than one person?

(d) Assuming that FEA determined that a storage obligation should be imposed only once for a given barrel of imported crude oil which subsequently is refined, how could this determination best be implemented? How would such a policy interrelate with treatment of related firms having the characteristics described in paragraph c of this question number 9?

(e) Should there be exemptions from storage requirements based on use, such as imports for petrochemicals or asphalt?

(f) Should storage requirements be imposed with respect to Liquefied Petroleum Gases and Natural Gas Liquids?

Interested persons are invited to participate by submitting data, views, or arguments with respect to the subject matter set forth in his notice to Executive Communications, Room 3309, Federal Energy Administration, Box HH, Washington, D.C. 20461.

Comments should be identified on the outside of the envelope and on documents submitted to FEA Executive Communications by the designation "Industrial Petroleum Reserve." Fifteen copies should be submitted. All comments received by July 16, 1976, and all relevant information, will be considered by FEA. Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in only one written copy. FEA reserves the right to determine the confidential status of the information or data and to treat it according to that determination.

The public hearing will be held at FEA, 2000 M Street, N.W., Washington, D.C., in Room 2105, Monday, July 19 and will be continued, if necessary on Tuesday, July 20.

Any person who has an interest in the subject matter or is a representative of a group or class of persons that has an interest, may make a written request for an opportunity to make an oral presentation. Such a request should be directed to Executive Communications, FEA, and must be received before 4:30 p.m., e.d.s.t., Monday, July 12. Such a request may be hand delivered to Room 3309, Federal Building, 12th and Pennsylvania Avenue, N.W., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., e.d.s.t., Monday through Friday. The person making the request should be prepared to describe the interest concerned; if appropriate, to state why he is a proper representative of a group or class of persons that has such an interest; and to give a concise summary of the proposed oral presentation. He should furnish a phone number where he may be contacted through Friday, July 16. Each person selected to be heard will be so notified by FEA before 4:30 p.m., e.d.s.t., Wednesday, July 14, and must submit 100 copies of his statement to Regulations Management, Room 2214, 2000 M St., N.W., Washington, D.C. before 4:30 p.m., e.d.s.t., on Friday, July 16.

FEA reserves the right to select the persons to be heard at this hearing, to schedule their respective presentations and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited, based on the number of persons requesting to be heard.

An FEA official will be designated to preside at the hearing. This will not be a judicial or evidentiary-type hearing. Questions may be put to witnesses only by those conducting the hearing, and there will be no cross-examination of persons presenting statements. Any decision made by FEA with respect to the subject matter of the hearing will be based on all information available to FEA.

Any interested person may submit questions, which he wishes to be asked of any person making a statement at the hearings, to Executive Communications, FEA, before 4:30 p.m., e.d.s.t., July 16. In addition, any person who wishes to have a question asked may submit the question at the hearing, in writing, to the presiding officer. FEA, or the presiding officer if the question is submitted at the hearing, will determine whether the question is relevant, and appropriate, and whether the time limitations permit it to be presented for answer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be retained by FEA and made available for inspection at the FEA Freedom of Information Office, Room 3116, Federal Building, 12th and Pennsylvania Avenue, N.W., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., e.d.s.t., Monday through Friday. Any person may purchase a copy of the transcript from the reporter.

Issued in Washington, D.C., May 28, 1976.

DAVID G. WILSON,
Acting General Counsel,
Federal Energy Administration.

[FR Doc.76-16116 Filed 5-28-76;4:45 pm]

FEDERAL POWER COMMISSION

AMOCO PRODUCTION CO., ET AL.

[Rate Schedule Nos. 719, et al.]

Notice of Rate Change Filings Pursuant to Commission's Opinion No. 699-H

MAY 25, 1976.

Take notice that the producers listed in the Appendix attached hereto have filed proposed increased rates to the applicable new gas national ceiling based on the interpretation of vintaging concepts set forth by the Commission in its Opinion No. 699-H, issued December 4, 1974. Pursuant to Opinion No. 699-H the rates, if accepted, will become effective as of the date of filing.

The information relevant to each of these sales is listed in the Appendix.

Any person desiring to be heard or to make any protest with reference to said filings should on or before June 7, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). A protest will not serve to make the protestant a party to the proceeding. Any party wishing to become a party to a proceeding must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

APPENDIX

Filing date	Producer	Rate schedule No.	Buyer	Area
Apr. 30, 1976[1]	Amoco Production Co., P.O. Box 3092, Houston, Tex. 77001.	[2] 719	Texas Gas Pi e Line Corp.	Texas Gulf Coast.
May 5, 1976	Petroleum Corp. of Texas, P.O. Box 911, Breckenridge, Tex. 76024.	41	Northern Natural Gas Co.	Hugoton-Anadarko.
Do	Atlantic Richfield Co., P.O. Box 2819, Dallas, Tex. 75221.	657	United Gas Pipe Line Co.	Other Southwest.
May 7, 1976	T. W. McGuire & Associates, Inc., P.O. Box 1763, Shreveport, La. 71166.	[3] 6	Arkansas Louisiana Ga Co.	Do.
May 10, 1976	American Petrofina Co. of Texas, P.O. Box 2159, Dallas, Tex. 75221.	77	Tennessee Gas Pipeline Co.	Texas Gulf Coast
May 13, 1976	Atlantic Richfield Co., P.O. Box 2819, Dallas, Tex. 75221.	544	Texas Eastern Transmission Corp.	Other Southwest.
Do	Cities Service Oil Co., P.O. Box 300, Tulsa, Okla. 74102.	205	El Paso Natural Gas Co.	Permian Basin.
May 14, 1976	Exxon Corp., P.O. Box 2180, Houston, Tex. 77001.	192	Cities Service Gas Co.	Hugoton-Anadarko.

[1] As corrected on May 5, 1976.
[2] Amoco is filing to cover sale formerly made by a small producer, Reserve Oil & Gas Co.
[3] Also proposes to cover sale being made under McGuire's rate schedule No. 5.

[FR Doc.76-15905 Filed 6-2-76;8:45 am]

COASTAL STATES GAS PRODUCING CO. ET AL.

[Docket No. G–7115, et al.]

Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates [1]

MAY 25, 1976.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to Section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.[2]

Any person desiring to be heard or to make any protest with reference to said applications should on or before June 18, 1976, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft³	Pressure base
G–7115 C 4–12–76	Coastal States Gas Producing Co., 5 Greenway Plaza East, Houston, Tex. 77046.	Tennessee Gas Pipeline Co., a division of Tenneco, Inc., Cologne Field, Victoria County, Tex.	[1] 56.090	14.65
CI63–169 D 4–15–76	The California Co., a division of Chevron Oil Co., 1111 Tulane Ave., New Orleans. La. 70112.	Texas Eastern Transmission Corp., West Bryceland Field, Bienville Parish, La.	Nonproductive	
CI63–708 C 3–26–76	CRA, Inc., P.O. Box 7305, Kansas City, Mo. 64116.	Northern Natural Gas Co., Mertzon Plant, Schleicher County, Tex.	[2] 57.4028	14.75
CI63–708 D 3–26–76	do	do	Reclassification of gas well to oil well	
CI74–474 D 4–13–76	Jake L. Hamon, Republic National Bank Tower, P.O. Box 663, Dallas, Tex. 75221.	Northern Natural Gas Co., L. E. Graff Unit No. 1, Mocane Laverne Field, Beaver County, Okla.	Depleted	
CI75–526 C 5–3–76	Exxon Corp., P.O. Box 2180, Houston, Tex. 77001.	Columbia Gas Transmission Corp., Eugene Island, Block 332 field, offshore, Louisiana.	[3] 75.0	15.025
CI75–183 C 3–22–76	CIG Exploration, Inc., 5 Greenway Plaza East, Houston, Tex. 77046.	Colorado Interstate Gas Co., a division of Colorado Interstate Corp., Panhandle (Red Cave) Field, Potter County, Tex.	[4] 70.5299	14.65
CI76–72 C 5–3–76	Exxon Corp., P.O. Box 2180, Houston, Tex. 77001.	Trunkline Gas Co., Eugene Island, Block 332 field, offshore Louisiana.	[5] 75.0	15.025
CI76–475 A 4–9–76	The California Co., a division of Chevron Oil Co., 1111 Tulane Ave., New Orleans, La. 70112.	Natural Gas Pipeline Co. of America, Block 287 field, South Marsh Island area, offshore Louisiana.	[6] 57.1582	15.025
CI76–478 A 4–13–76 [7]	Thomas G. Vessels, 1747 Pennsylvania Ave. NW., Washington, D.C. 20006.	Panhandle Eastern Pipe Line Co., Weld County, Colo.	[8] 67.23	14.65
CI76–482 (CI72–336) F 4–15–76	Devon Corp. (successor to Kirby Petroleum Co.), 3300 Liberty Tower, Oklahoma City, Okla. 73102.	Tennessee Gas Pipeline Co., a division of Tenneco Inc., Chesterville Field, Colorado County, Tex.	[9] 55.45288	14.65
CI76–490 A 4–19–76	Phillips Petroleum Co., 5 C4 Phillips Bldg., Bartlesville, Okla. 74004.	El Paso Natural Gas Co., Panhandle Field and Permian Basin area, Tex.	[10] None	14.65
CI76–492 A 4–19–76	Wewoka Exploration Co., P.O. Box 1478, Houston, Tex. 77001.	United Gas Pipe Line Co., West Fields Field, Beauregard Parish, La.	[11] 76.4636	15.025
CI76–493 A 4–23–76	Ladd Petroleum Corp., 830 Denver Club Bldg., Denver, Colo. 80202.	El Paso Natural Gas Co., Buffalo Wallow Field, Hemphill County, Tex.	[12] 67.08	14.65
CI76–494 A 4–23–76	Mobil Oil Corp., 3 Greenway Plaza East, Suite 800, Houston, Tex. 77046.	Trunkline Gas Co., Vermilion Area, Block 23, Federal offshore, Louisiana.	[8] 53.5514	15.025
CI76–495 A 4–26–76	Pennzoil Offshore Gas Operators, Inc., P.O. Box 2967, Houston, Tex. 77001.	United Gas Pipe Line Co., Block 140, Main Pass Area, offshore Louisiana.	[13] $1.8067	15.025
CI76–496 A 4–26–76	Pennzoil Louisiana & Texas Offshore, Inc., P.O. Box 2967, Houston, Tex. 77001.	do	[13] $1.8067	15.025
CI76–498 A 4–28–76	Gulf Oil Corp., P.O. Box 2100, Houston, Tex. 77001.	Colorado Interstate Gas Co., a division of Colorado Interstate Corp., Southwest Tablerock Field, Sweetwater County, Wyo.	[14] 80.5179	14.65
CI76–499 A 4–30–76	Continental Oil Co., P.O. Box 2197, Houston, Tex. 77001.	Cities Service Gas Co., East Niles Field, Canadian County, Okla.	[8] 55.660253	14.65
CI76–500 A 4–28–76	Getty Oil Co., P.O. Box 1404, Houston, Tex. 77001.	Arkansas Louisiana Gas Co., Mount Olive Field, Union Parish, La.	[8] 60.04	15.025
CI76–501 B 4–29–76	Pennzoil Producing Co., 900 South west Tower, Houston, Tex. 77002.	United Gas Pipe Line Co., Crescent Farms Field, Terrebonne, Parish, La.	Depleted	
CI76–502 (CS72–162) F 4–30–76	Gulf Oil Corp. (successor to Nafco Oil & Gas, Inc.), P.O. Box 2100, Houston, Tex. 77001.	Tennessee Gas Pipeline Co., a division of Tenneco, Inc., Blue Basin *et al.*, fields, Wharton County, Tex.	[15] 25.0	14.65

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.

[1] Includes 0.398¢ gathering allowance and is subject to upward and downward British thermal unit adjustment.
[2] Includes 4.1933¢ tax reimbursement, 1.4919¢ gathering allowance and is subject to downward British thermal unit adjustment.
[3] Includes 10.05¢ upward British thermal unit adjustment. Applicant is willing to accept a permanent certificate in accordance with opinion No. 699–H.
[4] Includes 14.6190¢ upward British thermal unit adjustment.
[5] Includes 10.05¢ upward British thermal unit adjustment. Applicant is willing to accept a permanent certificate in accordance with opinion No. 699–H.
[6] Includes 3.6068¢ upward British thermal unit adjustment, plus 0.51¢ gathering.
[7] Initial service for limited term certificate with pregranted abandonment.
[8] Subject to upward and downward British thermal unit adjustment.
[9] Includes 0.21934¢ upward British thermal unit adjustment.
[10] Gas exchange.
[11] Subject to upward and downward British thermal unit adjustment; 1.326¢ per year after Jan. 1, 1977. Applicant is willing to accept a certificate conditioned in accordance with opinion No. 699–H.
[12] Includes 10.4¢ upward British thermal unit adjustment. The price is subject to renegotiation if any legislation results in deregulation of the price at which natural gas is sold in interstate commerce.
[13] Includes 2.62¢ upward British thermal unit adjustment. Pursuant to opinion No. 699. Requests certification at applicable national rate.
[14] Includes 0.7972¢ upward British thermal unit adjustment and 3.2207¢ tax reimbursement. Applicant is willing to accept a permanent certificate in conformance with the provisions of opinion No. 699.
[15] Subject to downward British thermal unit adjustment. Applicant is willing to accept a permanent certificate at the area rate subject to upward and downward British thermal unit adjustment.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

[2] This notice contains a Limited Term Application.

[FR Doc.76–15951 Filed 6–2–76;8:45 am]

[Docket No. RM75-14]

NATURAL GAS

National Rates for Jurisdictional Sales

MAY 25, 1976.

Directive to the Secretary of the Federal Power Commission to issue Subpoena Duces Tecum.

National rates for jurisdictional sales of natural gas dedicated to interstate commerce on or after January 1, 1973, for the period January 1, 1973 to December 31, 1976.

By notice issued March 21, 1974,[1] the Commission requested comments on a Staff report[2] that showed a disparity of 1.7 Tcf of natural gas reserves between the Staff estimates for 31 leases located in the Offshore South Louisiana Federal Domain and those published by the American Gas Association Committee on Natural Gas Reserves. Upon the request of the AGA, a public conference on said disparity was held on April 16, 1974, and the attempt to clear up the discrepancy was unproductive. Consequently, the Commission incorporated the additional 1.7 Tcf of reserves into its computations of productivity in Opinion No. 699.[3]

On June 13, 1975,[4] the Commission issued an order updating and expanding the prior investigation. Producers that operated Offshore Gulf of Mexico gas fields that were discovered in 1971–1972 were required to submit to the Commission: (a) information sufficient for the Staff to make an independent reserve study of each field, (b) the producer estimate of the reserves, and (c) all reserve estimates that had been reported to the AGA for those fields. The expressed purpose of this expanded investigation is to seek a reduction of the reporting disparity in relation to the utilization of AGA reserve figures in the Commission's ratemaking methodology.

The June 13, 1975 order provided that all information submitted pursuant to this order would be a matter of public record. This aspect of the order has been appealed in *Pennzoil Company, et al.* v. *Federal Power Commission*,[5] which is currently pending before the Fifth Circuit. On July 30, 1975, the Court granted a motion for stay requested by the producers to the extent that the data filed pursuant to the Commission's order must be maintained "in the strictest confidence."

The first phase of the updated investigation was the submission by producer-operators of the data required by the June 13, 1975 order. This material enabled the Staff to make an independent lease-by-lease reserve analysis and then compare that number with the reserve estimate that was also submitted by the producer-operators to the Commission pursuant to our June order. The next step is to compare this information with that used by the AGA to compute its annual report entitled, "Reserves of Crude Oil, Natural Gas Liquids, and Natural Gas in the United States and Canada and United States Productive Capacity."

The June 13, 1975 order also required producer-operators to inform the Commission whether the reserve estimates for the subject leases had been reported to AGA by the company or an employee and if so, what number was so reported. The Staff's analysis of the response to the request showed that, in some cases, the operators of producing leases did not report the reserve estimate to AGA. Without further inquiry, the Commission decided that it could not determine in these situations whether some other party, whether a working interest owner or not, reported a reserve estimate to AGA or if no reserve estimate at all were included by AGA in its annual report.

The purpose of the investigation is to determine the propriety of continuing to use the AGA reserve statistics in our nationwide ratemaking procedures, until such time as the data to be secured by our new Form No. 40 becomes available, or if those computations should be modified in some way or adjusted in some manner. The Commission held that it could not reach a reasoned conclusion on that question without being able to compare the information currently on file with the data used by AGA in the compilation of its annual reports.

Therefore, pursuant to Section 14(a) of the Natural Gas Act[6] and Section 1.23 of the Commissions' Rules of Practice and Procedure,[7] the Commission by order issued February 25, 1976, directed the Secretary to issue a subpoena duces tecum addressed to Oscar M. Stuart of Exxon Company U.S.A., Donald R. Scherer of Southern Natural Gas Company, G. R. Stoddard of Texaco Inc., and Roger D. Stanwood of Transcontinental Gas Pipe Line Corporation, all members of the American Gas Association Committee on Natural Gas Reserves, and F. Donald Hart, President, American Gas Association, to produce the items set forth in Attachment A of the order.

In its February 25, 1976 order directing the issuance of the subpoenas, the Commission noted that the Court in *Pennzoil Company, et al.* v. *Federal Power Commission, supra*, has ordered that the data which is there in controversy be maintained by the Commission in strictest confidence pending further order of that Court. Since some of the material to be subpoenaed could overlap the data obtained in *Pennzoil*, the Commission accorded confidential treatment to the data submitted, unless and until the Court's order in *Pennzoil* was modified. Any change in the confidential treatment of the confidential data submitted, consequent upon the Court's action in Pennzoil, would be made in accordance with the procedure of Ordering Paragraphs (B)(a) and (B)(b) of the February 27, 1976 order.

The subpoenaed information was submitted by the served parties. In its analysis of the filed data, the Commission Staff determined that two fields that each qualified as 1971–1972 Gulf of Mexico new field discoveries had not been reported to the Commission by the responsible producer pursuant to our June 13, 1975 directive. Upon notification of this fact, one producer promptly supplied the missing data. The second producer, however, Comprehensive Resources Corporation, has refused to supply the information required by the Commission's June 13, 1975 order with respect to the Mustang Island Block 924S Field, Offshore Texas.[8]

The purpose of the subject subpoena is to complete our records on the reserves in this area which are relevant to a determination of the productivity issue in Docket No. RM75-14. Specifically, we intend to compare the data sought under the subpoena with the date previously submitted by AGA from this particular field.

Therefore, pursuant to Section 14(a) of the Natural Gas Act[9] and Section 1.23 of the Commission's Rules of Practice and Procedure,[10] we direct the Secretary to issue a subpoena duces tecum addressed to Michael Schmidt of Comprehensive Resources Corporation to produce the items enumerated in the June 13, 1975 order in Docket No. RM75-14. Any and all material submitted to the Commission in response to the subpoena will be treated as confidential pursuant to the order of the court in *Pennzoil Company, et al.* v. *Federal Power Commission, supra*.

The Commission finds. Good cause exists to direct the Secretary of the Commission to issue a subpoena duces tecum as hereinafter ordered.

The Commission orders. (A) The Secretary of the Commission is hereby directed to immediately issue a subpoena duces tecum addressed to Michael Schmidt of Comprehensive Resources Corporation to produce or cause to be produced each and every item set forth in the June 13, 1975 order, a copy of which is attached, and to produce or

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[1] Notice Of Issuance Of Revised Nationwide Cost Study And Staff Study Of American Gas Association Reserve Additions, Docket No. R-389-B, March 21, 1974.

[2] Report On Indicated Disparity In Reporting Of Offshore Louisiana Non-Associated Natural Gas Reserves (Appendix B-1 to the March 21, 1974 Notice).

[3] Opinion No. 699, Opinion And Order Prescribing National Rate For Sales Of Natural Gas Produced From Wells Commenced On Or After January 1, 1973, And New Dedications Of Natural Gas To Interstate Commerce On Or After January 1, 1973, Docket No. R-389-B, 51 FPC 2212, 2244-51 (June 21, 1974).

[4] Order Instituting Investigation To Update Prior Study, Docket No. RM75-14, 52 FPC —— (June 13, 1975), rehearing denied, 52 FPC ——, —— (July 24, 1975 and August 4, 1975).

[5] *Pennzoil Company, et al.* v. *F.P.C.*, No. 75-2961 (5th Cir. 1975)

[6] 15 U.S.C. § 717m (1970).

[7] 18 C.F.R. § 1.23.

[8] While the sale from the field in question here is a nonjurisdictional sale, Comprehensive Resources Corporation is a natural gas company and was issued a small producer certificate on September 5, 1972, in Docket No. CS72-1195.

[9] 15 U.S.C. § 717m (1970).

[10] 18 C.F.R. § 1.23.

cause to be produced said material in the office of the Secretary of the Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before June 11, 1976.

(B) Any document produced under this Order which contains confidential information may be designated as being confidential by the respective respondent, or any party in interest, in which event all documents so designated shall be subject to the following protective treatment.

(a) Documents designated as confidential by a respondent shall be deposited with and shall be maintained by a custodian who shall be the Secretary to the Commission. Unless and until otherwise ordered by the Commission upon due notice to all affected parties, documents so designated may be inspected only at the depository location and only by employees of the Power Commission officially assigned to its investigation in Docket No. RM75-14. Said documents shall be used only in connection with said investigation, and said employees shall not suffer or permit disclosure or copying of any such document, or any portion thereof, or any information contained therein to any other person, except to the extent provided in (d) below.

(b) Unless and until otherwise ordered by the Commission upon due notice to all affected parties, documents designated confidential under this Order shall remain in custody of the Custodian and neither the documents nor any copies thereof shall be removed from such custody.

(c) At the conclusion of the Power Commission's investigation pursuant to which such confidential documents have been produced, all documents so designated as confidential, together with all copies thereof, shall be returned to the respective respondent unless otherwise ordered by the Power Commission.

(d) Information derived from the documents submitted pursuant to this order, and designated as being confidential by each respective respondent, or any party in interest, may be made public without further notice to the following extent only:

Composite or aggregate data or data submitted by the respondent, or any party in interest, if his name and other identifying characteristics are deleted. *Continental Oil Company* v. *F.P.C.*, 519 F.2d 31 (5th Cir. 1975).

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

UNITED STATES OF AMERICA
FEDERAL POWER COMMISSION

Subpoena Duces Tecum

In re: National Rates For Jurisdictional Sales Of Natural Gas Dedicated To Interstate Commerce On Or After January 1, 1973, Docket No. RM75-14

For The Period January 1, 1975 to December 31, 1976

To Mr. Michael Schmidt, Comprehensive Resources Corporation, Box 1341, Corpus Christi, Texas 78403

YOU ARE HEREBY required to appear before Kenneth F. Plumb, Secretary of the Federal Power Commission, at 825 North Capitol Street, N. E. in the city of Washington, D. C. 20426 on the eleventh day of June, 19 76, at 10 o'clock a. m. of that day, to testify

And you are hereby required to bring with you and produce at said time and place the following:

See attached "Definitions" and "Specifications"

IN WITNESS WHEREOF, the undersigned, being duly and lawfully authorized so to do, has hereunto set his hand at _____, this _____ day of _____, 19____

_____
Secretary
(Title)

Fail not at your peril.

IN TESTIMONY WHEREOF, the seal of the Federal Power Commission has been affixed hereto this _____ day of _____, 19____

[IMPRESS SEAL HERE]

_____

NOTICE TO WITNESS.—If claim is made for witness fee or mileage, this subpoena should accompany voucher.

FPC Form 44
(10-75)

DEFINITIONS

As used herein, the term "documents" means all writing of every kind including field worksheets, books, records, folios, minutes, reports, memoranda, correspondence, agreements, discounted cash flow studies, cover sheets, calculation sheets, printouts, telegrams, diary entries, pamphlets, notes, charts, and tabulations in the possession, custody or control of the Company. The term "documents" also includes voice recordings and reproductions or film impressions of any of the aforementioned writings as well as copies of documents which are not identical duplicates of the originals and copies of documents of which the originals are not in the possession, custody or control of the Company. The term "documents" further includes all

punch cards or other cards, disks, tapes or recordings used in data processing, together with the programming instructions and other written material necessary to understand or use such punch cards, tapes or other recordings.

Each document submitted must be identified as to the specification or specifications to which it is responsive.

The term "AGA" refers to the American Gas Association, Inc., a corporation existing under the laws of the State of Delaware with its principal place of business located at 1515 Wilson Boulevard, Arlington, Virginia 22209, as well as its directors, officers, committee members, employees, agents, and associates; subsidiaries and affiliates; and the directors, officers, employees, agents, and associates of its subsidiaries and affiliates.

Unless otherwise stated, the following definitions apply to the specifications that ensue:

1. Offshore Gulf of Mexico. That geographical area which lies seaward from the coast line of the states of Florida, Alabama, Mississippi, Louisiana, and Railroad Commission District Nos. 3, 2 and 4 of the State of Texas. Such geographical area includes all areas under either Federal or State jurisdiction and control.

2. Ultimately recoverable reserves. Natural gas in place that is producible, together with its cumulative production.

3. Associated Gas; Dissolved Gas. The definitions of these two terms that appear in Technical Report No. 1, Standard Definitions for Petroleum Statistic (First Edition, July 1, 1969), page 6, are adopted.

4. Nonassociated Gas. Natural gas which is in a reservoir or reservoirs not containing significant quantities of crude oil.

SPECIFICATIONS

A. Documents that will indicate for the Mustang Island Block 924S Field, the following information:

(1) The estimate or estimates made by or provided to the company or any of its affiliates of ultimately recoverable natural gas reserves as of December 31, 1974 for the field, broken down to nonassociated and associated-dissolved reserves.

(2) Year of discovery as determined by the company.

(3) Identify, for the Mustang Island Field, each and every block in the field as determined by the company by the state block and lease number.

(4) The name and business address of the individual or individuals that made the estimate of ultimately recoverable reserves as of December 31, 1974 for the Mustang Island Field and the definition of "proved reserves" employed by that person or persons in such computation.

B. Documents that will provide the information, including existing directional surveys on directionally drilled wells, not listed in A. above, required to be submitted by the Commission's order of June 13, 1975 in Docket No. RM75–14.

ORDER INSTITUTING INVESTIGATION TO UPDATE PRIOR STAFF STUDY

JUNE 13, 1975.

On March 21, 1974, in Docket No. R–389–B the Commission issued a Notice of Issuance Of Revised Nationwide Cost Study And Staff Study Of American Gas Association Reserve Additions. In the Notice the Commission requested all parties to comment upon a Staff report entitled "Report On Indicated Disparity In Reporting Of Offshore Louisiana Non-Associated Natural Gas Reserves" (Appendix B–1 to the Notice). The parties were also asked to comment upon whether the Commission should continue to use reserve figures compiled by the American Gas Association's Committee on Natural Gas Reserves (hereinafter AGA) in its ratemaking proceedings. The Staff report indicated a disparity of approximately 1.7 Tcf between the AGA figures for the entire South Louisiana area and the reserves found by the Staff to exist in only 31 leases sold in that area in the 1970 and 1971 offshore lease sales.

These issues were explored, to a limited extent, at a public, on-the-record conference held on April 16, 1974, but the questions posed by us in the March 21, 1974 Notice were not resolved. On June 21, 1974, the Commission issued Opinion No. 699,[1] a portion of which referred to the 1.7 Tcf disparity and its application to the productivity component of the ratemaking methodology, as follows:

"With the exception of UDC (United Distribution Companies) and GHK (GHK Company) no parties to this proceeding submitted any mathematical analysis of anticipated future productivity levels in response to the March 31, 1974 (sic) notice. The producers were content to criticize the Staff report indicating a disparity between reserve additions as reported by AGA and the Staff's estimate of the volume of reserves underlying selected leases in the offshore Southern Louisiana area.

While criticism of the Staff report may have been appropriate, the critiques submitted did not rebut the basic finding of the Staff report that there is a disparity between the Staff's reserve study and reserve additions reported by the AGA. Indeed, it seems as though the Producers and the AGA would prefer to ignore the disparity rather than resolving the matter. Representatives of the AGA and certain of the Producer respondents to this proceeding were unwilling to attempt to devise procedures whereby the AGA and Producers would have access to the Staff's data and the Staff would have access to the AGA's data at the conference held in this proceeding on April 16, 1974 (Tr. 9–10, 54–56, 60–62, 69).

It is apparent that the AGA would like to have access to the Staff's data without allowing the Staff to have access to the AGA data. Td. 9, 54–56, 60–62, 69. We do not believe that that is the proper method for resolving this problem. Both sides must have access to the other's data so that meaningful comparisons can be made by both. Therefore, unless and until the AGA is willing to agree to procedures for the exchange of data, we are compelled to find that the reserve additions as reported by the AGA for 1971 and 1972 are understated by approximately 1.7 Tcf and we shall make the appropriate adjustments to our cost computations.[2]

Since the issuance of Opinion No. 699 the Commission has issued its order promulgating new FPC Form No. 40,[3] upon which all natural gas companies, their affiliates and subsidiaries must report their proved reserves for the reporting year. And subsequently, the Commission has promulgated a rulemaking[4] to obtain a ten year series of reserve information and the basic cost data necessary in our producing ratemaking procedures. In the future, once a series of years' data has been compiled from Form No. 40, the Commisseion will be able to rely on this source of information in the computation of the productivity component of the ratemaking methodology.[5] Until that time, however, and especially in the biennial review of the nationwide rate in Docket No. RM75–14, the Commission is constrained to look to the AGA figures on reserves. If there exists a disparity between the AGA numbers and other estimates, then modifications of the AGA information might have to be made, as was done in Opinion No. 699. It is to inquire further into this matter that we institute the instant investigation.

The March 21, 1974 Notice and Staff report was based on a comparison between Staff estimates and the AGA data for 1971 and 1972. Since that time further information has become available, including the AGA Reports for 1973 and 1974. It is vital to the Commission's ratemaking responsibilities that the disparity indicated by the Staff Report be explored further so that the biennial review of the nationwide rate can proceed based on the best possible information currently available to us. It may be, as was noted in the Staff Report, that the 1.7 Tcf difference was due entirely to reportorial lag, a fact which could itself be important in influencing our choices in

[1] Opinion No. 699, Opinion And Order Prescribing Uniform National Rate For Sales Of Natural Gas Produced From Wells Commenced On or After January 1, 1973, And New Dedications Of Natural Gas To Interstate Commerce On Or After January 1, 1973, Docket No. R–389–B, 51 F.P.C. —— (June 21, 1974).

[2] Id. at 51 FPC ——, mimeo. 48–49, 95–96.

[3] Order No. 526, Order Prescribing Procedures And Instituting Uniform Annual Filing Of National Proved Domestic Natural Gas Reserves Information, Docket No. RM74–16, —— FPC —— (issued February 26, 1975).

[4] Notice Of Proposed Rulemaking, Continuing Investigation Of Exploration, Exploration And Development Activities, Production, Reserve Additions, And Revenues Of Natural Gas Producers And Producing Affiliates Subject To The Jurisdiction Of The Federal Power Commission, Docket No. RM75–24, —— FPC —— (March 13, 1975).

[5] Id. at —— FPC ——, mimeo. 7.

computing productivity. There could also be other explanations for the disparity. The purpose of this investigation is to seek a resolution of this matter in relation to the utilization of AGA nonassociated reserve additions in our ratemaking methodology.

The first step in such an analysis is the development of a base case from which to proceed. In this instance, the base case is the reserves held on those new fields discovered in the Gulf of Mexico in 1971–1972, including the 31 leases that were subject to the March, 1974 Staff Report. This data will provide a test area for the review of the productivity component in the biennial review.

Accordingly, all companies that hold, or held, proved reserves in these 1971–1972 discoveries will be required by July 25, 1975, to provide the Commission, under oath, with estimates of the proven reserves that exist on the subject properties as of December 31, 1974, plus all background information, such as well logs and production histories, necessary for the Staff to make an independent reserve estimate. The information to be submitted, as listed in Appendix A, should include all new field Gulf of Mexico gas discoveries made in 1971–1972, even if such discovery is not included in Table I to Appendix A. In addition, all producer respondents must submit all information made available to AGA for the years 1971–1974 relative to the reserve estimates made by AGA for the 1971–1972 new discoveries, including the company's estimate of total proved reserves for each subject property in each year and any estimate filed by the company or its representative(s) serving on the Committee on Natural Gas Reserves or its subcommittees.

To the extent any of the material required to be produced herein has been supplied in the proceeding entitled Certain Producer and Pipeline Respondents, Docket No. RI75–112, it will be necessary for the purposes of this investigation only to identify the pages of the transcript in Docket No. RI75–112 where such information is discussed and the exhibit numbers, if any, that pertain thereto.

A complete list of the parties that must respond to this order and the information to be supplied can be found in Appendix A, attached hereto. Responses to this order will be a matter of public record. Once submitted, the information supplied will be analyzed by our Staff, which will report to us on the progress of the investigation and what further steps need to be taken, if any.

The Commission finds. It is in the public interest that the Commission institute an investigation to determine the proved reserves that exist in fields that were discovered in 1971 and 1972 in the Gulf of Mexico. This inquiry will update the March, 1974 Staff report that noted an apparent disparity between the AGA estimates for the entire offshore area and a Staff computation based on only 31 leases.

The Commission orders. (A) Pursuant to Sections 4, 5, 7, 8, 10, 14, and 16 of the Natural Gas Act, 15 U.S.C. § 717, et seq., an investigation is ordered to determine the extent of proved reserves present in fields discovered in 1971–1972 located in the Gulf of Mexico.

(B) Natural gas companies that hold, or held, proved natural gas reserves in the subject fields are required to submit to the Commission, under oath, their respective reserve estimates through December 31, 1974, and the background data supporting the estimates, plus all information supplied by any producer or its representative to the AGA Committee on Natural Gas Reserves or its subcommittees for the subject fields in the years 1971–1974, as more fully set forth in Appendix A attached hereto, by July 25, 1975.

By the Commission.

[SEAL] MARY B. KIDD,
Acting Secretary.

APPENDIX A

All natural gas companies listed on the accompanying Table I will provide, under oath, by July 25, 1975, a reserve estimate for total proved reserves for each field and/or lease in which that company holds, or held, proved reserves. All background data must also be submitted, including workpapers, such as electric well logs, core analysis data, well information, structure and isopachous maps, any calculated data such as reservoir pressure or temperature derived therefrom, plus any pressure decline, production decline, or material balance method data useful in making a reserve estimate. In addition, any further information relative to making a reserve estimate for the fields listed on Table I must also be submitted. The information to be submitted, as listed herein, should include all new field Gulf of Mexico gas discoveries for 1971–1972, even if such discovery is not included in Table I.

Each listed producer or its representative serving on the AGA Committee on Natural Gas Reserves or its subcommittees shall submit the reserve estimates filed with such committees for the subject fields and/or leases for 1971–1974, such as that stated above.

All responses to this order will be a matter of public record.

TABLE 1.—*Indicated 1971–1972 Gulf of Mexico new field gas discoveries*

Area	Field name (block)	OCS lease No.	Related leases: Block No.	Related leases: OCS lease No.	Companies [1 4]
West Cameron:					
1	28	G–2125			Chevron Oil Co.
2	146	G–1996			Phillips Petroleum Co., et al.
			145	G–1995	Chevron Oil Co.
			171	G–1997	Transocean Oil Inc., et al.
			172	G–1998	Chevron Oil Co.
3	504	G–2006			Oil and Gas Future Inc., Tex.
			513	G–2007	Union Oil Co. of California, et al.
4	543	G–2010			Kerr-McGee Corp., et al.
			544	G–2011	Phillips Petroleum Co., et al.
5	565	G–2015			Shell Oil Co.
			564	G–2014	Chevron Oil Co.
6	587	G–2021			Pennsoil Offshore Gas Oper. Inc., et al
			588	G–2022	Sun Oil Co.
7	639	G–2027			Do.
			638	G–2026	Tenneco Oil Co.
			648	G–2028	Do.
East Cameron:					
8	33	G–1972			Mobil Oil Corp., et al. (NE¼ of Block 33).
			33	G–2127	Continental Oil Co., et al. (S½; NW¼ of Block 33).
9	81	G–1477			Mobil Oil Corp.
10	222	G–2037			Union Oil Co. of California, et al.
11	231	G–2038			Southern Production and Refining Co
12	257	G–2041			Mobil Oil Corp., Chevron Oil Co.
13	271	G–2046			Tenneco Oil Co.
			270	G–2045	Pennsoil Offshore Gas Oper. Inc., et al.
			272	G–2047	Tenneco Oil Co.
			273	G–2048	Phillips Petroleum Co., et al.
			254	G–2039	Tenneco Oil Co.
			255	G–2040	Do.
			281	G–2083 [3]	Sun Oil Co.
			282	G–2084 [3]	Texaco, Inc.
			301	G–2085 [3]	Chevron Oil Co.
			262	G–2081 [3]	Mobil Oil Corp-Chevron Oil Co.
14	286	G–2051			Do.
			287	G–2052	Do.
15	294	G–2056			Marathon Oil Co., et al. (SLAM).
16	321	G–2061			Marathon Oil Co.
			312	G–2057	Sun Oil Co.
17	334	G–2062			Pennzoil Offshore Gas Oper. Inc., et al.
18	338	G–2063			Sun Oil Co.
			339	G–2064	Do.
			348	G–2065	Do.
			349	G–2066	Do.
Vermilion:					
19	147	G–2071			Union Oil Co. of California, et al.
20	182	G–2074			Transocean Oil Inc., et al.
			201	G–2075	Union Oil Co. of California, et al.
21	214	G–2076			Chevron Oil Co.
22	236	G–2079			Tenneco Oil Co.
23	247	G–2080			Shell Oil Co.
24	320	G–2067			Sun Oil Co.
			321	G–2088	Shell Oil Co.
			325	G–2089	General American Oil Co., Texas-Burmah Oil Exploration Inc.
25	339	G–2090			Shell Oil Co.
			340	G–2091	Do.

Area	Field name (block)	OCS lease No.	Related leases: Block No.	Related leases: OCS lease No.	Companies [1] [4]
Eugene Island:					
26	258	G-1959			Cities Service Oil Co.
			256	G-2102	Pennzoil Offshore Gas Oper. Inc., et al.
			257	G-2103	Continental Oil Co.-Cities Service Oil Co.
27	296	G-2105			Transocean Oil Inc., et al.
			295	G-2104	Humble Oil & Refining Co. (Exxon).
28	306	G-2109			Transocean Oil Inc., et al.
29	330	G-2115			Pennzoil Offshore Gas Oper. Inc., et al.
			314	G-2111	Humble Oil & Refining Co. (Exxon).
			331	G-2116	Shell Oil Co.
			338	G-2118	Tenneco Oil Co.
South Timbalier: (30).	185	G-1569			Atlantic Richfield Co.-Skelly Oil Co.
South Marsh Island: (31).	122	G-2097	184	G-1568	Cities Service Oil Co., et al. (CAC). Transocean Oil Inc., et al.
Grand Isle:			114	G-2094	Shell Oil Co.
32	45	G-1582			Continental Oil Co., et al. (CAGC).
33	76	G-2161			Shell Oil Co., et al.
34	82	G-1987			Oil and Gas Futures, Inc. (NE¼).
			77	G-1583	Oil and Gas Futures, Inc.
			78	G-1986	Oil and Gas Futures, Inc. (SW¼).
			81	G-1986	Oil and Gas Futures, Inc. NW¼).
35	95	G-2164			Gulf Oil Corp.-Mobil Oil Corp.
			94	G-2163	Do.
Breton Sound:					
36	30	S/L-5670 [3]			Despot Exploration Co.
37	33	S/L-552 [3]			Placid Oil Co.
Brazos (Texas): (38)	A-105	G-1757			Mobil Oil-Corp.-Union Oil Co. of California.
			A-102	G-1754	Mobil Oil Corp., et al.

[1] Source: Outer Continental Shelf Statistical Summary, 1954-73, USDI, Bureau of Land Management, New Orleans Office.
[2] Vermillion Area.
[3] Louisiana Offshore State leases.
[4] Each of the listed companies, or the designated lease operator, should provide a total gas reserve estimate for the appropriate lease or leases, including all reserves owned by working interest parties.

[FR Doc.76-15752 Filed 6-2-76;8:45 am]

FEDERAL RESERVE SYSTEM

[H.2, 1976 No. 20]

BOARD OF GOVERNORS

Actions of the Board; Applications and Reports Received During the Week Ending May 15, 1976

ACTIONS OF THE BOARD

Statement by Vice Chairman Stephen S. Gardner before the Subcommittee on Financial Institutions of the Senate Committee on Banking, Housing and Urban Affairs, commenting on the recommendations to the Congress of the Advisory Commission on Intergovernmental Relations, which Committee Print No. 1 seeks to implement.

Conflict of interest for Board members, response to questionnaire sent to Chairman Ribicoff, Senate Committee on Government Operations.

Reserve requirements, modification of procedures for transitional relief from increases in reserve requirements occasioned by a merger involving a member bank or from a bank joining the Federal Reserve for the first time.

Regulation B amendments, the Board announced adoption of several amendments to its Regulation B—Equal Credit Opportunity—that went into effect last October 28.

Regulation Q, pooling of funds, notice of extension of comment period from May 10 to July 9.

Regulation Z, Truth in Lending, the Board proposed several modifications to its rules for identifying transactions charged to consumers using open-end charge accounts (such as charges on a credit card billing statement).

The Board amended its Rules Regarding Delegation of Authority, to delegate to the Director of Division of Banking Supervision and Regulation the authority to withdraw or cancel by order the transfer agent registration of a member State bank or a subsidiary thereof, a bank holding company, or a subsidiary of a bank holding company that is a "bank" as defined in section 3(a)(6) of Securities Exchange Act.

Bancapital Financial Corporation, Austin, Texas, extension of time to May 18, 1977, within which to divest of indirect ownership of the shares of Texas General Life Insurance Company, Austin, Texas.[1]

Beaver Bancshares, Inc., Beaver, Oklahoma, extension of time to June 17, 1976, within which to consummate the acquisition of The Bank of Beaver, Beaver, Oklahoma.[1]

Inland Heritage Corporation, Wauwatosa, Wisconsin, extension of time to August 14, 1976, within which to commence de novo activities through its subsidiary, Inland Insurance Agency, Inc.[1]

Southeast Banking Corporation, Miami, Florida, extension of time to August 13, 1976, within which to engage de novo through a subsidiary known as Southeast Credit Insurance Agency.[1]

Deregistration under Regulation G for A. F. Staley Manufacturing Co., Decatur, Illinois.[1]

Hanover Bank, Wilmington, North Carolina proposed merger with The Planters National Bank and Trust Company, Rocky Mount, North Carolina; report to the Comptroller of the Currency on competitive factors.[1]

Bank of Rhame, Rhame, North Dakota, extension of time to open paying and receiving station.[1]

United Jersey Bank, Hackensack, New Jersey, extension of time within which to establish a branch at the corner of Lake Street and East Avenue, Upper Saddle River, New Jersey.[1]

[1] Application processed on behalf of the Board of Governors under delegated authority.

Chemung Canal Trust Company, Elmira, New York, extension of time within which to establish a branch at the intersection of College Avenue and McCanns Boulevard, Elmira, New York.[1]

TO BECOME A MEMBER OF THE FEDERAL RESERVE SYSTEM PURSUANT TO SECTION 9 OF THE FEDERAL RESERVE ACT

Approved

Pacific Security Depository Trust Company, San Francisco, California.[2]

* * * * *

TO ESTABLISH A DOMESTIC BRANCH PURSUANT TO SECTION 9 OF THE FEDERAL RESERVE ACT

Approved

Clear Lake Bank and Trust Company, Clear Lake, Iowa. Branch to be established at 21 North 4th Street, Clear Lake.[2]

Citizens Fidelity Bank & Trust Company, Louisville, Kentucky, Branch to be established at the intersection of Lindsay Avenue and Brownsboro Road, Louisville, Jefferson County.[2]

Walker Bank & Trust Company, Salt Lake City, Utah. Branch to be established in the vicinity of 7800 South 1700 West, West Jordan, Salt Lake County.[2]

Continental Bank and Trust Company, Salt Lake City, Utah. Branch to be established at 509 East 400 South, Salt Lake City.[2]

* * * * *

TO ESTABLISH AN OVERSEAS BRANCH OF A MEMBER BANK PURSUANT TE SECTION 25 OF THE FEDERAL RESERVE ACT

Approved

First National Bank of Chicago, Chicago, Illinois: branch—George Town, Grand Cayman, Cayman Islands.

INTERNATIONAL INVESTMENTS AND OTHER ACTIONS APPROVED PURSUANT TO SECTIONS 25 AND 25(a) OF THE FEDERAL RESERVE ACT AND SECTIONS 4(c)(9) AND 4(c)(13) OF THE BANK HOLDING COMPANY ACT OF 1956, AS AMENDED

Bamerical International Financial Corporation, San Francisco, California: investment—to acquire 40 percent of a de novo finance company in Kuwait.

* * * * *

TO MERGE PURSUANT TO SECTION 18(c) OF THE FEDERAL DEPOSIT INSURANCE ACT

Approved

Manufacturers Hanover Trust Company, New York, New York, for prior approval to merge with Manufacturers Hanover Trust Company/Mid-Hudson, Monroe, New York, and Manufacturers Hanover Trust Company/Suffolk, National Association, Bay Shore, New York.

* * * * *

TO FORM A BANK HOLDING COMPANY PURSUANT TO SECTION 3(a)(1) OF THE BANK HOLDING COMPANY ACT OF 1956

Approved

Adair Insurance Agency, Inc., Adair, Iowa, for approval to acquire 100 percent of the voting shares (less directors' qualifying shares) of Exchange State Bank, Adair, Iowa.[2]

Sumner County Bancshares, Inc., Wellington, Kansas, for approval to acquire 90.13 percent of the voting shares of The National Bank of Commerce of Wellington, Wellington, Kansas.

[2] Application processed by the Reserve Bank on behalf of the Board of Governors under delegated authority.

TO EXPAND A BANK HOLDING COMPANY PURSUANT TO SECTION 3(a)(3) OF THE BANK HOLDING COMPANY ACT OF 1956

Approved

CleveTrust Corporation, Cleveland, Ohio, for approval to acquire 100 per cent of the voting shares (less directors' qualifying shares) of the successor by merger to The Savings Deposit Bank Company, Medina, Ohio.

* * * * *

TO EXPAND A BANK HOLDING COMPANY PURSUANT TO SECTION 4(c)(8) OF THE BANK HOLDING COMPANY ACT OF 1956

Approved

Adair Insurance Agency, Inc., Adair, Iowa, for permission to engage in general insurance agency activities through the acquisition of a general insurance agency in the town of Adair, Iowa, a community with a population of less than 5,000.[2]

Central Mortgage Bancshares, Inc., Warrensburg, Missouri, for approval to acquire all of the voting shares of Cenco Insurance Company, Phoenix, Arizona.

Sumner County Bancshares, Inc., Wellington, Kansas, for approval to continue to engage in the sale as agent of credit life and credit accident and health insurance directly related to extensions of credit by Bank on Bank's premises.

Reactivated

North Shore Capital Corporation, Wilmette, Illinois, notification of intent to engage in de novo activities (acting as agent, broker, or adviser only in the leasing of real and personal property and equipment where at the inception of the initial lease the expectation is that the effect of the transaction will be to compensate the lessor for not less than the lessor's full investment in the property plus the estimated cost of financing the property over the term of the lease; and acquiring, for the account of others only, loans and other extensions of credit primarily to finance the acquisition of personal property and equipment; such loans would include, but not be limited to, the financing of time sales contracts, conditional sales agreements, installment purchase loans, and secured term loans; and as agent, broker, or advisor only servicing the aforesaid leases and loans) at 1737 West Howard Street, Chicago, Illinois, through its subsidiary, NSCC Leasing Corp. (5/10/76).[2]

Permitted

Industrial National Corporation, Providence, Rhode Island, notification of intent to engage in de novo activities (origination, sales, and servicing of residential mortgages) at 300 Duncan Street, Clearwater, Florida and 1443 West Schaumburg, Schaumburg, Illinois, through its subsidiary, Mortgage Associates, Inc. (5/14/76).[2]

Chemical New York Corporation, New York, New York, notification of intent to engage in de novo activities (provide real estate financing particularly through short term land development and construction mortgage loans, acting as adviser, counselor, and servicing agent for all the real estate lending business of its nonbanking affiliates) at 115 Broad Hollow Road, Melville, New York, through its subsidiary, Chemical Realty Corporation (5/3/76).[2]

Manufacturers Hanover Corporation, New York, New York, notification of intent to engage in de novo activities (all facets of a mortgage banking business including, without limitation, making or acquiring, for its own account or for the account of others, loans and other extensions of credit and servicing loans and other extensions of credit; acting as investment adviser and manager to a real estate investment trust; providing bookkeeping or data processing services for Manufacturers Hanover Corporation, its subsidiaries and affiliates, and storing and processing other banking, financial, or related economic data such as performing payroll, accounts receivable or billing services) at 8111 Gatehouse Road, Falls Church, Virginia, through its subsidiary, Citizens Mortgage Corporation and its subsidiary, Royal Oak Mortgage Company (5/10/76).[2]

Centran Corporation, Cleveland, Ohio, notification of intent to engage in de novo activities (the handling of consumer finance loans including loans to individuals secured by mortgages on residential and personal property for a borrower, for a fee, commission or a charge, purchases of installment sales contracts; and selling credit life insurance and health and accident insurance at the request of borrowers in connection with extensions of credit) at Room 528, 1220 S.W. Morrison, Terminal Sales Building, Portland, Oregon, through its wholly-owned subsidiary, Colonial Financial Services, Inc., Birmingham, Alabama (5/10/76).[2]

Centran Corporation, Cleveland, Ohio, notification of intent to engage in de novo activities (the making of consumer finance loans (including loans to individuals secured by second mortgages or deeds of trust on residential property), purchasing installment sales contracts; the sale of credit life insurance and health and accident insurance at the request of borrowers in connection with extensions of credit; the sale (as agent) of fire, inland marine and extended coverage insurance on real property, furniture and household goods, and vehicular physical damage insurance on vehicles taken as collateral on loans made or purchased and the servicing of loans and other extensions of credit for any person) at 14333 Jefferson Davis Highway, Woodbridge, Virginia, through its wholly-owned subsidiary, Major Finance Corporation of Alexandria, Alexandria, Virginia (5/10/76).[2]

Central Bankshares Corporation, Jonesboro, Georgia, notification of intent of engage in de novo activities (leasing personal property or acting as agent, broker, or adviser in leasing such property including, but not limited to, business machines and equipment, signs and automobiles where the property to be leased is acquired specifically for the leasing transaction which is to serve as the functional equivalent of an extension of credit to the lessee of the property with all interest in the property either liquidated or released upon expiration of the lease) at 141 Forest Parkway, Forest Park, Georgia, 139 N. Main Street, Jonesboro, Georgia, and 6611 Tara Boulevard, Jonesboro, Georgia (5/15/76).[2]

Citizens and Southern Holding Company, Atlanta, Georgia, notification of intent to engage in de novo activities (leasing personal property and equipment or acting as agent, broker, or adviser in leasing of such property where at the inception of the initial lease the expectation is that the effect of the transaction and reasonably anticipated future transactions with the same lessee as to the same property will be to compensate the lessor for not less than the lessor's full investment in the property) at 2059 Cooledge Road, Tucker, Georgia, through a subsidiary, Citizens and Southern Equipment Leasing, Inc. (5/13/76).[2]

National Detroit Corporation, Detroit, Michigan, notification of intent to engage in de novo activities (making, acquiring, and servicing for its own account and for the account of others, mortgage loans and other extensions of credit in connection with the purchase, development, and/or improvement of real property and all activities incidental thereto) at 11048 Warwick Boulevard, Newport News, Virginia, through its subsidiary, NBD Mortgage Company, Birmingham, Michigan (5/10/76).[2]

North Shore Capital Corporation, Wilmette, Illinois, notification of intent to engage in de novo activities (acting as agent, broker, or adviser only in the leasing of real and personal property and equipment where at the inception of the initial lease the expectation is that the effect of the transaction will be to compensate the lessor for not less than the lessor's full investment in the property plus the estimated cost of financing the property over the term of the lease; and acquiring, for the account of others only, loans and other extensions of credit primarily to finance the acquisition of personal property and equipment; such loans would include, but not be limited to, the financing of time sales contracts, conditional sales agreements, installment purchase loans, and secured term loans; and as agent, broker, or adviser only servicing the aforesaid leases and loans) at 1737 West Howard Street, Chicago, Illinois, through its subsidiary, NSCC Leasing Corp. (5/11/76).[2]

First Bancorp, Inc., Corsicana, Texas, notification of intent to engage in de novo activities (establish a mortgage loan business; making or acquiring, for its own account or for the account of others, loans and other extensions of credit upon real estate and to provide servicing, warehousing, origination, and marketing of mortgages) at 2100 S. Washington, Kaufman, Texas, through a subsidiary, Old Reliable Mortgage Co., Inc. (5/10/76).[2]

First, Bancorp, Inc., Corsicana, Texas, notification of intent to engage in de novo activities (establish a mortgage loan business, making or acquiring, for its own account or for the account of others, loans and other extensions of credit upon real estate and to provide servicing, warehousing, origination, and marketing of mortgages) at 101 South Waco Street, Hillsboro, Texas, through a subsidiary, Old Reliable Mortgage Co., Inc. (5/10/76).[2]

Security Pacific Corporation, Los Angeles, California, notification of intent to relocate de novo activities (the origination and acquisition of mortgage loans, including development and construction loans on multi-family and commercial properties for its own account or for the sale to others and the servicing of such loans for others) from 9730 S. Wester, Evergreen Park to 5716 W. 95th Street, Oak Lawn, Illinois, through its subsidiary, Security Pacific Mortgage Corporation (5/13/76).[2]

* * * * *

TO EXPAND A BANK HOLDING COMPANY PURSUANT TO SECTION 4(c)(12) OF THE BANK HOLDING COMPANY ACT OF 1956

Permitted

Gamble-Skogmo, Inc., Minneapolis, Minnesota, notification of intent to acquire the common stock and convertible debentures of Zeller's Limited (5/12/76).[2]

APPLICATIONS RECEIVED

TO ESTABLISH A DOMESTIC BRANCH PURSUANT TO SECTION 9 OF THE FEDERAL RESERVE ACT

European-American Bank and Trust Company, New York, New York. Branch to be

[2] 4(c)(8) and 4(c)(12) notifications processed by Reserve Bank on behalf of the Board of Governors under delegated authority.

established at 61-49 188th Street, Fresh Meadows, Borough of Queens.

* * * * *

TO EXPAND A BANK HOLDING COMPANY PURSUANT TO SECTION 3(A)(3) OF THE BANK HOLDING COMPANY ACT OF 1958

Cullen Bankers, Inc., Houston, Texas, for approval to acquire 100 per cent of the voting shares (less director's qualifying shares) of San Felipe National Bank, Houston, Texas.

* * * * *

TO EXPAND A BANK HOLDING COMPANY PURSUANT TO SECTION 4(C)(8) OF THE BANK HOLDING COMPANY ACT OF 1956

Citicorp, New York, New York, notification of intent to engage in de novo activities (consumer personal lending; preauthorized consumer revolving credit; and acting as broker for the sale of consumer credit related life/accident and health insurance and consumer credit related property and casualty insurance; if these proposals are effected, the subsidiary will offer to sell insurance as follows: credit life and accident and health or individual decreasing or level (in the case of single payment loans) life insurance to cover the outstanding balance of consumer credit transactions, singly or jointly, with their spouses or cosigners in the case of life coverage, in the event of death, or, to make the contractual monthly payment on the consumer credit transactions in the event of the obligator's disability to the extent permissible under applicable State insurance laws and regulations; individual casualty insurance on personal property subject to security agreements and to include liability coverage, in home or automobile owner "package" policies where such is the general practice; further, in regard to the sale of credit related insurance, the subsidiary will not act as a general, insurance agency) at 3525 North Causeway Boulevard, Metaire, Louisiana, through its subsidiary, Nationwide Financial Services Corporation and its subsidiary, Citicorp Person-to-Person Financial Center, Inc. 5/10/76).[3]

First Missouri Banks, Inc. (formerly First Banc Group, Inc.), Creve Coeur, Missouri, for approval to acquire the shares of First Missouri Insurance Group, Phoenix, Arizona (proposes to underwrite, as reinsurer, credit life and disability insurance which is directly related to extensions of credit by the holding company's subsidiary banks).

BankAmerica Corporation, San Francisco, California, notification of intent to relocate de novo activities (making loans and extending credit and providing of services incident to such loans and extensions of credit such as would be made or provided by a finance company including the following specific activities: making of consumer installment loans and purchasing installment sales finance contracts, and making of loans to small businesses; acting as agent or broker for the sale of credit related life/accident and disability insurance and credit property and casualty insurance in connection with extensions of credit by FinanceAmerica Corporation) from 555 Harrison Avenue, Panama City to 2613 West 23rd Street, Panama City, Florida, through its subsidiary, Finance-America Corporation (Florida) (5/6/76).[3]

Washington Bancshares, Inc., Spokane, Washington, notification of intent to engage in activities (making or acquiring, for its own account or for the account of others, loans or other extensions of credit secured by real estate mortgages or deeds of trust and the servicing of such loans, and such other activities as are incidental to the operations of a mortgage company including, but not limited to; acting as agent or broker for the sale of mortgage redemption life and disability insurance and casualty insurance to be issued in connection with making or acquiring such loans and serving as an escrow or closing agent in connection wtih the closing of real estate transactions financed by it) at One Lake Bellevue, Bellevue, Washington, through its subsidiary, Bancshares Mortgage Company, substantially all of the assets of Bankwest Mortgage Company, Bellevue, Washington (5/3/76).[3]

REPORTS RECEIVED

REGISTRATION STATEMENT FILED PURSUANT TO SECTION 12(G) OF THE SECURITIES EXCHANGE ACT

The Cortland Savings and Banking Company, Cortland, Ohio.

* * * * *

CURRENT REPORT FILED PURSUANT TO SECTION 13 OF THE SECURITIES EXCHANGE ACT

Metropolitan Bank, Tampa, Florida.
Nassau Trust Company, Glen Cove, New York.
The Sylvania Savings Bank Company, Sylvania, Ohio.
Union Bank, Los Angeles, California.

* * * * *

PETITIONS FOR RULEMAKING

None.

Board of Governors of the Federal Reserve System, May 26, 1976.

J. P. GARBARINI,
Assistant Secretary of the Board.

[FR Doc.76-16076 Filed 6-2-76;8:45 am]

[3] 4(c)(8) and 4(c)(12) notifications processed by Reserve Bank on behalf of the Board of Governors under delegated authority.

CENTRAL WISCONSIN BANKSHARES, INC.

Order Denying Acquisition of Bank

Central Wisconsin Bankshares, Inc., Wausau, Wisconsin, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under § 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 80 percent or more of the voting shares of Central National Bank of Wausau, Wausau, Wisconsin ("Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with § 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received, including those submitted by Peoples State Bank, Wausau, Wisconsin, in light of the factors set forth in § 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the eleventh largest commercial banking organization in Wisconsin, controls two subsidiary banks with aggregate deposits of approximately $132 million, representing 0.9 percent of the total deposits in commercial banks in the State.[1] Applicant's acquisition of Bank would increase Applicant's share of State deposits by 0.04 percent and would not result in a significant increase in the concentration of banking resources in Wisconsin. However, as discussed below, consummation of the proposal would have some adverse effects on concentration in the relevant banking market.

Bank has deposits of approximately $6.2 million, representing 2.5 per cent of the total deposits in commercial banks in the relevant banking market,[2] and is the smallest of seven banks operating in that market. Applicant's lead bank, First American National Bank of Wausau, is the largest bank operating in the relevant market and has deposits of $120.5 million, representing approximately 49 per cent of the total deposits in commercial banks in the market.

Applicant is the largest banking organization in the Wausau RMA banking market, controlling approximately 53 per cent of the total deposits in commercial banks in the market. The second and third largest banking organizations in the market control, respectively, approximately 14 and 10 per cent of the market's deposits. Thus, it appears that Applicant is a dominant factor in this banking market which is regarded as a highly concentrated market. Consummation of the proposed acquisition would increase Applicant's share of the total commercial bank deposits in this market to approximately 55 per cent, and would result in a further increase in the concentration of banking resources in the market. The Board regards this as an adverse factor lending weight toward denial of the proposal.

The Board notes that there already exists common ownership and management between Applicant and Bank,[3] and Applicant argues that this fact mitigates to some extent the amount of existing competition that would be eliminated between Bank and Applicant's subsidiary banks if this application were approved. However, the competitive situation that gave rise to the Board's previous denial of Applicant's proposal to acquire Bank *de novo* in 1966 has not changed significantly over the years, and the structure of the Wausau banking market has not been altered so as to warrant a different conclusion with respect to the adverse effects. Applicant remains the largest banking organization in the market, and the Board believes that approval of this application would virtually foreclose the possibility that Bank may eventually become independent of Applicant and develop into a more effective competitor in the Wausau RMA banking market. On the other hand, denial of the subject acquisition would preserve the possibility

[1] All banking data are as of June 30, 1975.
[2] The relevant banking market is approximated by the Wausau RMA.

that a dissolution of the affiliation relationship could occur in the future. Such a dissolution would be likely to result in increased competition and a deconcentration in the Wausau banking market. The Board regards this latter consideration as particularly important because few independent banks remain available in this market for acquisition by out-of-area banking organizations. Thus, the facts of record show that this proposal offers no positive competitive effects, but instead, would result in significant adverse effects upon competition in the relevant banking market by further increasing the concentration of banking resources and by eliminating the possibility that increased competition would develop in the future. In the Board's view, such considerations require denial of the application unless they are clearly outweighed in the public interest by other considerations reflected in the record.[4]

The financial condition, managerial resources and future prospects of Applicant, its subsidiary banks, and Bank are satisfactory. Although the banking factors are consistent with approval of the application, they provide no significant support for approval of the application. Applicant states that, following the consummation of this proposal, Bank would offer to its customers trust and payroll services, and would extend its banking hours. While these improved services lend some weight toward approval, the Board does not consider these convenience and needs considerations sufficient to outweigh the anticompetitive effects of the application described above. Accordingly, it is the Board's judgment that approval of the proposed acquisition would not be in the public interest and the application should be denied.

On the basis of the record, the application is denied for the reasons summarized above.

By order of the Board of Governors,[5] effective May 26, 1976.

GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[3] Bank was organized by several officers and directors of Applicant. Prior to Bank's opening, Applicant applied for Board approval to acquire Bank. Although the Board denied the application, 52 *Fed. Res. Bulletin* 29 (1966), Bank opened for business on April 26, 1967. Currently, various shareholders of Applicant own 82 per cent of Bank's shares. In addition, Applicant's president is the chairman of the board of Bank. A director of Applicant also serves as the president of Bank. Another individual serves as a director of both Applicant and Bank.

[4] The Board's conclusion as to the effects on competition of the subject proposal are similar to its findings in the Order denying Applicant's previous application to acquire Bank, cited above.

[5] Voting for this action: Chairman Burns and Governors Gardner, Coldwell, Jackson, and Partee. Absent and not voting: Governor Wallich.

[FR Doc.76-16075 Filed 6-2-76;8:45 am]

NATIONAL SCIENCE FOUNDATION

PRIVACY ACT OF 1974

Amendment to Systems of Records

Notice is hereby given of proposed amendments to NSF Systems of Records Nos. 2, 12, and 33 (40 Fed. Reg. 38129 et. seq., Aug. 26, 1975) and to NSF System No. 14, as amended (40 Fed. Reg. 38132-38133, Aug. 26, 1975; and 40 Fed. Reg. 43097, Sept. 10, 1975). These amendments add a new routine use to each of these systems in accordance with the guidance provided by the Office of Management and Budget in a memorandum to the Heads of executive departments and establishments dated October 3, 1975. Interested persons are invited to submit written data, views, or arguments to the Director, National Science Foundation, ATTN: General Counsel, Washington, D.C. 20550, not later than July 2, 1976.

The following changes in the characteristic of the NSF Systems of Records 2, 12, 14, 33 entitled "Routine uses of records maintained in the system, including categories of users and the purposes of such uses" are proposed:

1. In NSF System of Records Nos. 2, 14, and 33 add the following: "Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual."

2. In NSF Systems of Records No. 12 add the following: "(7) Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual."

Dated: May 27, 1976.

RICHARD C. ATKINSON,
Acting Director.

[FR Doc.76-16072 Filed 6-2-76;8:45 am]

ADVISORY PANEL FOR METABOLIC BIOLOGY

Notice of Meeting

In accordance with the Federal Advisory Committee Act, P.L. 92-463, the National Science Foundation announces the following meeting:

Name: Advisory Panel for Metabolic Biology.
Date and time: June 21 and 22, 1976—9:00 a.m. each day.
Place: Room 338, National Science Foundation, 1800 G Street, N.W., Washington, D.C.
Type of meeting: Closed.
Contact person: Dr. Elijah B. Romanoff, Program Director for Metabolic Biology, Rm. 331, National Science Foundation, Washington, D.C. 20550, telephone (202) 632-4312.
Purpose of panel: To provide advice and recommendations concerning support for research in Metabolic Biolgy.
Agenda: To review and evaluate research proposals and projects as part of the selection process for awards.
Reason for closing: The proposals and projects being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals and projects. These matters are within exemptions (4) and (6) of 5 U.S.C. 522(b), Freedom of Information Act. The rendering of advice by the panel is considered to be a part of the Foundation's deliberative process and is thus subject to exemption (5) of the Act.
Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of P.L. 92-463. The Committee Management Officer was delegated the authority to make determinations by the Director, NSF, on February 11, 1976.

M. REBECCA WINKLER,
Acting Committee Management Officer.

MAY 28, 1976.

[FR Doc.16068 Filed 6-2-76;8:45 am]

ADVISORY PANEL FOR MATHEMATICAL SCIENCES

Notice of Meeting

In accordance with the Federal Advisory Committee Act, P.L. 92-463, the National Science Foundation announces the following meeting:

Name: Advisory Panel for Mathematical Sciences.
Date and time: June 21 and 22, 1976, 9:00 a.m. each day.
Place: Rm. 517, National Science Foundation, 1800 G Street, N.W., Washington, D.C.
Type of meeting: Part Open—Closed—4 p.m. to 5 p.m. on June 21. Open—Balance of meeting.
Contact person: Dr. William H. Pell, Head, Mathematical Sciences Section, Rm. 302, National Science Foundation, Washington, D.C. 20550, telephone (202) 632-7377.
Summary minutes: (Open Portion). May be obtained from the Committee Management Coordination Staff, Division of Personnel and Management, Rm. 212, National Science Foundation, Washington, D.C. 20550.
Purpose of panel: To provide advice and recommendations concerning support for research in the mathematical sciences.
Agenda: June 21—9 a.m. to 4 p.m.—Open—Introductory remarks; Discussion of the FY 1976 Mathematical Sciences Program; Effect on Program Procedures of the Transition to the New Fiscal Year. June 21—4 p.m. to 5 p.m.—Closed—Review and evaluation of research proposals and projects. June 22—9 a.m. to 1 p.m.—Open—Discussion of future plans; Discussion of Peer Review System; Panel Review of Algebra Program.
Reason for closing: The proposals and projects being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals and projects. These matters are within exemptions (4) and (6) of 5 U.S.C. 552(b), Freedom of Information Act. The rendering of advice by the panel is considered to be a part of the Foundation's deliberative process and is thus subject to exemption (5) of the Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of P.L. 92-463. The Committee Management Officer was delegated the authority to make determinations by the Director, NSF, on February 11, 1976.

M. REBECCA WINKLER,
Acting Committee Management Officer.

MAY 28, 1976.

[FR Doc.76-16067 Filed 6-2-76;8:45 am]

NATIONAL TRANSPORTATION SAFETY BOARD

[N-AR 76-23]

ACCIDENT REPORTS; BRIEFS OF ACCIDENTS; SAFETY RECOMMENDATIONS AND RESPONSES

Notice of Availability and Receipt

Aircraft Accident Report. Tighter Federal regulation of aircraft maintenance and closer Federal supervision of aircraft repair stations were recommended by the National Transportation Safety Board in its report No. NTSB-AAR-76-13, released May 27. The recommendations resulted from the Board's investigation of the Puerto Rico International Airlines DeHavilland DH-114 accident on takeoff from San Juan, Puerto Rico, last July 11. The Safety Board determined that the probable cause of the accident was the separation of the No. 1 propeller blade of the No. 2 propeller assembly. The blade separated as a result of vibratory stresses which induced fatigue cracks not readily detectable during routine preflight inspections.

In a separate letter, also issued May 27, the Board recommended that the Federal Aviation Administration: (A-76-71) review immediately its programs for surveillance of certificated repair stations and its procedures which govern the granting of supplemental type certificates; and (A-76-72) review its policies relative to users' compliance with manufacturers' service bulletins which may have safety-of-flight implications, and, where appropriate, issue Airworthiness Directives as soon as possible after service difficulties are discovered.

Railroad Accident Report. According to the Safety Board, the malfunctioning of a safety device—the train-stop tripper—on one train, and the subsequent operation of two other trains at excessive speeds in violation of company rules, probably caused the rear-end collisions involving three Boston commuter trains August 1, 1975. The accident, which occurred on the Red Line of the Massachusetts Bay Transportation Authority (MTBA) injured 154 persons. The Board's report, No. NTSB-RAR-76-5, was released May 27.

In the early phase of its investigation of this accident, the Safety Board recommended, last September 19, that the Federal Railroad Administration (1) require MBTA to insure immediately that all of its commuter cars meet emergency braking specifications for them; (2) require MBTA to make periodic emergency brake checks; and (3) determine and correct, where necessary, any similar braking problems in other rail rapid transit operations (Recommendations R-75-39 through R-75-41). (See 40 FR 44198, September 25, 1975.)

An MTBA investigating committee's recommendations concerning this accident. On May 27, the Safety Board issued two separate, letters containing additional safety recommendations: To MTBA, recommendation R-76-16, to implement the recommendations made by the MTBA investigating committee; to FRA, recommendation R-76-17, to insure that the MBTA implements the recommendations made by its investigating committee. Both are Class II recommendations—priority followup expected.

Aircraft Accident Briefs. Issue No. 4, "Aircraft Accident Reports, Brief Format, U.S. Civil Aviation—1975," was released May 26. This volume, report No. NTSB-BA-76-3, contains synoptic reports of the findings and probable cause(s) of 894 general aviation accidents and 28 air carrier accidents which occurred in the United States last year. In press release No. SB 76-44 announcing the availability of this publication, the Safety Board appealed to private pilots to remember in their warm weather flight planning the hazards of high "density altitude"—the effects on aircraft performance of thin, warm air. Fifteen general aviation accidents in which high-density altitude was cited as a causal factor are included in the publication.

The brief reports in this publication contain essential information concerning the accidents reported; more detailed data may be obtained from the original factual reports on file in the Washington Office of the Safety Board. Upon request, factual reports will be reproduced commercially at an average cost of 23¢ per page for printed matter, $1.25 per page for black and white photographs, and $4.00 per page for color photographs plus postage. Minimum reproduction charge is $2.00; an additional $4.00 user-service charge will be made for each order. Requests should be directed to the Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594. The requester must provide this information concerning the accident: (1) Date and place of occurrence, (2) type of aircraft and registration number, and (3) name of pilot.

The 1975 Issue No. 4 volume may be purchased from the National Technical Information Service, U.S. Department of Commerce Springfield Virginia 22151.

Highway Safety Recommendation. A Class I, "urgent followup," recommendation was issued May 28 to the Maryland State Highway Administration: Install flashing lights, which are activated by wet pavement conditions, to complement the recently installed "Slippery When Wet" sign, and reduce the speed limit until construction and resurfacing can be accomplished. This recommendation, No. H-76-20, followed Board investigation of an accident last October 11 involving a charter bus owned and operated by the Metropolitan Coach Company. The bus was eastbound, in heavy rain, on Interstate 495 in Bethesda, Maryland, when it lost traction on the wet pavement, contacted the guardrail, and rolled over into a roadside ravine. Of the 29 occupants, 26 were injured.

Letters in Response to Safety Board Recommendations. During the past week, the Safety Board received responses from addressees of the following recommendations:

A-72-223. The Federal Aviation Administration's letter of May 13, 1976, supplements its January 26, 1973, response wherein FAA had stated that it would look into the possibility of revising Advisory Circular 150/5190-3A, Model Airport Hazard Zoning Ordinance, to establish guidelines for use by airport managers in setting limitations on the utilization of runways. FAA now concludes that upon looking into the matter further, the proposal was inappropriate since that publication is devoted solely to zoning to control the height of structures beyond airport boundaries. "It is not and was not intended to be an operationally oriented document," FAA states. FAA also studied the possibility of issuing an operational-type advisory circular dealing with aircraft performance, but finds "no way to provide operational performance guidance to airport management beyond that which is already provided by the aircraft manufacturers." FAA plans no further action at this time.

A-76-6 and A-76-7. Letter of May 19, also from FAA, responds to both recommendations with the comment, "Airworthiness Directive 76-10-06 issued May 10 requires inspections, and rework or replacements as necessary of Piper PA-31 landing flap transmission assemblies." FAA concludes, "We believe that this action is in consonance with the recommendations." (See 41 FR 11366, March 18, 1976.)

H-76-8 through H-76-10. Letter of May 17 from the Recreational Vehicle Industry Association (RVIA) states, re H-76-8, that a RVIA proposal to be added to the Standard for Recreational Vehicles will be presented for adoption at the fall 1976 meeting of the National Fire Protection Association and submitted for concurrent review by the American National Standards Institute. The proposal, concerning LP-gas excess flow valves and already adopted by the Committee on Mobile Homes and Recreational Vehicles, is that the outlet of each service valve shall be equipped with a list excess flow valve. Re H-76-9, RVIA is now involved in an extensive program of crash barrier testing of motor homes and intends to develop construction guidelines to assist members in meeting the Standard on Fuel System Integrity, FMVSS No. 301. Re H-76-10, RVIA notes that its Public Relations Department is preparing a safety campaign to be presented through the media to emphasize the benefits of seatbelts to motor home occupants. Also, RVIA motor home manufacturers are urged to use this information in owner manuals provided with each new vehicle. (See 41 FR 19791, May 13, 1976.)

R-76-18 and R-76-19. Federal Railroad Administration's letter of May 21 transmits a copy of its May 12 letter to Auto-Train Corporation, addressee of the

recommendations issued May 2 by the Safety Board (41 FR 19791, May 13, 1976). FRA requests that Auto-Train Corporation: Include a comprehensive description of the existing wheel inspection program with the detailed inspection plan intended for use to detect the types of wheel cracks that caused the Possum Point and Jarratt, Virginia, accidents; provide a thorough inspection of the suspension system including the trucks to determine whether any binding exists between parts of the system; provide a brake shoe force test on a representative sample of the auto carrier cars in order to evaluate the braking forces involved; take a series of wheel temperature readings in transit to determine if excessive heating is occurring; and, prior to completion of the wheel inspection, operate auto carrier and passenger cars in separate trains at a maximum speed of 65 mph.

Auto-Train's communication of May 20 to the Safety Board responds to these recommendations by detailing actions now being taken to check all wheels on both carrying and passenger units, and to eliminate the possibility of a systematic source of excessive heat subjected to the wheels. Auto-Train has taken the following actions: The operation of two separate sections, passenger and auto-carrying, to provide a smoother ride for the passenger section and to attempt to eliminate the problem of sticking brakes and excessive heating. Also, Auto-Train has entered into a temporary agreement with the carrier roads reducing the speed limit on both sections from 79 miles per hour to a maximum of 65 miles per hour. Further, Auto-Train states that an improved daily inspection has been put into immediate operation on all units. A copy of the inspection report is attached to the letter. Finally, Auto-Train states, ". . . an accelerated on-going heavy maintenance program to up-grade the condition of all equipment has been implemented."

The accident reports, the safety recommendation letters, and the press release herein referred to are available to the general public; single copies may be obtained without charge. Copies of the letters responding to recommendations may be obtained at a cost of $4.00 for reproduction. All requests must be in writing, identified by report or recommendation number and date of publication of this FEDERAL REGISTER notice. Address inquiries to: Publications Unit, National Transportation Safety Board, Washington, D.C. 20594.

Multiple copies of the accident reports may be purchased by mail from the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22151.

(Secs. 304(a)(2) and 307 of the Independent Safety Board Act of 1974 (Pub. L. 93-633, 88 Stat. 2169, 2172 (49 U.S.C. 1903, 1907)).)

MARGARET L. FISHER,
Federal Register
Liaison Officer.

MAY 28, 1976.

[FR Doc.76-16009 Filed 6-2-76;8:45 am]

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-155]

CONSUMERS POWER CO. (BIG ROCK POINT NUCLEAR POWER STATION)

Memorandum and Order

I. BACKGROUND

In our Memorandum and Order of December 31, 1975 (CLI-75-15) we granted to Consumers Power Company two limited exemptions from the ECCS acceptance criteria (10 CFR 50.46). We also requested further information from the Director of Nuclear Reactor Regulation and from Consumers Power Company concerning the possibility of granting a requested plantlife exemption from the ECCS failure criterion of 10 CFR. Part 50, 50.46 and Appendix K, Paragraph I.D.1 as applied to a loss-of-coolant accident (LOCA) caused by a break in a core spray line and a concurrent single failure of a valve in the remaining core spray system. In response to this request, the Director submitted comments on January 7, 1976 suggesting that certain additional analyses be performed and possible system modifications be considered by the applicant to enhance operating reliability. Accordingly, Consumers Power Company on February 27, 1976 submitted an extensive "Report on Evaluation of Adequacy of Emergency Core Cooling System," together with a renewed request for a plant-life exemption from the Emergency Core Cooling System (ECCS) failure criterion for the Big Rock nuclear facility.

Receipt of this request was duly noted in the FEDERAL REGISTER on March 15, 1976, and views and comments from the public were invited. An extension of time for comments by the Director of Nuclear Reactor Regulation and by the public was granted by order of April 5, 1976. The extended period for comment has now closed. Two comments opposing the exemption request were received from the public. The Director's comments were submitted on April 19, 1976.

The facility has been shut down for refueling and modifications since January 31, 1976. We informed the applicant on March 10, 1976 that the earlier temporary exemption granted by the Commission's Memorandum and Order of December 31, 1975 (CLI-75-15) had expired and that startup of Big Rock Point in non-compliance with the failure criterion would not be permitted unless the Commission granted a further appropriate exemption.

The Director recommends that this exemption be granted, subject to several conditions which would have to be met prior to operation.[1]

The Director would also impose additional conditions to be met before operation resumes after the 1977 refueling outage.[2]

The Director's recommendations are based upon an extensive review of the adequacy of the Big Rock Point ECCS initiated by the information request contained in the Commission's December 31, 1975 Memorandum and Order. The above-mentioned "Report on Evaluation of Adequacy of Emergency Core Cooling System," submitted by Consumers Power Company on February 27, 1976, reviewed ECCS performance as a whole, including both short term and long term cooling.

Subsequent interaction between Consumers Power Company and the Nuclear Regulatory Commission Staff refined still further the analysis of the Big Rock Point ECCS. On March 26, 1976 the applicant submitted a detailed supplement to its earlier report and responded to twenty ECCS-related questions from the staff. Also on March 26 the Director submitted comments and a request for extension of time until April 19 for filing recommendations. Pursuant to 10 CFR

[1] The Director's summarized recommendation is that prior to return to operation the applicant shall:

(a) Provide an analysis of the ECCS performance which properly demonstrates that in the event of a break in a core ring spray line, the feedwater system and the flow through the core spray nozzle will reliably provide sufficient core cooling water unless adequate spray distribution of the nozzle has been demonstrated.

(b) Enhance the reliability of the core ring spray system by augmented surveillance to provide reasonable assurance that the core ring spray system can, by itself, provide reliable and adequate core cooling for a LOCA not allowing reflooding unless adequate spray distribution of the nozzle has been demonstrated.

(c) Modify the emergency procedures to assure a second emergency diesel will be obtained and operational within 24 hours after a LOCA.

(d) Augment the surveillance of ECCS to enhance its reliability in a method acceptable to the staff.

(e) Protect the controls, indication and annunciation circuitry associated with the ECCS, including the core spray valves, as approved by the staff, against the consequences of flooding following a LOCA which affect the ability of the ECCS or plant operator to take corrective action during the course of a LOCA.

[2] The Director recommends in summary that prior to return to operation following the refueling outage currently scheduled for spring, 1977, the applicant shall:

(a) Modify the fire protection system such that long-term cooling can be accomplished without relying on portions of its underground piping.

(b) Provide test data showing the adequacy of the nozzle spray distribution during expected usage conditions or modify the nozzle spray system to provide adequate spray distribution.

(c) Modify the emergency diesel generator and diesel driven fire pump to bypass protective trips during accident conditions except for retention of engine overspeed and generator differential trips unless additional trips are approved by the staff.

(d) Provide complete on-line testability on the ECCS including the actuation system.

2.808(b) the Secretary of the Commission granted the extension and also extended the period for public comment to April 14, 1976. No additional public comments were received.

II. Need for Exemptions

The above-described thorough review by the staff and the applicant has established that several deficiencies exist at Big Rock Point for which exemption from requirements of 10 CFR Part 50, 50.46 and Appendix K is needed if the facility is to resume operation. A rigid requirement that the facility meet the above-referenced provisions of Part 50 prior to start-up and that no alternative measures be considered would postpone significantly the date at which Big Rock Point could return to operation. (The applicant's February 27 report notes, for example, that over a year would be required for delivery of additional valves needed to bring the facility formally into compliance with the failure criterion as applied to a break in either core spray line).

An exemption can be granted, however, only if reasonable assurance is provided that operation of the plant will meet an acceptable level of safety. We observe that a plant like Big Rock Point, which is a relatively small facility (72 MW(e)), need not necessarily comply with all the requirements applicable to a large plant in order to provide adequate assurance of public health and safety. Moreover, the NRC approach to safety—built as it is on the defense-in-depth concept—does not necessarily require each new safety design feature to be incorporated in every nuclear plant to provide protection for the public or that, when backfitting is called for, the timing be inflexibly fixed irrespective of special circumstances. For this reason, the ECCS acceptance regulations provide for the possibility of exemptions when an appropriately high level of safety is in fact achieved and the public interest is served.

This is not to say, however, that older plants like Big Rock Point are allowed to maintain a status quo situation. We have not hesitated to require backfitting at older plants where significant safety improvements would thereby be achieved. At Big Rock Point, for example, extensive modifications to the ECCS were completed in 1971 (addition of a redundant core spray system) and during the present refueling outage (installation of a reactor depressurization system).[3] The overriding question which we must now decide regarding this exemption request is whether an acceptably high level of safety is maintainable at Big Rock Point in its present configuration, or whether further extensive backfitting must be required before the plant may operate.

As we now review in some detail, the Director's technical judgment is that the core cooling capability of the systems installed at Big Rock Point is adequate to provide reasonable assurance of public health and safety under the conditions for operation which the Director recommends. The Director's comments, insofar as they bear directly on the exemption which we now consider, analyze three problems, all relating, ultimately to the consequence of the unavailability of one or the other core spray systems. These are (1) vulnerability to a single failure disabling a core spray line, following a break in the alternate core spray line; (2) vulnerability to a single failure disabling the on-site power supply, following a loss of coolant accident, in the event off-site power is unavailable; and (3) uncertainty regarding adequacy of the nozzle spray distribution.

With respect to the request for a plant-life exemption from the failure criterion as applied to a break in either core spray line, followed by a failure of the alternate core spray system, the Director notes that in these circumstances the feedwater system (a non-ECCS component) provides adequate core cooling capacity. Accordingly, the Director finds good cause to grant a plant-life exemption when the overall program for enhancing ECCS reliability is implemented through the Director's recommended conditions.[4]

With respect to the on-site electric power supply, Big Rock Point has only one on-site diesel generator and does not meet the failure criterion requirement that the ECCS short term and long term cooling functions be invulnerable to a single failure which disables on-site power, assuming off-site power is not available. In view of the unusually high availability of off-site power at Big Rock Point,[5] together with improved reliability of the on-site diesel and guaranteed availability of a back-up diesel for long term cooling pursuant to the conditions the Director would impose, the Director likewise finds good cause to exempt Big Rock Point from this requirement.

The Director's comments consider in detail the issue of adequacy of the nozzle spray distribution, a question earlier addressed by Consumers Power Company in its March 26 supplement. Pending further tests to demonstrate the adequacy of the spray distribution, the Director takes the conservative position that Consumers Power Company must provide reasonable assurance that the core ring spray system can, by itself, provide reliable and adequate core cooling in the event of a LOCA for which reflooding by means of the feedwater system does not provide adequate cooling. Failure probability calculations performed by the applicant's consultant, NUS Corporation, and attached to the March 26 supplement show that a program of more frequent valve testing can significantly enhance the reliability of the Big Rock Point ECCS. Thus the Director finds that augmented surveillance of the ring spray system provides sufficient assurance of safety to permit operation for a limited period, until the spring, 1977 refueling outage. Prior to start-up following this outage the adequacy of the nozzle spray distribution would have to be confirmed, or the nozzle spray system modified to provide adequate distribution.

III. Conclusions

In view of the considerations outlined in the Director's analysis we are satisfied that granting the requested exemption and thereby permitting Big Rock Point to resume operation, subject to the recommended conditions, would maintain an acceptably high level of protection to public health and safety. The economical production of electric power through operation of this plant in a manner that provides adequate protection of the public is clearly in the public interest. Replacement power would have to be provided by burning expensive fossil fuels. Therefore we find good cause to grant the exemption.

Our review of the Director's comments, however, led us to inquire concerning the procedural question whether the March 15, 1976 Federal Register Notice of the exemption request directed to the "specific case of a break in either core spray line" is sufficiently comprehensive to encompass the exemption recommended.

Pending resolution of the uncertainty concerning the nozzle spray distribution, we must conservatively treat Big Rock Point as vulnerable to a loss-of-coolant accident from any cause followed by a concurrent single failure in the ring spray system and therefore in this respect in need of exemption from the ECCS failure criterion. At issue is the question whether notice of this exemption sufficient to meet the requirements of Section 189(a) of the Atomic Energy Act of 1954, as amended, and of the Commission's regulation (10 CFR 2.105) has been given. Accordingly, we requested the Director and Consumers Power Company to present views on the question whether the exemption from requirements of 10 CFR 50.46 which Big Rock Point needs to re-

[3] The two comments opposing the present exemption stress that Big Rock Point has in the past received several exemptions from the ECCS criteria and appear to conclude that the present request represents an attempt to perpetuate a pattern of unjustified non-compliance with the Commission's regulations. These comments fail to mention that significant modifications have been made at the Big Rock Point facility and that the exemptions were in every case granted pursuant to findings of good cause and a determination that public health and safety would be reasonably assured. We do not believe it would be fair to the applicant or in the public interest to follow the rigid approach suggested by the commenters by denying the present request, without regard to its individual merit, largely on the grounds that related exemptions have been granted previously.

[4] An analysis of feedwater cooling capability was submitted by Consumers Power Company on May 10, 1976 in response to the Director's recommended condition (a) (see note 1 above) and indicates that in the event of a LOCA caused by a break in the core ring spray line the feedwater system will prevent uncovering of the core.

[5] The Director's comments note that in view of the small size of this plant compared with the system capacity, trips of the plant due to internal causes are relatively unlikely to cause a loss of off-site power.

sume operation at the end of the current refueling outage is fairly comprised within the exemption request now pending before the Commission.

The responses of the Director and of the applicant, respectively dated May 17 and May 18, 1976, and our own further analysis persuade us that the March 15 published notice was sufficiently comprehensive. Both the Director and applicant point to the fact that the components whose reliability is under review in the context of a break in a core spray line are exactly the same components involved in the response of the ECCS to a LOCA caused by a break in some other location. The first public notice that reliability of valving in the Big Rock Point ECCS was at issue appeared August 26, 1975 in the FEDERAL REGISTER notice of receipt of the original plant-life exemption request, treated by our December 31, 1975 Memorandum and Order. On March 15, 1976 expanded notice was given that the reliability of core spray components was at issue in this exemption proceeding.

This notice made clear that the deficiency at Big Rock Point for which exemption was requested is the circumstance that either core spray line may be disabled by a single failure in certain components. Thus, the March 15 FEDERAL REGISTER NOTICE apprised interested members of the public that the Commission was considering an exemption of the nature and scope of the exemption now recommended by the Director. The introduction of the nozzle spray distribution question did not change the central focus of the inquiry, namely, the reliability of a core spray system to provide needed core cooling when the alternate system is postulated to be unavailable.

We believe, moreover, that the public received adequate notice that the specific question of nozzle spray distribution adequacy was under consideration in the exemption proceeding. The nozzle spray adequacy question is addressed in the record in the applicant's supplemental submission of March 26, 1976, following which, we note, the Secretary of the Commission granted an extension of the period for public comment. We note, moreover, that actual notice (as contrasted with constructive notice through FEDERAL REGISTER publication) was afforded to those members of the public who had expressed interest in this matter and in the present licensing status of the Big Rock facility. Both the March 26 supplement and the Director's April 19 comments, which considered the nozzle spray question more fully, were served on the two public commenters who opposed the exemption. These documents were also served on the participants in a license amendment proceeding involving Big Rock Point but otherwise unrelated to the exemption request. In view of this direct notice to all parties who have shown interest in the facility as well as to those who have commented in this exemption proceeding, a third, and unrequired, round of notice in the FEDERAL REGISTER is of dubious practical value.

Finally, because the Director's recommended conditions would enhance the reliability of the existing ECCS and particularly of the core ring spray, no additional safety question is raised when the cause of the postulated LOCA is extended to breaks other than in the core spray line, since the core ring spray is adequate by itself to provide the necessary core cooling following any LOCA up to and including that caused by the double-ended rupture of the largest pipe in the reactor coolant system.

In summary, based on the detailed recommendations in the Director's comments and pursuant to 10 CFR 50.46(a)(2)(vi) we find that good cause has been shown to grant the following exemption from the requirements of 10 CFR 50.46:

(a) Consumers Power Company is granted a plant-life exemption subject to the conditions in paragraph (d) below for the Big Rock Point facility from the failure criterion requirements imposed by 10 CFR Part 50, 50.46 and Appendix K, Paragraph I.D.1, insofar as applied to the specific case of a loss of reactor coolant caused by a break in either core spray system.

(b) Consumers Power Company, Big Rock Point facility, is granted an exemption subject to the conditions in paragraph (d) only until the refueling outage currently scheduled for spring, 1977, from the failure criterion requirements imposed by 10 CFR Part 50, 50.46 and Appendix K, Paragraph I.D.1 as applied to a loss of coolant accident followed by a concurrent single failure in the ring spray system.

(c) Consumers Power Company, Big Rock Point facility, is granted a plant-life exemption subject to the conditions in paargraph (d) from requirements in 10 CFR 50.46 that long term recirculation mode cooling be maintainable, despite the failure of the one-site diesel generator, in the absence of off-site power.

(d) The stated exemption is granted subject to the following conditions, which must be met to the satisfaction of the Director of Nuclear Reactor Regulations:

(1) Prior to further operation of Big Rock Point, Consumers Power Company shall:

(i) Provide evidence satisfactorily demonstrating adequate spray distribution of the nozzle, or

(ii) Provide an analysis of the ECCS performance which properly demonstrates that in the event of a break in the core ring spray line, the feedwater system and the flow through the core spray nozzle will reliably provide sufficient core cooling water; and enhance the reliability of the core ring spray system by augmented surveillance of the valves and valve actuating circuits, or by other modifications or procedural changes which provide reasonable assurance that the core ring spray system can, by itself, provide reliable and adequate core cooling for a LOCA at a location where reflooding does not provide such cooling.

(2) Prior to further operation of Big Rock Point, Consumers Power Company shall:

(i) Modify the emergency procedures to assure that a second emergency diesel will be obtained and can be made fully operational within 24 hours after a LOCA.

(ii) Augment the surveillance of ECCS availability, including the ECCS actuation system, to enhance its reliability;

(iii) Protect the controls, indication and annunciation circuitry associated with the ECCS, including the core spray valves, against the consequences of flooding following a LOCA which affects the ability of the ECCS or plant operator to take corrective action during the course of a LOCA.

(3) Prior to return to operation following the refueling outage currently scheduled for Spring 1977, Consumers Power Company shall:

(i) Modify the fire protection system such that long term cooling can be accomplished without relying on portions of its underground piping.

(ii) Provide test data showing the adequacy of the nozzle spray system to provide adequate spray distribution during expected usage conditions or modify the nozzle spray system to provide adequate spray distribution.

(iii) Modify the emergency diesel generator and diesel driven fire pump to bypass protective trips during accident conditions except for retention of engine overspeed and generator differential trips, unless additional trips are approved by the Director.

(iv) Provide complete on-line testability at the ECCS, including the actuation system.

It is so Ordered.

Dated at Washington, D.C. this 26th day of May 1976.

By the Commission.[1]

JOHN C. HOYLE,
Assistant Secretary of the Commission.

[FR Doc.76-15845 Filed 6-2-76;8:45 am]

[PRM 40-21]

URANIUM MILLING

Intent to Prepare a Generic Environmental Impact Statement

On May 14, 1975, the Nuclear Regulatory Commission (NRC) published in the FEDERAL REGISTER (40 FR 20983) a notice that a petition for rule making had been filed with the Commission by the Natural Resources Defense Council, Inc.

The petitioners requested the Commission to issue regulations that would (a) require uranium mill operators licensed by the Commission to post a performance bond that would cover the cost of

[1] Dissenting opinion of Commissioner Gilinsky not published as part of original document.

stabilization and ultimate disposal of uranium mill tailings, and (b) require each Agreement State to require uranium mill operators licensed by the Agreement State to post a similar performance bond.

The petitioners also requested the Commission to proceed immediately with the preparation of a draft programmatic environmental impact statement on the the Commission's uranium milling regulatory program, including that part of the mill licensing program administered by Agreement States. Further, the petitioners requested the Commission to issue or renew no licenses during the time the environmental impact statement is being prepared that would permit a licensee to escape any new regulations promulgated as a result of the requested environmental impact statement.

Interested persons were invited to submit comments on the petition by July 14, 1975. In view of the interest which was shown in the subject matter of the petition, the comment period was extended to August 28, 1975. Thirty-one responses from varying sources were received within the comment period. (Copies are on file at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C.)

After giving due consideration to the petition, the comments received, and the history of uranium mill tailings management practices, the Commission believes that, from the standpoint of longer range policy, this matter can be profitably examined in a programmatic context. It views the preparation of a generic environmental statement as a suitable vehicle for such an examination.

Accordingly, notice is hereby given that the Nuclear Regulatory Commission (NRC) will prepare a generic environmental impact statement (GEIS) on uranium milling operations. The purpose of the GEIS will be to assess the environmental impact of uranium milling operations, including the management of uranium mill tailings, and to provide an opportunity for public participation in decisions concerning any proposed changes in NRC regulations or regulatory authority based on this assessment. Information pertinent to the environmental impact from uranium mill operations in both Agreement and non-Agreement States will be included. It is anticipated that the draft GEIS will be published in approximately two years.

The Commission also has given careful consideration to petitioners' request that licensing actions involving renewal of licenses for existing uranium mills and the issuance of licenses for any new mills should be deferred pending completion of the generic environmental impact statement. In considering this matter, the Commission noted that most of the presently operating uranium mills licensed by the NRC are subject to renewal licensing action during the contemplated interim period. The production capacity of the existing uranium mills in both Agreement States and non-Agreement States slightly exceeds the fuel requirements of operating nuclear power reactors. However, the full capacity of the existing mills will be required to support presently operating nuclear power reactors and those expected to begin operation in 1977. Additional uranium milling capacity will be required to support nuclear power reactors now under construction with operational dates of 1978 and beyond. Since approximately two years is required to complete the construction of a mill, new mills expected to begin production in 1978 will require NRC licensing action in 1976 and 1977 if a uranium mill short-fall is to be avoided. However, the number of new mills expected during this interim period is small.

In light of the above, a deferral of licensing actions on new mills or suspension of present milling activities during the interim prior to completion of the GEIS would result in substantial shortages of necessary domestic uranium fuel for operating nuclear power reactors. The Commission has concluded that there should be no such general deferral during the period required for preparation of the generic statement, and that licensing actions may continue during the interim period subject to certain conditions. In reaching this conclusion, the Commission considered the following specific factors:

(1) It is likely that each individual licensing action of this type would have a utility that is independent of the utility of other licensing actions of this type;

(2) It is not likely that the taking of any particular licensing action of this type during the time frame under consideration would constitute a commitment of resources that would tend to significantly foreclose the alternatives available with respect to any other individual licensing action of this type;

(3) It is likely that any environmental impacts associated with any individual licensing action of this type would be such that they could adequately be addressed within the context of the individual license application without overlooking any cumulative environmental impacts;

(4) It is likely that any technical issues that may arise in the course of a review of an individual license application can be resolved within that context; and

(5) A deferral on licensing actions of this type would result in substantial harm to the public interest as indicated above because of uranium fuel requirements of operating reactors and reactors now under construction.

During preparation of the GEIS, the Commission will continue to review applications for renewal of existing licenses for uranium milling and for new uranium milling licenses on a case-by-case basis. These licensing actions during the interim period will be accompanied by individual environmental impact statements tailored to the facts of the case. Since the Commission's general conclusions with respect to the five factors, as set forth above, may not fit the factual circumstances of particular licensing actions, the five factors will be applied, weighed and balanced within the context of these statements in reaching licensing determinations. The NRC will continue its program of assuring that adequate financial security arrangements, through bonding or other feasible methods, are made for the reclamation and stabilization of mill tailings. Any licensing actions that are taken will be subject to express conditions that approved waste generating processes and mill tailings management practices may be subject to revision in accordance with the conclusions of the final GEIS and any related rule making.

The determinations to prepare a generic environmental impact statement and to continue processing related applications in the interim subject to specified criteria are a partial response to the petition of the Natural Resources Defense Council, Inc. Other aspects of the petition, such as regulations covering financial responsibility for uranium mill waste management over the long-term, have not been decided at this time. It is the intention of the Commission that proposed rules be published for public comment no later than the time of publication of the final GEIS. The content of these rules will be developed out of the information derived from the preparation of the GEIS and the conclusions resulting from the assessment of alternatives.

Dated at Washington, D.C., this 1st day of June 1976.

For the U.S. Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc.76-16287 Filed 6-2-76;9:24 am]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS SUBCOMMITTEE ON GENERAL ELECTRIC WATER REACTORS

Meeting

In accordance with the purposes of Sections 29 and 182 b. of the Atomic Energy Act (42 U.S.C. 2039, 2232 b.), the ACRS Subcommittee on General Electric Water Reactors will hold a meeting on June 21 and 22, 1976 in Room 1046, 1717 H Street, N.W., Washington, DC 20555. The purpose of this meeting is to develop information for consideration by the ACRS in its review of two General Electric Standard Safety Analysis Reports (GESSAR-238 and GESSAR-251) pertaining to the nuclear steam supply systems.

The agenda for the subject meeting shall be as follows:

Monday, June 21, 1976, 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 safety reports submitted by the Applicant and the NRC Staff regarding matters which should be covered during the following open meeting in order to formulate a Subcommittee report and recommendation to the full Committee.

9:00 a.m. until the conclusion of business on June 21, and 8:30 a.m. until the

conclusion of business on Tuesday, June 22. The Subcommittee will meet in open session to hear presentations by and hold discussions with the representatives of the NRC Staff and the General Electric Company and their consultants pertaining to review of the Standard Safety Analysis Reports (GESSAR–238 and GESSAR–251).

At the conclusion of the open session, the Subcommittee may caucus in a brief, closed session to determine whether the matters identified in the initial closed session have been adequately covered and whether the matters are ready for review by the full Committee. During the session Subcommittee members and consultants will discuss their opinions and recommendations on these matters. Upon conclusion of this caucus, the Subcommittee may 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 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 June 14, 1976 to Mr. J. C. McKinley, ACRS, NRC, Washington, DC 20555 will normally be received in time to be considered at this meeting.

Background information concerning items to be considered at this meeting can be found in documents on file and available for public inspection at the NRC Public Document Room, 1717 H Street, NW, Washington, DC 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 June 18, 1976 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., EDT.

(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 June 28, 1976 at the NRC Public Document Room, 1717 H Street, NW., Washington, DC 20555. Copies of the minutes of the meeting will be made available for inspection at the NRC Public Document Room, 1717 H Street, NW., Washington, DC 20555 after September 21, 1976. Copies may be obtained upon payment of appropriate charges.

Dated: June 1, 1976.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc.76–16288 Filed 6–2–76;9:24 am]

SECURITIES AND EXCHANGE COMMISSION

[Release No. 9306]

FAULKNER, DAWKINS & SULLIVAN, INC. AND FDS MANAGEMENT CO., INC.

Application

MAY 26, 1976.

In the Matter of Faulkner, Dawkins & Sullivan, Inc. and FDS Management Co., Inc., One New York Plaza, New York, New York 10004.

Notice is hereby given, That Faulkner, Dawkins & Sullivan, Inc. ("FDS"), and FDS Management Co., Inc. ("Management") hereinafter collectively "Applicants", have filed an Application and Amendment thereto pursuant to Section 9(c) of the Investment Company Act of 1940 ("Act") for an order exempting Applicants from the provisions of Section 9(a) of the Act. All interested persons are referred to the Application and Amendment thereto on file with the Commission for a statement of the representations made therein which are summarized below.

FSD owns all of the issued and outstanding common stock of Management, and both are registered investment advisers. In addition, FDS is engaged in other areas of the securities business in the capacities of broker, dealer, underwriter and investment banker.

On January 27, 1976, FDS consented to the entry of a Final Judgment of Permanent Injunction ("Judgment") against FDS. The Judgment enjoins FDS from violating the provisions of Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b–5 thereunder in connection with the purchase, sale or recommendation of the common stock of Bausch & Lomb, Inc.

Section 9(a)(2) of the Act makes it unlawful for any person to act in the capacity of employee, officer, director, member of an advisory board, investment adviser, or depositor of any registered investment company or principal underwriter for any registered open-end investment company, registered unit investment trust or registered face amount certificate company, if such person, by reason of any misconduct, is permanently or temporarily enjoined by order, judgment, or decree of any court of competent jurisdiction from engaging in or continuing any conduct or practice in connection with any activity as an underwriter, broker, dealer, or investment adviser or as an affiliated person, salesman, or employee of an investment company.

Section 9(c) provides that upon application the Commission shall by order grant an exemption from the provisions of Section 9(a) either unconditionally or on an appropriate temporary or other conditional basis, if it is established that the prohibitions of Section 9(a), as applied to the applicant, are unduly or disproportionately severe or that the conduct of such person has been such as not to make it against the public interest or protection of investors to grant such application.

Applicants submit pursuant to Section 9(c) that the prohibitions of Section 9(a) of the Act, to the extent applicable by virtue of its entry of Judgment, would be unduly severe and disproportionate as applied to Applicants, and that the granting of this Application and Amendment thereto for exemption from the prohibition of Section 9(a) of the Act would be in the public interest without in any way compromising the interests and protection of investors. In support thereof, Applicants state: The complaint filed by the Commission, insofar as it applied to FDS, was based on the alleged use by FDS of material non-public corporate recommendations to its customers on March 16, 1972; FDS acted in good faith upon its belief of the then current requirements in dealing with information imparted to its analysts by company management; There is no allegation in the complaint or otherwise that FDS itself engaged in transactions on the basis of such information; There is no evidence or suggestion that FDS or any of its employees engaged in willful fraud on the public; The allegations in the Commission's complaint relate to a one-day period and that there has been no suggestion that the circumstances giving rise to the filing of the complaint have continued; Management has in the past been an investment adviser to a registered investment company; Applicants are not presently acting in the capacity of investment adviser of a registered investment company or a principal underwriter to an open-end investment company or registered unit investment trust; Applicants are discussing the possibility of becoming an investment adviser to registered investment companies.

Notice is further given, That any interested person may, not later than June 23, 1976, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon Applicants at the address set forth above. Proof of such service (by affidavit or in the case of an attorney-at-law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided in Rule O–5 of the Rules and Regulations promulgated under the Act, an order disposing of the Application and Amendment herein may be issued by the Commission upon the basis of the information stated in said application and Amendment, unless an order for hearing upon said Application and Amendment shall be issued 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.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76–16013 Filed 6–2–76;8:45 am]

[SR–SCC–76–4]

STOCK CLEARING CORP.

Order Approving Proposed Rule Change

MAY 27, 1976.

In the Matter of Stock Clearing Corporation, 55 Water Street, New York, New York 10004.

On April 13, 1976, Stock Clearing Corporation ("SCC") submitted, pursuant to Section 19(b) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b–4 thereunder, a proposed rule change amending SCC's procedures to provide a means for the clearance and settlement of odd-lot transactions effected on the New York Stock Exchange (the "Exchange") subsequent to the Exchange's acquisition of the business of Carlisle De Coppet and Co. ("Carlisle") and the commencement of trading in odd-lots by Exchange specialists.

In accordance with Section 19(b) of the Act and Rule 19b–4 thereunder, notice of the proposed rule change was published in the FEDERAL REGISTER (41 F.R. 17827, April 28, 1976), and the public was invited to submit comments. Notice of the filing and an invitation for comments also appeared in Securities Exchange Act Release No. 34–12354, April 20, 1976. No letters of comment were received.

The Commission has reviewed the proposed rule change contained in File No. SR–SCC–76–4 and finds that it is consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered clearing agencies and, in particular, the requirements of Section 17A and the rules and regulations thereunder. Furthermore, since the proposed rule change is necessary to provide a means for the clearance and settlement of odd-lot transactions subsequent to the Exchange's acquisition of Carlisle and the commencement of trading in odd-lots by Exchange specialists, the Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of the filing thereof.

It is therefore ordered, Pursuant to Section 19(b)(2) of the Act, that the proposed rule change contained in File No. SR–SCC–76–4 be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76–16014 Filed 6–2–76;8:45 am]

NATIONAL MARKET ADVISORY BOARD

Meeting

This is to give notice pursuant to Section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. App. I 10(a), that the National Market Advisory Board will conduct open meetings on June 21 and 22, 1976, in the Ground Floor Auditorium of the Chase Manhattan Bank, One Chase Manhattan Plaza, New York, New York, beginning at 9:30 A.M. on June 21, and at 8:30 A.M. on June 22.

The Board will also conduct open meetings on July 19 and 20, and August 16 and 17, 1976. The locations and summarized agenda for these meetings will be published in the FEDERAL REGISTER at a later date.

The summarized agenda for the June meeting is as follows:

1. Discussion of proposal for a national book system submitted by Junius W. Peake, Morris Mendelson, and R. T. Williams, Jr.;
2. Discussion of characteristics of securities qualified for inclusion in components of a national market system;
3. Discussion of possible privileges and obligations of market-makers in a national market system;
4. Discussion of in-house agency cross transactions in listed securities by exchange members, and
5. Discussion of such other matters as may be properly brought before the Board.

Further information may be obtained by writing Martin L. Budd, Executive Director, National Market Advisory Board Staff, Securities and Exchange Commission, Washington, D.C. 20549.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-16015 Filed 6-2-76;8:45 am]

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

[Docket 75-3]

TRADE POLICY REVIEW GROUP

Request of Petitioner to Terminate Section 301 Review

On July 1, 1975 the Special Representative for Trade Negotiations received from the Delta Steamship Lines a petition alleging unfair trade practices by Guatemala against United States commerce and requesting relief under section 301 of the Trade Act of 1974. Public hearings were held in respect to this petition on September 25 and 26, 1975.

On April 21, 1976 the Special Representative for Trade Negotiations received a request, set forth below, from Petitioner Delta Steamship Lines, Inc. seeking withdrawal of its complaint filed under 301 of the Trade Act of 1974.

The Honorable FREDERICK B. DENT,
Special Representative for Trade Negotiations, 1800 G Street, N.W., Washington, D.C. 20506.

Subject: Petition of Delta Steamship Lines, Inc. under the Title III Section 301 of the Trade Act of 1974 for Relief from Unfair Trade Practices of Guatemala against United States Commerce.

DEAR AMBASSADOR DENT: By letter to you of July 1, 1975, Delta Steamship Lines, Inc. (Delta) brought to your attention certain trade practices by Guatemala which Delta considered unfair to United States Commerce. Delta therefore requested relief under Section 301 of the Tarde Act of 1974 (P. L. 93-618; 88 Stat. 1978). Thereafter the matter was subject of a hearing before a duly constitutional panel, briefs were filed and the matter is now pending.

The purpose of this communication is to advise you that following further negotiations an accord has been reached between Delt and Flota Mercante Gran Centroamericana S.A. (Flomerca) which has been formalized in an Agreement which will be promptly presented to the Federal Martime Commission for its consideration and approval.

At this time, therefore, Delta withdraws the complaint set forth in its petition to you, as there apparently exists no further reason to request the imposition of sanctions contemplated by the Trade Act of 1974.

Respectfully submitted,

DONALD MACLEAY,
Counsel for,
Delta Steamship Lines, Inc.

Pursuant to part 2006.4 of Title 15, Chapter XX, regulations of the Office of the Special Representative for Trade Negotiations, the Trade Policy Committee Review Group may terminate a review under section 301 whenever it deems such termination appropriate.

Any interested party believing that the section 301 review of the allegations set forth in the petition filed on July 1, 1975 by Delta Steamship Lines, Inc. should not be terminated should send written comments to the Chairman, Trade Policy Review Group by June 15, 1976. Comments should include the interest of the party in the section 301 review, the reasons why the section 301 review should not be terminated, the extent to which termination would adversely effect the interested party and thereby the commerce of the United States together with supporting information on how the practices of the Government of Guatemala complained of in the Delta Steamship Lines Inc. petition 73-5 constitute an unjustifiable or unreasonable burden on U.S. commerce in shipping.

Comments should be addressed to the Chairman, Trade Policy Review Group, Office of the Special Representative for Trade Negotiations, 1800 G Street N.W., Room 719, Washington, D.C. 20506.

Persons interested in further information on the Section 301 review of docket #75-3 are directed to the FEDERAL REGISTER of July 10, 1975 (40 F.R. No. 133, pg. 29134) and to the public record of the hearing held on this petition, which is available for public inspection at the Office of the Special Representative for Trade Negotiations, Room 729, 1800 G Street, N.W., Washington, D.C. 20506.

CLAYTON K. YEUTTER,
Chairman,
Trade Policy Review Group.

[FR Doc.76-16025 Filed 6-2-76;8:45 am]

INTERSTATE COMMERCE COMMISSION

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY—ELIMINATION OF GATEWAY LETTER NOTICES

MAY 28, 1976.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's Gateway Elimination Rules (49 CFR 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission within 10 days from the date of this publication. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will not operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

No. MC-92983 (Sub-No. E70), filed June 4, 1974. Applicant: AMERICAN BULK TRANSPORT CO., 818 Grand Ave., P.O. Box 2508, Kansas City, Mo. 64142. Applicant's representative: H. B. Foster (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (A) *Feed*, (except tankage) in bulk: from Omaha, Nebr., to points in Minnesota located in, each of Lake of the Woods, Beltrami, Hubbard, Cass and Morrison Counties and points on and east of a line extending from the northern border of Sterns County along Minnesota Highway 238 to the junction of an unnumbered highway at Albany, thence along unnumbered highway to the junction of Minnesota Highway 22 at Richmond, thence along Minnesota Highway 22 to the junction of U.S. Highway 169, thence along U.S. Highway 169 to the Minnesota-Iowa State line and to points in Wisconsin; (2) from Omaha, Nebr., to points in Missouri located on and east of a line extending from the Missouri-Iowa State line along U.S. Highway 65 to the junction of Interstate Highway 70, thence along Interstate Highway 70 to the western border of Cooper County, and to points located in and east of Cooper, Morgan, Camden, LacLede, Wright, Douglas, and Ozark Counties; (B) *Tankage dry*, in bulk: from Omaha, Nebr., to Minneapolis, Minn.; (C) *Alfalfa products, cotton seed meal, mill feeds, soybean meal and molasses for animal and poultry feed*, in bulk, in tank vehicles: from points in Omaha, Nebr., to points in Missouri located in, south and east of Harrison, Daviess, Caldwell, Ray, Lafayette, Johnson, Henry and Bates Counties and to points in Arkansas.

(D) *Contractors materials and supplies*, in bulk: from points in Nebraska to Indianapolis, Ind.; (E) *Alcohol*, included under alcohol beverages and spirits, in bulk, in tank vehicles: (1) from Omaha, Nebr., to points in Pennsylvania located in, south and east of Washington, Allegheny, Westmoreland and Indiana counties to points located on, south and east of a line extending from the western border of Clearfield County along U.S. Highway 322 to the junction of U.S. Highway 220, thence along U.S. Highway 220 to the Pennsylvania-New York State line and to points in New York located on and east of a line extending from the New York-Pennsylvania State line along New York Highway 14 to the junction of New York Highway 13, thence along New York Highway 13 to the junction of U.S. Highway 20, thence along U.S. Highway 20 to the junction of New York Highway 30, thence along New York Highway 30 to the junction of New York Highway 29, thence along New York Highway 29 to the junction of U.S. Highway 9, thence along U.S. Highway 9 to the junction of New York Highway 32, thence along New York Highway 32 to the junction of U.S. Highway 4, thence along U.S. Highway 4 to the New York-Vermont State line including the Elmira, Ithaca, Cortland, Amsterdam and Glens Falls Commercial zones and to points in Maryland and New Jersey; (2) from Omaha, Nebr., to points in Missouri located in, south and east of Butler, Stoddard and Cape Girardeau Counties; (F) *Corn syrup*, in bulk, in tank vehicles; (1) from points in Nebraska to points in New York; (2) from points in Nebraska to points in Tennessee located in and west of Clay, Jackson, Putnam, White, Van Buren, Sequatchie and Hamilton Counties; (3) from points in Nebraska located in and west of Cherry, Thomas, Logan, Lincoln, Frontier, and Red Willow to points in Tennessee located in and surrounded by Montgomery, Dickson, Williamson, Maury, Giles, Lincoln, Franklin, Marion, Grundy, Warren Dekalb, Smith, Macon, Sumner and Robertson Counties; (4) from points in Nebraska to points in New York.

(G) *Vegetable oils* (except feed ingredients), in bulk, in tank vehicles: (1) from points in Nebraska to points in Ohio located on and south of U.S. Highway 36; (2) from points in Nebraska located on and west and south of a line beginning at the South Dakota-Nebraska State line and extending south along U.S. Highway 281 to junction with U.S. Highway 20, thence along U.S. Highway 20 to U.S. Highway 275, thence along U.S. Highway 275 to Nebraska Highway 14, thence along Nebraska Highway 14 to Nebraska Highway 91, thence along Nebraska Highway 91 to U.S. Highway 81, thence along U.S. Highway 81 to U.S. Highway 30, thence along U.S. Highway 30 to U.S. Highway 275, thence along U.S. Highway 275 to U.S. Highway 6, thence along U.S. Highway 6 to the Iowa-Nebraska State line, to points in Ohio on and south and east of a line beginning at the Ohio-Indiana State line and extending east along Ohio Highway 47 to junction with U.S. Highway 23, thence along U.S. Highway 23 to Ohio Highway 229, thence along Ohio Highway 229 to U.S. Highway 36, thence along U.S. Highway 36 to Ohio Highway 3, thence along Ohio Highway 3 to U.S. Highway 42, thence along U.S. Highway 42 to Cleveland on Lake Erie (except those parts of Ohio described in part (1) above); (3) from points in Nebraska to points in Illinois located on and south of a line extending from the Mississippi River along the east boundary of Calhoun County to Illinois Highway 16, thence along Illinois Highway 16 to U.S. Highway 150 at Paris, thence along U.S. Highway 150 to the Illinois-Indiana State line; (4) from points in Nebraska located on and west of a line extending from the Nebraska-South Dakota State line along U.S. Highway 83 to Nebraska Highway 2, thence along Nebraska Highway 2 to Nebraska Highway 21, thence along Nebraska Highway 21 to U.S. Highway 30, thence along U.S. Highway 30 to Nebraska Highway 10, thence along Nebraska Highway 10 to U.S. Highway 6, thence along U.S. Highway 6 to Nebraska Highway 14, and thence along Nebraska Highway 14 to the Nebraska-Kansas State line, to points in Illinois located on and south of a line extending from the Illinois-Missouri State line, along U.S. Highway 54 to U.S. Highway 36, thence along U.S. Highway 36 to Illinois Highway 47, thence along Illinois Highway 47 to U.S. Highway 150, thence along U.S. Highway 150 to U.S. Highway 136, thence along U.S. Highway 136 to the Illinois-Indiana State line (except Jacksonville and Champaign and except those points described in part (3) above).

(H) *Fats, tallows and grease*, in bulk, in tank vehicles: (1) from points in Nebraska to St. Louis, Mo.; (2) from points in Nebraska to Cincinnati, Ohio and Memphis, Tenn.; (I) *Inedible fats, tallows and grease* (except those derived from petroleum), in bulk, in tank vehicles: from points in Nebraska located in, south and east of Cherry, Brown, Rock, Garfield, Wheeler, Boone, Platte, Colfax, Saunders, and Douglas Counties to New York City and Port Ivory, New York; (J) *Lard and animal fats, grease and tallows*, in bulk, in tank vehicles: from points in Nebraska to points in Delaware; (K) *Unprocessed fats and grease*, in bulk, in tank vehicles: from points in Nebraska located in, south and east of Boyd, Holt, Antelope, Madison, Platte, Colfax, Saunders, Cass and Otoe Counties to Champaign, Ill.; (L) *Vegetable and animal fats*, in bulk, in tank vehicles: from points in Nebraska to points in Louisiana and Tennessee; (M) *Animal fats* (except lard), in bulk, in tank vehicles: from points in Nebraska to points in Arkansas; (N) *Feed* (not including tankage), in bulk: (1) from Fremont, Nebr., to points in Wisconsin; (2) from Fremont, Nebr., to points in Minnesota located on and east of a line extending from the Iowa-Minnesota State line along Minnesota Highway 263 to junction with Minnesota Highway 60, thence along Minnesota Highway 60 to junction with Minnesota Highway 15, thence along Minnesota Highway 15 to junction

with U.S. Highway 10, thence along U.S. Highway 10 to junction with U.S. Highway 71, thence along U.S. Highway 71 to junction with Minnesota Highway 72, thence along Minnesota Highway 72 to the Minnesota-Canada Border.

(O) *Blood meal, bone meal, fish meal, meat meal and tallow,* when intended as animal and poultry feed, or ingredients, (not including tankage) in bulk, in tank vehicles: from Fremont, Nebr., to points in Arkansas; (P) *Alfalfa products, cottonseed meal, mill feeds, soybean meal and molasses* for animal and poultry feed or ingredients, (not including tankage), in bulk, in tank vehicles: from Fremont, Nebr., to points in Arkansas and Missouri; (Q) *Alfalfa products, cottonseed meal, soybean meal, blood meal, bone meal, feather meal, fish meal, meat meal, tallows and blends* included under tankage when intended for use as animal and poultry feed or animal and poultry feed ingredients, in bulk, in tank vehicles: from Omaha, Nebr., to points in Missouri located in and south of Clay, Ray, Carroll, Chariton, Randolph and Monroe Counties and points in Marion County located on and south of U.S. Highway 36 and points in Platte County located on and south of Missouri Highway 92 and to points in Arkansas; (R) *Insecticides,* in bulk: (1) from Omaha, Nebr., to points in Wisconsin located in and east of Iron, Price, Taylor, Clark, Wood, Juneau, Monroe, Sauk, Richland and Grant Counties; (2) from Omaha, Nebr., to points in Illinois, (except Jo Daviess County) and to points in Indiana; (3) from Omaha, Nebr., to points in Michigan located in the Lower Peninsula; (S) *Insecticides,* in bulk, in tank or hopper vehicles: from Omaha, Nebr., to points in Wisconsin located in, south and east of Ashland, Sawyer, Rusk, Chippewa, Eau Claire and Buffalo Counties and points in Minnesota located on and east of a line extending from the Minnesota-Wisconsin State line along U.S. Highway 61 to the junction of Minnesota Highway 74, thence along Minnesota Highway 74 to the junction of U.S. Highway 52, thence along U.S. Highway 52 to the junction of Minnesota Highway 139, thence along Minnesota Highway 139 to the Minnesota-Iowa State line.

(T) *Insecticides,* in bulk: from Omaha, Nebr., to points in Michigan located in the Upper Peninsula; (U) *Cottonseed oil, soybean oil, blends and products thereof,* (except soap products and paint), in bulk, in tank vehicles: (1) from points in Nebraska to Evadale and Wilson, Ark.; (2) from points in Nebraska to Osceola, Ark., Macon, Ga., and Jackson, Miss.; (V) *Vegetable oil and vegetable oil products,* (except soap products and paints) in bulk in tank vehicles: (1) from points in Nebraska to points in Alabama, Georgia (except Macon) and Mississippi (except Jackson); (2) from points in Nebraska to points in Louisiana located in and east of Morehouse, Ouachita, Caldwell, La Salle, Avoyelles, St. Landry, Lafayette and Iberia Parishes; (3) from points in Nebraska to points in Alabama, Georgia (except Macon) and Mississippi (except Jackson); (W) *Crude soybean oil, inedible fats, tallows and grease* (except petroleum and petroleum products, molasses and except animal fats from Omaha) in bulk, in tank vehicles: (1) from points in Nebraska (except those located in Webster, Nuckolls, Thayer, Jefferson, Pawnee and Richardson Counties and points located south of a line extending from the Nebraska-Missouri State line along U.S. Highway 136 to the junction of Unnumbered highway approximately 2 miles east of Vesta, thence along unnumbered highway through Pickrell and DeWitt to the western border of Gage County) to Kansas City and St. Louis, Mo.; (2) from points in Nebraska to Memphis, Tenn.; (3) from points in Nebraska to Faribault, Minneapolis and St. Paul, Minn.; (4) from points in Nebraska to Chicago, Chicago Heights and Rockford, Ill., New York City, and Port Ivory, N.Y.; (5) from points in Nebraska to Decatur, Ill., and Cincinnati and Ivorydale, Ohio; (6) from points in Nebraska (except those located in Furnas, Harlan, Franklin, Webster, Nuckolls, Thayer, Jefferson, Gage, Johnson, Nemaha, Pawnee and Richardson Counties) to East St. Louis, Ill.; (X) *Soybean oil, corn and salad oil,* in bulk, in tank vehicles: (1) from points in Nebraska to points in New York (except crude soybean oil to New York City and Port Ivory, N.Y.); (2) from points in Nebraska located on and north of a line extending from the Nebraska-Kansas State line along Nebraska Highway 15 to U.S. Highway 136, thence along U.S. Highway 136 to the Nebraska-Iowa State line to points in Tennessee located east of U.S. Highway 27 (except soybean oil to Memphis, Tenn.)

(Y) *Soybean oil,* in bulk, in tank vehicles: (1) from points in Nebraska to points in Indiana; (2) from points in Nebraska to points in Michigan located in the Lower Peninsula; and (Z) *Furfural,* in bulk, in tank vehicles: from points in Nebraska to Chicago, Ill. The purpose of this filing is to eliminate the gateways of: (A) (1) Mason City, Iowa; (A) (2), (B) Des Moines, Iowa; (C) points located in that part of Iowa on and east of U.S. Highway 69 except those located on a specified line formerly shown as U.S. Highway 6 and 30 beginning at the Illinois-Iowa State line and extending along U.S. Highway 6 to junction unnumbered highway (formerly portion U.S. Highway 6), thence along unnumbered highway through Victor and Brooklyn Iowa, to junction U.S. Highway 6, thence along U.S. Highway 6 to junction Iowa Highway 90 (formerly portion U.S. Highway 6), thence along Iowa Highway 90 to junction U.S. Highway 69, and those located on a line beginning at the Illinois-Iowa State line and extending along U.S. Highway 30 to junction unnumbered highway (formerly portion U.S. Highway 30), thence along unnumbered highway through Wheatland Iowa, to junction U.S. Highway 30, thence along U.S. Highway 30 to junction Iowa Highway 150 (formerly portion U.S. Highway 30), thence along Iowa Highway 150 to junction unnumbered highway (formerly portion U.S. Highway 30), thence along unnumbered highway to Cedar Rapids, Iowa, thence along U.S. Highway 30 to junction unnumbered highway (formerly portion U.S. Highway 30), thence along unnumbered highway through Tama and Montour, Iowa, to junction Iowa Highway 146 (formerly portion U.S. Highway 30), thence along Iowa Highway 146 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction unnumbered highway (formerly portion U.S. Highway 30), thence along unnumbered highway through State Center Iowa, to junction U.S. Highway 30, thence along U.S. Highway to junction U.S. Highway 69; (D) Iowa.

(E) (1) Kentucky; (E) (2) Kentucky (except Ashland, Cattlettsburg, Satonia, and Louisville and points within 10 miles of each); (F) Clinton, Iowa; (G) points that are in both the Dapo, Ill., and St. Louis, Mo., commercial zones; (H) (1) Kansas City, Kans.; (H) (2) Kansas City, Kans., and St. Louis, Mo.; (I), (J) Kansas City, Kans., Kansas City, Mo., commercial zone and Dubuque, Iowa; (K) Kansas City, Mo.-Kansas City, Kans., commercial zone; (L), (M) Kansas City, Kans.; (N) (1) Mason City, Iowa; (N) (2) Algona, Iowa; (O) Kansas City, Kans.; (P) Iowa; (Q) Kansas City, Kans.; (R) (1) Muscatine, Iowa; (R) (2) Burlington, Iowa; (R) (3) Burlington, Iowa and Plantsite of Blockson Chemical Co., at or near Joliet, Ill.; (S) plantsite of Iowa-Guttenburg Terminal, Inc., at or near Guttenberg, Iowa; (T) Des Moines, Iowa; (U), (V) Memphis, Tenn.; (W) Iowa; (X) Clinton, Iowa; (Y) Muscatine, Iowa; and (Z) Cedar Rapids, Iowa.

No. MC-92983 (Sub-No. E71), filed June 4, 1974. Applicant: AMERICAN BULK TRANSPORT CO., 818 Grand Ave., P.O. Box 2508, Kansas City, Mo. 64142. Applicant's representative: H. B. Foster (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (A) *Unprocessed fats, greases and vegetable oil,* (except petroleum and petroleum products, molasses and except animal fats from Omaha) in bulk, in tank vehicles: from points in Nebraska to Champaign, Ill.; (B) *Lard, animal oils, fats, greases and tallows* (except animal fats from Omaha, Nebr., and tallow to Milwaukee, Wis.), in bulk, in tank vehicles: (1) from points in Nebraska to points in Connecticut, Delaware, points in Florida on and south and west of a line extending from the Florida-Georgia State line along U.S. Highway 221 to U.S. Highway 27, thence along U.S. Highway 27 and alternate U.S. Highway 27 to Florida Highway 361A and along Florida Highway 361A to the Gulf of Mexico, points in Georgia located on and east of a line extending from the Georgia-North Carolina State line alone U.S. Highway 129 to Macon, thence along Interstate Highway 75 to Georgia Highway 76, thence along Georgia Highway 76 to U.S. Highway 221, and along U.S. Highway 221 to the Georgia-Florida State line, to points in Illinois located on and north and east of a line extending from the Illinois-Iowa State line along U.S. Highway 30 to U.S.

Highway 52, thence along U.S. Highway 52 to Illinois Highway 47.

Thence along Illinois Highway 47 to U.S. Highway 24, thence along U.S. Highway to the Illinois-Indiana State line (except Chicago, Chicago Heights and Rockford) to points in Indiana located on and north and east of a line extending from the Indiana-Illinois State line along U.S. Highway 52 to U.S. Highway 31, thence along U.S. Highway 31 to Indiana Highway 7 and thence along Indiana Highway 7 to the Indiana-Kentucky State line, points in Kentucky located on and east of a line extending from the Kentucky-Indiana State line along U.S. Highway 421 to U.S. Highway 127, thence along U.S. Highway 127 to U.S. Highway 150, thence along U.S. Highway 150 to Interstate Highway 75, thence along Interstate Highway 75 to the Kentucky-Tennessee State line, to points in Maine, Maryland, Massachusetts, points in Michigan located in the Lower Peninsula and points in the Upper Peninsula on and east of a line extending from the Michigan-Wisconsin State line along U.S. Highway 141 to U.S. Highway 41, thence along U.S. Highway 41 to Hancock, to points in New Hampshire, New Jersey, New York (except New York City and Port Ivory), North Carolina (except west of U.S. Highway 129) Ohio except Cincinnati and Ivorydale, Pennsylvania, Rhode Island, South Carolina, points in Tennessee located on and east of a line extending from the Tennessee-Kentucky State line along Interstate Highway 75 to U.S. Highway 441, thence along U.S. Highway 441 to U.S. Highway 129, thence along U.S. Highway 129 to the Tennessee-North Carolina State line, to points in Vermont, Virginia, West Virginia, points in Wisconsin located on and east and south of a line extending from the Wisconsin-Iowa State line along U.S. Highway 18 to Wisconsin Highway 60, thence along Wisconsin Highway 60 to U.S. Highway 12, thence along U.S. Highway 12 to Wisconsin Highway 23, thence along Wisconsin Highway 23 to U.S. Highway 51, thence along U.S. Highway 51 to Wisconsin Highway 52, thence along Wisconsin Highway 52 to Wisconsin Highway 32, thence along Wisconsin Highway 32 to U.S. Highway 8, thence along U.S. Highway 8 to Wisconsin Highway 139, and along Wisconsin Highway 139 to the Wisconsin-Michigan State line, and to the District of Columbia.

(2) From points in Nebraska located on and south of a line extending from the Nebraska-Wyoming State line along U.S. Highway 26 to Nebraska Highway 61, thence along Nebraska Highway 61 to Nebraska Highway 92, thence along Nebraska Highway 92 to U.S. Highway 30, thence along U.S. Highway 30 to U.S. Highway 275, thence along U.S. Highway 275 to Nebraska Highway 92, thence along Nebraska Highway 92 to Omaha, to points in Michigan (except those points in Michigan described in part (1) above) and to points in Wisconsin located on and east of a line extending from the Wisconsin-Minnesota State line along U.S. Highway 16 to Wisconsin Highway 27, thence along Wisconsin Highway 27 to U.S. Highway 12, thence along U.S. Highway 12 to Wisconsin Highway 95, thence along Wisconsin Highway 95 to Wisconsin Highway 73, thence along Wisconsin Highway 73 to Wisconsin Highway 29, thence along Wisconsin Highway 29 to Wisconsin Highway 13, thence along Wisconsin Highway 13 to Wisconsin Highway F, thence along Wisconsin Highway F and FF to U.S. Highway 51, and along U.S. Highway 51 to Hurley (except those points in Wisconsin described in part (1) above).

(3) from points in Nebraska located on and north of a line extending from the Nebraska-Colorado State line along U.S. Highway 34 to U.S. Highway 283, thence along U.S. Highway 283 to U.S. Highway 30, thence along U.S. Highway 30 to Nebraska Highway 92, thence along Nebraska Highway 92 to Omaha, to points in Alabama located on and east of a line extending from Mobile along U.S. Highway 31 to Alabama Highway 59, thence along Alabama Highway 59 to Interstate Highway 65, thence along Interstate Highway 65 to U.S. Highway 231, thence along U.S. Highway 231 to the Alabama-Tennessee State line, to points in Georgia, points in Illinois located on and north and east of a line extending from the Illinois-Iowa State line along U.S. Highway 30 to Illinois Highway 88 to U.S. Highway 6, thence along U.S. Highway 6 to U.S. Highway 51, thence along U.S. Highway 51 to U.S. Highway 24, thence along U.S. Highway 24 to Illinois Highway 47, thence along Illinois Highway 47 to U.S. Highway150, and along U.S. Highway 150 to the Illinois-Indiana State line to points in Indiana located on and north and east of a line extending from the Indiana-Illinois State line along U.S. Highway 150 to Interstate Highway 70, thence along Interstate Highway 70 to Indiana Highway 46, thence along Indiana Highway 46 to Indiana Highway 37, thence along Indiana Highway 37 to Indiana Highway 237, thence along Indiana Highway 237 to Cannelton, to points in Kentucky located on and east of a line extending from Hawesville along U.S. Highway 60 to Kentucky Highway 69, thence along Kentucky Highway 69 to Kentucky Highway S4, thence along Kentucky Highway S4 to Kentucky Highway 79, thence along Kentucky Highway 79 to Kentucky Highway 185, thence along Kentucky Highway 185 to Highway 67, thence along Kentucky Highway 67 to U.S. Highway 31W, and along U.S. Highway 31W to the Kentucky-Tennessee State line, to points in Tennessee located on and east of a line extending from the Tennessee-Kentucky State line along Interstate Highway 65 to U.S. Highway 431 and along U.S. Highway 431 to the Tennessee-Alabama State line (except for points in Georgia, Illinois, Indiana, Kentucky and Tennessee as described in part (1) above); (4) from Omaha, Nebr., to Birmingham, Ala.

(C) *Lard, animal oils, fats, and greases,* in bulk, in tank vehicles: (1) from points in Nebraska to points in Florida located in and south of Taylor, Lafayette, Suwannee, Gilchrist, Alachua, Bradford, Clay and Duval Counties; (2) from points in Nebraska to points in Connecticut, Delaware, District of Columbia, Maryland, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island and Vermont; (D) *Spent phosphoric acid,* in bulk, in tank vehicles: (1) from points in Nebraska located in and west of Holt, Wheeler, Greeley, Howard, Hall, Adams, and Webster Counties, to points in Arkansas; (2) from points in Nebraska to points in Louisiana; (E) *Chemicals,* (except liquid hydrogen, liquid oxygen and liquid nitrogen to missile storage, launching sites, test facilities or manufacturing plants producing liquid hydrogen, liquid oxygen and liquid nitrogen, except petroleum chemicals), in bulk, in tank vehicles: from points in Nebraska located in, north and east of Scotts Bluff, Morrill, Garden, Arthur, McPherson, Logan, Custer, Buffalo, Hall, Clay, Fillmore, Saline and Gage Counties to Dallas, Tex.; (F) *Chemicals,* embraced within polyvinyl acetate, linseed oil, blends and products thereof and *chemicals* embraced within paint materials except petroleum chemicals, in bulk, in tank vehicles: from points in Nebraska to Houston, Tex.; (G) *Chemicals,* (except petroleum chemicals, liquid hydrogen, liquid oxygen, liquid nitrogen to missile storage, launching sites, test facilities or manufacturing plants producing liquid oxygen, liquid hydrogen and liquid nitrogen and except petroleum chemicals) in bulk: (1) from points in Nebraska to points in Ohio located in and south of Darke, Miami, Champaign, Madison, Franklin, Delaware, Knox, Coshocton, Tuscarawas and Carroll Counties and points in Columbian County located on and south of a line extending from the western border along Ohio Highway 644 to the junction of Ohio Highway 518, thence along Ohio Highway 518 to the junction of Ohio Highway 45, thence along Ohio Highway 45 to the junction of U.S. Highway 30, thence along U.S. Highway 30 to the junction of Ohio Highway 39, thence along Ohio Highway 39 to the Ohio-Pennsylvania State line.

(2) From points in Nebraska located in, west and south of Dawes, Box Butte, Morrill, Garden, Grant, Hooker, Thomas, Blaine, Custer, Valley, Howare, Merrick, Polk, Seward, Lancaster and Otoe Counties to points in Ohio (except those points in Ohio described in (1) above); (3) from points in Nebraska to points in Kentucky, North Carolina and South Carolina; (4) from points in Nebraska located in Knox, Pierce, Stanton, Cuming, Burt, Wayne, Thurston, Cedar, Dixon and Dakota Counties to points in Delware, District of Columbia, Maryland and New Jersey to points in New York located on, north and east of a line extending from Lake Erie along New York Highway 16 to the junction of New York Highway 277, thence along New York Highway 277 to the junction of U.S. Highway 219, thence along U.S. Highway 219 to the New York-Pennsylvania State line, to points in Pennsylvania located on, south and east of a

line extending from the Pennsylvania-New York State line along U.S. Highway 219 to the junction of U.S. Highway 6, thence along U.S. Highway 6 to the junction of Pennsylvania Highway 66, thence along Pennsylvania Highway 66 to the junction of U.S. Highway 322, thence along U.S. Highway 322 to the junction of Pennsylvania Highway 68, thence along Pennsylvania Highway 68 to the Pennsylvania-Ohio State line and to points in Virginia and West Virginia; (5) from points in Nebraska located in, west and south of Boyd, Holt, Antelope, Madison, Platte, Colfax, Dodge and Washington Counties to points in Delaware, District of Columbia, Maryland, New Jersey, Pennsylvania, Virginia, and West Virginia.

(6) from points in Nebraska located on and east of a line extending from the northern border of Otoe County along U.S. Highway 75 to the Nebraska-Kansas State line to points in Idaho located on and north of a line extending from the Idaho-Montana State line along unnumbered highway to the junction of Idaho Highway 11, at Pierce, thence along Idaho Highway 11 to the junction of U.S. Highway 12, thence along U.S. Highway 12 to the junction of Idaho Highway 13, thence along Idaho Highway 13 to the junction of U.S. Highway 95, thence along U.S. Highway 95 to the Idaho-Oregon State line and to points in Montana located on and west of a line extending from the Montana-Idaho State line along unnumbered highway to the junction of Montana Highway 257, 3 miles south of Superior, thence along Montana Highway 257 to the junction of U.S. Highway 10, thence along U.S. Highway 10 to the junction of Montana Highway 461, thence along Montana Highway 461 to the junction of Montana Highway 200, thence along Montana Highway 200 to the junction of Montana Highway 28, thence along Montana Highway 28 to the junction of U.S. Highway 93, thence along U.S. Highway 93 to the United States-Canada Border; (7) from points in Nebraska located on and east of a line extending from the northern border of Douglas county along U.S. Highway 73 to the Nebraska-Kansas State line to points in California, to points in Nevada located on and south of a line extending from the Nevada-Utah State line along Nevada Highway 25 to the junction of U.S. Highway 6, thence along U.S. Highawy 6 to the junction of Nevada Highway 89, thence along Nevada Highway 89 to the junction of Nevada Highway 23, thence along Nevada Highway 23 to the junction of U.S. Highway 50, thence along U.S. Highway 50 to the junction of Alternate Highway 95, thence along Alternate Highway 95 to the junction of Nevada Highway 34, thence along Nevada Highway 34 to the junction of Nevada Highway 81, thence along Nevada Highway 81 to the Nevada-California State line and to points in Utah located on and south of a line extending from the Utah-Arizona State line along U.S. Highway 89 to the junction of Utah Highway 14, thence along Utah Highway 14 to the junction of U.S. Highway 56, thence along Utah Highway 56 to the Utah-Nevada State line.

(8) from points in Nebraska located on and east of U.S. Highway 77 except those points in Nebraska described in (A) above to points in California located in and south of Santa Cruz, Santa Clara, San Benito and Fresno Counties and points in Inyo County extending from the western border along unnamed trail and unnumbered highway to the junction of U.S. Highway 395 at Independence, thence along U.S. Highway 395 to the junction of California Highway 136, thence along California Highway 136 to the junction of California Highway 190, thence along California Highway 190 to the junction of California Highway 127, thence along California Highway 127 to the California-Nevada State line and Las Vegas, Nevada; (9) from points in Nebraska located on and east of U.S. Highway 81 (except those points in Nebraska described in (7) and (8) above) to points in California located on and west of a line extending from the western border of Los Angeles County along California Highway 126 to the junction of Interstate Highway 5, thence along Interstate Highway 5 to the United States-Mexico Border; (10) from points in Nebraska located on and east of a line extending from the northern border of Otoe County along U.S. Highway 75 to the Nebraska-Kansas State line to points in Oregon; (11) from points in Nebraska located on and east of a line extending from the northern border of Douglas County along U.S. Highway 73 to the southern border of Cass County to points in or located on and west of a line extending from the Oregon-Washington State line along Oregon Highway 11 to the junction of U.S. Highway 395, thence along U.S. Highway 395 to the junction of Oregon Highway 74, thence along Oregon Highway 74 to the junction of Oregon Highway 207, thence along Oregon Highway 207 to the junction of U.S. Highway 26, thence along U.S. Highway 26 to Crook County and points located in and west of Crook, Deschutes and Klamath Counties.

(12) from points in Nebraska located in and east of Douglas Sarpy, Cass, Otoe and Gage Counties and points in Washington County located on and south of U.S. Highway 30 (except those points in Nebraska described in (10) and (11) above) to points in Oregon located on and west of a line extending from the Oregon-Washington State line along U.S. Highway 197 to the junction of U.S. Highway 97, thence along U.S. Highway 97 to the Oregon-California State line; (13) from points in Nebraska located in and east of Knox, Pierce, Madison, Stanton, Colfax, Butler, Lancaster and Gage Counties to points in New Mexico located on and south of a line extending from the New Mexico-Texas State line along U.S. Highway 85 to the junction of U.S. Highway 70, thence along U.S. Highway 70 to the New Mexico-Arizona State line and Carsead; (14) from points in Nebraska located on and east of U.S. Highway 73 to points in New Mexico located in and south of San Juan, Sandoval, Los Alamos, Santa Fe and Mora Counties and points in Colfax and Union Counties located on and south of a line extending from the southern border of Colfax county along U.S. Highway 85 to the junction of U.S. Highway 56, thence along U.S. Highway 56 to the New Mexico-Oklahoma State line, (except to those points in New Mexico described in (13) above); (15) from Platte County, Nebraska to points in Arizona located on and south of a line extending from the Arizona-New Mexico State line along U.S. Highway 70 to the junction of Arizona Highway 88, thence along Arizona Highway 88 to the junction of Arizona Highway 188, thence along Arizona Highway 188 to the junction of Arizona Highway 87, thence along Arizona Highway 87 to the junction of unnumbered highway, 3 miles north of Pine, thence along unnumbered highway to the junction of Interstate Highway 17, thence along Interstate Highway 17 to the junction of Arizona Highway 69, thence along Arizona Highway 69 to the junction of U.S. Highway 89, thence along U.S. Highway 89 to the junction of U.S. Highway 93, thence along U.S. Highway 93 to the Santa Maria River, thence along the Santa Maria River to the northern border of Yuma County, thence along the northern border to the Arizona-California State line.

(16) from points in Nebraska located in and east of Knox, Pierce, Madison, Stanton, Colfax, Butler, Lancaster and Gage Counties except points located on and east of U.S. Highway 73 to points in Arizona located on and south of a line extending from the Arizona-New Mexico State line along U.S. Highway 60 to the junction of U.S. Highway 180, thence along U.S. Highway 180 to the junction of U.S. Highway 66, thence along U.S. Highway 66 to the junction of U.S. Highway 93, thence along U.S. Highway 93 to the Arizona-Nevada State line; (17) from points in Nebraska located on and east of U.S. Highway 73 to points in Arizona; (18) from points in Nebraska located on and east of a line extending from the Nebraska-Iowa State line along U.S. Highway 30 to the junction of U.S. Highway 73, thence along U.S. Highway 73 to the Nebraska-Kansas State line to points in Colorado located on and west of a line extending from the Colorado-New Mexico State line along U.S. Highway 550 to the junction of U.S. Highway 160, thence along U.S. Highway 160 to the junction of U.S. Highway 666, thence along U.S. Highway 666 to the Colorado-Utah State line; (19) from points in Nebraska located east of a line extending from the Nebraska-South Dakota State line along U.S. Highway 183 to the junction of Nebraska Highway 2, thence along Nebraska Highway 2 to the junction of U.S. Highway 281, thence along U.S. Highway 281 to the Nebraska-Kansas State line to points in Illinois located on and south of a line extending from the Illinois River along Illinois Highway 16 to the junction of unnumbered highway, 1 mile south of Schram City, thence along unnumbered highway to the western border of Fayette County

and points located in and south of Fayette, Effingham, Cumberland and Clark Counties; (20) from points in Nebraska located on and west of a line extending from the Nebraska-South Dakota State line along U.S. Highway 183 to the junction of Nebraska Highway 2, thence along Nebraska Highway 2 to the junction of U.S. Highway 281, thence along U.S. Highway 281 to the Nebraska-Kansas State line to points in Illinois located in and south of Pike, Scott, Morgan, Sangamon and Macon Counties and points in Piatt, Champaign, and Vermillion Counties located on and south of a line extending from the western border of Piatt County along Illinois Highway 10 to the junction of U.S. Highway 150, thence along U.S. Highway 150 to the Illinois-Indiana State line.

(21) from points in Nebraska located east of a line extending from the Nebraska-South Dakota State line along U.S. Highway 81 to the junction of Nebraska Highway 92, thence along Nebraska Highway 92 to the junction of U.S. Highway 281, thence along U.S. Highway 281 to the Nebraska-Kansas State line to points in Arkansas and to points in Missouri located on and south of a line extending from the Missouri-Kansas State line along U.S. Highway 24 to the junction of U.S. Highway 65, thence along U.S. Highway 65 to the junction of Missouri Highway 41, thence along Missouri Highway 41 to the junction of Missouri Highway 240, thence along Missouri Highway 240 to the junction of Missouri Highway 124, thence along Missouri Highway 124 to the junction of Missouri Highway 22, thence along Missouri Highway 22 to the western border of Montgomery County, thence along the western and northern borders of Montgomery and Lincoln Counties to the Mississippi River; (22) from points in Nebraska located on and west of a line extending from the Nebraska-South Dakota State line along U.S. Highway 81 to the junction of Nebraska Highway 92, thence along Nebraska Highway 92 to the junction of U.S. Highway 281, thence along U.S. Highway 281 to the Nebraska-Kansas State line to points in Arkansas and to points in Missouri located on and south of a line extending from the Missouri-Kansas State line along Interstate Highway 35 to the junction of U.S. Highway 69, thence along U.S. Highway 69 to the junction of Missouri Highway 10, thence along Missouri Highway 10 to the junction of U.S. Highway 24, thence along U.S. Highway 24 to the Mississippi River; (23) from points in Nebraska located in and south of Furnas, Gosper, Phelps, Buffalo, Howard, Nance, Platte, Stanton, Cuming and Thurston Counties and points in Madison County located south of U.S. Highway 275 to points in Kansas located in and east of Montgomery, Neosho, Allen and Anderson Counties and points on and east of a line extending from the southern border of Franklin County along U.S. Highway 59 to the junction of Kansas Highway 68, thence along Kansas Highway 68 to junction of Interstate Highway 35, thence along Interstate Highway 35 to the Kansas-Missouri State line.

(24) from points in Nebraska located in and west of Red Willow, Frontier, Dawson, Custer, Sherman, Greeley, Boone, Antelope, Wayne, Dixon and Dakota Counties and points in Madison County located on and north of U.S. Highway 275 to points in Kansas located in and east of Montgomery, Wilson, Allen, Anderson and Franklin Counties and points on and east of a line extending from the southern border of Douglas County along U.S. Highway 59 to the junction of U.S. Highway 24, thence along U.S. Highway 24 to the junction of Kansas Highway 16, thence along Kansas Highway 16 to the junction of Kansas Highway 92, thence along Kansas Highway 92 to the Kansas-Missouri State line; (25) from points in Nebraska (except those located on and east of a line extending from the southern border of Douglas County along U.S. Highway 73 to the Missouri River) to points in Oklahoma located in and east of Washington, Tulsa, Okmulgee, Mcintosh, Pittsburg, Pushmataha and Choctaw Counties; (26) from points in Nebraska located on and east of a line extending from the southern border of Douglas County along U.S. Highway 73 to the Missouri River to points in Oklahoma located in, south and east of Rober Mills, Dewey, Blaine, Kingfisher and Garfield Counties and points in Kay County located on and east of U.S. Highway 177.

(H) *Liquid chemicals* (except those derived from petroleum and petroleum products and except liquid hydrogen, liquid oxygen and liquid nitrogen to missile storage, launching sites, test facilities of manufacturing plants producing liquid oxygen, liquid hydrogen and liquid nitrogen and except petroleum chemicals, in bulk, in tank vehicles: (1) from points in Nebraska located in and west of Jefferson, Saline, Seward, Polk, Platt, Boone, Antelope, Holt and Boyd Counties to points in Texas located in and east of Galveston, Chambers, Liberty, Polk, Angelina, Cherokee, Smith and Wood Counties and points in Lamar, Delta and Hopkins Counties located on and east of a line extending from the southern border of Hopkins county along Texas Highway 19 to the junction of U.S. Highway 271, thence along U.S. 271 to the Texas-Oklahoma State line except Jefferson and Orange Counties; (2) from points in Nebraska located in and east of Knox, Pierce, Madison, Stanton, Colfax, Butler, Lancaster and Gage Counties to points in Texas located in, east and south of Grayson, Collin, Dallas, Ellis, Johnson, Somervell, Bosque, Hamilton, Comanche, Brown, Coleman, Concho, Tom Green, Reagan, Midland, Ector and Winkler Counties except Harris, Jefferson and Orange Counties; (3) from points in Nebraska located on and east of a line extending from the southern border of Douglas County along U.S. Highway 73 to the Missouri River to points in Texas located in and north of Andrews, Martin, Glasscock, Sterling, Coke, Runnels, Taylor, Callahan, Eastland, Erath, Hood, Parker, Tarrant, Denton and Cooke Counties (except Sherman, Hansford, Ochiltree and Lipscomb).

(4) from points in Nebraska to points in Rhode Island; (I) *Trichoromonofluoromethane, dichlorodifluoromethane, monocholordiflouremethane, trichlorotrifluoroethane and dichlorotetrafluorethane and mixtures thereof,* in bulk, in tank vehicles: from points in Nebraska to points in Alabama (except Fox); (J) *Anhydrous ammonia,* (except petroleum chemicals), in bulk, in tank vehicles: from points in Nebraska to points in Alabama within 400 miles of Woodstock, Tenn.; (K) *Caustic soda,* in bulk, in tank vehicles: from points in Nebraska to Houston, Tex.; (L) *Such chemicals,* as are embraced within lard and animal fats, oils, greases and tallows, in bulk, in tank vehicles: from points in Nebraska to points in Maine, Massachusetts, New Hampshire and Vermont; (M) *Such chemicals,* as are embraced within fats, oils, blends and products thereof (except fats, oils, blends and products thereof derived from petroleum, soap products and paints) in bulk, in tank vehicles: from points in Nebraska to points in Florida; (N) *Arsenic Acid,* in bulk, in tank vehicles and chemicals, embraced within agricultural insecticides (except petroleum chemicals), in bulk, in hopper vehicles: from points in Nebraska to points in Alabama (except Bay Minette); (O) *Chemicals,* (except petroleum chemicals, liquid hydrogen, liquid oxygen and liquid nitrogen) to missile storage, launching sites, test facilities or manufacturing plants producing liquid oxygen, liquid hydrogen and liquid nitrogen, and except petroleum chemicals, in bulk, in tank or hopper vehicles: (1) from points in Nebraska located in and south of Nemaha, Johnson, Gage, Saline, Filimore, Clay, Phelps, Cheyenne and Kimball Counties and points in Dawson, Lincoln, Keith and Garden Counties located on and south of a line extending from the eastern border of Dawson County along U.S. Highway 30 to the junction of U.S. Highway 26, thence along U.S. Highway 26 to the western border of Garden County to points in the lower Peninsula of Michigan; (2) from points in Nebraska located in Banner, Morrill, Scotts Bluff, Box Butte and Sioux Counties and points in Garden County located north of U.S. Highway 26 to points in Michigan located on and east of U.S. Highway 25 from the Michigan-Ohio State line to Lake Huron.

(P) *Such liquid chemicals* (except petroleum chemicals, liquid hydrogen, liquid oxygen and liquid nitrogen to missle storage, launching sites, test facilities or manufacturing plants producing liquid oxygen, liquid hydrogen and liquid nitrogen and except petroleum chemicals in bulk, in tank or hopper vehicles: (1) from points in Nebraska located in and west of Jefferson, Saline, Seward, Polk, Platte, Boone Antelope, Holt and Boyd Counties to Texarkana, Tex.; (2) from points in Nebraska located in and east of Knox, Pierce, Madison, Stanton, Colfax, Butler, Lancaster and Gage Counties to points in Texas located in,

east and south of Bowie, Morris, Marion, Harrison, Gregg, Rusk, Cherokee, Houston, Madison, Brazos, Burleson, Lee, Bastrop, Caldyell, Guadalupe, Bexar, Median, Zavala and Maverick Counties (except Brazoria, Chambers, Ft. Bend, Galveston, Harris, Liberty and Montgomery Counties and Texarkana); (3) from points in Nebraska located on and east of a line extending from the southern border of Douglas county along U.S. Highway 73 to the Missouri River to points in Texas located in, east and south of Grayson, Collin, Dallas, Ellis, Johnson, Somervell, Bosque, Hamilton, Comanche, Brown, Coleman, Concho, Tom Green Reagan, Upton, Crane and Jeff Davis Counties and points in Ward and Reeves Counties located on and south of U.S. Highway 80, (except to those points in Texas described in (1) and (2) above and except Brazoria, Chambers, Ft. Bend, Galveston, Harris, Liberty and Montgomery Counties); (Q) *Chemicals* (except liquid hydrogen, liquid oxygen and liquid nitrogen to missile, storage, launching sites, test facilities or manufacturing plants producing liquid oxygen, liquid hydrogen and liquid nitrogen, except petroleum chemicals in bulk: (1) from points in Nebraska to points in Louisiana; (2) from points in Nebraska located on and east of a line extending from the northern border of Otoe County along U.S. Highway 75 to the Nebraska-Kansas State line to points in Washington.

(3) from points in Nebraska located on and east of a line extending from the northern border of Douglas County along U.S. Highway 73 to the southern border of Cass County to points in Washington located on and west of a line extending from the Washington-Oregon State line along Washington Highway 125 to the junction of U.S. Highway 12, thence along U.S. Highway 12 to the junction of U.S. Highway 97, thence along U.S. Highway 97 to the southern border of Yakama County, thence along the southern and western borders to U.S. Highway 12, thence along U.S. Highway 12 to the junction of Washington Highway 123 to the junction of Washington Highway 706, thence along Washington Highway 706 to the junction of Washington Highway 7, thence along Washington Highway 7 to the junction of Interstate Highway 5, thence along Interstate Highway 5 to the United States-Canada Border; (4) from points in Nebraska located on and east of a line extending from the Nebraska-Iowa State line along Interstate Highway 80 to the junction of U.S. Highway 77, thence along U.S. Highway 77 to the junction of U.S. Highway 136, thence along U.S. Highway 136 to the junction of Nebraska Highway 15, thence along Nebraska Highway 15 to the Nebraska-Kansas State line to points in Washington located on and west of Interstate Highway 5; (5) from points in Nebraska to points in Connecticut and Georgia.

(6) from points in Nebraska to points in Indiana located on and south of a line extending from the Indiana-Illinos State line along U.S. Highway 36 to the junction of U.S. Highway 41, thence along U.S. Highway 41 to the junction of Indiana Highway 47, thence along Indiana Highway 47 to the junction of Indiana Highway 234, thence along Indiana Highway 234 to the junction of Indiana Highway 75, thence along Indiana Highway 75 to the junction of unnumbered highway, 1 mile south of Jamestown, thence along unnumbered highway to the junction of Indiana Highway 32 at Lebanon, thence along Indiana Highway 32 to the junction of Indiana Highway 37, thence along Indiana Highway 37 to the junction of Indiana Highway 28, thence along Indiana Highway 28 to the western border of Randolph county, thence along the western and northern borders of Randolph County to the Indiana-Ohio State line; (7) from points in Nebraska located in, south and west of Boyd, Holt, Wheeler, Greeley, Nance, Polk, Seaward, Lancaster and Cass Counties to points in Indiana located in and south of Warren, Tippecanoe, Clinton, Howard, Grant, Blackford and Jay Counties (except those points in Indiana described in (6) above); (8) from points in Nebraska located on and west of a line extending from the Nebraska-South Dakota State line along Nebraska Highway 61 to the junction of Nebraska Highway 2, thence along Nebraska Highway 2 to the junction of U.S. Highway 281, thence along U.S. Highway 281 to the Nebraska-Kansas State line to Ft. Wayne, Ind.; (R) *Liquid Chemicals* (except Petroleum chemicals and cryogenic liquids), in bulk, in tank vehicles: from Fremont, Nebr., to points in Oklahoma located in and east of a line extending from the Kansas-Oklahoma border along U.S. Highway 281 to the junction of Oklahoma Highway 15, thence along Oklahoma Highway 15 to the junction of U.S. Highway 283, thence along U.S. Highway 283 to the junction of Oklahoma Highway 51, thence along Oklahoma Highway 51 to the Oklahoma-Texas State line and to points in Texas except those located in Lipscomb, Ochiltree, Hansford, Sherman, Dallam, Hartley, Moore, Hutchinson, Oldham, Harris, Jefferson and Orange Counties.

(S) *Chemicals* (except cryogenic liquids), in bulk, in tank or hopper vehicles: (1) from Fremont, Nebr., to points in Michigan (except those located in Iron, Baraga, Houghton, Keweenaw, Gogebic and Ontonagon Counties); (2) from Fremont, Nebr., to points in Indiana; (3) from Fremont, Nebr., to points in Minnesota located in and east of a line extending from the Iowa-Minnesota State line along Minnesota Highway 139 to the junction of U.S. Highway 16, thence along U.S. Highway 16 to the junction of Minnesota Highway 43, thence along Minnesota Highway 43 to the Minnesota-Wisconsin State line and to points in Wisconsin located in and east of Trempealeau, Eau Claire, Chippewa, Rusk, Price and Ashland Counties; (4) from Fremont, Nebr., to points in Michigan located in Gogebic, Ontonagon, Houghton, Keweenaw, Baraga and Iron Counties. The purpose of this filing is to eliminate the gateways of: (A) Iowa; (B), (C) Dubuque, Iowa; (D) Oklahoma City, Okla. (Lecox, Okla.) (E), (F), (G) (1)–(17) Kansas City, Mo.-Kansas City, Kans., commercial zone; (G) (18)–(26) points that are in both the Olathe, Kans., and Kansas City, Kans., commercial zones; (H) (1)–(3) points that are in both the Olathe, Kans., and Kansas City, Kans., commercial zone, and Lawrence, Kans; (H) (4) points are are in both the Olathe, Kans., and Kansas City, Kans., commercial zones, and Muscatine, Iowa; (I) Kansas City, Mo.-Kansas City, Kans., commercial zone, and Marshall County, Ky.

(J) Kansas City, Mo., Kansas City, Kans., commercial zone, Saginaw, Mo., and points within 15 miles thereof, and Woodstock, Tenn.; (K) points that are in both the Olathe, Kans., and Kansas City, Kans., commercial zones, and Tulsa, Okla.; (L) points that are in both the Olathe, Kans., and the Kansas City, Kans., commercial zones, and Dubuque, Iowa; (M), (N) points that are in both the Olathe, Kans., and the Kansas City, Kans., commercial zone, and points in Arkansas that are within the Memphis, Tenn., commercial zone; (O) points that are in both the Olathe, Kans., and the Kansas City., Kans., commercial zones, and the plantsite, of the Blockson Chemical Co., at or near Joliet, Ill.; (P) points that are in both Olathe, Kans., and the Kansas City, Kans., commercial zones, and Verona, Mo.; (Q) Kansas City, Mo.-Kansas City, Kans., commercial zone; (R) Lawrence, Kans.; (S) (1) Plantsite of Blockson Chemical Co., at or near Joliet, Ill.; (S) (2) Burlington, Iowa; (S) (3) Plantsite of Iowa-Guttenberg Terminal, Inc. located approximately 2 miles south of Guttenberg, Iowa; and (S) (4) Des Moines, Iowa.

No. MC 92983 (Sub-No. E62), filed June 4, 1974. Applicant: AMERICAN BULK TRANSPORT CO., 818 Grand Ave., P.O. Box 2508, Kansas City, Mo. 64142. Applicant's representative: H. B. Foster (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (A) *Acids* and *chemicals*, in bulk, in tank vehicles, from points in Oregon to Dallas, Tex.; (B) *Such paint materials, polyvinyl acetate, linseed oils* and *blends* and *products* thereof, as are embraced within chemicals, in bulk, in tank vehicles, from points in Oregon to Houston, Tex.; (C) *Acids* and *chemicals*, in bulk, from points in Oregon to points in Kentucky, North Carolina, South Carolina, and Ohio; (D) *Trichloromonafluoromethane, dichlorofluoromethane, monochlorodifluoroemethane, trichlorotrifluoroethane, dichloroethetrafluorethane*, and *mixtures*, thereof, in bulk, in tank vehicles, from points in Oregon to points in Alabama (except Fox); (E) *Chemicals*, in bulk, from points in Oregon to points in Delaware, the District of Columbia, Maryland, New Jersey, New York, Pennsylvania, Virginia, and West Virginia; (F) *Acids* and *chemicals* (except derivatives of petroleum or petroleum products and except synthetic resins and varnish, in tank vehicles), in bulk, in tank or

hopper vehicles, from points in Oregon located on and west of a line extending from Newport, on the Pacific Ocean, along U.S. Highway 20 to junction Interstate Highway 5, thence along Interstate Highway 5 to junction Oregon Highway 99E, thence along Oregon Highway 99E to junction Oregon Highway 213, thence along Oregon Highway 213 to junction U.S. Highway 30 Bypass, thence along U.S. Highway 30 Bypass to junction Interstate Highway 5, thence along Interstate Highway 5 to the Oregon-Washington State line to points in Minnesota located in and south of Freeborn, Mower, that portion of Olmsted on, south, and east of a line beginning at the southern border extending along Interstate Highway 90 to junction U.S. Highway 63, thence along U.S. Highway 63 to junction U.S. Highway 14, thence along U.S. Highway 14 to the eastern border of Olmstead and Winona Counties; (G) *Anhydrous ammonia*, in bulk, in tank vehicles, from points in Oregon to points in Alabama within 400 miles of Woodstock, Tenn.

(H) *Phosphoric acid*, in bulk, in tank vehicles, from points in Oregon to points in Alabama; (I) *Acetic acid*, in bulk, in tank vehicles, from points in Oregon to points in Alabama; (J) *Acids* and *chemicals*, in bulk, in tank or hopper vehicles, (1) from points in Oregon to points in Arkansas, points in Kansas located in and east of Harper, Kingman, that portion of Reno County on and east of Kansas Highway 17, McPherson, that portion of Saline County located on and east of U.S. Highway 81, Dickinson, Clay, Riley, and Marshall Counties points in Missouri, and to points in Oklahoma located in and east of Grant, Garfield, Kingfisher, Canadian, Caddo, Comanche, and Cotton Counties, (2) from points in Oregon located on and west of a line beginning at Port Orford on the Pacific Ocean and extending along U.S. Highway 101 to junction Oregon Highway 42S, thence along Oregon Highway 42S to junction Oregon Highway 42, thence along Oregon Highway 42 to junction Interstate Highway 5, thence along Interstate Highway 5 to junction Oregon Highway 99E to junction Oregon Highway 213, thence along Oregon Highway 213 to junction U.S. Highway 30 Bypass, thence along U.S. Highway 30 Bypass to junction Interstate Highway 5, thence along Interstate Highway 5 to the Orgeon-Washington State line to points in Kansas located in Washington, Cloud, Ottawa, that portion of Saline County located west of U.S. Highway 81, Rice, that portion of Reno County located west of Kansas Highway 17, Pratt and Barber Counties and to points in Oklahoma located in Alfalfa, that portion of Woods County located on and east of U.S. Highway 281, Major, Blaine, that portion of Dewey County located on and east of U.S. Highway 183, Custer, Washita, Kiowa, and Tillman Counties.

(3) from points in Oregon located east of a line extending from the Oregon-Washington State line along Interstate Highway 5 to junction U.S. Highway 30 Bypass, thence along U.S. Highway 30 Bypass to junction Oregon Highway 213, thence along Oregon Highway 213 to junction Oregon Highway 99E, thence along Oregon Highway 99E to junction Interstate Highway 5, thence along Interstate Highway 5 to junction Oregon Highway 58, thence along Oregon Highway 58 to junction U.S. Highway 97, thence along U.S. Highway 97 to the Oregon-California State line to points in Illinois, points in Iowa located on, east, and south of a line extending from the Iowa-Minnesota State line along U.S. Highway 69 to junction Iowa Highway 3, thence along Iowa Highway 3 to junction Iowa Highway 17, thence along Iowa Highway 17 to junction U.S. Highway 20, thence along U.S. Highway 20 to junction U.S. Highway 169, thence along U.S. Highway 169 to junction Iowa Highway 175, thence along Iowa Highway 175 to junction Iowa Highway 4, thence along Iowa Highway 4 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction U.S. Highway 71, thence along U.S. Highway 71 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction U.S. Highway 59, thence along U.S. Highway 59 to junction Iowa Highway 2, thence along Iowa Highway 2 to junction U.S. Highway 275, thence along U.S. Highway 275 to the Iowa-Missouri State line and to points in Nebraska located in Nemaha, Richardson, and Pawnee Counties, and (4) from points in Oregon located on and west of a line extending from the Oregon-Washington State line along Interstate Highway 5 to junction U.S. Highway 30 Bypass, thence along U.S. Highway 30 Bypass to junction Oregon Highway 213, thence along Oregon Highway 213 to junction Oregon Highway 99E, thence along Oregon Highway 99E to junction Interstate Highway 5, thence along Interstate Highway 5 to junction Oregon Highway 58, thence along Oregon Highway 58 to junction U.S. Highway 97, thence along U.S. Highway 97 to the Oregon-California State line to points in Illinois, points in Iowa located in, east, and south of Harrison, Crawford, Sac, Pocahontas, those portions of Kossuth County located on and south of U.S. Highway 18, Hancock and Winnebago Counties and to points in Nebraska located in and east of Washington, Douglas, Sarpy, Cass, Otoe, Johnson, and Gage Counties; (K) *Caustic soda*, in bulk, in tank vehicles, from points in Oregon to Houston, Tex.

(L) *Liquid chemicals*, in bulk, in tank vehicles, from points in Oregon to points in Rhode Island; (M) *Such chemicals* as are embraced within animal oils, fats, and greases, in bulk, in tank vehicles, from points in Oregon to points in Maine, New Hampshire, and Vermont; (N) *Such chemicals* embraced within fats, oils, blends, and products thereof (except those derived from petroleum, soap products, and paint), in bulk, in tank vehicles, from points in Oregon to points in Flordia; (O) *Acids* and *chemicals*, in bulk, in tank or hopper vehicles, (1) from points in Oregon to the Lower Peninsula of Michigan and points in the Upper Peninsula located in and east of Delta and Alger Counties, and (2) from points in Oregon to points in Massachusetts; (P) *Agricultural insecticides*, in bulk, in hopper vehicles, and *arsenic acid* in bulk, in tank vehicles, from points in Oregon to points in Alabama (except Bay Minette); (Q) *Acids and chemicals*, in bulk, in tank or hopper vehicles, (1) from points in Oregon to points in Minnesota located in Winona, Fillmore, and Austin Counties and to points in Wisconsin located in, east, and south of Buffalo, Eau Clair, Clark Taylor, Lincoln, Oneida, and Forest Counties, and (2) from points in Oregon to points in Mississippi and Tennessee; (R) *Liquid chemicals*, in bulk, in tank or hopper vehicles, (1) from points in Oregon to points in Texas located in and east of Cooke, Denton, Dallas, Ellis, Navaroo, Freestone, Leon, Madison, Grimes, Walker, San Jacinto, Polk, Hardin, and Jefferson Counties, and (2) from points in Oregon located in and west of Lane, Linn, Marion, and Wasco Counties to points in Texas located in and east of Cooke, Denton, Tarrant, Johnson, Hill, McLennon, Falls, Milam, Lee, Fayette, Lavaca, Victoria, Calhoun, and Arkansas Counties (except Brazoria, Chambers, Ft. Bend, Galveston, Harris, Liberty, and Montgomery Counties); (S) *Acids* and *chemicals*, in bulk, (1) from points in Oregon to points in Louisiana, and (2) from points in Oregon to points in Connecticut and Indiana; (T) *Acids* and *chemicals* (except liquid hydrogen, liquid oxygen, and liquid nitrogen), in bulk, from points in Oregon to points in Georgia; (U) *Molasses*, in bulk, in tank vehicles, from points in Oregon to Muscatine, Iowa; (V) *Fats* and *oils* (except petroleum and petroleum products and molasses), in bulk, in tank vehicles, from points in Oregon to points in Iowa and Wisconsin; (W) *Crude soybean oil* and *inedible fats*, in bulk, in tank vehicles, from points in Oregon to Chicago, Chicago Heights, Decatur, East St. Louis, and Rockford, Ill.; Port Ivory and New York City, N.Y.; Cincinnati and Ivorydale, Ohio; Minneapolis, St. Paul, and Faribault, Minn.; Kansas City, Kans., St. Louis and Kansas City, Mo.; Sherman, Tex.; and Memphis, Tenn.; (X) *Soybean oil, corn oil, salad oils*, and *corn syrup* (except crude soybean oil to New York City and Port Ivory, N.Y.), in bulk, in tank vehicles, from points in Oregon to points in New York; (Y) *Crude soybean oil*, in bulk, in tank vehicles, from points in Oregon to points in Illinois (except Chicago, Chicago Heights, Decatur, East St. Louis, and Rockford) and to points in Ohio (except Cincinnati and Ivorydale; and (Z) *Soybean oil*, in bulk, in tank vehicles, from points in Oregon to points in Indiana.

The purpose of this filing is to eliminate the gateways of: (A), (B), & (C) Kansas City, Mo.; (D) Kansas City, Mo., and Marshall County, Ky.; (E) & (F) Kansas City, Mo.; (G) Kansas City, Mo., Saginaw, Mo., and points within 15 miles thereof, and Woodstock, Tenn.; (H) Kansas City, Mo., Saginaw, Mo., and points within 15 miles thereof, and Columbia, Tenn.; (I) Kansas City, Mo., Saginaw, Mo., and points within 15 miles thereof, and Memphis, Tenn.; (J) points that are in both the Olathe, Kans., and

the Kansas City, Mo.-Kansas City, Kans., commercial zone; (K) points that are in both the Olathe, Kans., and the Kansas City, Mo.-Kansas City, Kans., commercial zone, and Tulsa, Okla.; (L) the Olathe, Kans., and the Kansas City, Mo.-Kansas City, Kans., commercial zones, and Muscatine, Iowa; (M) the Olathe, Kans., and the Kansas City, Mo.-Kansas City, Kans., commercial zones, and Dubuque, Iowa; (N) the Olathe, Kans., and the Kansas City, Mo.-Kansas City, Kans., commercial zones, and points in Arkansas within the Memphis, Tenn., commercial zone; (O) (1) the Olathe, Kans., and the Kansas City, Mo.-Kansas City, Kans., commercial zones, and the plant site of Blockson Chemical Co., at or near Joliet, Ill.; (O) (2) the Olathe, Kans., and the Kansas City, Mo.-Kansas City, Kans., commercial zones, and Tulsa, Okla.; (P) the Olathe, Kans., and the Kansas City, Mo.-Kansas City, Kans., commercial zones, and points in Arkansas within the Memphis, Tenn., commercial zone; (Q) (1) the Olathe, Kans., and the Kansas City, Mo.-Kansas City, Kans., commercial zones, and the plant site of Iowa-Guttenberg Terminal, Inc., approximately two miles south of Guttenberg, Iowa; (Q) (2) the Olathe, Kans., and the Kansas City, Mo.-Kansas City, Kans., commercial zones, and Saginaw, Mo., and points within 15 miles thereof; (R) the Olathe, Kans., and the Kansas City, Mo.-Kansas City, Kans., commercial zones, and Verona, Mo.; (S) & (T) Kansas City, Mo.; (U) Fargo, N. Dak.; (V) Nebraska; (W) & (X) Nebraska and Iowa; (Y) Nebraska and Manly, Iowa; and (Z) Nebraska, and Muscatine, Iowa.

No. MC 107064 (Sub-No. E172), filed December 18, 1975. Applicant: STEERE TANK LINES, INC., P.O. Box 2998, Dallas, Tex. 75221. Applicant's representative: H. L. Rice, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer ingredients* (except liquid sulphur and petroleum products), from points in Maryland, to points in New Mexico, restricted against the transportation of chemicals from points in the United States (except Alaska and Hawaii) to the plant site and storage facilities of Occidental Chemical Co., in Hale County, Tex. The purpose of this filing is to eliminate the gateway of the plant site and storage facilities of Occidental Chemical Co., in Hale County, Tex.

No. MC 107064 (Sub-No. E173), filed December 18, 1975. Applicant: STEERE TANK LINES, INC., P.O. Box 2998, Dallas, Tex. 75221. Applicant's representative: H. L. Rice, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer solutions and liquid fertilizer ingredients*, in bulk, in tank vehicles, from points in Washington, to points in Mississippi, restricted against the transportation of chemicals from points in the United States (except Alaska and Hawaii) to the plant site and storage facilities of Occidental Chemical Co., in Hale County, Tex. The purpose of this filing is to eliminate the gateway of the plant site and storage facilities of Occidental Chemical Co., in Hale County, Tex.

No. MC 107064 (Sub-No. E174), filed December 18, 1975. Applicant: STEERE TANK LINES, INC., P.O. Box 2998, Dallas, Tex. 75221. Applicant's representative: H. L. Rice, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer solutions and liquid fertilizer ingredients*, in bulk, in tank vehicles, from points in Washington, to points in South Carolina, restricted against the transportation of chemicals from points in the United States (except Alaska and Hawaii) to the plant site and storage facilities of Occidental Chemical Co., in Hale County, Tex. The purpose of this filing is to eliminate the gateway of the plant site and storage facilities of Occidental Chemical Co., in Hale County, Tex.

No. MC 107064 (Sub-No. E175), filed December 18, 1975. Applicant: STEERE TANK LINES, INC., P.O. Box 2998, Dallas, Tex. 75221. Applicant's representative: H. L. Rice, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer solutions and liquid fertilizer ingredients*, in bulk, in tank vehicles, from points in Washington, to points in Tennessee (except Kingsport), restricted against the transportation of chemicals from points in the United States (except Alaska and Hawaii) to the plant site and storage facilities of Occidental Chemical Co., in Hale County, Tex. The purpose of this filing is to eliminate the gateway of the plant site and storage facilities of Occidental Chemical Co., in Hale County, Tex.

No. MC 107064 (Sub-No. E176), filed December 18, 1975. Applicant: STEERE TANK LINES, INC., P.O. Box 2998, Dallas, Tex. 75221. Applicant's representative: H. L. Rice, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia*, in bulk, in tank vehicles, and *dry fertilizer*, in bags, from points in West Virginia, to points in Arizona, restricted against the transportation of chemicals from points in the United States (except Alaska and Hawaii) to the plant site and storage facilities of Occidental Chemical Co., in Hale County, Tex. The purpose of this filing is to eliminate the gateway of the plant site and storage facilities of Occidental Chemical Co., in Hale County, Tex.

No. MC 107064 (Sub-No. E177), filed December 18, 1975. Applicant: STEERE TANK LINES, INC., P.O. Box 2998, Dallas, Tex. 75221. Applicant's representative: H. L. Rice, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer ingredients* (except liquid sulphur and petroleum products), from points in West Virginia, to points in New Mexico, restricted against the transportation of chemicals from points in the United States (except Alaska and Hawaii) to the plan site and storage facilities of Occidental Chemical Co., in Hale County, Tex. The purpose of this filing is to eliminate the gateway of the plant site and storage facilities of Occidental Chemical Co., in Hale County, Tex.

No. MC 107064 (Sub-No. E178), filed December 18, 1975. Applicant: STEERE TANK LINES, INC., P.O. Box 2998, Dallas, Tex. 75221. Applicant's representative: H. L. Rice, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia*, in bulk, in tank vehicles and *dry fertilizer*, in bags, from points in Wisconsin, to points in Arizona, restricted against the transportation of chemicals from points in the United States (except Alaska and Hawaii) to the plant site and storage facilities of Occidental Chemical Co., in Hale County, Tex. The purpose of this filing is to eliminate the gateway of the plant site and storage facilities of Occidental Chemical Co., in Hale County, Tex.

No. MC 107064 (Sub-No. E179), filed December 18, 1975. Applicant: STEERE TANK LINES, INC., P.O. Box 2998, Dallas, Tex. 75221. Applicant's representative: H. L. Rice, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia*, in bulk, in tank vehicles and *dry fertilizer*, in bags, from points in Rhode Island, to points in Arizona, restricted against the transportation of chemicals from points in the United States (except Alaska and Hawaii) to the plant site and storage facilities of Occidental Chemical Co., in Hale County, Tex. The purpose of this filing is to eliminate the gateway of the plant site and storage facilities of Occidental Chemical Co., in Hale County, Tex.

No. MC 107064 (Sub-No. E180), filed December 18, 1975. Applicant: STEERE TANK LINES, INC., P.O. Box 2998, Dallas, Tex. 75221. Applicant's representative: H. L. Rice, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer ingredients*, from points in Rhode Island, to points in Nevada, restricted against the transportation of chemicals from points in the United States (except Alaska and Hawaii) to the plant site and storage facilities of Occidental Chemical Co., in Hale County, Tex. The purpose of this filing is to eliminate the gateway of the plant site and storage facilities of Occidental Chemical Co., in Hale County, Tex.

No. MC 107064 (Sub-No. E181), filed December 18, 1975. Applicant: STEERE TANK LINES, INC., P.O. Box 2998, Dallas, Tex. 75221. Applicant's representative: H. L. Rice, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer*

and fertilizer ingredients (except liquid sulphur and petroleum products), from points in Rhode Island, to points in New Mexico, restricted against the transportation of chemicals from points in the United States (except Alaska and Hawaii) to the plant site and storage facilities of Occidental Chemical Co., in Hale County, Tex. The purpose of this filing is to eliminate the gateway of the plant site and storage facilities of Occidental Chemical Co., in Hale County, Tex.

No. MC 107064 (Sub-No. E202), filed December 18, 1975. Applicant: STEERE TANK LINES, INC., P.O. Box 2998, Dallas, Tex. 75221. Applicant's representative: H. L. Rice, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer solution* and *liquid fertilizer ingredients*, in bulk, in tank vehicles, from points in Oregon to points in South Carolina, restricted against the transportation of chemicals from points in the United States (except Alaska and Hawaii), to the plant site and storage facilities of Occidental Chemical Co., in Hale County, Tex. The purpose of this filing is to eliminate the gateway of the plant site and storage facilities of Occidental Chemical Co., in Hale County, Tex.

No. MC 107064 (Sub-No. E203), filed December 18, 1975. Applicant: STEERE TANK LINES, INC., P.O. Box 2998, Dallas, Tex. 75221. Applicant's representative: H. L. Rice, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicles, over irregular routes, transporting: *Fertilizer solutions* and *liquid fertilizer ingredients*, in bulk, in tank vehicles, from points in Oregon to points in Tennessee (except Kingsport), restricted against the transportation of chemicals from points in the United States (except Alaska and Hawaii) to the plant site and storage facilities of Occidental Chemical Co., in Hale County, Tex. The purpose of this filing is to eliminate the gateway of the plant site and storage facilities of Occidental Chemical Co., in Hale County, Tex.

No. MC 107064 (Sub-No. E204), filed December 18, 1975. Applicant: STEERE TANK LINES, INC., P.O. Box 2998, Dallas, Tex. 75221. Applicant's representative: H. L. Rice, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer* and *fertilizer ingredients*, in bags, and in mixed loads of bulk and bags, from points in Utah to point in Arkansas, restricted against the transportation of chemicals from points in the United States (except Alaska and Hawaii) to the plant site and storage facilities of Occidental Chemical Co., in Hale County, Tex. The purpose of this filing is to eliminate the gateway of the plant site and storage facilities of Occidental Chemical Co., in Hale County, Tex.

No. MC 107064 (Sub-No. E205), filed December 18, 1975. Applicant: STEERE TANK LINES, INC., P.O. Box 2998, Dallas, Tex. 75221. Applicant's representative: H. L. Rice, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer solutions* and *liquid fertilizer ingredients*, in bulk, in tank vehicles, from points in Utah to points in Georgia, restricted against the transportation of chemicals from points in the United States (except Alaska and Hawaii) to the plant site and storage facilities of Occidental Chemical Co., in Hale County, Tex. The purpose of this filing is to eliminate the gateway of the plant site and storage facilities of Occidental Chemical Co., in Hale County, Tex.

No. MC 107064 (Sub-No. E206), filed December 18, 1975. Applicant: STEERE TANK LINES, INC., P.O. Box 2998, Dallas Tex. 75221. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer* and *fertilizer ingredients*, in bags, and in mixed loads of bulk and bags, from points in Utah to points in Louisiana, restricted against the transportation of chemicals from points in the United States (except Alaska and Hawaii) to the plant site and storage facilities of Occidental Chemical Co, in Hale County, Tex. The purpose of this filing is to eliminate the gateway of the plant site and storage facilities of Occidental Chemical Co., in Hale County, Tex.

No. MC 107064 (Sub-No. E207), filed December 18, 1975. Applicant: STEERE TANK LINES, INC., P.O. Box 2998, Dallas, Tex. 75221. Applicant's representative: H. L. Rice, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer solutions* and *liquid fertilizer ingredients*, in bulk, in tank vehicles, from points in Utah to points in Mississippi, restricted against the transportation of chemicals from points in the United States (except Alaska and Hawaii) to the plant site and storage facilities of Occidental Chemical Co., in Hale County, Tex. The purpose of this filing is to eliminate the gateway of the plant site and storage facilities of Occidental Chemical Co., in Hale County, Tex.

No. MC 107064 (Sub-No. E208), filed December 18, 1975. Applicant: STEERE TANK LINES, INC., P.O. Box 2998, Dallas, Tex. 75221. Applicant's representative: H. L. Rice, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer solutions* and *liquid fertilizer ingredients*, in bulk, in tank vehicles, from points in Utah to points in South Carolina, restricted against the transportation of chemicals from points in the United States (except Alaska and Hawaii) to the plant site and storage facilities of Occidental Chemical Co., in Hale County, Tex. The purpose of this filing is to eliminate the gateway of the plant site and storage facilities of Occidental Chemical Co., in Hale County, Tex.

No. MC 107064 (Sub-No. E209), filed December 18, 1975. Applicant: STEERE TANK LINES, INC., P.O. Box 2998, Dallas, Tex. 75221. Applicant's representative: H. L. Rice, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer solutions* and *liquid fertilizer ingredients*, in bulk, in tank vehicles, from points in Utah to points in Tennessee (except Kingsport), restricted against the transportation of chemicals from points in the United States (except Alaska and Hawaii) to the plant site and storage facilities of Occidental Chemical Co., in Hale County, Tex. The purpose of this filing is to eliminate the gateway of the plant site and storage facilities of Occidental Chemical Co., in Hale County, Tex.

No. MC 107064 (Sub-No. E210), filed December 18, 1975. Applicant: STEERE TANK LINES, INC., P.O. Box 2998, Dallas, Tex. 75221. Applicant's representative: H. L. Rice, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia*, in bulk, in tank vehicles, and *dry fertilizer*, in bags, from points in Vermont to points in Arizona, restricted against the transportation of chemicals from points in the United States (except Alaska and Hawaii) to the plant site and storage facilities of Occidental Chemical Co., in Hale County, Tex. The purpose of this filing is to eliminate the gateway of the plant site and storage facilities of Occidental Chemical Co., in Hale County, Tex.

No. MC 107064 (Sub-No. E211), filed December 18, 1975. Applicant: STEERE TANK LINES, INC., P.O. Box 2998, Dallas, Tex. 75221. Applicant's representative: H. L. Rice, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer* and *fertilizer ingredients* (except liquid sulphur and petroleum products), from points in Vermont to points in New Mexico, restricted against the transportation of chemicals from points in the United States (except Alaska and Hawaii) to the plant site and storage facilities of Occidental Chemical Co., in Hale County, Tex. The purpose of this filing is to eliminate the gateway of the plant site and storage facilities of Occidental Chemical Co., in Hale County, Tex.

No. MC 107064 (Sub-No. E222), filed December 18, 1975. Applicant: STEERE TANK LINES, INC., P.O. Box 2998, Dallas, Tex. 75221. Applicant's representative: H. L. Rice, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer ingredients* (except liquid sulphur and petroleum products), from points in Florida, to points in Wyoming, restricted against the transportation of chemicals

from points in the United States (except Alaska and Hawaii) to the plant site and storage facilities of Occidental Chemical Co., in Hale County, Tex. The purpose of this filing is to eliminate the gateway of the plant site and storage facilities of Occidental Chemical Co., in Hale County, Tex.

No MC 107064 (Sub-No. E223), filed December 18, 1975. Applicant: STEERE TANK LINES, INC., P.O. Box 2998, Dallas, Tex. 75221. Applicant's representative: H. L. Rice, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer ingredients* (except liquid sulphur and petroleum products), from points in Florida, to points in New Mexico, restricted against the transportation of chemicals from points in the United States (except Alaska and Hawaii) to the plant site and storage facilities of Occidental Chemical Co., in Hale County, Tex. The purpose of this filing is to eliminate the gateway of the plant site and storage facilities of Occidental Chemical Co., in Hale County, Tex.

No. MC 113676 (Sub-No. E1), filed June 4, 1974. Applicant: ROTHERY STORAGE AND VAN COMPANY, 1525 Chase Ave., Elk Grove Village, Ill. 60007. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Massachusetts, on the one hand, and, on the other, points in Iowa. The purpose of this filing is to eliminate the gateway of points in Illinois.

No. MC 113676 (Sub-No. E2), filed June 4, 1974. Applicant: ROTHERY STORAGE AND VAN COMPANY, 1525 Chase Ave., Elk Grove Village, Ill. 60007. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Massachusetts, on the one hand, and, on the other, points in Colorado. The purpose of this filing is to eliminate the gateways of points in Illinois and Missouri.

No. MC 113676 (Sub-No. E3), filed June 4, 1974. Applicant: ROTHERY STORAGE AND VAN COMPANY, 1525 Chase Ave., Elk Grove Village, Ill. 60007. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Massachusetts, on the one hand, and, on the other, points in Kentucky. The purpose of this filing is to eliminate the gateway of points in Illinois.

No. MC 113676 (Sub-No. E4), filed June 4, 1974. Applicant: ROTHERY STORAGE AND VAN COMPANY, 1525 Chase Ave., Elk Grove Village, Ill. 60007. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Massachusetts, on the one hand, and, on the other, points in Wisconsin. The purpose of this filing is to eliminate the gateway of points in Illinois.

No. MC 113676 (Sub-No. E5), filed June 4, 1974. Applicant: ROTHERY STORAGE AND VAN COMPANY, 1525 Chase Ave., Elk Grove Village, Ill. 60007. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Washington, D.C. 20036. Authority sough to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Massachusetts, on the one hand, and, on the other, points in Texas. The purpose of this filing is to eliminate the gateway of points in Illinois and Missouri.

No. MC 113676 (Sub-No. E6), filed June 4, 1974. Applicant: ROTHERY STORAGE AND VAN COMPANY, 1525 Chase Ave., Elk Grove Village, Ill. 60007. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Massachusetts, on the one hand, and, on the other, points in Nebraska. The purpose of this filing is to eliminate the gateways of points in Illinois and Missouri.

No. MC 113676 (Sub-No. E7), filed June 4, 1974. Applicant: ROTHERY STORAGE AND VAN COMPANY, 1525 Chase Ave., Elk Grove Village, Ill. 60007. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Massachusetts, on the one hand, and, on the other, points in Minnesota. The purpose of this filing is to eliminate the gateway of points in Illinois.

No. MC 113676 (Sub-No. E8), filed June 4, 1974. Applicant: ROTHERY STORAGE AND VAN COMPANY, 1525 Chase Ave., Elk Grove Village, Ill. 60007. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Massachusetts, on the one hand, and, on the other, points in Louisiana. The purpose of this filing is to eliminate the gateways of points in Illinois and Missouri.

No. MC 113676 (Sub-No. E9), filed June 4, 1974. Applicant: ROTHERY STORAGE AND VAN COMPANY, 1525 Chase Ave., Elk Grove Village, Ill. 60007. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in the District of Columbia, on the one hand, and, on the other, points in Wisconsin. The purpose of this filing is to eliminate the gateway of points in Illinois.

No. MC 113676 (Sub-No. E10), filed June 4, 1974. Applicant: ROTHERY STORAGE AND VAN COMPANY, 1525 Chase Ave., Elk Grove Village, Ill. 60007. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in the District of Columbia, on the one hand, and, on the other, points in Iowa. The purpose of this filing is to eliminate the gateway of points in Illinois.

No. MC 113676 (Sub-No. E11), filed June 4, 1974. Applicant: ROTHERY STORAGE AND VAN COMPANY, 1525 Chase Ave., Elk Grove Village, Ill. 60007. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in the District of Columbia, on the one hand, and, on the other, points in Kansas. The purpose of this filing is to eliminate the gateway of points in Illinois.

No. MC 113676 (Sub-No. E12), filed June 4, 1974. Applicant: ROTHERY STORAGE AND VAN COMPANY, 1525 Chase Ave., Elk Grove Village, Ill. 60007. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in the District of Columbia, on the one hand, and, on the other points in Texas. The purpose of this filing is to eliminate the gateways of points in Illinois and Missouri.

No. MC 113676 (Sub-No. E13), filed June 4, 1974. Applicant: ROTHERY STORAGE AND VAN COMPANY, 1525 Chase Ave., Elk Grove Village, Ill. 60007. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in the District of Columbia, on the one hand, and, on the other, points in Loui-

siana. The purpose of this filing is to eliminate the gateways of points in Illinois and Missouri.

No. MC 113676 (Sub-No. E14), filed June 4, 1974. Applicant: ROTHERY STORAGE AND VAN COMPANY, 1525 Chase Ave., Elk Grove Village, Ill. 60007. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in the District of Columbia, on the one hand, and, on the other, points in Arkansas. The purpose of this filing is to eliminate the gateways of points in Illinois and Missouri.

No. MC 113676 (Sub-No. E15), filed June 4, 1974. Applicant: ROTHERY STORAGE AND VAN COMPANY, 1525 Chase Ave., Elk Grove Village, Ill. 60007. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in the District of Columbia, on the one hand, and, on the other, points in Oklahoma. The purpose of this filing is to eliminate the gateways of points in Illinois and Missouri.

No. MC 113676 (Sub-No. E16), filed June 4, 1974. Applicant: ROTHERY STORAGE AND VAN COMPANY, 1525 Chase Ave., Elk Grove Village, Ill. 60007. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in the District of Columbia, on the one hand, and, on the other, points in Minnesota. The purpose of this filing is to eliminate the gateway of points in Illinois.

No. MC 113767 (Sub-No. E17), filed June 4, 1974. Applicant: ROTHERY STORAGE AND VAN COMPANY, 1525 Chase Ave., Elk Grove Village, Ill. 60007. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Indiana, on the one hand, and, on the other, points in Florida. The purpose of this filing is to eliminate the gateway of points in Illinois.

No. MC 113676 (Sub-No. E18), filed June 4, 1974. Applicant: ROTHERY STORAGE AND VAN COMPANY, 1525 Chase Ave., Elk Grove Village, Ill. 60007. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Massachusetts, on the one hand, and, on the other, points in Oklahoma. The purpose of this filing is to eliminate the gateways of points in Illinois and Missouri.

No. MC 113676 (Sub-No. E19), filed June 4, 1974. Applicant: ROTHERY STORAGE AND VAN COMPANY, 1525 Chase Ave., Elk Grove Village, Ill. 60007. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Massachusetts, on the one hand, and, on the other, points in Arkansas. The purpose of this filing is to eliminate the gateway of points in Illinois.

No. MC 113676 (Sub-No. E20), filed June 4, 1974. Applicant: ROTHERY STORAGE AND VAN COMPANY, 1525 Chase Ave., Elk Grove Village, Ill. 60007. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Massachusetts, on the one hand, and, on the other, points in Kansas. The purpose of this filing is to eliminate the gateways of points in Illinois and Missouri.

No. MC 113676 (Sub-No. E21), filed June 4, 1974. Applicant: ROTHERY STORAGE AND VAN COMPANY, 1525 Chase Ave., Elk Grove Village, Ill. 60007. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Indiana, on the one hand, and, on the other, points in Kansas. The purpose of this filing is to eliminate the gateways of points in Illinois and Missouri.

No. MC 113676 (Sub-No. E22), filed June 4, 1974. Applicant: ROTHERY STORAGE AND VAN COMPANY, 1525 Chase Ave., Elk Grove Village, Ill. 60007. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Indiana, on the one hand, and, on the other, points in Minnesota. The purpose of this filing is to eliminate the gateways of points in Illinois.

No. MC 113676 (Sub-No. E23), filed June 4, 1974. Applicant: ROTHERY STORAGE AND VAN COMPANY, 1525 Chase Ave., Elk Grove Village, Ill. 60007. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Pennsylvania, on the one hand, and, on the other, points in Colorado. The purpose of this filing is to eliminate the gateways of points in Illinois and Missouri.

No. MC 113676 (Sub-No. E24), filed June 4, 1974. Applicant: ROTHERY STORAGE AND VAN COMPANY, 1525 Chase Ave., Elk Grove Village, Ill. 60007. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Indiana, on the one hand, and, on the other, points in Iowa. The purpose of this filing is to eliminate the gateway of points in Indiana.

No. MC 113676 (Sub-No. E25), filed June 4, 1974. Applicant: ROTHERY STORAGE AND VAN COMPANY, 1525 Chase Ave., Elk Grove Village, Ill. 60007. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Pennsylvania, on the one hand, and, on the other, points in Nebraska. The purpose of this filing is to eliminate the gateways of points in Illinois and Missouri.

No. MC 113676 (Sub-No. E26), filed June 4, 1974. Applicant: ROTHERY STORAGE AND VAN COMPANY, 1525 Chase Ave., Elk Grove Village, Ill. 60007. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Pennsylvania, on the one hand, and, on the other, points in Kansas. The purpose of this filing is to eliminate the gateways of Illinois and Missouri.

No. MC 113676 (Sub-No. E27), filed June 4, 1974. Applicant: ROTHERY STORAGE AND VAN COMPANY, 1525 Chase Ave., Elk Grove Village, Ill. 60007. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Pennsylvania, on the one hand, and, on the other, points in Iowa. The purpose of this filing is to eliminate the gateways of points in Illinois and Missouri.

No. MC 113676 (Sub-No. E28), filed June 4, 1974. Applicant: ROTHERY STORAGE AND VAN COMPANY, 1525 Chase Ave., Elk Grove Village, Ill. 60007. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W.,

Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Pennsylvania, on the one hand, and, on the other, points in Minnesota. The purpose of this filing is to eliminate the gateways of points in Illinois.

No. MC 113676 (Sub-No. E29), filed June 4, 1974. Applicant: ROTHERY STORAGE AND VAN COMPANY, 1525 Chase Ave., Elk Grove Village, Ill. 60007. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Pennsylvania, on the one hand, and, on the other, points in Wisconsin. The purpose of this filing is to eliminate the gateways of points in Illinois.

No. MC 113676 (Sub-No. E30), filed June 4, 1974. Applicant: ROTHERY STORAGE AND VAN COMPANY, 1525 Chase Ave., Elk Grove Village, Ill. 60007. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Pennsylvania, on the one hand, and, on the other, points in Texas. The purpose of this filing is to eliminate the gateways of points in Illinois and Missouri.

No. MC 113676 (Sub-No. E31), filed June 4, 1974. Applicant: ROTHERY STORAGE AND VAN COMPANY, 1525 Chase Ave., Elk Grove Village, Ill. 60007. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Pennsylvania, on the one hand, and, on the other, points in Oklahoma. The purpose of this filing is to eliminate the gateways of points in Illinois and Missouri.

No. MC 113676 (Sub-No. E32), filed June 4, 1974. Applicant: ROTHERY STORAGE AND VAN COMPANY, 1525 Chase Ave., Elk Grove Village, Ill. 60007. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Pennsylvania, on the one hand, and, on the other, points in Louisiana. The purpose of this filing is to eliminate the gateways of points in Illinois and Missouri.

No. MC 113676 (Sub-No. E33), filed June 4, 1974. Applicant: ROTHERY STORAGE AND VAN COMPANY, 1525 Chase Ave., Elk Grove Village, Ill. 60007. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Pennsylvania, on the one hand, and, on the other, points in Arkansas. The purpose of this filing is to eliminate the gateways of points in Illinois and Missouri.

No. MC 113676 (Sub-No. E34), filed June 4, 1974. Applicant: ROTHERY STORAGE AND VAN COMPANY, 1525 Chase Ave., Elk Grove Village, Ill. 60007. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Connecticut, on the one hand, and, on the other, points in Oklahoma. The purpose of this filing is to eliminate the gateway of points in Illinois.

No. MC 113676 (Sub-No. E35), filed June 4, 1974. Applicant: ROTHERY STORAGE AND VAN COMPANY, 1525 Chase Ave., Elk Grove Village, Ill. 60007. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Connecticut, on the one hand, and, on the other, points in Nebraska. The purpose of this filing is to eliminate the gateway of points in Illinois.

No. MC 113676 (Sub-No. E36), filed June 4, 1974. Applicant: ROTHERY STORAGE AND VAN COMPANY, 1525 Chase Ave., Elk Grove Village, Ill. 60007. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Connecticut, on the one hand, and, on the other, points in Minnesota. The purpose of this filing is to eliminate the gateway of points in Illinois.

No. MC 113676 (Sub-No. E37), filed June 4, 1974. Applicant: ROTHERY STORAGE AND VAN COMPANY, 1525 Chase Ave., Elk Grove Village, Ill. 60007. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Connecticut, on the one hand, and, on the other, points in Louisiana. The purpose of this filing is to eliminate the gateway of points in Illinois.

No. MC 113676 (Sub-No. E38), filed June 4, 1974. Applicant: ROTHERY STORAGE AND VAN COMPANY, 1525 Chase Ave., Elk Grove Village, Ill. 60007. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Connecticut, on the one hand, and, on the other, points in Kentucky. The purpose of this filing is to eliminate the gateway of points in Illinois.

No. MC 113676 (Sub-No. E39), filed June 4, 1974. Applicant: ROTHERY STORAGE AND VAN COMPANY, 1525 Chase Ave., Elk Grove Village, Ill. 60007. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Ave. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Connecticut, on the one hand, and, on the other, points in Kansas. The purpose of this filing is to eliminate the gateway of points in Illinois.

No. MC 113676 (Sub-No. E40), filed June 4, 1974. Applicant: ROTHERY STORAGE AND VAN COMPANY, 1525 Chase Ave., Elk Grove Village, Ill. 60007. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Ave. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Connecticut, on the one hand, and, on the other, points in Texas. The purpose of this filing is to eliminate the gateway of points in Illinois.

No. MC 113676 (Sub-No. E41), filed June 4, 1974. Applicant: ROTHERY STORAGE AND VAN COMPANY, 1525 Chase Ave., Elk Grove Village, Ill. 60007. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Ave., NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Michigan, on the one hand, and, on the other, points in Texas. The purpose of this filing is to eliminate the gateways of points in Illinois and Missouri.

No. MC 113676 (Sub-No. E42), filed June 4, 1974. Applicant: ROTHERY STORAGE AND VAN COMPANY, 1525 Chase Ave., Elk Grove Village, Ill. 60007. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Ave. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Michigan, on the one hand, and, on the other, points in Oklahoma. The purpose of this filing is to eliminate the gateways of points in Illinois and Missouri.

No. MC 113676 (Sub-No. E43), filed June 4, 1974. Applicant: ROTHERY STORAGE AND VAN COMPANY, 1525 Chase Ave., Elk Grove Village, Ill. 60007.

Applicant's representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Michigan, on the one hand, and, on the other, points in Minnesota. The purpose of this filing is to eliminate the gateway of points in Illinois.

No. MC 113676 (Sub-No. E44), filed June 4, 1974. Applicant: ROTHERY STORAGE AND VAN COMPANY, 1525 Chase Ave., Elk Grove Village, Ill. 60007. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Michigan, on the one hand, and, on the other, points in Nebraska. The purpose of this filing is to eliminate the gateways of points in Illinois and Missouri.

No. MC 113676 (Sub-No. E45), filed June 4, 1974. Applicant: ROTHERY STORAGE AND VAN CAMPANY, 1525 Chase Ave., Elk Grove Village, Ill. 60007. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Ave. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Michigan, on the one hand, and, on the other, points in Tennessee. The purpose of this filing is to eliminate the gateways of points in Illinois and Missouri.

No. MC 113676 (Sub-No. E46), filed June 4, 1974. Applicant: ROTHERY STORAGE AND VAN COMPANY, 1525 Chase Avenue, Elk Grove Village, Ill. 60007. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Avenue NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Indiana, on the one hand, and, on the other, points in Nebraska. The purpose of this filing is to eliminate the gateway of points in Illinois and Missouri.

No. MC 113676 (Sub-No. E47), filed June 4, 1974. Applicant: ROTHERY STORAGE AND VAN COMPANY, 1525 Chase Avenue, Elk Grove Village, Ill. 60007. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Ave. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission between points in Indiana, on the one hand, and, on the other, points in Oklahoma. The purpose of this filing is to eliminate the gateway of points in Illinois and Missouri.

No. MC 113676 (Sub-No. E48), filed June 4, 1974. Applicant: ROTHERY STORAGE AND VAN COMPANY, 1525 Chase Avenue, Elk Grove Village, Ill. 60007. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Ave. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission between points in Ohio, on the one hand, and, on the other, points in Tennessee. The purpose of this filing is to eliminate the gateway of points in Illinois and Missouri.

No. MC 113676 (Sub-No. E49), filed June 4, 1974. Applicant: ROTHERY STORAGE AND VAN COMPANY, 1525 Chase Ave., Elk Grove Village, Ill. 60007. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Ave. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Connecticut, on the one hand, and, on the other, points in Tennessee. The purpose of this filing is to eliminate the gateway of points in Illinois and Missouri.

No. MC 113676 (Sub-No. E50), filed June 4, 1974. Applicant: ROTHERY STORAGE AND VAN COMPANY, 1525 Chase Ave., Elk Grove Village, Ill. 60007. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Ave. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Masachusetts, on the one hand, and, on the other, points in Tennessee. The purpose of this filing is to eliminate the gateway of points in Illinois and Missouri.

No. MC 113676 (Sub-No. E83), filed June 4, 1974. Applicant: ROTHERY STORAGE AND VAN COMPANY, 1525 Chase Ave., Elk Grove Village, Ill. 60007. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Ave. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Connecticut, on the one hand, and, on the other, points in Maryland. The purpose of this filing is to eliminate the gateway of points in New York.

No. MC 113676 (Sub-No. E84), filed June 4, 1974. Applicant: ROTHERY STORAGE AND VAN COMPANY, 1525 Chase Ave., Elk Grove Village, Ill. 60007. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Ave. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Massachusetts, on the one hand, and, on the other, points in Maryland. The purpose of this filing is to eliminate the gateway of points in New York.

No. MC 113676 (Sub-No. E85), filed June 4, 1974. Applicant: ROTHERY STORAGE AND VAN COMPANY, 1525 Chase Ave., Elk Grove Village, Ill. 60007. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Ave. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Massachusetts, on the one hand, and, on the other, points in Delaware. The purpose of this filing is to eliminate the gateway of points in New York.

No. MC 113676 (Sub-No. E86), filed June 4, 1974. Applicant: ROTHERY STORAGE AND VAN COMPANY, 1525 Chase Ave., Elk Grove Village, Ill. 60007. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Ave. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Connecticut, on the one hand, and, on the other, points in Delaware. The purpose of this filing is to eliminate the gateway of points in New York.

No. MC 113676 (Sub-No. E87), filed June 4, 1974. Applicant: ROTHERY STORAGE AND VAN COMPANY, 1525 Chase Ave., Elk Grove Village, Ill. 60007. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Ave. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Illinois, on the one hand, and, on the other, points in Maryland. The purpose of this filing is to eliminate the gateway of points in New York.

No. MC 113676 (Sub-No. E88), filed June 4, 1974. Applicant: ROTHERY STORAGE AND VAN COMPANY, 1525 Chase Ave., Elk Grove Village, Ill. 60007. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Ave. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Indiana, on the one hand, and, on the other, points in Delaware. The purpose of this filing is to eliminate the gateway of points in New York.

No. MC 113676 (Sub-No. E89), filed June 4, 1974. Applicant: ROTHERY STORAGE AND VAN COMPANY, 1525 Chase Ave., Elk Grove Village, Ill. 60007. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Ave. N.W., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Illinois, and on the one hand, and, on the other, points in Delaware. The purpose of this filing is to eliminate the gateway of points in New York.

No. MC 113676 (Sub-No. E90), filed June 4, 1974. Applicant: ROTHERY STORAGE AND VAN COMPANY, 1525

Chase Ave., Elk Grove Village, Ill. 60007. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Ave. N.W., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Indiana, on the one hand, and, on the other, points in Maryland. The purpose of this filing is to eliminate the gateway of points in New York.

No. MC 113676 (Sub-No. E91), filed June 4, 1974. Applicant ROTHERY STORAGE AND VAN COMPANY, 1525 Chase Ave., Elk Grove Village, Ill. 60007. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Ave. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in New York, on the one hand, and, on the other, points in Tennessee. The purpose of this filing is to eliminate the gateway of points in Illinois.

No. MC 113676 (Sub-No. E92), filed June 4, 1974. Applicant: ROTHERY STORAGE AND VAN COMPANY, 1525 Chase Ave., Elk Grove Village, Ill. 60007. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Ave. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, be motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in New York, on the one hand, and, on the other, points in Oklahoma. The purpose of this filing is to eliminate the gateways of points in Illinois and Missouri.

No. MC 113676 (Sub-No. E93), filed June 4, 1974. Applicant: ROTHERY STORAGE AND VAN COMPANY, 1525 Chase Ave., Elk Grove Village, Ill. 60007. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Ave. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in New York, on the one hand, and, on the other, points in Nebraska. The purpose of this filing is to eliminate the gateways of points in Illinois and Missouri.

No. MC 113676 (Sub-No. E94), filed June 4, 1974. Applicant: ROTHERY STORAGE AND VAN COMPANY, 1525 Chase Ave., Elk Grove Village, Ill. 60007. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Ave. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in New York, on the one hand, and, on the other, points in Minnesota. The purpose of this filing is to eliminate the gateway of points in Illinois.

No. MC 113676 (Sub-No. E95), filed June 4, 1974. Applicant: ROTHERY STORAGE AND VAN COMPANY, 1525 Chase Ave., Elk Grove Village, Ill. 60007. Applicant's representative: Robert G. Gallagher, 1000 Connecticut Ave. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in New York, on the one hand, and, on the other, points in Louisiana. The purpose of this filing is to eliminate the gateways of points in Illinois and Missouri.

No. MC 113676 (Sub-No. E96), filed June 4, 1974. Applicant: ROTHERY STORAGE AND VAN COMPANY, 1525 Chase Ave., Elk Grove Village, Ill. 60007. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Ave. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in New York, on the one hand, and, on the other, points in Kentucky. The purpose of this filing is to eliminate the gateways of points in Illinois and Missouri.

No. MC 113676 (Sub-No. E97) filed June 4, 1974. Applicant: ROTHERY STORAGE AND VAN COMPANY, 1525 Chase Ave., Elk Grove Village, Ill. 60007. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Ave NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in New York, on the one hand, and, on the other, points in Iowa. The purpose of this filing is to eliminate the gateways of points in Illinois and Missouri.

No. MC 113676 (Sub-No. E98), filed June 4, 1974. Applicant: ROTHERY STORAGE AND VAN COMPANY, 1525 Chase Ave., Elk Grove Village, Ill. 60007. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Ave NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in New York, on the one hand, and, on the other, points in Arkansas. The purpose of this filing is to eliminate the gateways of points in Illinois and Missouri.

No. MC 113676 (Sub-No. E99), filed June 4, 1974. Applicant: ROTHERY STORAGE AND VAN COMPANY, 1525 Chase Ave., Elk Grove Village, Ill. 60007. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Ave. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in New York, on the one hand, and, on the other, points in Colorado. The purpose of this filing is to eliminate the gateways of points in Illinois and Missouri.

No. MC 115840 (Sub-No. E108), filed October 10, 1975. Applicant: COLONIAL FAST FREIGHT LINES, INC., 1215 Bankhead Highway West, P.O. Box 10327, Birmingham, Ala. 35202. Applicant's representative: C. E. Wesley (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pipe, fittings, valves, hydrants, gaskets, iron castings, and accessories* (except commodities in bulk) as embraced in iron and steel articles, from Gulfport, Miss., to points in Washington, Oregon, California, Montana, Idaho, Nevada, Arizona, Utah, Wyoming, Colorado, and that portion of New Mexico on and west of a line beginning at the New Mexico-Texas State line and extending along Interstate Highway 25 to the New Mexico-Colorado State line, restricted to the transportation of shipments originating at Gulfport, Miss., or having an immediately prior movement by water in foreign commerce only. The purpose of this filing is to eliminate the gateway of Holt, Ala. Official notice is taken that the application in No. MC 115840 (Sub-No. 84) was filed on December 11, 1972, and was pending before the Commission on November 23, 1973.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.76-16091 Filed 6-2-76;8:45 am]

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Permanent authority petitions and applications; finance matters (including temporary authorities); alternate route deviation letter-notices; and intrastate applications concurrently seeking authority on interstate or foreign commerce.

PETITIONS FOR MODIFICATION, INTERPRETATION OR REINSTATEMENT OF OPERATING RIGHTS AUTHORITY

The following petitions seek modification or interpretation of existing operating rights authority, or reinstatement of terminated operated rights authority.

An original and one copy of protests to the granting of the requested authority must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such protest shall comply with Special Rule 247(d) of the Commission's *General Rules of Practice* (49 CFR § 1100.247) [1] and shall include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon petitioner's representative, or petitioner if no representative is named.

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[1] Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

No. MC 730 (Sub-No. 266) (Notice of filing of petition for modification of certificate), filed May 7, 1976. Petitioner: PACIFIC INTERMOUNTAIN EXPRESS, INC., 1417 Clay St., P.O. Box 958, Oakland 4, Calif. 94612. Applicant's representative: Alfred G. Krebs (same address as applicant). Petitioner holds a motor *common carrier* Certificate in No. MC 730 (Sub-No. 266), issued January 10, 1967, authorizing transportation, as pertinent, over alternate routes for operating convenience only, of *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), between Hutchinson, Kans., and junction U.S. Highway 54 and 66 near Tucumcari, N. Mex., in connection with carrier's presently authorized regular-route operations, serving no intermediate points and serving junction U.S. Highways 54 and 66 near Tucumcari, N. Mex., for the purposes of joinder only: from Hutchinson over Kansas Highway 61 to junction U.S. Highway 54, and thence over U.S. Highway 54 to junction U.S. Highway 66 (Interstate Highway 40), and return over the same route, restricted to the transportation of traffic moving between St. Louis, Mo.; Hutchinson, Kans.; or Pueblo, Colo., on the one hand, and, on the other, Barstow, Riverside, or San Bernardino, Calif. By the instant petition, petitioner (1) seeks to additionally serve Pratt, Kans. (which is an intermediate point to the described alternate route located near the junction of Kansas Highway 61 and U.S. Highway 54) for the purposes of joinder only; and (2) seeks to delete from its authority the above restriction.

No. MC 105457 (Sub-No. 60) (Notice of filing of petition for modification of restriction), filed April 28, 1976. Petitioner: THURSTON MOTOR LINES, INC., P.O. Box 10638, Charlotte, N.C. 28201. Petitioner's representative: Everett Hutchinson, 1140 Connecticut Ave. N.W., Washington, D.C. 20036. Petitioner holds a motor *common carrier* Certificate in No. MC–105457 (Sub-No. 60), issued February 11, 1969, authorizing transportation, as pertinent, over regular routes, of *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities, in bulk, and those requiring special equipment), (1) between Greenville, S.C. and Atlanta, Ga., serving all intermediate points in Georgia and South Carolina, and points in South Carolina as off-route points: from Greenville over U.S. Highway 29 to Athens, Ga., thence over U.S. Highway 78 to Atlanta, and return over the same route; and (2) between junction U.S. Highway 78 and Georgia Highway 138 and Atlanta, Ga., serving all intermediate points: from junction U.S. Highway 78 and Georgia Highway 138 over Georgia Highway 138 to junction U.S. Highway 278, thence over U.S. Highway 278 to Atlanta, and return over the same route, serving points in Georgia as off-route points in connection with (1) and (2) above, restricted to the transportation of traffic moving between points in Georgia on the one hand, and, on the other, points in South Carolina. Petitioner's Sub 61 authority, authorizes transportation, as pertinent, over regular routes, of *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities requiring special equipment, and commodities in bulk).

(1) between Greenville, S.C. and Memphis, Tenn., serving junction Alternate U.S. Highway 72 and U.S. Highway 43 and junction Georgia Highway 20 and U.S. Highway 41 for purposes of joinder only: from Greenville over U.S. Highway 123 to Cornelia, Ga., thence over U.S. Highway 23 to Gainesville, Ga., thence over Georgia Highway 141 to junction Georgia Highway 306, thence over Georgia Highway 306 to junction U.S. Highway 19, thence over U.S. Highway 19 to junction Georgia Highway 20 at or near Cumming, Ga., thence over Georgia Highway 20 to junction U.S. Highway 411, thence over U.S. Highway 411 to Rome, Ga., thence over Georgia Highway 20 to the Alabama-Georgia State line, thence over Alabama Highway 9 to junction Alabama Highway 68 at or near Cedar Bluffs, Ala., thence over Alabama Highway 68 to junction Alabama Highway 75, thence over Alabama Highway 75 to junction U.S. Highway 431 at or near Albertville, Ala., thence over U.S. Highway 431 to Guntersville, Ala., thence over Alabama Highway 69 to junction Alabama Highway 67 at or near Baileyton, Ala., thence over Alabama Highway 67 to junction U.S. Highway 31, thence over U.S. Highway 31 to Decatur, Ala., thence over Alternate U.S. Highway 72 to junction U.S. Highway 72 at or near Tuscumbia, Ala., thence over U.S. Highway 72 to Memphis and return over the same route; (2) between Knoxville, Tenn., and junction Tennessee Highway 57 and U.S. Highway 72 located at or near Collierville, Tenn.; from Knoxville over U.S. Highway 11 to Chattanooga, Tenn., thence over U.S. Highway 64 to Bolivar, Tenn., thence over Tennessee Highway 18 to junction Tennessee Highway 57 located at or near Grand Junction, Tenn., thence over Tennessee Highway 57 to junction U.S. Highway 72, and return over the same route.

(3) between junction Georgia Highway 20 and U.S. Highway 41, and Chattanooga, Tenn.: from junction Georgia Highway 20 and U.S. Highway 41 over U.S. Highway 41 to Chattanooga, and return over the same route; (4) between Monteagle, Tenn., and Nashville, Tenn.: from Monteagle over U.S. Highway 41 to Nashville, and return over the same route; and (5) between junction Alternate U.S. Highway 72 and U.S. Highway 43 located at or near Tuscumbia, Ala., and Savannah, Tenn.: from junction Alternate U.S. Highway 72 and U.S. Highway 43 over U.S. Highway 43 to Florence, Ala., thence over Alabama Highway 20 to the Alabama-Tennessee State line, thence over Tennessee Highway 69 to Savannah, and return over the same route, service authorized in (1) through (5) above to all intermediate and off-route points in Tennessee; and (6) between Greenville, S.C. and Memphis, Tenn., serving all intermediate points and the off-route points in Huntsville, Ala. and Tupelo and Verona, Miss.: from Greenville over U.S. Highway 123 to Cornelia, Ga., thence over U.S. Highway 23 to Gainesville, Ga., thence over Georgia Highway 141 to junction Georgia Highway 306, thence over Georgia Highway 306 to junction U.S. Highway 19, thence over U.S. Highway 19 to junction Georgia Highway 20 located at or near Cumming, Ga., thence over Georgia Highway 20 to junction U.S. Highway 411, thence over U.S. Highway 411 to Rome, Ga., thence over Georgia Highway 20 to the Alabama-Georgia State line, thence over Alabama Highway 9 to junction Alabama Highway 68 located at or near Cedar Bluff, Ala., thence over Alabama Highway 68 to junction Alabama Highway 75, thence over Alabama Highway 75 to junction U.S. Highway 431 located at or near Albertville, Ala., thence over U.S. Highway 431 to Guntersville, Ala., thence over Alabama Highway 69 to junction U.S. Highway 278 near Cullman, Ala., thence over U.S. Highway 278 to junction U.S. Highway 31 located at Cullman, Ala., thence over U.S. 31 to junction Alternate U.S. Highway 72 located at Decatur, Ala. (also from Guntersville, Ala., over Alabama Highway 69 to junction Alabama Highway 67 located at or near Baileyton, Ala., thence over Alabama Highway 67 to junction U.S. Highway 31, thence over U.S. Highway 31 to Decatur, Ala.), thence over Alternate U.S. Highway 72 to junction U.S. Highway 72 located at or near Tuscumbia, Ala., thence over U.S. Highway 72 to Memphis, and return over the same routes.

By the instant petition, petitioner seeks to eliminate the South Carolina gateway which results from the joinder of its regular-route authorities described above on traffic moving to and from Georgia points by modifying its restriction in the Sub 60 to read, "restricted to the transportation of traffic moving between points in Georgia, on the one hand, and, on the other, points in South Carolina (except traffic moving to, through or from Atlanta, Ga.)."

No. MC–109397 (Sub-No. 177, (Notice of filing of petition to remove a restrictive), filed May 10, 1976. Petitioner: TRI-STATE MOTOR TRANSIT CO., P.O. Box 113, Joplin, Mo. 64801. Petitioner's representative: Max G. Morgan, Suite 223 Ciudad Bldg., Oklahoma City, Okla. 73112. Petitioner holds a motor *common carrier* certificate in No. MC–109397 (Sub-No. 177), issued July 3, 1972, in which part (1) was modified by order dated March 12, 1976, and which Part (2) appears below, as pertinent to this petition, whereby the petitioner is authorized to transport *weapons, ammunition, and drugs* which are designated sensitive by the United States Government, between points in the United States (except Alaska and Hawaii), restricted against the transportation of shipments weighing in the ag-

gregate more than 5,000 pounds from one consignor to one consignee on any one day. By the instant petition, petitioner seeks to delete the above restriction from Part (2) of its authority.

No. MC 118959 (Sub-No. 100) (Notice of filing of petition for modification of commodity description), filed May 6, 1976. Petitioner: JERRY LIPPS, INC., 130 S. Frederick St., Cape Girardeau, Mo. 63701. Petitioner's representative: William P. Jackson, Jr., 3426 North Washington Blvd., P.O. Box 1267, Arlington, Va. 22201. Petitioner holds a motor *common carrier* Certificate in No. MC–118959 (Sub-No. 100), issued December 5, 1975, authorizing transportation, as pertinent, over irregular routes, of (5) *paper labels, wrappers, and cellulose film wrappers*, from Cincinnati, Ohio, to points in the United States (except Alaska and Hawaii); and (5a) *materials and supplies* used in the manufacture of paper labels, wrappers, and cellulose film wrappers, from points in the United States (except Alaska and Hawaii), to Cincinnati, Ohio, restricted to the transportation of shipments originating at or destined to plantsites, warehouses, and other facilities of the Georgia Pacific Corporation and subsidiaries thereof, and further restricted against the transportation of commodities in bulk and those requiring the use of special equipment. By the instant petition, petitioner seeks to modify its commodity description in both (5) and (5a) above by substituting "paper and paper products", in lieu of "paper labels".

No. MC 133119 (Sub-No. 45) (Notice of filing of petition for modification of commodity description and change in supporting shipper), filed April 27, 1976. Petitioner: HEYL TRUCK LINES, INC., P.O. Box 206, 200 Norka Drive, Akron, Iowa 51001. Petitioner's representative: A. J. Swanson, 521 South 14th St. P.O. Box 81849, Lincoln, Nebr. 68501. Petitioner holds a motor *common carrier* Certificate in No. MC 133119 (Sub-No. 45), issued July 7, 1975, authorizing transportation over irregular routes, of *frozen pizza*, from Minneapolis, Minn., to points in Louisiana, Texas, and Albuquerque, N. Mex., restricted to the transportation of shipments originating at the facilities of Totino's Finer Foods, Inc., located at Minneapolis, Minn., and destined to the named destinations. By the instant petition, petitioner seeks (1) to broaden its commodity description to read "Frozen foods" in lieu of "Frozen pizza"; and (2) to modify the restriction so as to properly reflect the name of the current shipper "The Pillsbury Company" in lieu of Totino's Finer Foods, Inc.

No. MC 136661 (Sub-No. 1) (Notice of filing of petition to add a destination state), filed April 27, 1976. Petitioner: ROBERT J. GRALL, P.O. Box 313, 2901 Calumet Avenue, Manitowoc, Wis. 54220. Petitioner's representative: Richard C. Alexander, 710 North Plankinton Ave., Milwaukee, Wis. 53203. Petitioner holds a motor *contract carrier* Permit in No. MC 136661 (Sub-No. 1), issued September 10, 1973, authorizing transportation over irregular routes, of (1) *Aluminum siding* and (2) *accessories* for the commodities in (1) above, from Oconomowoc, Wis., to points in the United States (except Alabama, Alaska, Arizona, Colorado, Georgia, Hawaii, Idaho, Maine, Mississippi, Montana, Nevada, New Hampshire, New Mexico, Utah, Vermont, and Wyoming), restricted to the right of the Commission to impose such terms, conditions or limitations in the future as it may find necessary in order to insure that carrier's operations shall conform to the provisions of section 210 of the Act, under a continuing contract, or contracts with Mirro Aluminum Company located at Manitowoc, Wis. By the instant petition, petitioner seeks to add Colorado as an additional destination state.

No. MC 138413 (Sub-No. 1) (Notice of filing of petition to substitute contracting shippers), filed May 10, 1976. Petitioner: JOHN TOWNROW, doing business as JOHN TOWNROW TRUCKING, 4290 Elton St., Baldwin Park, Calif. 91706. Petitioner's representative: John Townrow (same address as applicant). Petitioner holds a motor *contract carrier* Permit in No. MC 138413 (Sub-No. 1), issued January 21, 1974, authorizing transportation over irregular routes, of *floor coverings and materials and supplies* used in the sale and installation of floor coverings (except commodities in bulk), from points in Indiana, New Jersey and Pennsylvania, to points in Arizona and California, under a continuing contract, or contracts with LaSalle-Deitch Co., Inc. By the instant petition, petitioner seeks to substitute Congoleum Industries, Inc. as its contracting shipper in lieu of LaSalle-Deitch Co., Inc.

REPUBLICATION OF GRANTS OF OPERATING RIGHTS AUTHORITY PRIOR TO CERTIFICATION

The following grants of operating rights authorities are republished by Order of the Commission to indicate a broadened grant of authority over that previously noticed in the FEDERAL REGISTER.

An original and one copy of protests to the granting of the authority must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such protest shall comply with Special Rule 247(d) of the Commission's *General Rules of Practice* (49 CFR § 1100.247) addressing specifically the issue(s) indicated as the purpose for republication, and including a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition shall not be tendered at this time. A copy of the protest shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

No. MC (Sub-No. 600) (Republication), filed November 7, 1975, and published in the FEDERAL REGISTER of December 4, 1975, and republished this issue. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, Colo. 80022. Applicant's representative: Richard A. Peterson, P.O. Box 81849, Lincoln, Nebr. 68501. An Order of the Commission, Review Board Number 3, dated May 5, 1976 and served May 20, 1976, finds that the present and future public convenience and necessity require operations by applicant, in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes in the transportation of *Frozen and refrigerated sandwiches* and *food products* from Phoenix, Ariz., to points in Colorado and New Mexico; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. The purpose of this republication is to indicate that the grant of authority includes points in New Mexico as an additional destination point.

No. MC 139624 (Sub-No. 3) (Republication) filed June 23, 1975 and published in the FEDERAL REGISTER issue of September 18, 1975, and republished this issue. Applicant: J. J. MINNEHAN, INC., Rockingham Road, Bellows Falls, Vt. 05101. Applicant's representative: Frederick T. O'Sullivan, P.O. Box 2184, 622 Lowell Street, Peabody, Mass. 01960. An Order of the Commission, Review Board Number 1, dated April 21, 1976, and served April 30, 1976, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, of (1) *Wrecked, disabled and repossessed trucks, tractors* and *trailers* (except trailers designed to be transported by passenger automobiles), in truck-away service, and (2) *replacement vehicles* for the wrecked or disabled vehicles described in (1), between Bellows Falls and Chester, Vt., on the one hand, and, on the other, points in Connecticut, New Jersey, Massachusetts, New Hampshire, Maine, and New York, that applicant is fit, willing, and able properly to perform such service and to conform to the requirement of the Interstate Commerce Act and the Commission's rules and regulations thereunder. The purposes of this republication are to (1) indicate the broadening of applicant's commodity description, and (2) to indicate the authorization of service at the base radial point of Bellow Falls, Vt. in lieu of Rockingham, Vt. as initially requested.

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER OPERATING RIGHTS APPLICATIONS

The following applications are governed by Special Rule 247 of the Commission's *General Rules of Practice* (49 CFR § 1100.247). 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 the 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 reasonable compliance with the requirements of the rules may be rejected. The original and one 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) further provides, in part, that an applicant who does not intend timely to prosecute its application shall promptly request dismissal thereof, and that failure to prosecute an application under procedures ordered by the Commission will result in dismissal of the application.

Further processing steps 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 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.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

No. MC 531 (Sub-No. 337), filed May 3, 1976. Applicant: YOUNGER BROTHERS, INC., 4904 Griggs Road, P.O. Box 14048, Houston, Tex. 77021. Applicant's representative: Wray E. Hughes (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Silicon tetrachloride*, in bulk, in tank vehicles, from Phoenix, Ariz., to Tuscola, Ill.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Phoenix, Ariz. or Chicago, Ill.

No. MC 1239 (Sub-No. 7), filed May 5, 1976. Applicant: PONY TRUCKING, INC., 501 Star Route Number 7, Steubenville, Ohio 43952. Applicant's representative: Maxwell A. Howell, 1100 Investment Bldg., 1511 K Street, N.W., Washington, D.C. 20005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Titanium and titanium products, and materials and supplies* used in the production and manufacture thereof, between the plantsite of Titanium Corporation of America located at or near Toronto, Ohio, on the one hand, and, on the other, points in the United States, under a continuing contract, or contracts, with the Titanium Metals Corporation of America.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Pittsburgh, Pa.

No. MC 2202 (Sub-No. 510), filed April 30, 1976. Applicant: ROADWAY EXPRESS, INC., 1077 Gorge Glvd., P.O. Box 471, Akron, Ohio 44309. Applicant's representative: William O. Turney, Suite 1010, 7101 Wisconsin Ave., Washington, D.C. 20014. 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 Iminac Corp., at or near Angleton, Tex., as an off-route point in connection with applicant's presently authorized regular routes operations.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Houston, Tex. or Washington, D.C.

No. MC 2359 (Sub-No. 23), filed May 5, 1976. Applicant: DAMEO, INC., 568 Central Avenue, Somerville, N.J. 08876. Applicant's representative: William P. Sullivan, 1819 H Street, N.W., Washington, D.C. 20006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Building materials, fiberglas products, asbestos cement products, pipe and pipe fittings, refractory products, and insulating materials, and materials, equipment, and supplies* used in the manufacture, installation or distribution of the commodities named above, (1) between points in Connecticut, Delaware, Illinois, Indiana, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, West Virginia, Virginia, and the District of Columbia; and (2) between points named in (1) above, on the one hand, and, on the other, points in Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, Missouri, North Carolina, Oklahoma, South Carolina, Tennessee, and Texas, restricted to the transportation of traffic originating at, or destined to the facilities used by, and under a continuing continuing contract, or contracts, with Johns-Manville Sales Corporation.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 10875 (Sub-No. 36), filed May 3, 1976. Applicant: BRANCH MOTOR EXPRESS COMPANY, a Corporation, 114 Fifth Avenue, New York, N.Y. 10011. Applicant's representative: Jack R. Turney, Jr., 2001 Massachusetts Avenue, N.W., Washington, D.C. 20036. 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 commodities requiring special equipment), serving points in Ohio as intermediate and off-route points in connection with applicant's presently authorized regular route operations to and from points in Ohio.

NOTE.—Applicant states it presently serves points in Ohio in connection with its regular-route service by joining its existing regular-route authority in Sub-Nos. 31 and 34 with its irregular route authority in Sub-No. 31; and by joining the regular-route authority of its subsidiary in MC-2401 Sub-Nos. 24 and 47 with its irregular route authority in MC-2407 Sub 47 (merger consumation pending in MC-F-12669). This application seeks ot eliminate the gateways of Chagrin Falls and Columbus, Ohio which result from its joinder operations in order to allow direct regular-route service to points in Ohio. Applicant will rely on operating economies and efficiencies in prosecuting this application. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C. or New York, N.Y.

No. MC 11207 (Sub-No. 369), filed May 3, 1976. Applicant: DEATON, INC., 317 Avenue W., P.O. Box 938, Birmingham, Ala. 35201. Applicant's representative: Kim D. Mann, 702 World Center Bldg., 918 Sixteenth St., N.W., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tanks, pressure vessels and chemical process equipment*, from the plantsite and facilities of Mitternight Boiler Works, Inc., located in Mitternigh Boiler Ala., to points in Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, Missouri, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia and West Virginia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Birmingham, Ala. or Atlanta, Ga.

No. MC 11207 (Sub-No. 370), filed May 3, 1976. Applicant: DEATON, INC., 317 Avenue W., P.O. Box 938, Birmingham, Ala. 35201. Applicant's representative: Kim D. Mann, 702 World Center Bldg., 918 Sixteenth St., N.W., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe, plastic pipe fittings, and materials and supplies* used in the installation thereof, (1) from the plantsite and facilities of Certain-Teed Products Corporation, located at or near Waco, Tex., to points in Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Louisiana, Mississippi, Missouri, North Carolina, Oklahoma, South Carolina and Tennessee; (2) from the plantsite and facilities of Certain-Teed Products Corporation, located at or near Eads, Tenn., to points in Alabama, Arkansas,

Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Louisiana, Mississippi, Missouri, North Carolina, Oklahoma, South Carolina and Texas; (3) from the plantsite and facilities of Certain-Teed Products Corporation, located at or near McPherson, Kans., to points in Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Mississippi, Missouri, North Carolina, Oklahoma, South Carolina, Tennessee and Texas; and (4) from the plantsite and facilities of Certain-Teed Products Corporation, located at or near Social Circle, Ga., to points in Kansas, Oklahoma and Texas.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Birmingham, Ala. or Atlanta, Ga.

No. MC 11603 (Sub-No. 7), filed April 12, 1976. Applicant: BASSE TRUCK LINE, INC., 203 Ave. "O", Del Rio, Tex. 78204. Applicant's representative: J. Max Harding, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, (except those of unusual value, and except dangerous explosives, household goods as defined in Practices of Motor Common Carriers of Household Goods, 17 M.C.C. 467 and liquid commodities in bulk), (a) between Del Rio and Eagle Pass, Tex., via U.S. Highway 277, serving all intermediate points; (b) between Brackettville, Tex. and junction of Texas Highway 131 and U.S. Highway 277, via Texas Highway 131; (c) between Uvalde and LaPryor, Tex., thence via U.S. Highway 83, serving Uvalde for purposes of joinder only; (d) beween San Antonio and Eagle Pass, Tex., via U.S. Highway 35 to junction with U.S. Highway 57 located near Moore, thence via U.S. Highway 57 to junction with U.S. Highway 277, located near Eagle Pass, thence via U.S. Highway No. 277 to Eagle Pass.

NOTE.—If a hearing is deemed necessary, applicant requests a consolidated record held with intrastate application and that it be held at Eagle Pass, Tex.

No. MC 13123 (Sub-No. 84), filed May 3, 1976. Applicant: WILSON FREIGHT COMPANY, 3636 Follett Avenue, Cincinnati, Ohio 45223. Applicant's representative: Milton H. Bortz (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, Class A and B Explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Middletown Manufacturing, Division of Leggett and Platt, Inc., located at or near Simpsonville, Ky., as an off route point in connection with carrier's otherwise authorized regular route operations.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Louisville, Ky. or Cincinnati, Ohio.

No. MC 14314 (Sub-No. 22), filed April 29, 1976. Applicant: DUFF TRUCK LINE, INC., Broadway and Vine Streets, P.O. Box 359, Lima, Ohio 45802. Applicant's representative: Allan C. Zuckerman, 39 South LaSalle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk, those of unusual value, Classes A and B explosives, household goods as defined by the Commission, and those requiring special equipment), between Jonesville and Hillsdale, Mich., on the one hand, and, on the other, Montpelier, Ohio, restricted to the transportation of traffic having a prior or subsequent movement by rail.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Detroit, Mich. or Columbus, Ohio.

No. MC 19227 (Sub-No. 228), filed May 10, 1976. Applicant: LEONARD BROS. TRUCKING CO., INC., 2515 N.W. 20th Street, P.O. Box 52062, Miami, Fla. 33152. Applicant's representative: J. Fred Dewhurst (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Antique, classic, vintage automobiles and other vehicles*, complete or partially complete, restored or non-restored, *accessories and parts thereof* moving in connection therewith, between points in the Untied States (except Alaska and Hawaii).

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C. and San Francisco, Calif.

No. MC 19945 (Sub-No. 57), filed May 7, 1976. Applicant: BEHNKEN TRUCK SERVICE, INC., Route No. 13, New Athens, Ill. 62264. Applicant's representative: Ernest A. Brooks II, 1301 Ambassador Bldg., St. Louis, Mo. 63101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flue dust*, in bulk, in dump vehicles, from the plantsite of Sandoval Zinc Co., located at or near Sandoval, Ill., to the plantsite of Frit Industries, Inc., located at or near Walnut Ridge, Ark.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either St. Louis, Mo., or Springfield, Ill.

No. MC 22179 (Sub-No. 18), filed April 29, 1976. Applicant: FREEMAN TRUCK LINE, INC., 416 Jackson Ave., P.O. Drawer 925, Oxford, Miss. 38655. Applicant's representative: John Paul Jones, 189 Jefferson Avenue, Memphis, Tenn. 38103. 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 commodities the transportation of which requires the use of special equipment), (1) between Yazoo City and Jackson, Miss.: From Yazoo City, Miss. over U.S. Highway 49 to Jackson, Miss., and return, serving all intermediate points and the off-route points of Tinsley, Valley, Crupp, Anding, and Oil City, Miss.; and (2) between Pickens and Jackson, Miss.: From Pickens, Miss. over U.S. Highway 51 and Interstate Highway 55 and return, serving all intermediate points.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Jackson, Miss. or Memphis, Tenn.

No. MC 29120 (Sub-No. 195), filed May 3, 1976. Applicant: ALL-AMERICAN, INC., 900 West Delaware, Sioux Falls, S. Dak. 57104. Applicant's representative: Ralph H. Jinks, P.O. Box 769, Sioux Falls, S. Dak. 57101. 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) over an alternate route for operating convenience only: Between Chicago, Ill., and Fargo, N. Dak., serving no intermediate points in connection with carrier's presently authorized regular route operations. From Chicago, over Interstate Highway 90 to junction Interstate Highway 90 and Interstate Highway 94, at or near Tomah, Wis., thence over Interstate Highway 94, to Fargo and return over the same route.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Sioux Falls, S. Dak.

No. MC 30844 (Sub-No. 567), filed April 28, 1976. Applicant: KROBLIN REFRIGERATED EXPRESS, INC., 2125 Commercial Street, Waterloo, Iowa 50702. Applicant's representative: John P. Rhodes (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel shot and grit*, from Mishawaka, Ind., to points in Iowa, Kansas, Minnesota, Missouri, and Nebraska, and those points in Wisconsin on and north of U.S. Highway 18 (except Milwaukee and its Commercial Zone).

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant, applicant does not specify a location.

No. MC 44735 (Sub-No. 28), filed May 6, 1976. Applicant: KISSICK TRUCK LINES, INC., 7101 East 12th Street, P.O. Box 6237, Kansas City, Mo. 64126. Applicant's representative: John E. Jandera, 641 Harrison Street, Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, (1) between the plant site and warehouse facilities of Steel & Pipe Supply located at or near Manhattan, Kans. and points in Colorado, Illinois, Iowa, Missorui, Nebraska and Oklahoma and; (2) between the plant site and warehouse facilities of Steel & Pipe Supply at Muskogee, Okla. and points in Illinois, Iowa, Kansas, Missouri, and Nebraska, restricted in items (1) and (2)

to traffic originating at point of origin and destined to points of destination.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Kansas City, Mo.

No. MC 51146 (Sub-No. 465), filed May 7, 1976. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, 2661 South Broadway, Green Bay, Wis. 54304. Applicant's representative: Neil A. DuJardin (Same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vinyl, asbestos and asphalt composition tile*, from Houston, Tex., to points in Arkansas, Alabama, Florida, Georgia, Illinois, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Virginia, and Wisconsin.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 56244 (Sub-No. 48), filed April 13, 1976. Applicant: KUHN TRANSPORTATION COMPANY, INC., R.D. No. 2, P.O. Box 98, Gardners, Pa. 17324. Applicant's representative: John M. Musselman, 410 North Third Street, P.O. Box 1146, Harrisburg, Pa. 17108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Materials, supplies and equipment* used in connection with or incidental to the manufacturing, packing or distribution of such merchandise as is dealt in by retail, wholesale and chain grocery food business houses, and *foodstuffs* (except commodities in bulk), from points in Illinois, Indiana, Iowa, Kentucky, Michigan, Missouri, Ohio, Pennsylvania, West Virginia on and north of U.S. Highway 50, Baltimore, Md., and New York, N.Y., to the plantsites of Musselman Fruit Products Div., Pet, Inc., located at Biglerville and Gardners, Pa., and Inwood, W. Va., the plantsites of Knouse Foods, Inc., located at Chambersburg, Orrtanna and Peach Glen, Pa., the plantsites of Charles G. Summers, Jr., Inc., located at New Freedom, Pa., and the plantsites of National Fruit Product Company, Inc., located at Timberville and Winchester, Va., and Martinsburg, W. Va., restricted to the transportation of shipments originating at the above origins and destined to the above destinations.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Harrisburg, Pa., or Washington, D.C.

No. MC 59150 (Sub-No. 94), filed May 7, 1976. Applicant: PLOOF TRUCK LINES, INC., 1414 Lindrose Street, P.O. Box 3277, Jacksonville, Fla. 32206. Applicant's representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, Fla. 32207. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe and fittings*, from Colfax, N.C., to points in Alabama, Florida, Georgia, Louisiana, Mississippi, and South Carolina.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Jacksonville, Fla.

No. MC 59957 (Sub-No. 47), filed May 3, 1976. Applicant: MOTOR FREIGHT EXPRESS, Arsenal Road & Toronita St., York, Pa. 17402. Applicant's representative: Walter M. F. Neugebauer (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), with the exception of those requiring refrigeration, serving the plantsite of Arcata Printed Products, Inc. Arcata Book Group-Fairfield Division, Borough of Fairfield, located in Adams County, Pa., as an off-route point in connection with applicant's presently authorized regular-route operations between Chambersburg, Pa., and junction Pennsylvania Highway 116 and U.S Highway 30.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Harrisburg, Pa. or Washington, D.C.

No. MC 61396 (Sub-No. 308), filed May 2, 1976. Applicant: HERMAN BROS. INC., 2565 St. Marys Avenue, P.O. Box 189, Omaha, Nebr. 68101. Applicant's representative: John E. Smith, II (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry fertilizer*, in bulk, from Whiting, Iowa, to points in Minnesota, Nebraska, and South Dakota.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr., or Des Moines, Iowa.

No. MC 73165 (Sub-No. 387), filed May 7, 1976. Applicant: EAGLE MOTOR LINES, INC., P.O. Box 11086, 830 North 33rd Street, Birmingham, Ala. 35202. Applicant's representative: William P. Parker (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron and steel articles* (except commodities in bulk), from the plant site and storage facilities of National Pipe and Tube Company, located in Liberty County, Tex., to points in the United States (evcept Alaska, Hawaii and Texas); and (2) *materials, supplies, and equipment* used in the production and distribution of iron and steel articles (except commodities in bulk), from points in the United States (except Alaska, Hawaii and Texas), to the plant site and storage facilities of National Pipe and Tube Company located in Liberty County, Tex., restricted in (1) and (2) above to traffic originating at and destined to the named plant site or storage facilities of National Pipe and Tube Company.

NOTE.—If a hearing is deemed necessary, the applicant requests it be heard on a consolidated record with Ace Lines, Inc., MC 61231 (Sub-No. 85) and other similar applications at St. Louis, Mo.

No. MC 77721 (Sub-No. 1) (Amendment) filed March 19, 1976, published in the FEDERAL REGISTER issue of April 15, 1976, and republished as amended this issue. Applicant: JERRY M. BARNER & SONS, 1211–1213 Spruce Street, Roselle, N.J. 07203. Applicant's representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, N.J. 08904. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Telephone equipment, materials and supplies* (except in bulk), between the facilities of Western Electric Co., at or near Suffern, N.Y., on the one hand, and, on the other, points in New Jersey north of New Jersey Highway 33, including Trenton, N.J.

NOTE.—The purposes of this republication are to indicate applicant's substituted base point, and clarify the nature of the operations to be performed as radial. If a hearing is deemed necessary, applicant requests it be held at Newark, N.J. or New York, N.Y.

No. MC 87523 (Sub-No. 93), filed May 5, 1976. Applicant: STEWART TRANSPORT, INC., P.O. Box 504, Londonderry, N.H. 03053. Applicant's representative: Edward J. Kiley, 1730 M Street, N.W., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Water*, in containers, from the plant sites or storage facilities utilized by the Trapp Water Corporation located at or near Stowe, Vt. to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Virginia, and the District of Columbia, and (2) *empty containers*, from points in New Hampshire to the plant sites or storage facilities utilized by the Trapp Water Corporation located at or near Stowe, Vt.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Concord, N.H., New York, N.Y., or Washington, D.C.

No. MC 100449 (Sub-No. 65), filed May 7, 1976. Applicant: MALLINGER TRUCK LINE, INC., R.R. No. 4, Fort Dodge, Iowa 50501. Applicant's representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Clay pipe and fittings, and clay products and joint material*, from Lehigh, Iowa, to points in Wyoming.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Kansas City, Mo.; Omaha, Nebr.; or Minneapolis, Minn.

No. MC 100449 (Sub-No. 66), filed May 7, 1976. Applicant: MALLINGER TRUCK LINE, INC., Route 4, Fort Dodge, Iowa 50501. Applicant's representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, Iowa 50309. 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 Sections 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 Fargo and West Fargo, N. Dak., to points in Colorado, Kansas, Missouri, Nebraska and South Dakota, restricted to shipments originating at the plantsite and storage facility of Flavorland Industries, Inc., at Fargo and West Fargo, N. Dak., and destined to points in the named destination states.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.; Omaha, Nebr.; or Kansas City, Mo.

No. MC 100666 (Sub-No. 321), filed May 13, 1976. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, La. 71107. Applicant's representative: Wilburn L. Williamson, 280 National Foundation Life Bldg., 3535 N.W. 58th St., Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe*, from Eads, Tenn., to points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Memphis, Tenn.

No. MC 102567 (Sub-No. 190), filed April 26, 1976. Applicant: MCNAIR TRANSPORT, INC., 4295 Meadow Lane, P.O. Box 5357, Bossier City, La. 71010. Applicant's representative: Charles L. Taylor, Jr., 2040 North Loop West, Suite 208, Houston, Tex. 77018. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Liquid chemicals* (except liquid bromine), in bulk, in tank vehicles, from points in Columbia County, Ark., to points in Alabama, Florida, Georgia, Illinois, Kansas, Kentucky, Missouri, and South Carolina; and (2) *liquid ethylene*, in bulk, in tank vehicles, from Odessa, Tex., to points in Columbia and Union Counties, Ark.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Houston, Tex., or Little Rock, Ark.

No. MC 105350 (Sub-No. 27), filed April 22, 1976. Applicant: NORTH PARK TRANSPORTATION COMPANY, 5150 Columbine Street, Denver, Colo. 80216. Applicant's repersentative: Leslie R. Kehl, 1660 Lincoln Street, Suite 1600, Lincoln Center Building, Denver, Colo. 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except commodities in bulk, those of unusual value, household goods as defined by the Commission, and commodities which because of size or weight require the use of special equipment), between Denver, Colo. and Douglas, Wyo., serving all intermediate points between Chugwater and Douglas, Wyo., and serving off-route points located in Platte and Converse Counties, Wyo.: From Denver, Colo., over Interstate Highway 25 and U.S. Highway 87 to Douglas, Wyo., and return over the same route.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Denver, Colo.

No. MC 105457 (Sub-No. 85), filed April 5, 1976. Applicant: THURSTON MOTOR LINES, INC., 600 Johnston Road, P.O. Box 10638, Charlotte, N.C. 28206. Applicant's representative: J. V. Luckadoo (Same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Agricultural machinery and articles*, used in the farming and forestry industries, from Tarboro, N.C. to points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Kentucky, Louisiana, Maryland, Massachusetts, Mississippi, New Jersey, New York, Pennsylvania, Rhode Island, South Carolina, Tennessee, Virginia, West Virginia and the District of Columbia, and; (2) *materials and supplies*, used in the manufacture of agricultural machinery, and *articles*, used in the farming or forestry industries (except commodities in bulk), from points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Kentucky, Louisiana, Maryland, Massachusetts, Mississippi, New Jersey, New York, Pennsylvania, Rhode Island, South Carolina, Tennessee, Virginia, West Virginia and the District of Columbia to Tarboro, N.C.

NOTE.—Applicant intends to tack the authority sought with its present regular route authority at Tarboro, N.C. Common control may also be involved. If a hearing is deemed necessary, the applicant requests it be held at either Washington, D.C. or Raleigh, N.C.

No. MC 105501 (Sub-No. 18), filed May 3, 1976. Applicant: TERMINAL WAREHOUSE COMPANY, 1851 Radisson Road NE., Blaine, Minn. 55434. Applicant's representative: Joseph J. Dudley, W-1260 First National Bank Building, Saint Paul, Minn. 55101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wallboard, fibreboard, lumber, plywood and materials and supplies* used in the installation thereof, between Minneapolis and St. Paul, Minn., on the one hand, and, on the other, points in North Dakota, South Dakota, Wisconsin, and the Upper peninsula of Michigan.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at St. Paul, Minn.

No. MC 105566 (Sub-No. 122), filed April 29, 1976. Applicant: SAM TANKSLEY TRUCKING, INC., P.O. Box 1120, Cape Girardeau, Mo. 62701. Applicant's representative: Thomas F. Kilroy, P.O. Box 624, Springfield, Va. 22150. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers, glassware, plastic articles, glass rods and tubing, plastic caps, and cartons*, (1) from Brockway and Washington, Pa.; Zanesville and Columbus, Ohio; Lapel, Ind.; Parkersburg and Clarksburg, W. Va.; Freehold, N.J.; and Boylston, Ala., to points in Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming; and (2) from Brockway and Washington, Pa.; Zanesville and Columbus, Ohio; Lapel, Ind.; and Freehold, N.J., to points in Alabama, Arkansas, Louisiana, Mississippi, Oklahoma and Texas.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 105566 (Sub-No. 123), filed April 29, 1976. Applicant: SAM TANKSLEY TRUCKING, INC., P.O. Box 1119, Cape Girardeau, Mo. 62701. Applicant's representative: Thomas F. Kilroy, P.O. Box 624, Springfield, Va. 22150. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Evaporated milk*, in cans, *dry food, and beverage preparations*, from Defiance, Ohio, and Berlin Township (Delaware County), Ohio, to points in Arizona and Colorado.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 105813 (Sub-No. 212), filed April 29, 1976. Applicant: BELFORD TRUCKING CO., INC., 1759 SW. 12th Street, P.O. Box 1936, Ocala, Fla. 32670. Applicant's representative: Arnold L. Burke, 180 North LaSalle Street, Chicago, Ill. 60601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by wholesale and retail food chains and grocery houses (except in bulk), from points in the United States in and east of Arkansas, Iowa, Louisiana, Minnesota and Missouri, to Norfolk, Va.; Atlanta and Thomasville, Ga.; Columbia, S.C.; and Raleigh, N.C., and points in their Commercial Zones, restricted to the transportation of traffic originating at the named origins and destined to the warehouse or other facilities utilized by Colonial Stores, Inc., at the named destinations.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 107403 (Sub-No. 973), filed April 29, 1976. Applicant: MATLACK, INC., Ten 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: *Dry plastics and dry resins*, in bulk, in tank vehicles, (1) from Burlington, N.J. (except from the plant site of the Hooker Chemical Corporation at or near Burlington, N.J.), to points in Alabama, Arkansas, Connecticut, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont and Wisconsin; and (2) from Flemington, N.J., to points in Connecticut, Maryland, Massachusetts, Minnesota, New Hamp-

shire, New York, Pennsylvania, Rhode Island, South Carolina and Vermont.

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. 1028), filed April 15, 1976. Applicant: RUAN TRANSPORT CORPORATION, 3200 Ruan Center—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: *Sugar, products of corn and blends* containing products of corn, in bulk, in tank vehicles, from Kansas City, Kan.-Kansas City, Mo. commercial zone to points in the United States (except Alaska and Hawaii).

NOTE.—Common control may also be involved. If a hearing is deemed necessary, the applicant requests it be held at either Chicago, Ill., or Omaha, Nebr.

No. MC 107515 (Sub-No. 1009), filed May 10, 1976. Applicant: REFRIGERATED TRANSPORT CO., INC., 3901 Jonesboro Rd. S.E., Forest Park, Ga. 30050. Applicant's representative: Alan E. Serby, 3379 Peachtree Road, N.E., Suite 375, Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from the plant-sites and warehouse facilities of Standard Brands, Inc. located at or near Chicago, Ill. to points in Arizona, Arkansas, California, New Mexico, Nevada, Oklahoma, Oregon, Texas, Utah and Washington.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Chicago, Ill. or Washington, D.C.

No. MC 107818 (Sub-No. 82), filed May 3, 1976. Applicant: GREENSTEIN TRUCKING COMPANY, 280 N.W. 12th Avenue, P.O. Box 608, Pompano Beach, Fla. 33061. Applicant's representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, Fla. 32207. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Returned and rejected dairy products*, from points in Florida, to points in Illinois, Minnesota, and Wisconsin.

NOTE.—If a hearing s deemed necessary, the applicant requests it be held at Miami, Fla.

No. MC 108676 (Sub-No. 94), filed May 3, 1976. Applicant: A. J. METLER HAULING & RIGGING, INC., 117 Chicamauga Avenue, Knoxville, Tenn. 37917. Applicant's representative: Louis J. Amato, P.O. Box E, Bowling Green, Ky. 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Limestone products* (except commodities in bulk, in tank vehicles), from Luttrell (Union County), Tenn., to points in Alabama, Arkansas, Georgia, Indiana, Illinois, Kentucky, Mississippi, Missouri, North Carolina, Ohio, South Carolina, Virginia, West Virginia, and the District of Columbia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Knoxville or Nashville, Tenn.

No. MC 108835 (Sub-No. 35), filed May 5, 1976. Applicant: HYMAN FREIGHTWAYS, INC., P.O. Box 3393, 1745 University Ave., St. Paul, Minn. 55104. Applicant's representative: Rodney L. Trocke, 2690 North Prior Ave., Roseville, Minn. 55113. 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), (A) serving the plant site of Kato Engineering Company located at or near Winnebago, Minn. as an off-route point in connection with applicant's authorized regular route operations between Beresford, S. Dak. and St. Paul, Minn.; and (B) serving intermediate points between Mankato, Minn. and Oskaloosa, Iowa in connection with applicant's regular route operations.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either St. Paul or Minneapolis, Minn.

No. MC 110140 (Sub-No. 12), filed May 3, 1976. Applicant: MAYO ROBISON, doing business as LUMBER TRUCKING, 943 South Nebraska Street, Seattle, Wash. 98108. Applicant's representative: Mayo Robison (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from Pierce County, Wash. to the International Boundary Line between the United States and Canada located at or near Blaine and Lynden, Wash.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Seattle or Olympia, Wash.

No. MC 110420 (Sub-No. 755), filed May 10, 1976. Applicant: QUALITY CARRIERS, INC., P.O. Box 186, Pleasant Prairie, Wis. 53158. Applicant's representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425 13th Street, N.W., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Soybean products*, in bulk, in tank vehicles, from Cairo, Ill., to points in Alabama, Arkansas, Georgia, Indiana, Kansas, Kentucky, Louisiana, Michigan, Mississippi, Missouri, Ohio, Tennessee and Wisconsin.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either St. Louis, Mo. or Chicago, Ill.

No. MC 111274 (Sub-No. 11), filed April 13, 1976. Applicant: SCHMIDGALL TRANSFER, Box 249, Tremont, Ill. 61568. Applicant's representative: Frederick C. Schmidgall, Box 356, Morton, Ill. 61550. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Grain elevators, grain elevator materials*, and *components*, (1) from Mackinaw, Ill., to points in the United States (except Alaska and Hawaii); (2) from Mackinaw, Ill., to ports of entry on the Canadian boundary line through the provinces of Quebec-Quebec; Edmonton-Alberta; Victoria-British Columbia; Toronto-Ontario; Regina-Saskatchewan; Winnipeg-Manitoba, Canada.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Chicago, Ill., or St. Louis, Mo.

No. MC 111729 (Sub-No. 622) (Correction), filed March 16, 1976, published in the FEDERAL REGISTER issue of April 8, 1976, and republished as corrected this issue. Applicant: PUROLATOR COURIER CORP., 3333 New Hyde Park Road, New Hyde Park, 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: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, those which because, of size or weight require the use of special equipment, and commercial papers, documents, and written instruments as are used in the business of banks and banking institutions), between points in Spokane County, Wash., on the one hand, and, on the other, Lewiston and Moscow, Idaho, restricted against the transportation of shipments weighing in excess of 50 pounds or more, and each package or article shall be considered a separate and distinct shipment, and further restricted to the transportation of shipments weighing in excess of 125 pounds or more from any one consignor to any one consignee on any one day.

NOTE.—The purpose of this republication is to correct both parts of the restriction so as to read: (1) "* * * weighing in excess of 50 pounds or more," and (2) "* * * weighing in excess of 125 pounds or more * * *", which was published in error. Applicant holds contract carrier authority in No. MC 112750 and other subs, therefore dual operations may be involved. Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Spokane, Wash.

No. MC 111729 (Sub-No. 654), filed May 7, 1976. Applicant: PUROLATOR COURIER CORP., 3333 New Hyde Park Road, New Hyde Park, N.Y. 11040. Applicant's representative: Russell S. Bernhard, 1625 K Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Automotive repair and replacement parts, supplies, equipment and accessories, and related business papers*, restricted against the transportation of packages or articles weighing in excess of 40 pounds each and 160 pounds in the aggregate, from one consignor to one consignee on any one day, between Davenport, Iowa, on the one hand, and, on the other, points in Adams, Boone, Bureau, Carroll, Hancock, Henry, Knox, La Salle, Lee, McDonough, Mercer, Peoria, Rock Island, Stevenson, Warren, Whiteside, and Winnebago Counties, Ill.; and (2) *critical machinery repair and re-*

placement parts and bearings, in packages not to exceed 65 pounds each and 200 pounds in the aggregate, from one consignor to one consignee on any one day, between Dubuque and Fort Madison, Iowa, on the one hand, and, on the other, Chicago Heights, Danville, Decatur, Joliet, Moline, Peru, Peoria, Quincy, Rockford, and Springfield, Ill.

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 111729 (Sub-No. 655), filed May 7, 1976. Applicant: PUROLATOR COURIER CORP., 3333 New Hyde Park Road, New Hyde Park, N.Y. 11040. Applicant's representative: Russell S. Bernhard, 1625 K Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fresh and dried cut flowers, decorative greens, and floral supplies*, when moving at the same time and in the same vehicles with commodities the transportation of which is subject to economic regulation, between Rockford, Ill., on the one hand, and, on the other, points in Wisconsin.

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 either Washington, D.C., or Chicago, Ill.

No. MC 112539 (Sub-No. 14), filed May 6, 1976. Applicant: PERCHAK TRUCKING, INC., Route 309, Hazle Village, P.O. Box 811, Hazleton, Pa. 18201. Applicant's representative: Joseph F. Hoary, 121 S. Main Street, Taylor, Pa. 18517. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel reels*, from Hazleton, Pa., to points in Middlesex, Mercer, Passaic, Hudson, and Union Counties, N.J.; New Haven and Seymour, Conn.; Hudson, Mass.; Yonkers and Hastings-on-Hudson, N.Y.; and Providence, R.I.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Harrisburg, Pa.

No. MC 113666 (Sub-No. 103) (Amendment), filed March 22, 1976, published in the FEDERAL REGISTER issues of April 15, 1976, and April 29, 1976, and republished as amended this issue. Applicant: FREEPORT TRANSPORT, INC., 1200 Butler Road, Freeport, Pa. 16220. Applicant's representative: William H. Shawn, 1730 M Street NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from ports of entry on the International Boundary line between the United States and Canada located in New Hampshire, New York, Maine, Michigan, and Vermont, to points in Alabama, Connecticut, Delaware, Georgia, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia, restricted to traffic originating at points in Canada.

NOTE.—The purpose of this republication is to bring applicant's request for authority into compliance with the Commission's policy statement on traffic moving to and from Canada. If a hearing is deemed necessary, the applicant requests it be held at either Buffalo, N.Y., or Pittsburgh, Pa.

No. MC 113855 (Sub-No. 347), filed April 29, 1976. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road SE., Rochester, Minn. 55901. Applicant's representative: Alan Foss, 502 First National Bank Bldg., Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Mining machinery and equipment;* and (2) *attachments, parts, and accessories*, for (1) above, from Monroe, N.C., to points in the United States (including Alaska, but excluding Hawaii), and Canada, traversing all ports of entry on the United States-Canada International Boundary; and (3) *materials, supplies, and equipment* (except commodities in bulk), used in the manufacture and distribution of commodities set forth in (1) and (2) above, from points in the United States (except Alaska and Hawaii), to Monroe, N.C.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 113855 (Sub-No. 348), filed May 12, 1976. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Rd. SE., Rochester, Minn. 55901. Applicant's representative: Alan Foss, 502 First National Bank Bldg., Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Lift and hoist trucks;* (2) *tractors* (other than truck tractors); and (3) *attachments and accessories* for the commodities described in (1) and (2) above, from the plantsite of Towmotor Corporation located at Mentor, Ohio, to points in Colorado, Nebraska, North Dakota, South Dakota, and Wyoming, restricted to traffic originating at the plant and warehouse facilities of Towmotor Corporation located at Mentor, Ohio.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 114015 (Sub-No. 20), filed April 26, 1976. Applicant: HUSS, INCORPORATED, Highway 47 West, P.O. Box 666, Chase City, Va. 23924. Applicant's representative: Morton E. Kiel, 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: *Adhesives, paint and paint products, building materials, gypsum and gypsum products, lime* (except liquid in bulk) and *such materials and supplies* as are used in the manufacture, installation, and distribution of the aforementioned commodities (except liquid commodities in bulk), between Norfolk, Va., on the one hand, and, on the other, points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, and the District of Columbia, restricted to a service performed under a continued contract or contracts with United States Gypsum Company of Chicago, Ill.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Atlanta Ga., or Washington, D.C.

No. MC 114045 (Sub-No. 434), filed May 3, 1976. Applicant: TRANS-COLD EXPRESS, INC., Finley & Belt Rd., P.O. Box 5842, Dallas, Tex. 75240. Applicant's representative: J. B. Stuart (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Drugs, medicines, toilet preparations, toothbrushes, and artificial sweeteners* (except in bulk), in vehicles equipped with mechanical refrigeration, from South Plainfield, N.J., to points in Texas.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 114055 (Sub-No. 7) (Correction), filed March 29, 1976, published in the FEDERAL REGISTER issue of April 29, 1976, republished as corrected this issue. Applicant: RAY KOLNIK, doing business as RAY KOLNIK TRUCKING, Prairie View Road, Walworth, Wis. 53184. Applicant's representative: Joseph E. Ludden, 309 State Bank Building, La Crosse, Wis. 54601. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from the plantsite of the G. Heileman Brewing Company, Inc., at La Crosse, Wis., to Chicago, Ill., and the Chicago, Ill., Commercial Zone, as defined by the Commission, under a continuing contract or contracts with C & K Distributors.

NOTE.—The purpose of this republication is to reflect the name of the contracting shipper which was previously omitted. If a hearing is deemed necessary, the applicant requests it be held at Madison, Wis., or Chicago, Ill.

No. MC 114115 (Sub-No. 25), filed May 3, 1976. Applicant: TRUCKWAY SERVICE, INC., 1099 Oakwood Blvd., Detroit, Mich. 48217. Applicant's representative: James R. Stiverson, 1396 West Fifth Avenue, Columbus, Ohio 43212. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Salt and salt products*, in packages, from points in Hamilton County, Ohio, to points in the Lower Peninsula of Michigan, under con-

tract with Diamond Crystal Salt Company, and Cargill, Incorporated.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio, or Washington, D.C.

No. MC 114194 (Sub-No. 187), filed April 23, 1976. Applicant: KREIDER TRUCK SERVICE, INC., 8003 Collinsville Road, East St. Louis, Ill. 62201. Applicant's representative: Ernest A. Brooks II, 1301–02 Ambassador Bldg., St. Louis, Mo. 63101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Sugar, products of corn and blends thereof*, in bulk, from the Kansas City, Kans.-Kansas City, Mo., Commercial Zone, to points in the United States (except Alaska and Hawaii); and (2) *corn and corn products*, from North Kansas City, Mo., to points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Kansas City, Mo., or Chicago, Ill.

No. MC 114241 (Sub-No. 7), filed May 10, 1976. Applicant: C. T. HERTZSCH, INC., 282-U.S. Highway 31, Speed, Ind. 47172. Applicant's representative: Louis B. Hartlage, 501 South 2nd Street, Louisville, Ky. 40202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, in bulk or in packages, from Speed, Ind., to points in West Virginia, under a continuing contract or contracts with Louisville Cement Company.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Louisville, Ky., or Indianapolis, Ind.

No. MC 114273 (Sub-No. 239), filed September 19, 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: *Plastics, resins, and plasticizers*, from Philadelphia, Pa., to Sullivan, Mo.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 114533 (Sub-No. 332), filed December 15, 1975. Applicant: BANKERS DISPATCH CORPORATION, 1106 West 35th Street, Chicago, Ill. 60609. Applicant's representative: Paul R. Bergant (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1)(a) *Audit media, and other business records;* (b) *graphic arts material*, between Wabash, Ind., on the one hand, and, on the other, Huntley, Ill.; and (2) *human blood, and blood products*, between Omaha, Nebr., on the one hand, and, on the other, points in Marshall and Nemaha Counties, Kans.

NOTE.—Applicant holds contract carrier authority in MC 128616 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Indianapolis, Ind., or Topeka, Kans.

No. MC 114533 (Sub-No. 334), filed December 22, 1975. Applicant: BANKERS DISPATCH CORPORATION, 1106 West 35th Street, Chicago, Ill. 60609. Applicant's representative: Paul R. Bergant (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Proofs, cuts, copy and other graphic arts material*, between Bloomington, Ind., on the one hand, and, on the other, St. Louis, Mo.; and (2) *milk, milk products, empty containers and information regarding identity of samples*, between points in Kansas, on the one hand, and, on the other, Jackson County, Mo.

NOTE.—Dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Indianapolis, Ind. or St. Louis, Mo.

No. MC 114533 (Sub-No. 342), filed May 3, 1976. Applicant: BANKERS DISPATCH CORPORATION, 1106 West 35th Street, Chicago, Ill. 60609. Applicant's representative: Paul Bergant (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Exposed and processed film and prints, complimentary replacement film, and incidental dealer handling supplies* (except motion picture films and materials and supplies used in connection with commercial and television motion pictures), between Springfield, Mo., on the one hand, and, on the other, points in Kansas.

NOTE.—Applicant holds contract carrier authority in MC 128616 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Kansas City, Mo.

No. MC 114569 (Sub-No. 140), filed May 6, 1976. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, Pa. 17072. Applicant's representative: N. L. Cummins (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except frozen foods and commodities in bulk), from points in Fairview Township (York County), Pa., and points in that part of Cumberland County, Pa., on and east of Pennsylvania Highway 34, points in that part of Pennsylvania on and east of a line beginning at the New York-Pennsylvania State line and extending southwardly along U.S. Highway 15 to Allenwood (Union County), Pa., thence along the Susquehanna River southwardly to the Maryland-Pennsylvania State line (except points in Chester, Delaware, Philadelphia, Montgomery, and Bucks Counties, Pa.), to Derry Township (Dauphin County), Pa., restricted to joinder or tacking with existing authority at or near Derry Township (Dauphin County), Pa., to serve points in Arizona, Arkansas, Colorado, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Mexico, North Dakota, Ohio, Oklahoma, South Dakota, Tennessee, Texas, Wisconsin, and Wyoming.

NOTE.—Applicant states that the purpose of this application is to eliminate interline service conducted in connection with Hess Trucking Co. Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Harrisburg, Pa.

No. MC 115162 (Sub-No. 323), filed May 10, 1976. 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: *Buildings, wall, or insulating boards, and ceiling tile and materials and supplies*, used in the installation of building, wall, insulation boards or ceiling tile, between the plantsite and facilities utilized by the Armstrong Cork Company, at or near Macon, Ga., on the one hand, and, on the other, points in the United State in and east of Kansas, Nebraska, North Dakota, Oklahoma, South Dakota, and Texas.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga., or Washington, D.C.

No. MC 115331 (Sub-No. 401), filed December 18, 1975. Applicant: TRUCK TRANSPORT INCORPORATED, 29 Clayton Hills Lane, St. Louis. Mo. 63131. Applicant's representative: J. R. Ferris, 230 St. Clair Avenue, East St. Louis, Ill. 62201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *animal litter, animal and bird feed and pet supplies* (except commodities in bulk), from the plantsites and storage facilities of Alfa-Pet, Inc., at or near St. Louis, Mo., to points in the United States (except Alaska, Hawaii and Missouri).

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at St. Louis, Mo., or Chicago, Ill.

No. MC 115495 (Sub-No. 29), (Amendment), filed March 29, 1976, and published in the FEDERAL REGISTER issue of May 6, 1796, republished as amended this issue. Applicant: UNITED PARCEL SERVICE, INC., 300 North 2nd Street, St. Charles, Ill. 60174. Applicant's representative: J. Robert Peterson, 51 Weaver Street, Greenwich Office Park 5, Greenwich, Conn. 06830. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between the plantsite of Marshall Field and Company, located in Chicago, Ill., on the one hand, and, on the other, points in Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico, North Da-

kota, North Carolina, Ohio, Oklahoma, Oregon, South Dakota, South Carolina, Tennessee, Texas, Utah, Washington, Wisconsin and Wyoming.

NOTE.—The purpose of this partial republication is to add "Idaho" to the territorial description in (1). The rest of the application remains the same. If a hearing is deemed necessary, the applicant requests it be held at New York, N.Y.

No. MC 115730 (Sub-No. 13), filed May 3, 1976. Applicant: THE MICKOW CORP., P.O. Box 1774, Des Moines, Iowa 50309. Applicant's representative: Cecil L. Goettsch, 1100 Des Moines Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Agricultural machinery* and *implements, industrial and construction machinery and equipment, tree spades, stump cutters, irrigation equipment, drainage systems, log splitters*, and *log chippers;* (2) *attachments, parts and supplies*, used in operation of commodities in (1) above, from Pella, Iowa, to points in the United States, including Alaska, but excluding Hawaii; and (3) *materials, equipment and supplies*, used in the manufacture or distribution of the commodities in (1) and (2) above (except commodities in bulk), from points in the United States including Alaska, but excluding Hawaii to Pella, Iowa.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Des Moines, Iowa or Chicago, Ill.

No. MC 115730 (Sub-No. 14), filed May 5, 1976. Applicant: THE MICKOW CORP., P.O. Box 1774, Des Moines, Iowa 50306. Applicant's representative: Cecil L. Goettsch, 1100 Des Moines Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Materials, equipment* and *supplies* used in the manufacture of (1) *liquid* and solid waste recycling systems; (2) *spraying equipment;* (3) *sugar beet lifter-loader, harvesters, defoliators and topper-windrowers;* (4) *potato diggers, planters, and harvesters;* and (5) *sprinkling and irrigation systems*, from points in the United States (except Hawaii and Alaska), to the plantsite and storage facilities of Lockwood Corporation, located at or near Gering, Nebr.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Omaha, Nebr. or Washington, D.C.

No. MC 116014 (Sub-No. 77), filed May 10, 1976. Applicant: OLIVER TRUCKING COMPANY, INC., Lexington Rd., P.O. Box 53, Winchester, Ky. 40391. Applicant's representative: Louis J. Amato, P.O. Box E, Bowling Green, Ky. 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper, paper products, paper-board and paperboard products*, from Chesapeake and Lynchburg, Va., to points in Arkansas, Connecticut, Delaware, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maryland, Minnesota, Michigan, Missouri, New Jersey, North Carolina, Ohio, Pennsylvania, Tennessee, Virginia, West Virginia and Wisconsin.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 116164 (Sub-No. 9), filed May 7, 1976. Applicant: ARROW TRANSPORTATION, 1911 NE 58th Street, Des Moines, Iowa 50313. Applicant's representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, Iowa 50309. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Clay pipe and fittings, drain title, clay products*, and *fire brick;* and (2) *mortar mix* when moving in mixed loads with commodities in part (1), from Des Moines, Iowa to points in Illinois, Indiana, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, South Dakota and Wisconsin, under a continuing contract with Can-Tex Industries, Div., Harsco Corporation.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Kansas City, Mo. or Chicago, Ill.

No. MC 116915 (Sub-No. 27), filed April 15, 1976. Applicant: ECK MILLER TRANSPORTATION CORPORATION, 2015 Alsop Lane, P.O. Box 1279, Owensboro, Ky. 43201. Applicant's representative: Fred Bradley, Box 773, Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe and accessories, and materials* used in the manufacturing of plastic pipe and accessories, between points in Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, (Lower Peninsula), Minnesota, Mississippi, Missouri, Nebraska, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, West Virginia and Wisconsin, on the one hand, and, on the other, Benton, Ill., restricted to shipments moving from or to the Drainage Engineering Corporation plantsite.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Lexington or Louisville, Ky., or Washington, D.C.

No. MC 117119 (Sub-No. 580), filed May 6, 1976. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, Ark. 72728. Applicant's representative: L. M. McLean (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen bakery goods, and related display racks and materials* (except in bulk in vehicles equipped with mechanical refrigeration, from the storage facilities utilized by Tasty Baking Co., Inc., located at Hatfield, Pa., to the warehouse and storage facilities utilized by Alpha Beta Stores at or near La Habra, Calif.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it he beld at either Philadelphia, Pa. or Washington, D.C.

No. MC 117565 (Sub-No. 94), filed May 10, 1976. Applicant: MOTOR SERVICE COMPANY, INC., Route 3, P.O. Box 448, Coshocton, Ohio 43812. Applicant's representative: Louis Amato, P.O. Box E, Bowling Green, Ky. 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Silicon metals, ferroalloys, and products composed of or made therefrom*, from Philo, Brilliant, and Powhatan Point, Ohio, to points in Arkansas, Iowa, Louisiana, Minnesota, Missouri and points west thereof.

NOTE.—Applicant holds contract carrier authority in MC 135701 (Sub-No. 1), therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Cleveland or Columbus, Ohio.

No. MC 117831 (Sub-No. 4) (Correction), filed January 16, 1976, published in the FEDERAL REGISTER issue of March 18, 1976, republished as corrected this issue. Applicant: S. SISKIND & SONS, INC., 1567 Watson Avenue, Bronx, N.Y. 10474. Applicant's representative: Arthur J. Piken, 1 Lefrak City Plaza, Flushing, N.Y. 11368. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Baggage and personal effects of campers*, in seasonal operations, extending from June 1 to September 30, inclusive, of each year, between New York, N.Y. and points in Nassau, Suffolk, Westchester and Rockland Counties, N.Y., points in New Jersey, points in Fairfield County, Conn., Philadelphia, Pa., and points in Pennsylvania on, south and east of a line extending from the intersection of the Delaware River and U.S. Highway 22 at or near Easton, Pa., thence southwesterly along U.S. Highway 22 to its intersection with Pennsylvania Highway 230, at or near Harrisburg, Pa., thence to Pennsylvania Highway 283, thence to Pennsylvania Highway 272, thence to U.S. Highway 222 to the Pennsylvania-Maryland State Boundary line, on the one hand, and, on the other, points in Wayne, Monroe and Pike Counties, Pa., points in Delaware, Greene, Chenango, Dutchess, Orange, Warren, Sullivan, Putnam and Albany Counties, N.Y., and points in Litchfield and New London Counties, Conn., points in Sussex County, N.J., and points in Berkshire County, Mass.

NOTE.—The purpose of this republication is to correct the territorial description which was published in error. If a hearing is deemed necessary, the applicant requests it be held at New York, N.Y.

No. MC 117940 (Sub-No. 178), filed May 4, 1976. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, Minn. 55359. Applicant's representative: Alan L. Timmerman (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Air cleaners and air cleaner cartridges, internal combustion engine, filters, filter adapters and parts; spark plugs, brake shoes, wind shield wipers, blades and parts; smog control devices; hood covers; storage cabinets;*

hand tools, equipment and supplies, used in the installation, manufacturing and distribution of filters, filter parts, air cleaners and automotive parts; *advertising material, catalogues and premiums,* from Fostoria, Ohio, Greenville (Darke County), Ohio, and Jackson, Tenn., to points in Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, West Virginia, Wisconsin and those points in New York and Pennsylvania on and west of Interstate Highway 81, restricted to the transportation of shipments originating at the facilities of Fram Corporation, located at the named origins and destined to the above named destinations.

NOTE.—Applicant holds contract carrier authority in MC 114789 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 Providence, R.I.

No. MC 118159 (Sub-No. 175), filed May 7, 1976. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC., P.O. Box 51366—Dawson Station, Tulsa, Okla. 74151. Applicant's representative: Neil A. DuJardin, P.O. Box 2298, Green Bay, Wis. 54306. Authority sought to operate as a *common 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 located at or near Friona, and Plainview, Tex., to Chicago, Ill. and points in its Commercial Zone.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 118535 (Sub-No. 84), filed May 3, 1976. Applicant: TIONA TRUCK LINE, INC., 111 S. Prospect, Butler, Mo. 64730. Applicant's representative: Wilburn L. Williamson, 3535 N.W. 58th Street, 280 National Foundation Life Building, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Dry urea, dry fertilizer* and *dry fertilizer materials,* (a) from Pryor, Okla. to points in Arizona and New Mexico; and (b) from Kerens, Tex. to points in Arizona.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Kansas City, Mo.

No. MC 118696 (Sub-No. 6), filed April 30, 1976. Applicant: FERREE MOVING AND STORAGE, INC., 252 Wildwood Road, Hammond, Ind. 46324. Applicant's representative: Walter F. Jones, Jr., 601 Chamber of Commerce Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *New furniture, furniture parts and new household furnishings,* between Hammond, Ind., on the one hand, and, on the other, points in Indiana.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Chicago, Ill. or Indianapolis, Ind.

No. MC 118806 (Sub-No. 47), (Amendment), filed February 12, 1976, published in the FEDERAL REGISTER issue of March 18, 1976, and republished as amended this issue. Applicant: ARNOLD BROTHERS TRANSPORT, LTD., 739 Lagimodiere Blvd., Winnipeg, Manitoba, Canada R2J OT8. Applicant's representative: Daniel C. Sullivan, 327 South La-Salle Street, Chicago, Ill. 60604. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Lumber, lumber products, millwork, forest products,* and such commodities as are manufactured or distributed by lumber mills and lumber yards, from points in the United States (except Alaska and Hawaii), to ports of entry on the International Boundary line between the United States and Canada located at or near Pembina and Dunseith, N. Dak., and Noyes, Minn.

NOTE.—Applicant states that it possesses complimentary Canadian authority to provide a direct single line service through the named ports of entry to the Provinces of Alberta, Manitoba and Saskatchewan. The operations sought includes service to all points in the named Provinces. If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 119777 (Sub-No. 330), filed May 7, 1976. Applicant: LIGON SPECIALIZED HAULER, INC., P.O. Drawer "L", Highway 85 East, Madisonville, Ky. 42431. Applicant's representative: Carl U. Hurst (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Paneling, plywood, moulding, spindles, and hardware* used in connection therewith, from the facilities of Inland Plywood Co. located in Macomb, Oakland, and Wayne Counties, Mich., to points in Illinois, Indiana, Kentucky, New York, Ohio, Pennsylvania, and West Virginia.

NOTE.—Applicant holds contract carrier authority in MC 126970 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 Detroit, Mich.

No. MC 119789 (Sub-No. 289), filed April 30, 1976. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 6188, Dallas, Tex. 75222. Applicant's representative: James K. Newbold, Jr. (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Agricultural implements, rims, and wheel rims,* from Armstrong, Iowa to points in California.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Des Moines, Iowa, or Omaha, Nebr.

No. MC 119988 (Sub-No. 92), filed May 10, 1976. Applicant: GREAT WESTERN TRUCKING CO., INC., 2340 Fidelity Union Tower, Dallas, Tex. 75201. Applicant's representative: Paul D. Angenend, 1806 Rio Grande, Austin, Tex. 78701. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Glass containers,* from the plantsite and warehouse facility of Midland Glass Co., Inc., located at or near Henryetta, Okla., to points in the United States (except Alaska and Hawaii); and (2) *materials, equipment, and supplies* used in the manufacture and distribution of glass containers (except in bulk), from points in the United States (except Alaska and Hawaii), to the plantsite and warehouse facilities of Midland Glass Co., Inc., at or near Henryetta, Okla.

NOTE.—Applicant holds contract carrier authority in MC 140271 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Dallas, Tex., or Oklahoma City, Okla., or Washington, D.C.

No. MC 120257 (Sub-No. 27) (Correction), filed March 9, 1976, published in the FEDERAL REGISTER issue of April 22, 1976, republished as corrected this issue. Applicant: K. L. BREEDEN & SONS, INC., 401 Alamo St., Terrell, Tex. 75160. Applicant's representative: Bernard H. English, 6270 Firth Rd., Fort Worth, Tex. 76116. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (a) *Cast iron pressure pipe, valves, hydrants, and hydrant sections,* and (b) *parts, attachments, accessories, and supplies* used in connection with the commodities described in (a) above, from the plantsite and storage facilities of Mueller Co., located at or near Chattanooga, Tenn., to points in and west of Kansas, Nebraska, North Dakota, Oklahoma, South Dakota and Texas.

NOTE.—The purpose of this republication is to correct the commodity description in this proceeding. If a hearing is deemed necessary, the applicant requests it be held at either Dallas or Fort Worth, Tex.

No. MC 120737 (Sub-No. 37), filed May 5, 1976. Applicant: STAR DELIVERY & TRANSFER, INC., R.R. No. 5, P.O. Box 39, Canton, Ill. 61520. Applicant's representative: Donald W. Smith, Suite 2465, One Indiana Square, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Steel cattle handling equipment,* from St. Joseph, Mo., to points in Alabama, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia, and points in Arkansas on, north and east of Interstate Highway 40, thence along the Arkansas State line near Fort Smith to junction U.S. Highway 65, thence along U.S. Highway 65 to the Arkansas-Louisiana State line, points in Iowa on, and south of Interstate Highway 80, and points in Kansas on, north and east of Interstate Highway 96 to junction Interstate Highway 35, thence along Interstate Highway 35 to

the Kansas-Oklahoma State line; and (2) *parts and materials* used in the manufacture of the commodity named in (1) above, from East Alton and Granite City, Ill., to St. Joseph, Mo.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Chicago, Ill., Kansas City or St. Louis, Mo.

No. MC 123255 (Sub-No. 73), filed May 5, 1976. Applicant: B & L MOTOR FREIGHT, INC., 140 Everett Ave., Newark, Ohio 43055. Applicant's representative: C. F. Schnee, Jr., (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers*, from Mt. Vernon, Ohio, to points in Iowa, Kentucky, Minnesota, Missouri, Pennsylvania, Tennessee, Virginia, West Virginia and Wisconsin.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Columbus, Ohio.

No. MC 123744 (Sub-No. 22), filed March 22, 1976. Applicant: BUTLER TRUCKING COMPANY, a Corporation, P.O. Box 88, Woodland, Pa. 16881. Applicant's representative: William H. Shawn, 1730 M Street NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from ports of entry on the International Boundary line between the United States and Canada, located in Maine, Vermont, New Hampshire, New York, and Michigan to points in Alabama, Connecticut, Delaware, Georgia, Indiana, Illinois, Kentucky, Maine, Massachusetts, Maryland, Michigan, Missouri, New Hampshire, New York, New Jersey, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia, restricted to traffic originating at points in Canada.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Buffalo, N.Y., Pittsburgh, Pa. or Washington, D.C.

No. MC 123808 (Sub-No. 3), filed May 5, 1976. Applicant: GEORGE C. POTTERFIELD TRUCKING, INC., Highway 36 and 24 East, Monroe City, Mo. 63456. Applicant's representative: Thomas P. Rose, Jefferson Building, P.O. Box 205, Jefferson City, Mo. 65101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt*, in bulk, from Quincy, Ill., to points in Missouri and those points in Iowa on and south of Interstate Highway 80.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Jefferson City or Kansas City, Mo.

No. MC 124078 (Sub-No. 684), filed April 15, 1976. Applicant: SCHWERMAN TRUCKING CO., 611 South 28th Street, P.O. Box 1601, Milwaukee, Wis. 53201. 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: *Products of corn*, in bulk, from the plantsites and facilities of CPC International, Inc., at Chicago, and Pekin, Ill., to points in the United States (except Alaska and Hawaii).

NOTE.—Applicant holds contract carrier authority in MC 113832 Sub-No. 68, 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 Chicago, Ill.

No. MC 124078 (Sub-No. 686), filed May 3, 1976. Applicant: SCHWERMAN TRUCKING CO., P.O. Box 1601, 611 South 28 Street, Milwaukee, Wis. 53215. Applicant's representative: Richard H. Prevette (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sugar, products of corn and blends thereof*, in bulk, from the Kansas City, Kans.-Kansas City, Mo. commercial zone, to points in the United States (except Alaska and Hawaii).

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Kansas City, Mo., or Chicago, Ill.

No. MC 124078 (Sub-No. 688), filed May 5, 1976. Applicant: SCHWERMAN TRUCKING CO., P.O. Box 1601 Milwaukee, Wis. 53201. Applicant's representative: Richard H. Prevette (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Propylene*, in bulk, in tank vehicles, from Superior, Wis., to Lima and Toledo, Ohio.

NOTE.—Applicant holds contract carrier authority in MC 113832 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 either Columbus or Cleveland, Ohio.

No. MC 124211 (Sub-No. 276), filed May 7, 1976. Applicant: HILT TRUCK LINE, INC., P.O. Box 988, D.T.S., Omaha, Nebr. 68101. Applicant's representative: Thomas L. Hilt (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by producers or distributors of beverages (except in bulk), between Council Bluffs, Iowa, on the one hand, and, on the other, points in the United States (except Alaska, Colorado, Hawaii, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, Wisconsin, and those points in the Louisville, Ky., and Cincinnati, Ohio, Commercial Zones, as defined by the Commission).

NOTE.—The purpose of this application is to relocate the present interchange point from Yankton, S. Dak., as authorized in applicant's Sub 261 to Council Bluffs, Iowa. Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Omaha, Nebr.

No. MC 124212 (Sub-No. 90), filed May 7, 1976. Applicant: MITCHELL TRANSPORT, INC., 6500 Pearl Road, P.O. Box 30248, Cleveland, Ohio 44130. Applicant's representative: J. A. Kundtz, 1100 National City Bank Bldg., Cleveland, Ohio 44114. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, from the plantsite of Lehigh Portland Cement Company, located at Providence, R.I., to points in New Hampshire.

NOTE.—Common control and dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 124813 (Sub-No. 149), filed May 5, 1976. Applicant: UMTHUN TRUCKING CO., 910 South Jackson Street, P.O. Box 166, 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: *Limestone and dicalcium phosphate*, from Weeping Water, Nebr., to points in Arkansas, Colorado, Illinois, Indiana, Iowa, Kansas, Kentucky, Minnesota, Missouri, Montana, Nebraska, North Dakota, Ohio, South Dakota, Wisconsin, and Wyoming.

NOTE.—Applicant holds contract carrier authority in MC 118468 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 Omaha, Nebr.

No. MC 124839 (Sub-No. 27), filed May 4, 1976. Applicant: BUILDING TRANSPORT, INC., 4800 Augusta Rd., P.O. Box 7057, Savannah, Ga. 31408. Applicant's representative: William P. Sullivan, 1819 H Street NW., Washington, D.C. 20006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Building materials, fiberglas products, asbestos cement products, pipe and pipe fittings, refractory products, and insulating materials and materials, equipment and supplies*, used in the manufacture, installation, or distribution of the foregoing commodities, (1) between points in Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee and Texas; and (2) between points in Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, and Texas on the one hand, and, on the other, points in Delaware, Illinois, Indiana, Maryland, New Jersey, Ohio, Pennsylvania, West Virginia, Virginia, and the District of Columbia, restricted to the transportation of traffic originating at or destined to, the facilities used by Johns-Manville Sales Corporation and further restricted to operations performed under a continuing contractor contracts with Johns-Manville Sales Corporation of Denver, Colo.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 125216 (Sub-No. 5), filed May 3, 1976. Applicant: OWENS TRUCKMEN, INC., 183 Concord Street, Brooklyn, N.Y. 11201. Applicant's representative: Larsh B. Mewhinney, 235 Mamaroneck Avenue, White Plains, N.Y. 10605. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by department stores, between points in that part of the New York Commercial Zone, as defined in Commercial Zones and Terminal Areas, 54 M.C.C. 451, within which local operations may be conducted pursuant to the partial exemption of Section 203(b)(8) of the Interstate Commerce Act, and points in Monmouth, Mercer and Ocean Counties, N.J., under a continuing contract, or contracts, with Abraham & Straus, Division of Federated Department Stores, Inc., located in New York, N.Y.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at New York, N.Y.

No. MC 125335 (Sub-No. 4), filed May 13, 1976. Applicant: GOOD-WAY, INC., P.O. Box 2283, York, Pa. 17405. Applicant's representative: Chester A. Zyblut, 366 Executive Bldg., 1030 15th St. NW, Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from the plantsite of Pet Incorporated located at Frankfort, Mich., and storage facilities utilized by Pet Incorporated located at Hart and Benton Harbor, Mich., to points in Maryland, New York, Pennsylvania, Virginia, and West Virginia.

NOTE.—If a hearing is deemed necessary, the applicant did not specify a location.

No. MC 126503 (Sub-No. 10) (Correction), filed March 23, 1976, published in the FEDERAL REGISTER issue of April 15, 1976, and republished as corrected this issue. Applicant: COMMAND DELIVERIES, INC., 5215 Hesperus Drive, Columbia, Md. 21044. Applicant's representative: Steven L. Weiman, 303 N. Frederick Avenue, Gaithersburg, Md. 20760. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are used by or useful in the conduct of grocery and department store businesses, between the facilities of Giant Food, Inc., at or near Landover, Md., on the one hand, and, on the other, Giant Food, Inc.'s facilities in Virginia, restricted to service performed under a continuing contract or contracts with Giant Food, Inc., and further restricted against the transportation of packages or articles weighing more than 100 pounds from one consignor at one location to one consignee at one location on any one day.

NOTE.—The purpose of this republication is to correct the restriction to indicate that applicant seeks to prohibit transportation on articles weighing more than 100 pounds as indicated. Dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 126899 (Sub-No. 98) (Correction), filed April 1, 1976, published in the FEDERAL REGISTER issue of May 13, 1976, and republished as corrected this issue. Applicant: USHER TRANSPORT, INC., 3925 Old Benton Road, P.O. Box 3156, Paducah, Ky. 42001. Applicant's representative: George M. Catlett, 703–706 McClure Building, Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities* in bulk, in tank vehicles, from the site of the Owensboro Riverport Authority located at or near Owensboro, Ky., to points in Illinois, Indiana, and Kentucky.

NOTE.—The purposes of this republication are to clarify the commodity request and indicate that the origin is not a "plantsite." If a hearing is deemed necessary, the applicant requests it be held at either Owensboro or Louisville, Ky.

No. MC 127042 (Sub-No. 172), filed April 30, 1976. Applicant: HAGEN, INC., 3232 Hwy. 75 N., P.O. 98, Leeds, Sioux City, Iowa 51108. Applicant's representative: Robert G. Tessar (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Candy and confectionery products, dessert preparations* (except in bulk), and advertising matter, premiums and display materials when shipped therewith, in vehicles equipped with mechanical refrigeration, from the plantsite and storage facilities of Queen Anne Candy Co., located at Hammond, Ind., to points in Arkansas, Illinois, Iowa, Kansas, Louisiana, Minnesota, Missouri, Nebraska, Oklahoma, Texas, and Wisconsin.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 127187 (Sub-No. 15), filed May 6, 1976. Applicant: FLOYD DUENOW, INC., 1728 Industrial Park Boulevard, Fergus Falls, Minn. 56537. Applicant's representative: Gene P. Johnson, 425 Gate City Building, Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Limestone and dicalcium phosphate*, from Weeping Water, Nebr., to points in Arkansas, Colorado, Illinois, Indiana, Iowa, Kansas, Kentucky, Minnesota, Missouri, Montana, Nebraska, North Dakota, Ohio, South Dakota, Wisconsin, and Wyoming.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Omaha, Nebr., Minneapolis or St. Paul, Minn.

No. MC 127834 (Sub-No. 111), filed May 7, 1976. Applicant: CHEROKEE HAULING & RIGGING, INC., 540–42 Merritt Avenue, Nashville, Tenn. 37203. Applicant's representative: Carl U. Hurst, P.O. Drawer "L", Madisonville, Ky. 42431. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Structural steel foot walks*, from points in Harrison County, Miss., to points in the United States (except Alaska and Hawaii); and (2) *materials, equipment, and supplies*, used in the manufacture or distribution of structural steel foot walks, from points in the United States (except Alaska and Hawaii), to points in Harrison County, Miss.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at either Nashville or Memphis, Tenn., or Birmingham, Ala.

No. MC 128235 (Sub-No. 18), filed May 3, 1976. Applicant: AL JOHNSON TRUCKING, INC., 1516 Marshall NE., Minneapolis, Minn. 55413. Applicant's representative: Earl Hacking, 1700 New Brighton Blvd., Minneapolis, Minn. 55413. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages and related advertising equipment, premiums, materials and supplies* when shipped therewith, from La Crosse, Wis., to Bemidji, Crookston, Duluth, Fairmont, Farmington, Fergus Falls, Gaylord, Grand Rapids, Granite Falls, Hinckley, Marshall, New Prague, Ortonville, Rogers, Royalton, St. Michael, Sauk Centre, Slayton, Sleepy Eye, Stillwater, Thief River Falls, Victoria, and Wayzata, Minn.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Minneapolis or St. Paul, Minn.

No. MC 128273 (Sub-No. 226), filed May 5, 1976. Applicant: MIDWESTERN DISTRIBUTION, INC., 121 Humboldt St., P.O. Box 189, Fort Scott, Kans. 66701. Applicant's representative: Harry Ross, 1403 So. Horton St., Fort Scott, Kans. 66701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Packaged petroleum products*, from New Orleans, La., to points in Arizona, California, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at New Orleans, La.

No. MC 128555 (Sub-No. 12), filed May 7, 1976. Applicant: MEAT DISPATCH, INC., 2103 17th St. East, Palmetto, Fla. 33561. Applicant's representative: S. Michael Richards, 44 North Avenue, Webster, N.Y. 14580. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Canned citrus products, canned juices, canned beverages, and canned beverage preparations* (except in bulk), from the plantsite of Tropicana Products Sales, Inc., located at Bradenton, Fla., to points in Indiana, Kentucky, Maryland, Michigan, Ohio, Pennsylvania, Tennessee, Virginia, West Virginia, and the District of Columbia, under a continuing contract, or contracts with Tropicana Products Sales, Inc., located at Bradenton, Fla.

NOTE.—Applicant holds common carrier authority in No. MC 136123, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Miami, Fla., or Rochester, N.Y.

No. MC 128685 (Sub-No. 21), filed May 7, 1976. Applicant: DIXON BROS., INC., P.O. Drawer 8, Newcastle, Wyo. 82701. Applicant's representative: Jerome Anderson, 404 North 31st Street, 100 Transwestern Building, Billings, Mont. 59101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber products*, from Newcastle, Wyo., to points in Illinois, Indiana, Michigan, and Wisconsin.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Casper or Cheyenne, Wyo.

No. MC 129191 (Sub-No. 6), filed April 9, 1976. Applicant: RICHARD T. PLATTNER, doing business as JANS MOTOR SERVICE, 4640 West 120th Street, Alsip, Ill. 60658. Applicant's representative: Albert A. Andrin, 180 North LaSalle Street, Chicago, Ill. 60601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron and steel articles and contractors' machinery equipment, materials and supplies* (except commodities in bulk), between Indian Oaks, Ill., on the one hand, and, on the other, points in Arkansas, Colorado, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Montana, Nebraska, New York, North Dakota, Ohio, Oklahoma, Pennsylvania, South Dakota, Tennessee, Texas, West Virginia, Wisconsin, and Wyoming; and (2) *contractors' machinery, equipment, supplies and materials* (except commodities in bulk), between points in the States named in (1) above, restricted in (1) and (2) above to traffic moving on self-loading or self-unloading equipment, and to traffic originating at or destined to, warehouses, storage areas, job sites or other facilities owned, operated or used by Chicago Bridge & Iron Company.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 129387 (Sub-No. 24), filed April 23, 1976. Applicant: BILL PAYNE, doing business as BILL PAYNE TRUCKING COMPANY, P.O. Box 1271, Huron, S. Dak. 57350. Applicant's representative: Timothy R. Stivers, P.O. Box 162, Boise, Idaho 83701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fresh meats*, from the facilities of Columbia Foods, Inc., located at or near Wallula, Wash.; to points in Arizona, California, Colorado, Connecticut, Idaho, Illinois, Iowa, Kansas, Maryland, Minnesota, Massachusetts, Missouri, Montana, Nebraska, Nevada, New Jersey, New York, North Dakota, Oregon, Pennsylvania, Rhode Island, South Dakota, Utah, Washington, Wisconsin, Wyoming, and the District of Columbia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Boise, Idaho, or Spokane or Seattle, Wash.

No. MC 129625 (Sub-No. 7), filed April 29, 1976. Applicant: ROBERT COLE TRUCKING COMPANY, P.O. Box M, Falls Creek, Pa. 15840. Applicant's representative: William J. Lavelle, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Deicing materials, defrosting materials, and anti-skid materials*, (1) from points in Sandy Township (Clearfield County), and Bell Township (Jefferson County), Pa., to points in Armstrong, Cambria, Cameron, Centre, Clarion, Clearfield, Clinton, Elk, Forest, Indiana, Jefferson, McKean, Potter, Venango, and Warren Counties, Pa.; and (2) from points in New York and Ohio to points in Armstrong, Cambria, Cameron, Centre, Clarion, Clearfield, Clinton, Elk, Forest, Indiana, Jefferson, McKean, Potter, Venango, and Warren Counties, Pa., restricted in (1) above to the transportation of traffic having a prior or subsequent movement by rail.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Pittsburgh, Pa.

No. MC 129908 (Sub-No. 2), filed May 3, 1976. Applicant: AMERICAN FARM LINES, INCORPORATED, 8125 S.W. 15th Street, P.O. Box 75410, Oklahoma City, Okla. 73107. Applicant's representative: Wm. L. Peterson, Jr., P.O. Box 917, Oklahoma City, Okla. 73101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Weapons, ammunition, and drugs*, which have been declared sensitive by the U.S. Government, (a) between points in the United States (except Alaska and Hawaii); and (b) between points in Arkansas, Illinois, Indiana, Kansas, Kentucky, Louisiana, Missouri, Oklahoma, and Texas, on the one hand, and, on the other, points in Arizona, California, Nevada, Washington, and Utah.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Washington, D.C., or Oklahoma City, Okla.

No. MC 133219 (Sub-No. 19), filed May 6, 1976. Applicant: NEBRASKA BULK TRANSPORTS, INC., P.O. Box 215, Bennet, Nebr. 68317. 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: (1) *Soybean oil, soybean oil blends, and soybean products*, in containers, from the plantsite and storage facilities of Archer-Daniels-Midland Co., Inc., located at Lincoln, Nebr., to points in Alabama, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia; and (2) *empty containers* (except in bulk, in tank vehicles), from the destination points named in (1) above, to the origin point named in (1) above.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Lincoln, Nebr.

No. MC 133655 (Sub-No. 92), filed May 10, 1976. Applicant: TRANS-NATIONAL TRUCK, INC., P.O. Box 4168, Amarillo, Tex. 79105. Applicant's representative: Neil A. DuJardin, P.O. Box 2298, Green Bay, Wis. 54306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Stuffed toys*, from Kansas City, Mo., to points on and west of Arkansas, Kansas, Louisiana, Nebraska, North Dakota, Oklahoma, South Dakota, and Texas.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 133959 (Sub-No. 5), filed May 7, 1976. Applicant: LEWIS ALBAUGH and MELVIN ALBAUGH, doing business as ALBAUGH TRUCK LINES, 2000 E. Grand Ave., Des Moines, Iowa 50317. Applicant's representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, Iowa 50309. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Corrugated steel and aluminum pipe and parts and accessories* used in the installation thereof, from Des Moines and Centerville, Iowa, to points in Illinois, Kansas, Minnesota, Missouri, Nebraska, and Wisconsin; and (2) *equipment, materials, and supplies* used in the manufacture of corrugated steel and aluminum pipe, from Lenexa, Kans., to Des Moines, Iowa, restricted against the transportation of commodities in bulk, under a continuing contract or contracts with The Levine Company, Des Moines, Iowa.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Chicago, Ill., or Kansas City, Mo., and/or Omaha, Nebr.

No. MC 134182 (Sub-No. 32), filed April 29, 1976. Applicant: MILK PRODUCTS MARKETING COMPANY, doing business as ALL STAR TRANSPORTATION, Second and West Turnpike Road, P.O. Box 505, Lawrence, Kans. 66044. Applicant's representative: Lucy Kennard Bell, 101 West Eleventh Street, Suite 910 Brookfield Bldg., Kansas City, Mo. 64105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Glass containers*, in packages, from the plantsite of Glass Container Corporation, located at Indianapolis, Ind., to the plantsite of All Star Beverage located at Lawrence, Kans.; and (2) *beverages*, not frozen (except in bulk), from the plantsite of All Star Beverage at Lawrence, Kans., to the plantsite of HiPort Industries, Highlands, Tex.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Kansas City, Mo., or Washington, D.C.

No. MC 134323 (Sub-No. 85), filed May 5, 1976. Applicant: JAY LINES, INC., 720 North Grand, P.O. Box 4146, Amarillo, Tex. 79105. Applicant's representative: Gailyn Larsen, 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: *Such commodities* as are dealt in by retail department stores, and *equipment, materials, and supplies* used in the conduct of the retail department store business (except commodities in bulk), from the facilities of J. C. Penney Company, Inc., at or near Memphis, Tenn., to Houston and Dallas, Tex., Denver, Colo., and Kansas City, Mo., under a continuing contract, or contracts, with J. C. Penney Company, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either New York City, N.Y., or Lincoln, Nebr.

No. MC 134349 (Sub-No. 18), filed May 11, 1976. Applicant: B.L.T. CORPORATION, 405 Third Avenue, Brooklyn, N.Y. 11215. Applicant's representative: Bert Collins, 5 World Trade Center, Suite 6193, New York, N.Y. 10048. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities*, as are dealt in by or used in the operation of retail department stores, between North Bergen, N.J., and New York, N.Y., on the one hand, and, on the other, points in Texas, under a continuing contract with Allied Stores Corporation.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at New York, N.Y.

No. MC 134404 (Sub-No. 26), filed May 6, 1976. Applicant: AMERICAN TRANS-FREIGHT, INC., P.O. Box 499, South Bound Brook, N.J. 08880. 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: *Calcium carbonate, drugs, chemicals, medicines, and toilet preparations* (except commodities in bulk), (1) from North Adams, Mass., to Trenton, N.J.; (2) from Trenton, N.J., to West Haven Conn.; and (3) from West Haven, Conn., to Gloucester City, N.J., under a continuing contract, or contracts, with Miles Laboratories, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at New York, N.Y.

No. MC 134477 (Sub-No. 109), filed May 3, 1976. Applicant: SCHANNO TRANSPORTATION, INC., P.O. Box 3496, St. Paul, Minn. 55165. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, Minn. 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsite and warehouse facilities of Spencer Foods, Inc., located at or near Fremont and Schuyler, Nebr., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia, restricted to traffic originating at the above named origins and destined to the above named destinations.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Minneapolis, Minn.

No. MC 134477 (Sub-No. 110), filed May 3, 1976. Applicant: SCHANNO TRANSPORTATION, INC., P.O. Box 3496, St. Paul, Minn. 55165. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, Minn. 55118. 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 Sections 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 the plantsite and warehouse facilities of Spencer Foods, Inc., located at or near Cherokee, Fort Dodge, Hartley, and Spencer, Iowa, to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia, restricted to traffic originating at the above named origins and destined to the above named destinations.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Minneapolis, Minn.

No. MC 134477 (Sub-No. 111), filed May 3, 1976. Applicant: SCHANNO TRANSPORTATION, INC., P.O. Box 3496, St. Paul, Minn. 55165. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, Minn. 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Woodpulp and paper dishes, plates, trays, and egg cartons*, from Ogdensburg and Plattsburg, N.Y., to points in Illinois, Indiana, Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, Oklahoma, South Dakota, Texas, and Wisconsin.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Minneapolis, Minn.

No. MC 134477 (Sub-No. 112), filed May 10, 1976. Applicant: SCHANNO TRANSPORTATION, INC., P.O. Box 3496, 5 West Mendota Road, St. Paul, Minn. 55165. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, Minn. 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cleaning, washing, buffing, or polishing compounds, textile softener, lubricating grease or oil, and deodorants or disinfectants* (except commodities in bulk), from the facilities of Economics Laboratory, Inc., located at or near Joliet, Ill., to points in Minnesota (except Minneapolis, Minn.) and Fargo, N. Dak., restricted to the transportation of shipments originating at the above named shipper's facility and destined to the above destinations.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Minneapolis, Minn.

No. MC 134477 (Sub-No. 113), filed May 10, 1976. Applicant: SCHANNO TRANSPORTATION, INC., P.O. Box 3496, 5 West Mendota Road, St. Paul, Minn. 55165. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, Minn. 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Materials, supplies, and equipment* (except commodities in bulk) used in the manufacture of personal floatation devices and outer protective clothing, from Chicago, Ill., and points in Georgia, Indiana, Ohio, South Carolina, Tennessee, and Wisconsin, to St. Cloud, Minn.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Minneapolis, Minn.

No. MC 134779 (Sub-No. 11), filed April 19, 1976. Applicant: JANESVILLE AUTO TRANSPORT COMPANY, a Corportation, 1800 S. Jackson Street, Janesville, Wis. 53545. Applicant's representative: Joseph Gracia, P.O. Box 13006, Lansing, Mich. 48901. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Automobiles, trucks, and buses*, as described in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, *and parts thereof*, moving therewith, in secondary movements, in truckaway service, (1) between Janesville, Wis., and points in Ohio; and (2) between Chicago, Ill., and points in Ohio, restricted to traffic originating at or destined to a plant, warehouse, or other facility of General Motors Corporation.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Detroit, Mich., or Washington, D.C.

No. MC 134922 (Sub-No. 170), filed May 7, 1976. Applicant: B. J. McADAMS, INC., Route 6—Box 15, North Little Rock, Ark. 72118. Applicant's representative: Bob McAdams (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Rubber products and compounds* (except commodities in bulk and those which because of size or weight require the use of special equipment), from Columbus and Mansfield, Ohio, to points in Arizona, California, Colorado, Idaho, Nevada, Oregon, Utah, and Washington.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either San Francisco, Calif., or Little Rock, Ark.

No. MC 135185 (Sub-No. 28), filed April 27, 1976. Applicant: COLUMBINE CARRIERS, INC., 5925 East Evans Avenue, P.O. Box 22198, Denver, Colo. 80222. Applicant's representative: Charles J. Kimball, 350 Capitol Life Center, 1600 Sherman Street, Denver, Colo. 80203. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Razors and razor blades, toilet articles and toilet preparations, pens and markers, shaving*

cream, stationery and stationery products, cigarette lighters, cleaning compounds and pads, hair curlers, hair spray, shampoo, sponges, fire extinguishers, electric appliances, deodorants, dispensers, sound warning signals, and display racks, stands and cabinets, and material, equipment, and supplies used in the manufacture and distribution of the commodities named above, (a) from Andover, Mass., to points in Pennsylvania, Ohio, Illinois (except East St. Louis), Minnesota, and points in that part of New York on and west of a line beginning at the United States-Canada Boundary line and extending along Interstate Highway 87 to junction New York Highway 17 and thence west along New York Highway 17 to the New York-New Jersey State line, and Dallas, Tex.; Los Angeles; and La Mirada, Calif.; Detroit, Mich.; and Seattle and Kent, Wash.; (b) from St. Paul, Minn., to points in Illinois (except East St. Louis and points in that part of Illinois located on and north of U.S. Highway 6), Newark, N.J.; Baltimore, Md.; Dallas, Tex.; Los Angeles and La Mirada, Calif.; Richmond, Va.; Detroit, Mich.; Andover and Boston, Mass.; Kearny, N.J.; Farmingdale, N.Y.; Seattle and Kent, Wash.; Denver, Colo.; and points in Ohio, Pennsylvania and the District of Columbia; (c) from Santa Monica, Calif., to Andover and Boston, Mass.; and points in Illinois.

(2) *Materials, equipment, and supplies* used in the manufacture and distribution of the above named commodities (a) from the destinations named in (1) (a) above to Andover and Boston, Mass.; (b) from the destinations named in (1) (c) above to St. Paul, Minnesota; and (c) from the desntiations named in (1) (c) above to Santa Monica, Calif.; (3) *Soils, soil conditioners, plant care products, and accessories* from Philmont, N.Y., and Copley, Ohio, to points in Ohio, Illinois, Indiana, Massachusetts, Connecticut, North Carolina, New York, New Jersey, Pennsylvania, Maryland, Maine, Texas, Vermont, Rhode Island, New Hampshire, and the District of Columbia; (4) *Materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (3) above from the destinations named in (3) above to Philmont, New York, and Copley, Ohio; (5) *Cans* from Derry, N.H., to St. Paul, Minn.; (6) *Plastic pots* from Fitchburg, Mass., to Chicago, Ill., under a continuing contract, or contracts, with The Gillette Company of Andover, Massachusetts.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Boston, Mass.

No. MC 135437 (Sub-No. 8), filed April 27, 1976. Applicant: TRI-NORTHEASTERN TRANSPORT, INC., South Main Street, Lyndonville, N.Y. 14098. Applicant's representative: S. Michael Richards, 44 North Avenue, Webster, N.Y. 14580. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Unfrozen foodstuffs* (except in bulk), (1) between Hamlin and Williamson, N.Y., on the one hand, and, on the other, Bailey and Hartford, Mich.; and (2) from Bailey and Hartford, Mich., to points in Arkansas, Illinois, Indiana, Kentucky, Missouri, Ohio, Oklahoma, Tennessee, and Texas.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either New York City or Buffalo, N.Y.

No. MC 135680 (Sub-No. 7), filed May 5, 1976. Applicant: BEVERAGE DISTRIBUTORS, INC., 204 N. Butterfield Road, P.O. Box 1436, Yakima, Wash. 98907. Applicant's representative: Philip G. Skofstad, 3076 E. Burnside, Portland, Oreg. 97214. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from (1) Fairfield, Calif., to Moses Lake, Wenatchee, and Yakima, Wash., and (2) from Los Angeles and San Francisco, Calif., and Portland, Oreg., to Moses Lake, Wash.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Wenatchee, Wash.

No. MC 135684 (Sub-No. 19) (Partial correction), filed February 3, 1976, published in the FEDERAL REGISTER issues of March 18, April 15, and May 6, 1976 republished as corrected this issue. Applicant: BASS TRANSPORTATION CO., INC., Old Croton Road, P.O. Box 391, Flemington, N.J. 08822. 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: (15) *sewing machine heads and stands*, between East Pepperell and Ayer, Mass., on the one hand, and, on the other, points in Delaware, Maryland, New Jersey, New York, Pennsylvania, and Virginia.

NOTE.—The purpose of this partial republication is to include Pennsylvania in the territorial description. The rest of the application remains the same.

No. MC 135684 (Sub-No. 23), filed May 3, 1976. Applicant: BASS TRANSPORTATION CO. INC., Old Croton Road, P.O. Box 391, Flemington, N.J. 08822. Applicant's representative: Herbert A. Dubin, 1819 H Street NW., Federal Bar Building West, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Laboratory and hospital equipment and chemicals* (except in bulk), between Bridgewater Township, Somerset County, N.J., and Tustin, Calif.; and (2) *materials, supplies, and equipment* used in the manufacture, distribution, or sale of the commodities described in (1) above (except in bulk), from Tustin, Calif., to Bridgewater Township, Somerset County, N.J.

NOTE.—Applicant holds contract carrier authority in MC 87720 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 135797 (Sub-No. 54), filed April 29, 1976. Applicant: J. B. HUNT TRANSPORT, INC., U.S. Highway 71, P.O. Box 200, Lowel, Ark. 72745. Applicant's representative: L. C. Cypert, 204 Highway 71 North, Suite 3, Springdale, Ark. 72764. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pet food*, dry (except in bulk), from Red Bay, Ala., and Tupelo, Miss., to points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, Wisconsin, and the District of Columbia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Birmingham or Memphis, Tenn.

No. MC 135866 (Sub-No. 3), filed May 4, 1976. Applicant: JACK L. MASSENDER, doing business as ZILLAH HAULING SERVICE, 6502 Pittsburgh Street, Spokane, Wash. 98207. Applicant's representative: George R. LaBissoniere, 1100 Norton Building, Seattle, Wash. 98104. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Building materials*, between Seattle, Tacoma, and Spokane, Wash., and Portland, Oreg., on the one hand, and, on the other, points in California, Idaho, Montana, Oregon, and Washington, under a continuing contract or contracts with Savage Wholesale Building Materials, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Seattle, Wash.

No. MC 136464 (Sub-No. 20) (Correction), filed March 24, 1976, published in the FEDERAL REGISTER issue of May 6, 1976, and republished as corrected this issue. Applicant: CAROLINA WESTERN EXPRESS, INC., P.O. Box 3961, Gastonia, N.C. 28052. Applicant's representative: Eric Meierhoefer, 303 N. Frederick Avenue, Gaithersburg, Md. 20760. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Floor coverings and materials and supplies* used in the installation, manufacture, packaging, and sale of floor coverings, when moving in mixed loads with floor coverings, (a) between the facilities of Bigelow-Sanford, Inc., located at or near Landrum, Greenville, Belton, and Calhoun Falls, S.C.; Lyerly, Ga.; Sparks, Nev.; Los Angeles, Calif.; and Dallas, Tex.

NOTE.—The purpose of this republication is to indicate that Sparks is located in Nevada in lieu of Nebraska, which was published in error. If a hearing is deemed necessary, the applicant requests it be held at either Greenville, S.C., or Charlotte, N.C.

No. MC 136605 (Sub-No. 13), filed May 5, 1976. Applicant: DAVIS BROS. DIST., INC., 2024 Trade Street, P.O. Box 1027, Missoula, Mont. 59801. Applicant's representative: W. E. Seliski (same address as applicant). Authority sought to

operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bentonite, bentonite clay, and mud treating compounds*, from the plantsites of Wyo-Ben Products, Inc., located at or near Greybull and Lovell, Wyo., to points in California.

NOTE.—Applicant holds contract carrier authority in MC 127349 Sub-No. 2, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Missoula or Billings, Mont.

No. MC 136899 (Sub-No. 18), filed May 10, 1976. Applicant: HIGGINS TRANSPORT LTD., 1165 E. Haseltine Street, P.O. Box 192, Richland Center, Wis. 53581. Applicant's representative: Wayne W. Wilson, 329 West Wilson Street, Madison, Wis. 43703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Agricultural implements and machinery and parts and accessories thereof* (except in bulk), from Muscoda, Wis., and Harvard, Ill., to points in the United States (except Alaska and Hawaii); and (2) *materials, equipment, and supplies* used in the manufacture, sale or distribution of the commodities named in (1) above (except in bulk), from points in the United States (except Alaska and Hawaii), to Muscoda, Wis.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Madison or Milwaukee, Wis.

No. MC 138018 (Sub-No. 30), filed May 7, 1976. Applicant: REFRIGERATED FOODS, INC., 1420 33rd Street, P.O. Box 1018, Denver, Colo. 80201. Applicant's representative: Joseph W. Harvey (same address as applicant). 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 Sections 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, in tank vehicles), from the facilities of Flavorland Industries, Inc., located at or near Fargo and West Fargo, N. Dak., to points in Arizona, California, Montana, Nevada, Oregon, Utah, and Washington, restricted to the transportation of shipments originating at the above described facilities and origins and destined to points in the above-described destination states.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Omaha, Nebr., or St. Paul, Minn.

No. MC 138104 (Sub-No. 32), filed May 3, 1976. Applicant: MOORE TRANSPORTATION CO., INC., 3509 N. Grove Street, Fort Worth, Tex. 76106. Applicant's representative: Bernard H. English, 6270 Firth Road, Fort Worth, Tex. 76116. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Corrugated containerboard sheets*, from Grand Prairie, Tex., to Fort Smith, Little Rock, and Benton, Ark.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Fort Worth or Dallas, Tex.

No. MC 138203 (Sub-No. 5), filed April 30, 1976. Applicant: CURTIS BROTHERS TRUCKING CO., INC., Rte 6, Box 221E, Falmouth, Va. 22401. Applicant's representative: Daniel B. Johnson, 1329 E St. NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Scrap metal*, from points in Virginia, to points in Delaware, Maryland, New Jersey, Pennsylvania, Tennessee, and West Virginia, restricted against the transportation of traffic originating at Winchester, Va., and its Commercial Zone, and destined to points in Delaware, New Jersey, and Pennsylvania.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 138281 (Sub-No. 5), filed May 7, 1976. Applicant: MILL TRUCKING CORPORATION, 1601 Harris Road, Laverock, Pa. 19118. Applicant's representative: Ronald I. Shapss, 450 Seventh Avenue, New York, N.Y. 10001. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Paperboard, scrap, and skids*, between Philadelphia, Pa., on the one hand, and, on the other, points in Alabama, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, Mississippi, New Hampshire, New Jersep, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia restricted to a transportation service to be performed under a continuing contract or contracts with Newman and Company, Inc. of Philadelphia, Pa.

No. MC 138512 (Sub-No. 14), filed May 3, 1976. Applicant: ROLAND'S TRANSPORTATION SERVICES, INCORPORATED, doing business as, WISCONSIN PROVISIONS EXPRESS, 3383 East Layton Avenue, Cudahy, Wis. 53110. Applicant's representative: Richard C. Alexander, 710 North Plankington Avenue, Milwaukee, Wis. 53203. Authority sought to operate as a *contract carrier*, by motor vehicle over irregular routes, transporting: (1) *Cheese and cheese products and materials, equipment, and supplies* used in the manufacture or display of cheese and cheese products (except commodities in bulk), (a) from points in Iowa and Wisconsin, to Logan, Utah; and (b) from Green Bay, Wis., to Logan, Utah; Omaha, Nebr.; and points in Colorado; and (2) *materials and supplies*, used in the manufacture of cheese and cheese products (except commodities in bulk), (a) from Elkhart, Ind., to Carthage and Monett, Mo.; Logan, Utah; and (b) from Rochester, Minn., to Cartheage and Monett, Mo.; Logan, Utah; and Green Bay, Wis.; (1) and (2) are under a continuing contract, or contracts, with L. D. Schreiber Cheese Co., Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Logan or Salt Lake City, Utah, or Milwaukee, Wis.

No. MC 139193 (Sub-No. 37), filed May 3, 1976. Applicant: ROBERTS & OAKE, INC., 208 South LaSalle Street, Chicago, Ill. 60604. Applicant's representative: Jacob P. Billig, 1126 16th Street NW., Washington, D.C. 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products, dairy products, articles distributed by meat packinghouses* and *such commodities* as are used by meat packers in the conduct of their business as described in Sections A, B, C and D of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and liquid commodities in bulk), from points in Iowa, Kansas, Minnesota, Missouri, Nebraska, and North Dakota to the plantsite and facilities utilized by John Morrell & Co. at Sioux Falls, S. Dak., restricted to traffic transported under contracts with John Morrell & Co.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Washington, D.C. or Chicago, Ill.

No. MC 139906 (Sub-No. 7), filed May 7, 1976. Applicant: INTERSTATE CONTRACT CARRIER CORPORATION, 265 W. 2700 South, P.O. Box 748, Salt Lake City, Utah 84115. 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: *Strollers, folding chairs, baby car seats, playpens, bassinettes, swings*, and *equipment, materials and supplies*, used in the manufacture thereof (except commodities in bulk or those which because of size or weight require special handling or equipment), from the plantsite facilities of Strolee of California located at Compton, Calif. to points in Connecticut, Georgia, Indiana, Missouri, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee and Texas.

NOTE.—Applicant holds contract carrier authority in MC 134599 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Lincoln, Nebr. or Salt Lake City, Utah.

No. MC 139923 (Sub-No. 13) filed April 28, 1976. Applicant: MILLER TRUCKING CO., INC., 105 S. 8th Street, P.O. Drawer "D," Stroud, Okla. 74079. Applicant's representative: Jack H. Blanshan, 205 West Touhy Avenue, Suite 200, Park Ridge, Ill. 60068. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen bakery goods*, from the plantsites and storage facilities of or utilized by Tennessee Doughnut Corporation, located at or near Nashville, Tenn., to points in Arkansas, Colorado,

Illinois, Indiana, Kansas, Louisiana, Michigan, Missouri, New Mexico, Ohio, Oklahoma, and Texas, restricted to the transportation of traffic originating at the above named origin and destined to the named destinations.

NOTE.—Applicant holds contract carrier authority in MC 139926 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Nashville, Tenn.

No. MC 139982 (Sub-No. 1), filed April 28, 1976. Applicant: INCOME BENEFITS, INC., doing business as DUVAL TRANSPORTATION COMPANY, 1010 Lake Adair Blvd., Orlando, Fla. 32809. Applicant's representative: John J. Duval, P.O. Box 1849, Orlando, Fla. 32802. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), restricted to a prior or subsequent movement by air, between points in Alachua, Hernando, Hillsboro, Lake, Marion, Orange, Osceola, Pasco, Polk, Seminole, Sumter, Dade, Sarasota, Manate, Pinellas, Desoto, Hardee, Indian River, Brevard, Volusia, and Citrus counties, Fla.

NOTE.—Applicant holds contract carrier authority in No. MC 140207 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Orlando, Fla.

No. MC 140033 (Sub-No. 13), filed May 7, 1976. Applicant: COX REFRIGERATED EXPRESS, INC., 10606 Goodnight Lane, Dallas, Tex. 75220. Applicant's representative: E. Larry Wells, 4645 N. Central Expressway, Dallas, Tex. 75205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ice cream*, from McKinney, Tex., to Albuquerque, N. Mex.; Colorado Springs and Denver, Colo.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Dallas, Tex.

No. MC 140869 (Sub-No. 5), filed May 3, 1976. Applicant: KERRI TRUCKING, INC., 162 Closter Dock Rd., Closter, N.J. 07624. Applicant's representative: Morton E. Kiel, 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: *Prepared edible flour and bread crumbs* (except in bulk), from Queens, N.Y., to points in and east of Illinois, Kentucky, Louisiana, Mississippi, Tennessee and Wisconsin, under a continuing contract, or contracts, with Modern Maid Food Products, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at New York, N.Y.

No. MC 141320 (Sub-No. 4), filed May 6, 1976. Applicant: UNITED STATES PRIORITY TRANSPORT CORPORATION, 6 Ray Court, Melville, N.Y. 11746. Applicant's representative: Martin D. Friedman (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Medical isotopes, radio-pharmaceuticals, and medical test kits*, between South Plainfield, N.J., New York, N.Y., and Boston, Mass., on the one hand, and, on the other, points in New York (except New York City and points in Rockland, Westchester and Nassau Counties), points in Connecticut (except Fairfield, New Haven, Hartford, Middlesex and New London, Counties), and points in Rhode Island, Massachusetts, Maine, Vermont, and New Hampshire, under a continuing contract with Medi-Physics.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either New York, N.Y. or Washington, D.C.

No. MC 141705 (Correction), filed January 14, 1976, published in the FEDERAL REGISTER issue of February 20, 1976, and republished as corrected this issue. Applicant: KINGSDALE CARRIERS LIMITED, 423 Ingersoll Avenue, Woodstock, Ontario, Canada. Applicant's representative: Robert D. Gunderman, Suite 710 Statler Hilton, Buffalo, N.Y. 14202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lime*, in bulk and in bags, from the facilities of Domtar Chemicals Limited at Beachville and the City of Cambridge, Ontario, Canada, to points in Michigan, New York, Ohio and Pennsylvania, through ports of entry on the International Boundary line between the United States and Canada located at Niagara, St. Lawrence, Detroit and St. Clair Rivers.

NOTE.—The purpose of this republication is to bring applicant's request for authority into compliance with the Commission's disclosure requirements on Canadian traffic. If a hearing is deemed necessary, the applicant requests it be held at Buffalo, N.Y.

No. MC 141804 (Sub-No. 9), filed May 7, 1976. Applicant: WESTERN EXPRESS, P.O. Box 422, Goodlettsville, Tenn. 37072. Applicant's representative: Richard A. Peterson, P.O. Box 81849. Lincoln, Nebr. 68509. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wrapping paper*, from Longview, Wash., to the plant site and sorage facilities of Avery Label located at or near Monrovia, Calif.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Nashville, Tenn. or Los Angeles, Calif.

No. MC 141837 (Sub-No. 2), filed May 3, 1976. Applicant: ELLIS AG. SERVICE, INC., 504 Henderson Street, Andalusia, Ala. 36420. Applicant's representative: Selwyn Hale Ellis (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood chips*, from Lockhart, Ala., to Cantonment, Fla. and Cedar Springs, Ga.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Montgomery or Birmingham, Ala.

No. MC 141909 (Sub-No. 2), filed May 3, 1976. Applicant: GLEN W. COLLUMS, Route 1, Box 164–E, Dexter, N. Mex. 88230. Applicant's representative: Daniel F. Rogers, 1820 Paseo de La Conquistadora, Santa Fe, N. Mex. 87501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Articles from meat packinghouses* (except hides and commodities in bulk), including meat, byproducts, such as hanging fresh beef quarters; prepared lunch meats, sausage, bacon; cured hams, and cut-up pork and beef in boxes, (1) between Tucson, Ariz., and Roswell, N. Mex.; and (2) between Roswell, N.M., and points in Texas south of Interstate Hhighway 40, to the Texas-Oklahoma state line (including points on Interstate Highway 40); thence, from the Texas-Oklahoma state line west of Interstate Highway 35, to Dallas, Tex. (including points on Interstate Highway 35), and thence west of U.S. Highway 77, from Dallas, Tex., to the port of entry on the International Boundary line between the United States and the Republic of Mexico.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at either Roswell or Albuquerque, N. Mex.

No. MC 141946 (Correction), filed April 2, 1976, published in the FEDERAL REGISTER issue of May 6, 1976, and republished as corrected this issue. Applicant: ACTION CENTER MOVING & STORAGE, INC., 617 West Central Boulevard, Orlando, Fla. 32801. Applicant's representative: Sol H. Proctor, 1107 Blackstone Building, Jacksonville, Fla. 32202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, between points in Citrus, Hernando, Lake, Orange, Seminole, Sumter, and Volusia Counties, Fla., restricted to the transportation of traffic having a prior or subsequent movement, in containers, beyond the points authorized, and further restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization or unpacking, uncrating and decontainerization of such traffic.

NOTE.—The purpose of this republication is to include Volusia County, Fla. as a base radial point. If a hearing is deemed necessary, the applicant requests it be held at either Jacksonville or Orlando, Fla.

No. MC 141984, filed March 29, 1976. Applicant: R. S. ALBRIGHT, INC., 2212 1st Avenue South, Seattle, Wash. 98134. Applicant's representative: Robert Albright (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities* as are dealt in by wholesale paper distributors, such as paper and paper related items, from Stow, Alliance, Hamilton, and Toledo, Ohio; Gary, Ind.; Chicago, Ill.;

Ashdown and Fort Smith, Ark.; Brainerd and Cloquet, Minn.; Nekoosa, Port Edwards, Wausau, Wisconsin Rapids, Stevens Point, Wisconsin Dells, and Appleton, Wis., and Springhill and Moss Point, La., to Seattle, Tacoma and Blaine, Wash., and Portland, Oreg.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Seattle, Wash.

No. MC 141996, filed April 27, 1976. Applicant: MARK TRANSPORTATION, INC., 2501 Commercial Street, N.E., Albuquerque, N. Mex. 87101. Applicant's representative: Charles J. Kimball, 350 Capitol Life Center, 1600 Sherman Street, Denver, Colo. 80203. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Floor covering* and *floor covering materials, equipment* and *supplies* (1) from points in Florida, Georgia, South Carolina, Tennessee and Virginia, to points in Arizona, California, Nevada, New Mexico, Oklahoma and Texas; (2) between points in Arizona, Nevada, New Mexico, Oklahoma and Texas; and (3) from Albuquerque, N. Mex., to points in California, Colorado, Georgia, South Carolina, Tennessee, Utah and Virginia, restricted to a transportation service to be provided under contract with Master Weave Carpets, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Albuquerque, N. Mex.

No. MC 141997, filed April 26, 1976. Applicant: HARRY E. KIMBER, Box 173, Utica, Mo. 64686. Applicant's representative: Edward P. Milbank, P.O. Box 367, Chillicothe, Mo. 64601. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Feed ingredients*, between points in Arkansas, Illinois, Iowa, Kansas, Nebraska, and Oklahoma, on the one hand, and, on the other, the facilities of Milbank Mills, Inc., located at Chillicothe, Mo., under a continued contract or contracts with Milbank Mills, Inc.

NOTE. If a hearing is deemed necessary, the applicant requests it be held at either Chillicothe, or Kansas City, Mo.

No. MC 142013 (Sub-No. 2), filed May 12, 1976. Applicant: CONCRETE TRUCKING INC., doing business as AGGREGATE TRUCKING, 36450 Mission Blvd., P.O. Box 2715, Fremont, Calif. 94536. Applicant's representative: John Paul Fischer, 256 Montgomery St., 5th Floor, San Francisco, Calif. 94104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, tranporting: *Ferro alloys*, in bulk, from Vernalis and Hayward, Calif., to Phoenix and Tempe, Ariz., and Portland, Oreg.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at San Francisco, Calif.

No. MC 142018, filed April 26, 1976. Applicant: ROBERT B. CARR, doing business as BOB CARR REFRIGERATED TRANSPORTATION, 1961 Hidden Lane, Long Beach, Calif. 90815. Applicant's representative: Robert Gleason, 15 South Grady Way, Evergreen Bldg., No. 217, Renton, Wash. 98055. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meat and meat products, fresh and frozen;* foods as may be dealt in by health food stores and food products consisting of salad dressings and cocktail bar mix, (1) from points in Washington to points in California and Oregon; and (2) from Los Angeles, Calif., to points in Oregon and Washington, (1) and (2) are both under a continuing contract or contracts with Flavorland Industries, Inc.; Gol-Pak; Pfeiffer's Foods; Superior Packing Co.; Vienna Sausage Mfg. Co. and Health Maid, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Seattle, Wash., or Los Angeles, Calif.

No. MC 142021, filed April 19, 1976. Applicant: EDCO ENTERPRISES, INC., 2890 Fairfax Road, Kansas City, Kans. 66115. Applicant's representative: Erle W. Francis, Suite 719–700 Kansas Avenue, Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Alcoholic beverages*, including, but not limited to, wine, beer and distilled spirits, from points in Illinois, Indiana, Kentucky, Michigan, Missouri, Ohio, Oklahoma, Tennessee, and Texas, to Junction City, Kansas City and Parsons, Kans., restricted against the transportation of any such commodities in bulk, and further restricted to shipments destined to warehouses of Eastern Distributing Co., Inc., located at Kansas City, Kans., Southeastern Distributors, Inc., located at Parsons, Kans., State Distributors, Inc., and C–K Distributors, Inc., located at Junction City, Kans.; and (2) *empty containers*, from destination points, to points of origin as named in (1) above.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Kansas City, Mo. or Topeka, Kans.

No. MC 142033 (Sub-No. 1), filed May 3, 1976. Applicant: TUYA CARTAGE & WAREHOUSE CORP., 1351 N.W. 78th Avenue, Miami, Fla. 33126. Applicant's representative: John P. Bond, 2766 Douglas Road, Miami, Fla. 33133. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk, Classes A and B explosives, household goods as defined by the Commission, livestock, and those requiring special handling and special equipment), between points in Dade County, Fla. restricted to shipments having a prior or subsequent movement by water, under a continuing contract or contracts, with Tuya International Corp.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Miami, Fla.

No. MC 142034 (Sub-No. 1), filed May 4, 1976. Applicant: UNION TRUCKING & WAREHOUSING, INC., 3900 N.W. 79th Avenue, Miami, Fla. 33166. Applicant's representative: John P. Bond, 2766 Douglas Road, Miami, Fla. 33166. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, (except commodities in bulk, Class A and B explosives, household goods as defined by the Commission, livestock and commodities requiring special handling and equipment), between points in Dade County, Fla., restricted to shipments having a prior or subsequent movement by water, under a continuing contract or contracts with Union Shipping Co.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Miami, Fla.

PASSENGER APPLICATIONS

No. MC 15401 (Sub-No. 2), filed May 10, 1976. Applicant: STORER TRANSPORTATION SERVICE, INC., 3519 McDonald Avenue, Modesto, Calif. 95351. Applicant's representative: Raymond A. Greene, Jr., 100 Pine Street, Suite 2550, San Francisco, Calif. 94111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in the same vehicle with passengers, in special and charter operations in round trip tours, beginning and ending at points in Calaveras County, Calif. and extending to points in the United States (excluding Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at San Francisco, Calif.

No. MC 140845 (Sub-No. 2), filed April 28, 1976. Applicant: HOKE BUS LINES, INC., 2600 Willowburn Avenue, Dayton, Ohio 45427. Applicant's representative: Lewis S. Witherspoon, 88 East Broad Street, Suite 930, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers, and their baggage*, in charter and special operations, in round-trip sightseeing and pleasure tours, beginning and ending at points in Delaware County, Ohio, and extending to points in the United States (including Alaska, but excluding Hawaii).

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 141594 (Sub-No. 1), filed March 12, 1976. Applicant: TRANSPORTATION SERVICE, INC., 1453 Black Hills Ave., Alliance, Nebr. 69301. Applicant's representative: James G. Wegner (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, tranpsorting: *Passengers, who are train crews and their baggage* in the same vehicle with passengers, between Alliance, Nebr., points in South Dakota (except Brookings, Codington, Day, Deuel, Grant, Marshall, Moody, Roberts, and Union Counties, S. Dak.), points in Colorado (except those in Alamosa, Archuleta, Baca, Bent, Chaffee, Conejos, Costilla, Custer, Delta, Denver, Dolores, Gun-

nison, Hinsdale, Huerfano, Kit, Carson, La Plata, Las Animas, Mesa, Mineral, Montezuma, Montrose, Ouray, Park, Pitkin, Prowers, Rio Grande, Routt, Saguache, San Juan, and San Miguel Counties, Colo.), points in Nebraska (except those in Burt, Butler, Cass, Colfax, Cuming, Dakota, Dixon, Dodge, Douglas, Gage, Jefferson, Johnson, Lancaster, Lincoln, Nemaha, Pawnee, Richardson, Sarpy, Saunders, Thurston, and Washington Counties, Nebr.), and points in Wyoming (except those in Lincoln, Park, Sublette, Teton, and Uinta Counties, Wyo.), restricted to a transportation service to be performed under a continuing contract or contracts with Burlington Northern, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Denver, Colo.

BROKER APPLICATIONS

No. MC 130376, filed April 9, 1976. Applicant: HOLIDAY TRAVEL SERVICE OF DANVILLE, INC., 645 D West Main Street, (Ballou Park Shopping Center), P.O. Box 1442, Danville, Va. 24541. Applicant's representative: Gary D. Beyer (Same address as applicant). Authority sought to engage in operation, in interstate or foreign commerce, as a *broker* at Danville, Va., to sell or offer to sell the transportation by bus of *passengers and their baggage*, from Danville, Va., and points in Halifax, Henry, and Pittsylvania Counties, Va., to points in the United States, including Alaska and Hawaii.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Danville, Roanoke, or Richmond, Va.

No. MC 130378, filed April 14, 1976. Applicant: B.W.C. TRANSPORTATION AGENCY, INC., 300 Ohio Street, Buffalo, N.Y. 14204. Applicant's representative: John R. Hamlet, 2200 Erie County Saving Bank Bldg., Buffalo, N.Y. 14202. Authority sought to engage in operations, in interstate or foreign commerce, as a *broker* at Buffalo, N.Y., to sell or offer to sell to motor common carriers the transportation of *general commodities*, between points in Erie, Niagara, Chautauqua, Genesee, Cataraugus, Wyoming, Orleans and Livingston Counties, N.Y., and Elk and Jefferson Counties, Pa., on the one hand, and, on the other, and points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Buffalo, N.Y.

No. MC 130379, filed April 16, 1976. Applicant: CAROL K. BERTRAND, doing business as CB TOURS, 305 Chipeway Avenue, Daytona Beach, Fla. 32108. Applicant's representative: S. Harrison Kahn, Suite 733, Investment Building, Washington, D.C. 20005. Authority sought to engage in operation, in interstate or foreign commerce, as a *broker* at Daytona Beach, Fla., to sell or offer to sell the transportation of *Passengers and their baggage*, in round trip tours, by motor vehicle or by any combination of transportation, beginning and ending at points in Alachua, Baker, Bradford, Brevard, Clay, Columbia, Duval, Flagler, Hamilton, Lake, Marion, Nassau, Orange, Putnam, Seminole, St. Johns, Union, and Volusia Counties, Fla., and extending between points in the United States, including Alaska and Hawaii.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Daytona Beach, Fla.

FINANCE APPLICATIONS

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control through ownership of stock, of rail carriers or motor carriers pursuant to Sections 5(2) or 210a(b) of the Interstate Commerce Act.

An original and two copies of protests to the granting of the requested authority must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such protest shall comply with Special Rules 240(c) or 240(d) of the Commission's General Rules of Practice (49 CFR § 1100.240) and shall include a concise statement of protestant's interest in the proceeding. A copy of the protest shall be served concurrently upon applicant's representative, or applicant if no representative is named.

No. MC–F–12810 (Correction) (VIRGINIA LEE PEARSON—CONTROL—(B) CASE DRIVEWAY INC., AND (BB) MILLS TRANSFER CO.), published in the FEDERAL REGISTER April 22, 1976. Prior notice should read *Register Practitioner* instead of *Applicants' Attorney*. Also it should exclude under (BB) *General commodities*

No. MC–F–12836. Authority sought for purchase by LIME CITY TRUCKING COMPANY INCORPORATED, 1455 Swan Street, Huntingon, IN., 46750, of the operating rights of ROBERT O. EVANS d/b/a JOHNSON EXPRESS LINE, 210 Kent Street, Rockford, IL., 71101, and for acquisition by ESTATE OF CLEM J. GETTY, Fort Wayne, IN., and CLEM R. GETTY, 1455 Swan St., Huntington, IN., 46750, of control of such rights through the purchase. Applicants' attorney: Donald W. Smith, Suite 2465 One Indiana Square, Indianapolis, IN., 46204. Operating rights sought to be transferred: Under a certificate of registration in Docket No. MC–99206 (Sub-No. 1) covering the transportation of general commodities within a 50 mile radius of Rockford, Illinois and between points within a 50 mile radius of Rockford, Illinois on the one hand and points in Illinois on the other. Household goods, fixtures, castings and machinery between all points and places in Illinois. Vendee is authorized to operate as a *common carrier* in Indiana, Illinois, New York, Kentucky, Ohio, and Pennsylvania. Application has not been filed for temporary authority under section 210a(b).

NOTE.—MC–20872 Sub 16 is a directly related matter.

No. MC–F–12839. Authority sought for purchase by STOCKBERGER TRANSFER & STORAGE, INC., 524 Second Avenue, SW, P.O. Box 1095, Mason City, IA., 50401, of the operating rights and property of HOWARD BLY, an individual, P.O. Box 32, Oelwein, IA., 50662, and for acquisition by FRED J. STOCKBERGER, MABEL STOCKBERGER, 507 So. Tennessee, Mason City, IA., 50401 and LLOYD E. STOCKBERGER, 1110 Crestmore, Mason City, IA., 50401, and JAMES L. RASMUSSEN, 708–3rd SW, Mason City, IA., 50401, and of control of such rights through the purchase. Applicants' attorney: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA., 50309. Operating rights and property sought to be transferred: *Livestock*, as a *common carrier* over irregular routes from Arlington, Iowa and points in Iowa within 25 miles of Arlington to Chicago, Ill. with no transportaton for compensation on return except as otherwise authorized, *feed*, from Forest Park and Chicago, Ill., to Arlington, Oelwein, and Wadena, Iowa, with no transportation for compensation on return except as otherwise authorized, *farm seeds, rope, binder twine, farm machinery* and *parts*, and *agricultural implements* and *parts*, from Chicago, Ill., to Arlington, Oelwein and Wadena, Iowa, with no transportation for compensation on return except as otherwise authorized, *Malt beverages* and *soft drinks*, in containers, from Madison, Milwaukee Sheboygan, and Waukesha, Wisc. to Oelwein, Iowa; and *empty containers*, for malt beverages and soft drinks, from Oelwein, Iowa, to the Wisconsin-points specified immediately above, *malt beverages*, from Milwaukee, La Crosse, and Potosi, Wisc., to New Hampton and Cedar Rapids, Iowa; and empty containers, for malt beverages, from New Hampton and Cedar Rapids, Iowa, to Milwaukee, La Crosse, and Potosi, Wisc., *malt beverages*, from Milwaukee, Wisc., and Chicago, Ill., to Waterloo, Iowa; and *Empty Malt-beverages* containers, from Waterloo, Iowa to Milwaukee, Wisc., and Chicago, Ill. Vendee is authorized to operate as a *common carrier* in Iowa, Illinois, Minnesota, Wisconsin, South Dakota, North Dakota, Nebraska, Michigan, Kansas, Missouri, Indiana, Ohio, Pennsylvania. Application has not been filed for temporary authority.

No. MC–F–12841. Authority sought for purchase by SOUTHWEST EQUIPMENT RENTAL, INC., dba SOUTHWEST MOTOR FREIGHT, 4284 Mission Boulevard, Pomona, CA., 91769, of a portion of the operating rights of INTERSTATE EXPRESS, INC., 401 East Grant Street, Streator, IL., 61364, and for acquisition by CLYDE M. FULLER P.O. Box 2171, Fort Oglethorpe, GA., 30742, of control of such rights through the purchase. Applicants' attorneys: Patrick E. Quinn, P.O. Box 82028, Lincoln, NB., 68501, and B.W. LaTourette, Jr., 11 S. Meramec Ave., Suite 1400, St. Louis, MO., 63105. Operating rights sought to be transferred: *Glass containers*, as a *common carrier* over irregular routes from Seneca, Streator, and Ottawa, Ill. to points in Missouri (except points in the St. Louis,

Mo.-East St. Louis, Ill., commercial zone), *Fiberboard or paperboard boxes*, from Streator, Ill., to points in Missouri (except points in the St. Louis, Mo.-East St., Louis, Ill., commercial zone), *Empty containers* and *pallets*, from points in Missouri (except points in the St. Louis, Mo.-East St. Louis, Ill., commercial zone) to Streator, Seneca, and Ottawa, Ill., with restrictions. *Glass Containers, caps, covers, tops, rings,* and *stoppers* for glass containers, and *fibreboard boxes*, from Streator, Ill., to points in Kentucky and Tennessee, with no transportation for compensation on return except as otherwise authorized, *cullet*, from points in Kentucky and Tennessee, to Streator, Ill., with no transportation for compensation on return except as otherwise authorized. Vendee is authorized to operate as a *common carrier* in all the States of the United States (except Alaska and Hawaii), including the District of Columbia. Application has been filed for temporary authority under section 210a(b).

THE CHESAPEAKE AND OHIO RAILWAY COMPANY, Terminal Tower, Cleveland, Ohio 44101, represented by Mr. René J. Gunning, General Attorney, The Chesapeake and Ohio Railway Company, Two North Charles Street, Baltimore, Maryland 21201, hereby give notice that on the 19th day of May, 1976, it filed with the Interstate Commerce Commission at Washington, D.C., an application under Section 5(2) of the Interstate Commerce Act for an order approving and authorizing the acquisition of trackage rights over the tracks of The Baltimore and Ohio Railroad Company between Wellsboro, Indiana, and Pine Junction, Indiana, a distance of approximately 36.06 miles, all in LaPorte, Porter and Lake Counties, Indiana, which application is assigned Finance Docket No. 28188.

In the opinion of the applicant, granting the authority sought in this application would not constitute a major Federal action having a significant effect upon the quality of the human environment within the meaning of the National Environmental Policy Act of 1969. In accordance with the Commission's regulations (49 C.F.R. 1100.250) in Ex Parte No. 55 (Sub-No. 4), Implementation—Nat'l Environmental Policy Act, 1969, 340 I.C.C. 431 (1972), any protests may include a statement indicating the presence or absence of any effect of the requested Commission action on the quality of the human environment. If any such effect is alleged to be present, the statement shall include information relating to the relevant factors set forth in Ex Parte No. 55 (Sub-No. 4), supra, Part (b)(1)–(5), 340 I.C.C. 431, 461.

Pursuant to the provisions of the Interstate Commerce Act, as amended, the proceeding will be handled without public hearings unless comments in support or opposition on such application are filed with the Secretary, Interstate Commerce Commission, 12th and Constitution Avenue, N.W., Washington, D.C. 20423, and the aforementioned counsel for applicant, within 45 days after date of first publication in the FEDERAL REGISTER; that such comments shall be served upon (a) Mr. William T. Coleman, Jr., Secretary, Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590, (b) Mr. Edward H. Levi, Attorney General, Department of Justice, 10th and Constitution Avenue, N.W., Washington, D.C. 20530, and certificate of all such service is given to the Interstate Commerce Commission; and that all other applications, which are inconsistent, in whole or in part, with such applications, and all petitions for inclusion in the transaction, shall be filed with the Commission and furnished to the Secretary of Transportation, within 90 days after the publication of notice of the application in the FEDERAL REGISTER.

THE CHESAPEAKE AND OHIO RAILWAY COMPANY

ABANDONMENT APPLICATIONS

NOTICE OF FINDINGS

Notice is hereby given pursuant to Section 1a(6)(a) of the Interstate Commerce Act that orders have been entered in the following abandonment applications which are administratively final and which found that subject to conditions the present and future public convenience and necessity permit abandonment.

A Certificate of Abandonment will be issued to the applicant carriers 30 days after this FEDERAL REGISTER publication unless the instructions set forth in the notices are followed.

[Docket No. AB–46 (Sub-No. 10)]

CHICAGO, ROCK ISLAND AND PACIFIC RAILROAD COMPANY ABANDONMENT BETWEEN OSKALOOSA AND MICH SPUR, IN MAHASKA COUNTY, IOWA

NOTICE OF FINDINGS

Notice is hereby given pursuant to Section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by an order entered on April 20, 1976, a finding, which is administratively final, was made by the Commission, Commissioner Brown, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in Chicago B. & Q. R. Co. Abandonment, 257 I.C.C. 700, the present and future public convenience and necessity permit abandonment by the Chicago, Rock Island and Pacific Railroad Company extending from railroad Milepost 297.46 near Oskaloosa, Iowa, in an easterly direction to railroad Milepost 300.78 near Mich Spur, Iowa, a distance of 3.32 miles in Mahaska County, Iowa. A certificate of abandonment will be issued to the Chicago, Rock Island and Pacific Railroad Company, based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the executive of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976 at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above referenced order.

OPERATING RIGHTS APPLICATIONS DIRECTLY RELATED TO FINANCE PROCEEDINGS

The following operating rights applications are filed in connection with pending finance applications under Section 5(2) of the Interstate Commerce Act, or seek tacking and/or gateway elimination in connection with pending transfer applications under Section 212(b) of the Interstate Commerce Act.

An original and two copies of protests to the granting of the authorities must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such protests shall comply with Special Rule 247(d) of the Commission's General Rules of Practice (49 CFR § 1100.247) and include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon applicant's representative, or applicant if no representative is named.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its applications.

No. MC 19459 (Sub-No. 3), filed April 11, 1976. Applicant: B & B TRUCKING, INC., 83 Egleston Road, Westfield, Mass. 01085. Applicant's representative: Gerald A. Joseloff, 80 State Street, Hartford, Conn. 06103. Authority sought to

operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment).

NOTE.—The purpose of this application is to convert a Certificate of Registration to a Certificate of Public Convenience and Necessity. This is a matter directly related to a Section 5(2) finance proceeding in MC-F-12835 published in the FEDERAL REGISTER issue of May 20, 1976. If a hearing is deemed necessary, the applicant requests it be held at either Hartford, Conn., or Boston, Mass.

No. MC 75320 (Sub-No. 186), filed March 22, 1976. Applicant: CAMPBELL SIXTY-SIX EXPRESS, INC., P.O. Box 807, Springfield, Mo. 65801. Applicant's representative: Phineas Stevens, P.O. Box 22567, Jackson, Miss. 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and commodities requiring special equipment), between Kansas City, Mo., on the one hand, and, on the other, points in Kansas, restricted against the transportation of shipments moving between points requested herein which can be served by applicant in regular-route operations.

NOTE.—Applicant states it seeks to purchase from Transamerican Freight Lines, Inc. (Harold O. Love, Receiver) operating authority which authorizes operations over regular and irregular routes between the same points via points in Atchison County, Mo., and that part of Holt County, Mo., within 20 miles of Fairfax, Mo. The purpose of this application is to obtain appropriate authority to conduct such operations without observing the Atchison County gateway. Applicants request that this application be granted is conditioned upon approval of applicant's request to purchase said authority. This is a matter directly related to a Section 5(2) finance proceeding in MC-F-12713 published in the FEDERAL REGISTER issue of December 23, 1975. If a hearing is deemed necessary, the applicant requests it be held at St. Louis, Mo.

No. MC 109533 (Sub-No. 75) (Correction) filed April 21, 1976, published in the FEDERAL REGISTER issue of May 20, 1976, republished as corrected this issue. Applicant: OVERNITE TRANSPORTATION COMPANY, 1100 Commerce Road, Richmond, Va. 23224. Applicant's representative: Eugene T. Liipfert, 1660 L Street Suite 1100 Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), (1) Between Louisville, Ky., and Hazel, Ky., serving all intermediate points and points in Breckenridge, Bullitt, Butler, Caldwell, Calloway, Christian, Crittenden, Daviess, Edmonson, Grayson, Hancock, Hardin, Hart, Henderson, Hopkins, Jefferson, Larue, Livingston, Logan, Lyon, McCracken, McLean, Marshall, Meade, Muhlenberg, Ohio, Todd, Trigg, Union and Webster Counties, Ky., as off-route points: From Louisville over Interstate Highway 65 to junction Western Kentucky Parkway, thence over Western Kentucky Parkway to junction U.S. Highway 62, thence over U.S. Highway 62 to junction Purchase Parkway, thence over Purchase Parkway to Benton, Ky., thence over U.S. Highway 641 to Hazel, and return over the same route; (2) Between Madisonville, Ky., and junction U.S. Highway 41 and Western Kentucky Parkway, serving all intermediate points: From Madisonville over U.S. Highway 41 to junction Western Kentucky Parkway and return over the same route; and (3) Between Paducah, Ky., and junction U.S. Highway 62 and Western Kentucky Parkway, serving all intermediate points: From Paducah over U.S. Highway 62 to junction Western Kentucky Parkway and return over the same route.

NOTE.—The purpose of this republication is to indicate applicant seeks regular route authority in lieu of irregular route authority. This is a matter directly related to a Section 5(2) finance proceeding in MC-F-12822 published in the FEDERAL REGISTER issue of April 5, 1976. If a hearing is deemed necessary, the applicant requests it be held at Louisville or Frankfort, Ky.

MOTOR CARRIER ALTERNATE ROUTE DEVIATIONS

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Commission's Deviation Rules—Motor Carriers of Property (49) CFR § 1042.4(c)(11)).

Protests against the use of any proposed deviation route herein decribed may be filed with the Commission in the manner and form provided in such rules (49 CFR § 1042.4(c)(12)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of this FEDERAL REGISTER notice.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its request.

MOTOR CARRIERS OF PROPERTY

No. MC-97270 (Deviation No. 1), REYCO MOTOR EXPRESS, INC., P.O. Box 969, Harrison, Ark. 72601, filed May 18, 1976. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Morrilton, Ark., over Arkansas Highway 9 to junction U.S. Highway 65 and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Morrilton, Ark., over U.S. Highway 64 to Conway, Ark., thence over U.S. Highway 65 to junction Arkansas Highway 9 and return over the same route.

No. MC-109324 (Deviation No. 2), GARRISON MOTOR FREIGHT, INC., P.O. Box 969, Harrison, Ark. 72601, filed May 18, 1976. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Springfield, Mo., over U.S. Highway 60 to junction Missouri Highway 5, thence over Missouri Highway 5 to Gainesville, Mo., and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Springfield, Mo., over U.S. Highway 65 to junction U.S. Highway 62, thence over U.S. Highway 62 to Mountain Home, Ark., thence over Arkansas Highway 5 to the Arkansas-Missouri State line, thence over Missouri Highway 5 to Gainesville, Mo., and return over the same route.

No. MC-109324 (Deviation No. 3), GARRISON MOTOR FREIGHT, INC., P.O. Box 969, Harrison, Ark. 72601, filed May 18, 1976. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From junction Interstate Highway 55 and U.S. Highway 64 over U.S. Highway 64 to Searcy, Ark., thence over Arkansas Highway 36 to junction Arkansas Highway 124, thence over Arkansas Highway 124 to junction U.S. Highway 65, and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From junction Interstate Highway 55 and U.S. Highway 64, over Interstate Highway 55 to junction U.S. Highway 63, thence over U.S. Highway 63 to junction U.S. Highway 62, thence over U.S. Highway 62 to junction U.S. Highway 65, thence over U.S. Highway 65 to junction Arkansas Highway 124, and return over the same route.

MOTOR CARRIER INTRASTATE APPLICATIONS

The following application for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to Section 206(a)(6) of the Interstate Commerce Act. These applications are governed by Special Rule 245 of the Commission's General Rules of Practice (49 CFR § 1100.245), which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State Commission with which the application is filed and shall not be addressed to or filed with the Interstate Commerce Commission.

South Carolina Docket No. 76 258 T, filed May 14, 1976. Applicant: SMITH & WATERS, INC., Nation Road, Ware Shoals, S.C. 29692. Applicant's represent-

ative: Howard L. Burns, P.O. Drawer 1207, Greenwood, S.C. 29646. Certificate of Public Convenience and Necessity sought to operate a freight service as follows over irregular routes: (1) *Commodities in general* (except any commodities or products in bulk, in tank trucks; Classes A and B explosives and Classes A, C and D poisons as defined under explosives and other dangerous articles in American Trucking Association, Inc., Agent, Tariff No. 10, MF-ICC No. 11, PSCSC No. 11 supplements thereto or re-issues thereof; and household goods and related articles, as defined in Motor Truck Rate Bureau, Agent, Household Goods Tariff, Motor Freight Tariff No. 8-C, SCPSC-MF No. 79, (a) supplements thereto or re-issues thereof), (a) between points and places in Abbeville, Aiken, Anderson, Edgefield, Greenwood, Laurens, McCormick, Newberry, Oconee, Pickens and Saluda Counties, South Carolina, and (b) between points and places in these counties and points and places in South Carolina; (2) *cotton in bales, cotton waste, cotton bagging and cotton ties; and fertilizer and fertilizer materials*, between points and places in South Carolina; (3) *fruits and vegetables*, (a) between points and places in Edgefield and Saluda Counties, South Carolina, and (b) between points and places in Edgefield and Saluda Counties and points and places in South Carolina.

(4) *brick, tile, terra cotta pipe, concrete blocks, pipe and slabs*, between points and places in Aiken, Fairfield, Greenwood, Lexington and Richland Counties, South Carolina, and from points and places in these counties, to points and places in South Carolina; (5) *grain*, (a) between points and places in Aiken, Edgefield and Saluda Counties, South Carolina, and (b) between points and places in these counties and points and places in South Carolina; and (6) *petroleum products* in drums and packages, from Charleston, South Carolina, to points and places in Edgefield County, South Carolina. No other change is sought. Note: Applicant's application to the South Carolina Public Service Commission is to amend the foregoing provision to include Laurens, Newberry, Oconee and Pickens Counties, South Carolina. Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time and place not yet fixed. Requests for procedural information should be addressed to the South Carolina Public Service Commission, P.O. Box 11649, Columbia, S.C. 29211 and should not be directed to the Interstate Commerce Commission.

Tennessee Docket No. MC 4610 (Sub-No. 7), filed May 13, 1976. Applicant: HUMBOLDT EXPRESS, INC., P.O. Box 11080, Nashville, Tenn. 37211. Applicant's representative: Walter Harwood, P.O. Box 15214, Nashville, Tenn. 37215. Certificate of Public Convenience and Necessity sought to operate a freight service as follows over regular routes: Transportation of *General commodities* (except household goods, Classes A and B explosives, commodities in bulk, those of unusual value, and those requiring special equipment), between Humboldt and Jackson, Tenn.: From Humboldt, Tenn. over U.S. Highway 45W to junction with U.S. Highway 45, thence over U.S. Highway 45, to Jackson, Tenn. and return over the same route, serving all intermediate points. Said authority to be used in conjunction with all of applicant's existing authority. Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time and place is set for August 24, 1976 at 9:30 A.M., at the Commission's Court Room, C1-110 Cordell Hull Building, Nashville, Tenn. 37129. Requests for procedural information should be addressed to the Tennessee Public Service Commission, C1-102, Cordell Hull Building, Nashville, Tenn. 37219 and should not be directed to the Interstate Commerce Commission.

Tennessee Docket No. MC 5204 (Sub-No. 3), filed May 13, 1976. Applicant: MILAN EXPRESS, INC., P.O. Box 439, Milan, Tenn. 38358. Applicant's representative: Walter Harwood P.O. Box 15214, Nashville, Tenn. 37215. Certificate of Public Convenience and Necessity sought to operate a freight service as follows: Transportation of *General commodities* (except household goods, commodities in bulk, Classes A and B explosives, and articles which because of size or weight require special equipment), (1) between Jackson and Milan, Tenn.: From Milan, Tenn., over U.S. Highway 45-E to junction with U.S. Highway 45, thence over U.S. Highway 45 to Jackson, Tenn. and return over the same route, serving all intermediate points. By this route, applicant seeks to remove restriction contained in its Certificate No. 2788-A, against handling of traffic moving between Memphis and Jackson, Tenn.; and (2) between Jackson and Savannah, Tenn.: From Jackson, Tenn. over U.S. Highway 45 to junction with U.S. Highway 64, thence over U.S. Highway 64 to Savannah, Tenn., and return over the same route, serving all intermediate points. All of the above authority to be used in conjunction with applicant's existing authority. Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time and place set for August 18, 1976 at 9:30 A.M., at the Commission's Court Room, C-1 Cordell Hull Building, Nashville, Tenn. 37219. Requests for procedural information should be addressed to the Tennessee Public Service Commission, Room C1-102, Cordell Hull Building, Nashville, Tenn. 37219 and should not be directed to the Interstate Commerce Commission.

Tennessee Docket No. MC 5406 (Sub-No. 1), filed May 11, 1976. Applicant: JACKSON EXPRESS, INC., 12 Conalco Drive, P.O. Box 3310, Jackson, Tenn. 38301. Applicant's representative: Louis J. Amato, P.O. Box E, Bowling Green, Ky. 42101. Certificate of Public Convenience and Necessity sought to operate a freight service as follows: Transportation of *General commodities* (except household goods, Classes A and B explosives, commodities in bulk, and commodities requiring special equipment), (1) between Memphis and Lavergne, Tenn.: From Memphis, Tenn. over Interstate Highway 40 to its junction with U.S. Highway 41, thence over U.S. Highway 41 to Lavergne, Tenn., but serving no intermediate points between Memphis and Nashville, Tenn.; (2) between Jackson and Selmer, Tenn.: From Jackson, Tenn. over U.S. Highway 45 to Selmer, Tenn., serving all intermediate points; and (3) serving the plant site of the Firestone Tire and Rubber Co. located at or near Nashville, Tenn. as an off-route point. This authority to be used in conjunction with applicant's existing authority. *Alternate routes:* Between Memphis and Nashville, Tenn. over U.S. Highway 70 and over U.S. Highway 64 to junction of Tennessee Highway 100, thence over Tennessee Highway 100 to junction of Tennessee Highway 18, thence over Tennessee Highway 18 to junction of Tennessee Highway 20 thence over Tennessee Highway 100, thence over Tennessee Highway 100 as alternate routes for operating convenience only to be used in conjunction with applicant's existing authority. Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time and place is set for August 10, 1976, at 9:30 A.M., at the Commission's Court Room, C-1 Cordell Hull Building, Nashville, Tenn. 37219. Requests for procedural information should be addressed to the Tennessee Public Service Commission, Room C1-102 Cordell Hull Building, Nashville, Tenn. 37219 and should not be directed to the Interstate Commerce Commission.

Tennessee Docket No. MC 5821 (Sub-No. 1), filed April 30, 1976. Applicant: SMITHVILLE FREIGHT LINES, INC., P.O. Box 209, Smithville, Tenn. 37166. Applicant's representative: Val Sanford, P.O. Box 2757, Nashville, Tenn. 37219. Certificate of Public Convenience and Necessity sought to operate a freight service as follows: *General commodities* (except for household goods, Classes A and B explosives, commodities in bulk and livestock), between Smithville and Sparta, Tenn. over Tennessee Highway 26, and return over the same route, servicing all intermediate points, removing the restriction which presently appears in Certificate No. 209E, so as to authorize the applicant, in conjunction with its existing authority to provide service between Nashville and Sparta, Tenn. Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time and place set for July 27, 1976 at 9:30 a.m., at the Commission's Court Room, C-1, Cordell Hull Building, Nashville, Tenn. 37219. Requests for procedural information should be addressed to the Tennessee Public Service Commission, Room C1-102 Cordell Hull Building, Nashville, Tenn. 37219 and should not be directed to the Interstate Commerce Commission.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.76-16095 Filed 6-2-76;8:45 am]

[Notice No. 61]

ASSIGNMENT OF HEARINGS

MAY 28, 1976.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 51146 (Sub 441), Schneider Transport, Inc. now being assigned September 8, 1976 (3 days) at Chicago, Illinois in a hearing room to be later designated.

MC 123407 (Sub 277), Sawyer Transport, Inc. now being assigned September 13, 1976 (1 day) at Chicago, Illinois in a hearing room to be later designated.

MC 128030 (Sub 96), The Stout Trucking Co., Inc. now being assigned September 14, 1976 (2 days) at Chicago, Illinois in a hearing room to be later designated.

MC 21455 (Sub 39), Gene Mitchell Co. now being assigned September 16, 1976 (2 days) at Chicago, Illinois in a hearing room to be later designated.

MC 19227 Sub 223, Leonard Bros. Trucking Co., Inc., now being assigned September 27, 1976 (1 day), at Dallas, Texas, in a hearing room to be later designated.

MC 124090 Sub 5, Transportes Azteca, A Corporation, now being assigned October 4, 1976 (1 Week), at Dallas, Texas, in a hearing room to be later designated.

MC 123490 Sub 16, Chip Carriers, Inc., now being assigned September 28, 1976 (2 days), at Dallas, Texas, in a hearing room to be later designated.

MC 5623 Sub, Arrow Trucking Co., A Corporation; MC 42011 Sub 17, D.Q. Wise & Co., Inc.; MC 51231 Sub. 85, Ace Lines, Inc.; MC 72234 Sub 53, The Aethna Freight Lines, Incorporated; MC 74321 Sub 115, B. F. Walker, Inc.; MC 83539 Sub 411, C & H Transportation Co., Inc.; MC 83835 Sub 124, Wales Transportation, Inc.; MC 85811 Sub 8, Amsco Transportation, Inc.; MC 106497 Sub 123, Parkhill Truck Company; MC 106775 Sub 39, Atlas Truck Line, Inc.; MC 107993 Sub 42, J. J. Willis Trucking Co., A Corp.; MC 110817 Sub 20, E. L. Farmer & Company; MC 113459 Sub 101, H. J. Jefferies Truck Line, Inc.; MC 119908 Sub 29, Western Lines, Inc.; MC 119700 Sub 29, Steel Haulers, Inc.; MC 119777 Sub 322, Ligon Specialized Hauler, Inc., now being assigned September 30, 1976 (2 days), at Dallas, Texas, in a hearing room to be later designated.

MC 1380 (Sub 19), Colonial Motor Freight, Inc., now assigned June 7, 1976 (2 weeks) at Charlotte, North Carolina and will be held in the Conference Room, Mecklenburg County ABC Office Building, Corner of South Brevard & East 2nd Streets.

MC 140874, Schreiber Express, Inc. now assigned June 29, 1976 at Tallahassee, Florida is now being postponed indefinitely.

MC 94742 (Sub 37), Michaud Bus Lines, Inc. now assigned September 13, 1976 (1 week) at Boston, Massachusetts is now being advanced to July 12, 1976 (1 week) at Boston, Massachusetts and will be held at the Copely Plaza Hotel, Copely Square, 138 St. James Avenue.

I & S M 28973, Increased Bus Passenger Fares & Express Rates Nationwide, now assigned June 2, 1976, at Washington, D.C. is cancelled, rates are being cancelled.

F.D. 26764, Gulf Mobile and Ohio Railroad Company Abandonment Between Dwight, Livingston County, And Washington, Tazewell County, Illinois, now being assigned September 9, 1976 (2 days) at Metamora, Ill., in a hearing room to be later designated.

MC 141511, Robert W. Rettig, DBA Protein Express, now being assigned September 13, 1976 (1 day), at Chicago, Ill., in a hearing room to be later designated.

MC 138512 Sub 13, Roland's Transportation Service, Incorporated, DBA Wisconsin Provisions Express, now being assigned September 14, 1976 (1 day), at Chicago, Ill., in a hearing room to be later designated.

MC–F 12737, Jenkins Truck Line, Inc.—Control and Merger—Denny Motor Freight, Inc., MC 61592 Sub 383, Jenkins Truck Line, Inc., now being assigned September 15, 1976 (3 days), in a hearing room to be later designated.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76–16090 Filed 6–2–76;8:45 am]

[Amendment No. 14 to Exemption No. 55]

NORFOLK AND WESTERN RAILWAY CO. AND CONSOLIDATED RAIL CORP.

Exemption Under Provision of Rule 19 of the Mandatory Car Service Rules Ordered in Ex Parte No. 241

Upon further consideration of Exemption No. 55 issued October 31, 1973.

It is ordered, That, under authority vested in me by Car Service Rule 19, Exemption No. 55 to the Mandatory Car Service Rules ordered in Ex Parte No. 241 be, and it is hereby, amended to *expire August 31, 1976.*

This amendment shall become effective May 31, 1976.

Issued at Washington, D.C., May 24, 1976.

INTERSTATE COMMERCE COMMISSION,
LEWIS R. TEEPLE,
Agent.

[FR Doc.76–16092 Filed 6–2–76;8:45 am]

[Notice No. 262]

MOTOR CARRIER TRANSFER PROCEEDINGS

JUNE 3, 1976.

Application filed for temporary authority under Section 210a(b) in connection with transfer application under Section 212a(b) in connection with transfer application under Section 212a(b) and Transfer Rules, 49 C.F.R. Part 1132:

No. MC–FC–76601. By application filed May 21, 1976, INDEPENDENT FREIGHT, INC., R.F.D. 1 Route 44 Box 150, Putnam, CT., 06260, seeks temporary authority to lease the operating rights of R. B. GREENE TRANSPORTATION, INC., Maple Street, Danielson, CT., 06239, under section 210a(b). The transfer to INDEPENDENT FREIGHT, INC., of the operating rights of R. B. GREENE TRANSPORTATION, INC., is presently pending.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76–16093 Filed 6–2–76;8:45 am]

[Notice No. 130]

TEMPORARY AUTHORITY TERMINATION

The temporary authorities granted in the dockets listed below have expired as a result of final action either granting or denying the issuance of a Certificate or Permit in a corresponding application for permanent authority, on the date indicated below:

Temporary authority application	Final action or certificate or permit	Date of action
Decker Truck Line, Inc., MC–59367 Sub-99TA	MC–59367 Sub-95	May 25, 1976
Michigan & Nebraska Transit Co., MC–82492 Sub-124TA	MC–82492 Sub-119	Do.
Puget Sound Truck Lines, Inc., MC–85255 Sub-53TA	MC–85255 Sub-56	May 26, 1976
Clark Bros. Transfer, Inc., MC–106195 Sub-4TA	MC–106195 Sub-5	Do.
Truck Transport, Incorporated, MC–115331 Sub-379TA	MC–115331 Sub-384	May 25, 1976
Mitchell & Son, Inc., MC–139396 Sub-4TA	MC–139396 Sub-5	May 26, 1976
Direct Courier, Inc., MC–139759 Sub-4TA	MC–139759 Sub-5	May 25, 1976
J. B. Montgomery, Inc., MC–140024 Sub-54TA	MC–140024 Sub-52	May 26, 1976
United Trucking, Inc., MC–140645 Sub-1TA	MC–140645	Do.
Rogers Motor Lines, Inc., MC–140781 Sub-1TA	MC–140781	Do.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76–16094 Filed 6–2–76;8:45 am]

federal register

THURSDAY, JUNE 3, 1976



PART II:

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration

■

RENAL DISEASE

Implementation of Coverage of Suppliers of End Stage Services

Title 20—Employees' Benefits

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

[Regulations No. 5, further Amended]

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

Conditions for Coverage of Suppliers of End-Stage Renal Disease (ESRD) Services

The amendments to the regulations set forth below are adopted in final form by the Commissioner of Social Security with the approval of the Secretary of Health, Education, and Welfare. These amendments are intended to further implement Section 299I of the Social Security Amendments of 1972 (P.L. 92–603), which extends Medicare protection to any individual who has end-stage renal disease requiring dialysis or transplantation, provided that such individual: (1) is fully or currently insured, or entitled to monthly benefits under Title II of the Social Security Act; or (2) is the spouse or dependent child of an individual so insured or entitled to such monthly benefits.

On July 1, 1975, there was published in the FEDERAL REGISTER (40 FR 27782) a Notice of Proposed Rule Making with proposed amendments to regulations relating to: (a) the conditions for coverage which suppliers of ESRD services must meet to qualify for Medicare reimbursement; (b) the certification procedures for such suppliers; (c) the provision of a minimal utilization rate for covered procedures; (d) the designation of ESRD network areas; (e) the establishment of Network Coordinating Councils, and (f) the provision of Medical Review Board to screen the appropriateness of patients for the proposed treatment procedures, in order to implement Section 299I of the Social Security Amendments of 1972 (P.L. 92–603).

Interested parties were given the opportunity to submit data, views, or arguments on the proposed amendments within 60 days of the July 1, 1975, notice of proposed rulemaking. Comments were received from many sources (including representatives of national, State and local organizations) concerned with ESRD care of patients. Approximately 450 letters were received, many of which contained comments on various portions of the proposed regulations so that the total number of comments approximated 1500. Although a large number of comments were received after the September 1, 1975 deadline, each comment received has been carefully considered. The largest number of comments were in the areas of the definitions concerning ESRD facilities and personnel, network areas and organizations (network coordinating council and medical review board), and minimal utilization rates. A lesser number of comments were related to histocompatibility testing, and the health and safety requirements for facilities.

For purposes of organization, the discussion of the comments and the actions taken follows the sequence of the sections of the regulations.

Section 226(g) of the Social Security Act (the Act) authorizes the Secretary to limit Medicare reimbursement for kidney transplant and dialysis services to facilities meeting such requirements as he may by regulation prescribe. Section 226(g) also provides that such regulations must include requirements for a minimal utilization rate for covered procedures and for a medical review board to screen the appropriateness of patients for the proposed treatment procedures.

The following amendments to the regulations specify the health and safety requirements that facilities furnishing ESRD services must meet to qualify for Medicare reimbursement. In addition, the amendments require that these facilities be organized into coordinated systems ("networks") for the delivery of ESRD care.

The ESRD program became effective July 1, 1973, and since then has operated under interim regulations published in the FEDERAL REGISTER of June 29, 1973 (38 FR 17210). The interim regulations provide for reimbursement to those facilities which were furnishing ESRD care on or before June 1, 1973, and describe criteria for allowing reimbursement to additional or expanded ESRD facilities during the interim period. (To give the public a formal opportunity to participate in the development of the criteria used in granting requests for exceptions to the limitation on participation during the interim period, the interim regulations were republished in the FEDERAL REGISTER of April 22, 1975 (40 FR 17746)) after Notice of Proposed Rule Making. The interim regulations, as published and republished are being superseded by these "long-term" amendments to the regulations. The interim regulations explained that recognition of a facility on an interim basis was no assurance that it would be approved on a continuing basis for reimbursement under the "long-term" program. Facilities not qualifying under the "long-term" regulations will be phased out in a manner that will minimize any disruption of services to ESRD patients.

The policies for the ESRD program which are incorporated in these amendments are based on the operating experience of the program since publication of the interim regulations in June 1973, as well as on extensive communications with professionals and other persons knowledgeable in the areas of nephrology and transplant surgery.

These amendments are intended to accomplish the following objectives:

(1) To assist beneficiaries who have been diagnosed as having ESRD to receive the care they need;

(2) To encourage proper distribution and effective utilization of ESRD treatment resources while maintaining or improving the quality of care; and,

(3) To provide the flexibility necessary for the efficient delivery of appropriate care by physicians and facilities.

The broad array of professional skills and facilities involved in the treatment of persons with ESRD indicates the need for a system to promote effective coordination. Accordingly, these final regulations require ESRD treatment facilities to join together into groups called "networks".

During the past decade, programs conducted by agencies of the Public Health Service and the States have demonstrated that integration of hospitals and other health facilities into organized networks is the most effective way to deliver ESRD care. An organized network tends to assure coordinated patient referral as well as access to resources. It also permits the concentration of equipment and specially trained personnel in centers where they can be used efficiently to treat large numbers of patients. This approach has been advocated by committees of national voluntary health organizations.

The population base of each network should be large enough to permit the delivery of a full range of ESRD diagnostic and therapeutic services needed by all patients within the network area. Accordingly, 26 of the network areas designated in the Appendix to the Subpart U serve a minimum population base of 3.5 million, (while an additional six network areas serve a smaller population base as this minimum would not be feasible). In order to accommodate patient choice, and to allow for sufficient peer review within the network, each network will be required to have at least two transplant centers whenever feasible.

The network concept will be found in existing patterns for referral of patients to treatment facilities, these existing referral patterns in effect constituting informal networks. Insofar as feasible, network designations conform with these referral patterns. Alhough the designation of network areas is made by the Secretary, the structure and the administration of each network will be the responsibility of the representatives of its component ESRD facilities.

These final regulations require that in order to qualify for reimbursement, an ESRD facility must be a member of a network. The network must organize itself through the establishment of a Network Coordinating Council, with representation from all ESRD facilities in the network. The network and its Council will perform a unique role as liaison between the Federal Government and available community resources, with the Council supplying to the Secretary information which the Secretary may use to make determinations. The Council will also make recommendations to member facilities as needed to achieve the objectives of the network. In addition, each network, through its Council, will establish a Medical Review Board to review the appropriateness of ESRD patient care and service.

An essential element in the ESRD program is a medical information system. All ESRD facilities participating in the program will be required to supply data to this system. When the medical information pertains to individual patients, it will be treated as confidential and will not be disclosed except as authorized by Department regulations on confidentiality and disclosure (see 45 CFR Parts

5 and 5b and 20 CFR Parts 401 and 422 (Subpart E)).

For participation in the ESRD program, a facility must also meet the minimal utilization rates for covered procedures published in these final regulations. These rates apply to transplantation and dialysis, and may be modified by future amendments to the regulations. A facility which is not in compliance with the applicable minimal utilization rates may be conditionally approved for a limited period to allow it time for attaining compliance. These final regulations also provide for exceptions to the minimum utilization rates to be granted to a dialysis facility in unusual situations if it can be shown that nonparticipation in the ESRD program would be detrimental to the achievement of program objectives.

Through a Memorandum of Understanding reflecting agreement reached between the Department of Health, Education, and Welfare and the Veterans Administration, specified Veterans Administration Hospitals can qualify for participation in the ESRD program. These specified Veterans Administration Hospitals, when found to meet Title XVIII requirements, will be part of a network and will be represented on its Council. They will also be required to comply with the ESRD regulations described herein with respect to the care they furnish to Medicare patients. Similarly, other Federal facilities may participate in the ESRD program provided that they meet the requirements of these regulations.

To conform other pertinent regulations with Subpart U and ESRD program requirements, these final regulations amend Subpart M (Conditions for Coverage of Services of Independent Laboratories (39 FR 33690)) to include requirements for an independent laboratory performing histocompatability testing; Subpart S (Certification Procedure for Providers and Suppliers of Services); and Subpart J (Conditions of Participation; Hospitals). Subpart O (Providers of Services, Emergency Service Hospitals, Independent Laboratories, and Suppliers of Portable X-ray Services, Determinations and Appeal Procedures) has elsewhere been amended to reflect implementation of the ESRD program. 41 FR 8481 (February 27, 1976).

General Comments

Many of the comments were of a general nature. For example, while many comments suggested changes in network area designations and the composition and functions of the network organizations, the comments contained substantial support for the concept of organized ESRD networks to promote coordinated patient referral and access to the full range of resources.

A number of comments suggested that there is a need for clarification of the way in which these regulations apply to the various types of facilities which furnish ESRD services. For example, several comments indicated concern that the regulations apply in detail to facilities furnishing dialysis services but apply only minimally to renal transplantation facilities. Other comments indicated concern that the proposed regulations would establish requirements which were nearly duplicative of the existing requirements for hospitals under the Medicare program. The proposed regulations recognized the fact that renal transplantation centers and renal dialysis centers are hospitals participating as providers in the Medicare program. Also participating skilled nursing facilities may wish to be approved as renal dialysis facilities, while hospital laboratory departments and independent laboratories may wish to furnish the laboratory specialty of histocompatiblity testing. However, providers or suppliers of services currently participating in the Medicare program must also meet the conditions for coverage contained in the these amendments to regulations in order to become approved as suppliers of ESRD services and in order to become approved to furnish the laboratory specialty of histocompatibility testing.

Section 226(g) of the Act authorizes the Secretary to limit Medicare reimbursement for kidney transplant and dialysis services to facilities meeting such requirements as he may by regulation prescribe. These amendments to the Medicare regulations provide the requirements which facilities must meet in order for their services to be covered under the ESRD program. Hospitals, to participate in the Medicare program, must be in compliance with the conditions of participation which are listed in Subpart J of the Medicare regulations. Examples of the conditions of participation in Subpart J are: Governing Body, Physical Environment, Medical Record Department, etc. The Conditions for Coverage of Suppliers of ESRD Services listed in Subpart U of these amendments similarly contain: Governing Body and Management, Physical Environment, Medical Records. Hospital compliance with the requirements for reimbursement of ESRD services will be considered within the context of the furnishing of ESRD services. For example, a Medicare approved hospital will have a functioning Governing Body; approval for reimbursement for ESRD will require (see section 405.2136) that in addition, there be documentation that the Governing Body receive and act on communications from the Medical Review Board of the ESRD network since other aspects will have been certified under the conditions of participation. Similarly, hopsitals accredited by the Joint Commission on Accreditation and by the American Osteopathic Association are deemed to meet the Medicare conditions of participation with the exception of utilization review and institutional planning (Subpart J) and will also need to meet the requirements in Subpart U to be approved for reimbursement for ESRD services. Many other examples could be cited. Guidelines and instructions will be forthcoming to assist surveyors in relating these requirements to the furnishing of ESRD services.

Other writers commented that the proposed regulations were not consistent with one of the objectives of the ESRD program (Section 405.2101) in that very little flexibility was provided for in the requirements concerning ESRD facilities. In answer to these comments, the Department believes that although the regulations place certain requirements upon facilities, the manner in which the refacilities, the manner in which the requirements may be fulfilled can vary. As an example. Renal Dialysis Facilities are required to periodically analyze and treat the water used in dialysis and to maintain records of test results. This provides the opportunity for standards for testing to change to be compatible with currently acceptable dialysis techniques. There is an important need to retain flexibility as an operating policy since the care of patients with ESRD can be expected to be subject to rapid changes. Interpretation of the regulations, as well as future amendments to the regulations, should not stifle acceptable and needed technological changes which may influence concepts of good ESRD patient care.

Many comments were received from patients presently undergoing treatment for ESRD; their major concerns were that the designated network areas would prevent patients from receiving care from facilities located in a network area other than the area in which the patient resides. It should be understood that network areas relate only to the location of facilities and not to the residence of patients; it is explicit in section 1802 of the Act and in section 405.2110 that patients may receive care at the facility of their choice. The regulations provide for the ESRD facilities within each designated area to organize to carry out review of ESRD patient care being furnished by facilities located in the network area and to plan to achieve appropriate access for all ESRD patients treated by the facilities in their area. Thus, while the network areas were drawn with reference to current patient flow and include all the modalities of ESRD care, a patient is not precluded from receiving care in a facility outside the network area in which he or she resides.

Comments on various sections of the proposed regulations pointed out apparent omission of needed items and suggested that these items be added to the regulations. For example, the proposed regulations prescribe that the Director of an ESRD dialysis facility be responsible for the training of nurses and technicians in dialysis techniques. Some who commented suggested that the Director be responsible for a training program for all of the staff. These final regulations require the Chief Executive Officer to be responsible for ensuring that all employees have an opportunity for continuing education and related development activities in addition to appropriate orientation to the facility and their work responsibilities upon employment.

It was felt in this example and in others, that the suggestions were addressed in other sections of the proposed regulations. However, to aid public understanding, greater effort has been made to cross-reference the revised regulations.

Several comments were received which did not deal specifically with the proposed regulations but were general comments on provisions of the statute (P.L. 92–603) or on aspects of reimbursement policy not addressed in these amendments to the regulations. The latter comments were not considered to be within the scope of review for suggested changes in proposed regulations.

Comments on condition of participation—complementary departments (section 405.1031). Comments received which were relevant to this section are discussed under general comments. This section amends the regulations for hospital participation in the Medicare program to indicate that, if a participating hospital provides ESRD services, reimbursement for such services will not be made unless the hospital also meets the Conditions for Coverage in Subpart M and U of these regulations as appropriate. Comments suggesting that a hospital which meets the Conditions for Participation in the Medicare program should be deemed to meet at least part of the requirements of Subpart U have been rejected, since the body of ESRD regulations must apply to all ESRD facilities, regardless of location.

Comments on histocompatibility testing (sections 405.1310, 405.1314, 405.1317, 405.2171Q. A small number of comments were received which suggested changes in the proposed requirements for histocompatibility testing. Most of these comments were from individuals who identified themselves as directors of existing laboratories which conducted histocompatibility testing and pointed out several technical inaccuracies in testing techniques which had been written into the proposed regulations. One example of such an inaccuracy was the requirement that recipient and donor sera be crossmatched for preformed antibodies whereas the correct statement should have been that recipient serum and donor lymphocytes be crossmatched for preformed antibodies. These comments also pointed out the inappropriateness of classifying histocompatibility testing under the existing clinical laboratory requirements without identifying such testing as a separate entity.

Changes have been made which closely parallel the recommendations. Histocompatibility testing is now defined in the independent laboratory regulations (section 405.1317); specific qualification requirements for the director or supervisor are stated for a laboratory if the laboratory performs tests in the specialty of histocompatibility testing. In addition, the requirements for quality control systems are specifically identified for histocompatibility testing rather than grouped under immunohematology and serology as in the previous proposed regulations. Hospital laboratory departments which wish to be reimbursed under the ESRD program for histocompatibility testing must also satisfy these requirements.

Comments on the certification process (sections 405.1901 and 405.1912). Section 405.1901 has been changed to include cross-references to the sections which specify the requirements which a histocompatibility testing laboratory must meet. Suggestions were made that section 405.1912 be written in more detail to explain the special procedures involved in approval of ESRD facilities. In addition to changes made in section 405.1912, guidelines will be issued which will outline the details for ESRD facility approval. As published, section 405.2122 contained both substantive and procedural provisions relating to minimal utilization rate classifications. References to minimal utilization rates (discussed in greater detail below under the heading "Comments on minimal utilization rates") have been added to sections 405.1912 (b) through (e), in addition to simplification and clarification of the material now appearing in section 405.2122.

Comments on definitions (section 405.-2102). This section received a large number of comments. Most of these comments indicated a need to consider changes in the definitions of types of services and facilities and of the types of qualifications of personnel in ESRD facilities.

A number of suggestions were made to restructure the definition of inpatient dialysis and chronic maintenance dialysis. It was suggested that a category of "Special Care Out-Patient Dialysis" be added to distinguish the usual routine chronic maintenance dialysis which might be carried out in an outpatient facility from the more specialized care required because of intercurrent complications or medical problems. Other comments suggested several variations now in use for defining dialysis by levels of care. In light of the difficulty encountered in arriving at universally accepted categories of levels of care it has been considered preferable to simplify the definition of dialysis and therefore avoid the resultant proliferation of standards for each level of care. Changes which have been made in the regulations in the interest of simplification were to delete the definitions of Limited Care Dialysis Facility, Self-Care Dialysis Facility and Self-Care Dialysis Training Facility and to substitute the definition of Dialysis Facility as a unit which is approved to furnish dialysis service(s) to ESRD patients. These services include chronic maintenance dialysis (at any level of patient involvement) and self-care dialysis training. There now are only two types of facilities defined primarily for dialysis; (1) the Renal Dialysis Facility and (2) Renal Dialysis Center. The definition of a Renal Dialysis Center has been slightly modified to explicitly state that the services include dialysis in a manner that makes a Center responsible for the care delivered to the hospitalized ESRD patient (i.e., furnished directly or under arrangement).

ESRD Services (section 405.2102(f)) have now been defined to better clarify the regulations with respect to types of ESRD services. Transplantation Service has been defined as suggested by several commenters to include not only the removal and implantation of kidneys but the supportive care which is furnished to the recipient and the living donor following implantation and removal. Dialysis Service (section 405.2102(f)(2)) is now defined under (1) Chronic Maintenance Dialysis, (2) Inpatient Dialysis, and (3) Self-Care Dialysis Training. The concept of self-care dialysis in a facility has been omitted from the definitions following comments that further investigation and discussion is needed before being introduced into regulations. To clarify Organ Procurement, the definition of an Organ Procurement Facility has been deleted and replaced by the definition of an Organ Procurement Agency (see item (q) in section 405.2102) which is defined as an organization which performs or assumes responsibility for all of the following services: (1) harvesting of donated kidneys, (2) preservation of donated kidneys, (3) transportation of donated kidneys, and (4) maintenance of a system to locate prospective recipients for harvested organs.

The large number of comments on qualifications of personnel in ESRD facilities focused mainly on Dietitian (Qualified) and Social Worker (Qualified). The comments were nearly unanimous in the belief that at least one year of experience in clinical nutrition was necessary for assessing the nutritional dietetic needs of each patient, recommending therapeutic diets, counseling patients and their families on prescribed diets, and monitoring adherence and response to diets. It was pointed out that the qualification requirements in the proposed regulations would allow persons majoring in food management to qualify although such persons do not have educational preparation for clinical nutrition activities. The comments further suggested that the masters degree should be the minimum educational requirement. The proposed regulation would not permit a person to qualify who had a baccalaureate degree in a field other than in food and nutrition but did have a masters degree in the area. The regulations have been changed to require a baccalaureate or advanced degree with major studies in food and nutrition or dietetics.

The largest number of comments were on the qualifications of the social worker. Many commenters expressed the opinion that the need of the ESRD patient is for psychosocial evaluations and for recommending changes in treatment based on the patient's current psychosocial needs and for direct social work interventions. This activity is considered to require the background for a masters degree with specialization in clinical practice; the usual baccalaureate programs in social work were not felt to provide the requisite background in counseling of ESRD patients. The definition of social worker in section 405.2102(r)(6)(i) and minimal

service requirements for ESRD facilities (sections 405.2163(b) and 405.2171(b)) were rewritten to reflect this major consideration.

A lesser number of comments related to the person who has been functioning as a social worker presently involved in ESRD care, but who does not have the masters degree and specialization in clinical practice. The definition (section 405.2102(r)(6)(ii)) now accommodates this person, provided the individual has served for at least two years as a social worker, one year of which was in a dialysis unit or transplantation program prior to the effective date of these regulations, and provided this person has established a consultative relationship with a social worker who is qualified by the masters degree and specialization in clinical practice.

The qualifications for a registered nurse responsible for the nursing service have been changed to permit the nurse to qualify whose entire work experience has been in ESRD patient care. The requirement has been changed to permit an alternative means for the nurse to qualify—if he or she has 18 months of experience in nursing care of patients on maintenance dialysis, or in nursing care of patients with a kidney transplant, including training and experience in the dialysis process. The provision in the proposed regulations for an exception in situations where the nurse with required experience was not available has now been removed. It is believed that, by lowering the amount of experience required from 24 months under interim regulations to 18 months, as well as retaining the minimal requirement for only one such qualified nurse per facility at a given time, there should be no need for the exception provision. It is also believed that 18 months of training and experience should be the minimum for assuming responsibility for the nursing service. A slight change has been made in the requirement for the registered nurse in charge of self-care dialysis training—the 3 months of experience in a Renal Dialysis Center or Renal Dialysis Facility which offers self-care dialysis training has been changed to 3 months of experience in training patients in self-care dialysis.

The requirement for Medical Record Practitioner (Qualified) has been changed to provide for qualifications at any level of approved training. One commenter has suggested that the proposed regulations as written could exclude otherwise qualified Directors of Medical Record Libraries. The changes made were developed in consultation with the American Medical Record Association.

A minor change has been made in the definition of Physician-Director (Qualified) to allow the person to qualify with 12 months experience as director of a dialysis facility or a transplantation facility. The change has simply removed the designation of ESRD facility and was necessitated by the redefinition of an ESRD facility as an approved facility; such approval was not available during the prior five year period.

Many comments were received suggesting definitions for various other personnel which are needed in the treatment of ESRD patients. The types of personnel suggested were (1) occupational therapists, (2) psychologists, (3) vocational rehabilitation counselors, (4) dialysis technicians, and (5) nephrologists. It is believed that for the purpose of these regulations the terms nephrologist, psychologists, and vocational rehabilitation counselors do not need to be defined.

The comments pointed out that occupational therapists, for example, perform an important role in ESRD patient care and that psychologists are often needed in psychological evaluations of ESRD patients. The importance of occupational therapists was considered in the drafting of the final regulations but this discipline was not included as required staff of an ESRD facility. The requirement for staffing and services has been written as a minimum; this is not to prevent attending physicians and ESRD facilities from making use of whatever expertise is needed for each patient. At this time, it is believed that Federal regulations should not require this desirable expertise for all patients. Therefore, the regulations do not require use of the services of occupational therapists. Similarly, there is no requirement for the use of the services of psychologists, and vocational rehabilitation counselors. As to the definition of nephrologist, we believe that term is sufficiently well understood in the medical community as to obviate a specific definition here.

Although we agreed with the commenters who indicated a need for the definition of the dialysis technician, we believe that the newness of this discipline preclude clear definition at this point in time. Additional time will permit observation of this emerging health occupation in facilities heretofore unsurveyed and will enable us to review studies which have been conducted as well as the work of interested individuals and organizations who are currently grappling with the definition and entry level knowledge and skills requirements for this paraprofession.

Several commenters suggested that a definition of a Chief Executive Officer (Qualified) be added in the definitions of qualified personnel and suggested that the minimum qualifications should include a masters degree in hospital administration. Such a definition had not been included in the proposed regulations; however, the responsibilities of the Chief Executive Officer were listed (see Section 405.2136(c)(3)). The proposed regulations reflect the belief that the scope of the facility's operations and administrative needs varies considerably according to the size of the facility. In a hospital-based ESRD facility, it was felt that these responsibilities might well be assumed by the hospital administrative staff whereas in a small dialysis facility, the Physician-Director would often be able to assume the responsibilities. The regulations have been rewritten to include minimum qualifications for the Chief Executive Officer, taking into consideration the range of background and experience which would qualify an individual to assume the responsibilities of Chief Executive Officer.

Several other definitions have been altered or added. Because of comments indicating patient concern about treatment in an ESRD facility in a network area other than where the patient resides, the definition of ESRD Network has been altered to eliminate the statement that the ESRD facilities in a network area furnish the necessary care for ESRD patients in the designated area.

In addition, to more clearly indicate the types of reviews to be undertaken by the Medical Review Board, the term Medical Care Evaluation Study (MCE) has been used and is, therefore, defined in this Section 405.2102.

There were several suggestions that "Informed Consumer" (as required representatives on the Network Coordinating Council) be defined in regulations. These suggestions, however, varied considerably in their recommended definitions for such persons. Some suggested a patient who had undergone transplantation, others suggested manufacturers of ESRD equipment, and still others suggested that "informed consumers" should be representatives of consumer groups. It was decided at this time not to define in regulations which "consumers" should be included in NCC. It was also decided not to include a definition for a qualified pharmacist at this time or to establish by regulation the duties of a qualified pharmacist in an ESRD facility.

Comments on network area designations. (Section 405.2110). A large number of comments were received requesting changes in the area designations of several networks. Many of the comments contained detailed information on ESRD referral patterns. In addition, subsequent to publication of the proposed regulations on July 1, 1975, the final designations were made for the Health Service Areas (HSA's), required pursuant to the Public Health Service Act, as amended by P.L. 93-641. For these reasons, the Department has made changes in some of the ESRD network area designations.

The previously proposed regulations designated 29 network areas. As a result of modifications based on comments and on designated Health Service Areas, these final regulations now designate 32 network areas.

The largest single change with respect to the number of networks was in the division of previously designated network area #23 which encompassed the District of Columbia, the States of Maryland and West Virginia, and the State of Virginia excluding the counties of Scott and Washington into smaller network areas. Information received subsequent to the publication of the proposed regulations indicate that it would be undesirable to include in one network the large geographic area originally proposed. Comments received unanimously support the redesignation of this network area into three smaller network areas.

A large number of comments on network area designations requested that New Jersey be designated as a separate, single Network. Data and information

received subsequent to the publication of proposed regulations indicate a substantial reduction in the percentage of New Jersey patients being referred for treatment in out-of-state ESRD facilities. Therefore, the proposed network area #24 has been changed and New Jersey has been designated as Network #25.

The comments on proposed Network #9 were overwhelmingly in opposition to the "division of Illinois." Network #15 has been realigned to include the State of Illinois except for three counties in Network #8 and four counties which remain in Network #9. Exclusion of these counties from the Illinois Network #15 is based on facility affiliation arrangements and is congruent with the designated Health Service Areas surrounding the St. Louis and Davenport SMSA.

A number of comments suggested that Alabama could function as an ESRD network and should be designated as such. Data presently available, however, show that Alabama has only one Medicare approved transplant hospital. One of the major criteria used in designating network areas was the requirement that there be two transplantation centers for each network area. This requirement was made to help assure that the review of the quality of transplantation services could be conducted by peer professionals not directly involved in the care which is being reviewed. Exceptions to this criterion have been granted only in Puerto Rico and Hawaii, where compliance with this requirement is impractical. Since Alabama has only one transplantation hospital it was decided that at this time the network area should remain unchanged. Therefore, the States of Alabama, Mississippi, and Tennessee remain as a single network area.

Several other changes have also been made in the network areas. The portion of the Navajo Territory of San Juan County, Utah has been added to Network #6 with the States of Arizona and New Mexico. There has been a realignment of several counties in the Upper Peninsula of Michigan and in Wisconsin which affects Networks #7, #13 and #14. Network #16 now consists of the State of Indiana; Dearborn County, Indiana had been proposed as part of Network #17. There has been a realignment of several counties in Network #22. Several counties in the States of Arkansas and Missouri are now included in Network #18, eleven western counties of Nebraska have been included in Network #5.

Area designations which have not been changed are Networks #1, #3, #4, #11, #12, #19, #20, #21, #26, #27, #28, and #29.

Comments on ESRD networks (section 405.2112) and Network Coordinating Councils (section 405.2111). There were many comments which noted that while the proposed regulations established the structure and functions of network organizations, i.e., Network Coordinating Council and Medical Review Board, no statement was included about how or the extent to which the organizations were to be funded. The Secretary will support the reasonable operating costs of designated Network Coordinating Councils and Medical Review Boards. It is felt that no specific statement in this regard is needed in these regulations. Included with some of the comments on funding of network activities were wide ranging estimates of the costs of these activities. Other comments reflected divergence of interpretation of the functions of network organizations. As a result, although the provisions of proposed regulations have not undergone major changes, the sections dealing with networks and network organizations have been rewritten in an effort to make them more clear. Interpretative guidelines and other materials and means of technical assistance will be provided to assist in carrying out the meaning and intent of the regulations.

Comments on the size of networks included several to the effect that the networks were too small; however, most comments indicated that networks were too large and would result in the Network Coordinating Council being too costly and cumbersome. The regulations have been changed to require that Network Coordinating Councils composed of more than twenty persons appoint an executive committee of twenty or less to assume the responsibilities of the Council. Several comments had indicated that large Councils need such an executive committee. Despite this change, the membership of the Network Coordinating Council is still representative of the ESRD facilities in the network area.

A number of commenters suggested changes in the composition of the Network Coordinating Council. Some would increase the number of consumers on the Council (up to 40 percent of the membership) and suggest that representatives of consumer groups be members of the Council. Other suggestions were that the various disciplines required on the Council have representatives selected by professional organizations in the network area. Many other disciplines were suggested for membership on the Council. It was also suggested that the public sector be represented and that State and local health planners be represented on the Network Coordinating Council. There were merits to all the suggestions but, in the interest of keeping the Council to workable size, the decision was made to limit its composition. These final regulations now require the following additional members if not included among the facility representatives: Transplant surgeon, Internist-nephrologist, Pediatrician, Chief executive officer, Qualified dietitian, Qualified nurse responsible for nursing services, Qualified social-worker, Dialysis technician, Three informed consumers, Director of a histocompatibility testing laboratory, and Representative of an organ procurement agency.

A major area of comment was with respect to the functions of the network organizations; some comments suggested that the functions be stated in more detail and other comments suggested that the network organizations be given more authority to carry out functions such as determinations of personnel qualifications. The preamble in the notice of proposed rulemaking had outlined the role of the Network Coordinating Council as a liaison between the Federal government and available community resources. These final regulations provide the flexibility for member facilities of a network to work together as a Council to set objectives which it perceives will meet the needs of ESRD patients in the network area and for the member facilities to work together to achieve those objectives. The Council would provide information to the Secretary and would make recommendations to member facilities. The Federal government will furnish technical assistance to Network Coordinating Councils in identifying the needs of the area and in achieving network objectives.

Comments on Medical Review Boards (section 405.2113). As with the Network Coordinating Council, there were comments that additional disciplines be included as members of the Medical Review Board. One area of concern about the proposed regulations was the possibility that the board might not have a majority of physicians; it was suggested that a change be made to require a majority of physicians on the Board. The opinion was also expressed that the Medical Review Board should be composed entirely of physicians. Other comments suggested that members of the Board be selected by peer organizations (e.g., the registered nurse to be selected by a professional nurse association) rather than by the Network Coordinating Council. It was also suggested that reviewers from outside the network be requested to review questionable facilities.

These final regulations have been rewritten to better delineate the functions of the Medical Review Board, to clarify the relationship between the Network Coordinating Council and the Board, and to provide a majority of physicians on the Board. The functions of the Board are specified as: (1) evaluation of the comparative performance of facilities based on aggregate data from the Medical Information System, (2) coordination of the performance of Medical Care Evaluation Studies in which each ESRD facility will participate, and (3) as necessary, performance of in-depth studies based on information from (1) and (2) above. Thus the functions have been restated to emphasize the review of overall quality of care. The regulations now provide for the Network Coordinating Council, not only to establish the Medical Review Board, but also to monitor the functions of the Board as well. In addition, there is provision for the Board to be composed of a maximum of seven members rather than the five members originally proposed. This latter change will provide a majority of physicians, a lesser burden for each member, and for specialists as needed for review.

Comments on relationships of Network Organizations to Health Care Review and Planning Organizations. (Section 405.2114). Many commenters outlined strong opposition to the relationships between the Network Coordinating Council and Health Systems Agencies

(HSA's) and between the Medical Review Board and the Professional Standards Review Organizations (PSRO's) as written in the proposed regulations. The commenters generally expressed the opinion that ESRD patient care is too complex to be reviewed by other than experts in ESRD; that the functions of the Council and of the Board would become too fragmented in trying to relate to the HSA's and PSRO's since ESRD network areas in some instances would overlap as many as 12 HSA's and as many as eight PSRO's.

The Public Health Service Act, as amended by the National Health Planning and Resources Development Act of 1974, P.L. 93-641 provides for the establishment of Health Systems Agencies and State Health Coordinating Councils (SHCC's) and details their functions. Similarly, Part B of Title XI of the Social Security Act provides for PSRO's to have review responsibility for the health care services provided under Titles XVIII, XIX and V of the Social Security Act. Section 226(g) of the Act (42 U.S.C. 426(g)) mandates a Medical Review Board to screen the appropriateness of patients for the proposed treatment procedures. It is implicit that recognition must be made of relationships between these various organizations (as stated in these regulations) to avoid duplication of activities and to make available to PSRO's, HSA's, and SHCC's the ESRD expertise in the network area. To establish these relationships, these regulations provide for the Network Coordinating Council to develop written arrangements with PSRO's established established under Public Law 93-641 which will describe the procedures by which the Network Coordinating Council will integrate its planning responsibility with the planning responsibilities of HSA's and SHCC's. Similarly, the Medical Review Board will develop written arrangements with PSRO's established under Part B of Title XI of the Social Security Act which will describe the procedures by which the Board will integrate its medical review responsibility with the review responsibilities of PSRO's.

On a continuing basis, these regulations require that the Network Coordinating Council accept planning responsibility as requested by the HSA's and SHCC's and for the Medical Review Board to accept review responsibility as requested by the PSRO's. It is expected that, because of the complex nature of ESRD patient care and ESRD patient referral patterns, HSA's and PSRO's will recognize and make use of the expert assistance which the ESRD network organizations will be capable of providing.

Comments on minimal utilization rates. (Sections 405.2120-405.2130). The Secretary is directed by Section 226(g) of the Act (42 U.S.C. 426(g)) to limit Medicare reimbursement for kidney transplant and dialysis services to facilities meeting such requirements as he may by regulation prescribe provided that such requirements include at least requirements for minimal utilization rate for covered procedures. Many comments were directed to the minimal utilization rate portions of the proposed regulations. A major comment was that there should be no minimal utilization rates because evidence is lacking that the number of procedures performed correlate either with quality improvement or cost efficiency. Although it is true that there is a lack of conclusive evidence which establishes with certainty a relationship between utilization rates and the efficiency and effectiveness of care, it can be rationally assumed that such a relationship does exist and thus requirements for meeting minimum rates. As required by law, minimum utilization rates have been retained.

Among the comments were several expressing the opinion that the minimal utilization rates proposed were too high and others suggested that they were too low. In analyzing the impact of the transplantation center minimum utilization rates contained in the July 1, 1975, Notice of Proposed Rule Making, it is clear that the rates were so high as to preclude a substantial number of facilities currently participating in the ESRD program under the interim regulations from further participation in the program. This adverse effect on access to care has been addressed by a reduction in the minimal utilization rates for transplantation centers from 25 to 15 transplants annually for unconditional status and from 14 to 7 transplants annually for conditional status. Because of the new lower rates, it was considered unnecessary to have an exception category for transplantation centers. Since renal transplantation is a one time or discrete procedure, exception status for the purpose of access is not a consideration. The rates have been lowered to the point where most primary research or pediatric referral centers should meet this condition in order to qualify for conditional status under the long term program. At such time as continuing ESRD program experience and data developed from the ESRD medical information system demonstrate the degree of correlation between utilization rates and quality improvements and cost efficiency, consideration will be given to amending the regulations on minimal utilization rates for transplantation.

The minimal utilization rates for ESRD dialysis facilities have not been changed; the concerns expressed in comments have been taken into consideration through other changes. For example, it was suggested that facilities which furnish essential "back-up" service for ESRD patients during inpatient stays and yet provide only a small amount of dialysis to outpatients should be permitted a separate minimal utilization rate classification or should be exempt from the requirement. Following these suggestions, minimal utilization rates for dialysis facilities which perform greater than 20 percent of their dialyses on outpatients are unchanged. For those dialysis facilities performing 20 percent or less of their dialyses on outpatients, however, the minimal utilization rates have been changed to be the same as those for a facility located outside a Standard Metropolitan Statistical Area, (see Section 405.2130); the computation of the facility rate includes both inpatient and outpatient dialyses. The exception status for those dialysis facilities located in areas where there are too few patients to allow the facility to meet the required rates but where the facility is needed to overcome what would otherwise be inadequate patient access to dialysis, has been retained in the regulations.

Provision is made for new transplantation and dialysis facilities to come into the ESRD program under conditional status on the basis of a written plan for achieving unconditional status.

In response to comments, the basis for computing utilization rates for dialysis facilities has been changed to take into consideration fluctuations in rates of dialysis.

Several comments suggested that rates for dialysis facilities should consist only of the number of dialyses performed and not include the number of stations in the facility. The minimal utilization rates for dialysis facilities remains the same and includes both dialyses and stations to assure efficient utilization of stations. However, a change has been made to exclude from the computation of rates any station at which at least six ESRD patients have been trained in self-dialysis in the last year. The purpose of this change is to encourage, where medically appropriate, the utilization of this less expensive threatment modality.

Comments on compliance with the requirements of Federal, State and local laws. (Section 405.2135). One commenter recommended total deletion of this condition on the apparent assumption that network organizations will be charged with enforcement of State and local laws. It was recommended that such enforcement continue to remain in the hands of appropriate government agencies. For purposes of clarification, it is stated here that no network organization will be charged with enforcement of any Federal, State, or local law and that such enforcement will not be affected by the establishment of ESRD networks. Appropriate government agencies will continue to be charged with enforcement of laws. The purpose of this part of the regulations is to make compliance with such laws a condition for granting approval to ESRD facilities under the Medicare program; a similar requirement is imposed on all facilities under Medicare. No change was made in this requirement.

Comments on governing body and management. (Section 405.2136). One comment was made that this requirement is so vague and broad in scope as to hinder adequate documentation of compliance. Although it is felt that the requirement is sufficiently explicit, interpretive guidelines will be forthcoming to assist facilities in providing the necessary documentation.

Several commenters suggested that the provision for disclosure of ownership is unjustified and possibly illegal.

As previously discussed, Section 226(g) of the Social Security Act (42 U.S.C. 426) authorizes the Secretary to limit reimbursement for kidney transplant and dialysis services to facilities meeting such requirements as he may by regulation prescribe. The requirement for disclosure of ownership is believed to be justified on the basis that there is a rational and pervasive need for this provision. The ESRD program is new and the total annual patient care benefit cost is estimated to reach at least one billion dollars within several years. Because of the newness of the program and its estimated costs, it is necessary to gather data and to refine the system as quickly as possible. There is a need for monitoring the costs of the program; as such, there is a need to have knowledge of ownership and of relationship of the ownership of a facility to other facilities furnishing similar services. The disclosure of ownership provision is consistent with Section 405.2113(c) which does not permit a person serving on the Medical Review Board to review the ESRD services of a facility in which that person has a financial interest. Because of these reasons, it is believed that the disclosure of ownership provision is not illegal, it is justified for program purposes, and is unchanged.

The comments on operational objectives indicated confusion over the requirement that "criteria defining patient eligibility for services are developed * * *". As a result, a slight editorial change has been made in this part (Section 405.2136(b)(3)) which now reads that "admission criteria are adopted by the facility and are readily available to ensure equitable access to such service."

A slight change in the responsibilities of the chief executive officer has been made by deleting the word "medical" in Section 405.2136(c) from the expression "* * * and act upon medical recommendations made by * * *".

The comments on the institutional planning requirement consisted of questions on how this provision related to planning agencies and how the provisions were to be interpreted. However, as previously discussed, several comments also suggested that some requirements could be duplicative. This requirement for institutional planning is duplicative since it is presently a requirement for Medicare-approved hospitals; this requirement, therefore, has been deleted. Although the deletion leaves the non-hospital operated ESRD facilities with no specific requirement for institutional planning, it is believed that there are requirements in other sections of the regulations which sufficiently mandate an ESRD facility to plan for future furnishing of ESRD services.

Several editorial changes have been made as a result of comments on personnel policies and procedures which indicated some confusion with patient care policies (Section 405.2136(f)). In addition, several comments suggested additional requirements with respect to infection control, particularly control of hepatitis. A suggestion that the facility provide for professional development was considered to be sufficiently covered under the responsibilities of the Chief Executive Officer.

A number of comments were made with respect to patient care policies; most were concerned with scheduling of hours for dialysis at the convenience of patients. The regulation now reads that whenever feasible, hours for dialysis are scheduled for patient convenience. The requirement for periodic review of patient care policies has been amended to indicate that the review activity need not be conducted solely by physicians and nurses. The suggestion to eliminate the word "regularly" from scheduled conferences to evaluate patient progress has been rejected. It was believed that such evaluation must be made regularly (see Section 405.2137 (a) and (b)).

To avoid the implication that a facility must remain open at all times, Section 405.2136(g)(2) has been changed to read that the governing body ensures that medical care is available for emergencies, 24 hours a day, 7 days a week.

It was suggested that there be a requirement that all ESRD facilities maintain an open staff for all nephrologists. It was believed that an open staff requirement might at this time be seen as interfering with a facility's prerogative to pass on medical staff qualifications. Further it was recognized that ESRD networks and facilities should concern themselves with the utilization of qualified physicians. It is assumed, therefore, that decisions concerning the granting of privileges in a facility will be based upon the physician's professional qualifications and the facility's capacity to accommodate the physician's patients.

Comments on patient care plans. (Section 405.2137). This condition has been rewritten in greater detail to insure that each patient receives a periodic evaluation with respect to the appropriate modality of care. In revising the condition to provide for evaluation of the long-term program as well as a patient care plan, several of the comments were incorporated. The requirement now is more specific in stating who is involved in making evaluations in the long-term program and in the patient care plan. In addition, it is stated that each patient must be evaluated in the long-term program not less frequently than every 12 months. The review of the patient's progress in the patient care plan must not be less frequent than monthly; a comment that this evaluation be made not less than twice monthly was believed to be more frequent than necessary for most patients.

Comments on patient's rights. (Section 405.2138). The condition on patient's rights has been reorganized to required standards covering: (1) informed patients, (2) participation in planning, (3) respect and dignity, (4) confidentiality, and (5) a grievance mechanism. There were a number of comments suggesting changes which have not been made, not because the comments were unacceptable, but because the suggestions were considered inappropriate for regulations. For example, it was suggested that there be provisions for a translator for any patient with a language barrier rather than when a significant number of patients exhibit a language barrier; it was believed administratively more feasible to retain the present requirement. A comment suggested the addition of the right to refuse treatment but it was believed that this need not be in regulations; however, the right to refuse to participate in experimental research was retained.

Comments on medical records. (Section 405.2139). This section remains essentially unchanged; the changes in other parts of the regulations include suggestions made in the comments on medical records.

Comments on physical environment. (Section 405.2140). This section has been enlarged slightly to provide more detail with respect to hepatitis control which was the concern of several commenters. The regulations take note of the importance of infections control and specifically hepatitis, but refrain from requiring a separate isolation treatment area with separate staff at this time. The area of hepatitis control will be kept under review for possible future changes in regulations and interpretive guidelines.

Concern was expressed that testing of emergency procedures while patients are being dialized might present a hazard to the patients. The requirement that there be emergency procedures with which the facility personnel are familiar is designed to enhance the safety of the environment. Interpretive guidelines will provide assistance on how the testing of emergency procedures can be carried out. The regulations have not incorporated references to publications describing minimum requirements for construction and equipment; the development of interpretive guidelines will take into consideration such publications. However, certain requirements have been added to these regulations to increase the safety of the environment through the provision of ground-fault interrupters in electrical circuits to equipment and the provision of an alternate electrical power source from an emergency generator.

Comments on affiliation agreement or arrangement. (Section 405.2160). The comments on this section indicated that the proposed regulation was unclear, particularly with respect to emergency and non-emergency admissions to the affiliated facility. The portion of the requirement pertaining to provision of care in emergencies has been deleted to simplify the requirement. It is believed that this change, together with the changes in definition of ESRD facilities (see Section 405.2102(e)) has clarified the requirement.

Comments on director of a renal dialysis facility or renal dialysis center. (Section 405.2161). One commenter raised the question whether the proposed regulation was in conflict with Section 1801

of the Social Security Act in that the regulation sets up requirements as to which physicians may treat which patients. This regulation is intended only to assure that the ESRD services furnished by the facility are under qualified direction. The patient is under the care of his or her own physician, who may also be the Physician-Director. As Director, this physician is responsible for planning, organizing, and supervising the professional ESRD services of the facility.

Another comment contained the recommendation that the regulations specify the Director be responsible for a Staff Development Plan for all personnel. The regulations require a facility to assure that all personnel of the facility participate in educational programs on a regular basis (Section 405.2136(d)(6)) and further prescribe that the Chief Executive Officer has the responsibility for assuring that all employees have an opportunity for continuing education and related development activities (Section 405.2136(c)(3)(viii)). These parts of the regulations were considered to provide adequate assurance for a staff development program for all employees. The additional responsibility for the physician-director in assuring adequate training of the nurses and technicians in dialysis techniques was designed to provide for safe procedures and techniques and to assure that the dialysis staff are well versed in current practice.

Several commenters suggested that Section 405.2161 be changed slightly so that the physician-director is not responsible for "training" but is responsible for "assuring adequate training". This change was made as it provides more flexibility in the actual training but still retains the requirement that the physician-director assures that there is training.

Comments on staff of a renal dialysis facility or renal dialysis center. (Section 405.2162). This section has been edited to: (1 substitute the word "physician" in place of M.D., (as defined in Section 1861(r)(1) of the Social Security Act, (2) indicate that one currently licensed health professional is on duty to oversee ESRD patient care, and (3) add that on adequate number of personnel are present to meet the needs of patients.

One commenter suggests that an L.P.N. is not sufficiently qualified to be left in charge of ESRD patients; conversely, one hospital commented that its nursing service was composed entirely of L.V.N.'s (Licensed Vocational Nurses) and suggested that the nurse responsible for the nursing should be an L.V.N. Until such time as there is a better consensus on qualifications of staff as well as training of nephrology personnel, it is believed that the regulations should require the qualified registered nurse to be in charge of the nursing service and to allow the L.P.N. to oversee ESRD patient care. For purposes of this discussion, the licensed practical nurse and the licensed vocational nurse are considered equivalent in qualification. It is recognized that this regulation is a minimum requirement; larger facilities should staff according to their needs with the adequacy of staff being determined by the adequacy of the process and outcomes of patient care. Ratios of staff to patients have not been used in these regulations because at the present time, ratios in themselves cannot be used as sole determinants of good patient care.

Comments on minimal service requirements for a renal dialysis facility or a renal dialysis center. (Section 405.2163). A large number of commenters suggested changes in this section, particularly as related to the social and dietetic services. Revision has been made in response to these comments. The proposed regulations were intended to provide a minimal base for social and dietetic services upon which each facility would add such responsibilities and qualified personnel sufficient to meet the needs of the ESRD patients being treated. However, the consensus of comments from nephrology social worker and dietitian groups pointed out that the responsibilities listed in the proposed regulations were unrealistically limited and did not reflect the extent of involvement of these disciplines in ESRD therapy in current practice. The social workers pointed out that the real need is for psychosocial evaluations and counseling rather just social evaluations. There is a similar need for dietetic evaluation and counseling. The minimum education and experience of personnel qualified to carry out such added responsibilities is reflected in the changes in definitions of qualified ESRD personnel (Section 405.2102(r)(2) and (6)).

While the proposed regulations stated that laboratory services were to be performed by a Medicare-approved laboratory, it was recognized that the dialysis process requires certain monitoring procedures. Exceptions have been granted which permit hematocrit and clotting time determinations to be made on the premises of an approved ESRD facility under the direction of a physician.

Commenters pointed out that an ESRD facility should not be required to be responsible for installation and maintenance of equipment and for the ordering of supplies for the self-care dialysis patient. In response to this, the section on self-care dialysis support services has been rearranged to indicate that an ESRD facility is required to assist the ESRD patient, as needed, in making arrangements for such services.

Comments on director of a renal transplantation center. (Section 405.2170). The same change which was made for the renal dialysis facility and renal dialysis center has been made in this section; the requirement that the director be responsible for training of staff has been modified to responsibility for assuring training of staff.

Comments on minimal services requirements for a renal transplantation center. (Section 405.2171). The changes which were made for the renal dialysis facility and renal dialysis center have similarly been made in the requirements for social services and dietetic services (see discussion of comments on Section 405.2163). In addition, changes have been made in laboratory services (see discussion of comments on histocompatibility testing).

A section has been added that requires that if a renal transplantation center utilizes the services of an organ procurement agency to obtain donor organs, the organ procurement agency must furnish these services under an arrangement (Section 405.2171(e)).

A number of comments were made that there were few requirements for renal transplanation centers in contrast to many requirements for ESRD dialysis facilities. As discussed earlier in this preamble, a renal transplantation center must meet all Medicare requirements in this subpart except those parts specifically for renal dialysis facility or renal dialysis centers. These, too, must be met if the renal transplantation center also furnishes dialysis services.

(Secs. 226(g), 1102, 1861, 1862(a), 1871, 1874, Social Security Act; 86 Stat. 1464, 49 Stat. 647, as amended, 79 Stat. 325, 331, 332, and 340; 42 U.S.C. 625(g), 1302, 1395x, 1395y(a), 1395hh, 1395kk.)

Effective Date: The amendments shall be effective September 1, 1976.

(Catalog of Federal Domestic Assistance Programs No. 13.800, Health Insurance for the Aged—Hospital Insurance.)

Dated: March 25, 1976.

J. B. CARDWELL,
Commissioner of Social Security.

Approved: May 24, 1976.

MARJORIE LYNCH,
Acting Secretary of Health, Education, and Welfare.

Part 405 of Chapter III of title 20 of the Code of Federal Regulations is amended as set forth below:

1. Section 405.1031 is amended by revising the introductory paragraph to read as follows:

§ 405.1031 Condition of participation—complementary departments.

Participation is not limited to hospitals which have surgery, anesthesiology, dental, or rehabilitation departments or services, but if these departments or services are present, there are effective policies and procedures, relating to the staff and the functions of the service(s) in order to assure the health and safety of the patients. If the hospital provides end-stage renal disease services, reimbursement for such services will not be made unless the hospital also meets the Conditions for Coverage of Suppliers of End-State Renal Disease Services, Subpart U of this Part. If a hospital laboratory department wishes to provide histocompatibility testing, reimbursement for such services will not be made unless the laboratory department also meets the appropriate requirements in Subpart M of this Part (§ 405.1901(c)).

2. In § 405.1310 a new paragraph (m) is added to read as follows:

§ 405.1310 Definitions.

* * * * *

(m) *Histocompatibility testing.* Laboratory test procedures which determine compatibility between a potential donor organ and a potential organ transplant recipient.

3. In § 405.1314 a new paragraph (b) (13) is added to read as follows:

§ 405.1314 Condition—clinical laboratory; tests performed.

* * * * *

(b) *Standard: Procedures and tests—competency.*

* * * * *

(13) Notwithstanding paragraph (b) (1) of this section, if the laboratory performs tests in the specialty of histocompatibility testing, the director or supervisor:

(i) Holds an earned doctoral degree in a biological science or is a physician and

(ii) Subsequent to graduation has had 4 years of experience in immunology, 2 of which have been in histocompatibility testing.

4. In § 405.1317, a new paragraph (b) (8) is added to read as follows:

§ 405.1317 Condition—quality control.

* * * * *

(b) *Standard: Quality Control System—Methodologies.*

* * * * *

(8) *Histocompatibility testing.* In addition to the standards for quality control in immunohematology, paragraph (b) (4) of this section, and serology, paragraphs (b) (2) (i) and (b) (2) (ii) of this section, which are applicable to the histocompatibility testing laboratory, the histocompatibility testing laboratory utilizes the following control systems and validation methods for the performance of tests in the following:

(i) for renal allotransplantation: (A) Crossmatching of potential recipients and donors before transplantation is performed with one or more techniques using the most reactive and most recent sera;

(B) HL–A serologic typing of both donor and recipient which include at least those antigens detectable with serum capable of defining the same antigens as those definable by the National Institutes of Health serum tray(s); and,

(C) Characterization for antibody against histocompatibility antigens in serum from potential recipients of organ or tissue grafts.

(ii) For transfusions and bone marrow transplants the tests in paragraphs (8) (i) (A) and (8) (i) (B) of this section are required.

(iii) For disease association studies, paragraph (8) (i) (B) of this section applies.

(iv) Mixed lymphocyte cultures or other recognized methods to detect cellular—defined antigens are performed in accordance with prescribed methods.

(v) Procedures are established regarding freezing of lymphocytes and to provide for a comprehensive panel of fresh and/or frozen lymphocytes.

(vi) The reactivity of cell panels used for antibody detection is tested at least twice a month with appropriate known antisera.

(vii) The laboratory must also: (A) At least once each month have each individual performing tests be given a previously tested specimen as an unknown to verify their ability to reproduce test results and the results of such testing shall be recorded and,

(B) Participate in at least one national or regional cell exchange program, if available, or develop an exchange system with another laboratory in order to validate interlaboratory reproducibility.

5. Section 405.1901 is amended by redesignating paragraph (c) as paragraph (d), redesignating paragraph (d) as paragraph (e), and adding a new paragraph (c) to read as follows:

§ 405.1901 The certification process.

* * * * *

(c) A hospital which is a participating provider of services, for a nonhospital-operated renal dialysis facility as defined in § 405.2102(e) (3), or a laboratory facility that is approved to participate in the Medicare program which, notwithstanding approval pursuant to Subpart J or Subpart M, also meets the requirements in §§ 405.1314(b) (13) and 405.1317 (a), (b) (2) (i) and (ii), (b) (4), and (b) (8) and, when services are furnished in the specialty of tissue pathology, also meets the requirements in §§ 405.1314(b) (8) (i) and 405.1317 (a) and (b) (6) (ii), and which is found to be in compliance with each of the applicable Conditions for Coverage of Suppliers of End-Stage Renal Disease Services prescribed by the Secretary (see Subpart U), may become a supplier of End-Stage Renal Disease services pursuant to section 226(g) of the Social Security Act upon being approved therefor by the Secretary.

* * * * *

6. A new § 405.1912 is added to read as follows:

§ 405.1912 Special procedures for approving end-stage renal disease facilities and the expansion of services in approved facilities.

(a) *Considerations for approval.* An ESRD facility which wishes to be approved for coverage, or which wishes any expansion of dialysis services to be approved for coverage in accordance with Subpart U of this Part, must secure the Secretary's determination thereunder. In addition to the certification by the State agency referred to in § 405.1902, data furnished by network organizations and recommendations of the Public Health Service, concerning the contribution of a facility to the furnishing of end-stage renal disease services in its network and concerning the facility's compliance with professional norms and standards (see Subpart U of this Part), shall be considered by the Secretary in determining whether to approve a facility for coverage or for any expansion of services under the End-Stage Renal Disease Program. The facility will also be required to submit data pertaining to its qualifications for approval or for any expansion of services, for consideration in the Secretary's determination.

(b) *Determining compliance with minimal utilization rates: time limitations.* (1) *Unconditional status.* A facility which meets minimal utilization requirements will be assigned this status as long as it continues to meet these requirements.

(2) *Conditional status.* A conditional status may be granted to a facility for not more than 2 consecutive calendar years and will not be renewable (see § 405.2122(b)). Its status may be examined each calendar year to ascertain its compliance with Subpart U.

(3) *Exception status.* Under unusual circumstances (see § 405.2122(c)) the Secretary may grant a time-limited exception to a facility which is not in compliance with the minimal utilization rate(s) for either unconditional status or conditional status. This exception status may be granted, and may be renewed on an annual basis, under circumstances where rigid application of minimal utilization rate requirements would adversely affect the achievement of ESRD program objectives.

(c) *New applicant.* A facility which has not previously participated in the ESRD program must submit a plan detailing how it expects to meet the conditional minimal utilization rate status by the conclusion of 1 calendar year of its operation under the program and meet the unconditional minimal utilization rate status during the third calendar year of its operation under the program.

(d) *Notification.* The Secretary will notify each facility and its network coordinating council of its initial and its subsequent minimal utilizaton rate classification.

(e) *Failure to meet minimal utilization rate.* A facility failing to meet standards for unconditional status or conditional status, or if applicable, for exception status, will be so notified at the time of such classification.

(f) *Interim regulations participant.* A facility previously participating under the interim regulations will not be approved under the program established by Subpart U until it has demonstrated that it meets all the applicable requirements of this Subpart, including the appropriate minimal utilization rate. It may continue under the interim program only for a period not to exceed 1 year from the effective date of these amendments (see § 405.2100(c) of this part). During this period it may demonstrate its ability to meet the appropriate minimal utilization rate. Failure to qualify under this Subpart will automatically terminate coverage of such facility's services under the ESRD program at the end of such year.

7. Part 405 of Title 20, Code of Federal Regulations, is amended by adding a new Subpart U, and an Appendix, reading as follows:

Subpart U—Conditions for Coverage of Suppliers of End-Stage Renal Disease (ESRD) Services

Sec.
405.2100 Scope of subpart.
405.2101 Objectives of end-stage renal disease (ESRD) program.
405.2102 Definitions.
405.2110 Designation of ESRD network areas.
405.2111 Designation of network coordinating councils.
405.2112 Designation of ESRD networks.
405.2113 Medical review board.
405.2114 Relationship of ESRD networks to health care review organizations and to health service planning organizations.
405.2120 Minimal utilization rates: general.
405.2121 Basis for determining minimal utilization rates.
405.2122 Types and duration of classification according to utilization rates.
405.2123 Reporting of utilization rates for initial classification.
405.2124 Calculation of utilization rates for comparison with minimal utilization rates(s) and notification of status.
405.2130 Condition: minimal utilization rates.
405.2131 Condition: Provider status: renal transplantation center or renal dialysis center.
405.2132 Condition: fulfillment of service needs in network.
405.2133 Condition: furnishing data and information for ESRD program administration.
405.2134 Condition: membership in a network.
405.2135 Condition: compliance with federal, State, and local laws and regulations.
405.2136 Condition: governing body and management.
405.2137 Condition: patent long-term program and patient care plan.
405.2138 Condition: patients' rights and responsibilities.
405.2139 Condition: medical records.
405.2140 Condition: physical environment.
405.2160 Condition: affiliation agreement or arrangement.
405.2161 Condition: director of a renal dialysis facility or renal dialysis center.
405.2162 Condition: staff of a renal dialysis facility or renal dialysis center.
405.2163 Condition: minimal service requirements for a renal dialysis facility or renal dialysis center.
405.2170 Condition: director of a renal transplantation center.
405.2171 Condition: minimal service requirements for a renal transplantation center.

APPENDIX: End-Stage Renal Disease Network Areas.

Subpart U—Conditions for Coverage of Suppliers of End Stage Renal Disease (ESRD) Services

§ 405.2100 Scope of subpart.

(a) The regulations in this subpart prescribe the role which End-Stage Renal Disease (ESRD) networks will have in the ESRD program, establish the mechanism by which minimal utilization rates pursuant to section 226(g) of the Social Security Act (42 U.S.C. 426(g)) will be promulgated and applied, and describe the health and safety requirements that facilities furnishing ESRD care to beneficiaries must meet. These regulations further prescribe the role of ESRD networks in providing the medical review requirements of section 226(g) prior to and following the establishment of Professional Standards Review Organizations under Part B of Title XI of the Social Security Act (42 U.S.C. 1320c et. seq.).

(b) The general objectives of the ESRD program are contained in § 405.2101, and general definitions are contained in § 405.2102. The provisions of §§ 405.2110–405.2114 discuss the establishment and activities of ESRD Networks, the Network Coordinating Councils, and the Medical Review Boards. Sections 405.2120–405.2124 discuss the establishment of minimal utilization rates and the requirements for approval of facilities with respect to such rates. Sections 405.2130–405.2140 discuss general requirements for, and description of, all facilities furnishing ESRD services. Sections 405.2160–405.2163 discuss specific requirements for facilities which furnish ESRD dialysis services. Sections 405.2170 and 405.2171 discuss specific requirements for facilities which furnish ESRD transplantation services.

(c) The provisions of this subpart are effective 90 days following date of publication. Notwithstanding such effective date, the provisions of the interim regulations in §§ 405.116(g), 405.231(g) and (h), and the Appendix to Subpart B of this part shall continue in effect for a period not to exceed 12 months following such effective date, for the limited purpose of assuring an orderly transition from such interim regulations to the provisions of this subpart and, in particular, so that facilities approved under the ESRD program pursuant to such interim regulations which do not also qualify for continued approval under the terms of this subpart, may be phased out of the Medicare program in a manner that will minimize disruption of services to ESRD patients. However, (1) beginning with the effective date of these regulations, no new applications for exceptions under the interim regulations (§ 405.116(g), 405.231 (g) and (h), and the Appendix to Subpart B of this part) will be accepted; and (2) beginning 6 months after such effective date: (i) no further exceptions will be granted under the interim regulations (§§ 405.116(g), 405.231(g) and (h), and the Appendix to Subpart B of this part); and (ii) determinations with respect to a facility's approval or nonapproval for reimbursement under this subpart will supersede determinations made under such interim regulations.

(d) A facility previously participating under the interim regulations will not be approved under the program established by Subpart U until it has demonstrated that it meets all the applicable requirements of this Subpart, including the appropriate minimal utilization rate. It may continue under the interim program only for a period not to exceed 1 year from the effective date of these amendments (see § 405.2100(c) of this part). During this period it may demonstrate its ability to meet the appropriate minimal utilization rate. Failure to qualify under this Subpart will automatically terminate coverage of such facility's services under the ESRD program at the end of such year.

§ 405.2101 Objectives of the end-stage renal disease (ESRD) program.

The objectives of the end-stage renal disease program are:

(a) To assist beneficiaries who have been diagnosed as having end-stage renal disease (ESRD) to receive the care they need;

(b) To encourage proper distribution and effective utilization of ESRD treatment resources while maintaining or improving the quality of care; and

(c) To provide the flexibility necessary for the efficient delivery of appropriate care by physicians and facilities.

§ 405.2102 Definitions.

As used in this subpart, the following definitions apply:

(a) *Agreement.* The ESRD facility has an agreement whereby another facility assumes responsibility for furnishing certain services to patients and for obtaining reimbursement for such services.

(b) *Arrangement.* The ESRD facility arranges for another facility to furnish certain services to patients but assumes responsibility for such services and for obtaining reimbursement therefor.

(c) *Dialysis.* A process by which dissolved substances are removed from a patient's body by diffusion from one fluid compartment to another across a semipermeable membrane. The two types of dialysis which are currently in common clinical practice are hemodialysis and peritoneal dialysis.

(d) *End-Stage Renal Disease (ESRD).* That stage of renal impairment which is virtually always irreversible and permanent, and requires dialysis or kidney transplantation to ameliorate uremic symptoms and maintain life.

(e) *ESRD facility.* A facility which is approved to furnish at least one specific ESRD service (see § 405.2102(f)). Such facilities are:

(1) *Renal Transplantation Center.* A hospital unit which is approved to furnish directly transplantation and other medical and surgical specialty services required for the care of the ESRD transplant patients, including inpatient dialysis furnished directly or under arrangement. A Renal Transplantation Center may also be a Renal Dialysis Center.

(2) *Renal dialysis center.* A hospital unit which is approved to furnish the full spectrum of diagnostic, therapeutic (including inpatient dialysis furnished directly or under arrangement), and rehabilitative services, except renal transplantation required for the care of ESRD dialysis patients.

(3) *Renal diaysis facility.* A unit which is approved to furnish dialysis service(s) to ESRD patients.

(f) *ESRD service.* The type of care or services furnished to an ESRD patient. Such types of care are:

(l) *Transplantation service.* A process by which (a) a kidney is excised from a live or cadaveric donor, (b) such kidney is implanted in an ESRD patient, and (c) supportive care is furnished to the living donor and to the recipient following implantation.

(2) *Dialysis service:*

(i) *Chronic maintenance dialysis.* Dialysis which is regularly furnished on an outpatient basis to an ESRD patient (at any level of patient involvement) in either a hospital-based or nonhospital-based setting;

(ii) *Inpatient dialysis.* Dialysis which, because of medical necessity, is furnished to an ESRD patient on a temporary inpatient basis in a hospital; or

(iii) *Self-care dialysis training.* A program which trains ESRD patients or their helpers, or both, to perform self-care dialysis.

(g) *Furnishes Directly.* The ESRD facility provides the service through its own staff and employees, or through individuals who are under direct contract to furnish such services personally for the facility (i.e., not through "agreements" or "arrangements").

(h) *Furnishes on the Premises.* The ESRD facility furnishes services on its main premises; or on its other premises that are: (1) contiguous with or in immediate proximity to the main premises; and, (2) under the direction of the same professional staff and governing body as the main premises.

(i) *Histocompatibility testing.* Laboratory test procedures which determine compatibility between a potential donor organ and a potential organ transplant recipient.

(j) *Medical Care Criteria.* Predetermined elements against which aspects of the quality of a medical service may be compared. They are developed by professionals relying on professional expertise and on the professional literature.

(k) *Medical Care Norms.* Numerical or statistical measures of usual observed performance. Norms are derived from aggregate information related to the health care provided to a large number of patients over a period of time.

(l) *Medical Care Standards.* Professionally developed expressions of the range of acceptable variation from a norm or criterion.

(m) *Medical care evaluation study (MCE).* Review of health care services, usually performed retrospectively, in which an indepth assessment of the quality and/or utilization of such services is made.

(n) *Network, ESRD.* An approved organized group of ESRD facilities in a designated geographic area which by their type and location, and because of local referral patterns, collectively furnish the necessary care for ESRD patients in the population served.

(o) *Network Coordinating Council.* (Also referred to as "Council"). A group of representatives of all the ESRD facilities in a network which acts as an administrative governing body to the network, as a resource to community health planners, and as a liaison to the Federal government.

(p) *Organ procurement.* The process of acquiring donor kidneys. (See item (q) in this section.)

(q) *Organ procurement agency.* An organization which performs, or coordinates the performance of, all the following services:

(1) Harvesting of donated kidneys;

(2) Preservation of donated kidneys;

(3) Transportation of donated kidneys; and

(4) Maintenance of a system to locate prospective recipients for harvested organs.

(r) *Personnel (qualified), ESRD:* (1) *Chief executive officer (qualified).* A person who: (i) Holds at least a baccalaureate degree or its equivalent and has at least 1 year of experience in an ESRD unit; or

(ii) Is a qualified registered nurse or qualified physician director pursuant to paragraphs (4) and (5) of this item (r); or

(iii) As of the effective date of these regulations, has demonstrated capability by acting for at least 2 years as a chief executive officer in a dialysis unit or transplantation program.

(2) *Dietitian (qualified).* A person who: (i) Is eligible for registration by the American Dietetic Association under its requirements in effect on the publication of these regulations, and has at least 1 year of experience in clinical nutrition; or

(ii) Has a baccalaureate or advanced degree with major studies in food and nutrition or dietetics, and has at least 1 year of experience in clinical nutrition.

(3) *Medical Record Practitioner (Qualified).* A person who:

(i) Has graduated from a program for Medical Record Administrators accredited by the Council on Medical Education of the American Medical Association and the American Medical Record Association, and is eligible for certification as a Registered Record Administrator (RRA) by the American Medical Record Association under its requirements in effect on the publication of these regulations; or

(ii) Has graduated from a program for Medical Record Technicians approved jointly by the Council on Medical Education of the American Medical Association and the American Medical Record Association, and is eligible for certification as an Accredited Record Technician (ART) by the American Medical Record Association under its requirements in effect on the publication of these regulations; or

(iii) Has successfully completed and received a satisfactory grade in the American Medical Record Association's Correspondence Course for Medical Record Personnel approved by the Accrediting Commission of the National Home Study Council, and is eligible for certification as an Accredited Record Technician by the American Medical Record Association under its requirements in effect on the publication of these regulations.

(4) *Nurse Responsible for Nursing Service (Qualified).* A person who is licensed as a registered nurse by the State in which practicing, and (i) Has at least 12 months of experience in clinical nursing, and an additional 6 months of experience in nursing care of the patient with permanent kidney failure or undergoing kidney transplantation, including training in and experience with the dialysis process; or

(ii) Has 18 months of experience in nursing care of the patient on maintenance dialysis, or in nursing care of the patient with a kidney transplant, including training in and experience with the dialysis process.

(iii) If the nurse responsible for nursing service (qualified) is in charge of self-care dialysis training, at least 3 months of the total required ESRD experience is in training patients in self-care.

(5) *Physician-Director (Qualified).* A physician (see section 1861(r)(1) of the Act) who:

(i) Is board eligible or board certified in internal medicine or pediatrics by a professional board, and has had at least 12 months of experience or training in the care of patients at ESRD facilities; or

(ii) During the 5-year period prior to the effective date of these regulations, served for at least 12 months as director of a dialysis or transplantation program.

(iii) In those areas where a qualified physician is not available to direct a participating dialysis facility, another physician (see section 1861(r)(1) of the Act) may direct the facility, subject to the approval of the Secretary.

(6) *Social Worker (Qualified).* A person who is licensed, if applicable, by the State in which practicing, and

(i) Has completed a course of study with specialization in clinical practice at, and holds a masters degree from, a graduate school of social work accredited by the Council on Social Work Education; or

(ii) Has served for at least 2 years as a social worker, 1 year of which was in a dialysis unit or transplantation program prior to the effective date of these regulations, and has established a consultative relationship with a social worker who qualifies under item (6)(i) of this section.

(7) *Transplantation Surgeon (Qualified).* A person who:

(i) Is board eligible or board certified in general surgery or urology by a professional board; and

(ii) Has at least 12 months training or experience in the performance of renal transplantation and the care of patients with renal transplants.

§ 405.2110 Designation of ESRD network areas.

(a) The Secretary designates ESRD network areas, each serving a minimum population base of 3.5 million and each including at least two renal transplant centers, and is publishing notice thereof as an appendix to this subpart. The Secretary may designate network areas of less than 3.5 million population or a single renal transplant center when necessary for the achievement of the ESRD program objectives (see § 405.-2101).

(b) A network area may cross State and HEW Regional boundaries and, to the greatest extent practicable, will be coterminous with Health Service Areas and PSRO areas. The designation of network areas does not imply that the design of the areas will remain static. Network areas may be changed from time to time by publication of amendments to these regulations so that the designations are in accordance with program experience and changing needs.

(c) Network areas are designated for the purpose of geographically describing the location of groups of ESRD facilities which share a collective responsibility to provide access to the various levels and treatment modalities of ESRD care. The designation of network areas does not require a patient to seek access to care only through the facilities in the designated network area in which the patient resides, nor does the designation of network areas preclude patient choice of physicians or facilities or patient referral by physicians to a facility in another designated network area.

§ 405.2111 Designation of network coordinating councils.

(a) With respect to each designated network area, the Secretary will, after he determines that the criteria listed below are met, designate a network coordinating council. The criteria are:

(1) Each certified ESRD facility in the designated network area has been requested to furnish a network coordinating council designated representative from one of the categories listed in paragraph (a)(3) of this section.

(2) At least 75 percent of the certified ESRD facilities in the network area have furnished a designated representative to the network coordinating council.

(3) If not included in such representatives, the council has appointed the following members from within the network:

(i) Transplant surgeon (see § 405.2102(r)(7)).

(ii) Internist-nephrologist.

(iii) Pediatrician (pediatric nephrologist when available).

(iv) Chief executive officer of an ESRD facility (see § 405.2102(r)(1)).

(v) Qualified dietitian (see § 405.2102(r)(2)).

(vi) Qualified nurse (see § 405.2102(r)(4)).

(vii) Qualified social worker (see § 405.2102(r)(6)).

(viii) Dialysis technician.

(ix) Three informed consumers.

(x) Director of a histocompatibility testing laboratory, when available (see § 405.1314(b)(13)).

(xi) Representative of an organ procurement agency, when available.

(b) Initial functions of a network coordinating council. The initial functions of a network coordinating council include at least the following:

(1) If composed of more than 20 persons, appoints an executive committee of 20 or less persons which carries out the activities of the council between meetings of the council.

(2) Elects an executive committee in each succeeding year, which is representative of the constituency of the network and consists of at least 25 percent nonphysicians.

(3) Provides a plan for establishing working relationships with: (i) contiguous ESRD network coordinating councils; (ii) established Professional Standards Review Organizations (PSROs) established under Part B of title XI of the Social Security Act; and, (iii) Health Systems Agencies (HSAs) and State Health Coordinating Councils (SHCCs) established pursuant to the Public Health Service Act as amended by the National Health Planning Resources and Development Act of 1974, P.L. 93-641, which have designated areas that are wholly or in part included in the ESRD network area.

(4) Provides a listing of the network's component facilities, the name(s) of the facility representative(s) to the council and the disciplines they represent, the name(s) of council member(s) other than those representing facilities and the membership category they represent, the ESRD services each facility provides, and a quantitative estimate of each facility's capacity to deliver each service.

(5) Provides signed agreements between itself and each member facility concerning the latter's willingness to participate in council activities.

(6) Appoints a medical review board (see § 405.2113).

(7) Describes a mechanism for the development of procedures for the review of ESRD care (including a mechanism for the development of criteria and standards) under which an established medical review board can operate.

(8) Provides information concerning the current and projected need for ESRD services within the network area to assist the Secretary in making determinations concerning the certification of ESRD facilities within the network area.

(9) Develops network rules of governance including but not limited to the frequency and type of meetings of the network coordinating council, and the medical review board, the executive committee, quorum of these meetings, etc.

§ 405.2112 Designation of ESRD networks.

An ESRD network exists when the member facilities collectively furnish the full spectrum of ESRD care and a designated network coordinating council has begun to function. Within 6 months following the effective date of these regulations, the Secretary will determine whether the requirements for designation of an ESRD network are met.

(a) Criteria for the designation of an ESRD network:

(1) Each certified ESRD facility in the designated area must be permitted to join the network.

(2) The ESRD facilities must execute a membership agreement with the network coordinating council.

(3) Collectively, the member facilities must include the capability for:

(i) Kidney transplantation.

(ii) Inpatient dialysis.

(iii) Chronic maintenance dialysis.

(iv) Self-care dialysis training.

(v) Support services for patients dialyzing themselves at home.

(vi) Organ (kidney) procurement.

(vii) Histocompatibility testing.

(4) A designated network coordinating council has been formed and has begun to function.

(5) The council has established a medical review board which has begun to function to assure, through the application of suitable procedures of health care review, that the services for which payment may be made under the Social Security Act conform to appropriate standards for the provision of health care.

(6) The council has established procedures for utilizing information available from the national ESRD medical information system, and has begun to implement the procedures.

(7) The council has established working relationships with each PSRO and with each designated HSA and SHCC in the network area and with contiguous network coordinating councils.

(b) *Ongoing functions of the network coordinating council in an approved ESRD network.* The ongoing functions of the network coordinating council are performed by the council or the council's executive committee. The network coordinating council performs the following ongoing functions:

(1) Develops a written plan, updated annually, which contains a statement of the network objectives, a method for attaining the network objectives, and a description of the mechanisms to be used for evaluation of progress toward meeting the network objectives.

(2) Submits to the Secretary within 2 months after each calendar year an annual report which contains the following information:

(i) The ESRD services that each facility in the network provides;

(ii) An quantitative estimate of each facility's capacity to deliver each service;

(iii) The anticipated utilization rate for each ESRD service in each facility for each year in the subsequent 3-year period;

(iv) A statement describing reasons for the participation of an ESRD facility reporting utilization rates which do not satisfy the standard(s) for unconditional status (see § 405.2130); and

(v) An overview report on the medical review activities undertaken in the network during the previous year.

(3) Confers with its component ESRD facilities to assist each with the formulation of data for the annual report.

(4) Monitors the functions of the medical review board and provides for the updating as needed of procedures for review, including criteria and standards.

(5) Makes recommendations to member facilities as needed to achieve the objectives of the network.

(6) Continues its working relationships with each PSRO designated in the

network area with respect to the establishment of standards and criteria and the procedures for medical review.

(7) Continues its working relationships with designated HSAs and SHCCs in the network area, assuring working relationships with respect to information concerning current and projected needs for ESRD services within the network area.

(8) Furnishes consultation, as requested by the Medicare intermediary (ies) or the appropriate PSRO where it has assumed these review functions, concerning the medical necessity of services.

(9) Provides information to the Secretary concerning current and projected utilization of network member facilities.

(10) Establishes mechanisms to manage the administrative aspects of its activities.

(11) Establishes mechanisms to manage the fiscal aspects of its activities.

§ 405.2113 Medical review board.

(a) The medical review board consists of a maximum of seven members. The members (with a designated alternate for each) are appointed by the network coordinating council. The medical review board consists of the following members:

(1) An internist actively engaged in ESRD care;

(2) A qualified transplantation surgeon actively engaged in ESRD care;

(3) A qualified nurse responsible for nursing service;

(4) A qualified social worker;

(5) One to three additional physician(s) actively engaged in ESRD care. In any area where specialized care (e.g., pediatric care) is regularly being reviewed, one of the additional physicians is a specialist in that area of care; and

(6) In addition, there are available to the medical review board consultants in specialty areas as needed.

(b) No person serving on the medical review board has review responsibility for a case in which he has, or had, any professional involvement.

(c) No person serving on the medical review board with a financial interest, direct or indirect, as defined in § 1155(a)(6)(B) of the Act, in a facility that furnishes ESRD services may review the ESRD services of that facility.

(d) The medical review board performs the following functions: (1) Develops a mechanism for monitoring the effectiveness of the patient long-term program (§ 405.2137(a)) in assessing the appropriateness of patients for the proposed treatment procedures;

(2) Reviews and coordinates the evaluation of comparative performance of facilities and physicians based on aggregate data concerning patterns of care in relation to both normative data from the medical information system and criteria and standards developed by the network for at least the following areas of patient care: appropriateness of patients for the proposed treatment procedures, mortality, and morbidity. This review includes both physician and nonphysician performance;

(3) In concurrence with the network coordinating council, coordinates the performance of medical care evaluation studies within the network, with each ESRD facility participating in at least one but usually more than one medical care evaluation study per year. The medical review board assures that the following tasks are performed for each medical care evaluation study: selection and design of the study, setting criteria and standards, data collection and display, interpretation and analysis of the findings, institution of corrective action, and reperformance of any study which indicates a problem; and

(4) As necessary, performs or delegates the performance of other indepth studies based upon information emanating from paragraphs (d)(1) and (d)(2) of this section, the medical information system, or a perceived need. This includes the coordination and evaluation of individual patient data as necessary for at least the following areas of patient care: appropriateness of patients for the proposed treatment procedures, mortality, and morbidity. This review includes both physician and nonphysician performance.

(e) On the basis of its reviews under paragraph (d) of this section, the medical review board provides, to facilities in the network and to physicians, written recommendations for improvements in the ESRD care of individual patients or groups of patients (or both). If there are facilities in the network, or physicians, that continue to deliver care which the medical review board considers inappropriate or of substandard quality, the medical review board provides all facts concerning this care to the council and to the Secretary.

(f) The medical review board, from time to time but not less than annually, submits to the council and to the Secretary a report on its activities, which includes the following:

(1) The plan of the board for conducting review activities including the process and scheduling of reviews and studies, and the process of information exchange between the board, the council, and the facilities within the network;

(2) Findings of its reviews and studies; and

(3) Recommendations with respect to the more effective accomplishment of the purposes and objectives of the board.

§ 405.2114 Relationship of ESRD networks to health care review organizations and to health service planning organizations.

(a) The network coordinating council develops written working arrangements with Health Systems Agencies and State Health Coordinating Councils whose designated planning area is wholly or in part included in the ESRD network area to assure that these organizations receive appropriate professional advice concerning the need for ESRD facilities and services. These written arrangements describe the procedure(s) by which the council integrates its planning responsibility with the planning responsibilities of the Health Systems Agencies and the State Health Coordinating Councils. With regard to continued planning assistance, the network coordinating council accepts planning responsibility as requested by the Health Systems Agencies and the State Health Coordinating Councils.

(b) The medical review board develops written arrangements with PSROs established under Part B of title XI of this Act whose designated area is wholly or in part included in the ESRD network area to assure that these organizations receive appropriate professional advice concerning the quality of medical services required by and given to ESRD patients. These written arrangements describe the procedures by which the medical review board will integrate its medical review responsibility with the medical review responsibility of the PSROs. These arrangements are designed so as to avoid, to the maximum extent possible, the duplication of activities, and become effective only after the approval of the Secretary. With regard to continued medical review assistance, the medical review board will accept review responsibility as requested by the PSROs.

§ 405.2120 Minimal utilization rates: general.

Section 226(g) of the Social Security Act (42 U.S.C. 426(g)) authorizes the Secretary to limit reimbursement for ESRD care to those facilities which meet such requirements as the Secretary may prescribe, including minimal utilization rates for covered procedures. The minimal utilization rates, which are explained and specified in §§ 405.2121–405.2130, pertain to dialyses and transplantations. These utilization rates may be changed from time to time in accordance with program experience, and such changes will be published as amendments to these regulations.

§ 405.2121 Basis for determining minimal utilization rates.

In developing minimal utilization rates, the Secretary takes into account the performance of ESRD facilities, the availability of care, the quality of care, and the efficient utilization of equipment and personnel, based on the following evidence:

(a) Information obtained from the Network Coordinating Council (see § 405.2112(b)(2)) and other sources covering current rates of utilization in ESRD facilities;

(b) Information on the geographic distribution of ESRD patients and facilities;

(c) Information on quality of care; and

(d) Information on operational and management efficiency.

§ 405.2122 Types and duration of classification according to utilization rates.

An ESRD facility which meets all the other conditions fo rcoverage of ESRD

services will be classified according to its utilization rate(s) as follows: unconditional status, conditional status, exception status, or not eligible for reimbursement for that ESRD service. Such classification will be based on previously reported utilization data (see § 405.2124) and will be effective until notification of subsequent classification occurs.

(a) Unconditional status: Unconditional status will be granted to those ESRD facilities whose utilization rate (as calculated in § 405.2124) meets the rates for unconditional status. Such classification will continue until subsequently calculated statistics or amended minimal utilization require a change.

(b) Conditional status: Conditional status will be granted:

(i) To an ESRD facility whose utilization rate meets the minimal rate for conditional status in § 405.2130; and

(ii) To an ESRD facility which has not previously participated in the ESRD program provided that the ESRD facility submits a written plan which details how it will achieve conditional utilization rates by the conclusion of the first calendar year of its operation under the program and unconditional utilization rates during the third calendar year of operation under the program. Such an ESRD facility will be subject to evaluation of its classification after the close of its first calendar year to ascertain whether the written plan is being properly implemented.

(c) Exception status: A renal dialysis center or a renal dialysis facility meeting neither the unconditional nor conditional minimal utilization rate classification but meeting all other conditions for coverage under this subpart may be approved for a time limited exception status by the Secretary providing the facility is located in an area lacking a sufficient population base of support in addition to insufficient numbers of patients to meet the rate and the facility's absence would adversely affect the achievement of ESRD program objectives.

§ 405.2123 Reporting of utilization rates for initial classification.

(a) Within 3 months after the effective date of this subpart, each facility furnishing ESRD services under the interim ESRD regulations or a new applicant facility will submit to the Secretary a report on its utilization rates which will include the following:

(1) Each hospital furnishing renal transplantation service will report both the number of transplants performed during the most recent year of operation and the number performed during each of the preceding 2 calendar years.

(2) Each hospital or nonhospital facility furnishing dialysis service will report the number of dialysis stations it had operating and the total number of dialyses performed during both the most recent year of operation and each of the preceding 2 calendar years.

(b) For the purposes of this report, all dialyses performed (both inpatient and outpatient) and all dialysis stations in operation during the reporting period will be included. Self-care dialysis training stations which were utilized to successfully train at least six self dialysis patients per station per calendar year will be reported but may be excluded from the calculation of utilization rates. The dialyses performed on any such self-care dialysis training stations will also be excluded in the calculation of facility utilization rates.

§ 405.2124 Calculation of utilization rates for comparison with minimal utilization rate(s) and notification of status.

For purposes of classification the Secretary will use either the utilization rate for the preceding 12 months or the average utilization rate of the preceding 2 calendar years, whichever is higher. The Secretary will inform each ESRD facility and the network coordinating council of the network area in which the ESRD facility is located of the results of this classification.

§ 405.2130 Condition: Minimal utilization rates.

The ESRD facility meets the applicable minimal utilization rate(s) indicated below for unconditional or conditional status, unless granted exception status in accordance with § 405.2122(c):

(a) *Standard: Renal Transplantation Center.*

(1) Unconditional status: 15 or more transplants performed annually.

(2) Conditional status: 7 to 14 transplants performed annually.

(b) *Standard: Dialysis facilities or centers performing greater than 20 percent of their dialyses on outpatients.*

(1) For any facility located within a standard metropolitan statistical area of 500,000 population or greater:

(i) Unconditional status—6 or more dialysis stations with performance of an average of 4.5 or more dialyses per station per week;

(ii) Conditional status—6 or more dialysis stations with performance of an average of between 4.0 and 4.5 dialyses per station per week; or 4 or 5 dialysis stations with performance of an average of 4.5 or more dialyses per station per week.

(2) For any facility located in a standard metropolitan statistical area of less than 500,000 population, or in an area not included in a standard metropolitan statistical area:

(i) Unconditional status—3 or more dialysis stations with performance of an average of 4.0 or more dialyses per station per week;

(ii) Conditional status—2 dialysis stations with performance of an average of 4.0 or more dialyses per station per week.

(c) *Standard: Renal dialysis centers performing 20 percent or less of their dialyses on outpatients:* (1) Unconditional status—3 or more dialysis stations with performance of an average of 4.0 or more dialyses per station per week;

(2) Conditional status—2 dialysis stations with performance of an average of 4.0 or more dialyses per station per week.

§ 405.2131 Condition: Provider status: renal transplantation center or renal dialysis center.

A renal transplantation center or a renal dialysis center (§ 405.2102(e) (1) or (2)) operated by a hospital may qualify for approval and be reimbursed under the ESRD program only if the hospital is otherwise an approved provider in the Medicare program.

§ 405.2132 Condition: fulfillment of service needs in network.

The ESRD facility, or an expansion of the renal dialysis center or facility's capacity, is needed to increase the available ESRD services which would otherwise be inadequate for the network area. The facility furnishes evidence in support of its request for approval showing that:

(a) There are ESRD patients in the network area for whom the proposed services of the facility are needed;

(b) These patients cannot be expected to receive appropriate therapy from another ESRD treatment facility in the network area; and

(c) The facility is qualified to furnish the proposed services.

§ 405.2133 Condition: furnishing data and information for ESRD program administration.

The ESRD facility, laboratory performing histocompatibility testing, and organ procurement agency furnishes data and information in the manner and at the intervals specified by the Secretary, pertaining to its ESRD patient care activities and costs, for inclusion in a national ESRD medical information system and in compilations relevant to program administration, including claims processing and reimbursement. Such information is treated as confidential when it pertains to individual patients and is not disclosed except as authorized by Department regulations on confidentiality and disclosure (see 45 CFR Part 5, 5b, and 20 CFR Parts 401 and 422 (Subpart E)).

§ 405.2134 Condition: Membership in a network.

Six months after the effective date of this subpart, the ESRD facility must have executed a membership agreement with an approved network and must be providing acceptable representation to the Network Council.

(a) *Standard: membership agreement.* The membership agreement is signed by an authorized individual on behalf of the facility, providing for the facility's participation in Council activities and medical care evaluation studies (see § 405.2113 (d)(3)).

(b) *Standard: representation.* The facility appoints at least one representative to the Council and more than one representative, when necessary, (§ 405.-.2111), for proper administration of the Network's general program functions.

§ 405.2135 Condition: compliance with Federal, State and local laws and regulations.

The ESRD facility is in compliance with applicable Federal, State and local laws, and regulations.

(a) *Standard: licensure.* Where State or applicable local law provides for the licensing of ESRD facilities, the facility is:

(1) Licensed pursuant to such law; or

(2) Approved by the agency of such State or locality responsible for such licensing as meeting the standards established for such licensing.

(b) *Standard: licensure or registration of personnel.* Each staff member is currently licensed or registered in accordance with applicable law.

(c) *Standard: conformity with other laws.* The facility is in conformity with applicable laws and regulations pertaining to fire safety, equipment, and other relevant health and safety requirements.

§ 405.2136 Condition: governing body and management.

The ESRD facility is under the control of an identifiable governing body, or designated person(s) so functioning, with full legal authority and responsibility for the governance and operation of the facility. The governing body adopts and enforces rules and regulations relative to its own governance and to the health care and safety of patients, to the protection of the patients' personal and property rights, and to the general operation of the facility. The governing body receives and acts upon recommendations and communications from the Medical Review Board and the Network Coordinating Council. The governing body appoints a chief executive officer who is responsible for the overall management of the facility.

(a) *Standard: disclosure of ownership.* The ESRD facility supplies full and complete information to the State survey agency (§ 405.1902(a)) as to the identity of: (1) each person who has any direct or indirect ownership interest of 10 per centum or more in the facility, or who is the owner (in whole or in part) of any mortgage, deed of trust, note, or other obligation secured (in whole or in part) by the facility or any of the property or assets of the facility; (2) each officer and director of the corporation, if the facility is organized as a corporation; and (3) each partner, if the facility is organized as a partnership; and promptly reports to the State survey agency any changes which would affect the current accuracy of the information so required to be supplied.

(b) *Standard: operational objectives.* The operational objectives of the ESRD facility, including the services that it provides, are established by the governing body and delineated in writing.

The governing body adopts effective administrative rules and regulations that are designed to safeguard the health and safety of patients and to govern the general operations of the facility, in accordance with legal requirements. Such rules and regulations are in writing and dated. The governing body ensures that they are operational, and that they are reviewed at least annually and revised as necessary.

(1) The objectives of the facility are formulated in writing and clearly stated in documents appropriate for distribution to patients, facility personnel, and the public.

(2) A description of the services provided by the facility, together with a categorical listing of the types of diagnostic and therapeutic procedures that may be performed, is readily available upon request to all concerned.

(3) Admission criteria are adopted by the facility and are readily available to ensure equitable access to such service.

(4) The operational objectives and administrative rules and regulations of the facility are reviewed at least annually and revised as necessary by the administrative staff, medical director, and other appropriate personnel of the facility, and are adopted when approved by the governing body.

(5) There is a written requirement that the governing body receive all recommendations and communications from the Medical Review Board and the Network Coordinating Council and appropriately act on such recommendations and communications.

(c) *Standard: chief executive officer.* The governing body appoints a qualified chief executive officer who, as the ESRD facility's administrator: is responsible for the overall management of the facility; enforces the rules and regulations relative to the level of health care and safety of patients, and to the protection of their personal and property rights; and plans, organizes, and directs those responsibilities delegated to him by the governing body. Through meetings and periodic reports, the chief executive officer maintains on-going liaison among the governing body, medical and nursing personnel, and other professional and supervisory staff of the facility, and acts upon recommendations made by the medical staff, the governing body, and the Medical Review Board. In the absence of the chief executive officer, a qualified person is authorized in writing to act on the officer's behalf.

(1) The governing body delineates in writing the responsibilities of the chief executive officer, and ensures that he/she is sufficiently free from other duties to provide effective direction and management of the operations and fiscal affairs of the facility.

(2) The chief executive officer serves on a full-time or part-time basis, in accordance with the scope of the facility's operations and administrative needs, and devotes sufficient time to the conduct of such responsibilities.

(3) The responsibilities of the chief executive officer include but are not limited to:

(i) Implementing the policies of the facility and coordinating the provision of services, in accordance with delegations by the governing body.

(ii) Organizing and coordinating the administrative functions of the facility, redelegating duties as authorized, and establishing formal means of accountability for those involved in patient care.

(iii) Authorizing expenditures in accordance with established policies and procedures.

(iv) Familiarizing the staff with the facility's policies, rules, and regulations, and with applicable Federal, State, and local laws and regulations.

(v) Maintaining and submitting such records and reports, including a chronological record of services provided to patients, as may be required by the facility's internal committees and governing body, the Medical Review Board (§ 405.2113), or as required by the Secretary.

(vi) Participating in the development, negotiation, and implementation of agreements or contracts into which the facility may enter, including network agreements, (§ 405.2134), subject to approval by the governing body of such agreements or contracts.

(vii) Participating in the development of the organizational plan and ensuring the development and implementation of an accounting and reporting system, including annual development of a detailed budgetary program, maintenance of fiscal records, and quarterly submission to the governing body of reports of expenses and revenues generated through the facility's operation.

(viii) Ensuring that the facility employs the number of qualified personnel needed; that all employees have appropriate orientation to the facility and their work responsibilities upon employment; and that they have an opportunity for continuing education and related development activities.

(d) *Standard: personnel policies and procedures.* The governing body, through the chief executive officer of the ESRD facility, is responsible for maintaining and implementing written personnel policies and procedures that support sound patient care and promote good personnel practices. These policies and procedures ensure that:

(1) All members of the facility's staff are qualified to perform the duties and responsibilities assigned to them and meet such Federal, State, and local professional requirements as may apply.

(2) A safe and sanitary environment for patients and personnel exists, and reports of incidents and accidents to patients and personnel are reviewed to identify health and safety hazards. Health supervision of personnel is provided, and they are referred for periodic health examinations and treatments as necessary or as required by Federal, State, and local laws. Procedures are established for routine testing to ensure detection of hepatitis and other infectious diseases.

(3) If the services of trainees are utilized in providing ESRD services, such trainees are under the direct supervision of qualified professional personnel.

(4) Complete personnel records are maintained on all personnel. These include health status reports, resumes of training and experience, and current job descriptions that reflect the employees' responsibilities and work assignments.

(5) Personnel policies are written and made available to all personnel in the facility. The policies provide for an effective mechanism to handle personnel grievances.

(6) All personnel of the facility participate in educational programs on a regular basis. These programs cover initial orientation, and continuing inservice training, including procedures for infection control. Records are maintained showing the content of training sessions and the attendance at such sessions.

(7) Personnel manuals are maintained, periodically updated, and made available to all personnel involved in patient care.

(e) *Standard: use of outside resources.* If the ESRD facility makes arrangements for the provision of a specific service as authorized in this subpart, the responsibilities, functions, objectives, and the terms of each arrangement, including financial provisions and charges, are delineated in a document signed by an authorized representative of the facility and the person or agency providing the service. The chief executive officer when utilizing outside resource, as a consultant, assures that he is apprised of recommendations, plans for implementation, and continuing assessment through dated, signed reports, which are retained by the chief executive officer for follow-up action and evaluation of performance.

(f) *Standard: patient care policies.* The ESRD facility has written policies, approved by the governing body, concerning the provision of dialysis and other ESRD services to patients. The governing body reviews implementation of policies periodically to ensure that the intent of the policies is carried out. These policies are developed by the physician responsible for supervising and directing the provision of ESRD services, or the facility's organized medical staff (if there is one), with the advice of (and with provision for review of such policies from time to time, but at least annually, by) a group of professional personnel associated with the facility, including, but not limited to, one or more physicians and one or more registered nurses experienced in rendering ESRD care.

(1) The patient care policies cover the following:

(i) Scope of services provided by the facility (either directly or under arrangement).

(ii) Admission and discharge policies (in relation to both in-facility care and self-care or home care).

(iii) Medical supervision and physician services.

(iv) Patient long term programs, patient care plans and methods of implementation.

(v) Care of patients in medical and other emergencies.

(vi) Pharmaceutical services.

(vii) Medical records (including those maintained in the ESRD facility and in the patients' homes, to ensure continuity of care).

(viii) Administrative records.

(ix) Use and maintenance of the physical plant and equipment.

(x) Consultant qualifications, functions, and responsibilities.

(xi) Surveillance of home adaptation if the facility has responsibility for home dialysis patients.

(2) The physician-director of the facility is designated in writing to be responsible for the execution of patient care policies. If the responsibility for day-to-day execution of patient care policies has been delegated by a physician director to a registered nurse, the physician-director provides medical guidance to the nurse in such matters.

(3) The facility policy provides that, whenever feasible, hours for dialysis are scheduled for patient convenience and that arrangements are made to accommodate employed patients who wish to be dialyzed during their non-working hours.

(4) The governing body adopts policies to ensure there is evaluation of the progress each patient is making toward the goals stated in the patient's long term program and patient's care plan (see § 405.2137(a)). Such evaluations are carried out through regularly scheduled conferences, with participation by the staff involved in the patient's care.

(g) *Standard: medical supervision and emergency coverage.* The governing body of the ESRD dialysis and/or transplant facility ensures that the health care of every patient is under the continuing supervision of a physician and that a physician is available in emergency situations.

(1) The physician responsible for the patient's medical supervision evaluates the patient's immediate and long-term needs and on this basis prescribes a planned regimen of care which covers indicated dialysis and other ESRD treatments, services, medications, diet, special procedures recommended for the health and safety of the patient, and plans for continuing care and discharge. Such plans are made with input from other professional personnel involved in the care of the patient.

(2) The governing body ensures that there is always available medical care for emergencies, 24 hours a day, 7 days a week. There is posted at the nursing/monitoring station a roster with the names of the physicians to be called, when they are available for emergencies, and how they can be reached.

(h) *Standard: medical staff.* The governing body of the ESRD facility designates a qualified physician (see § 405.2102(r)(5) as director of the ESRD services; the appointment is made upon the recommendation of the facility's organized medical staff, if there is one. The governing body establishes written policies regarding the development, negotiation, consummation, evaluation, and termination of appointments to the medical staff.

§ 405.2137 Condition: patient long-term program and patient care plan.

Each facility maintains for each patient a written long-term program and a written patient care plan to ensure that each patient receives the appropriate modality of care and the appropriate care within that modality. The patient, or where appropriate, parent or legal guardian is involved with the health team in the planning of care. A copy of the current program and plan accompany the patient on interfacility transfer.

(a) *Standard: patient long-term program.* There is a written long-term program representing the selection of a suitable treatment modality (i.e., dialysis or transplantation) and dialysis setting (e.g., home, self care) for each patient.

(1) The program is developed by a professional team which includes but is not limited to the physician director of the dialysis facility or center where the patient is currently being treated, a physician director of a center or facility which offers self-care dialysis training (if not available at the location where the patient is being treated), a transplant surgeon, a qualified nurse responsible for nursing services, a qualified dietitian and a qualified social worker.

(2) The program is formally reviewed and revised in writing as necessary by a team which includes but is not limited to the physician director of the dialysis facility or center where the patient is presently being treated, in addition to the other personnel listed in paragraph (a)(1) of this section at least every 12 months or more often as indicated by the patient's response to treatment (see § 405.2161(b)(1) and § 405.2170(a)).

(3) The patient, parent, or legal guardian, as appropriate, is involved in the development of the patient's long-term program, and due consideration is given to his preferences.

(4) A copy of the patient's long-term program accompanies the patient on interfacility transfer or is sent within 1 working day.

(b) *Standard: patient care plan.* There is a written patient care plan for each patient of an ESRD facility based upon the nature of the patient's illness, the treatment prescribed, and an assessment of the patient's needs.

(1) The patient care plan is personalized for the individual, reflects the psychological, social, and functional needs of the patient, and indicates the ESRD and other care required as well as the individualized modifications in approach necessary to achieve the long-term and short-term goals.

(2) The plan is developed by a professional team consisting of at least the physician responsible for the patient's ESRD care, a qualified nurse responsible for nursing services, a qualified social worker, and a qualified dietitian.

(3) The patient, parent, or legal guardian, as appropriate, is involved in the development of the care plan, and due consideration is given to his preferences.

(4) Although care is evaluated and updated continuously, the care plan is reviewed by the team at least monthly and revised as necessary to ensure that it provides for the ongoing needs of the patient. A coordinator from the team is appointed by the physician. The coordinator ensures that conferences are convened to review the patient care plan, and that changes are recorded and progress notes incorporated into the patient's record.

(5) The patient care plan accompanies the patient upon interfacility transfer or is sent within 1 working day.

§ 405.2138 Condition: patients' rights and responsibilities.

The governing body of the ESRD facility adopts written policies regarding the rights and responsibilities of patients and, through the chief executive officer, is responsible for development of, and adherence to, procedures implementing such policies. These policies and procedures are made available to patients and any guardians, next of kin, sponsoring agency(ies), representative payees (selected pursuant to section 205(j) of the Social Security Act and Subpart Q of Part 404 of this Chapter), and to the public. The staff of the facility is trained and involved in the execution of such policies and procedures. The patients' rights policies and procedures ensure at least the following:

(a) *Standard: informed patients.* All patients in the facility:

(1) Are fully informed of these rights and responsibilities, and of all rules and regulations governing patient conduct and responsibilities,

(2) Are fully informed of services available in the facility and of related charges including any charges for services not covered under title XVIII of the Social Security Act;

(3) Are fully informed by a physician of their medical condition unless medically contraindicated (as documented in their medical records).

(b) *Standard: participation in planning.* All patients treated in the facility:

(1) Are afforded the opportunity to participate in the planning of their medical treatment and to refuse to participate in experimental research;

(2) Are transferred or discharged only for medical reasons or for the patient's welfare or that of other patients, or for nonpayment of fees (except as prohibited by title XVIII of the Social Security Act), and are given advance notice to ensure orderly transfer or discharge.

(c) *Standard: respect and dignity.* All patients are treated with consideration, respect, and full recognition of their individuality and personal needs, including the need for privacy in treatment. Provision is made for translators where a significant number of patients exhibit language barriers.

(d) *Standard: confidentiality.* All patients are ensured confidential treatment of their personal and medical records, and may approve or refuse release of such records to any individual outside the facility, except in case of their transfer to another health care institution or as required by Federal, State, or local law and the Secretary for proper administration of the program.

(e) *Standard: grievance mechanism.* All patients are encouraged and assisted to understand and exercise their rights. Grievances and recommended changes in policies and services may be addressed to facility staff, administration, the Network Council, and agencies or regulatory bodies with jurisdiction over the facility, through any representative of the patient's choice, without restraint or interference, and without fear of discrimination or reprisal.

§ 405.2139 Condition: medical records.

The ESRD facility maintains complete medical records on all patients (i.e., those receiving care within the facility and those self-care or home dialysis patients for whom the facility has assumed responsibility) in accordance with accepted professional standards and practices. A member of the facility's staff is designated to serve as supervisor of medical records services, and ensures that all records are properly documented, completed, and preserved. The medical records are completely and accurately documented, readily available, and systematically organized to facilitate the compilation and retrieval of information.

(a) *Standard: medical record.* Each patient's medical record contains sufficient information to identify the patient clearly, to justify the diagnosis and treatment, and to document the results accurately. All medical records contain the following general categories of information: Documented evidence of assessment of the needs of the patient, of establishment of an appropriate plan of treatment, and of the care and services provided (see § 405.2137 (a) and (b)); identification and social data; signed consent forms; referral information with authentication of diagnosis; medical and nursing history of patient; report(s) of physician examination(s); diagnostic and therapeutic orders, observations, and progress notes; reports of treatments and clinical findings; reports of laboratory and other diagnostic tests and procedures; and discharge summary including final diagnosis and prognosis.

(b) *Standard: protection of medical record information.* The ESRD facility safeguards medical record information against loss, destruction, or unauthorized use. The ESRD facility has written policies and procedures which govern the use and release of information contained in medical records. Written consent of the patient, or of an authorized person acting in behalf of the patient, is required for release of information not provided by law. Medical records are made available under stipulation of confidentiality for inspection by authorized agents of the Secretary, as required for administration of the ESRD program under Medicare.

(c) *Standard: medical records supervisor.* A member of the ESRD facility's staff is designated to serve as supervisor of the facility's medical records service. The functions of the medical records supervisor include, but are not limited to, the following: Ensuring that the records are documented, completed, and maintained in accordance with accepted professional standards and practices; safeguarding the confidentiality of the records in accordance with established policy and legal requirements; ensuring that the records contain pertinent medical information and are filed for easy retrieval. When necessary, consultation is secured from a qualified medical record practitioner.

(d) *Standard: Completion of medical records and centralization of clinical information.* Current medical records and those of discharged patients are completed promptly. All clinical information pertaining to a patient is centralized in the patient's medical record.

(e) *Standard: retention and preservation of records.* Medical records are retained for a period of time not less than that determined by the State statute governing records retention or statute of limitations; or in the absence of a State statute, 5 years from the date of discharge; or, in the case of a minor, 3 years after the patient becomes of age under State law, whichever is longest.

(f) *Standard: location and facilities.* The facility maintains adequate facilities, equipment, and space conveniently located, to provide efficient processing of medical records (e.g., reviewing, filing, and prompt retrieval) and statistical medical information (e.g., required abstracts, reports, etc.).

(g) *Standard: transfer of medical information.* The facility provides for the interchange of medical and other information necessary or useful in the care and treatment of patients transferred between treating facilities, or in determining whether such patients can be adequately cared for otherwise than in either of such facilities.

§ 405.2140 Condition: physical environment.

The physical environment in which ESRD services are furnished affords a functional, sanitary, safe, and comfortable setting for patients, staff, and the public.

(a) *Standard: building and equipment.* The physical structure in which ESRD services are furnished is constructed, equipped, and maintained to insure the safety of patients, staff, and the public.

(1) Fire extinguishers are conveniently located on each floor of the facility and in areas of special hazard. Fire regulations and fire management procedures are prominently posted and properly followed.

(2) All electrical and other equipment used in the facility is maintained free of defects which could be a potential hazard to patients or personnel. There is established a planned program of preventive maintenance of equipment used in dialysis and related procedures in the facility.

(3) The areas used by patients are maintained in good repair and kept free

of hazards such as those created by damaged or defective parts of the building.

(4) The facility is equipped with an alternate electrical power source provided by an emergency generator located on the premises to supply electrical power necessary in the event the normal electrical supply is interrupted. The emergency electrical power system supplies power adequate to maintain the operation of the dialysis machines and other life-support systems, for lighting in all means of egress, and equipment to maintain fire detection, alarm, and extinguishing systems.

(5) Water used for dialysis purposes is analyzed periodically and treated as necessary to maintain a continuous water supply that is biologically and chemically compatible with acceptable dialysis techniques. Records of test results and equipment maintenance are maintained at the facility.

(6) Electrical circuits serving all medical equipment in the dialysis facility or center are provided with 5 milliampere ground-fault interruptors.

(b) *Standard: favorable environment for patients.* The facility is maintained and equipped to provide a functional, sanitary, and comfortable environment with an adequate amount of well-lighted space for the services provided.

(1) There are written policies and procedures in effect for preventing and controlling hepatitis and other infections. These policies include, but are not limited to, appropriate procedures for surveillance and reporting of infections, housekeeping, handling and disposal of waste and contaminants, and sterilization and disinfection, including the sterilization and maintenance of equipment.

(2) Treatment areas are designed and equipped to provide adequate and safe dialysis therapy, as well as privacy and comfort for patients. The space for treating each patient is sufficient to accomodate medically needed emergency equipment and staff and to ensure that such equipment and staff can reach the patient in an emergency.

(3) There is provided a nursing/monitoring station from which adequate surveillance of patients receiving hemodialysis services can be made.

(4) Heating and ventilation systems are capable of maintaining adequate and comfortable temperatures.

(5) Each ESRD facility utilizing a central-batch delivery system provides, either on the premises or through affiliation agreement or arrangement (see § 405.2160) sufficent individual delivery systems for the treatment of any patient requiring special dialysis solutions.

(c) *Standard: contamination prevention.* The facility employs appropriate techniques to prevent cross-contamination between the unit and adjacent hospital or public areas including, but not limited to, food service areas, laundry, disposal of solid waste and blood-contaminated equipment, and disposal of contaminants into sewage systems. Waste storage and disposal are carried out in accordance with applicable local laws and accepted public health procedures.

(d) *Standard: emergency preparedness.* Written policies and procedures specifically define the handling of emergencies which may threaten the health or safety of patients. Such emergencies would exist during a fire or natural disaster or during functional failures in equipment. Specific emergency preparedness procedures exist for different kinds of emergencies. These are reviewed and tested at least annually and revised as necessary by, or under the direction of, the chief executive officer. All personnel are knowledgeable and trained in their respective roles in emergency situations.

(1) There is an established written plan for dealing with fire and other emergencies which, when necessary, is developed in cooperation with fire and other expert personnel.

(2) All personnel are trained, as part of their employment orientation, in all aspects of preparedness for any emergency or disaster. The emergency preparedness plan provides for orientation and regular training and periodic drills for all personnel in all procedures so that each person promptly and correctly carries out a specified role in case of an emergency.

(3) There is available at all times on the premises a fully equipped emergency tray, including emergency drugs, medical supplies, and equipment, and staff are trained in its use.

(4) The staff is familiar with the use of all dialysis equipment and procedures to handle medical emergencies.

§ 405.2160 Condition: affiliation agreement or arrangement.

(a) A renal dialysis facility and a renal dialysis center (see § 405.2102(e)(2)) have in effect an affiliation agreement or arrangement with each other, in writing, for the provision of inpatient care and other hospital services.

(b)) The affiliation agreement or arrangement provides the basis for effective working relationships under which inpatient hospital care or other hospital services are available promptly to the dialysis facility's patients when needed. The dialysis facility has in its files documentation from the renal dialysis center to the effect that patients from the dialysis facility will be accepted and treated in emergencies. There are reasonable assurances that:

(1) Transfer or referral of patients will be effected between the renal dialysis center and the dialysis facility whenever such transfer or referral is determined as medically appropriate by the attending physician, with timely acceptance and admission;

(2) There will be interchange, within 1 working day, of the patient long-term program and patient care plan, and of medical and other information necessary or useful in the care and treatment of patients transferred or referred between the facilities, or in determining whether such patients can be adequately cared for otherwise than in either of such facilities; and

(3) Security and accountability for patients' personal effects are assured.

§ 405.2161 Condition—Director of a renal dialysis facility or renal dialysis center.

Treatment is under the general supervision of a Director who is a physician. The physician-director need not devote full time as Director but is responsible for planning, organizing, conducting, and directing the professional ESRD services and must devote sufficient time to carrying out these responsibilities. The director may also serve as the Chief Executive Officer of the facility.

(a) *Standard: qualifications.* The director of a dialysis facility is a qualified physician-director. (See § 405.2102(r)(5))

(b) *Standard: responsibilities.* The responsibilities of the physician-director include but are not limited to the following:

(1) Participating in the selection of a suitable treatment modality, i.e., transplantation or dialysis, and dialysis setting, for all patients;

(2) Assuring adequate training of nurses and technicians in dialysis techniques;

(3) Assuring adequate monitoring of the patient and the dialysis process;

(4) Assuring the development and availability of a patient care policy and procedures manual and its implementation. As a minimum, the manual describes the types of dialysis used in the facility and the procedures followed in performance of such dialysis; hepatitis prevention and procedures for handling an individual with hepatitis; and a disaster preparedness plan (e.g., patient emergency, fire, flood); and

(5) When self-dialysis training is offered, assuring that patient teaching materials are available for patient use during training and at times other than during the dialysis procedure.

§ 405.2162 Condition: staff of a renal dialysis facility or renal dialysis center.

Properly trained personnel are present in adequate numbers to meet the needs of the patients, including those arising from medical and nonmedical emergencies.

(a) *Standard: registered nurse.* The dialysis facility employs at least one full time qualified nurse responsible for nursing service. (See § 405.2102(r)(4))

(b) *Standard: on-duty personnel.* Whenever patients are undergoing dialysis, other than self-care dialysis, one currently licensed health professional (e.g., physician, registered nurse, or licensed practical nurse) experienced in rendering ESRD care is on duty to oversee ESRD patient care, and an adequate number of personnel are present to meet the needs of patients, and an adequate number of personnel are readily available to meet medical and nonmedical emergencies.

(c) *Standard: self-care dialysis training personnel.* If the facility offers self-care dialysis training, a qualified nurse is in charge of such training (see § 405.-2102(r)(4)).

§ 405.2163 Condition: Minimal service requirements for a renal dialysis facility or renal dialysis center.

In addition to chronic maintenance dialysis, the facility provides adequate laboratory, social, and dietetic services as needed to meet the needs of the ESRD patient.

(a) *Standard: laboratory services.* The dialysis facility makes available laboratory services (other than the specialty of tissue pathology and histocompatibility testing), to meet the needs of the ESRD patient. Laboratory services are performed either by a Medicare-approved hospital or by a qualified Medicare-approved independent laboratory, except that hematocrit and clotting time, which the facility uses to monitor its patients' fluids incident to each dialysis treatment, may be performed by the dialysis facility's staff, who are qualified by education and experience to perform such duties, under the direction of a physician.

(b) *Standard: social services.* Social services are provided to patients and their families and are directed at supporting and maximizing the social functioning and adjustment of the patient. Social services are furnished by a qualified social worker (§ 405.2102(r)(6)) who has an employment or contractual relationship with the facility. The qualified social worker is responsible for conducting psychosocial evaluations, participating in team review of patient progress and recommending changes in treatment based on the patient's current psychosocial needs, providing casework and groupwork services to patients and their families in dealing with the special problems associated with ESRD, and identifying community social agencies and other resources and assisting patients and families to utilize them.

(c) *Standard: dietetic services.* Each patient is evaluated as to his nutritional needs by the attending physician and by a qualified dietitian (§ 405.2102(r)(2)) who has an employment or contractual relationship with the facility. The dietitian, in consultation with the attending physician, is responsible for assessing the nutritional and dietetic needs of each patient, recommending therapeutic diets, counseling patients and their families on prescribed diets, and monitoring adherence and response to diets.

(d) *Standard: self-care dialysis support services.* The renal dialysis facility or center furnishing self-care dialysis training upon completion of the patient's training, makes available as appropriate (either directly, under agreement or by arrangement with another ESRD facility) the following services:

(1) Surveillance of the patient's home adaptation, including provisions for visits to the home or the facility;

(2) Consultation for the patient with a qualified social worker and a qualified dietitian;

(3) A record-keeping system which assures continuity of care;

(4) Installation and maintenance of equipment;

(5) Testing and appropriate treatment of the water; and

(6) Ordering of supplies on an ongoing basis.

(e) *Standard: participation in recipient registry.* The dialysis facility or center participates in a patient registry program for patients who are awaiting cadaveric donor transplantation.

§ 405.2170 Condition: Director of a renal transplantation center.

The renal transplantation center is under the general supervision of a qualified transplantation surgeon (§ 405.2102(r)(7)) or a qualified physician-director (§ 405.2102(r)(5)), who need not serve full time. This physician is responsible for planning, organizing, conducting, and directing the Renal Transplantation Center and devotes sufficient time to carry out these responsibilities, which include but are not limited to the following:

(a) Participating in the selection of a suitable treatment modality for each patient.

(b) Assuring adequate training, of nurses in the care of transplant patients.

(c) Assuring that tissue typing and organ procurement services are available either directly or under arrangement.

(d) Assuring that transplantation surgery is performed under the direct supervision of a qualified transplantation surgeon.

§ 405.2171 Condition: minimal service requirements for a renal transplantation center.

Kidney transplantation is furnished directly by a hospital which is participating as a provider of services in the Medicare program and is approved by the Secretary as a Renal Transplantation Center. The Renal Transplantation Center is under the overall direction of a hospital administrator and medical staff; if operated by an organizational subsidiary, it is under the direction of an administrator and medical staff member (or committee) who are directly responsible to the hospital administrator and medical staff, respectively. Patients are accepted for transplantation only on the order of a physician and their care continues under the supervision of a physician.

(a) *Standard: participation in recipient registry.* The Renal Transplantation Center participates in a patient registry program for patients who are awaiting cadaveric donor transplantation.

(b) *Standard: social services.* Social services are provided to patients and their families and are directed at supporting and maximizing the social functioning and adjustment of the patient. Social services are furnished by a qualified social worker (§ 405.2102(r)(6)) who has an employment or contractual relationship with the facility. The qualified social worker is responsible for conducting psychosocial evaluations, participating in team review of patient progress and recommending changes in treatment based on the patient's current psychosocial needs, providing casework and groupwork services to patients and their families in dealing with the special problems associated with ESRD, and identifying community social agencies and other resources and assisting patients and families to utilize them.

(c) *Standard: dietetic services.* Each patient is evaluated as to his nutritional needs by the attending physician and a qualified dietitian (§ 405.2102(r)(2)) who has an employment or contractual relationship with the facility. The dietitian, in consultation with the attending physician, is responsible for assessing the nutritional and dietetic needs of each patient, recommending therapeutic diets, counseling patients and their families on prescribed diets, and monitoring adherence and response to diets.

(d) *Standard: laboratory services.* The renal transplantation center makes available, directly or under arrangements, laboratory services to meet the needs of ESRD patients. Laboratory services are performed in a laboratory facility approved to participate in the Medicare program and, for histocompatibility testing purposes, notwithstanding approval pursuant to Subpart J also meets § 405.1314(b)(13) and § 405.1317(a), (b)(2)(i) and (ii), (b)(4), and (b)(8), and (when services are furnished in the specialty of tissue pathology) § 405.1314(b)(8)(i) and § 405.1317(a) and (b)(6)(ii).

(1) Laboratory services for crossmatching of recipient serum and donor lymphocytes for preformed antibodies by an acceptable technique are available on a 24-hour emergency basis.

(2) Available laboratory services also include:

(i) Suitable maintenance of recipient sera and typing regeants;

(ii) Phenotyping for donors and recipients;

(iii) Updating and retyping for HL-A and better defined antigens as indicated;

(iv) Screening of recipient sera for preformed antibodies with a suitable lymphocyte panel;

(v) Testing such as the mixed lymphocyte cultures to determine cellularly-defined antigens; and

(vi) ABO blood grouping and Rh typing.

(e) *Standard: organ procurement.* If a renal transplantation center utilizes the services of an organ procurement agency to obtain donor organs, it has a written arrangement covering these services. The renal transplantation center agrees to notify the Secretary in writing within 30 days of the termination of such arrangements.

APPENDIX

Pursuant to § 405.2111 of this Subpart, the following are designated as End-Stage Renal Disease Network Areas:

ESRD NETWORK NO. 1

American Samoa	The Trust Territory of the Pacific Islands
Guam	
Hawaii	

ESRD NETWORK NO. 2

The State of Alaska
The State of Idaho
The State of Montana
The State of Oregon
The State of Washington

ESRD NETWORK NO. 3

The following counties in Northern California:

Alameda	Nevada
Alpine	Placer
Amador	Plumas
Butte	Sacramento
Calaveras	San Benito
Colusa	San Francisco
Contra Costa	San Joaquin
Del Norte	San Mateo
El Dorado	Santa Clara
Fresno	Santa Cruz
Glenn	Shasta
Humboldt	Sierra
Lake	Siskiyou
Lassen	Solano
Madera	Sonoma
Marin	Stanislaus
Mariposa	Sutter
Mendocino	Tehama
Merced	Trinity
Modoc	Tuolumne
Mono	Yolo
Monterey	Yuba
Napa	

The State of Nevada excluding Clark county which is included in Network area 4.

ESRD NETWORK NO. 4

The following counties in Southern California:

Imperial	San Bernardino
Inyo	San Diego
Kern	San Luis Obispo
Kings	Santa Barbara
Los Angeles	Tulare
Orange	Ventura
Riverside	

The following county in Southern Nevada:

Clark

ESRD NETWORK NO. 5

The State of Colorado

The State of Utah excluding the Navaho Reservation portion of San Juan County which is in Network area 6.

The State of Wyoming

The following counties in the State of Nebraska:

Banner	Kimball
Box Butte	Morrill
Cheyenne	Scotts Bluff
Dawes	Sheridan
Deuel	Sioux
Garden	

ESRD NETWORK NO. 6

The State of Arizona
The State of New Mexico

The Navaho Reservation portion of San Juan County, Utah.

ESRD NETWORK NO. 7

The State of Minnesota
The State of North Dakota
The State of South Dakota

The following counties in the State of Michigan:

Alger	Iron
Baraga	Keweenaw
Delta	Marquette
Dickinson	Menominee
Gogebic	Ontonagon
Houghton	Schoolcraft

The following counties in the State of Wisconsin:

Ashland	Iron
Bayfield	Price
Burnett	Sawyer
Douglas	Washburn

ESRD NETWORK NO. 8

Composed of:

The State of Iowa

The State of Nebraska excluding the following counties which are included in Network area 5:

Banner	Kimball
Box Butte	Morrill
Cheyenne	Scotts Bluff
Dawes	Sheridan
Deuel	Sioux
Garden	

The following counties in the State of Illinois:

Henry	Rock Island
Mercer	

ESRD NETWORK NO. 9

The State of Kansas

The State of Missouri excluding the following counties which are included in Network area 18:

Dunklin	Pemiscot
Mississippi	Scott
New Madrid	Stoddard

The following counties in the State of Illinois:

Clinton	Monroe
Madison	St. Clair

ESRD NETWORK NO. 10

The State of Arkansas excluding the following counties which are included in Network area 18:

Crittenden	Mississippi

The State of Oklahoma

ESRD NETWORK NO. 11

The State of Texas

ESRD NETWORK NO. 12

The State of Louisiana

ESRD NETWORK NO. 13

The State of Wisconsin excluding the following counties which are included in Network area 7:

Ashland	Iron
Bayfield	Price
Burnett	Sawyer
Douglas	Washburn

ESRD NETWORK NO. 14

The State of Michigan excluding the following counties which are included in network area number 7.

Alger	Iron
Baraga	Keweenaw
Delta	Marquette
Dickinson	Menominee
Gogebic	Ontonagon
Houghton	Schoolcraft

ESRD NETWORK NO. 15

The State of Illinois excluding the following counties which are included in Network area 8:

Henry	Rock Island
Mercer	

and the following counties which are included in Network area 9:

Clinton	Monroe
Madison	St. Clair

ESRD NETWORK NO. 16

The State of Indiana

ESRD NETWORK NO. 17

The State of Kentucky

The following counties in the State of Ohio:

Adams	Greene
Brown	Hamilton
Butler	Highland
Champaign	Miami
Clark	Montgomery
Clermont	Preble
Clinton	Shelby
Darke	Warren

ESRD NETWORK NO. 18

The State of Alabama excluding the following county which is included in network area number 20.

Russell

The State of Mississippi
The State of Tennessee

The following counties in the State of Arkansas:

Crittenden	Mississippi

The following counties in the State of Georgia:

Catoosa	Walker
Dade	

The following counties in the State of Missouri:

Dunklin	Pemiscot
Mississippi	Scott
New Madrid	Stoddard

The following counties in the State of Virginia:

Scott	Washington

ESRD NETWORK NO. 19

The State of Florida

ESRD NETWORK NO. 20

The State of Georgia excluding the following counties which are included in network area number 18.

Catossa	Walker
Dade	

The State of South Carolina

The following county in the State of Alabama:

Russell

ESRD NETWORK NO. 21

The State of North Carolina

ESRD NETWORK NO. 22

Composed of the State of Ohio excluding the following counties which are included in network area number 17.

Adams	Greene
Brown	Hamilton
Butler	Highland
Champaign	Miami
Clark	Montgomery
Clermont	Preble
Clinton	Shelby
Darke	Warren

The following counties of Western Pennsylvania:

Allegheny	Forest
Armstrong	Fulton
Beaver	Greene
Bedford	Huntingdon
Blair	Indiana
Butler	Lawrence
Cambria	McKean
Cameron	Mercer
Clarion	Potter
Crawford	Somerset
Elk	Venango
Erie	Warren
Fayette	Washington
	Westmoreland

ESRD NETWORK NO. 23

The District of Columbia.

The following counties in the State of Virginia:

Arlington	Loudoun
Fairfax	Prince William

The following counties in the State of Maryland:

Calvert	Prince Georges
Charles	St. Mary's
Montgomery	

ESRD NETWORK NO. 24

The State of Delaware

The following counties of Eastern Pennsylvania:

Adams	Chester
Berks	Clearfield
Bucks	Clinton
Carbon	Columbia
Centre	Cumberland
Dauphin	Montgomery
Delaware	Montour
Franklin	Northampton
Jefferson	Northumberland
Juniata	Perry
Lackawanna	Pike
Lancaster	Philadelphia
Lebanon	Schuylkill
Lehigh	Snyder
Luzerne	Union
Lycoming	Wayne
Mifflin	Wyoming
Monroe	York

ESRD NETWORK NO. 25

The following counties of Metropolitan New York:

Bronx	Queens
Dutchess	Richmond
Kings	Rockland
Nassau	Suffolk
New York	Sullivan
Orange	Ulster
Putnam	Westchester

ESRD NETWORK NO. 26

The State of New York excluding the following counties which are included in Network area 25:

Bronx	Queens
Dutchess	Richmond
Kings	Rockland
Nassau	Suffolk
New York	Sullivan
Orange	Ulster
Putnam	Westchester

The following counties in the State of Pennsylvania:

Bradford	Sullivan
Susquehanna	Tioga

ESRD NETWORK NO. 27

The State of Connecticut

ESRD NETWORK NO. 28

The State of Maine
The State or Massachusetts
The State of New Hampshire
The State of Rhode Island
The State of Vermont

ESRD NETWORK NO. 29

Puerto Rico	Virgin Islands

ESRD NETWORK NO. 30

The State of Virginia excluding the following counties which are included in Network area 18:

Scott	Washington

and the following counties which are included in Network area 23:

Arlington	Loudoun
Fairfax	Prince William

The State of West Virginia

ESRD NETWORK NO. 31

The State of Maryland excluding the following counties which are included in Network area 23:

Calvert	Prince Georges
Charles	St. Mary's
Montgomery	

ESRD NETWORK NO. 32

The State of New Jersey

[FR Doc.76-15924 Filed 6-2-76;8:45 am]

federal register

THURSDAY, JUNE 3, 1976



PART III:

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

■

HEALTH RESOURCES PLANNING AND DEVELOPMENT AGENCIES

Designation and Funding Interim Regulations

Title 42—Public Health

CHAPTER I—PUBLIC HEALTH SERVICE, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 123—STATE HEALTH PLANNING AND DEVELOPMENT AGENCIES

Designation and Funding—Interim Regulations

On March 19, 1976, a Notice of Proposed Rulemaking was published in the FEDERAL REGISTER (41 FR 11688) proposing to amend Title 42, Code of Federal Regulations, as follows:

1. To add to Part 122 thereof a new Subpart D, entitled "Procedures and Criteria for Review of New Institutional Health Services".

2. To add to Subchapter K thereof a new Part 123, entitled "State Health Planning and Development Agencies", and to add to such new Part 123 the following new subparts: Subpart A, entitled "Definitions"; Subpart B, entitled "Designation of State Health Planning and Development Agencies"; Subpart C, entitled "Grants to State Health Planning and Development Agencies"; Subpart D, entitled "Statewide Health "Coordinating Councils"; and Subpart E, entitled "Certificate of Need and Review of New Institutional Health Services."

3. To revise Part 100 thereof, which as so revised would be entitled "Limitation on Federal Participation for Capital Expenditures".

The regulations under items 1 and 2 above were proposed as part of the Department's implementation of Title XV of the Public Health Service Act, added by Pub. L. 93–641. The revision of Part 100 is in part made necessary by Pub. L. 93–641, and in part results from the Department's experience in carrying out its responsibilities under section 1122 of the Social Security Act.

Interested persons were afforded the opportunity to participate in the rulemaking process by submitting written comments concerning the proposed regulations no later than May 3, 1976.

A large number of comments (in excess of 3,000) have been received concerning the proposed regulations, and those comments are being analyzed within the Department. It is clear, however, that a thorough study of the comments and the revision of the proposed regulations on the basis of that analysis will take a period of several weeks. To await the completion of that work before proceeding further with the implementation of Title XV of the Public Health Service Act ("the Act") would be to delay that implementation in a manner which, in the judgment of the Secretary, is neither necessary nor wise.

Designation of Health Systems Agencies (HSAs) for one-half of the health service areas in the nation has now been accomplished through the execution by the Secretary of conditional designation agreements with such agencies under section 1515 of the Act. It is anticipated that HSAs will be designated for most health service areas by the end of June.

The next steps in the Title XV process are the designation and funding of State health planning and development agencies ("State Agencies") under section 1521 of the Act and the establishment of Statewide Health Coordinating Councils (SHCCs) under section 1524. It is essential that the State Agencies and SHCCs be permitted to begin their Title XV activities at the earliest possible date in order that they may provide guidance and assistance to HSAs in the performance by the latter of local health planning and development functions and in order that they may begin the development of their own State health plans.

Because of this urgent need, and for the additional reasons outlined below, the Secretary has concluded that it is necessary as well as appropriate to issue regulations, effective immediately, which will enable him to designate and fund State agencies without awaiting the analysis of the comments received on the March 19 Notice. Those regulations, which are set out below, relate only to the designation of, and the award of grants to, State health planning and development agencies and the establishment of SHCCs, and are issued on an interim basis. It is emphasized that these interim regulations will serve only as a basis for the initial designation and funding of State Agencies pending the issuance of final regulations based upon the comments received in response to the Notice of Proposed Rulemaking. Each designation agreement entered into during the interim period will contain a provision stating that the agreement will automatically terminate upon the occurrence of either of the following: (1) the execution of a new agreement conforming to the requirements of those final regulations, or (2) the expiration of a period following the publication of the final regulations which the Secretary, after consultation with the Governor, determines to be reasonable to enable the State to execute such a new agreement and so notifies the Governor in writing. It is anticipated that a period of 90 days will normally be considered reasonable for this purpose.

It is further noted that only those regulations which relate to State Agency designation and funding and to the SHCCs—Subparts A, B, C, and D of Part 123—are being made effective in this manner. The remaining (and, in the opinion of the Secretary, the most controversial) portions of the March 19 Notice will become effective only after the public comments thereon have been thoroughly studied and the regulations modified accordingly. Similarly, the regulations made effective by this Notice will be modified as the Secretary finds appropriate in light of the public comments already received.

Additional factors influencing the Secretary in his decision to issue these interim regulations are (1) the non-competitive nature of the State Agency designation and funding process, and (2) the unusual detail of the authorizing statute, resulting in a relatively narrow scope for substantive regulatory additions to the provisions of the Act.

With regard to (1), the State Agency to be designated by the Secretary for each State must be "selected by the Governor" of that State (section 1521(a) of the Act). Moreover, the agreement designating each State Agency is between the Secretary and the Governor. Because of their close involvement in this aspect of the Title XV program, the Secretary consulted with the Governors before reaching his decision to issue the interim regulations. The view prevailing among the Governors who expressed a viewpoint was that the publication of final regulations on an interim basis was not objectionable, so long as the regulations constituted the bare minimum necessary under the statute to enable the Secretary to go forward with the designation and funding of the State Agencies. The interim regulations set out below meet that test: the regulations consist of a restatement of the statute, together with such additions to the statutory language as, in the judgment of the Secretary, are legally or programmatically required for the implementation of the statute.

Accordingly, a new Part 123 is added to Title 42, Code of Federal Regulations, as set forth below.

Effective date: This Part will become effective on June 3, 1976.

Dated: May 24, 1976.

JAMES F. DICKSON,
Acting Assistant Secretary for Health.

Approved: May 27, 1976.

DAVID MATHEWS,
Secretary.

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AUTHORITY: Sec. 215, 58 Stat. 690 (42 U.S.C. 216); Secs. 1521–25, 1532, 1536 of the Public Health Service Act; 88 Stat. 2242–49.

Subpart A—Definitions

§ 123.1 Definitions.

As used in this part:

(a) "Act" means the Public Health Service Act, as amended.

(b) "Conditionally designated State Agency" means an agency of the government of a State which has been designated as a State health planning and development agency on a conditional basis pursuant to section 1521(b)(2) of the Act.

(c) "Designation agreement" means an agreement entered into or renewed pursuant to section 1521 of the Act.

(d) "Fully designated State Agency" means an agency of the government of a State which has been designated as a State health planning and development agency pursuant to section 1521(b)(3) of the Act.

(e) "Governor" means the chief executive officer of a State or his designee.

(f) "Grant period" means the period with respect to which assistance is provided under Subpart C of this part.

(g) "Health service area" means an area designated by the Secretary pursuant to section 1511 of the Act as a health service area.

(h) "Health systems agency" means a conditionally or fully designated health systems agency designated pursuant to section 1515 of the Act and 42 CFR Part 122.

(i) "Provider of health care" means an individual—

(1) who is a direct provider of health care (including (but not limited to) a physician, dentist, nurse, podiatrist, or physician assistant) in that the individual's primary current activity is the provision of health care to individuals or the administration of facilities or institutions (including hospitals, long-term care facilities, outpatient facilities, and health maintenance organizations) in which such care is provided and, when required by State law, the individual has received professional training in the provision of such care or in such administration and is licensed or certified for such provision or administration, or

(2) who is an indirect provider of health care in that the individual:

(i) holds a fiduciary position with or has a fiduciary interest in, an entity described in paragraph (i)(2)(ii) (B) or (D) of this section; (for purposes of this paragraph, a "fiduciary position or interest" as applied to any entity means a position or interest with respect to such entity affected with the character of a trust, including members of boards of directors and officers, majority shareholders, agents and attorneys);

(ii) receives (either directly or through his spouse) more than one-tenth of his gross annual income from any one or combination of the following:

(A) fees or other compensation for research into or instruction in the provision of health care;

(B) entities (or associations or organizations composed of such entities) engaged (or comprised of individuals who are engaged) in the provision of health care or in such research or instruction;

(C) producing or supplying drugs or other articles for individuals or entities for use in the provision of or in research into or instruction in the provision of health care; and

(D) entities (or associations or organizations composed of such entities) engaged in producing drugs or such other articles;

(iii) is a member of the immediate family of an individual described in paragraph (i)(1) or paragraph (i)(2)(i), (ii), or (iv) of this section (for purposes of this paragraph, "immediate family" as applied to any individual includes only his parents, spouse, children, brothers and sisters who reside in the same household); or

(iv) is engaged in issuing any policy or contract of individual or group health insurance or hospital or medical service benefits.

(j) "Secretary" means the Secretary of Health, Education, and Welfare and any other officer or employee of the Department of Health, Education, and Welfare to whom the authority involved has been delegated.

(k) "State" means any one of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Trust Territory of the Pacific Islands, and American Samoa.

(l) "State health planning and development agency" or "State Agency" means an agency of State government selected by the Governor and designated in an agreement entered into pursuant to section 1521 of the Act to carry out the State's health planning and development program.

(m) "Statewide Health Coordinating Council" or "SHCC" means the body established pursuant to section 1524 of the Act to advise the State health planning and development agency.

Subpart B—Designation of State Health Planning and Development Agencies

§ 123.101 Purpose and scope.

(a) Section 1521 of the Public Health Service Act authorizes the Secretary to enter into an agreement with the Governor of each State for the designation of a State health planning and development agency for such State for the purpose of the performance within the State of the physical and mental health planning and development functions prescribed by section 1523 of the Act. Each such State health planning and development agency shall administer the State administrative program prescribed by section 1522 of the Act and shall, except as authorized under § 123.107 of this subpart, perform within the State the functions prescribed by section 1523 of the Act.

(b) The regulations of this subpart are applicable to agreements, pursuant to section 1521 of the Public Health Service Act, for the conditional or full designation of a State health planning and development agency for a State.

§ 123.102 Application.

The Secretary may not enter into a designation agreement under this subpart unless an application has been submitted to the Secretary for such an agreement. The application shall be submitted by a State at such time and in such form and manner as the Secretary may prescribe, and shall be executed by the Governor.

§ 123.103 Contents of applications.

In addition to such other information as the Secretary may require, an approvable application shall contain:

(a) A State administrative program which meets the applicable requirements of § 123.104 of this subpart.

(b) In the case of an application for designation of a State Agency on a conditional basis pursuant to section 1521(b)(2) of the Act, a proposed plan for the orderly assumption and implementation of the health planning and development functions prescribed by section 1523 of the Act and § 123.106(b) of this subpart.

(c) Assurances satisfactory to the Secretary that the agency selected by the Governor as the State Agency has the authority and resources to administer the State administrative program of the State and to carry out the health planning and development functions prescribed by section 1523 of the Act (or, in the case of an application for designation of a State Agency on a conditional basis pursuant to section 1521(b)(2) of the Act), that such agency will have such authority and resources as may be required to implement its approved plan for the orderly assumption and implementation of such functions.

(d) In the case of an application for full designation pursuant to section 1521(b)(3) of the Act, a description of the Statewide Health Coordinating Council, including a statement of its composition and the manner in which it is organized and functions, which shall meet the requirements of subpart D of this Part.

(e) A description of the existing health planning and development activities of the State, including a description of the existing and proposed relationships between the agency selected by the Governor as the State Agency and other agencies of State government responsible for health programs of the State, including the agencies responsible for programs in alcoholism, drug abuse, mental health, and health manpower education and training (such as the Board of Higher Education or Commission on Education), and the manner in which planning for these programs will be coordinated with long-range health service needs within the State.

(f) A statement as to whether the State intends to develop a State medical facilities plan for the purpose of participating in the program authorized by Title XVI of the Act, and, if the State does so intend, a description of the manner in which such plan will be administered by the State health planning and development agency in accordance with section 1603 of the Act and applicable regulations of the Secretary.

§ 123.104 State administrative program.

(a) *General.* A State administrative program (hereinafter referred to as the "State Program") is a program for the performance within the State by its State Agency of the functions prescribed by section 1523 of the Act and § 123.106(b) of this subpart. The Secretary may not approve a State Program for a State unless it

(1) Meets the applicable requirements of paragraph (b) of this section;

(2) Has been submitted to the Secretary by the Governor of the State as part of the application for a designation agreement; and

(3) Has been submitted to the Secretary only after the Governor of the State has afforded to members of the general public of the State a reasonable opportunity to express their views on the proposed State Program.

(b) *Program requirements.* To be approved by the Secretary under this subpart, a State Program must

(1) Provide for the performance within the State (after the designation of a State Agency and in accordance with the designation agreement) of the functions prescribed by section 1523 of the Act and § 123.106(b) of this subpart and specify the State Agency of the State as the sole agency for the performance of such functions; *Provided*, that

(i) Subject to the limitations of § 123.107 of this subpart, any such functions may be performed by another agency of the State government upon request of the Governor under an agreement with the State Agency; and

(ii) In the case of a State Agency designated on a conditional basis, the State Program shall provide for the performance of such functions in accordance with the plan for the orderly assumption and implementation of the health planning and development functions contained in the application;

(2) Contain or be supported by evidence satisfactory to the Secretary that the State Agency has under State law the authority to carry out the functions described in paragraph (b)(1) of this section;

(3) Contain a complete budget for the operation of the State Agency during the period of the proposed designation agreement for the conduct of activities to be performed by such agency pursuant to such agreement. Where the State Agency proposes to administer or supervise the administration of the State medical facilities plan approved by the Secretary pursuant to Title XVI of the Act, such budget shall also include expenditures to be incurred in the administration of such plan;

(4) Provide for adequate consultation with the Statewide Health Coordinating Council in carrying out the State Program, and contain

(i) In the case of a State Agency designated on a conditional basis in a State which has no such Council at the time of such designation, a plan for the establishment of the Council in accordance with Subpart D of this Part, or

(ii) In the case of a fully designated agency, evidence satisfactory the Secretary of authority under State law for such Council.

(5) Set forth in such detail as the Secretary may prescribe the qualifications for personnel having responsibilities in the performance of the functions described in § 123.106(b) of this subpart and the State Program and require the State agency to have a professional staff for planning and a professional staff for development, which staffs shall be of such size and meet such qualifications as the Secretary may prescribe;

(6) Provide methods of administration appropriate for the proper and efficient administration of the functions described in § 123.106(b) of this subpart and the State program, including the establishment and maintenance of personnel standards on a merit basis for persons employed by the State in carrying out the State Program. Conformity with the Standards for a Merit System of Personnel Administration, 45 CFR Part 70, issued by the Secretary of Health, Education, and Welfare, including any amendments thereto, and any standards prescribed by the U.S. Civil Service Commission pursuant to section 208 of the Intergovernmental Personnel Act of 1970 (Public Law 91–648; 84 Stat. 1915) modifying or superseding such standards, will be deemed to meet this requirement as determined by said Commission;

(7) Require the State Agency to perform its functions in accordance with procedures and criteria established and published by it, which procedures and criteria shall, with respect to any reviews of proposed or existing health services, conform to the requirements of section 1532 of the Act and the applicable regulations of the Secretary;

(8) Require the State Agency to conduct its business meetings in public and give adequate notice to the public of such meetings;

(9) Require the State Agency to make its records and data available to the general public upon request;

(10) Provide that the State Agency will enter into a written agreement with each agency or organization in the State which has entered into an agreement with the Secretary under section 306(e) of the Act so as to assure that the State Agency has the data needed on a timely basis for health planning and resources development in the State, and that such data will be made available to all health systems agencies designated for health service areas located in whole or in part within the State;

(11) Require providers of health care doing business in the State to make to the State Agency such statistical and other reports of information related to health and health care as the State Agency finds necessary to the performance of its functions under this subpart, and make such reports available to the health systems agencies for the respective health service areas in which such providers are located;

(12) Provide, in accordance with methods and procedures approved by the Secretary, for the evaluation, at least annually, of the performance by the State Agency of its functions and of their economic effectiveness;

(13) Provide that the State Agency will from time to time, and in any event not less often than annually, review the State Program and submit to the Secretary required modifications;

(14) Require the State Agency to make such reports, in such form and containing such information concerning its structure, operations, performance of functions, and other matters as the Secretary may from time to time require, and keep such records and afford such access thereto as the Secretary may find necessary to vertify such reports;

(15) Require the State Agency to provide for fiscal control and fund accounting procedures, consistent with applicable requirements of Subpart C of this Part, as the Secretary may require to assure proper disbursement of, and accounting for, funds received by the State Agency under section 1525 of the Act;

(16) Permit the Secretary and the Comptroller General of the United States, or their representatives, to have access for the purpose of audit and examination to any books, documents, papers, and records of the State Agency pertinent to the disposition of amounts received from the Secretary under section 1525 of the Act; and

(17) Provide that if the State Agency makes a decision in the performance of a function under section 1523(a)(3), (4), (5) or (6) or Title XVI of the Act which is inconsistent with a recommendation made under section 1513 (f), (g) or (h) of the Act by a health systems agency for a health service area located in whole or in part within the State—

(i) Such decision (and the record upon which it was made) shall, upon request of such health systems agency, be reviewed, under an appeals mechanism consistent with State law governing and practices and procedures of administrative agencies, by an agency of the State (other than the State health planning and development agency) designated by the Governor, and

(ii) The decision of the reviewing agency shall for purposes of Titles XV and XVI of the Act be considered the decision of the State Agency.

§ 123.105 Conditional Designation Agreements.

In accordance with section 1521(b)(2) of the Act and this subpart, the Secretary may enter into an agreement (hereinafter referred to as the Conditional Designation Agreement) with a Governor for the designation of an agency (selected by the Governor) of the government of that State as the State Agency on a conditional basis with a view

to determining the State Agency's ability at the end of the period of its conditional designation to meet the requirements and perform the functions of a fully designated State Agency under the Act and this subpart. Such agreement shall provide that:

(a) The agency is designated as the conditionally designated State Agency for the State for a term not to exceed 12 months, beginning on a date specified in the agreement.

(b) During the period of conditional designation, the Secretary shall require the State Agency to perform only such of the functions prescribed by section 1523 of the Act and § 123.106(b) of this subpart as he determines such State Agency to be capable of performing; *Provided,* That the State Agency must perform at least the functions described in § 123.106(b) (1) and (2) and, immediately upon the establishment of a Statewide Health Coordinating Council for the State, the functions described in § 123.106(b) (3).

(c) During the period of conditional designation the numbers and types of requirements and functions may, in accordance with paragraph (b) of this section, be progressively increased as the State Agency, in the judgment of the Secretary, becomes capable of added responsibility.

(d) The State Agency shall meet the requirements of the Act, this subpart, and any additional conditions set forth in the Conditional Designation Agreement.

§ 123.106 Full Designation Agreements.

In accordance with section 1521(b) (3) of the Act and this subpart, the Secretary may enter into an agreement (hereinafter referred to as the Full Designation Agreement) with a Governor for the designation of an agency (selected by the Governor) of that State as the State Agency for the State. Such Full Designation Agreement shall provide that:

(a) The agency is designated as the State Agency for the State for a term not to exceed 12 months, beginning on a date specified in the agreement.

(b) The State Agency shall, subject to § 123.107 of this subpart, perform within the State the following functions:

(1) Conduct the health planning activities of the State and implement those parts of the State health plan prepared by the Statewide Health Coordinating Council pursuant to section 1524(c) (2) of the Act and Subpart D of this Part and the plans of the health systems agencies within the State which relate to the government of the State;

(2) Prepare, review, and revise as necessary (but at least annually), and submit to tht Statewide Health Coordinating Council of the State for approval or disapproval and for use in developing the State health plan referred to in pragraph (b) (1) of this section, a preliminary State health plan which shall be made up of the Health Systems Plans (hereinafter referred to as "HSP's") of the health systems agencies within the State; *Provided,* that (i) such preliminary plan may, as found necessary by the State Agency, contain revisions of such HSP's to achieve their appropriate coordination or to deal more effectively with statewide health needs.

(3) Assist the Statewide Health Coordinating Council of the State in the review of the State medical facilities plan required under section 1603 of the Act, and in the performance of its functions generally;

(4) (i) Serve as the designated planning agency of the State for purposes of section 1122 of the Social Security Act and in accordance with 42 CFR Part 100, if the State has entered into an agreement with the Secretary pursuant to such section 1122; and (ii) administer a State certificate of need program which meets the requirements of Subpart E of this Part; *Provided,* that the requirement of clause (b) (4) (ii) hereof shall not apply to a State Agency of a State until the expiration of the first regular session of the legislature of such State which begins after January 4, 1975;

(5) After consideration of recommendations submitted by Health Systems Agencies under section 1513(f) of the Act respecting new institutional health services proposed to be offered within the State, make findings as to the need for such services in accordance with section 1532 of the Act and Subpart E of this Part;

(6) Review on a periodic basis (but not less than often than every five years), in accordance with section 1532 of the Act and applicable regulations of the Secretary, all institutional health services being offered in the State and, after consideration of recommendations submitted by health systems agencies pursuant to 42 CFR 122.107(c) (15) respecting the appropriateness of such services, make public its findings; *Provided, That* such findings with respect to any health service area in the State shall be made not more than one year following the date on which the health systems agency for such area submits its recommendations to the State Agency.

(c) The State Agency shall meet the requirements of the Act, this subpart, and any additional conditions set forth in the Full Designation Agreement.

§ 123.107 Performance of functions by other than the State Agency.

Notwithstanding any other provision of this subpart, any function described in § 123.106(b) of this subpart may be performed by another agency of the State government upon request of the Governor under an agreement with the State Agency satisfactory to the Secretary; *Provided,* That any agreement entered into by the State Agency for the performance of one or more functions described in § 123.106(b) of this subpart by another agency of the State must contain provisions satisfactory to the Secretary enabling the State Agency to coordinate the functions to be performed by such other agency with the other functions described in such § 123.106(b).

§ 123.108 Renewal and termination of agreements.

(a) *Conditionally designated State Agencies.*

(1) *Renewal.* A Conditional Designation Agreement may, at the option of the Secretary and based upon the Secretary's review of the State Agency's performance and its application for renewal, be renewed for an additional term not to exceed 12 months, but in no case may the total period of conditional designation of a State Agency exceed 24 months. Where the Secretary determines not to renew such agreement, the Governor will be notified in writing of the reasons for such determination.

(2) *Termination.* A Conditional Designation Agreement may be terminated by the Governor prior to the expiration of its term upon 90 days written notice to the Secretary which shall set forth the reasons for such termination and its effective date. The Secretary may terminate the Conditional Designation Agreement prior to the expiration of its term upon his determination, after having given the Governor at least 90 days written notice and an opportunity for a hearing before an officer or employee of the Department designated for such purpose by the Secretary, that the State Agency is not complying with the provisions of the Agreement or is incapable of progressively assuming more functions and responsibilities.

(b) *Fully designated agencies.*

(1) *Renewal.* A Full Designation Agreement may be renewed for a period not to exceed 12 months, upon the application by the Governor for renewal, if upon review by the Secretary (as provided in section 1535 of the Act) he determines that the State Agency has fulfilled, in a satisfactory manner, the functions of a State Agency as prescribed by section 1523 of the Act and the applicable provisions of this subpart. A determination by the Secretary not to renew the Agreement will be made only after he has provided the Governor with written notice of the reasons for such failure to renew and of the opportunity for a hearing before an officer or employee designated for such purpose by the Secretary.

(2) *Termination.* A Full Designation Agreement may be terminated by the Governor prior to the expiration of its term upon 90 days written notice to the Secretary which will set forth the reasons for such termination and its effective date. The Agreement may be terminated by the Secretary prior to the expiration of its term if he determines, after having given the Governor at least 90 days written notice of the State Agency's deficiencies and the corrective actions required and an opportunity for a hearing before an officer or employee of the Department designated for such purpose by Secretary, that the State Agency is not complying with or effectively carrying out the provisions of the Agreement.

§ 123.109 [Reserved]

§ 123.110 Special provisions for certain States—Section 1536 of the Act.

In addition to the other provisions of this subpart, the provisions of this section shall apply with respect to the Virgin Islands, Guam, the Trust Territory of the Pacific Islands, American Samoa, and any other State determined by the Secretary to meet the requirements of section 1536(a) of the Act.

(a) *Additional functions of State Agencies.* (1) *Conditional Designation Agreement.* In the case of a State Agency designated pursuant to a Conditional Designation Agreement, the State Agency shall perform such of the functions prescribed by section 1513 of the Act and 42 CFR 122.107(c) as the Secretary, in writing, directs it to perform in accordance with 42 CFR 122.106 (b) and (c), as though the State were a health service area and the State Agency a health systems agency for such area.

(2) *Full Designation Agreement.* In the case of a State Agency designated pursuant to a Full Designation Agreement, the State Agency shall perform the functions prescribed by section 1513 of the Act and 42 CFR 122.107(c), as though the State were a health service area and the State Agency a health systems agency for such area; *Provided*, That the requirements of section 1513(f) of the Act and 42 CFR 122.107(c)(14) (relating to the review of new institutional health services proposed to be offered or developed); section 1513(g) of the Act and 42 CFR 122.107(c)(15) (relating to periodic review of all institutional health services); and section 1513(h) of the Act and 42 CFR 122.107(c)(16) (relating to recommendation of projects for modernization, construction and conversion of medical facilities) shall not apply for purposes of this section.

(3) *Review and comment by SHCC.* Notwithstanding any other provision of this Part, a State Agency to which this section applies shall afford the SHCC for such State a reasonable opportunity to review and comment upon the following actions by the State Agency before such actions are made final:

(i) The establishment, annual review, and amendment of the Annual Implementation Plan ("AIP") as described in 42 CFR 122.107(c)(3);

(ii) The development and publication of specific plans and programs for achieving the objectives established in the AIP, as described in 42 CFR 122.107(c)(6);

(iii) The making of grants and contracts from the Area Health Services Development Fund pursuant to section 1640 of the Act, as described in 42 CFR 122.107(c)(9);

(iv) The making of findings as to the need for new institutional health services proposed to be offered in the State, as described in § 123.106(b)(5) of this subpart;

(v) The making of findings as to the appropriateness of existing institutional health services being offered in the State, as described in § 123.106(b)(6) of this subpart; and

(vi) The approval or disapproval of each proposed use of Federal funds within the State, as described in 42 CFR 122.107(c)(17).

(b) *Preliminary State health plan.* For purposes of this section, the Health Systems Plan developed by a State Agency pursuant to section 1513(b)(2) of the Act and 42 CFR 122.107(c)(2), made applicable to State Agencies by paragraph (a) of this section, shall be deemed to be the preliminary State health plan for purposes of section 1523(a)(2) of the Act and § 123.106(b)(2) of this subpart.

(c) *State Agency staff.* Notwithstanding any other provisions of this subpart relating to State Agency staff, a State Agency to which this section is applicable shall have a staff which meets the requirements of 42 CFR 122.110; *Provided*, that the Secretary may, for good cause shown upon application by any such State Agency, waive the requirements of 42 CFR 122.110 in whole or in part with respect to such agency; and *Provided further*, That the requirements of section 1522(b)(4)(B) of the Act and § 123.104(b)(6) of this subpart (relating to personnel standards on a merit basis) shall apply to each State Agency under this section.

Subpart C—Grants to State Health Planning and Development Agencies

§ 123.201 Applicability.

The regulations of this subpart, except for § 123.211 thereof, are applicable to grants under section 1525 of the Public Health Service Act (42 U.S.C. 300m–4) to State health planning and development agencies designated under section 1521 of the Public Health Service Act (42 U.S.C. 300m) to assist them in meeting the costs of their operation, including costs incurred in the administration of the State medical facilities plan under Title XVI of the Act.

§ 123.202 Eligibility.

Any conditionally or fully designated State Agency is eligible for a grant under this subpart.

§ 123.203 Application.

(a) An application for a grant under this subpart shall be submitted to the Secretary at such time and in such form and manner as the Secretary may prescribe, and shall be executed by an officer or employee of the State officially authorized to act for the applicant agency and to assume on behalf of the agency the obligations imposed by the Act, the regulations of this subpart, and any additional terms or conditions of the grant.[1]

(b) The application shall contain the following: (1) A full and complete budget (i) of expenditures to be incurred by the applicant agency in carrying out its approved State administrative program in accordance with section 1522 of the Act and the terms and conditions of the designation agreement entered into by the Secretary and the Governor of the State pursuant to Subpart B of this Part (including expenditures to be incurred in assisting the Statewide Health Coordinating Council in the performance of its functions), and (ii) where the State Agency is administering or supervising the administration of the State medical facilities plan approved by the Secretary pursuant to Title XVI of the Act, of expenditures to be incurred in the administration of such plan.

(2) An assurance satisfactory to the Secretary that the State Agency will expend in performing the functions prescribed by section 1523 of the Act during the fiscal year for which the grant is sought an amount of funds from non-Federal sources which is at least as great as the average amount of funds from non-Federal sources expended for such purposes (excluding expenditures of a non-recurring nature) in the three fiscal years immediately preceding the fiscal year for which the grant is sought, by the State for which such State Agency has been designated. Such assurance shall be supported by the following:

(i) An itemized statement showing the amount of funds from non-Federal sources expended by the State for carrying out functions described in section 1523 of the Act in each of the three fiscal years immediately preceding the fiscal year for which the grant is sought, excluding expenditures of a non-recurring nature; and

(ii) A description of the amount and sources of non-Federal funds which will be expended by the State Agency in carrying out the functions described in section 1523 of the Act under the designation agreement during the grant period; and

(3) A statement of the amount of grant funds requested.

§ 123.204 Grant award.

(a) The Secretary will award a grant under this subpart to each agency which

(1) is designated as a State Agency under a designation agreement;

(2) has provided the assurance required by § 123.203(b)(2) of this subpart; and

(3) otherwise meets the applicable requirements of the Act and of this subpart.

(b) The amount of any grant under this subpart will be computed as follows:

(1) The Secretary will allocate to each State the product of (i) the percentage which the State's population (as determined by the Secretary from the latest available estimate from the Department of Commerce) bears to the total of the populations of all the States (as so determined) and (ii) the amount of appropriated funds determined by the Secretary to be available for grants under this subpart; *Provided*, That (A) where the amount allocated to Guam, American Samoa, the Trust Territory of the

[1] Applications and instructions may be obtained from the Regional Health Administrator in the Regional Office of the Department of Health, Education, and Welfare for the region in which the State is located.

Pacific Islands, or the Virgin Islands as a result of such computation is less than one-half of one percent of the amount available for grants under this subpart, such allocation shall be increased to one-half of one percent of such amount and the allocation to other States reduced accordingly; and (B) where the amount allocated to any State not listed in clause (A) above as a result of such computation is less than one and one-fourth percent of the amount available for grants under this subpart, such allocation shall be increased to one and one-fourth percent of such amount and the allocations to other States reduced accordingly.

(2) On the basis of the budget contained in the application and his estimate of the amount required by the State Agency to carry out its approved State administrative program under the designation agreement, and the cost of administration of the State medical facilities plan under Title XVI of the Act, the Secretary will estimate the operation costs of the State Agency during the grant period.

(3) The amount of each grant to a State Agency shall be the lesser of: (i) the amount of the allocation computed pursuant to paragraph (b)(1) of this section for the State for which such State Agency has been designated;

(ii) 75 percent of the estimated operation costs of the State Agency as determined by the Secretary pursuant to paragraph (b)(2) of this section; or

(iii) The amount requested by the State Agency in its application; *Provided*, That any appropriated funds remaining after the application of paragraphs (b)(3)(i), (ii) and (iii) above shall, on a proportional basis, be applied to increase the grants of those State Agencies with respect to which the amount described in paragraph (i) is less than either of the amounts described in paragarphs (ii) and (iii); *Provided further*, That no State Agency may receive a grant which exceeds either 75% of its estimated operation costs or the amount requested in its application.

(c) All grant awards shall be in writing and shall set forth the amount of funds granted and the period for which such funds will be available for obligation by the State Agency.

§ 123.205 Grant payments.

The Secretary will from time to time make payments to a grantee of all or a portion of any grant award, either in advance or by way of reimbursement for expenses incurred or to be incurred, to the extent he determines such payments necessary to promote prompt initiation and advancement of the approved activity.

§ 123.206 Use of grant funds.

(a) Any funds granted pursuant to this subpart, as well as other funds required as a condition of the grant to be used in performance of the approved activity, shall be expended solely for the administration of the State medical facilities plan under Title XVI of the Act and applicable regulations of the Secretary and for carrying out the State administrative program in accordance with Title XV of the Act, the applicable provisions of this Part, the designation agreement, any additional terms and conditions of the grant award, and the applicable cost principles prescribed by Subpart Q of 45 CFR Part 74.

(b) Funds granted pursuant to this subpart shall be available for obligation only during the period of the designation agreement.

§ 123.207 Nondiscrimination.

(a) Attention is called to the requirements of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. 2000d et seq.) and in particular section 601 of such Act which provides that no person in the United States shall, on the grounds of race, color, or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. A regulation implementing such Title VI, which is applicable to grants made under this subpart, has been issued by the Secretary with the approval of the President (45 CFR Part 80).

(b) Attention is called to the requirements of section 504 of the Rehabilitation Act of 1973, as amended, which provides that no otherwise qualified handicapped individual in the United States shall, solely by reason of his handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

§ 123.208 Grantee accountability.

(a) *Accounting for grant award payments.* All payments made by the Secretary shall be recorded by the grantee in accounting records separate from the records of all other grant funds, including funds derived from other grant awards. With respect to each approved project, the grantee shall account for the sum total of all amounts paid by presenting or otherwise making available evidence satisfactory to the Secretary of expenditures for costs meeting the requirements of this subpart.

(b) *Accounting for non-Federal funds.* The agency shall account for all non-Federal funds expended during the grant period in carrying out the approved activities in accordance with procedures prescribed by the Secretary.

§ 123.209 Applicability of 45 CFR Part 74.

The provisions of 45 CFR Part 74, establishing uniform administrative requirements and cost principles, shall apply to all grants under this subpart.

§ 123.210 Additional conditions.

The Secretary may with respect to any grant award impose additional conditions prior to or at the time of the award when in his judgment such conditions are necessary to assure or protect advancement of the approved activity, the interests of the public health, or the conservation of grant funds.

§ 123.211 Additional grants to certain State Agencies—section 1536 of the Act.

In addition to grants pursuant to section 1525 of the Act, a State Agency designated for the Virgin Islands, Guam, the Trust Territory of the Pacific Islands, American Samoa, or any other State determined by the Secretary to meet the requirements of section 1536 (a) of the Act may receive a grant under section 1516 of the Act. The provisions of this section apply to such grants to State Agencies under section 1516 of the Act.

(a) *Application.* An application for a grant under this section must conform to the requirements of 42 CFR 122.203.

(b) *Amount of Grant.* (1) Where a State Agency has entered into a Conditional Designation Agreement under § 123.105 of this Part, the State Agency shall receive a grant which is computed in accordance with 42 CFR 122.204(b)(1).

(2) Where a State Agency has entered into a Full Designation Agreement under § 123.106 of this Part, the State Agency shall receive a grant which is computed in accordance with 42 CFR 122.204(b)(2).

(c) *Population.* For purposes of determining the amount of a grant under this section, the population of a State will be determined by the Secretary in accordance with 42 CFR 122.205.

(d) *Assurance of expenditure of non-Federal funds.* A State Agency which qualifies for a grant under this section may receive an increased amount of grant funds in accordance with section 1516 of the Act and 42 CFR 122.204 where the State Agency provides assurance in accordance with 42 CFR 122.206 that the agency will expend or obligate non-Federal funds during the grant period for the purposes for which grants under this section may be made.

(e) *Grant payments.* Payments to a grantee of a grant award will be made in accordance with 42 CFR 122.207.

(f) *Use of grant funds.* Funds granted pursuant to this section, as well as other funds required as a condition of the grant to be used in performance of the approved activity, shall be expended in accordance with 42 CFR 122.209.

(g) *Nondiscrimination.* The provisions of 42 CFR 122.209 shall apply to grants made under this section.

(h) *Grantee accountability.* The provisions of paragraphs (a) and (b) of 42 CFR 122.211 shall apply to grants made under this section.

(i) *Applicability of 45 CFR Part 74.* The provisions of 45 CFR Part 74, establishing uniform administrative requirements and cost principles, shall apply to all grants made under this section.

(j) *Additional conditions.* The Secretary may with respect to any grant award impose additional conditions prior to or at the time of any award when in his judgment such conditions are necessary to assure or protect advancement of the approved project, the interests of the public health, or the conservation of grant funds.

Subpart D—Statewide Health Coordinating Councils

§ 123.301 Purpose and scope.

Section 1524 of the Public Health Service Act provides that each State health planning and development agency shall be advised by a Statewide Health Coordinating Council (hereinafter referred to as the "SHCC"). The regulations of this subpart are applicable to the establishment and operation of SHCC's.

§ 123.302 Establishment.

A SHCC may not be established in a State until health systems agencies have been designated for one-half or more of the health service areas which are located in whole or in part in the State.

§ 123.303 Composition.

Except as authorized by § 123.307 of this subpart, a SHCC shall be composed in the following manner:

(a) A SHCC shall have no fewer than 16 representatives appointed by the Governor of the State from lists of at least five nominees submitted to the Governor by each of the health systems agencies designated for health service areas which fall, in whole or in part, within the State.

(1) Each such health systems agency shall be entitled to the same number of representatives on the SHCC.

(2) Each such health systems agency shall be entitled to at least two representatives on the SHCC.

(3) Of the representatives of any health systems agency, not less than one-half shall be individuals who are consumers of health care and who are not providers of health care.

(4) Each such health systems agency shall submit to the Governor a list of nominees numbering at least twice the number of representatives to which the health systems agency is entitled.

(5) Each person nominated for or appointed to the SHCC under this paragraph shall have his principal place of residence in the State for which the SHCC is established.

(b) In addition to the appointments made under paragraph (a) of this section, the Governor may appoint such persons (including State officials, public elected officials, and other representatives of governmental authorities within the State) to serve on the SHCC as he deems appropriate; except that

(1) the number of persons appointed to the SHCC under this paragraph may not exceed 40 per centum of the total membership of the SHCC; and

(2) a majority of the persons appointed by the Governor under this paragraph shall be consumers of health care who are not providers of health care.

(c) Not more than 60 per centum of the membership of the SHCC shall be consumers of health care who are not providers of health care.

(d) Not less than one-third of the providers of health care who are members of the SHCC shall be direct providers of health care.

(e) Where two or more hospitals or other health care facilities of the Veterans Administration are located in a State, the SHCC for such State shall, in addition to the other members appointed pursuant to this section, include, as an ex officio member, an individual whom the Chief Medical Director of the Veterans Administration shall have designated as a representative of such facilities. Such individual shall be considered a direct provider of health care for purposes of paragraph (c) of this section.

§ 123.304 [Reserved]

§ 123.305 [Reserved]

§ 123.306 Functions.

A SHCC shall perform the following functions:

(a) Review annually and coordinate the Health Systems Plan ("HSP") and Annual Implementation Plan ("AIP") of each health systems agency of a health service area located in whole or in part within the State and report to the Secretary, for purposes of his review under section 1535(c) of the Act, its comments on such HSP and AIP, at such times and in such form and manner as the Secretary may direct.

(b) Prepare, and review and revise as necessary (but at least annually), a State health plan which shall be made up of the HSP's of the health systems agencies within the State. Such plan may, as found necessary by the SHCC, contain revisions of such HSP's to achieve their appropriate coordination or to deal more effectively with statewide health needs.

(1) In the preparation and revision of the State health plan, the SHCC shall review and consider the preliminary State health plan submitted by the State agency under section 1523(a)(2) of the Act and § 123.106(b)(2) of this Part, and shall conduct a public hearing on the plan as proposed by the SHCC and shall give interested persons an opportunity to submit their views orally and in writing.

(i) Not less than 30 days prior to any such hearing, the SHCC shall publish in at least two newspapers of general circulation in the State a notice of its consideration of the proposed plan, the time and place of the hearing, the place at which interested persons may consult the plan in advance of the hearing, and the place and period during which to direct written comment to the SHCC on the plan.

(ii) At least 15 days prior to such publication, the SHCC shall provide a copy of the plan to the Governor for purposes of his review and comment.

(2) At such time and in such form and manner as the Secretary may prescribe, the SHCC shall provide to the Secretary a copy of its current State health plan.

(c) Review annually the budget of each health systems agency located in whole or in part within the State and report to the Secretary, for purposes of his review under section 1535(a) of the Act, its comments on such budget, at such time and in such form and manner as the Secretary may direct.

(d) Review applications submitted by such health systems agencies (or, in the case of the Virgin Islands, Guam, the Trust Territory of the Pacific Islands, American Samoa, and any other State which has been determined by the Secretary to meet the requirements of section 1536(a) of the Act, by the State Agencies of such States) for grants under sections 1516 and 1640 of the Act and report to the Secretary, at such time and in such form and manner as the Secretary may direct, its comments on such applications.

(e) Advise the State Agency generally on the performance of its functions.

(f) Review annually and approve or disapprove any State plan and any application (and any revision of a State plan or application) submitted to the Secretary as a condition to the receipt of Federal funds, made available under allotments, in accordance with section 1524(c)(6) of the Act and applicable regulations of the Secretary.

(g) Review and approve or disapprove the State medical facilities plan prepared by the State Agency pursuant to section 1603 of the Act, on the basis of whether such State medical facilities plan is consistent with the State health plan prepared in accordance with paragraph (b) of this section.

§ 123.307 Special provision for membership of certain SHCC's—Section 1536 of the Act.

In the case of the Virgin Islands, Guam, the Trust Territory of the Pacific Islands, American Samoa, or any other State determined by the Secretary to meet the requirements of section 1536(a) of the Act, the membership of the SHCC shall number not less than 16 nor more than 30, and shall be appointed by the Governor of such State in accordance with the provisions of 42 CFR 122.109(b), relating to the composition of the governing body of a health systems agency; *Provided* that in the case of the Virgin Islands, Guam, the Trust Territory of the Pacific Islands, or American Samoa, any of the requirements of 42 CFR 122.109(b) may be waived by the Secretary upon the written request of the Governor supported by evidence sufficient to satisfy the Secretary that such requirement cannot be met or would, under the circumstances, be inconsistent with the purposes of the Act.

[FR Doc.76-16039 Filed 6-2-76;8:45 am]

federal register

THURSDAY, JUNE 3, 1976



PART IV:

ENVIRONMENTAL PROTECTION AGENCY

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MUNICIPAL SLUDGE MANAGEMENT

Environmental Factors

ENVIRONMENTAL PROTECTION AGENCY

[FRL 552-7]

MUNICIPAL SLUDGE MANAGEMENT

Environmental Factors; Technical Bulletin

This Technical Bulletin has been prepared to assist Environmental Protection Agency (EPA) Regional Administrators in evaluating grant applications for construction of publicly owned treatment works under section 203(a) of the Federal Water Pollution Control Act as amended. It also provides designers and municipal engineers with information for selecting a sludge management option.

The bulletin was developed by an Agency workgroup with substantial assistance provided by individuals from the Council on Environmental Quality, the U.S. Department of Agriculture, the Food and Drug Administration, and the Department of the Army.

The bulletin addresses only factors important to the environmental acceptability of a particular sludge management option. The environmental assessment/environmental impact statement procedure is used to determine the acceptability at a specific site. This procedure is described in EPA's regulation for "Preparation of Environmental Impact Statements" (40 FR 6, Appendix I).

Another aspect of sludge management which is of great importance is the cost-effectiveness of a proposed sludge management option. Information on the EPA cost-effectiveness program is contained in Appendix A.

The requirements of the Act for higher levels of wastewater treatment will result in a substantial increase in the quantity of sludge produced at publicly owned treatment works. Disposition of these sludges is not simple. Methods used in the past are now restricted by specific laws or regulations, or are subject to other constraints in view of new information of environmental significance.

EPA, continuing the work of its predecessor agencies, has been developing environmentally acceptable methods for the management of municipal sludge since the enactment of the first Federal water pollution control laws. The initial phases of the research program were concerned with the characteristics and dewatering properties of primary and secondary sludge because of the need to dewater sludge before its ultimate disposal. The current program emphasis has shifted toward development of improved technology for returning the sludges to the environment in an ecologically acceptable manner. Also, the Agency is requiring new measures, such as source control and pretreatment which should reduce the heavy metals problem associated with sewage sludges.

The Agency has been aware of the growing sludge disposal problem and the need to verify and expand the technology that is now being utilized. For example, a long-term land application project has been directed at determining the beneficial uses of sludge for strip mine reclamation and for soil enrichment in crop production. These studies have carefully monitored the heavy metals uptake in various forage and grain crops.

A large increase in the amount of sludge generated has occurred with the use of chemical precipitants for nutrient control and the upgrading of secondary treatment facilities. The Agency has been active developing new technology for solving the problem, including recovery and reuse of the chemical additives.

EPA will continue its comprehensive research program for municipal wastewater sludge processing, utilization and disposal. This program will concentrate on demonstration of new technologies which will recycle or reuse sludges, or recover residuals contained in sludges.

For example, new technologies are being examined to determine if there are cost-effective methods for produeing or recovering marketable products in the processing of sludge. These products may include: metals recovery, simple organic acids, fertilizer bases, soil conditioners, methane, and the recovery of process heat.

Health effects research will include investigation into land application, disinfection, and composting. The health effects of airborne contaminants from incineration and the improved technology for reducing or eliminating pollutant emissions will be evaluated. It is also EPA's intent to continue cooperative agreements with other local, State and Federal agencies.

The Technical Bulletin is based on current knowledge. It will be modified from time to time as additional information becomes available from current and future research, development, and demonstration projects as outlined above. New research, development, and demonstration projects which offer potential for reducing costs or improving technology are encouraged; this includes projects that do not meet the specific criteria of the bulletin, if there is reason to believe that they will eventually be acceptable.

During the development of this Technical Bulletin, considerable disagreement surfaced on the topic of utilizing sewage sludges by application to agricultural lands. Although utilization of sewage sludges as a resource to recover nutrients and other benefits has been encouraged by PL 92-500 and the EPA Science Advisory Board, the workgroup members and others involved in developing this Technical Bulletin have received conflicting opinions concerning the overall merits vs hazards of applying sludges to cropland. Possible adverse effects upon the human food chain (e.g., potential for increasing human cadmium intake) has remained a major concern expressed whenever this practice is considered. The relative risks of applying sewage sludges to croplands, when compared to other routes through which these contaminants enter the human diet, have yet to be determined.

Because of the wide interest in this subject, EPA is soliciting comments on the proposed bulletin. In particular, views and data are solicited on publicly acceptable sludge management alternatives, the occurrence of heavy metals in sludge, the control of these contaminants in the agricultural use of sludge to grow foods, and related impacts upon the human food chain. This bulletin places primary reliance on the Food and Drug Administration and the U.S. Department of Agriculture to establish recommendations for acceptable levels of heavy metals in food crops and best agricultural practices for sludge application to agricultural lands.

Interested persons should submit written comments, views, or data to the Director, Municipal Construction Division (WH-547), Office of Water Program Operations, Environmental Protection Agency, Washington, D.C. 20460. All such communications received prior to 90 days from publication of the proposed technical bulletin in the FEDERAL REGISTER will be considered in developing the final Technical Bulletin. If the degree of public interest in the utilization of sewage sludge expressed during the public comment period indicates a major concern, public hearings will be held prior to publishing the final document.

Dated: May 18, 1976.

ANDREW W. BREIDENBACH,
Assistant Administrator,
Water and Hazardous Materials.

TECHNICAL BULLETIN

MUNICIPAL SLUDGE MANAGEMENT: ENVIRONMENTAL FACTORS

Proposed for Public Comment

This document is a preliminary draft. It has not been formally released by EPA and should not at this stage be construed to represent Agency policy. It is being circulated for comment on its technical accuracy and policy implications.

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APPENDICES

Appendix I [1] "Preparation of Environmental Impact Statements" 40 CFR 6.

Appendix II Groundwater Extract from "Alternative Waste Management Techniques for Best Practicable Waste Treatment" EPA–40/9–75–013, October 1975.

Appendix III Guidelines for the Land Disposal of Solid Wastes 40 CFR 241.

Appendix IV "New Source Performance Standards for New Stationary Sources; Subpart O—Standards of Performance for Sewage Treatment Plants, 40 CFR 60.15.

Appendix V "National Emissions Standards for Hazardous Air Pollutants;" Subpart E—National Emission Standard for Mercury, 40 CFR 61.5.

Appendix VI Subchapter H—Ocean Dumping, 40 CFR 220–227.

CHAPTER I

Introduction

1–1. The treatment of wastewaters for pollutant removal produces not only relatively clean water for discharge, but also a significant quantity of residue material. For domestic sewage, treated in publicly owned plants, this residue is essentially organic in nature, although measurable quantities of metal, minerals, and other compounds are also invariably present. Where industrial wastewaters are treated together with domestic sewage, the potential for additional foreign materials in the resulting sludge is increased. Further, pathogenic organisms in sewage may survive the wastewater treatment process and remain in the residue.

1–2. Depending upon the composition of the wastewater treatment plant sludge, the quantity involved, and the disposal method, disposal of this residue material can have a significant impact on the environment. It is essential for wastewater treatment installations to consider the proper disposal of sludge produced as well as the proper disposal of treated wastewater.

The requirements of the Federal Water Pollution Control Act, as amended, emphasize the need for environmentally sound means for sludge disposal. The national requirement for secondary treatment, for example, will not only result in production of a greater quantity of sludge than before, but will also result in greater quantities nationwide, and possibly more concentrated forms of contaminants present in the sludge.

1–3. The disposition of wastewater treatment plant sludges is a complex problem. It can affect simultaneously air, land, and water, and encompass such varied considerations as human health, animal health, plant growth, and protection of ground and surface water from pollution. EPA Regional Administrators consider these matters as they evaluate sludge disposal systems included in the design of publicly-owned treatment works for which construction grant applications are made. Despite the still limited information available on the complex issue of sludge utilization and disposal, the need for definition of a baseline of acceptable sludge utilization or disposal practice remains.

1–4. For the reasons cited above, a clear statement of acceptable methods for sludge utilization or disposal is presented in this document. This technical bulletin provides guidance on the factors to be considered in the environmental assessment and on general agency policy to be used in reviewing the facts of a particular situation. The methods listed are based upon current knowledge. No attempt is made to imply that the listed methods are optimum for sludge utilization or disposal, but rather to state that adverse environmental factors associated with each method may be tolerable under certain site conditions. The determination of acceptability is based on the environmental assessment and, if necessary, the environmental impact statement for a specific project.

1–5 The bulletin is divided into two distinct parts. The first part includes methods in which the sludge is utilized as a resource. The second part includes those methods in which the sludge is not utilized for any beneficial purpose.

1–6. Methods which appear to have great promise, but which have not been used in existing facilities, are not included in this list. As these developing methods are demonstrated in practical use, and as supporting information is obtained, they will be added to the list of acceptable methods. Because it is the policy of EPA to encourage and, where possible, assist in the development of new or advanced wastewater treatment procedures, Federal grant funds may be awarded for the construction of sludge utilization or disposal facilities not in the bulletin, provided sufficient information is presented by the grant applicant to determine that these facilities would meet applicable statutory and regulatory requirements and would be environmentally acceptable.

1–7. Proper operation, maintenance, and monitoring of sludge utilization or disposal practices are essential to ensure that adverse environmental effects do not result. Grant applicants must demonstrate that they will have managers, operators, and resources necessary to achieve and maintain the required performance on a continuing basis.

CHAPTER II

Sludge Utilization Methods

2–1. *General.* Because land application of sludge conserves organic matter, nitrogen, phosphorus, and certain essential trace elements, such utilization is encouraged when it is supported by environmental assessment and, if necessary, an environmental impact statement.

Specifically, stabilization of sludge and subsequent land application for enhancement of parks and forests and reclamation of poor or damaged terrain should be considered for the utilization of sludge. Application of stabilized sludge to agricultural lands on which crops entering the human food chain will not be grown may also be regarded as an environmental acceptable method of slude disposal. However, application of sludge to lands on which crops entering the human food chain will or may be grown must be examined closely in terms of protection of human health and future land productivity. Priority consideration should be given to non-agricultural uses.

2–2. *Information for Project Evaluation.*

2–2.1 *Sludge Characteristics.* Sludge from existing plants should be tested to determine nutrient values, heavy metals, and other constitutents which may be economically recycled or cause environmental damage. The specific tests and test schedule should be based on regulatory requirements, this bulletin, the intended use of the sludge, and contaminants likely to be present. For new projects, it will be necessary to estimate the sludge characteristics. Some indication may be available from pilot plant studies, but such studies are rarely conducted at smaller plants.

Where sludges are to be applied to agricultural land, industrial users of municipal wastewater treatment works should be required to pretreat their wastewaters to minimize the presence of heavy metals and other sludge contaminants from industrial sources. Pretreatment may be required beyond the Federal pretreatment standards in 40 CFR 128. (See Federal Guidelines: Pretreatment of Pollutants Introduced into Publicly Owned Treatment Works.) However, quantities of these materials also may be present in wastewaters usually considered of non-industrial origin.

In developing pretreatment programs, special attention must be given to the disposal of sludges created or materials removed during the pretreatment process. Disposal of these materials must be in an environmentally sound manner.

2–2.2 *Site Soils.* For use of sludge on agricultural land, the soils should be tested for cation exchange capacity, pH, and background heavy metals. These tests can be arranged through the Agricultural Extension Service or other laboratories. The number and extent of these tests may be reduced or waived for largely domestic sludges where the application rates are low (paragraphs 2–3.10 and 2–4), or where the tests are not significant to a specific project (such as application to non-agricultural lands), or where adequate soil survey information already exists.

2–2.3 *Ground Water.* A review of existing information and/or an investigation of soil and ground water conditions should be made for sites where sludge is to be applied to the land. The extent of the evaluation should be based on the size of the project and the relation to ground water. Maintaining the pH of the combined soil and sludge above 6.5 will prevent solubilization and migration of most metal ions.

2–3 *General Requirements for Land Application of Sludges*

2–3.1 *Stabilization.* Before land application, sludge must be stabilized to reduce public health hazards and to prevent nuisance odor conditions. The stabilization method most frequently used is anaerobic digestion, but there are numerous other acceptable methods.

Experience shows that consistent and effective control of odors is a major factor in the acceptability of land application. The odor conditions are closely related to anaerobic bacterial action on volatile organic matter in both the liquid and solid portions of the sludge. Either a high degree of reduction of volatile matter, or chemical treatment to inhibit bacterial action, is necessary to prevent nuisance odors.

The degree of volatile matter reduction achieved by an aerobic digestion may vary greatly, depending on the basic digestor design and the percentage of volatile solids in the raw sludge. Well designed and carefully operated high rate anaerobic digestors can sufficiently digest sludge to control odors and pathogens when the sludge is digested for 10 days at 95 degrees F. High rate digestion requires close operational control for

[1] Appendices I and III through VI filed as part of the original document.

successful performance. Smaller plants should use standard rate digestion. Although these conditions can reduce the number of influent fecal coliforms by 97 percent or more, the remaining levels of pathogens can still be significant to public health.

Other methods to prepare sludge for land application, such as aerobic digestion, chemical treatment (lime treatment, etc.), heat stabilization, or heat drying, also may be used, if the grant applicant can show, for the specific case, that the public health factors and nuisance potential are no greater than would be associated with anaerobic digestion.

Chemical treatment typically does not significantly reduce volatile matter but the rate of decomposition is slowed so that any odors are dissipated at very low concentrations. Odor conditions may occur in time if the rate of anaerobic decomposition increases, such as by neutralization of the chemical treatment. In this case the sludge should be incorporated into the soil (paragraph 2-3.7).

At some plants, the stabilized sludge is spread on drying beds or temporarily stored in sludge lagoons. These methods decrease potential odor problems from sludge applied to land since additional stabilization occurs with time. Caution must be exercised, however, to ensure there are no objectionable odors from the storage site.

Digested sludge can also be further stabilized by various composting systems.

2-3.2 *Additional Pathogen Reduction.* For some projects it may be necessary to achieve additional pathogen reduction beyond that attained by stabilization. Any one of the following methods has been reported to be successful:

a. Pasteurization for 30 minutes at 70° C.

b. High pH treatment, typically with lime, at a pH greater than 12 for 3 hours.

c. Long term storage of liquid digested sludge for 60 days at 20° C of 120 days at 4° C.

d. Complete compositing at temperatures above 55° C as a result of oxidative bacterial action and curing in a stockpile for at least 30 days.

2-3.3 *Crops Suitable for Sludge Application.* Crops vary widely in their reaction to sludge enriched soils. Some crop species may be adversely affected by trace heavy metals in the sludge. Additionally, the crop may take up and accumulate certain of these trace elements, thereby inhibiting future use of the harvested materials, particularly in the human food chain. The reaction of a specific crop to sludge application is extremely site dependent. Factors such as soil type, pH, moisture content, climate, and crop species are important. For advice concerning crops which can be satisfactorily grown in sludge enriched soils, consult USDA and State Agricultural Experiment Stations.

Forest sites offer special opportunities for beneficial use of sludge to improve soil fertility and increase plant growth. With many tree species, nutrient uptake apparently is small compared to that of certain agronomic crops; however, in the case of certain tree species, involving intensive cultural operations for quick growth and high production of wood fiber, rapid uptake of nutrients is obtained. Heavy applications of liquid digested sludge in forests (in excess of 15 dry tons of sludge per acre per year) might, under special circumstances, necessitate either pre-removal (reduction) of nitrogenous sludge substances or periodic on-site anaerobic reduction treatments, to prevent excess nitrate pollution of groundwaters.

2-3.4 *Public access* must be controlled by either positive barriers, such as fences, or by remoteness of the site. Where this is not done, the number of pathogens in the sludge should be reduced (paragraph 2-3.2).

2-3.5 *Groundwater Protection.* Projects for land application of sludges will be designed so that the permanent groundwaters (groundwater which is not removed from the ground by an under-drain system or other mechanical means) in the zone of saturation (where the water is not held in the ground by capillary tension) will be protected from pollution. Consideration should be given to the extent of the project, the quality of the groundwaters, and the fact that groundwater is typically used for drinking water supply with little or no additional treatment. Also, in some areas, groundwater recharge of surface streams may be significant. Specific groundwater criteria for land application systems are contained in the EPA publication, "Alternative Waste Management Techniques for Best Practicable Waste Treatment" (EPA-40/9-75-013, Appendix II).

2-3.6 *Controlling Surface Water Runoff.* Surface water runoff must be controlled to prevent violation of water quality standards which might result from the migration of sludge contaminants into receiving bodies of water. Containment and controlled release of runoff from sludge application areas, or effective erosion control methods, must be practiced as necessary. Consideration must also be given to dissolved materials which may leach out of the sludge into surface runoff.

2-3.7 *Sludge Application Methods.* Liquid digested sludge may be applied to the land by using various methods, such as a tank truck, plow injection, or ridge and furrow spreading. Stabilized sludge, or composted material from digested sludge, may also be spread upon the land. If desired, the sludge can be incorporated into the soil by plowing, discing, or other similar methods. The use of incorporation and injection methods is encouraged as a means of improving public acceptance of sludge application by decreasing possible odor generation and unsightly deposits on crops.

Spray application of digested sludge to the land is acceptable when the transport of aerosols beyond the boundaries of the application area is minimized. The use of low pressure sprays, short risers, or remoteness of application sites is suggested. When spraying at low pressures, the sludge should be screened to prevent nozzle plugging.

2-3.8 *Application Rates.* The sludge application rate per acre must be managed to ensure that environmental requirements are met. It is not possible to give a rate, or even an upper limit, which would be universally applicable, since the limit varies widely and must be determined for each site. Application rates can be estimated based on experience, site exploration data, or test plot data.

Nitrogenous substances usually limit annual application rates. The rate of sludge application to agricultural land must be consistent with the use of nitrogen by agronomic crops to prevent nitrate pollution of groundwater. The information required to establish a sludge application rate includes: (1) total and inorganic nitrogen content of sludge; (2) nitrogen, phosphorous, and potassium requirement of crop grown; and (3) soil test for available phosphorous and potassium. Supplemental fertilizer, especially potassium, may be needed to optimize crop production. As a guide, sludge application rates should be such that the total amount of plant available nitrogen added is no greater than twice the nitrogen requirement of the crop grown. Plant available nitrogen includes that mineralized from the soil and the inorganic sludge nitrogen (ammonium and nitrate), plus a mineralization rate of 15 to 20 percent of the sludge organic nitrogen for the first growing season, and 3 percent of the residual sludge nitrogen for three subsequent growing seasons. Volatilization of ammonia from surface applied sludge should be taken into account; experience has shown that about 50 percent of this nitrogen may be lost if the material is not immediately incorporated. USDA and State Agricultural Experiment Stations should be contacted to obtain plant nitrogen, phosphorous and potassium requirements and soil test information. Site monitoring should be the responsibility of the municipality.

It is possible that the presence in the sludge of certain salts, phosphorous compounds, metals, radionucleides and other materials may also limit application rates in specific instances.

Each prospective land application site should be assessed on an individual basis, with consideration given to both sludge characteristics and soil characteristics.

Sludge is generated relatively constantly throughout the year. The application rate must be harmonized with the crop growing season. A mass balance is necessary to determine the amount of sludge storage required during intervals when the sludge is not applied to the land.

2-3.9 *System Operation.* The grant applicant must show the capability to manage and operate the system. Operational aspects to be described in the operation and maintenance manual include the monitoring plan, review of monitoring data, action to be taken when monitoring indicates a problem, and sources of additional expert guidance.

2-3.10 *Monitoring.* The grant applicant must develop and implement a plan for adequate monitoring of each land application site where the application rate will exceed 10 dry tons/acre/year for liquid digested sludge, or 50 dry tons/acre over a three year period for dried or dewatered sludge. Use of bagged-sludge fertilizer products for the retail market will not require site monitoring. However, producers of bagged-sludge fertilizer products are encouraged to incorporate pathogen destruction in their sludge conditioning processes and to avoid higher level heavy metals content sludges for this purpose.

The site monitoring plan must be specifically designed for applicable local conditions, and is to include consideration of heavy metals, persistent organics, pathogens, and nitrates in groundwater, surface water, sludge, and soils.

The size of the project and nature of the lands to which sludge is being applied is important. For new projects, it will be necessary to estimate the sludge characteristics and crop response. Where required, monitoring should be more frequent, at least initially, until successful performance is assured.

2-3.11 *Surveillance of Operation and Monitoring.* The operation and monitoring data of the system must be periodically reviewed to ensure satisfactory performance. Where there is not a local or state program for this purpose, an alternative independent review will be necessary. This could be done by a consultant or by an agricultural extension service. The grant application should show the arrangements made for surveillance.

Operational and monitoring data must be available to authorized EPA representatives on request.

2–4. *Additional Requirements for Sludge Application to Agricultural Lands.* In addition to the foregoing general requirements, the application of sludge to agricultural lands which may be used to grow crops must be accomplished so as to ensure cropland resources are protected and harmful contaminants are not accumulated in the human food chain. Review of projects which include application of sludge to agricultural lands must be based on informed judgment and fully consider the conditions specific to a given site.

2–4.1 *Projects of Minimal Concern.* Some projects are clearly of minimal concern either because of their relative size and impact or because they are controlled by other means. An environmental assessment involving testing of the sludge for heavy metals and pathogens will verify this is the case for the particular project. In these cases of lesser concern, the project should conform with the foregoing general requirements, but need not necessarily conform with each of the specific limits and monitoring requirements. Examples of this type of project include:

a. Where the design flow of the publicly owned treatment works is less than one million gallons per day. This is particularly the case where there are no industrial users of the system and the application rates are low.

b. Where the sludge is applied to publicly owned or leased land dedicated to receive sludge. Controls should be imposed to ensure there is no misuse of this land. Where the land has received unusually high amounts of metals, FDA clearance should be obtained before using crops from such land in the human food chain.

c. Where the existing sludge operation is a commercial activity, producing bagged products. In this case, there should be a temporary variance for non-conforming sludges with an acceptable schedule established to conform with applicable requirements such as metals and pathogens. New projects should not be exempted.

d. For larger projects, or those not otherwise controlled, consideration must be given to the extent of additional resources available for control and monitoring. Some demonstration projects have the capability, including in-house effort and expert assistance, to intensively monitor and evaluate the project as it develops. These work closely with EPA, USDA and FDA, as well as State authorities, to ensure satisfactory results. In effect, the criteria for these demonstration projects are subject to continuing modification as information is developed. For these demonstration projects, the grant review should include the availability of resources for evaluating project performance, the management arrangements for surveillance of the project, and review by other interested agencies such as FDA and USDA.

2–4.2 *Protection of Food Products and Agricultural Lands.* Regulations exist to control the level of mercury and persistent organic chemicals, such as pesticides and polychlorinated biphenyls (PCB's), in certain components of the food chain. However, similar guidelines have not been established for all trace elements in foods. When standards are implemented, those sludge applications involving crops in the human food chain will have to be adjusted to conform. Cadmium and lead are of particular concern in municipal sludge and in some crops grown in sludge-treated soil, as well as mercury, arsenic, selenium, and persistent organics such as pesticides and PCB's.

Because of the wide variety of conditions that can affect the level of heavy metals that may be toxic to plants or taken up by the crop and eventually consumed by humans as part of their diet, absolute numerical limitations are not appropriate. It is recommended that the project conform to any limitations established by FDA or USDA. Where a sludge relatively high in heavy metals content is used, the following measures are prudent:

Reduce heavy metals contamination in the sludge by pretreatment of wastewaters from industrial users;

Maintain a high pH (above 6.5) in the combined sludge and soil;

Concentrate on growing grain crops as opposed to leafy vegetables;

Intensify monitoring of heavy metals in the sludge, soil, and plant tissues.

Even though stabilization methods are used, additional precautions should be taken when sludge is used for agricultural purposes (paragraph 2–3.2). Under certain conditions, specific organisms may survive in the soil for extended periods. Consequently, sludge-treated land should not be used for growing human food crops to be eaten raw until three years after sludge application. For orchard crops eaten raw, heat dried sludge can be used provided the project is approved by the Food and Drug Administration.

Application methods are encouraged that have been demonstrated to prevent direct contact of the sludge and the crop to be consumed. Where such methods are not employed, sludge shall be negative for *Salmonella* and *Ascaris* ova if applied to crops normally cooked in the home before consumption, but marketed without being subjected to a process which is lethal to pathogenic microorganisms and parasites. This also applies to sludge use on dairy pastures. Forage and pasture crops should not be consumed by animals while these crops are physically contaminated by sludge. Grazing animals should not be permitted on pastures before thorough removal of sludge, by rain or some similar method. Where there is a risk of direct ingestion of the sludge by grazing animals, the lead content of the sludge should not exceed 1,000 mg/kg dry sludge and the cadmium content should not exceed 20 mg/kg dry sludge.

2–4.3 *Use of Other Sludges.* The criteria in the preceding subparagraphs are based on limited information and are conservative in defining sludge acceptable for land application. Other sludges may also be acceptable, including some which do not in every respect fall within the above criteria. These sludges should only be used under certain carefully defined and controlled conditions. Regional Administrators should work closely with grant applications desiring to use these sludges in land application projects. Technical assistance to resolve specific questions is available from EPA Headquarters and from the EPA National Environmental Research Centers, especially the Advanced Waste Treatment Research Laboratory. Technical assistance is also available from the Food and Drug Administration and USDA and State Agricultural Experiment Stations.

2–4.4 *Project Review.* When the project includes sludge application to agricultural lands, the facility plan should be reviewed by the U.S. Department of Agriculture and, where crops in the human food chain are involved, by the Food and Drug Administration. This review is particularly important for larger projects, high sludge application rates (paragraph 2–3.10), and where the sludge contains higher amounts of contaminants (paragraph 2–4.2).

2–4.5 *Monitoring Requirements.* Products in the human food chain grown on sludge amended soil should be monitored for heavy metals (cadmium, lead, arsenic, selenium, zinc, copper, nickel, and mercury), persistent organics (chlorinated pesticides, PCB's, etc.), and pathogens (paragraph 2–4.2). At this time it appears that *Salmonella* and *Ascaris* ova would be the pathogens of choice for a monitoring program. The monitoring program (paragraph 2–3.10) should be expanded to include this testing when human food products grown are subject to contact with the applied sludge. These requirements should apply for any project with an application rate greater than 10 dry tons sludge per acre.

Chapter III
Sludge Disposal Methods

3–1. *Sanitary Landfill.*

3–1.1 *General.* Sanitary landfill of sludge, either separately or along with municipal solid waste, is acceptable when supported by the environmental assessment and, if necessary, an environmental impact statement.

3–1.2 *Landfill Procedures.* A sanitary landfill accepting sludge must be designed and operated in accordance with EPA Guidelines for Land Disposal of Solid Wastes (40 CFR 241 Appendix III). While it is recognized that the guidelines were developed for solid waste at Federal facilities, operation of a sanitary landfill accepting sludge should be consistent with the requirements and recommendations contained in the guidelines.

3–1.3 *Odor Control.* The sanitary landfill must be operated so as to prevent nuisance odors. Normally, the sludge must be stabilized as described for land application (paragraph 2–3.1).

3–1.4 *Precautions for Protection of Public Health.* Sludge stabilization and the daily soil cover are generally adequate protection from direct health hazards. Additional precautions may be necessary if the public has unrestricted access to the landfill site.

3–1.5 *Groundwater Protection.* The groundwater underlying the sanitary landfill accepting sludge must be protected against degradation, and the sanitary landfill must meet the groundwater protection requirements (paragraph 2–3.5).

3–1.6 *Operation.* If a sanitary landfill accepting sludge is not operated by the wastewater treatment authority, a written contract or binding agreement is required between the wastewater treatment authority and the operator of the sanitary landfill. Such a binding agreement will include necessary assurances of compliance with the requirements and recommendations of the EPA guidelines (40 CFR 241 Appendix III).

3–1.7 *Monitoring.* A plan must be developed and implemented to provide for adequate monitoring for each sanitary landfill accepting sludge. This plan must be specifically designed for applicable local conditions, and is to include:

a. Groundwater observation wells tested for heavy metals, persistent organics, pathogens, and nitrates;

b. where the surface water could be affected by direct runoff or leachate from the

sludge landfill, surface water monitoring tested for chemical oxygen demand and total dissolved solids. Additional testing may be necessary if it is determined that leachate is entering surface waters.

3-2. *Incineration.*

3-2.1 *General.* Sludge incineration and disposal of the resulting ash is an environmentally acceptable method for the disposal of sludge when the environmental assessment shows it to be appropriate. Incineration alone is a volume reduction method rather than ultimate disposal. After incineration ash, either dry or in scrubber water, remains to be disposed of to the land. Ash disposal must be designed to protect groundwater, to prevent dust, and to ensure no erosion to surface waters.

3-2.2 *Industrial Wastewaters.* When introduced into a municipal wastewater treatment works that practices sludge incineration, industrial wastewaters must be pretreated to reduce to a minimum the amounts of heavy metals and radioactive materials. In developing pretreatment programs, special attention must be given to the disposal of sludge created or materials removed during the pretreatment process. Disposal of these materials must be in an environmentally sound manner.

3-2.3 *Air Quality.* The emissions from the sludge incinerator must not result in violation of ambient air quality standards being exceeded and must meet the EPA air pollution emission standards of performance contained in the New Source Performance Standards for Sludge Incinerators (40 CFR 60.15, Appendix IV). These emission limits are based on a venturi scrubber, but any similar equipment which meets the standard is acceptable. Sludge incineration is known to vaporize any mercury present in the incoming sludge. EPA has published Amendments to National Emission Standards which would limit mercury emissions from the incineration and drying of wastewater treatment plant sludges to a maximum of 3200 grams per day (40 CFR 61.5, Appendix V).

3-2.4 *Specific Emissions.* Tests have shown that sludge incinerator emissions can contain volatilized mercury as well as persistent organic compounds, such as polychlorinated biphenyls, and particulates containing trace amounts of metals such as lead and cadmium. The effect of these compounds which are emitted from the incinerator must be assessed and the sludge should be assessed and the sludge should be tested to determine the quantities of compounds present. If the PCB's exceed 25 mg/kg dry sludge, then special measures should be taken to ensure at least 95 percent destruction of the persistent organic compounds in incineration. This could consist of testing the performance of an incinerator design to verify satisfactory performance or making allowances in the design. Increased temperature and residence time increase the assurance of destruction. Work with substantially pure PCB's (not sludges) showed essentially complete destruction at an operational temperature of 1600°F and residence time at that temperature of one second.

3-2.5 *Monitoring.* A plan must be developed and implemented to provide for adequate monitoring of each sludge incinerator. The stack gas emissions from sludge incinerators must be monitored to ensure compliance with 40 CFR 60.15 (Appendix IV). In addition, mercury, either in the sludge or in stack gas emissions, must be periodically tested to demonstrate compliance with 40 CFR 61.5 (Appendix V). Wastewater from industrial users must be monitored if it is determined that such users will be a significant source of mercury in the municipal sludge. Additional monitoring for organic pesticides, PCB's or heavy metals other than mercury, may be necessary for specific projects.

3-3. *Ocean Disposal.*

3-3.1 *General.* Ocean disposal of sewage sludge would be acceptable for treatment works presently using this method only when the sludge meets the criteria specified in 40 CFR 227 (Appendix IV) and when this disposal method is supported by the environmental assessment. The Federal Water Pollution Control Act as amended (PL 92-500), and the Marine Protection, Research and Sanctuaries Act of 1972 (PL 92-532) have established a Federal program of marine pollution abatement and control. EPA has issued regulations and criteria (40 CFR 220-227, Appendix IV) to govern the disposal of wastes to the marine environment. EPA controls such disposal by a system of permits for the discharge, transportation, and dumping of all waste materials into the marine environment, except for dredged material which is controlled by the Corps of Engineers, subject to EPA Criteria. Ocean discharge of sludge through outfalls is regulated by EPA under the National Pollutant Discharge Elimination System (NPDES).

3-3.2 *Permits.* Information available to EPA from permit applications to date indicates that those sludges currently being dumped exceed the criteria and are therefore being dumped under interim permits. One of the conditions of these interim permits is the requirement for an implementation plan to either reduce the toxicity of the materials to meet the criteria or find an alternative method of disposal. Interim permits are granted for one year only and the issuance of new interim permits is based on the progress demonstrated by the permittee on this implementation plan.

3-3.3 *Dumping Sites.* Ocean disposal of sewage sludge is strictly controlled by EPA. Currently EPA will approve only existing dumping sites presently in use for the disposal of particular kinds of waste, unless there is extremely strong evidence in favor of approval of a new location.

APPENDIX II—GROUND WATER EXTRACT FROM ALTERNATIVE WASTE MANAGEMENT TECHNIQUES FOR BEST PRACTICABLE WASTE TREATMENT EPA-40/9-75-013, OCTOBER 1975

ever, the House Committee did urge that the information EPA publishes on alternative waste management techniques emphasize land disposal. Finally under Section 201, the House stressed that any determination of BPWTT should consider possible trade-offs between air, land, and water disposal of pollutants.

C. Synopsis

The information contained in this document will guide policy-owned treatment works in selecting waste treatment alternatives to restore and maintain the integrity of the Nation's waters.

Chapter II specifies the criteria to meet best practicable waste treatment for the broad categories of treatment and discharge into navigable waters, land application and utilization practices, and reuse of treated wastewater. Criteria less stringent than those established in Chapter II are not acceptable. Criteria which are more stringent must be justified or be pursuant to more stringent State and local law.

Chapters III, IV, and V develop the rationale behind the criteria as well as present information pertaining to acceptable alternative waste management techniques. These chapters are not intended to include all possible approaches that are or might become practicable. Therefore, techniques and technologies not discussed in this document can be employed to achieve the criteria in the most cost-effective manner.

CHAPTER II:
CRITERIA FOR BEST PRACTICABLE WASTE TREATMENT

Applicants for construction grant funds authorized by Section 201 of the Act must have evaluated alternative waste treatment management techniques and selected the technique which will provide for the application of best practicable waste treatment technology. Alternatives must be considered in three broad categories treatment and discharge into navigable waters, land application and utilization practices, and reuse of treated wastewater. An alternative is "best practicable" if it is determined to be cost-effective in accordance with the procedures set forth in 40 CFR Part 35 (Appendix B to this document) and if it will meet the criteria set forth below.

(A) Alternatives Employing Treatment and Discharge into Navigable Waters

Publicly-owned treatment works employing treatment and discharge into navigable waters shall, as a minimum, achieve the degree of treatment attainable by the application of secondary treatment as defined in 40 CFR 133 (Appendix C). Requirements for additional treatment, or alternate management techniques, will depend on several factors, including availability of cost-effective technology, cost and the specific characteristics of the affected receiving water body.

(B) Alternatives Employing Land Application Techniques and Land Utilization Practices

Publicly-owned treatment works employing land application techniques and land utilization practices which result in a discharge to navigable waters shall meet the criteria for treatment and discharge under Paragraph (A) above.

The ground water resulting from the land application of wastewater, including the affected native groundwater, shall meet the following criteria:

Case I: The ground water can potentially be used for drinking water supply.

(1) The standards for chemical quality and pesticides specified in the EPA Manual for Evaluating Public Drinking Water Supplies (Appendix D) for drinking water supply sources should not be exceeded except as indicated below (See Note 1).

(2) If the existing concentration of a parameter exceeds the standards for chemical quality or pesticides, there should not be an increase in the concentration of that parameter due to land application of wastewater.

Case II: The ground water is used for drinking water supply.

(1) The criteria for Case I should be met.

(2) The bacteriological standards for drink-

ing water supply sources specified in the EPA Manual for Evaluating Drinking Water Supplies (Appendix D) should not be exceeded (See Note 1).

Case III: Uses other than drinking water supply.

(1) Ground water criteria should be established by the Regional Administrator based on the present or potential use of the ground water.

The Regional Administrator in conjunction with the appropriate State officials and the grantee shall determine on a site-by-site basis the areas in the vicinity of a specific land application site where the criteria in Case I, II, and III shall apply. Specifically determined shall be the monitoring requirements appropriate for the project site. This determination shall be made with the objective of protecting the ground water for use as a drinking water supply and/or other designated uses as appropriate and preventing irrevocable damage to ground water. Requirements shall include provisions for monitoring the effect on the native ground water.

(C) Alternatives Employing Reuse

The total quantity of any pollutant in the effluent from a reuse project which is directly attributable to the effluent from a publicly-owned treatment works shall not exceed that which would have been allowed under Paragraphs (A) and (B) above.

NOTE 1

Any chemical, pesticides, or bacteriological standards for drinking water supply sources hereafter issued by EPA shall automatically apply in lieu of the standards in the EPA Manual for Evaluating Public Drinking Water Supplies.

CHAPTER III: WASTE MANAGEMENT TECHNIQUES INVOLVING LAND APPLICATION OR LAND UTILIZATION

Land application systems can be classified with respect to the ultimate disposition of the applied wastewater: (1) percolation of wastewater through the soil until it becomes part of the permanent aquifer and (2) collection of land applied wastewater either by means of underdrain systems or as a result of surface runoff. Percolation systems which result in permanent ground water must meet the ground water quality criteria established for such systems. Land application systems which collect the applied wastewater in underdrain systems and/or result in surface runoff must comply with the wastewater treatment and discharge criteria if the collected wastewater is discharged to navigable waters.

Three different cases can be identified for percolation of wastewater through the soil: (1) the receiving ground water has the potential for use as a drinking water supply; (2) the receiving ground water is used as a drinking water supply; and (3) the receiving ground water has other uses. Achieving best practicable technology for these cases requires meeting the applicable ground water criteria. The specific ground water criteria are determined on the basis of the level of ground water protection necessary.

Where the receiving ground water has the potential to be used as a drinking water supply, the bacteriological criteria for drinking water supplies (Appendix D) can be met by standard water treatment practice at a reasonable cost. However, because the water treatment technology available for the removal of chemical pollutants and pesticides is not widely practiced and is costly, the chemical and pesticide criteria (Appendix D) should apply when land application is considered.

In the case of receiving ground water which is already being used as a public or private water supply, protection of the ground water from pathogenic pollution is necessary in addition to meeting chemical and pesticides criteria. The bacteriological criteria in this case should be consistent with the level of treatment received by the ground water prior to public use. If, for example, a number of existing private wells use the ground water resulting from the land application system, the bacteriological standards for ground water usable without treatment shall apply.

When the ground water is not being used as a water supply because of contamination and does not have the potential through treatment to be used as a drinking water supply, the Regional Administrator will determine the applicable ground water criteria on a case-by-case basis. In making these determinations, the Regional Administrator will consider localized conditions as well as the future intended uses of the ground water.

For all of the above categories, if the existing

APPENDIX D

GROUND WATER REQUIREMENTS

Water Treatment Requirements*

1. General Requirements

The water quality requirements of the EPA Drinking Water Standards are minimum requirements, and good quality water should have physical and chemical characteristics considerably better than the limiting values established in the EPA Drinking Water Standards (Sections 4.2, 5.1, 5.2, 6.1, and 6.2). For example, water with turbidity of 5 units and a color of 15 units may be acceptable, but in a coagulated, filtered water such values could indicate serious malfunctioning of the purification process. (The EPA Drinking Water Standards are being revised currently, and will contain a recommendation that the turbidity standard be reduced to 1 turbidity unit. This and other revisions of the Drinking Water Standards, proposed at the time of this printing, are shown on the following pages.) Similarly, increased concentrations of copper and iron could indicate a corrosiveness that would be objectionable to consumers, even though the concentrations of the metals did not exceed recommended limits. In well water an increase in chlorides over the normal amount found in ground waters in the area may be the first indication of pollution.

The type of treatment required depends on the characteristics of the watershed, the raw water quality, and the desired finished water quality. If pollution of the source water is increasing, plant facilities, which were adequate for treatment of a nonpolluted water, may become inadequate. The production of water that is free from pathogenic organisms, aesthetically satisfactory to the senses, and reasonably acceptable chemically becomes increasingly difficult when the raw water has a high and varying chlorine demand, contains large numbers of coliform bacteria, or contains high concentrations of dissolved solids, toxic substances, or taste and odor producing substances.

When evaluating the ability of a water supply system to constantly produce a safe and satisfactory water, these factors should be considered:

(a) the quality of water produced at times of unusual stress, such as during heavy run-offs, periods of drought, or periods of excessive demand as shown in the records;

(b) the quality of the raw and finished waters, as determined by laboratory data and sanitary surveys, and any trends in improvement or deterioration;

(c) the purification processes, including the facilities used to apply disinfectants at various locations in the treatment process, and their capacities compared with the capacities considered necessary to meet maximum anticipated requirements;

(d) the treatment processes used and their reliability in changing raw water characteristics to produce a finished water that continuously meets the PHS Drinking Water Standards;

(e) the minimum residual chlorine concentration in the plant effluent water, when chlorine is used, together with the time that this or greater chlorine levels were maintained;

(f) the qualifications of the operators and laboratory personnel, as indicated by appropriate training, or certification, or both; and

*"Manual For Evaluating Public Drinking Water Supplies" U.S. Environmental Protection Agency, 1971, pp. 4-12; updated with Proposed Primary Drinking Water Regulations, June 1975.

(g) the laboratory facilities and analytical procedures, frequency and extent of their use, and application of the data to operational control.

2. Extent of Treatment

The Public Health Service recommends that all municipal water supplies, whether they be ground water or surface water, receive treatment by disinfection regardless of the quality of the water. The benefits from the added protection provided by disinfection far outweigh the increased cost and the added maintenance incurred by the water utility. When coliform density is used as one criterion for judging treatment requirements, raw waters can be divided into three groups: clean, clear, and polluted waters. The coliform densities of the raw waters can be expressed in terms of the most probable number (MPN) from the multiple-tube fermentation technique, or actual coliform counts determined by the membrane filter (MF) technique.

The requirements are given for three groups of water: those usable without treatment, those needing disinfection only, and those needing complete treatment. The quality requirements listed below are the proposed EPA primary drinking water standards*, that are proposed as revisions to the current PHS Drinking Water Standards. They differ from the current PHS Standards in that some standards have been added, some have been deleted, and others modified.**

Group I. Requirements for Water Usable Without Treatment

A. *Bacteriological Quality:* The coliform standard remains the same as the PHS Drinking Water Standards, 1962, plus the inclusion of a standard plate count limit of 500 organisms per ml.

B. *Physical Quality:* should meet the following standards.

Turbidity	1 turbidity unit (up to 5 TU may be allowed in some cases)

*Proposed Interim Primary Drinking Water Regulation, March 14, 1975

**The EPA is also considering secondary drinking water regulations pertaining to color, taste and odor, chloride, copper, foaming agents, iron, manganese, sulfate and zinc. Ground water requirements for land application systems should consider these parameters in terms of aesthetic acceptability of existing and potential drinking water supplies and the cost-effectiveness of control by standard water treatment practice.

C. *Chemical Quality:* chemical concentrations should not exceed the following:

Substance	Maximum Allowable Limits concentration mg/liter
Arsenic (As)	0.05
Barium (Ba)	1
Cadmium (Cd)	0.010
Chromium (Cr)	0.05
Cyanide (CN)	0.2
Flouride (F) [a]	
up to 53.7°F	2.4
53.8-58.3	2.2
58.4-63.8	2.0
63.9-70.6	1.8
70.7-79.2	1.6
79.3-90.5	1.4
Lead (Pb)	0.05
Mercury (Hg)	0.002
Nitrate Nitrogen	10
Organics-Carbon Absorbable CCE	0.7
Selenium (Se)	0.01
Silver (Ag)	0.05

[a] Annual average of maximum daily air temperature.

Substances not included in the above table that may have deleterious physiological effect or that may be excessively corrosive to the water supply system should not be permitted in the raw water supply.

D. Radioactivity: should comply with the following limits:

RADIUM 226, RADIUM 228, and GROSS ALPHA PARTICLE RADIOACTIVITY

Combined Radium 226 and Radium 228 - 5pCi/l

Gross Alpha Particle Activity - 15pCi/l

BETA PARTICLE and PHOTON RADIOACTIVITY from MAN-MADE RADIONUCLIDES

The average annual concentration of beta particle and photon radioactivity from man-made radionuclides shall not produce an annual dose equivalent to the total body or any internal organ greater than 4 millirem, assuming a 2 liter per day drinking water intake.

E. *Pesticides:* should not exceed the following limits:

Pesticide	Maximum permissible concentration, mg/l
Chlordane	0.003
Endrin	0.0002
Heptachlor	0.0001
Heptachlor epoxide	0.0001
Lindane	0.004
Methoxychlor	0.1
Toxaphene	0.005
2, 4-D	0.1
2, 4, 5-TP	0.01

Group II. Requirements for Water Needing Disinfection Only

A. *Physical, Chemical, Radioactivity, and Pesticide Requirements:* the requirements as shown for untreated raw ground water (Groups I.B, I.C, I.D, and I.E) should be met. If the water does not consistently meet all these requirements, consideration should be given to providing additional treatment during periodic decreases in quality that result from high turbidity, tastes, etc.

B. *Bacteriological Quality:*

1. Fecal Coliform Density: If fecal coliform density is measured, the total coliform density discussed below may be exceeded, but fecal coliform density should not, in any case, exceed 20 per 100 milliliters as measured by a monthly arithmetic mean. When the fecal coilform vs. total coliform criterion is used for Group II water, the fecal coliform count should never exceed the 20 per 100 milliliters monthly arithmetic mean. This fecal coliform standard only applies when it is being measured on a regular basis.
2. Total Coliform Density: Less than 100 per 100 mililiters as measured by a monthly arithmetic mean.

Group III. Requirements for Water Needing Treatment by Complete Conventional Means Including Coagulation, Sedimentation, Rapid Granular Filtration, and Disinfection (Pre and Post)

C. *Bacteriological Quality:*

1. Fecal Coliform Density: If fecal coliform density is measured, the total coliform density discussed below may be exceeded, but fecal coliform should not exceed 2,000 per 100 milliliters as measured by a monthly geometric mean.

2. Total Coliform Density: Less than 20,000 per 100 milliliters as measured by a monthly geometric mean.

The same rationale applies here as in the Group II waters concerning the use of the fecal coliform vs. total coliform criterion. In no case should the fecal coliform count exceed the 2,000 per 100 milliliters monthly geometric mean.

The arithmetic mean is used with the Group II waters because the bacteriological data from these waters will be of lesser magnitude than that from the Group III waters; this difference in magnitude between the monthly means of the Group II and Group III waters is best reflected by the arithmetic and geometric means, respectively.

These bacteriological limits may possibly be exceeded if treatment (in addition to coagulation, sedimentation, rapid granular filtration, and disinfection) is provided and is shown to be doing a satisfactory job of providing health protection.

B. *Physical Quality:* Elements of color, odor, and turbidity contribute significantly to the treatability and potability of the water.

1. Color: A limit of 75 color units should not be exceeded. This limit applies only to nonindustrial sources; industrial concentrations of color should be handled on a case-by-case basis and should not exceed levels that are treatable by complete conventional means.

2. Odor: A limit of 5 threshold numbers should not be exceeded.

3. Turbidity: The limits for turbidity are variable. Factors of nature, size, and electrical charge for the different particles causing turbidity require a variable limit. Turbidity should remain within a range that is readily treatable by complete conventional means. It should not overload the water treatment works, and it should not change rapidly either in nature or in concentration when such rapid shifts would upset normal treatment operations.

C. *Chemical Quality:* Since there is little reduction in chemical constituents with complete conventional treatment, raw water should meet the limits given for Group I.C.

D. *Radioactivity:* Should comply with Certification Limits given in Group I.D.

E. *Pesticides:* Should comply with requirements for pesticides as shown for untreated raw ground water in Group I.E.

Infectious material, the increasing diversity of chemical pollutants found in Group III raw waters, and the many different situations encountered in regional and local problems make it impractical to prescribe a limited selection of facilities and processes that can effectively handle all problems presented by raw water and its sources. Future improvements in treatment technology cannot be reasonably assisted or regulated by requiring the fixed process steps considered good for today's technology. Table 1 describes some factors that increase the difficulty in securing disinfection, e.g., adequate disinfection with halogens depends on temperature, pH, contact time, and concentration of disinfectant.

Types of disinfection other than chlorination must be demonstrated to function effectively in all compositions of water likely to be encountered from the source used. If a distribution system is of any considerably length, the disinfection method should provide a residual protection that can be easily measured.

Table 1. CONDITIONS CREATING DIFFICULTIES AT THE WATER PLANT AND IN THE WATER MAINS

Bacterial and biological conditions	Chemical conditions	Physical and operational conditions
Increasing numbers of coliforms	Ammonia nitrogen	Low temperature
Biological pollution, i.e., algal or fungal metabolic products that effect chlorine demand	Toxic materials or taste and odor requiring removal	Extended distribution systems
Filter clogging organisms that effect chlorine demand	Color or organic dispersing agents (anticoagulants), light compounds	Highly variable water quality
	Chlorine demand	Rapid variation in flow and turbidity of surface water resource
	Iron and manganese	Tidal effects
	High organic content	
	High or organic content	
	High or fluctuating pH.	

Where water sources show continuing quality deterioration or the quality of water available is not adequate for future demand, the water purveyor should be examining alternate or auxiliary sources of supply and should have positive plans to procure adequate facilities and sources.

[FR Doc.76-16097 Filed 6-2-76;8:45 am]

federal register

THURSDAY, JUNE 3, 1976



PART V:

COMMODITY FUTURES TRADING COMMISSION

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POSITION AND TRADING LIMITS FOR WHEAT

Request for Comment

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COMMODITY FUTURES TRADING COMMISSION

[17 CFR Part 150]

POSITION AND TRADING LIMITS FOR WHEAT

Request for Comment

Notice is hereby given that the Commodity Futures Trading Commission ("Commission") is considering an amendment to Part 150 of the regulations under the Commodity Exchange Act ("Act"), 7 U.S.C. 1 et seq., to raise the limits on positions and daily trading for wheat from two million bushels to three million bushels. The Commission is requesting public comment on this proposal.

Section 4a(1) of the Act, 7 U.S.C. 6a (1), provides that for purposes of diminishing, eliminating, or preventing excessive speculation, the Commission may fix limits for a person's positions and daily trading in any contract market. Positions and trading classified as bona fide hedging are exempt from such limits. Prior to the effective date of the Commodity Futures Trading Commission Act of 1974, 88 Stat. 1389, et seq. (Pub. L. 93-463), the authority to fix trading and position limits was vested in the Commodity Exchange Commission.

In 1938, the Commodity Exchange Commission established general limits on positions and daily trading for all individual contract markets in grain, including wheat. That net position limit was two million bushels for individual futures and all futures combined. The limit on daily buying or selling was also two million bushels for individual futures and all futures combined. To the extent that positions or daily trading could be shown to represent intermarket spreading, the all futures combined limit was three million bushels. These same limits still apply to each contract market in wheat. The current proposal of the Commission would fix all trading and position limits for wheat at the level of three million bushels. The exchanges which are currently designated as contract markets in wheat are the Chicago Board of Trade, the Kansas City Board of Trade, the MidAmerica Commodity Exchange, and the Minneapolis Grain Exchange.

The current proposal by the Commission is in response to an initial request by the Chicago Board of Trade that the Commission consider raising trading and position limits for wheat. That exchange points out that the current limits were established in 1938 and notes many changes in both the cash and futures market for wheat since that time. The submission also takes note of the potential value of speculation in providing for a liquid and continuous futures market in wheat. The other three exchanges which trade wheat have also expressed a desire to have the limits raised for each of their own contracts. The Commission staff has considered the situation and at this time believes that raising the trading and position limits for wheat is in the public interest.

Therefore, pursuant to its authority under sections 4a(1) and 8a(5) of the Act, 7 U.S.C. 6a(1) and 12a(5), the Commission proposes to adopt a new § 150.12 of the regulations to fix all trading and position limits for wheat at the level of three million bushels and to amend § 150.1(e) of the regulations to delete "wheat" from the definition of "grain."

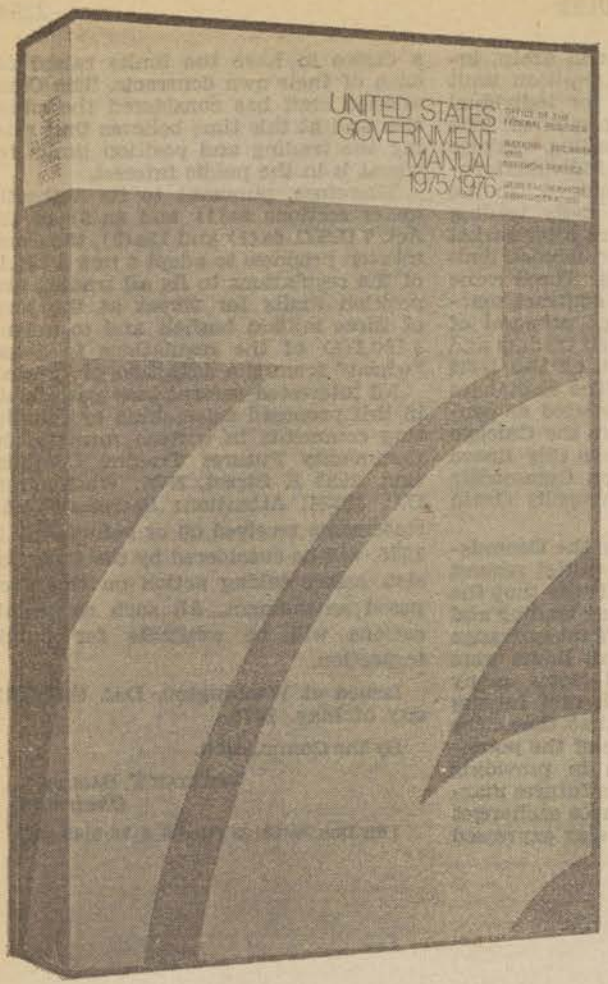
All interested persons may participate in this proposed rulemaking by submitting comments in written form to the Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581, Attention: Secretariat. All statements received on or before July 5, 1976, will be considered by the Commission before taking action on this proposed amendment. All such communications will be available for public inspection.

Issued at Washington, D.C. this 28th day of May, 1976.

By the Commission.

WILLIAM T. BAGLEY,
Chairman.

[FR Doc.76-16123 Filed 6-2-76;8:45 am]



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