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federal register

THURSDAY, SEPTEMBER 8, 1977

highlights

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The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/OHMO	CSC		DOT/OHMO	CSC
DOT/OPSO	LABOR		DOT/OPSO	LABOR
	HEW/ADAMHA			HEW/ADAMHA
	HEW/CDC			HEW/CDC
	HEW/FDA			HEW/FDA
	HEW/HRA			HEW/HRA
	HEW/HSA			HEW/HSA
	HEW/NIH			HEW/NIH
	HEW/PHS			HEW/PHS

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 program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

ATTENTION: For questions, corrections, or requests for information please see the list of telephone numbers appearing on opposite page.

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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

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

[Valencia Orange Regulation 572]

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of California-Arizona Valencia oranges that may be shipped to fresh market during the weekly regulation period Sept. 9–15, 1977. This regulation is needed to provide for orderly marketing of fresh Valencia oranges for the regulation period because of the production and marketing situation confronting the orange industry.

EFFECTIVE DATE: September 9, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202–447–3545.

SUPPLEMENTARY INFORMATION: Findings. (1) pursuant to the amended marketing agreement and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia 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 Valencia Orange Administrative Committee, established under the amended marketing agreement and order, and upon other available information, it is found that the limitation of handling of Valencia oranges, as provided in this regulation will tend to effectuate the declared policy of the act.

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

(i) The committee has submitted its recommendation for the quantities of Valencia oranges that should be marketed during the specified week. The recommendation, designed to provide equity of marketing opportunity to handlers in all districts, resulted from consideration of the factors covered in the order. The committee further reports the fresh market demand for Valencia oranges is good.

Average f.o.b. price was $4.47 per carton on 531 cars for the week ended September 1, as compared with $4.58 per carton on 515 cars the previous week.

Track and rolling supplies at 264 cars were up 18 cars from last week.

(ii) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the quantities of Valencia oranges which may be handled should be established as provided in this regulation.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this regulation until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because the time intervening between the date when information became available upon which this regulation is based and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient. A reasonable time is permitted for preparation for such effective time; and good cause exists for making the regulation effective as specified. The committee held an open meeting during the current week, after giving due notice, to consider supply and market conditions for Valencia 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 during the period specified were promptly submitted to the Secretary after the meeting was held, and information concerning such provisions and effective time has been provided to handlers of Valencia oranges. It is necessary, to effectuate the declared policy of the act, to make this regulation effective during the period specified. The committee meeting was held on September 6, 1977.

§ 908.872 Valencia Orange Regulation 572.

(a) Order. (1) The quantities of Valencia oranges grown in Arizona and designated part of California which may be handled during the period September 9, 1977, through Sept. 15, 1977, are hereby fixed as follows:

(i) District 1: 260,000 cartons;

(ii) District 2: 390,000 cartons;

(iii) District 3: Unlimited.

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

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

Dated: September 7, 1977.

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

[FR Doc.77-26411 Filed 9-7-77;11:30 am]

PART 929—CRANBERRIES GROWN IN THE STATES OF MASSACHUSETTS, RHODE ISLAND, CONNECTICUT, NEW JERSEY, WISCONSIN, MICHIGAN, MINNESOTA, OREGON, WASHINGTON, AND LONG ISLAND IN THE STATE OF NEW YORK

Suspension of Marketable Quantity and Allotment Percentage for Cranberries

AGENCY: Agricultural Marketing Service.

ACTION: Final Rule.

SUMMARY: This document suspends the marketable quantity and the allotment percentage for cranberries for the 1977–78 crop year. Based on a reappraisal of the crop and the demand situation for cranberries it is not necessary to limit the quantity of cranberries to be marketed from the 1977–78 crop to effectuate the declared policy of the act.

EFFECTIVE DATE: September 2, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202–447–3545).

SUPPLEMENTARY INFORMATION: *Findings.* (1) Pursuant to the marketing agreement and Order No. 929 (7 CFR Part 929), regulating the handling of cranberries grown in the States of Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), a handling regulation (§ 929.304; 42 FR 21786) was issued prescribing a marketable quantity of 248,604,800 pounds (2,486,048 barrels) of cranberries and an allotment percentage of 95 percent for marketing from the 1977–78 crop. Information now indicates that the 1977–78 crop of cranberries will total about 217,400,000 pounds (2,174,000 barrels). Hence, it

is found that there is no need to limit, pursuant to § 929.49, the quantity of cranberries that may be purchased from or handled on behalf of growers during the crop year September 1, 1977, through August 31, 1978, and that continuance of the regulation limiting the quantity as prescribed by such regulation would not be consistent with the declared policy of the act.

(2) It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure and postpone the effective date of this action until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that this action relieves restrictions on the handling of cranberries.

It is, therefore, ordered that the provisions of § 929.304 (42 FR 21786) are hereby suspended.

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

Dated: September 2, 1977.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-26118 Filed 9-7-77;8:45 am]

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Docket No. R-0111]

PART 265—RULES REGARDING DELEGATION OF AUTHORITY

Overseas Branch Applications

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: In order to expedite and facilitate the performance of certain of its functions, the Board of Governors has amended its Rules Regarding Delegation of Authority. This amendment expands the authority of the Secretary or Acting Secretary of the Board to approve on the Board's behalf certain applications to establish branch offices overseas.

EFFECTIVE DATE: August 31, 1977.

FOR FURTHER INFORMATION CONTACT:

Allen F. Goodfellow, Senior Foreign Banking Analyst, Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202–452–2523).

SUPPLEMENTARY INFORMATION: Under the existing rule, which this action changes, the Board's Secretary can approve applications by member banks of the Federal Reserve System and corporations operating under sections 25 and 25a of the Federal Reserve Act (Agreement and Edge Act corporations) to establish overseas branches and agencies, but only after the applying organization has first received approval from the Board to establish branches in two or more foreign countries. After several years' experience with the existing rule, the Board has concluded that overseas branch applications may appropriately be approved under delegated authority in the normal case, except where an application represents an organization's initial expansion overseas through a full-service branch. In this regard, a "shell" branch to be established in The Bahamas, Cayman Islands, or other offshore currency center would not be considered a full-service branch and could be approved under delegated authority even if it represented a member bank's first overseas branch. The new rule therefore provides that the Secretary may approve any application to establish an overseas branch or agency, including a "shell" branch, except an organization's application to establish its first overseas full-service branch. This new rule does not change any Board policy regarding approval of applications and, as in the past, the Secretary may approve an application under this rule only if it raises no significant policy issue the Board has not already resolved and if the appropriate Federal Reserve Bank and divisions of the Board's staff recommend approval.

This amendment has been adopted without following the provisions of 5 U.S.C. 553 relating to notice, public participation, and deferred effective date because the change involved is procedural in nature and does not constitute a substantive rule subject to the requirements of that section. The amendment is effective immediately.

Therefore, under the authority of 12 U.S.C. 248(k), 12 C.F.R. Part 265 is amended, effective immediately, by revising paragraph (a)(8) of § 265.2 to read as follows:

§ 265.2 Specific Functions Delegated to Board Employees and Federal Reserve Banks.

* * * * *

(a) The Secretary of the Board (or, in the Secretary's absence, the Acting Secretary) is authorized:

* * * * *

(8) Under the provisions of sections 25 and 25(a) of the Federal Reserve Act and Parts 211 and 213 of this chapter (Regulations K and M), to approve the establishment, directly or indirectly, of a foreign branch or agency by a member bank or corporation organized under section 25(a) (an "Edge" corporation) or operating under an agreement with the Board pursuant to section 25 (an "Agreement" corporation) if all the following conditions are met:

(i) The appropriate Reserve Bank recommends approval.

(ii) The relevant divisions of the Board's staff recommend approval.

(iii) No significant policy issue is raised by the proposal as to which the Board has not expressed its view.

(iv) The application is not one for the applicant's first full-service branch in a foreign country.

* * * * *

Board of Governors of the Federal Reserve System, August 31, 1977.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.77-26049 Filed 9-7-77;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 77-CE-17-AD; Amdt. 39-3028]

PART 39—AIRWORTHINESS DIRECTIVES

Beech Models C90, E90, A100, B100, 200 and 200T Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) applicable to certain Beech Models C90, E90, A100, B100, 200 and 200T airplanes which requires a one-time inspection of the cabin door latching mechanism for proper adjustment and readjustment if required. This action will assure proper locking of the cabin door and prevent possible incidents involving loss of cabin pressurization.

DATES: This amendment becomes effective September 12, 1977. Compliance: Required within the next 25 hours time-in-service after the effective date of this AD.

ADDRESSES: Beechcraft Service Instructions No. 0914, applicable to this AD, may be obtained from Beech Aircraft Corp., Commercial Service Department, 9709 East Central, Wichita, Kans. 67201. A copy of the Service Instructions cited above are contained in the Rules Docket, Office of the Regional Counsel, Room 1558, 601 East 12th St., Kansas City, Mo. 64106 and Room 916, 800 Independence Ave. SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

William L. Schroeder, Aerospace Engineer, Engineering and Manufacturing Branch, FAA, Central Region, 601 East 12th St., Kansas City, Mo. 64106; telephone 816–374–3446.

SUPPLEMENTARY INFORMATION: A recent incident involving loss of cabin pressurization on a Beech Model 200 airplane was caused by the cabin entrance door becoming unsealed and allowing cabin pressurization air to leak out around the door. Inspection of the door showed that the latch hooks at the top of the door were incorrectly adjusted allowing them to become disengaged, thereby causing this condition. Loss of cabin pressurization can result in unsafe conditions for occupants and may cause the pilot to have to initiate emergency pro-

cedures. Subsequent to its investigation, the manufacturer has determined that the latching mechanism in the cabin door on certain Models C90, E90, A100, B100, 200 and 200T airplanes may have been improperly adjusted during manufacture. As a result, the manufacturer has issued Beechcraft Service Instructions No. 0914, recommending a one-time inspection of the door latch hooks, pins, and latching mechanism for proper adjustment and readjustment if necessary. The FAA has concluded that improperly adjusted door latch hooks, pins and door latching mechanisms are unsafe conditions that may exist in other airplanes of the same type design. Accordingly, an AD is being issued applicable to certain serial numbers of the above mentioned Beech Model airplanes, making compliance with the Service Instructions mandatory. This AD was coordinated with the manufacturer prior to issuance. The FAA has determined that there is an immediate need for a regulation to assure safe operation of the affected airplanes. Therefore, notice and public procedure under 5 U.S.C. 553(b) is impracticable and contrary to the public interest, and good cause exists for making the amendment effective in less than thirty (30) days after the date of publication in the FEDERAL REGISTER.

DRAFTING INFORMATION

The principal authors of this document are: William L. Schroeder, Flight Standards Division, Central Region, and John L. Fitzgerald, Jr., Office of the Regional Counsel, Central Region.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

BEECH. Applies to Models C90 (serial numbers LJ-689 through LJ-713), E90 (serial numbers LW-167 through LW-216), A100 (serial numbers B-213 through B-232), B100 (serial numbers BE-10 through BE-22), Model 200 (serial numbers BB-175 through BB-185, BB-187 through BB-193, BB-195 through BB-198, BB-200 through BB-202, and BB-204 through BB-223), and Model 200T (serial numbers BT-1 and BT-2) airplanes certificated in all categories.

Compliance: Required as indicated unless already accomplished.

To assure proper locking of the cabin door and to prevent possible incidents involving loss of cabin pressurization, within the next 25 hours time-in-service after the effective date of this AD, accomplish the following in accordance with Beechcraft Service Instructions No. 0914 or later approved revisions and instructions contained in the applicable airplane mantenance manual:

A. Visually inspect the cabin door latch hooks and pins for proper engagement and adjustment, check the door latch mechanism for over center position when locked, and adjust latch hooks, pins and/or door latch mechanism if necessary.

B. Any equivalent means of compliance with this AD must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region.

This amendment becomes effective on September 12, 1977.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421 and 1423); sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); § 11.89, Federal Aviation Regulations (14 CFR 11.89):)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Kansas City, Mo., on August 26, 1977.

JOHN E. SHAW,
Acting Director, Central Region.

[FR Doc.77-26067 Filed 9-7-77;8:45 a.m.]

[Docket No. 77-WE-11-AD; Amdt. 39-3029]

PART 39—AIRWORTHINESS DIRECTIVES

McDonnell Douglas Model DC-8-62, -62F, -63 and -63F Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment is being issued to amend airworthiness directive (AD) 77-15-11 to incorporate structural modifications as an alternative closing action for the repetitive inspection requirements in the AD.

DATES: Effective date—September 12, 1977. Compliance schedule—As prescribed in the body of the AD.

ADDRESSES: Persons affected by this AD may obtain copies of Douglas DC-8 Service Bulletin 54-58, 57-83, and 57-84 by writing to: McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, Calif. 90846. Attention: L.A. Eisenberg, CI-750, 54-60.

Copies of the service bulletins are contained in the: Rules Docket in Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

Jerry J. Presba, Executive Secretary Airworthiness Directives Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009.

SUPPLEMENTARY INFORMATION: AD 77-15-11, Amendment 39-2979 (42 FR 37807), appeared in the FEDERAL REGISTER on July 25, 1977. The AD was issued to require repetitive inspections of the McDonnell Douglas Model DC-8 wing lower forward spar cap, tee doubler, and wing skin, and repair of any cracks found. Since the issuance of the original AD, the manufacturer has designed a new tee doubler and other structural modifications which are designed to prevent the fatigue cracking problems which necessitated this AD. These structural modifications are contained in McDonnell Douglas DC-8 Service Bulletin 57-84. AD 77-15-11 is being amended to include the modifications as an option to the repetitive inspection requirements of the original AD.

Since this amendment provides an alternative method of compliance which relieves the repetitive inspection requirements, and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

DRAFTING INFORMATION

The principal authors of this document are Everett W. Pittman, Aircraft Engineering Division, and Richard G. Wittry, Office of the Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, and pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), § 39.13 of Part 39 of the Federal Regulations (14 CFR 39.13), Amendment 39-2979 (42 FR 37807), Airworthiness Directive 77-15-11 is amended as follows:

(1) By amending the first sentence of Paragraph (f) to read as follows:

(f) If cracks are found in the wing spar cap and/or wing skin as a result of the inspections of Paragraph (e), repair before further flight in accordance with the provisions of either McDonnell Douglas DC-8 Service Bulletin 57-83, dated April 15, 1977, or Option I of Service Bulletin 57-84, dated August 12, 1977, or later FAA approved revision. * * *

(2) by adding new Paragraphs (g) and (h) as follows:

(g) Airplanes modified in accordance with Option I of McDonnell Douglas DC-8 Service Bulletin 57-84 dated August 12, 1977, or later FAA approved revision are no longer subject to the repetitive inspection requirements of this AD.

(h) If no cracks are found as a result of the inspections of Paragraph (e), operators may rework the airplane in accordance with Option II of McDonnell Douglas Service Bulletin 57-84 dated August 12, 1977, or later FAA approved revision, and may then discontinue the repetitive inspection requirements of this AD for a period not to exceed 15,000 hours time in service after rework. Before accumulating 15,000 hours time in service after the rework, and thereafter at intervals not to exceed 4000 hours time in service, accomplish the inspection requirements of Paragraph (e).

(3) Reidentify the last two paragraphs as (i) and (j).

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89).

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Amendment 29-2979 became effective July 28, 1977. This amendment 39-3029 becomes effective Sept. 12, 1977.

Issued in Los Angeles, Calif. on August 29, 1977.

HERMAN C. BLISS,
Acting Director,
FAA Western Region.

[FR Doc.77-25896 Filed 9-7-77;8:45 am]

[Airworthiness Docket No. 77-SW-36; Amdt. 39-3030]

PART 39—AIRWORTHINESS DIRECTIVES

Swearingen Aircraft Corporation Model SA226T, -AT, and -TC Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) to assure that the variable authority nose wheel steering system utilizing a Talley P/N 1399T100-5 or -7 actuator installed on some SA226 series airplanes, will be disconnected in a manner to preclude failures from jeopardizing the operation of the airplane.

DATES: Effective date September 12, 1977. Compliance requires the disconnection of the nose gear steering system within the next 25 hours' in service after the effective date of this AD.

ADDRESSES: Swearingen Service Bulletin SB 32-012 may be acquired from the manufacturer whose address is listed in the AD.

FOR FURTHER INFORMATION CONTACT:

John Swihart, Systems and Equipment Section, ASW-213, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Tex. 76101, Telephone No. 817-624-4911, Ext. 518; or Ramon Gibson, Flight Test Section, ASW-216, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Tex. 76101, Telephone No. 817-624-4911, Ext. 523.

SUPPLEMENTARY INFORMATION: Production SA226 series airplanes delivered after September 1974 and some retrofitted airplanes incorporate a variable authority nose wheel steering system which utilizes a Talley P/N 1399T100-5 or -7 actuator. There have been several incidents of unwanted nose gear steering actuator output, several incidents of locked-up clutches, and a number of incidents involving high actuator back drive torque. Since most of the malfunctions do not provide any early warning, Swearingen believes, and FAA concurs, the variable authority nose gear steering system must be disconnected in a manner which will preclude such failures from jeopardizing the safe operation of the airplane. A modification is being developed by the manufacturer and will be offered to all operators in the near future.

Since this situation affects air safety, notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

DRAFTING INFORMATION

The principal authors of this document are John D. Swihart, Jr., Aerospace Engineer, Systems and Equipment Section, Flight Standards Division, and James O. Price, General Attorney, Office of the Regional Counsel, Southwest Region.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by adding the following new Airworthiness Directive:

SWEARINGEN: Applies to all Model SA226T, -AT, and -TC airplanes incorporating a variable authority nose wheel steering system which utilizes a Talley P/N 1399T100-5 or -7 actuator.

Compliance required within the next 25 hours' time in service after the effective date of this AD, unless already accomplished.

To assure the variable authority nose gear steering system will not jeopardize the safe operation of a Model SA226T, -AT, or -TC airplane, it should be disabled in accordance with Swearingen Aviation Corp. Service Bulletin SB 32-012, dated June 20, 1977, or later FAA approved revision, or an equivalent procedure approved by the Chief, Engineering and Manufacturing Branch, Southwest Region, Federal Aviation Administration, Fort Worth, Tex.

The manufacturer's instructions 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 the referenced document from the manufacturer may obtain copies upon request to Swearingen Aviation Corp., P.O. Box 32486, San Antonio, Tex. 78284. The document may also be examined at the Office of the Regional Counsel, Southwest Region, FAA, 4400 Blue Mound Road, Fort Worth, Tex., and at FAA Headquarters, 800 Independence Avenue SW., Washington, D.C. A historical file on this AD, which includes the incorporated material in full, is maintained by the FAA at its headquarters in Washington, D.C., and at the Southwest Regional Office in Fort Worth, Tex.

This amendment becomes effective September 12, 1977.

(Sections 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354 (a), 1421, 1423), Section 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Fort Worth, Tex., on August 15, 1977.

PAUL J. BAKER,
Acting Director, Southwest Region.

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

[FR Doc.77-25897 Filed 9-7-77;8:45 am]

SUBCHAPTER K—ADMINISTRATIVE REGULATIONS

[Docket No. 15290; Special Federal Aviation Reg. No. 31]

PART 183—REPRESENTATIVES OF THE ADMINISTRATOR

Release of Security Information

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action terminates a special Federal Aviation regulation relating to the prohibition of disclosure of security information, because a subsequent Federal Aviation regulation provides for the prohibition of disclosure of the same type of information covered by the special regulation.

EFFECTIVE DATE: August 30, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert P. Jones, Regulations Branch, Air Operations, Security Division, Civil Aviation Security Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone 202-426-8798.

SUPPLEMENTARY INFORMATION:

HISTORY

Special Federal Aviation Regulation No. 31 was adopted effective January 15, 1976 (41 FR 2248). Its purpose was to prohibit the unauthorized disclosure of information in, or obtained in connection with, the reports or records of the Advisory Committee on Airport Security or a report of the Administrator made in his capacity as chairman of that advisory committee. Special Federal Aviation Regulation No. 31 was issued pursuant to section 316(d) of the Federal Aviation Act of 1958 which was added by the Air Transportation Security Act of 1974.

On December 9, 1976, the FAA adopted Part 191—Withholding Security Information From Disclosure Under the Air Transportation Security Act of 1974 (14 CFR Part 191). Under Part 191, which implements section 316(d)(2) of the Federal Aviation Act of 1958, the Director, FAA Civil Aviation Security Service, or his designee, prohibits disclosure of certain security information if, among other things, in his opinion it would "be detrimental to the safety of persons traveling in air transportation or intrastate air transportation." Since, notwithstanding the Freedom of Information Act (5 U.S.C. 552), disclosure of the information described in Special Federal Aviation Regulation No. 31 may be prohibited pursuant to Part 191 by the Director, FAA Civil Aviation Security Service, or his designee, that special regulation is no longer necessary and action is hereby taken to revoke it.

Since this action revokes a regulation which is no longer deemed necessary, I find that notice and public procedure hereon are unnecessary, and good cause exists for making this action effective in less than 30 days.

DRAFTING INFORMATION

The principal authors of this document are Robert P. Jones, Regulations Branch, Civil Aviation Security Service, and Richard C. Beitel, Office of the Chief Counsel.

Accordingly, Special Federal Aviation Regulations No. 31 (41 FR 2248) is hereby revoked, effective August 30, 1977.

(Sec 316(d) of the Federal Aviation Act of 1958 (49 U.S.C. 1357(d)).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on August 30, 1977.

QUENTIN S. TAYLOR,
Acting Administrator.

[FR Doc.77-26119 Filed 9-7-77;8:45 am]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release SAB-16]

PART 211—INTERPRETATIVE RELEASES RELATING TO ACCOUNTING MATTERS

Subpart B—Staff Accounting Bulletins

STAFF ACCOUNTING BULLETIN No. 16

AGENCY: Securities and Exchange Commission.

ACTION: Publication of Staff Accounting Bulletin.

SUMMARY: This interpretation describes the position of the Commission's staff concerning disclosure to be made by registrants when their financial statements filed with the Commission are potentially affected by the FASB's Exposure Draft, "Financial Accounting and Reporting by Oil and Gas Producing Companies." It is the staff's position that disclosure should include an indication of the estimated general magnitude of the potential impact on earnings and shareholders' equity by registrants whose financial statements would be substantially changed if the proposals presented in the FASB Exposure Draft are adopted.

EFFECTIVE DATE: Immediately.

FOR FURTHER INFORMATION CONTACT:

Richard C. Adkerson, Office of the Chief Accountant, Securities and Exchange Commission, 500 North Capitol St., Washington, D.C. 20549 (202-755-1671).

SUPPLEMENTARY INFORMATION: The statements in the Bulletin are not rules or interpretations of the Commission nor are they published as bearing the Commission's official approval; they represent interpretations and practices followed by the Division of Corporation Finance and the Office of the Chief Accountant in administering the disclosure requirements of the Federal securities laws.

GEORGE A. FITZSIMMONS,
Secretary.

SEPTEMBER 1, 1977.

STAFF ACCOUNTING BULLETIN No. 16

The staff hereby adds Topic 10-I regarding disclosure of the potential impact of the FASB's proposed Statement of Financial Accounting Standards, "Financial Accounting and Reporting by Oil and Gas Producing Companies."

TOPIC 10: MISCELLANEOUS DISCLOSURE

* * * * *

I. Disclosure Regarding the FASB Exposure Draft, "Financial Accounting and Reporting by Oil and Gas Producing Companies."

Facts. On July 15, 1977, the Financial Accounting Standards Board issued an exposure draft of a proposed Statement of Financial Accounting Standards, entitled "Financial Accounting and Reporting by Oil and Gas Producing Companies" (the "FASB Exposure Draft"). The potential impact of the proposed standards on the financial statements of some registrants is significant. For some registrants, application of the proposed standards may result in net income for current and prior periods being substantially reduced or changed to net losses and shareholders' equity likewise being substantially reduced or changed to a deficit.

The FASB Exposure Draft proposes, among other matters, the following:

1. All companies engaged in oil and gas production would be required to adopt a prescribed form of the successful efforts method of accounting for exploration and development costs.

2. FASB Statement No. 9, "Accounting for Income Taxes—Oil and Gas Producing Companies," would be superseded; and comprehensive interperiod income tax allocation by the deferred method would be required for all exploration and development costs.

3. Accounting treatment is proposed for specific types of mineral property conveyances and various types of related transactions.

4. Accounting changes to conform to the new standards would be made retroactively by restating the financial statements of prior periods.

5. The proposed standards would become effective for financial statements for fiscal years beginning after June 15, 1978.

Question. What disclosure concerning the FASB Exposure Draft should be made in filings with the Commission?

Interpretive Response. The staff believes the following data relating to the FASB Exposure Draft should be disclosed in the footnotes of the financial statements of registrants which would be materially affected if the standards are adopted:

1. A general statement of the existence of the FASB Exposure Draft and its relationship to the registrant's current accounting policies.

2. A statement that the registrant would or may, as appropriate, be required to restate its current and previously issued financial statements, if the provisions of the FASB Exposure Draft are adopted as proposed.

3. A quantification of the general magnitude of the estimated potential effects on reported shareholders' equity and on earnings from applying the proposed provisions of the FASB Exposure Draft.

4. A discussion of significant implications, if any, that adoption of the standards proposed by the FASB would have on the registrant's dividend policy and on its ability to comply with covenants in its debt or other agreements, such as those involving debt/equity ratios and restrictions on additional financing and asset acquisitions.

The staff recognizes the significant data accumulation problems faced by some registrants in estimating the effects of applying the standards proposed by the FASB. In addition, the staff is aware that differences of opinion may exist in interpreting certain provisions of the FASB Exposure Draft and that changes may be adopted by the FASB in its final statement. Nevertheless, the significance of the FASB Exposure Draft to certain registrants' financial statements is such that a general indication of the magnitude of the effects of applying the proposed standards may be required to preclude the possibility of the financial statements being considered misleading.

The staff does not expect the estimates disclosed to be stated as precise amounts. It would consider acceptable descriptions in terms of broad ranges or percentages. Moreover, the staff recognizes that registrants' estimates may be subject to revision based on information obtained in subsequently compiling the data for restating their financial statements, subsequent changes in interpreting the provisions of the FASB Exposure Draft, and changes by the FASB to the proposed standards in its final statement. Disclosure of the estimated impact should include qualifications for these or other matters, as appropriate.

The disclosure discussed at Item 3 above may be made outside the financial statements, such as in Management's Discussion and Analysis of the Summary of Operations. In these cases, the financial statement disclosures (Items 1, 2, and 4) should include a reference to the location in the filing where the Item 3 disclosure is made.

The staff believes that, when practicable, these disclosures should be included in all filings with the Commission which contain financial statements of a registrant, including summarized financial statements in Forms 10-Q. The staff recognizes that, in many cases, compiling the data for the disclosure relating to the magnitude of the estimated impact on net income and shareholders' equity may not be practicable for quarterly filings in 1977. In such cases, registrants should disclose the information described at Items 1, 2, and 4 above and indicate the reasons for not providing the Item 3 information.

The staff believes that registrants should include all the information discussed above in registration statements and annual reports filed with the Commission. Furthermore, the staff believes that registrants will have had sufficient time to compile the data necessary to make all of the disclosures discussed above in quarterly reports filed after December 31, 1977. If developing the information for periodic reports filed with the Commission causes an undue hardship on a registrant, the registrant should discuss its circumstances with the staff.

[FR Doc.77-26162 Filed 9-7-77;8:45 am]

[Release No. 34-13914]

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

PART 249b—FURTHER FORMS, SECURITIES EXCHANGE ACT OF 1934

Transfer Agents

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: This rule and related form prescribe the procedure to be followed by those transfer agents registered with the Commission in withdrawing from registration. The form is intended to simplify the withdrawal process and the information required by the form will enable the Commission to determine whether it is necessary or appropriate in the public interest, for the protection of investors, or in furtherance of the Securities Exchange Act that the withdrawal be denied, postponed or subject to specific terms and conditions.

EFFECTIVE DATE: October 10, 1977.

FOR FURTHER INFORMATION CONTACT:

Lisa G. Gessow,

Attorney, Division of Market Regulation, Securities and Exchange Commission, 500 North Capitol St., Washington, D.C. 20549, (202-755-8916).

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Securities and Exchange Commission (the "Commission"), pursuant to Sections 2, 17, 17A and 23(a) of the Act (15 U.S.C. 78b, 78q, 78q-1 and 78w(a)), has amended Title 17, Chapter II, Parts 240 and 249b of the Code of Federal Regulations to add §§ 240.17Ac3-1 and 249b.101.

RULE 17Ac3-1

Rule 17Ac3-1 provides that a transfer agent registered with the Commission may withdraw from registration by filing a notice of withdrawal of its transfer agent registration on, and in accordance with the instructions contained in, Form TA-W.[1] Withdrawal from registration will become effective on the sixtieth day after filing of a properly completed Form TA-W unless the Commission takes affirmative action to accelerate, deny or postpone such withdrawal.

The rule further provides that every withdrawal filed pursuant to Rule 17Ac3-1 constitutes a "report" within the meaning of Sections 17 and 32(a) of the Act.

FORM TA-W

Form TA-W has been adopted to simplify the registration withdrawal process. The information required on the Form is intended to enable the Commission to determine whether it is necessary or appropriate in the public interest, for the protection of investors, or in furtherance of the purposes of section 17A that the withdrawal be denied, postponed or subject to specific terms and conditions. The information requested includes the name of the registrant, the address of its principal place of business, the date registrant ceased performing any transfer agent function as defined in the Act, whether the registrant is involved in any legal actions or proceedings or is aware of any potential claims against it,[2] whether there are any unsatisfied judgment or liens against registrant arising out of its performance of transfer agent functions, the names and addresses of any successor transfer agents and whether such successors transfer agents are registered pursuant to the Act, the names and addresses of the persons who will maintain custody or possession of registrant's transfer agent books and records, the address at which such books and records will be located and the reasons for ceasing the performance of transfer agent functions or for otherwise requesting withdrawal of its registration as transfer agent.

STATUTORY BASIS AND COMPETITIVE CONSIDERATIONS

Rule 17Ac3-1 and Form TA-W are adopted pursuant to the Securities Exchange Act of 1934, in particular sections 2, 17, 17A and 23(a) thereof, 15 U.S.C. 78b, 78q, 78q-1 and 78w(a).

The Commission finds that any burden on competition imposed by this rule is necessary and appropriate in the public interest, for the protection of investors and to facilitate the establishment of a national system for the prompt and accurate clearance and settlement of transactions in securities.

EFFECTIVE DATE

Rule 17Ac3-1 and Form TA-W are effective as of October 10, 1977. Accordingly, 17 CFR Parts 240 and 249b are amended by adding §§ 240.17Ac3-1 and 249b.101 as follows:

§ 240.17Ac3-1 Withdrawal from registration with the Commission.

(a) Notice of withdrawal from registration as a transfer agent with the Commission pursuant to section 17A(c)(3)(C) of the Act shall be filed on Form TA-W in accordance with the instructions contained thereon.

(b) Except as hereinafter provided, a notice to withdraw from registration filed by a transfer agent pursuant to section 17A(c)(3)(C) of the Act shall become effective on the sixtieth day after the filing thereof with the Commission or within such shorter period of time as the Commission may determine. If a notice to withdraw from registration is filed with the Commission at any time subsequent to the date of issuance of a Commission order instituting proceedings pursuant to Section 17A(c)(3)(A) of the Act, or if prior to the effective date of the notice of withdrawal the Commission institutes such a proceeding or a proceeding to impose terms and conditions upon such withdrawal, the notice of withdrawal shall not become effective except at such time and upon such terms and conditions as the Commission deems necessary or appropriate in the public interest, for the protection of investors, or in furtherance of the purposes of section 17A.

(c) Every notice of withdrawal filed pursuant to this rule shall constitute a "report" within the meaning of sections 17 and 32(a) of the Act.

§ 249b.101 Form TA-W, notice of withdrawal from registration as transfer agent.

This form shall be used for withdrawing, pursuant to section 17A of the Securities Exchange Act of 1934, the registration of transfer agents registered with the Commission.

NOTE.—Copies of Form TA-W have been filed with the Office of Federal Register as part of this document. Copies may be obtained from the Publications Section, Securities and Exchange Commission, 500 North Capitol St., Washington, D.C. 20549 and at each of the Commission's regional offices. Copies of Form TA-W will be available on or about the week of September 26, 1977.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

SEPTEMBER 1, 1977.

[FR Doc.77-26188 Filed 9-7-77;8:45 am]

[1] Transfer agents registered with the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation or the Board of Governors of the Federal Reserve System are not subject to the rule and form adopted herein today. Each of the three Federal bank regulatory agencies has developed its own procedures for withdrawing the registrations of bank transfer agents registered with it.

[2] Any out-of-proof conditions are considered, for these purposes, as potential claims.

Title 33—Navigation and Navigable Waters

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 76-197]

PART 110—ANCHORAGE REGULATIONS

Special Anchorage Areas, Dana Point, Calif.

AGENCY: Coast Guard, DOT.

ACTION: Final Rule.

SUMMARY: This amendment establishes a special anchorage area in Dana Point Harbor, Calif. This amendment is needed to meet the heavy demand for anchorage space for transient pleasure vessels. In special anchorage areas, vessels under 65 feet in length are not required to carry or exhibit anchor lights.

EFFECTIVE DATE: This amendment is effective October 8, 1977.

FOR FURTHER INFORMATION CONTACT:

Captain George K. Greiner, Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590 (202-426-1477).

SUPPLEMENTARY INFORMATION: On March 7, 1977, the Coast Guard published a proposed rule (42 FR 12890) concerning this amendment. Interested parties were given until April 20, 1977, to submit comments. No comments were received.

DRAFTING INFORMATION: The principal persons involved in drafting this rule are: Lieutenant Commander H. E. Snow, Project Manager, Office of Marine Environment and Systems, and Mr. S. D. Jackson, Project Attorney, Office of the Chief Counsel.

In consideration of the foregoing, Part 110 of Title 33 Code of Federal Regulations is amended by adding § 110.93 to read as follows:

§ 110.93 Dana Point Harbor, Calif.

The area in Dana Point Harbor, Calif. commencing at a point at latitude 33°-27'36.2" N. longitude 117°42'20.4" W.; thence 016°20' True for 612 feet to a point at latitude 33°27'42.1" N., longitude 117°42'18.4" W.; thence 106°20' True for 85 feet to a point at latitude 33°27'41.8" N., longitude 117°42'17.7" W.; thence 196°20' True for 222 feet to a point at latitude 33°27'39.7" N., longitude 117° 42'18.2" W.; thence 182°20' True 234 feet to a point at latitude 33°27'37.4" N., longitude 117°42'18.2" W.; thence 166°-20' True for 499 feet to a point at latitude 33°27'32.6" N., longitude 117°42'16.8" W.; thence 320° True for 470 feet to the point of origin.

(Sec. 1, 30 Stat. 98, as amended (33 U.S.C. 180); sec. 6(g)(1)(B), 80 Stat. 937 (49 U.S.C. 1655(g)(1)(B)); 49 CFR 1.46(c)(2).)

NOTE.—The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended, and OMB Circular A-107.

Dated August 29, 1977.

O. W. SILER,
Admiral, U.S. Coast Guard
Commandant.

[FR Doc.77-25984 Filed 9-7-77;8:45 am]

Title 43—Public Lands: Interior

CHAPTER II—BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

SUBCHAPTER B—LAND RESOURCE MANAGEMENT (2000)

PART 2850—POWER TRANSMISSION LINES

Subpart 2851—Principles and Procedures Power Transmission Lines

ELECTRIC TRANSMISSION FACILITIES CROSSING FEDERAL LANDS

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rulemaking.

SUMMARY: Power transmission rights-of-way for facilities of less than 66kV capacity are not required to include a stipulation that transmission capability in excess of the needs of the grantee be made available for transmission of Federal power. The upper limit is changed from 33kV. There is seldom any excess transmission capability on such low capacity lines. Processing of right-of-way applications will be simplified by eliminating the required stipulation.

DATE: Effective September 9, 1977.

ADDRESS: Director (210), Bureau of Land Management, 1800 C Street NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Billy R. Templeton, 202-343-8735.

SUPPLEMENTAL INFORMATION: The principal author of this document is Billy R. Templeton of the Bureau of Land Management, Division of Legislation and Regulatory Management.

On page 20315 of the FEDERAL REGISTER of April 19, 1977, proposed rulemaking was published to raise the minimum voltage at which a wheeling stipulation is required in a power transmission facility from 33 kV to 66 kV. Comments and suggestions were invited from the public for a 30-day period, ending May 31, 1977. Comments were received from six sources. Five favored the proposal, but recommended that the level be increased above 66 kV or waived completely. One was opposed to the proposal completely.

A suggestion was made to set the minimum above 66 kV or waive the requirement for a wheeling stipulation entirely. It has been determined that this is not necessary since under the provisions in § 2851.1-1(a) the Secretary may waive the wheeling stipulation requirement if appropriate.

The one unfavorable comment was that the proposed amendment could have an adverse impact on potential preference customers not presently being served by Federal power because of inability to secure wheeling arrangements. It was suggested that the proposed rule could deny access to new lines below 66 kV to serve these potential customers. This would discriminate between them and other preference customers currently receiving power wheeled over lines below 66 kV.

In adopting the proposed amendment to increase the wheeling stipulation voltage level from the present 33 kV to proposed 66 kV, the Department considered the potential impact such change would have on those potential preference customers below 66 kV. It was concluded that the possibility that service to a new customer would turn on the existence or nonexistence of the wheeling stipulation on a line below 66 kV is so remote as to be virtually nonexistent.

Accordingly, amendments proposed under the authority of section 501(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1761), to Title 43, Chapter II, Subchapter B, Part 2850, Subpart 2851 of the Code of Federal Regulations are adopted as set forth below.

DANIEL P. BEARD,
Deputy Assistant
Secretary of the Interior.

AUGUST 30, 1977.

1. Section 2851.1-1(a)(5) is amended to read as follows:

§ 2851.1-1 Terms and conditions.

(a) * * *

(5) An applicant for a right-of-way for a transmission facility having a voltage of 66 kilovolts or more must, in addition to the requirements of Subpart 2802 of this part execute and file with its application a stipulation agreeing to accept the right-of-way grant subject to the following conditions:

* * * * *

2. Section 2851.2-1(c)(4) is amended to read as follows:

§ 2851.2–1 Applications.

• • • • •

(c) • • •

(4) If the line is to have a nominal voltage of 66 kilovolts or more, the application should include a one-line diagram of the proposed line and the immediate interconnecting facilities including power plants and substations, a power flow diagram or proposed line and connecting major lines showing conditions under normal use, and typical structure drawings of proposed lines showing construction dimensions and a list of materials.

[FR Doc.77-26050 Filed 9-7-77;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 20775; FCC 77-683]

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

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

Providing Clarification and Modification of Rules for Emergency Position Indicating Radiobeacons on Frequencies 121.5 and 243 MHz

AGENCY: Federal Communications Commission.

ACTION: Final Rule.

SUMMARY: A Report and Order is adopted setting out rules pertaining to emergency position indicating radiobeacons (EPIRB's). This action clarifies and modifies our rules concerning technical standards, processing of equipment authorizations, license applications and vessel inspections. The clarification and modifications will permit more expeditions processing of authorizations thereby benefiting the Commission and the public.

EFFECTIVE DATE: October 11, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Robert C. McIntyre, Safety & Special Radio Services Bureau, 202–632–7197.

SUPPLEMENTARY INFORMATION:

REPORT AND ORDER—PROCEEDING TERMINATED

Adopted: August 24, 1977.

Released: September 6, 1977.

In the matter of Amendment of Parts 2 and 83 of the Commission's rules to provide clarification and modification of the rules for emergency position indicating radiobeacons on the frequencies 121.5 and 243 MHz, Docket No. 20775.

1. On April 23, 1976, we released a Notice of Proposed Rule Making (NPRM) in this Docket (FCC 76–328, 41 FR 17572, April 27, 1976), to amend Parts 81 and 83 of the rules to provide clarification and modification of the rules for emergency position indicating radiobeacons (EPIRB's).

2. Comments concerning the proposed rules appended to the Notice of Proposed Rule Making in this docket were received from Aeronautical Radio, Incorporated (ARINC), Air Transport Association of America (ATA), Aircraft Owners and Pilots Association (AOPA) and late comments were received from Narco Marine (Narco). Comments were filed jointly by ARINC and ATA. The late comments filed by Narco concerning the proposed rules do not raise any new basic matters not already covered by other commenters.

3. EPIRB's are radio frequency devices which transmit signals simultaneously on 121.5 and 243 MHz to facilitate search and rescue operations by indicating the position of a distress situation. EPIRB signals are modulated by a well defined, distinctive, sweeping tone chosen to be easily recognizable and compatible with radiolocation equipment. Aircraft equipment with radio direction finding equipment are extensively used in search and rescue operations and can rapidly determine the location of an EPIRB emitting a signal.

4. The Commission called attention in the Notice to the fact that since adopting rules[1] providing for the operation of EPIRB's the Laboratory Division of the Office of Chief Engineer (OCE) has evaluated a number of these devices which were submitted for purposes of type acceptance and has, through the equipment authorization program, assessed the effectiveness of our rules. As an outgrowth of this evaluation, we are of the opinion that it is in the public interest to make certain changes to our rules; these changes affect rules concerning technical standards, equipment authorizations and administrative procedures pertaining to the maritime radio service. Objections were raised to the following rule changes proposed by the Commission:

Measurement procedures.
Table of Frequency Allocations.
EPIRB Testing.

The following paragraphs of this Report and Order discuss the views of the respondents with regard to these controversial areas and are silent on the other proposed changes to which no objections were raised.

MEASUREMENT PROCEDURES

5. The Notice includes provisions for the use by the public of measurement procedures prepared by the Office of Chief Engineer for obtaining the necessary data to demonstrate compliance with the Commission's rules for purposes of equipment authorizations. Section 83.134(i) now requires that measurement procedures delineated in Radio Technical Commission for Aeronautics (RTCA) Documents DO–145 and DO–146 be used for peak effective radiated power measurements. ARINC, ATA and AOPA state that the Commission did not explain in detail the problem with the RTCA documents and that the issuance of superseding test procedures by the Chief Engineer would only serve to increase the ambiguity which the Commission has suggested exists in RTCA documents DO–145 and DO–146. For this reason the commentors request that the Commission retain reference to the RTCA documents in its rules pertaining to effective radiated power measurements.

6. The Commission has previously made public[2] its concerns regarding the procedures set out in RTCA documents DO–145 and DO–146 and indicated that, since these procedures are subject to various interpretations, significant differences in radiated output power may result from their use. Variations in radiated output power in excess of 9 dB have been observed when similar transmitters are tested using methods employed by different manufacturers. This magnitude of difference (approximately 10 times in power) can result in a variation of 3 to 1 in the range of EPIRB's which are rated as equivalent and may adversely affect the safety of life. We have further informed RTCA Special Committee No. 127[3], which is charged with developing a new minimum performance standard to replace DO–145 and 146, of the ambiguity which exists in the present measurement procedures so that RTCA may give this matter appropriate consideration in their new standard. Accordingly, we see no reason to retain reference to RTCA documents concerning power measurements in our rules since the procedure described in these documents is not acceptable to the Commission.

7. The respondents further raise objections to our proposal to require a new, but as yet, unspecified test procedure for EPIRB's. The proposed rules pertaining to Part 83 would require the use of an OCE Bulletin describing a measurement procedure for peak effective radiated power of EPIRB's to be used by applicants for equipment authorizations. We note that no equipment manufacturers voiced opposition to the adoption of

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[1] Report and Order, Docket No. 19693, adopted March 7, 1974 (39 FR 10140; 45 FCC 2d 885).

[2] Public Notice, "Information Concerning the Measurement of Peak Effective Radiated Power for Emergency Position Indicating Radiobeacons (EPIRB's) Transmitters", Reference No. 26615, dated July 26, 1974.

Public Notice, "Clarification of Measurement Procedure for Field Strength of Marine Emergency Position Indicating Radiobeacons (EPIRB) Transmitters"; Reference No. 31697, dated October 10, 1974.

[3] Commission letter to the Chairman, Task Force No. 3 of SC 127, Reference File No. AVI 6–1, dated April 11, 1975.

these rules. Nevertheless a specific OCE Bulletin to be used, which was not available when the Notice was adopted, we will also permit the use of any other measurement procedure submitted to and accepted by the Commission for purposes of application for equipment authorizations.

TABLE OF FREQUENCY ALLOCATIONS

8. The Notice proposed modification of the Table Frequency Allocations in Part 2 of the rules to set out EPIRB's under the Radiodetermination Service rather than the Maritime Mobile Service since the emissions of an EPIRB are used to indicate position thereby facilitating search and rescue operations (see International Radio Regulations No. 68A). Radiodetermination is defined internationally and in our rules as "the determination of position, or the obtaining of information relating to position, by means of the propagation properties of radio waves". Therefore it is the Commission's view that EPIRB stations should be considered more appropriately in this service than the maritime mobile service.

9. ARINC, ATA and AOPA object to this change on the basis that it is "superficially correct" and that the Commission's rules and the International Telecommunication Union's Radio Regulations (RR) provide for EPIRB's in the Maritime Mobile Service. Additionally, the respondents object to the specific inclusion of "maritime mobile service", "maritime radiodetermination service" and "ship stations" in column 11 of the Table of Frequency Allocations in Part 2 of the rules on the basis that it will lead to the expanded use of these frequencies for purposes other than search and rescue.

10. RR No. 68A provides for the operation of EPIRB's in a "mobile station" but not specifically in a "maritime mobile station" as in the case of other shipboard equipment. Additionally, all other types of radiobeacons are provided for in the radiodetermination radio service and the EPIRB definition is grouped with these definitions (see RR Nos. 45–68A). For these reasons, and because particularly with regard to an emergency frequency, it is necessary that the service and stations provided for on these frequencies be specifically identified to avoid any possibility of misuse, the Commission does not share the opinion of ARINC, ATA and AOPA that the proposed rules will result in the derogation of the usefullness of these frequencies. Accordingly, the rules pertaining to the Table of Frequency Allocations appended to the Notice are adopted as proposed.

EPIRB TESTING

11. We proposed in the Notice that testing of EPIRB's be conducted using a dummy load to insure that no transmissions or radiated energy occur that could be received by a radio station and result in a false alarm. This proposal is more stringent than our existing regulation which permits over-the-air tests during the first five minutes of every hour. All comments received were unanimous in their opposition to this change. ARINC, ATA and AOPA interpreted the proposed rules as an action which would increase the possibility of false distress signals since Coast Guard coordination was no longer required. Narco points out that a large number of EPIRB's are equipped with antennas which are permanently wired to the transmitter. If testing with a dummy load is the only type of test permitted, it will be necessary to disassemble the unit to permit testing. Since in many cases this would not be practical and could possibly damage the waterproof integrity of the EPIRB, we will continue to permit testing of EPIRB's with Coast Guard coordination or using over-the-air tests during the first five minutes of any hour if testing with a dummy load is not used.

EPIRB AUTHORIZATION

12. Separately, but related to the foregoing matters, we are amending § 83.68 (b) to provide that EPIRB's required by Coast Guard regulations be operated under specified conditions pursuant to the rules, rather than as a result of a provision on a station authorization. This will eliminate a requirement that EPIRB operational authority must be individually obtained by filing an application for modification of a ship station license; at renewal the authorization should be appropriately modified to reflect the addition of an EPIRB. This will relieve a restriction on the public. We will continue, however, to require an application for authority to operate an EPIRB installed voluntarily, or authority to operate an EPIRB only on board a vessel.

13. *Accordingly, it is ordered,* That pursuant to the authority contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, set forth below effective October 11, 1977.

14. *It is further ordered,* That this proceeding is terminated.

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

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

Parts 2 and 83 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

A. In Part 2—Frequency Allocations and Radio Treaty Matters; General Rules and Regulations.

1. In § 2.106, column 11 is amended to read as follows:

§ 2.106 Table of frequency allocations.

Frequency MHz 10	*Nature of services of 11 stations*
• • • • •	
121.5	Aeronautical Mobile. Maritime Mobile. Maritime Radiodetermination. Ship. Survival craft and equipment. Emergency position indicating radiobeacon. Emergency locator transmitter.
• • • • •	
123.100	Aeronautical search and rescue. Ship. Survival craft and equipment.
• • • • •	
243	Survival craft and equipment. Emergency position indicating radiobeacon. Emergency locator transmitter.
• • • • •	

2. A new § 2.947 is added to read as follows:

§ 2.947 Measurement procedure.

(a) The Commission will accept data which have been measured in accordance with the following standards or measurement procedures:

(1) Those set forth in OCE Bulletins or reports prepared by the Office of the Chief Engineer of the Commission. These will be issued as required, and specified in the particular part of the rules where applicable.

(2) Those acceptable to the Commission and published by national engineering societies such as the Electronic Industries Association, the Institute of Electrical and Electronic Engineers, Inc., and the American National Standards Institute.

(3) Any measurement procedure acceptable to the Commission may be used to prepare data demonstrating compliance with the requirements of this chapter.

(b) Information submitted pursuant to paragraph (a) of this section shall completely identify the specific standard or measurement procedure used.

(c) In the case of equipment requiring measurement procedures not specified in the references set forth in paragraph (a) (1) and (2) of this section, the applicant shall submit a detailed description of the measurement procedures actually used.

(d) A listing of the test equipment used shall be submitted.

(e) If deemed necessary, the Commission may require additional information concerning the measurement procedures employed in obtaining the data submitted for equipment authorization purposes.

3. Section 2.999 is amended to read as follows:

§ 2.999 Measurement procedure.

The measurement procedures employed shall be in accordance with the requirements set forth in § 2.947. In addition, any specific test requirements set forth in the particular rules governing the equipment for which type acceptance is requested shall apply.

B. In Part 83—Stations on Shipboard in the Maritime Services.

1. Section 83.2(i) is amended to read as follows:

§ 83.2 General.

• • • • •

(i) *Ship station license.* A license authorizing the operation of one or more of the following: A ship station, a survival craft station associated with a ship, an emergency position indicating radiobeacon (EPIRB) station, a ship radionavigation station, an associated portable

ship unit or units for use in the vicinity of the ship with which it is associated.

* * * * *

§ 83.3 [Amended]

2. Section 83.3 is amended by deleting paragraph (q).

3. Section 83.4 is amended by adding a new paragraph (w) to read as follows:

§ 83.4 Maritime radiodetermination service.

* * * * *

(w) *Emergency position indicating radiobeacon (EPIRB) station.* A station in the maritime radiolocation service consisting of a transmitter only, the distinctive emissions of which are intended to facilitate search and rescue operations.

4. Section 83.35(a) is amended to read as follows:

§ 83.4 Maritime radiodetermination service.

(a) A formal application for a new ship station license or for a modification of an existing license if required by § 83.33 when accompanied by a request for an interim ship station license, shall be filed in accordance with § 83.36 and presented in person by the applicant or his agent at the nearest field office of the Commission or at the Commission's main office in Washington, D.C.: *Provided,* That, as an alternative procedure, an applicant in Alaska for such a ship station license may submit an application by mail to the Commission's Field Office at Anchorage, Alaska, when accompanied by a written request for an interim ship station license.

* * * * *

5. Section 83.46 is amended by adding a new paragraph (f) to read as follows:

§ 83.46 Application for inspection and certification.

* * * * *

(f) The FCC Forms specified in paragraphs (b) and (d) of this section shall be used to apply for inspection of EPIRB stations on board vessels which are required to be mandatorily fitted by U.S. Coast Guard regulations (Chapter I of Title 46 of the Code of Federal Regulations) when they are additionally subject to (1) either or both the Safety Convention and Part II of Title III of the Communications Act, or (2) to Part III of Title III of the Communications Act.

6. Section 83.68 is amended by modifying the title and paragraph (b) to read as follows:

§ 83.68 Authority for survival craft stations and EPIRB stations.

* * * * *

(b) An EPIRB station may be operated on board a vessel under the following circumstances:

(1) When the vessel is authorized to operate a survival craft station;

(2) When the vessel is required by the U.S. Coast Guard to be equipped with an EPIRB station; or

(3) When the vessel is operated beyond the range of maritime VHF distress coverage of coast stations. Authority to operate an EPIRB station must be applied for as provided in § 83.36(a) herein. Except that, an EPIRB station may be operated, for the remaining period of the license term during which EPIRB installation occurs, on vessels set forth in subsection (b)(2) of this section even if there is no specific authority for EPIRB operation on the specific license.

7. In § 83.132, paragraph (a)(1)(iii) is amended, paragraph (a)(iv) is deleted, and paragraph (a)(5) is added as follows:

§ 83.132 Authorized classes of emission.

(a) * * *

(1) Stations using radiotelegraphy:

* * * * *

(iii) For the frequency 121.5 MHz, A2,

(iv) [Deleted.]

* * * * *

(5) Stations not covered by the above:

(i) For the frequency 121.5 MHz, A9.

(ii) For the frequency 243.0 MHz, A9.

* * * * *

8. Section 83.134(i) is revised to read as follows:

§ 83.134 Transmitter power.

* * * * *

(i) For EPIRB stations operating on the frequencies 121.5 and 243MHz the peak effective radiated power on each frequency, measured during and at the end of 48 hours of continuous operation, and without replacement or recharge of batteries, shall not be less than 75 milliwatts. This specification shall apply to all units whether dry, or immersed for any or all of the forty-eight hour period in fresh or salt-water, as long as the entire antenna extends above the water surface. The peak effective radiated power shall be determined pursuant to the measurement procedure set out in Commission publication Bulletin OEC 45. The required power shall be obtained over a temperature range of −20 to +50 degrees Celsius.

9. Section 83.139(b) is amended and a new paragraph (h) is added to read as follows:

§ 83.139 Acceptability of transmitters for licensing.

* * * * *

(b) Each survival craft station transmitter which has not been type approved pursuant to § 83.469 or § 83.472 shall be type accepted by the Commission.

* * * * *

(h) Each emergency position indicating radiobeacon transmitter authorized for use in an EPIRB station, ship station, or a survival craft station shall be type accepted by the Commission for operation under this part to be acceptable for licensing.

10. Section 83.144 heading and paragraphs (c), (d)(1), (d)(1)(iii), and (h) are amended to read as follows:

§ 83.144 Special requirements for emergency indicating radiobeacon stations, Class B.

* * * * *

(c) The EPIRB shall be provided with a visible and/or aurible indicator which clearly shows that the device is operating. The indicator shall be activated by the transmitter RF output power.

(d) * * *

(1) May be fitted with a manually-activated test switch, (or comparable device) associated test circuit, and output indicator activated by the RF output power which shall, in the test position:

* * * * *

(iii) Reduce radiation to a level not to exceed 25 microvolts per meter at a distance of one hundred fifty (150) feet irrespective of direction.

* * * * *

(h) The EPIRB shall be powered by a battery, whether an original or replacement component, contained within the transmission case or in a battery holder that is securely and rigidly attached to the transmitter case. The useful life of the battery (established by the EPIRB manufacturer) is the length of time, after its date of manufacture, that the battery may be stored under marine environmental conditions without losing its ability to permit the transmitter power requirement prescribed in § 83.134(i) to be met. The date (month and year) of the battery's manufacture shall be indelibly and legibly marked on the battery and the expiration date (month and year) upon which 50 percent of its useful life will have expired shall be indelibly and legibly marked on both the battery and the outside of the transmitter. The electromechanical connectors on and to the battery must be corrosion resistant and positive in action, and may not rely for contact upon spring force alone.

* * * * *

11. Section 83.145 is amended by modifying paragraph (b) and adding a new subparagraph (b)(8) as follows:

§ 83.145 Special requirements for emergency position indicating radiobeacon stations, Class A.

* * * * *

(b) In addition to the requirements applicable to Class B devices a Class A EPIRB must:

* * * * *

(b)(8) Have the batteries replaced after the date specfiied in § 83.144(h) upon which 50 percent of its useful life has expired or after the transmitter has been used in an emergency situation.

* * * * *

12. Section 83.322(c) is amended as follows:

§ 83.322 Frequencies for use in distress.

* * * * *

(c) The frequency 121.5 MHz (using class A2 emission) is available for assignment to survival craft stations for radiobeacon purposes. The frequency 121.5

MHz (using class A9 emission) is available for assignment to stations for facilitating search and rescue operations. The frequencies 121.5 MHz and 123.1 MHz (class A3 emission) are available for assignment to ship stations for scene of action search and rescue operations between ship and aircraft. The frequency 121.5 MHz will be assigned to ship stations for search and rescue operations only if the frequency 123.1 MHz is also authorized. Communication in support of search and rescue operations is permitted on frequency 121.5 MHz only when communications on the frequency 123.1 MHz or other VHF frequencies is not practicable. Ships and aircraft engaged in such communications on 121.5 MHz should shift to 123.1 MHz as soon as possible.

* * * * *

13. Section 83.352(b) is amended as follows:

§ 83.352 Frequencies for use in distress.

* * * * *

(b) The frequency 121.5 MHz (using class A2 emission) is available for assignment to survival craft stations for radiobeacon purposes. The frequency 121.5 MHz (using class A9 emission) is available for assignment to stations for facilitating search and rescue operations. The frequencies 121.5 MHz and 123.1 MHz (class A3 emission) are available for assignment to ship stations for scene of action search and rescue operations between ships and aircraft. The frequency 121.5 MHz will be assigned to ship stations for search and rescue operations only if the frequency 123.1 MHz is also authorized. Communication in support of search and rescue operations is permitted on the frequency 121.5 MHz only when communications on the frequency 123.1 MHz or other VHF frequencies is not practicable. Ships and aircraft engaged in such communications on 121.5 MHz should shift to 123.1 MHz as soon as possible.

* * * * *

14. Section 83.401(c) is amended to read as follows:

§ 83.401 Assignable frequencies for direction finding.

* * * * *

(c) In the event of distress, the following frequencies may be used for radio direction-finding for purposes of search and rescue by any authorized ship, survival craft or emergency position indicating radiobeacon stations.

410 kHz	8364 kHz
500 kHz	121.5 MHz
2182 kHz	243.0 MHz

15. A new § 83.406 is added to read as follows:

§ 83.406 Special provisions applicable to emergency position indicating radiobeacons.

(a) The station licensee of each EPIRB station shall provide and keep at the station an installation and maintenance record. Alternatively, such record may be made part of the ships radio-telephone or radiotelegraph station log. Entries in this record shall be made by the licensee or the responsible installation, service or maintenance person concerned in each particular instance, but the station licensee shall have the responsibility for the faithful and accurate making of such entries as are required by this section.

(b) Each entry in this record shall be signed by the responsible person concerned.

(c) The following entries shall be made in this record:

(1) The date and place of initial installation;

(2) The results of equipment tests including those conducted by the U.S. Coast Guard; and

(3) All transmissions shall be recorded when practicable including the date, time, vessel position, and a description of the circumstances requiring such transmission.

[FR Doc.77-26044 Filed 9-7-77;8:45 am]

[Docket No. 20620; RM-2426]

PART 15—RADIO FREQUENCY DEVICES

Operation of Wide-Band Swept RF Equipment Used as Anti-Pilferage Devices; Correction

AGENCY: Federal Communications Commission.

ACTION: Erratum.

SUMMARY: Erratum to § 15.323 of Report and Order in Docket No. 20620, which adopted new provisions under Subpart F of Part 15 of the rules for operation of wide-band Swept RF equipment.

EFFECTIVE DATE: September 12, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Don Olmstead, RF Devices and Experimental Branch, Office of Chief Engineer (202-632-7095).

SUPPLEMENTARY INFORMATION:

Released: September 1, 1977.

In the matter of: the amendment of Part 15 to provide for the operation of wide-band swept RF equipment used as anti-pilferage devices, Docket No. 20620, RM-2426.

The Report and Order in the above entitled matter, released August 5, 1977 and published in the FEDERAL REGISTER on August 8, 1977 (42 FR 39979), on page 39981, is corrected so that the second sentence of § 15.323 reads as follows:

§ 15.323 Measurement requirements for operation under § 15.305(c).

* * * Measurements on frequencies below 25 MHz shall be made using a shielded loop as the pickup device, and measurements on frequencies above 25 MHz shall be made using a tuned dipole or a linearly-polarized broadband dipole as the pickup device. * * *

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-26045 Filed 9-7-77;8:45 am]

[Docket No. 21197]

PART 73—RADIO BROADCAST SERVICES

FM Broadcast Station in Presque Isle, Maine; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: This action assigns Channel 269A as a fourth FM assignment to Presque Isle, Maine, after interest was expressed by Jack Sieber and Notice was given. It also, effective at the end of the current license term, modifies the license of the University of Maine on Station WUPI, from Channel 216 to Channel 212, to avoid Intermediate Frequency interference with the new assignment. Reimbursement was not ordered for the license modification because the University had previously requested modification and because the channel should have been assigned in a prior proceeding, but was not because of a mistake of fact.

EFFECTIVE DATE: April 1, 1978.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

James J. Gross, Broadcast Bureau (202-632-7792).

SUPPLEMENTARY INFORMATION:

REPORT AND ORDER—PROCEEDING TERMINATED

Adopted: August 29, 1977.
Released: September 1, 1977.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Presque Isle, Maine), Docket No. 21197.

1. The Commission has before it responses to its Notice of Proposed Rule Making and Order to Show Cause (hereinafter "Notice") [1], concerning FM assignments at Presque Isle, Maine. The Notice proposed the assignment of Channel 269A as a fourth FM assignment to that community, and ordered the University of Maine to show cause why the license for its Class D educational station at Presque Isle should not be modified from Channel 216 to Channel 212 to avoid Intermediate Frequency (IF) interference with the new assignment.[2]

[1] 42 FR 20152 (pub. April 18, 1977).

[2] Section 73.207 sets forth the mileage separation requirements between various classes of FM stations, including those 53 or 54 channels apart which could cause IF interference problems.

2. Responses to the Notice were filed by the University and Jack F. Sieber, proponent of the new assignment. The University does not object to license modification, but seeks reimbursement from the new permittee of Channel 269A for the expenses incurred in changing frequencies. This request is in accord with the Notice which stated that the permittee of Channel 269A would be required to provide reimbursement to the University of the costs in connection with the channel change. Sieber opposes the University on its reimbursement request and states that based upon the history of this proceeding the University should bear the costs of modification.

3. The history of this proceeding began on October 3, 1974, when the University filed a petition for rule making with the Commission seeking Channel 291 as a reserved educational noncommercial assignment to Presque Isle, Maine. To comply with the Commission's rules regarding IF interference, this required deletion of unoccupied Channel 237A. The University proposed the assignment of Channel 269A as a substitute for Channel 237A. However, since Channel 269A also posed an IF interference problem to Channel 216, on which the University operates a Class D station, the University filed an application (BPED–1742) to change frequency from Channel 216 to Channel 212. Then, on May 28, 1975, the Commission adopted a Notice of Proposed Rule Making [3] which proposed the assignment of Channel *291 and the deletion of Channel 237A. Noting that the deletion offered the advantage of ending the intermixture of classes of channels, the Commission did not propose a substitute Class A channel. Further, it did indicate that if there were interest in such an assignment, Channel 269A could be substituted.

4. Shortly thereafter, Sieber tendered an application for a construction permit on Channel 237A, but he did not comment directly in the rule making proceeding looking toward the proposed deletion of Channel 237A. His application was found to be defective because the proposed site was short spaced by four miles to co-channel Station CVB at Quebec City, Canada, and it was returned to Sieber by letter of January 14, 1976.

5. Then, on March 5, 1976, the Commission adopted its Report and Order [4] deleting Channel 237A and assigning Channel *291 to Presque Isle. Based on what now appears to be an erroneous assumption that no interest in a Class A channel at Presque Isle had been expressed, the Report and Order found no reason to substitute Channel 269A for Channel 237A. (The Commission's computer data base did not reveal the existence of the Sieber application because it had already been returned.)

6. Since Channel 237A was no longer available, Sieber resubmitted his application on June 23, 1976, this time seeking to use noncommercial educational Channel 201 for commercial purposes. Although such use would be contrary to the Commission's policy and regulations, this expression of interest in an assignment at Presque Isle caused the Commission to issue its latest Notice in this case on April 7, 1977, to consider assigning Channel 269A to that community and to modify the University from Channel 216 to 212. The prior application of the University for that very change in channels had been dismissed at the University's request on March 19, 1976.

7. It is now Sieber's contention that the Commission made a mistake of fact in deleting the Class A assignment at Presque Isle, without substitution, in the face of his expressed interest there. Furthermore, he notes that the University previously applied for modification from Channel 216 to Channel 212 without reimbursement, when circumstances were such that it would have benefitted from the addition of Channel 269A at Presque Isle. Therefore, Sieber argues, the new permittee of Channel 269A should not be expected to pay the cost of reimbursement to the University for making such a change, where the University would have benefited from the change absent a mistake of fact.

8. The Commission's usual policy is to require the party benefitting from a frequency modification to bear the cost of reimbursement of such modification, and such policy was applied to Presque Isle in footnote 3 of the Notice. Nevertheless, Sieber has brought to our attention the unusual nature of this case and the Commission's error in overlooking his expression of interest in the Class A assignment during the proceeding which deleted it. Upon review of the history of the Presque Isle assignment, it is our finding that the University of Maine should not be reimbursed. Significant in this finding is the fact that the University originally proposed substitution of Channel 269A for 237A in order to further its own proposal to obtain Channel *291, and had originally applied to the Commission for the very modification from Channel 216 to Channel 212 for which it now seeks reimbursement. Had all the facts been known, Channel 269A would have been assigned to Presque Isle, Maine, in the first proceeding without reimbursement to the University of Maine. Clearly, it would neither be fair nor equitable to now shift that cost to Sieber given these circumstances.

9. The University of Maine also seeks reimbursement for correction of TV interference problems that might occur with respect to the nearby Canadian satellite Station CHSJ–TV–1 at Bon Accord, New Brunswick. The Commission's engineering study indicates any interference to the TV service would be limited to a small area near the transmitter site and would cause no interference to TV service in Canada. On this basis the Canadian Government has approved of the proposed assignments. Therefore we shall not condition the University's modification on reimbursement for costs that might be associated with any possible interference problems.[5]

10. Sieber has expressed interest in promptly constructing a station on Channel 269A if authorized, and we find that it would be in the public interest to restore a Class A channel to Presque Isle to provide for another commercial FM voice. Sieber states that he is willing to compete with the other Class C stations in that community, and on this basis a waiver of our policy against intermixture is warranted. Presque Isle is large enough to warrant what in effect is only its third assignment.

11. The University has conditioned its consent to license modification upon the Commission's imposing reimbursement conditions. This we shall not do as explained above. Therefore we do not have its acquiescence in the modification. In accordance with *Transcontinent TV Corp. F.C.C.*, 308 F. 2d 339 (D.C. Cir. 1962), we shall make the channel changes at Presque Isle effective on the license expiration date of WUPI, April 1, 1978, or at such earlier date as the University may request, upon ceasing operation on Channel 21.

12. *Accordingly, it is ordered,* That effective April 1, 1978, the FM Table of Assignments (§ 73.202(b) of the Commission's rules and regulations) is amend to read as follows for Presque Isle, Maine:

City	*Channel No.*
Presque Isle, Maine——	241, 245, 269A, *291

13. *It is further ordered,* That pursuant to section 316(a) of the Communications Act of 1934, as amended, the outstanding license held by the University of Maine, licensee of Station WUPI, Presque Isle, Maine, is modified effective 3 AM local time April 1, 1978 (concurrently with the expiration of that license, or such earlier date as FM Station WUPI may, upon its request, cease operation on Channel 216) to specify operation on Channel 212 in lieu of Channel 216. The licensee shall inform the Commission in writing by no later than October 15, 1977, of its acceptance of this modification. Station WUPI may continue to operate on Channel 216 subject to the following conditions:

(a) At least 30 days before commencing operation on Channel 212, the licensee of Station WUPI shall submit to the Commission the technical information normally required of an applicant for a construction permit on Channel 212;

(b) At least 10 days prior to commencing operation on Channel 212, the licensee of Station WUPI shall submit the measurement data required of an applicant for an FM broadcast station; and

(c) The licensee of Station WUPI shall not commence operation on Channel 212 without prior Commission authorization.

14. Authority for the actions taken herein is found in sections 4(i), 303 (g)

[3] Docket 20498, 40 FR 24753 (pub. June 10, 1975).

[4] Docket 20498, 41 FR 11516 (pub. March 19, 1976).

[5] In any event, acceptance of this problem was inherent in the filing of the University's application to change frequency.

and (r), 307(b); and 316 of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules and regulations.

15. It is directed, That the Secretary of the Commission send a copy of this Report and Order by certified mail, return receipt requested to the University of Maine, Station WUPI, Presque Isle, Maine.

16. *It is further ordered*, That this proceeding is terminated.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083 (47 U.S.C. 154, 303, 307).)

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.77-26048 Filed 9-7-77;8:45 am]

[FCC 77-589]

PART 81—STATIONS ON LAND IN THE MARITIME SERVICE AND ALASKA—PUBLIC FIXED STATIONS

Clarifying the Limitation on Authorization of Frequencies Below 4000 kHz to Public Coast Stations Serving Lakes or Rivers

AGENCY: Federal Communications Commission.

ACTION: Rule amendment.

SUMMARY: This amendment of the rules clarifies the limitation on authorization of frequencies below 4000 kHz to public coast stations which serve only lakes or rivers.

EFFECTIVE DATE: September 12, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Robert P. De Young, Safety and Special Radio Services Bureau (202-632-7197).

SUPPLEMENTARY INFORMATION:

ORDER

Adopted: August 24, 1977.
Released: September 1, 1977.

Amendment of § 81.304(f)(2) of the rules to clarify the limitation on the authorization of frequencies below 4000 kHz to public coast stations serving lakes or rivers.

1. Mobile Marine Radio, Inc. (hereafter sometimes referred to as "MMR"), the licensee of Public Coast I-ABL Station WLO in Mobile, Ala., has requested the Commission to interpret or otherwise clarify the meaning of § 81.304(f)(2) of its rules.[1]

2. MMR is licensed to and does provide, inter alia, radiotelephony service in the 2, 4, 8, 13, 16, and 22 MHz bands and VHF-FM telephony service. MMR serves vessels in the Gulf of Mexico, the Caribbean, the Atlantic Ocean, and on the Alabama inland river system. Because of the service it provides to the Alabama inland river system, MMR points out that a strict interpretation of the rule would require it to delete its 2 MHz frequency, 2572 kHz, as of January 1, 1977. Such a result was not foreseen nor intended by the Commission in any of the Dockets which resulted in the adoption of § 81.304(f).[2]

3. The intent of the Commission in adopting the restriction on public coast stations serving lakes and rivers was to ensure that frequencies with longer range potential would not be inefficiently used. The intent of the Commission can be clarified by adding the word "only" to the phrases "lakes and rivers" as it appears in the subparagraph.

4. In view of the above: *It is ordered*, That § 81.304(f)(2) of the rules is amended in accordance below, effective September 12, 1977.

5. Because this amendment is consistent with the Commission's reasons for adopting the rule, because it is intended merely to clarify the rule, and because the procedural and substantive rights of no Commission licensee will be affected by this order, the notice and public procedures of 5 U.S.C. 553 are impracticable and unnecessary. Authority for this action is contained in § 1.412(c) of the Commission's rules.

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

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

Part 81 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

In Part 81—Stations on Land in the Maritime Services and Alaska—Public Fixed Stations.

In § 81.304, paragraph (f)(2) is amended to read as follows:

§ 81.304 Frequencies available.

* * * * *

(f) * * *

(2) Except in the Mississippi River System and Great Lakes, public coast stations serving only lakes or rivers will not be authorized to employ frequencies below 4000 kHz.

* * * * *

[FR Doc.77-26046 Filed 9-7-77;8:45 am]

[FCC 77-591]

PART 97—AMATEUR RADIO SERVICE

Deletion of "Grandfather" Privilege to Upgrade to Amateur Extra Class

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: This will delete § 97.25(c) of the Commission's rules. § 97.25(c) gave all amateurs who are in the General or Advanced Class and who were amateurs prior to April, 1917 the privilege to apply for the Amateur Extra Class without taking any additional tests. This is a little used section and in an effort to deregulate the amateur rules, it is being eliminated, subject to a substantial "last call" period.

EFFECTIVE DATE: March 1, 1978.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Robert Cassler, Personal Radio Division, Safety and Special Radio Services Bureau, 202-634-6620.

ORDER

ADOPTED: August 24, 1977.

RELEASED: September 1, 1977.

In the matter of Deletion of § 97.25(c) of the Amateur rules—"grandfather" privilege to upgrade to Amateur Extra Class.

1. In an effort to eliminate those rules and regulations which are not essential to the proper administration of the Amateur Radio Services, the Commission has under consideration § 97.25(c) of its rules. Section 97.25(c) is a "grandfather" clause which allows any amateur who was licensed prior to April, 1917, and is currently an amateur operator holding a General or Advanced Class license, the right to apply for the Amateur Extra Class license without further examination.

2. This section of the amateur rules has not been invoked by any amateur for a considerable time. Simple arithmetic shows that individuals who might qualify under this provision would typically be at least 75-80 years of age. We believe it reasonable to assume that virtually everyone wishing to resume amateur activity has already done so in the intervening 60 years from 1917 to the present. By this Order, the Commission deletes § 97.25(c). The effective date of this deletion will be March 1, 1978, to give a last call to all amateurs who might wish to avail themselves of § 97.25(c).

3. Inasmuch as this deletion is basically a minor amendment to Part 97 of the Commission's rules, the Commission, for good cause, as stated herein, finds that the notice and public procedures provisions of the Administrative Procedures Act, 5 U.S.C. 553, are unnecessary. Authority for the amendment of this rule appears in sections 4(i) and 303 of the Communications Act of 1934, as amended.

[1] Section 81.304(f) provides:
(f) Except for safety communications, after January 1, 1977:
(1) Radiotelephony frequencies below 4000 kHz shall not be used by a public coast station for communication with a vessel which is within the VHF service range of that public coast station; and
(2) Except in the Mississippi River System and Great Lakes, public coast stations serving lakes or rivers will not be authorized to employ frequencies below 4000 kHz.

[2] See Docket No. 18307, 35 FR 10, 212 (1970), which pertained to the 48 contiguous states plus Hawaii, Puerto Rico, and the Island Territories; Docket No. 18633, 36 FR 12, 502 (1971), which pertained to the Great Lakes; and Docket No. 18632, FR 20, 949 (1971), which pertained to Alaska.

4. *Accordingly, it is ordered,* That Part 97 of the Commission's rules is amended, effective March 1, 1978, as set forth below.

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

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

Part 97 of Chapter I of Title 47 of the Code of Federal Regulations is amended, as follows:

§ 97.25 [Amended]

1. In § 97.25, paragraph (c) is deleted and paragraphs (d) and (e) are redesignated (c) and (d), respectively.

[FR Doc.77-26047 Filed 9-7-77;8:45 am]

[FCC 77-590]

TRANSMITTER IDENTIFICATION CARD

Deregulation of Rules Concerning Deletion of Form 452-C

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: The Commission is simplifying the station license posting requirements by the elimination of the Transmitter Identification Card (FCC Form 452-C). This action is being taken under the Commission's policy of simplification and deregulation of its rules.

EFFECTIVE DATE: September 12, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Bruce A. Franca, Safety and Special Radio Services Bureau, 202-632-7197.

SUPPLEMENTARY INFORMATION:

ORDER

Adopted: August 24, 1977.
Released: September 1, 1977.

In the matter of deregulation of Parts 81, 83 and 87 of the Commission's rules; deletion of Form 452-C.

1. It has been the Commission's experience that requiring the posting of a Transmitter Identification Card (FCC Form 452-C) has been of little enforcement value and any marginal value the requirement might have is outweighed by the burden of the procedure to the public. Therefore, we are discontinuing the use of Form 452-C in the Aviation and Maritime Services. Licensees are reminded, however, that the rules governing the posting of station licenses and photocopies remain in effect.

2. This action is similar to one taken by the Personal Radio Services in an Order released on February 18, 1977 (FCC 77-108).

3. Inasmuch as these amendments involve the discontinuance of a Commission form, and are basically minor amendments, the Commission, for good cause, as stated herein, finds that the notice and public procedures provisions of the Administrative Procedure Act, 5 U.S.C. 553, are unnecessary. Further, inasmuch as the amendments relieve a restriction, the effective date provisions of the Administrative Procedure Act are not applicable. Authority for the amendment of these rules appears in section 4(i) and 303 of the Communications Act of 1934, as amended.

4. *Accordingly, it is ordered,* That Parts 81, 83 and 87 of the Commission's rules are amended, effective September 12, 1977, as set forth below.

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

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

Parts 81, 83 and 87 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

PART 81—STATIONS ON LAND IN THE MARITIME SERVICES AND ALASKA-PUBLIC FIXED STATIONS

In § 81.102, the headnote and text are amended as follows:

§ 81.102 Posting station license.

(a) The current authorization or a clearly legible photocopy thereof, for each station (other than a marine-utility station) at a permanent location, or at a single temporary location, shall be posted in a conspicuous place at the principal control point of the station, and a photocopy of such authorization shall be posted at all other control points listed on the authorization. If a photocopy of the authorization is posted at the principal control point, the location of the original shall be stated on that photocopy.

(b) The current station authorization or a clearly legible photocopy thereof, for a single marine-utility station and for each single station of any other class subject to this part, which is of portable nature and is authorized for use and operation at two or more temporary locations, shall be posted, either at the control point of the station, in a conspicuous place or shall be affixed, readily visible for inspection, to the transmitting apparatus or, if the transmitting apparatus is contained in a cabinet or other structure, affixed, readily visible for inspection, to such cabinet or structure. If a photocopy of the authorization is posted, the location of the original shall be stated on the photocopy.

(c) A current license authorizing a plurality of marine-utility stations, pursuant to § 81.68 shall be retained by the licensee at any location where it is readily accessible for inspection.

(d) A current land station license authorizing one or more shipyard mobile stations, pursuant to § 81.22(e), or a clearly legible photocopy thereof, shall be posted in a conspicuous place at the principal control point of the land station; and a photocopy of such license shall be posted at all other control points listed on the license. If a photocopy of the license is posted at the principal control point, the location of the original shall be stated on that photocopy.

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

In § 83.102, the headnote, paragraphs (a) and (b) are amended, and paragraph (d) as amended is redesignated (c) to read as follows:

§ 83.102 Posting station license.

(a) Except for certain stations to which paragraph (b) of this section is applicable, the original license for each station on board ship subject to this part shall be conspicuously posted at the principal location on board at which each such station is operated: *Provided,* That when a ship is fitted with two or more stations authorized by a single license document:

(1) The original license shall be conspicuously posted at the principal operating location of the compulsorily-provided station.

(2) If no station is compulsorily-provided, the original license shall be conspicuously posted at the principal operating location of any station authorized for telephony.

(b) A current license authorizing a plurality of stations, or a station of a portable nature, where posting of a station license is impracticable, shall be retained by the licensee at any location where it is readily accessible for inspection.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, notification by telegram or by letter, in each case by this Secretary of the Commission, stating that the Commission has granted an appropriate station authorization, may be posted in lieu of such authorization if the latter has not yet been received by the station licensee or permittee: *Provided,* That as the result of an official inspection of the station by an authorized representative of the Commission the posting of such notification may not be accepted in lieu of the formal station authorization until additional information pertaining thereto, as may be deemed necessary by that representative for purposes of official inspection, has been obtained from the Commission at Washington, D.C.

PART 87—AVIATION SERVICES

In § 87.95, the headnote and paragraph (c) is amended to read as follows:

§ 87.95 Posting station license.

(a) The current authorization, or a clearly legible photocopy thereof, for each station at a fixed location shall be prominently displayed at the principal control point of the transmitter or transmitters: *Provided, however,* That with respect to radio-navigation land test stations, the procedures set forth in paragraph (c) of this section may be followed. If a photocopy of the authorization is posted, the location of the original shall be stated on that photocopy.

(b) The current authorization for an aircraft radio station license shall be posted prominently in the aircraft or shall be kept with the aircraft registration certificate. In the case of aircraft radio stations licensed by means of a single authorization for the operation of all fleet aircraft, the original authorization, or a photocopy thereof, shall be posted prominently in the aircraft or shall be kept with the aircraft registration certificate.

(c) The current authorization for each land mobile station shall be retained as a permanent part of the station records, but need not be posted.

(d) In case of Civil Air Patrol mobile stations licensed by means of a single authorization for all the fleet, the original authorization or photocopy thereof, shall be posted prominently in the aircraft or shall be kept with the aircraft registration certificate, or in the case of ground mobile stations posted in accordance with paragraph (c) of this section.

[FR Doc.77-26126 Filed 9-7-77;8:45 am]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Ex Parte No. 284]

PART 1038—PERFORMANCE STANDARDS FOR THE TRANSPORTATION OF PERISHABLE COMMODITIES

AGENCY: Interstate Commerce Commission.

ACTION: Final rule.

SUMMARY: This document prescribes new rules, and adopts new procedures, governing the transportation of perishable commodities by railroad. The new procedures will require the railroads to publish in their tariffs schedules governing the transportation of perishables between key producing and consuming points. The performance standards require the carrier to complete certain designated functions within a maximum of 24 hours. The purpose of the new rules and procedures is to facilitate the prompt and reliable transportation of perishable commodities by railroad.

EFFECTIVE DATE: November 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Janice M. Rosenak, Deputy Director, Section of Rates, Interstate Commerce Commission, Washington, D.C. 20423 (202-275-7693).

SUPPLEMENTARY INFORMATION: The proceeding emanated from Ex Parte No. 263, *Loss and Damage Claims*, in which shipper dissatisfaction with the transportation of perishables became evident. The purpose of this proceeding is to determine the cause of delays and the impact of such delays on the Nation's commerce and the consumer, and to take action necessary to insure greater certainty and service adequacy in the movement of perishables.

The regulations originally proposed would require perishable commodities to be transported with "reasonable dispatch." "Reasonable dispatch" was defined as the performance of transportation within the time published by a carrier in its schedules, or during the time agreed upon by the carrier and shipper as shown on the bill of lading.

After receiving numerous comments concerning the proposed regulations, the Commission decided not to impose specific time limits on the overall performance of transportation, but rather to adopt "reasonable standards of operating efficiency." These performance standards established guidelines for the performance of certain functions within specified times. The adoption of the perforance standards was based on three studies which indicated that most railroad delays were encountered not in line-haul service, but in yards, terminals, and interchange points. As these delays are not experienced in motor carrier service, and as motor carrier service was generally felt to be less troublesome than rail, the regulations were applied only to railroads.

After several petitions for reconsideration were filed, by both shipper and carrier interests, the Commission convened an informal conference on December 1, 1976. The purpose of the conference was to identify problems and possible solutions in the transportation of perishables.

During the course of the conference, it became apparent that shippers were concerned more with overall transit time than with the time consumed by certain specific functions. It also became apparent that they were concerned primarily with movements between key producing and consuming points. And the railroads expressed concern about being held to their published schedules for every conceivable movement, no matter how small.

Therefore, the Commission has determined that the most practical solution, which will take into account the concerns of both shippers and carriers, is to require transportation between key points to be performed within scheduled times, and to subject all other movements of perishables to a modified version of the performance standards. The proceeding has been left open so that shippers and carriers may determine key points and reasonable schedules.

H. G. Homme, Jr.,
Acting Secretary.

Chapter X of Title 49 of the Code of Federal Regulations is modified and supplemented by adding part 1038, Performance Standards for the Transportation of Perishable Commodities, as set forth below.

§ 1038.1 Definitions.

As used herein, the term perishable commodity means any edible commodity the transportation of which is subject to rules, regulations, or charges for perishable protective service and which requires the transporting carrier expeditiously to transport the same and to produce and maintain as needed throughout transportation a controlled atmosphere for protection against heat or cold as one of the essential parts of the service in order to retard deterioration thereof prior to arrival at destination.

§ 1038.2 Performance Standards for Perishable Service.

(a) Performance of transportation within the standard for perishable service consists of the completion by the carrier within the usual and customary period but not in excess of twenty-four (24) hours of each of the following functions, unless subject to exceptions authorized in paragraph (b) below.

(1) Removal of a car from the track serving the shipper and forwarding from origin in linehaul service or delivery to a connection at origin after loading is completed and instructions sufficient to forwarding are furnished the carrier.

(2) Forwarding of a car from any yard or interchange connection between origin and destination.

(3) Delivery of a car to a connecting line after arrival at an interchange point.

(4) Actual or constructive placement of a car after arrival at destination when on the line of the carrier directly serving the consignee.

(5) Issuance of a notice of arrival or constructive placement as required by the applicable tariffs on a car held for orders, a car placed on a public delivery track, or a car held subject to constructive placement.

(6) Completion of light repairs to a car shall be accomplished within twenty-four (24) hours of receipt. Light repairs are those which can be accomplished in twenty (20) man-hours or less.

(b) *Exceptions.*—(1) At points at which less than daily train, switching, or repair service is provided, including points at which such service is provided, on Saturdays, Sundays, or holidays named in the applicable tariffs, compliance with the standards required by these regulations shall be deemed to have been accomplished by removal of cars, forwarding, interchange, placement, completion of light repairs, or giving of arrival, placement, or constructive placement notice, on the next day on which such services are performed. (2) Exceptions may be authorized by the Railroad Service Board and become effective on the date such exceptions are published in the Federal Register. Notice of such exceptions must be posted in the offices of the carrier from which arrival notices are sent or given.

§ 1038.3 Duties Imposed by Car Service Rules Not Affected.

The provisions of this shall not be construed to relieve any railroad of the duties imposed by the Commission's car service rules, 49 CFR part 1033 (specifically, the provisions of §§ 1033.7, 1033.17, and 1033.18), nor to relieve any railroad of the duty to observe all requirements of law and the regulations prescribed by the Commission.

§ 1038.4 Defenses.

Nothing in these regulations should be construed as limiting or denying a railroad the defense of *force majeure* as construed by the courts.

(49 U.S.C. Sec. 1(4), 1(6), 1(11), 1(13), 1(14)(a), and 1(15) in part I of the ICC Act, and cognate Sections in parts II, III, and IV of that Statute, and the National Transportation Policy)

[FR Doc.77-26153 Filed 9-7-77;8:45 am]

SUBTITLE B—OTHER REGULATIONS RELATING TO TRANSPORTATION

CHAPTER X—INTERSTATE COMMERCE COMMISSION

PART 1047—EXEMPTIONS

AGENCY: Interstate Commerce Commission.

ACTION: Administrative rule change.

SUMMARY: This administrative rule change will: (1) revise § 1047.25 to reflect Administrative Ruling 119, which lists the status of various commodities under the exemption provided by Section 203(b)(6) of the Interstate Commerce Act; and (2) insert clarifying subheadings between certain sections within Part 1047. These changes are intended to reflect changes in the exemption which have rendered present Part 1047.25 outdated, and to improve the sub-classification system in Part 1047.

EFFECTIVE DATE: October 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert S. Turkington, Assistant Director, Bureau of Operations, Interstate Commerce Commission, Washington, D.C. 20423 (202-275-7849).

Accordingly, 49 CFR Part 1047 is amended to read as follows:

1. By revising § 1047.25 to read as follows:

PARTIAL EXEMPTION FOR AGRICULTURAL COMMODITIES, LIVESTOCK AND FISH

§ 1047.25 Status of selected agricultural commodities, livestock and fish under 49 U.S.C. 303(b)(6) and Administrative Ruling No. 119.

Section 203(b)(6) of the Interstate Commerce Act (49 U.S.C. 303(b)(6)), as amended by the Transportation Act of 1958, provides an exemption for motor vehicles used in carrying ordinary livestock, fish, and unmanufactured agricultural commodities. Over the years, there have been numerous Bureau opinions, Commission decisions, and judicial holdings, as well as specific statutory language, defining certain commodities as falling either within or without the exemption. Administrative Ruling 119, which is reproduced below, is the most current compilation:

ADMINISTRATIVE RULING NO. 119, REVISED OCTOBER 1, 1974. SUPPLEMENTS RULINGS NOS. 107 AND 110. SECTION 203(b)(6)

INTERSTATE COMMERCE COMMISSION, BUREAU OF OPERATIONS

The purpose of this ruling is to provide a list showing the status of various commodities under the exemption in Section 203(b)(6) of the Interstate Commerce Act, as amended by the Transportation Act of 1958. The Bureau opinions in this ruling are tentative and informal and made in the absence of pertinent formal decisions by the Commission or the courts.

This composite commodity list is made up from the following sources:

1. Administrative Ruling No. 107 (49 CFR 1047.25) which the Transportation Act of 1958 incorporated into Section 203(b)(6) of the Act, but with certain changes. Listings based on Ruling No. 107 carry the identification: "Law".

2. Administrative Ruling No. 110 which explained the changes in Ruling No. 107 made by the Transportation Act of 1958. Listings taken from Ruling No. 110 carry the identification: "Law-Ruling 110".

3. Commission and court decisions since 1958. These are identified by the designation: "Case No. _____". The title and citation of the decision is shown in the Case List which follows the Commodity List.

4. Informal opinions given by the Bureau of Operations and its predecessor Bureaus in response to inquiries received since 1958. These are identified by the word: "Bureau".

A commodity listed as "Exempt" loses its exempt status whenever it is transported in a vehicle which at the same time is transporting for compensation commodities not within the exemption.

The fact that a particular commodity does not appear in the list does not mean that it is either within or not within the exemption. By analogy it may be possible to form a conclusion as to the status of commodities similar to those listed.

The safety and hours of service regulations of the Federal Highway Administration of the Department of Transportation apply generally to operations conducted under this exemption.

R. D. PFAHLER,
Director.

SECTION 205(b)(6) OF THE INTERSTATE COMMERCE ACT AS AMENDED BY THE TRANSPORTATION ACT OF 1958

Nothing in this part, except the provisions of Section 204 relative to qualifications and maximum hours of service of employees and safety of operations or standards of equipment shall be construed to include * * * (6) motor vehicles used in carrying property consisting of ordinary livestock, fish (including shell fish), or agricultural (including horticultural) commodities (not including manufactured products thereof), if such motor vehicles are not used in carrying any other property, or passengers, for compensation: *Provided*, That the words "property consisting of ordinary livestock, fish (including shell fish), or agricultural (including horticultural commodities (not including manufactured products thereof)" as used herein shall include property shown as "Exempt" in the "Commodity List" incorporated in ruling numbered 107, March 19, 1958, Bureau of Motor Carriers, Interstate Commerce Commission, but shall not include property shown therein as "Not Exempt": *Provided further, however*, that notwithstanding the preceding proviso the words "property consisting of ordinary livestock, fish (including shell fish), or agricultural (including horticultural) commodities (not including manufactured products thereof)" shall not be deemed to include frozen fruits, frozen berries, frozen vegetables, cocoa beans, coffee beans, tea, bananas, or hemp, and wool imported from any foreign country, wool tops and noils, or wool waste (carded, spun, woven, or knitted), and shall be deemed to include cooked or uncooked (including breaded) fish or shell fish when frozen or fresh (but not including fish and shell fish which have been treated for preserving, such as canned, smoked, pickled, spiced, corned, or kippered products);

COMPOSITE COMMODITY LIST OF ADMINISTRATIVE RULING NO. 119

Additives. Ruling No. 107 reflects the policy of allowing minor amounts of additives, since such things as vitamins in milk, seasoning or sweetening in foods, coated Christmas trees, etc. are shown as exempt. Informal rule of thumb is that no more than 5 percent non-exempt additives are allowable—Bureau

Advertising matter, in reasonable amounts, transported along with exempt commodities to which it relates, not considered as affecting the exempt nature of shipment—Bureau

Advertising matter, comprising 20-30 cases transported with 500 cases of tulip bulbs—Exempt—Bureau

Alfalfa, see Feeds

Animal fats—Not exempt—Law

Animals, see Livestock

Bagged commodities—Placing exempt commodities in bags does not affect their exempt status—Law

Bagging, scrap (worn jute bagging)—Not exempt—Bureau

Bananas—Not exempt—Law-Ruling 110

Bark, see Forest Products

Barley, see Grains

Bees—Exempt—Law

Beeswax, crude, in cakes and slabs—Exempt—Law

Beet pulp, see Feeds

Beets, sugar—Exempt—Law

Berries, See Fruits

Birds:
- Canaries and parakeets—Not exempt—Bureau
- Edible, see separate heading: Poultry
- Feathers, see separate heading: Feathers
- Pigeons, racing—Not exempt—Law
- Birdseed, see separate heading: Feeds

Bones, animal—Not exempt—Bureau

Bran, see Feeds

Broom corn, threshed and baled—Exempt—Law

Bulbs, see Horticultural Commodities

Butter—Not exempt—Law

Buttermilk—Exempt—Law

Candied apples (fresh apples on a stick dipped in taffy)—Not exempt—Bureau

Casein, derived from milk—Not exempt—Case No. 1

Canned fruits and vegetables—Not exempt—Law

Carnauba wax as imported in slabs or chunks—Not exempt—Law

Castor Beans—Exempt—Law

Castor pomace (cake remaining after extraction of oil from castor beans)—Not exempt—Bureau

Cattle, live, see Livestock

Cattle, slaughtered—Not exempt—Law

Charcoal—Not exempt—Law

Cheese—Not exempt—Law

Cheese, cottage—Not exempt—Law

Cheese, cottage, curd, in bulk—Not exempt—Bureau

Cheese, cream—Not exempt—Law

Chicle (a gum obtained from latex of trees) in form normally shipped, i.e. purified and neutralized—Not exempt—Bureau

Christmas trees, plain, sprayed, or coated—Exempt—Law

Cider, apple, and cider vinegar—Not exempt—Bureau

Citrus fruits, see Fruits

Clay—Not exempt—Bureau

Coal—Not exempt—Law

Cocoa bean shells, in any form—Not exempt—Bureau

Cocoa beans—Not exempt—Law-Ruling 110

Coconut, see Nuts

Coffee beans—Not exempt—Law-Ruling 110

Coffee, roasted—Not exempt—Law

Coffee, instant—Not exempt—Law

Compost, composed of manure and straw sweepings, dried, disintegrated, and decomposed—Exempt—Bureau

Compost, mixture of manure, straw or rice hulls, but not sawdust—Exempt—Bureau

Compost, product, a mixture of processed garbage and sewage sludge—Not Exempt—Bureau

Compost, mixture of manure and sweepings with water and bacterial agents to hasten fermentation, used as a growth medium for mushrooms—Not exempt—Bureau
Containers, crates, and boxes which have been used in the movement of exempt commodities, which have been reconditioned and sold from stock to new purchasers—Not exempt—Bureau
Containers, crates, and boxes which have been used in the movement of exempt commodities and are being returned for reuse—Exempt—Law
Containers, new, for use in shipping exempt commodities—Not exempt—Law
Copra meal—Not exempt—Law
Corn, See Grain
Corn cobs—Exempt—Law
Corn cobs, ground—Exempt—Law
Corn fodder—Exempt—Law
Cottage cheese, see Cheese
Cotton, carded but not spun, woven or knitted—Exempt—Law
Cotton felt, used in mattresses, etc. consisting of scraps of raw cotton, blended and carded, but not otherwise processed—Exempt—Bureau
Cotton, ginned or unginned—Exempt—Law
Cotton lap (baled cotton, blended, cleaned and formed into rolls preparatory to milling)—Exempt—Bureau
Cotton linters—Exempt—Law
Cotton motes (fibers removed from cotton seed after ginning and removal of linters)—Exempt—Bureau
Cotton waste consisting of bits of string, thread, and yarn—Not exempt—Bureau
Cotton waste consisting of scraps of cotton fibre not spun, woven, or knitted—Exempt—Law
Cotton yarn—Not exempt—Law
Cottonseed, whole—Exempt—Law
Cottonseed cake—Not exempt—Law
Cottonseed, dehulled—Exempt—Law
Cottonseed hulls—Exempt—Law
Cottonseed meal—Not exempt—Law
Crates, see Containers
Cream, see Milk
Cream cheese, see Cheese
Dehydrated, see commodity name: Fruits, Vegetables, Eggs, etc.
Diatomaceous earth—Not exempt—Law
Dinners, frozen—Not exempt—Law (But see next two entries)
Dinners, chicken, cooked and frozen—Exempt—Bureau (Based on Case No. 26)
Dinners, seafood, frozen—Exempt—Law—Ruling 110
Dried, see commodity name: Fruits, Vegetables, Eggs, etc.
Eggs:
- Albumen, fresh, liquid—Exempt—Law
- Albumen, fresh, liquid, pasteurized—Exempt—Bureau
- Dried—Exempt—Law
- Frozen—Exempt—Law
- Hard boiled, pickled, packed in vinegar and water with spices—Not exempt—Bureau
- In shell—Exempt—Law
- Liquid, whole or separated—Exempt—Law
- Mixture of 90% powdered and 10% syrup and salt, dried—Not exempt—Bureau
- Oiled—Exempt—Law
- Omelet mix consisting of fresh broken eggs and milk with minute amounts of salt and pepper and seasoning, packaged and frozen—Exempt—Bureau
- Powder, dried—Exempt—Law
- Shelled—Exempt—Law
- Shells, pulverized, for medical use (designated "pure calcium carbonate")—Not exempt—Bureau
- Whites, frozen—Exempt—Bureau
- Whole, with added yolks, dried—Exempt—Bureau
- Whole, frozen with added yolks—Exempt—
- Whole, frozen, standardized by subtraction of whites—Exempt—Bureau
- Yolks, dried—Exempt—Law
- Yolks, fresh, liquid—Exempt—Law
- Yolks, frozen—Exempt—Bureau
- Yolks, with 10% salt or sugar added—Not exempt—Bureau

Fats, animal—Not exempt—Law
Feathers—Exempt—Law
Feathers, cleaned and ground, not further processed, nothing added (sometimes referred to as "feather meal")—Exempt—Bureau
Feathers, ground, combined with dehydrated poultry offal—Exempt—Bureau
Feeds:
- Alfalfa, dried, chopped, and pressed into cubes and wafers by machine, after dampening with water—Exempt—Bureau
- Alfalfa, dried, etc., as above, but by a steam process—Not exempt—Bureau
- Alfalfa pellets—Not exempt—Law
- Beet pellets—Not exempt—Bureau
- Beet pulp—Not exempt—Law
- Bird gravel—Not exempt—Bureau
- Bird seed, containing milo, millet, wheat chaff, and peanut heart—Exempt—Bureau
- Bird seed bell, seed (millet, wheat, milo, and sunflower seed) mixed with an adhesive, such as corn syrup or wood glue, fitted with a wire hanger, and molded into a bell shape, for feeding wild birds—Exempt—Case No. 19
- Bran shorts—Not exempt—Law
- Corn gluten—Not exempt—Law
- Cottonseed products, see separate heading: Cottonseed
- Distilled corn grain residues, with or without solubles added—Not exempt—Law
- Formulas composed of hominy feed, beet pulp, corn gluten, wheat middlings, cane molasses, and minerals—Not exempt—Bureau
- Hamster and gerbil food with 9 percent soy bean and alfalfa meal added—Not exempt—Bureau
- Hominy feed—Not exempt—Law
- Meal, see separate heading: Meal
- Middlings—Not exempt—Law
- Oat hulls, ground—Exempt—Law
- Parrot food, mixture of exempt commodities—Exempt—Bureau
- Pelletized ground refuse screenings—Not exempt—Law
- Rice bran—Exempt—Law
- Rice hulls, anhydrous ammonia added providing a 10 percent protein source as feed—Not exempt—Bureau
- Rice hulls, ground or unground, nothing added—Exempt—Bureau
- Rice mill feed pellets—Status pending—Case No. 32
- Screenings, feed—Exempt—Law
- Soya bean husks—Exempt—Case No. 16
- Wheat bran—Not exempt—Law
- Wheat mixed feed (mixture of coarse outer covering of wheat kernel, wheat germ, wheat flour, and offal of the tail of the mill)—Not exempt—Case No. 2

Fertilizer, commercial—Not exempt—Law
Fibers:
- Abaca (manila hemp), piassava, ixtle, rattan, and palm and grass fibers—Exempt—Case No. 3
- Clippings resulting from rope making—Not exempt—Bureau
- Coir yarn, made from coconut fibre, is manufactured by spinning—Not exempt—Case No. 3
- Flax—Exempt—Law
- Hemp—Not exempt—Law-Ruling 110
- "Hemp" specifically made not exempt by amendment of Section 203(b)(6), means true hemp (cannabis sativa) or its fiber, and does not embrace similar plants or plant fibers commonly referred to by name—Case No. 3
- Jute in bales—Exempt—Law
- Jute fabric, product of a textile operation—Not exempt—Bureau
- Kapok, in loose bales, not processed beyond separation of fibers from seeds—Exempt—Bureau
- Palmleaf, not processed beyond separation from leaf, cleaning, combing, drying and baling—Exempt—Bureau
- Ramie—Exempt—Law
- Ramie Tops, consisting of long fibers of the ramie plant—Exempt—Bureau
- Rayon or synthetic fibers, or mixtures thereof (waste materials or otherwise)—Not exempt—Bureau
- Sisal, not being a true hemp—Exempt—See explanation under "Hemp" above

Fish (including shell fish):
- *General.* Frozen, quick frozen, and unfrozen fish and shell fish in the various forms in which it is shipped, such as live fish, fish in the round, beheaded, and gutted fish, filletted fish, beheaded shrimp, and oysters, clams, crabs, and lobsters, with or without shells, including crab meat and lobster meat—Exempt—Law
- Breaded, cooked, or uncooked, frozen or fresh—Exempt—Law-Ruling 110; Case No. 24
- Cakes, codfish, cooked or uncooked, frozen or fresh—Exempt—Law-Ruling 110; Case No. 24
- Canned, as a treatment for preserving—Not exempt—Ruling 110; Case No. 24
- Clam juice or broth, cooked or uncooked, frozen or fresh—Exempt—Ruling 110; Case No. 24
- Condensed fish solubles (obtained by condensing the aqueous portion of the residue of pressing oil from fish)—Not exempt—Bureau
- Cooked or partially cooked fish or shellfish, frozen or fresh—Exempt—Law-Ruling 110; Case No. 24
- Crab offal (residue after extraction of meat from crabs including shells, dried and ground)—Exempt—Bureau
- Crabmeat, pasteurized, placed in hermetically sealed containers for purpose of preservation—Not exempt—Bureau
- Crabmeat, pasteurized, sealed for purposes of cleanliness only, preservation accomplished by refrigeration—Exempt—Bureau
- Croquettes, salmon, cooked or uncooked, frozen or fresh—Exempt—Law-Ruling 110; Case No. 24
- Deviled crabs, clams, or lobsters, cooked or uncooked, frozen or fresh—Exempt—Law-Ruling 110; Case No. 24
- Dinners, cooked or uncooked, frozen or fresh—Exempt—Law-Ruling 110; Case No. 24
- Fish, processed by cleaning, scaling, and adding a small amount of salt—Exempt—Case No. 4
- Fish, ground, frozen into blocks—Exempt—Bureau
- Fish luncheon meat of smoked ground fish formed into loaves—Not exempt—Bureau
- Fish, lightly salted or spiced, requiring refrigeration to retard deterioration—Exempt—Bureau
- Fried fish fillets, oysters, or scallops, frozen or fresh—Exempt—Law-Ruling 110; Case No. 24
- Frogs, live or dressed—Exempt—Law
- Frogs and turtles, placed in formaldehyde to prevent or retard deterioration during transportation (but not as a preservative as that term is normally used) and used in substantially the same manner as live specimens—Exempt—Bureau
- Frozen, see General above, and individual listings

Hermetically sealed in containers as a treatment for preserving—Not exempt—Law
Hermetically sealed in containers for cleanliness only, preservation attained by refrigeration—Exempt—Law
Meal—Not exempt—Law
Offal (inedible portions of fish not further processed)—Exempt—Law
Oil from fishes—Not exempt—Law
Preserved, or treated for preserving, such as smoked, salted, pickled, spiced, corned, or kippered—Not exempt—Law
Residue remaining after extraction of oil from fish—Not exempt—Bureau
Salmon eggs, brined and packed in salt and formaldehyde solution in vacuum sealed jars—Not exempt—Bureau
Salmon eggs, frozen, not pickled or brined or otherwise treated for preservation—Exempt—Bureau
Salted, as a treatment for preserving—Not Exempt—Law
Scraps, frozen, granulated, and pressed into blocks, for cat food—Exempt—Bureau
Sea lions and walrus—Not exempt—Bureau
Seafood casseroles and dinners of which fish or shellfish is the principal ingredient—Exempt—Bureau
Seal blubber—Not exempt—Bureau
Seal skins—Not exempt—Bureau
Shells of sea creatures, other than those mixed with other refuse or "offal"—Not exempt—Bureau
Shells, oyster, moving to market for use in button making—Not exempt—Law
Shells, oyster, ground—Not exempt—Case No. 28
Shrimp cocktail (shrimp cooked and placed in glass jars with special sauce and seasoning and kept under refrigeration)—Exempt—Bureau
Soup or chowder containing a relatively small proportion of fish or shellfish in proportion to other ingredients which are not within the exemption—Not exempt—Bureau
Stew, consisting of raw oysters or clams, milk and seasoning, frozen but uncooked—Exempt—Law
Sticks, cooked or uncooked, frozen or fresh—Exempt—Law-Ruling 110
Sticks, frozen, cooked, breaded—Exempt—Case No. 5
Tuna Pies, frozen—Exempt—Bureau
Turtles, sea or fresh water—Exempt—Law
Whale meat, fresh—Exempt—Law
Flagstone—Not exempt—Law
Flax fiber, see Fibers
Flaxseed, whole—Exempt—Law
Flaxseed meal—Not exempt—Law
Flies, live sterile screwworm, used in screwworm eradication program—Exempt—Bureau
Flour—Not exempt—Law:
  Corn flour, extruded and hammered to a flour consistency—Not exempt—Bureau
  Corn meal flour—Not exempt—Bureau
  Mustard flour, consisting of seeds ground or milled and bolted—Not exempt—Bureau
  Tapioca flour, produced in same manner as wheat flour—Not exempt—Bureau
Flowers and flower plants, see Horticultural commodities
Fodder, corn and sorghum—Exempt—Law
Forage, see Hay and Feeds
Forest products:
  Bark—Exempt—Law
  Bark—Boiled to clean and soften—Exempt—Law
  Bark, raw, broken up by means of hammermill, or shredded, ground, or crushed, graded, and bagged—Exempt—Bureau
  Bark, shredded in its natural state, sprayed with copper based fungicide—Exempt—Bureau
Blankets of pine and spruce boughs—Exempt—Law
Bolts for making shingles—Exempt—Law
Divi and divi pods, natural products of certain trees, not processed—Exempt—Bureau
Excelsior wood: shredded birch bark, not a by-product of sawing, planing or finishing of wood—Exempt—Bureau
Fence pickets, split by hand from bolts, edged and pointed—Not Exempt—Bureau
Fence posts and rails, consisting of logs peeled and cut to length, the posts having holes drilled in them for insertion of rails, and the rails being split and sharpened at both ends—Not exempt—Case No. 6
"Firelog": wood shavings, sawdust, low grade petroleum, used in place of firewood—Not exempt—Bureau
Greenery—Exempt—Law
Growing, see separate heading; Horticultural Commodities
Hickory "wheels": short lengths cut from trees or logs—Exempt—Bureau
Hickory meal: sawdust or powdered hickory wood—Not exempt—Bureau
Holly sprigs and cuttings—Exempt—Law
Leaves—Exempt—Law
Leaves, sisal, husks and moisture removed—Exempt—Law
Lignin sulphonate obtained by cooking wood chips in a chemical solution and used as a road binder—Not exempt—Bureau
Logs and pilings impregnated with a preservative, usually creosote—Not exempt—Case No. 7
Mesquite brush, ground, dehydrated and packaged in plastic bags—Exempt—Bureau
Mesquite brush, twigs and debris burned off—Exempt—Law
Mine timbers or cants, comprised of 8 foot lengths of fir, rough-sawn, square cornered—Not exempt—Bureau
Mistletoe—Exempt—Law
Myrobalons, as imported in natural state—Exempt—Law
Palmyra stalk fibers (fronds from palm leaves)—Exempt—Law
Peat moss, dried, shredded, baled—Exempt—Law
Peat or peat moss, in bags or boxes—Exempt—Bureau (See also Case No. 31)
Peat moss flower pots impregnated with wetting agent—Not exempt—Bureau
Peat, for use as an organic fertilizer, wet with water and other solutions, decomposed in a pressure vessel and dried—Not exempt—Case No. 31
Peeler cores, composed of the center portions of logs remaining after plywood is cut therefrom—Exempt—Case No. 30
Pilings, wooden, untreated—Exempt—Case No. 9
Pilings, wooden, impregnated with a preservative, usually creosote—Not exempt—Case No. 7
Pine Cones, leaves, and miniature trees preserved by use of a solution containing calcium chloride—Exempt—Case No. 8
Poles, wooden, untreated—Exempt—Case No. 9
Poles, preassorted, preventative-treated (used by utilities companies, contractors, municipalities, etc.)—Not exempt—Case No. 10
Poles, telephone, not creosoted—Exempt—Law
Railroad ties composed of bolts from felled trees sawed crosswise and peeled or split but not otherwise processed—Exempt—Bureau
Railroad ties, lengths of wood cut to length and sawed lengthwise to size—Not exempt—Bureau
Resin, crude—Exempt—Law
Resin products, such as turpentine—Not exempt—Law
Roots, natural or dried—Exempt—Law
Sap, maple—Exempt—Law
Sawdust and shavings, regardless of their place of production, the process by which they are created, or their ultimate use—Not exempt—Case No. 11
Sawdust from lumber mills—Not exempt—Law
Shakes and shingles, whether split by hand or by machine—Not exempt—Case No. 12
Shingle bolts—Exempt—Law
Slabwood produced from sawmill operations—Not exempt—Case No. 13
Spanish moss—Exempt—Law
Sphagnum moss—Exempt—Law
Spices, see separate listing: Spices
Tanbark or tanwood, residue after tanning dye is extracted from bark, roots, or wood by means of extreme pressure and hot water, used as a mulch—Not exempt—Bureau
Tanning extracts (wattle, chestnut, quebracho) produced by leaching bark, clarifying the extract and concentrating it in vacuum evaporators—Not exempt—Bureau
Timber (rough logs or bolts) cut in random lengths, with bark removed—Exempt—Bureau
Trees:
  Christmas, plain, sprayed, or coated—Exempt—Law
  Cut to length, peeled, or split—Exempt—Law
  Growing, see Horticultural commodities
  Sawed into lumber—Not exempt—Law
Trimmings from logs and bolts, except bark—Not exempt—Case No. 11
Valonia, as imported in natural state—Exempt—Law
Wood chips for making wood pulp—Not exempt—Law
Wood cut into short crosswise lengths for firewood (not sawed lengthwise)—Exempt—Bureau
Wreaths of holly or other natural material with small amount of foundation or decorative material—Exempt—Law
Frogs, see Fish
Frozen, see commodity name: Fruits, Vegetables, Fish, Poultry, etc.
Fruits and Berries:
  Apple peels and cores ground, but not otherwise processed—Exempt—Bureau
  Apple pomace (substance remaining after extraction of juice)—Not exempt—Bureau
  Apples, fresh, unfrozen, peeled, cored, sliced and dipped in brine solution to retain freshness—Exempt—Bureau
  Bagged—Exempt—Law
  Bananas, fresh, dried, dehydrated, or frozen—Not exempt—Law-Ruling 110
  Blueberries, incidentally frozen while being maintained in low temperature storage, allowed to thaw during transportation—Exempt—Bureau
  Canned—Not exempt—Law
  Cherries in sulphur dioxide "brine" for purpose of holding them in fresh state until they can be processed for marketing, which processing includes "debrining"—Exempt—Case No. 14
  Cherries, maraschino type, resulting from further processing of cherries mentioned just above—Not exempt—Case No. 14
  Chopped glazed fruit (similar to that used in fruit cakes)—Not exempt—Bureau
  Citrus fruit salad, fresh, chilled—Exempt—Bureau
  Citrus fruit sections, fresh, cold-packed or semi-frozen—Exempt—Law

Citrus fruit sections, frozen—Not exempt—Law-Ruling 110
Citrus fruit sections, not frozen, packed with sugar, water, citric acid, and benzoate of soda, additives being 6% to 10% of total—Not exempt—Bureau
Citrus pulp (substance remaining after juice extraction)—Not exempt—Bureau
Color added—Exempt—Law
Cranberries, partially frozen as result of being placed in open boxes in storage under controlled temperatures to insure freshness pending transportation to canneries—Exempt—Bureau
Cranberries, purposely quick-frozen, maintained in a frozen state during transportation—Not exempt—Bureau
Dates, pitted, dried—Exempt—Law
Dehydrated—Exempt—Law
Dried, naturally or artificially—Exempt—Law
Dried, not further processed, placed in sealed packages or receptacles—Exempt—Bureau
Figs, dried, halved or quartered—Exempt—Law
Figs or dates, ground, in paste form, cooked, or with substantial amounts of other substances added—Not exempt—Bureau
Fig paste, consisting of ground figs, either in their natural state or dried—Exempt—Bureau
Frozen—Not exempt—Law-Ruling 110
Frozen (quick-frozen) for the purpose of preservation during transportation—whether shipped under temperature control or not—Not exempt—Bureau
Fruit baskets or gift packages consisting of fresh fruit with 5% or less of jelly in jars and candy—Exempt—Bureau
Fumigated—Exempt—Law
Graded—Exempt—Law
Grape slurry comprised of grapes removed from stems and crushed—Exempt—Bureau
Hulls of oranges after juice extractions—Not exempt—Law
In brine, to retain freshness—Exempt—Law
Juice, orange or other citrus—Not exempt—Law
Juice, fruit, plain or concentrated—Not exempt—Law
Kernels—Exempt—Law
Myrobalan (prune-like tropical fruit), dried, crushed and bagged—Exempt—Bureau
Oiled apples—Exempt—Law
Olives, processed for table use, in brine or not in brine, stuffed or not stuffed, in any type container—Not exempt—Bureau
Orange and lemon peel, dried, prepared from hulls of fruit following juice extraction—Not exempt—Bureau
Peaches, peeled, pitted, and put in cold storage in unsealed containers—Exempt—Law
Pies, frozen—Not exempt—Law
Plantains (considered to be bananas)—Not exempt—Case No. 15
Preserved, such as jam—Not exempt—Law
Purees, strawberry and other, frozen—Exempt—Law
Quick frozen—Not exempt—Law-Ruling 110
Raisins, seeded or unseeded—Exempt—Law
Raisins, very lightly coated with honey, cinnamon, or sugar—Exempt—Bureau
Raisins, chocolate coated or glaced, thereby preserving and candying them—Not exempt—Bureau
Sliced, frozen—Not exempt—Law-Ruling 110
Strawberries, in syrup and unsealed containers in cold storage—Exempt—Law
Strawberries, in unsealed containers with temperature controlled at 10° or lower—Not exempt—Bureau

Grain:
Artificially dried—Exempt—Law
Barley, brewers' (residuary by-products of the malting process in which barley, steeped and germinated, is mixed with hops and other ingredients and allowed to ferment)—Not exempt—Bureau
Barley, malted (processed only to the extent of soaking in warm water to hasten or induce germination, then drying, and removal of sprouts in some instances)—Exempt—Bureau
Barley, pearled (husked and polished grains)—Exempt—Bureau
Barley, rolled—Exempt—Law
Barley, whole—Exempt—Law
Brewers grains, wet, by-product of brewing process—Not exempt—Bureau
Corn cob pellets consisting of finely ground cobs with graphite added—Not exempt—Bureau
Corn, cracked—Exempt—Law
Corn, from which oil is extracted, ground and dried to comprise a product known as "brewers corn grits"—Not exempt—Bureau
Corn screenings—Exempt—Bureau
Corn shucks, used as "hot tamale shucks"—Exempt—Bureau
Corn, shelled—Exempt—Law
Corn, whole—Exempt—Law
Cracked wheat (bulgur or bulgar) processed by cooking the grains for purification and preservation, then drying, dehulling and grinding—Not exempt—Bureau
Feeds, see separate heading: Feeds
Hulls and husks, see separate heading: Feeds
Milo maize—Exempt—Law
Oats, crimped or rolled in the same manner as rolled barley—Exempt—Bureau
Oats, whole—Exempt—Law
Oats, whole, crushed and ground, in bags—Exempt—Bureau
Oil, extracted from grain—Not exempt—Law
Popcorn, popped—Not exempt—Law
Popcorn, shelled (unpopped) packaged with cooking fat or oil (one part oil to 2½ parts popcorn)—Not exempt—Bureau
Popcorn, shelled (unpopped), weighing ten or more ounces, accompanied by a separate package of seasoning consisting of salt, monosodium glutamate, butter flavor, cottonseed oil, and artificial color and flavor weighing approximately ¾ ounce—Exempt—Bureau
Popcorn, unpopped, shelled, in sealed or unsealed containers—Exempt—Law
Puffed grains—wheat, rice, millet or corn—produced by application of steam inside air tight tubes, and heat from outside burners, although not fully cooked—Not exempt—Bureau
Rice bran—Exempt—Law
Rice, brewers—Exempt—Law
Rice, clean—Exempt—Law
Rice, ground, not sifted, bolted or graded—Exempt—Bureau
Rice, hull ash (burned hulls of threshed rice)—Not exempt—Bureau
Rice, hulled ("brown rice")—Exempt—Bureau
Rice, long grain, enriched, parboiled, subjected to enough steam pressure to harden kernel and reduce stickiness, but not boiled or precooked—Exempt—Bureau
Rice, milled, fortified with vitamins—Exempt—Bureau
Rice polish—Exempt—Law
Rice, precooked—Not exempt—Law
Rice, whole—Exempt—Law
Rye, whole—Exempt—Law
Sorghum grains, whole—Exempt—Law
Wheat, bulgar, cleaned, cooked under steam pressure, dried, dehulled, ground, graded and bagged—Not exempt—Bureau
Wheat germ—Not exempt—Law
Wheat, new, crushed, uncooked—Exempt—Bureau
Wheat, whole—Exempt—Law
Grass sod—Exempt—Law
Gravel—Not exempt—Law
Greenery, see Forest products
Grinding, without prior or subsequent manufacturing processes does not affect the exempt status of the commodity—Law
Guano, bat (excrement of bats, dried, but not further processed)—Exempt—Bureau
Gums, the exudation of trees and shrubs, such as arabic, ghatti and tragacanth, in natural state or dried, sifted, and ground, but not purified, neutralized or refined—Exempt—Bureau
Hair, alpaca, camel, or goat, clipped from animal—Exempt—Law
Hair, hog or other animal, product of slaughter of animal—Not exempt—Law
Hair, rabbit or vicuna (plucked or clipped from live animal)—Exempt—Bureau
Hay and forage, dried naturally or artificially—Exempt—Law
Hay, chopped—Exempt—Law
Hay, dehydrated—Exempt—Law
Hay, salt (from salt marshes)—Exempt—Law
Hay, see also Feeds
Hay, sweetened with 3% molasses by weight Not exempt—Law
Hemp, see Fibers
Herbs, see Spices
Hides, green and salted—not exempt—Law
Honey, in the comb or strained—Exempt—Law
Honey, heat treated to retard granulation—Exempt—Law
Hops—Exempt—Law
Horticultural commodities:
Bulbs—Exempt—Law
Flowers, growing or cut—Exempt—Law
Leaves, natural or dried—Exempt—Law
Nursery stock—Exempt—Law
Plants, vegetables and flower—Exempt—Law
Roots, rhubarb, asparagus, mint, etc.—Exempt—Law
Star flowers—dried, spray painted—Exempt—Bureau
Trees, growing, balled in earth—Exempt—Law
Wreaths, holly or other natural material, with small amount of foundation or decorative material—Exempt—Law
Hulls and husks, see Feeds, Nuts
Humus, of a nature similar to peat moss—Exempt—Law
Ice for cooling subsequent shipments of exempt commodities—Exempt—Law
Ice Cream and ice cream mix, see Milk and cream
Imported commodities—Fact of importation does not affect status of otherwise exempt commodities, except that wool imported from any foreign country is not exempt—Law-Ruling 110
Insecticides—Not exempt—Law
Juices, see Fruits
Jute fiber, see Fibers
Kapok, see Fibers
Kelp, dried, ground—Exempt—Law
Latex, see Rubber
Leaves, see Forest products, Horticultural commodities, and Spices
Legume inoculant—Not exempt—Bureau
Licorice paste and powder (prepared from ground licorice root, and used in tobacco and confectionary trades and for medicinal purposes)—Not exempt—Bureau
Licorice roots, spent (by-product or residue remaining after open-vat leaching process used by extract licorice)—Not exempt—Bureau

Livestock:
- Exhibit animals such as those of 4-H club members, which though shown for a few days, are chiefly valuable for slaughter—Exempt—Law
- Laboratory animals, not domesticated, such as rats, mice, guinea pige—Not exempt—Bureau
- Medical use animals, such as ordinary healthy swine for serum manufacture—Exempt—Law
- Monkeys—Not exempt—Law.
- Ordinary, i.e. all cattle, swine, sheep, goats, horses, and mules, except such as are chiefly valuable for breeding, racing, show purposes, and other special uses—Exempt—Law
- Race horses—Not exempt—Law
- Registered or purebred cattle for ordinary farm or ranch uses, not chiefly valuable for breeding, race, show, or other special purposes—Exempt—Law
- Riding horses, used for personal pleasure riding—Exempt—Bureau
- Rodeo animals (bucking horses, cow ponies, parade horses, pick-up horses, Brahma bulls, steers, calves, buffalo)—Not Exempt—Bureau
- Show horses—Not exempt—Law
- Zoo animals—Not exempt—Law

Limestone, agricultural—Not exempt—Law
Linseed meal, see Meal
Lumber, rough sawed or planed—Not exempt—Law
Manure, in natural state—Exempt—Law
Manure, dried or dehydrated, bagged—Exempt—Law
Manure to which sand is added as conditioning ingredient, equivalent to 3% of the total mixture—Exempt—Bureau
Manure to which is added substantial amounts of biological soil organisms and pulverized granite, fermented and dehydrated—Not exempt—Bureau
Manure, fermented, with additives such as yeast and molds, producing a rich liquor which in water solution is used for soil enrichment—Not exempt—Bureau
Manure, paunch (cud of animal's rumen) product of slaughter—Not exempt—Bureau
Maple sap—Exempt—Law
Maple syrup—Not exempt—Law
Meal,, alfalfa—Not exempt—Law
Meal, copra—Not exempt—Law
Meal, cottonseed—Not exempt—Law
Meal, fish—Not exempt—Law
Meal, alfalfa—Not exempt—Law
Meal, linseed—Not exempt—Law
Meal, peanut—Not exempt—Law
Meal, soybean—Not exempt—Law
Meat and meat products:
- Beef dinners, frozen—Not exempt—Bureau
- Fresh, frozen or canned—Not exempt—Law
- Meat pies, frozen—Not exempt—Bureau
- Meat of Seals, sea lions and walrus—Not exempt—Bureau
- Scrap bones and meat, refuse from packing houses—Not exempt—Bureau

Milk and Cream:
- Anhydrous milk fat made by a continuous separation process directly from mik or cream in the same manner as nonfat dried milk solids—Exempt—Bureau
- Butterfat, isex, Gold Label (trade name) consisting of over 50% sugar and 2% water and 44% butterfat—Not exempt—Bureau
- Buttermilk—Exempt—Law
- Buttermix/condensed cream consisting of 45% butter fat 30% sugar and 25% skimmed milk solids—Not exempt—Bureau
- Casein, produced commercially through specialized processes—Not exempt—Case No. 1
- Cheese, see that main heading
- Concentrate, pasteurized and homogenized, with ⅔ of the water removed—Exempt—Bureau
- Concentrate (mixture of fresh cream with skim milk from which a portion of water is removed)—Exempt—Bureau
- Concentrate, consisting of fresh whole milk from which a portion of the water is removed to which no substantial amount of non-exempt substance is added—Exempt—Bureau
- Condensed—Not exempt—Law
- "Culturemate": non-fat dry milk powder, 10% dry phosphate salts, dry process extract, small amounts of dextrose and whey—Not exempt—Case No. 29
- Dry milk solids (essentially the same as powdered milk)—Exempt—Case No. 1
- Evaporated milk, in sealed cans—Not exempt—Bureau
- Frozen—Exempt—Law
- Homogenized—Exempt—Law
- Ice cream mix (blend of milk, dried skim milk and sugar)—not exempt—Bureau
- Milk "replacer" (blend of 93% ingredients
- Lactose: milk sugar, traces of protein and ash, made by condensing sweet cheese whey, crystalizing by cooking, then spinning, drying and bagging—Exempt—Case No. 29
- Milk "replacer" containing 10% animal fat—Not exempt—Bureau
- Milk "replacer" (blend of 98% ingredients themselves "exempt" commodities and 2% dietary supplements and flavoring ingredients, not otherwise processed)—Exempt—Bureau
- Milk "replacer" (Calf Pab), containing at least 20 nonexempt ingredients (no percentages shown)—Not exempt—Bureau
- Milk shake mix, composed of powdered milk with substantial amounts of sweetening and flavoring added—Not exempt—Bureau
- Pasteurized—Exempt—Law
- Powdered—Exempt—Law
- Raw—Exempt—Law
- Raw milk with coloring added to indicate it has been found unfit for human consumption—Exempt—Bureau
- Skim—Exempt—Law
- Skim, dried—Exempt—Bureau
- Skim, with two-thirds of water removed, in bulk or unsealed containers—Exempt—Law
- Standardized—Exempt—Law
- Sterilized in hermetically sealed cans—Not exempt—Law
- Vitamin "A"—Exempt—Law
- Whey, see that main heading
- Whipped cream, frozen, containing only exempt dairy products, which is mechanically processed into that form—Exempt—Bureau
- Whole milk with moisture content removed and nothing added—Exempt—Bureau
- Yoghurt, plain or flavored—Not exempt—Bureau

Milo, see Grains
Mohair, raw, cleaned, or scoured—Exempt—Law
Molasses—Not exempt—Law
Moss, see Forest products
Mushrooms, fresh—Exempt—Law
Nursery stock, see Horticultural commodities
Nutria carcasses, ground, for use as mink feed—Not exempt—Bureau
Nutria (or coypu), skinned, whole or chopped—Not exempt—Bureau
Nutria and rat carcasses, whole, frozen or unfrozen—Not exempt—Bureau
Nuts:
- Blanched (placed in water hot enough to soften the skins and facilitate removal of kernel, but not sufficient to kill the enzymes)—Exempt—Bureau
- Cashews, roasted or cooked—Not exempt—Bureau
- Cashews, scorched (not roasted or cooked, but darkened in color unintentionally by overheating during shelling process)—Exempt—Bureau
- Coconut, dried, shredded, flaked, or prepared by thread mill or devil mill to produce thread-like particles or granules, not further processed—Exempt—Bureau
- Coconut meal, see separate heading: Copra meal
- Macadamia nuts—Exempt—Bureau
- Peanut meal—Not exempt—Law
- Peanut shells, ground—Exempt—Law
- Peanuts, roasted and salted in the shell—Not exempt—Bureau
- Pistachio, shells colored with food coloring but not otherwise processed—Exempt—Bureau
- Raw, shelled or unshelled—Exempt—Law
- Roasted or boiled—Not exempt—Law
- Shelled, raw—Exempt—Law
- Shelled, salted (not roasted or otherwise similarly processed)—Exempt—Bureau
- Shelled, sprayed or washed with preservative but not candied or flavored—Exempt—Bureau
- Shells—Exempt—Law
- Shells, ground peanut—Exempt—Law
- Shells, peanut, pelletized, comprised of hulls or shells ground and formed into pellets by application of pressure with steam as binder (similar to production of alfalfa pellets)—Not exempt—Bureau
- Shells, pecan, ground—Exempt—Case No. 17
- Shells, pecan, mixed with chemicals equivalent to 10% of the total mixture—Not Exempt—Bureau
- Unshelled, raw—Exempt—Law

Oats, see Grains
Offal, consisting of blood, intestines, viscera, etc., by-product of the slaughtering of animals—Not exempt—Bureau
Oil, mint—Not exempt—Law
Oil, extracted from vegetables, grain, seed, fish, or other commodity—Not exempt—Law
Olives, see Fruits and Berries
Packaged commodities—Packaging exempt commodities does not affect their exempt status—Law
Peanuts, see Nuts
Peat Moss, see Forest products
Pelletized feeds, see Feeds
Pelts—Not exempt—Law
Pies, frozen—Not exempt—Law
Pigeons, racing, see Birds
Plants, vegetable or flower, see Horticultural commodities
Poles, see Forest products
Popcorn, see Grains
Potash—Not exempt—Bureau
Poultry and Poultry Products:
- Additives, such as injected butter, gravy, seasoning, etc., sold in or along with uncooked poultry, do not void the exempt if not in excess of 5% by weight—Bureau
- Blood of poultry and rabbits from which corpuscles have been removed by centrifugal force (processing by a machine similar to a cream separator)—Exempt—Bureau
- Broth, dehydrated by spray-drying into a powder—Not exempt—Case No. 25
- Carcasses, raw, in marble-size chunks—Exempt—Bureau
- Cut up, raw—Exempt—Bureau
- Cut-up, precooked or cooked; same, breaded and/or battered; same, marinated, breaded and/or battered; all frozen or refrigerated—Exempt—Case No. 26

Deboned, cooked or uncooked, fresh or frozen, in rolls or diced—Exempt—Bureau
Dehydrated, chunked, process includes boiling, grinding, and drying—Not exempt—Case No. 25
Dinners, cooked and frozen—Exempt—Bureau; see also separate heading: Dinners
Dressed, fresh or frozen—Exempt—Law
Fat, as removed from poultry, not cooked—Exempt—Bureau
Fat, skimmed from broth, plain or reduced to powder by spray-drying—not exempt—Case No. 25
Feathers—Exempt—Law
Frozen—Exempt—Law
Live—Exempt—Law
Offal, including blood (natural by-products of the killing and processing of poultry for market)—Exempt—Case No. 27
Picked—Exempt—Law
Pies, cooked, frozen or unfrozen—not exempt—Bureau
Powdered, process includes boiling, fine grinding, and spray-drying—Not exempt—Case No. 25
Rolled in batter but uncooked—Exempt—Bureau
Rolls, containing sectioned and deboned poultry, cooked—Exempt—Bureau
Sticks, cooked—Exempt—Bureau
Stuffed and frozen—Exempt—Law
Stuffing, in plastic bags, packed with but not in bird—Exempt—Bureau
Pulp, beet—Not exempt—Law
Pulp, sugarcane—Not exempt—Law
Purees, see Fruits
Rabbits, dressed—Exempt—Law
Rabbits, wild, skinned—Not exempt—Bureau
Raisins, see Fruits
Ramie Fiber, see Fibers
Residue, (foots or sediments) remaining after removal of oil from various commodities—Not exempt—Bureau
Resin, see Forest products
Rice, see Grains
Rock—Not exempt—Law
Roots, see Forest products, Horticultural commodities, Spices and herbs
Rubber, crude, in bales—not exempt—Law
Rubber, latex, natural, liquid, from which water has been extracted and to which ammonia has been added—Not exempt—Law
Rye, see Grains
Sand—Not exempt—Law
Sap, see Forest products
Sawdust, see Forest Products
Sea Creatures, see Fish
Seasoning or salt, added to a commodity within the exemption in insignificant amounts, not considered to affect exempt status of commodity—Bureau
Seaweed, dried, ground—Exempt—Law
Seeds:
Anise, not subject to a manufacturing process—Exempt—Bureau
Bird seed, see separate heading: Feeds
Cotton, see separate heading: Cottonseed
Deawned—Exempt—Law
Flax, see separate heading: Flaxseed
Grass seed—Exempt—Bureau
Grass seed, packaged in individual boxes and bags—Exempt—Bureau
Hybrid seed corn—Exempt—Bureau
Inoculated—Exempt—Law
Meal made from seeds, see Meal
Natural—Exempt—Law
Oil extracted from seeds—Not exempt—Law
Packets or boxes of seeds in display racks—Exempt—Law
Scarified—Exempt—Law
Screened or sized—Exempt—Law
Seed kits, flower or vegetable, consisting of seeds, soil substitutes, and plant food, in growing tray (punch and grow kits)—Not exempt—Bureau
Sesame seeds in hulls, bagged—Exempt—Bureau
Sesame seeds, cleaned and dehulled by mechanical process—Exempt—Bureau
Siftings and screenings consisting of residue from sieving of seeds (not further processed)—Exempt—Bureau
Soybean seeds, in bags to which are attached a small container of inoculant—Exempt—Bureau
Spice, see Spices
Sprayed for disease control—Exempt—Law
Sunflower seed hulls, lubricated by spraying with hot water to increase density, formed into loose, crumbling pellets—Exempt—Bureau
Tamarind, ground, comprised of seeds removed from pods without boiling, cooking, or the like, and processed only by cleaning and grinding—Exempt—Bureau
Used as seasonings, not subjected to a manufacturing process—Exempt—Bureau
Shells, see Cocoa bean, Eggs, Fish, Nuts
Shingle bolts, see Forest Products
Skins, animal—Not exempt—Law
Skins, seal (sea mammal hides)—Not exempt—Bureau
Sliced, see commodity name: Fruits, Vegetables, etc.
Sludge, dried sewage—Not exempt—Bureau
Soil, potting—Not exempt—Law
Soil, potting or African Violet Mix consisting of 90 percent peat, 8 percent sand and 2 percent vermiculite—Not exempt—Bureau
Soil, top—Not exempt—Law
Sorghum fodder—Exempt—Law
Sorghum grains—Exempt—Law
Soup, frozen—Not exempt—Law
Spanish moss, as gathered from trees—Exempt—Bureau
Spices and Herbs:
Angelica root—Exempt—Bureau
Chicory root, natural or dried—Exempt—Bureau
Chili powder, consisting of dried, ground chili pepper pods—Exempt—Bureau
Chili powder (mixture of ground peppers, spices and herbs, and a small amount of salt)—Exempt—Bureau
Cumin seed—Exempt—Bureau
Deer, (or deer's) tongue leaves, natural, dried, or processed in a manner similar to that undergone by redried, tobacco leaf—Exempt—Bureau
Ground, but not further processed—Exempt—Law
Paprika, ground—Exempt—Case No. 20
Pepper, ground, not further processed—Exempt—Bureau
Raw, unground spices—Exempt—Case No. 20
Reconditioned spices, ground (screened for removal of impurities but not further processed)—Exempt—Bureau
Seeds, see also that main heading
Sweet basil leaves, dried and separated from stems—Exempt—Bureau
Unground, whether seeds, berries, leaves, bark or roots—Exempt—Law
Stone, natural, marble or granite—Not exempt—Bureau
Stover—Exempt—Law
Straw—Exempt—Law
Sugar—Not exempt—Law
Sugar beets—Exempt—Law
Sugar cane—Exempt—Law
Sugar cane pulp—Not exempt—Law
Sugar, raw—Not exempt—Law
Syrup, cane—Not exempt—Law
Syrup, maple—Not exempt—Law
Tankage, consisting of offal from slaughtered animals—Not exempt—Bureau
Tea—Not exempt—Law-Ruling 110
Telephone poles, see Forest products
Textile waste, see Cotton waste
Tobacco:
Binder tobacco, composed of adhesive materials added to pulverized tobacco, the resultant mixture formed into flat sheets (similar to homogenized tobacco)—Not exempt—Bureau
Chopped leaf—Exempt—Law
Cigars and cigarettes—Not exempt—Law
Fragments, siftings and dust resulting from processes which produce tobacco items within the exemption (i.e. chopped tobacco leaf, redried leaf, etc.); also that which becomes unusable during preliminary handling prior to the manufacture of non-exempt tobacco items—Exempt—Bureau
Homogenized—Not exempt—Law
Leaf—Exempt—Law
Redried leaf—Exempt—Law
Smoking—Not exempt—Law
Stem meal—Not exempt—Bureau
Stemmed leaf—Exempt—Law
Stems—Exempt—Law
Tobacco made of ground-up scraps, considered a form of homogenized tobacco—Not exempt—Bureau
Topsoil—Not exempt—Law
Trees, see Forest products
Turtles, see Fish
Vegetables:
Bagged—Exempt—Law
Beans, dried artificially and packed in small container—Exempt—Law
Cabbage rolls (heads of cabbage pickled in water and salt after which the leaves are cut off and stuffed with a tomato and whole pepper, in jars with juice of pickled cabbage)—Not exempt—Case No. 18
Candied sweet potatoes, frozen—Not exempt—Law
Canned—Not exempt—Law
Cauliflower, cured in salt brine, shipped in open unsealed containers—Exempt—Case No 21
Cooked—Not exempt—Law
Cooked in water or steam for a period longer than that necessary for the inactivation of the enzymes, or by immersion in oil or fat—Not exempt—Case No. 22
Cucumbers and other vegetables processed into pickles by the ordinary means—Not exempt—Bureau
Cucumbers and tomatoes, barrel-cured into kosher pickles (fresh cucumbers or tomatoes kept in barrel overnight with water, garlic, salt, spices and seasonings, then placed in jars and kept under refrigeration)—Not exempt—Case No. 18
Cucumber delight (sliced cucumbers with onions, peppers, sugar and salt, in jars or barrels with juices)—Not exempt—Case No. 18
Cucumbers, salt cured—Exempt—Law
Cured—Exempt—Law
Cut up, fresh, in cellophane bags—Exempt—Law
Dried, naturally or artificially—Exempt—Law
Dehydrated—Exempt—Law
French fried onion rings—Not exempt—Case No. 22
French fried potatoes—Not exempt—Law
Frozen—Not exempt—Law-Ruling 110
Garlic paste, made from fresh crushed garlic cloves heated only enough to deactivate the enzymes, small percentage of preservative added—Exempt—Bureau
Garlic powder—Exempt—Law
Graded—Exempt—Law
Mushrooms (considered vegetables for purposes of Section 203(b)(6), frozen—Not exempt—Bureau; Freeze dried (frozen, then thawed, then dehydrated)—Exempt—Bureau
Oil, extracted from vegetable—Not exempt—Law

Onion chips and flakes, dried—Exempt—Law
Onion powder—Exempt—Law
Onion powder, made from onions sauted in oil and then powdered or dehydrated—Not exempt—Bureau
Onion rings, frozen, shipped with frozen fish dinners of which they are intended to be a part—Exempt—Bureau
Onion, cured in salt brine, shipped in open unsealed containers—Exempt—Case No. 21
Peas, split—Exempt—Law
Peeled, uncooked—Exempt—Law
Pepper delight (peppers with vinegar, salt and sugar)—Not exempt—Case No. 18
Pepper hulls, cured in salt brine, shipped in open unsealed containers—Exempt—Case No. 21
Peppers and kraut, stuffed (whole peppers filled with sauerkraut in jars with natural sauerkraut juice)—Not exempt—Case No. 18
Pickled—Not exempt—Case No. 21
Potato by-product made from raw rejects, peeled and washed in caustic solution and hot water, dewatered, dried and ground—Exempt—Bureau
Potato by-product, consisting of mashed potatoes recovered from drying machines or gathered as spillage from floor during latter stages of processing of instant mashed potatoes—Not exempt—Bureau
Potato flakes (cooked and dehydrated flakes of potato)—Not exempt—Bureau
Potatoes, candied (sweet), whipped, rissole, or puff—Not exempt—Case No. 22
Potatoes, peeled, sliced, blanched or dipped in preservative solution, but not cooked or otherwise processed—Exempt—Bureau
Potatoes, peeled and scalded or blanched (not subjected to a greater degree of heat than that necessary to inactivate enzymes)—Exempt—Bureau
Potatoes, powdered, prepared from potatoes, washed, cooked, peeled, with moisture removed—Not exempt—Bureau
Powder, onion and garlic—Exempt—Law
Precooked, pouch-packed, with or without sauce—Not exempt—Case No. 22
Products, the ingredients of which include vegetable matter combined with other commodities—Not exempt—Case No. 22
Quick frozen—Not exempt—Law-Ruling 110
Romanian kraut (shredded cabbage with juice consisting of water, sugar, celery seed and fresh peppers)—Not exempt—Case No. 18
Sauerkraut, pickled by keeping shredded cabbage in a barrel for 36-40 hours, thence in cold storage for about 36 hours, then packed in jars with water, sugar, and benzoate of soda (requires refrigeration)—Not exempt—Case No. 18
Sauerkraut, uncooked, pickled, in sealed plastic containers or sealed wooden barrels—Not exempt—Bureau
Shelled—Exempt—Law
Soup, frozen—Not exempt—Law
Soybean meal—Not exempt—Law
Tomato juice—Not exempt—Bureau
Tomato paste, consisting of tomatoes heated to 190°—Not exempt—Bureau
Tomato pomace (residue remaining after juice extraction)—Not exempt—Bureau
Tomato powder, dehydrated without cooking, (not the residue left after juice extraction)—Exempt—Bureau
Tomatoes, in salt brine, to preserve freshness while in transit—Exempt—Case No. 21
Washed, fresh, in cellophane bags—Exempt—Law
Water, and distilled water—Not exempt—Bureau
Wax, beeswax, crude, in cakes and slabs—Exempt—Law
Wax, carnauba, as imported in slabs and chunks—Not exempt—Law
Wax, crude candelilla, boiled in water to which some acid is added, purpose of which is not to change the wax in any way but to remove the wax scales from the leaves of the plant on which it forms, and the resulting residue boiled again to remove excess moisture and debris—Exempt—Bureau
Whale meat, see Fish
Wheat, see Grains
Wheat products, see Feeds, Flour
Whey, powdered or dried—Exempt—Case No. 23
Whey lactose—Exempt—Case No. 29
Whey powder—produced by separating liquid whey, removing butter fat, drying, steam rolling, cutting, bagging for further drying, grinding and packaging—Exempt—Bureau
Wood, see Forest products
Wool:
Cleaned and scoured after being imported—Not exempt—Bureau
Grease, as obtained from cleaning or scouring process—Exempt—Law
Imported from any foreign country—Not exempt—Law-Ruling 110
Mixture of blend of imported and domestic wool—Not exempt—Bureau
Pulled wool (wool removed from hides after slaughter)—Not exempt—Bureau
Raw, cleaned or scoured, but not including wool imported from any foreign country—Exempt—Law-Ruling 110
Scoured, origin unknown—Not exempt—Bureau
Tags of domestic wool and mohair (matted and ragged locks as shorn)—Exempt—Bureau
Waste (carded, spun, woven, or knitted)—Not exempt—Law-Ruling 110
Yarn—Not exempt—Law
Wreaths, see Forest products
Worms, blood (cultivated in a "farming" type operation in marshy soil)—Exempt—Bureau
Worms, sea, live (gathered from mud flats, for use as bait)—Exempt—Bureau
Yeast, brewers' residual, or "bottom yeast" (substance which settles to bottom of vat during fermentation of beer or liquors)—Not Exempt—Bureau
Zoo animals—Not exempt—Law

CASE LIST
of Administrative Ruling No. 119

Case No.
1—Cossitt Motor Express Inc.—Powdered Milk and Casein, 96 M.C.C. 557
2—Sturgeon and Meeker, Extension—Wheat Bran, 84 M.C.C. 655
3—Atcheson, T. & S.F. Ry Co., Petition—103 M.C.C. 364
4—Refrigerated Dispatch Ltd., Inc.—Common Carrier Application, 81 M.C.C. 429
5—Phillips—Common Carrier Application, 82 M.C.C. 528
6—Fred C. Burns, Extension—Alexandria, Va., MC-111875 Sub 8, decided Oct. 27, 1960 (not printed)
7—Holt, Extension—Pilings, 77 M.C.C. 141
8—Poole, Extension—Calcium Chloride, 83 M.C.C. 522.
9—Edgar H. Allen & Son, Inc., Extension—Old Bridge, N.J., 98 M.C.C. 131
10—Chancey Bros. Truck Line, Extension—Lumber, 73 M.C.C. 85
11—Determination of Commodity Status—Petition, 113 M.C.C. 6
12—Everett—Investigation of Operation, 88 M.C.C. 784
13—Miller's Motor Freight, Inc., MC-41915 Sub 26, decided June 20, 1962 (not printed)
14—Maxwell Co., Extension—Cherries in Brine, 100 M.C.C. 10
15—Holland Highway Express, Inc., Extension—Plantains, 86 M.C.C. 93
16—Producers Transport, Inc., Extension—Soya Bean Husks, 103 M.C.C. 691
17—Kinner—Common Carrier Application, 99 M.C.C. 748
18—Seashore Food Products, Inc.—Declaratory Order, 95 M.C.C. 546
19—Petition for Declaratory Order—Wild Birdseed, 110 M.C.C. 406
20—Acme Carriers, Inc., Common Carrier Application, 74 M.C.C. 797
21—Hadder Trucking Co., Inc., Extension—Commodities in Brine, 79 M.C.C. 449
22—Frozen Cooked Vegetables—Status, 81 M.C.C. 649
23—Petition of Ida-Cal Freight Lines, Inc., MC-C-3557, Order of August 29, 1962 (not printed)
24—Hughes—"Grandfather" Application, 83 M.C.C. 471, 484-486
25—Henningsen Foods, Inc., Petition, 106 M.C.C. 286
26—Pillsbury Co. et al., v. U.S. et al., 409 US 808 reversing 113 M.C.C. 225
27—Labertew Trucking, Inc., Extension—Poultry Offal, 96 M.C.C. 370
28—Grant's Trucking Co., Petitioner—Oyster Shells, 118 M.C.C. 892
29—I.C.C. v. Schaetzel, 339 F. Supp. 1345 (1972)
30—Forest Transport Corp., MC 138702 sub 2 decided April 8, 1974
31—Anderson Peat Co., Petition, 119 M.C.C. 494
32—Arkansas Rice Growers Coop. Assn., Petition, MC-C-7949—Initial decision served January 11, 1974; final report pending

2. By adding a subject heading immediately above § 1047.40 to read as follows:

PARTIAL EXEMPTION FOR MOTOR TRANSPORTATION OF PROPERTY AND PASSENGERS INCIDENTAL TO TRANSPORTATION BY AIRCRAFT

§ 1047.40 Motor Transportation of property incidental to transportation by aircraft.

* * * * *

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-26192 Filed 9-7-77;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 AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 1004]

[Docket No. AO-160-A54]

MILK IN MIDDLE ATLANTIC MARKETING AREA

Hearing on Proposed Amendments to Tentative Marketing Agreement and Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Public hearing on proposed rulemaking.

SUMMARY: The hearing is being held to consider changes in the order that have been proposed by cooperative associations, independent dairy farmers, and handlers. The principal issues to be considered are the appropriate method of pricing Class I milk and proposed changes in the pooling and diverted milk provisions of the order. Proponents maintain the requested order changes are needed to reflect current marketing conditions and to assure orderly milk marketing in the area.

DATE: October 4, 1977.

ADDRESS: Franklin Motor Inn, The Parkway at 22d Street, Philadelphia, Pa. 19130.

FOR FURTHER INFORMATION CONTACT:

Martin J. Dunn, Marketing Specialist, Dairy Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, D.C. 20250 (202-447-7311).

SUPPLEMENTAL INFORMATION: Notice is hereby given of a public hearing to be held at the Franklin Motor Inn, The Parkway at 22d Street, Philadelphia, Pa. 19130 beginning at 9:30 a.m., on October 4, 1977, with respect to proposed amendments to the tentative marketing agreement and to the order, regulating the handling of milk in the Middle Atlantic marketing area.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

The United States District Court for the Eastern District of Pennsylvania has ordered the Secretary of Agriculture to convene a hearing to consider the milk pricing method that should be applicable to the Middle Atlantic marketing area. Specifically at issue in the court order is the method for computing the Class I price. Responding to the order, the Department invited proposals for this and any other provisions of the order.

The purpose of the hearing is to receive evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreement and to the order.

The proposed amendments, set forth below, have not received the approval of the Secretary of Agriculture.

PROPOSED BY PENNMARVA DAIRYMEN'S FEDERATION, INC., AND BY EASTERN MILK PRODUCERS COOPERATIVE ASSOCIATION, INC.:

PROPOSAL NO. 1

The Class I price under Order 4 should continue to be determined by the provisions of §§ 1004.50(a) and 1004.51.

PROPOSED BY ABBOTTS DAIRIES DIVISION OF FAIRMONT FOODS COMPANY, INC.

PROPOSAL NO. 2

It is proposed that Federal Milk Marketing Order No. 4 (7 CFR Part 1004) as presently written be rewritten and amended to include bracketed pricing indexed so that producer prices for fluid milk move in 20-cent integers or in such other integers as the evidence may demonstrate to be appropriate.

PROPOSED BY SCP DAIRY INDUSTRY ASSOCIATION

PROPOSAL NO. 3

The Association proposes that the constant figure of $2.78, which is the add-on to the Minnesota-Wisconsin series, be corrected and be reduced by at least $1.00 per hundredweight.

PROPOSED BY MICHAELS DAIRIES, INC.

PROPOSAL NO. 4

Amend § 1004.7(a) (7 CFR, Chapter X) to add, after "50 percent" the following, "of its base milk receipts only" and delete "of its receipts", or

Amend § 1004.7(a) to add, after "50 percent" the following, "in the months of September through February, and 40 percent in the months of March through August".

PROPOSAL NO. 5

Amend § 1004.12(d) by deleting the phrase "in accordance with the conditions of subparagraphs (1) and (2) of this paragraph." and delete in their entirety subparagraphs (1) and (2) of § 1004.12(d), or

Amend § 1004.12(d)(2) by substituting "15 days" in place of "10 days".

PROPOSED BY DELMARVA INDEPENDENT PRODUCERS ORGANIZATION

PROPOSAL NO. 6

Amend § 1004.12(d) by deleting the phase "in accordance with the conditions of subparagraphs (1) and (2) of this paragraph." and delete in their entirety subparagraphs (1) and (2) of § 1004.12 (d).

PROPOSAL NO. 7

Amend § 1004.7(a) to insert after "month" "or in either of the two preceding months."

PROPOSED BY RICHFOOD, INC.

PROPOSAL NO. 8

Revise § 1004.7(a) as follows:

§ 1004.7 Pool plant.

* * * * *

(a) A plant from which during the month a volume not less than 50 percent of its receipts described in subparagraph (1) or (2) of this paragraph is disposed of as Class I milk (except filled milk) and a volume not less than 15 percent of such receipts is disposed of as route disposition (other than as filled milk) in the marketing area;

* * * * *

PROPOSED BY THE DAIRY DIVISION, AGRICULTURAL MARKETING SERVICE

PROPOSAL NO. 9

Make such changes as may be necessary to make the entire marketing agreement and the order conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the order may be procured from the Market Administrator, P.O. Box 710, Alexandria, Va. 22313, or from the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250 or may be there inspected.

Signed at Washington, D.C. on September 1, 1977.

WILLIAM T. MANLEY,
Deputy Administrator
Program Operations.

[FR Doc.77-26117 Filed 9-7-77;8:45 am]

COMMUNITY SERVICES ADMINISTRATION

[45 CFR Part 1067]

[CSA Instruction 7000–1]

FUNDING OF CSA GRANTEES

Federal Register; Access to Daily Publications

AGENCY: Community Services Administration.

ACTION: Proposed rule.

SUMMARY: The Community Services Administration is proposing a policy which will make the FEDERAL REGISTER the exclusive formal system used to communicate proposed rules and regulations to grantees and will require grantees to have access to the daily publication of the FEDERAL REGISTER either through direct subscription or a circulating copy. The current system of mailing drafts to grantees is cumbersome and time-consuming in addition to being duplicative since CSA is required by statute to file all rules and regulations in the FEDERAL REGISTER 30 days prior to becoming effective. For grantees, access to the daily issues of the FEDERAL REGISTER will mean that they will receive timely notification of proposed rules and regulations published by CSA and other relevant Federal grant-making agencies thus giving them sufficient time to analyze and respond to the proposals. For CSA it will mean replacing a cumbersome system with a faster more efficient one thereby enabling the agency to produce timely and responsive policy statements which reflect responses received from grantees and the public.

DATES: CSA welcomes comments on the proposed regulations.

Comments received on or before November 7, 1977, will be considered prior to publishing this policy as a final rule.

ADDRESS: Send all comments to Jacqueline G. Lemire, Community Services Administration, Office of Operations, Policy Development and Review Division, 1200 19th Street NW., Washington, D.C. 20506.

FOR FURTHER INFORMATION CONTACT:

Jacqueline G. Lemire
202–254–5670.

SUPPLEMENTARY INFORMATION: The Community Services Administration formally communicates with its grantees through a structured system known as the CSA Issuance System which consists of CSA Instructions (policy statements), CSA Notices (announcements of temporary concern including interim policies), and CSA Guidances (material designed to help people do their job better).

In the past the system we used to get input on draft policy statements was to print copies of the draft and mail copies to each grantee. However, because there is no in-house capability to print this material it had to be sent to the Government Printing Office or to a private contractor and then returned to CSA's Warehouse for packaging and mailing. This proved to be a time-consuming process frequently taking up to three weeks before the draft was in the mail. Added to this was the time needed by grantees to review the draft and develop comments, plus mailing time and subsequent time required by CSA staff to analyze comments received and to revise the draft when warranted.

Obviously this system could not produce timely and responsive policy statements. Recently we have been using the FEDERAL REGISTER to request comments on proposed regulations and have found that it is much faster and more efficient and, since we already are required by legislation to file all rules, regulations, instructions, guidelines and application forms in the FEDERAL REGISTER 30 days prior to their effective date, we have decided to use this system exclusively. However, we know that not all grantees currently have access to this publication. Therefore, we are proposing a policy which would require that each grantee subscribe to the FEDERAL REGISTER for the period covered by its grant(s) from CSA if the grantee does not have daily access to the FEDERAL REGISTER.

Of course, final rules and regulations will continue to be published in the form of CSA Instructions and distributed directly to grantees.

GRACIELA (GRACE) OLIVAREZ,
Director.

45 CFR 1067 is proposed to be amended as follows:

Subpart—Federal Register; Access To Daily Publication

Sec.
1067.1 Applicability.
1067.6–2 Policy.
1067.6–3 Procedures.
1067.6–4 Allowable Cost.

§ 1067.6–1 Applicability.

This subpart applies to all grants funded under Titles II, III–B, and VII of the Economic Opportunity Act of 1964, as amended, when the assistance is administered by the Community Services Administration.

§ 1067.6–2 Policy.

Since CSA publishes all proposed rules in the FEDERAL REGISTER exclusively, the Agency is requiring that grantees have access to daily publications of this document for the duration of their grants which are funded by CSA. Therefore, if grantees do not have access to the FEDERAL REGISTER either through a direct subscription or a circulating copy, they must take immediate steps to purchase a subscription.

§ 1067.6–3 Procedures.

The FEDERAL REGISTER is furnished by mail to subscribers free of postage, for $5.00 per month or $50 per year, payable in advance. Remit check or money order, made payable to:

Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

§ 1067.6–4 Allowable Cost.

This is an allowable charge to grant funds. It should be included under "Other Costs" on the budget form.

(Sec. 602, 78 Stat. 530; 42 U.S.C. 2942.)

[FR Doc.77–26072 Filed 9–7–77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 21383; RM–2814]

FM BROADCAST STATIONS IN CAMP LEJEUNE AND CHERRY POINT, N.C.

Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission proposes to add FM Channel 253 to Camp Lejeune, N.C., or if interest in such a proposal is expressed, in the alternative, to add FM Channel 252A at Cherry Point, N.C. The document invites comments on these proposals and on a series of questions regarding the Camp Lejeune proposal, including the appropriateness of the assignment of a Class C channel when the Commission had refused earlier to assign another channel to nearby Jacksonville, N.C.

DATES: Comments must be received on or before October 17, 1977, and reply comments on or before November 7, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Carol Fox Foelak, Broadcast Bureau, 202–632–7792.

SUPPLEMENTARY INFORMATION:

Adopted: August 30, 1977.

Released: September 7, 1977.

In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations. (Camp Lejeune, N.C.), Docket No. 21383, RM–2814.

1. *Petitioner, Proposal, and Comments.* (a) Francon, Inc. ("petitioner") filed a petition proposing the assignment of Channel 253 to Camp Lejeune, N.C. Public Notice was given January 18, 1977 (Report No. 1026). Comments opposing the petition were timely filed by Seaboard Broadcasting Corp. ("Seaboard"), licensee of WLAS, Jacksonville, N.C.; Marine Broadcasting Corp. ("Marine"), licensee of WXOR–FM, Jacksonville, N.C.; and Beasley Broadcast Group of Jacksonville, Inc. ("Beasley"), licensee of WJNC and WRCM(FM), Jacksonville,

N.C. Petitioner timely filed reply comments.[1]

(b) Petitioner states that the channel could be assigned in conformity with the mileage separation requirements of the FM rules. The opponents question the proposal in several respects: whether Camp Lejeune is a community; whether intermixture would result; and whether a proper Roanoke Rapids showing has been made. Also they cite a decision of several years ago in which the Commission declined to add Channel 253 to nearby Jacksonville, under allegedly similar circumstances, FM Table of Assignments (Jacksonville, N.C.), 37 F.C.C. 2d 50 (1972).

(c) Petitioner states that if the channel is assigned, it will promptly file an application to construct a station.

2. *Community Data*—(a) *Location.* Camp Lejeune is a Marine Corps reservation located in Onslow County on the coast of North Carolina, 176 kilometers (110 miles) southeast of Raleigh and 320 kilometers (200 miles) east of Charlotte. Camp Lejeune is located southeast of Jacksonville, N.C., and has a common boundary with it.

(b) *Population.* Camp Lejeune, 34,549; Onslow County, 103,126; both figures from U.S. Census, 1970.

(c) *Present Aural Services.* Camp Lejeune—none. Nearby Jacksonville, N.C.—fulltime AM Stations WJNC, 1240 kHz, and WLAS, 910 kHz; daytime-only AM Station WBBS, 1290 kHz; FM Stations WRCM, Channel 221A and WXQR-FM, Channel 228A.

3. *Preclusion Considerations.* Preclusion will be caused as follows to various communities with over 1,000 population in the State of North Carolina: Jacksonville (pop. 16,289) (contained in U.S. Census Reports 135-6); Swansboro (pop. 1,207); Morehead City (pop. 5,233); Beaufort (pop. 3,368); Hankers Island (pop. 1,633); Bellhaven (pop. 2,259); Newport (pop. 1,735); Havelock (pop. 5,283); James City (pop. 2,577); and Cherry Point (pop. 12,029). Except for Cherry Point and James City, each community with over 2,000 population has at least one FM channel allocation (Beaufort has no exclusive FM allocation but shares unused, but applied for, Channel 277 with Morehead City). The precluded communities with less than 2,000 population, Swansboro, Harkers Island and Newport, have neither FM or AM assignments. In view of the preclusion at Cherry Point, a fairly sizable community, and of the problems discussed below in paragraphs 13-16, we request comments on the appropriateness of the proposed assignment as well as the alternative of adding Channel 252A at Cherry Point, instead of Channel 253 at Camp Lejeune.

4. *Is Camp Lejeune a Community?* Petitioner states that Camp Lejeune has a substantial population, 35,549, according to the 1970 U.S. Census, and that the population has remained the same or increased since then. Petitioner's data,[2] were not challenged as to numbers by the opponents. According to petitioner there are five elementary schools and a junior and a senior high school, a hospital and a substantial payroll in the community. Camp Lejeune has well defined boundaries and a common interest in its military mission.

5. The opponents state that there are no commercial enterprises at Camp Lejeune which might advertise on a station, citying Outer Banks Radio Co., 15 F.C.C. 2d 994 (1964), for the proposition that a lack of potential advertising revenues from a locality is fatal to a finding of community.

6. In our view, Outer Banks is inapposite. In that case, the Commission added a "suburban community" issue[3] in a proceeding involving an applicant for a new AM station at Midway Park, a housing area near Camp Lejeune and Jacksonville. The opponents note that the Commission found that there was only one small business in Midway Park and stated that there was a serious question as to whether there would be sufficient advertising revenues from Midway Park, without reliance on Jacksonville, which had a several times larger population. In addition, the Commission referred to allegations that Midway Park's population was smaller than the applicant had represented and that it was dependent on Jacksonville for civic, social and business activities and lacked schools, banks, newspapers, and police and fire departments, thus raising a question of its existence as an independent entity.

7. The reasoning behind the "suburban community" Policy Statement, which applied to applications for new and changed AM facilities, has been applied to FM applications, Berwick Broadcasting Corporation, 20 F.C.C. 2d 393 (1969). Thus, under Berwick, an applicant could not specify a small town to meet the priority of bringing a first service to it while really intending to serve a nearby larger town. However, the Policy Statement and Berwick apply to applications for facilities which would serve a community *larger* than the specified community. Here, Camp Lejeune, the specified community, is larger than Jacksonville. Further, an adverse finding on a suburban community (or Berwick) issue would not constitute a finding that the smaller locality is not a community but only that the applicant's proposal was designed to serve the nearby larger community.

8. As to the suggestion in Outer Banks that Midway Park was not a community, Camp Lejeune is clearly distinguishable. It has schools, employment and other functions whereas Midway Park was apparently only a housing area. Therefore, based on these factors and the others stated above in paragraph 4, we conclude that Camp Lejeune is a separate community, and the lack of potential advertising revenues does not disturb our conclusion about its status. A lack of advertisers in a particular community is a matter which would have significance in connection with a possible Berwick issue if it were to be of concern at all in these circumstances.

9. The opponents cite Jacksonville, supra, in which the Commission declined to add Channel 253 as a third FM authorization to Jacksonville on the grounds of intermixture, preclusion, and lack of need for the service in view of the size of Jacksonville's population. They argue that this petitioner's proposal is essentially the same as that rejected in Jacksonville and that it has shown no basis for disturbing the Commission's earlier ruling.

10. The opponents' reliance on Jacksonville is misplaced. In fact, the Commission specifically found in that case that Camp Lejeune was a separate community, noting that its population is much larger than that of Jacksonville, 37 F.C.C. 2d at 51, and we have again found that Camp Lejeune is a separate community. Therefore, petitioner's proposal is not the same as that rejected in Jacksonville.

11. The opponents also complain that the petition contains more information on Onslow County than Camp Lejeune and suggests that petitioner really intends to serve the former. However, the question of whether petitioner would actually provide sufficient service to Camp Lejeune does not have to be resolved at this stage. Petitioner has shown that Camp Lejeune is a community, and the information before us does not raise a question of whether it actually intends to serve Camp Lejeune.

12. Seaboard and Beasley state that since Camp Lejeune is a military base, its population could fluctuate drastically, and it could even be closed entirely. While this might be a pertinent matter, we have no information to indicate that Camp Lejeune is likely to be closed but

[1] In addition, Capital Radio, Inc., licensee of WRNB and WRBK-FM, New Bern, N.C., filed an untimely opposition almost three months late. It did not seek an extension of time within which to file or give any reason for the late filing. This pleading which was opposed by petitioner will be stricken because of its untimeliness ad failure to state any cause for the untimeliness. We also note that this dismissal will have no practical effect since the pleading offers no argument not otherwise before us.

[2] Petitioner's population data for Camp Lejeune are muddled by including residents, employees and even some retired military, who would not be expected to live on the post. We expect petitioner to provide the information necessary to clarify this matter.

[3] Under the Policy Statement on Section 307(b) Considerations for Standard Broadcast Facilities Involving Suburban Communities, 2 F.C.C. 2d 190 (1965), if an applicant's proposed 5 mV/m daytime contour would penetrate a community with a population over 50,000, and at least twice the size of the specified community, a presumption would arise that the applicant really intended to serve the larger community. To overcome the presumption the applicant would have to sow the suburban community's separate program needs and the extent to which its program proposal would meet unmet needs, and would also be expected to adduce evidence that advertising revenues from the specified community would be adequate to support its proposal, although this aspect would not necessarily be determinative. The presumption was subsequently limited to apply only in comparative hearings, but the Commission's concern that applicants intend to serve the communities they specify remains. AM Assignment Standards, 54 F.C.C. 2d 1, 21-22 (1975).

would welcome comments on this point.

13. Finally, Seaboard asserts that a station could not be physically located in Camp Lejeune, a military reservation. This is not a bar to assigning an authorization there, although an applicant would have to make a showing of good cause for locating its main studio outside the principal community to be served, pursuant to § 73.210(a)(3) of the Commission's rules, 47 C.F.R. 73.210(a)(3). There is precedent for licensing a station to a military reservation in the case of WSAC-FM, Ft. Knox, Ky. (waiver of § 73.210(a)(3), to permit locating the main studio outside the principal community to be served, granted July 22, 1964).[4] Similarly, WSAC-AM was granted a waiver of § 73.20(a), the AM main studio rule, when it was permitted to change its AM station location to Ft. Knox in December 1959.

14. In view of the size of Camp Lejeune's population and our finding it to be a community, we would have no hesitation in proposing a Class A assignment there. However, petitioner proposes a Class C channel,[5] and although it would provide a first local service for a community which is, after all, larger than Jacksonville, there are questions which would need to be resolved before the assignment could be made. Because of the apparent interrelationship between Camp Lejeune and Jacksonville, there is some question about whether to treat this case as the equivalent of one involving intermixture of classes of channels in a particular community. We need further support for the Class C assignment especially in view of the fact that it would provide only a small amount of first or second FM service. We seek comment on these problems, which are discussed in the following paragraphs:

15. *Intermixture.* The two Jacksonville stations are Class A stations, and the opponents state that petitioner's proposed Class C assignment would violate the Commission's policy against intermixture of wide coverage and limited coverage stations. They note that one of the reasons for denying assignment of Channel 253 in Jacksonville, supra, was intermixture.

16. We have found that Camp Lejeune is a separate community, and the policy against intermixture generally applies to assignments within the same community. FM Table of Assignments (Paso Robles, Calif.), 35 R.R. 2d 639 (1975). However, Camp Lejeune, which is adjacent to Jacksonville, would provide no advertising revenues on its own and therefore is more closely tied to Jacksonville economically than would ordinarily be the case with two adjacent communities. One of the purposes of the policy against intermixture is to foster competition among stations in a particular locality with equivalent facilities. Here, one station would be at a decided competitive advantage since it would have an opportunity for superior facilities not available to the others so there might be reason to apply the policy in this unusual situation. We seek comment on this point.

17. *Roanoke Rapids/Anamosa Comments.* While the petitioner estimated the first and second FM service that its proposed facilities would provide, the opponents state that it did not make a Roanoke Rapids[6] showing. Seaboard states that a proper Roanoke Rapids showing, assuming "reasonable" facilities for all FM channels assigned in the area would show first and second FM services to 217 persons in an area of eight square miles and 455 persons in an area of 41 square miles, respectively. In reply, petitioner states that it is not required to make a Roanoke Rapids showing at this stage and will do so in the event a Notice of Proposed Rule Making is issued. We expect petitioner to do so and to take into account nighttime AM service—see Anamosa, Iowa, 40 F.C.C. 2d 520 (1974).

18. *Conclusion.* Accordingly, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of its rules, 47 CFR 73.202(b) as follows:

City	Channel No.	
	Present	Proposed
Camp Lejeune, N.C.		253
or, in the alternative Cherry Point, N.C.		252A

19. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures; and filing requirements are contained below and are incorporated herein.

NOTE:—A showing of continuing interest is required by paragraph 2 below before a channel will be assigned.

20. Interested parties may file comments on or before October 17, 1977, and reply comments on or before November 7, 1977.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in this Notice of Proposed Rule Making.

2. *Showings required.* Comments are invited on the proposal(s) discussed in this Notice of Proposed Rule Making. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date of filing initial comments herein. If filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply coments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in this Notice of Proposed Rule Making. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompaniedb y a certificate of service. (See § 1.420 (a), (b), and (c) of the Commission's rules.)

5. *Number of copies.* In accordance with the provisions of Section 1.420 of the Commission's rules and regulations, an original and four copies of all comments shall be accompanied by a certifior other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc.77-26190 Filed 9-7-77;8:45 am]

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[4] The Commission also required that its station identification make clear that the station is not connected with the U.S. Government.

[5] Petitioner maintains that there is no Class A assignment which is available here, and this was confirmed by our staff after a search. If petitioner subsequently discovers a way to make a Class A assignment here, it can, of course, institute proceedings to that end.

[6] FM Table of Assignments, 9 F.C.C. 2d 672 (1967), setting forth assumptions to be used in calculating the extent of such service which an FM proposal would provide.

[47 CFR Part 73]

[Docket No. 20954; RM-2684; RM-2772]

FM BROADCAST STATIONS IN AMHERST AND CROZET, VIRGINIA

Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION. Memorandum opinion and order and further notice of proposed rulemaking.

SUMMARY: This action reconsiders the denial of the assignment of Class B FM Channel 300 to Amherst, Va., and joins this proposal with one to assign a channel to Crozet, Va. The action consolidates the two because both involve the claim that assignment of a Class B channel at either community would provide a first aural service to the same area. A Further Notice was issued to provide the parties an opportunity to provide comparative data for both Class B proposals and alternatively to consider a Class A rather than Class B channel for Crozet.

DATES: Comments are due on or before October 14, 1977, and reply comments on or before November 3, 1977.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

James J. Gross, Broadcast Bureau 202-632-7792.

SUPPLEMENTARY INFORMATION:

MEMORANDUM OPINION AND ORDER AND FURTHER NOTICE OF PROPOSED RULE MAKING

Adopted: August 29, 1977.

Released: September 1, 1977.

In the matter of Amendment of § 73.-202(b), *Table of Assignments*, FM Broadcast Stations. (Amherst and Crozet, Va.), Docket No. 20954, RM-2684, RM-2772.

1. The Commission has before it the Notice of Proposed Rulemaking, 41 FR 46350 (published October 20, 1976), proposing the assignment of Class B FM Channel 259 to Crozet, Va., and the filings in response to this Notice, as well as a petition for reconsideration of the Commission's Memorandum Opinion and Order[1] denying the assignment of Class B FM Channel 300 to Amherst, Virginia. The Amherst petition was filed well before issuance of the Crozet Notice.

2. The Crozet Notice was issued at the petitioning of Lee Garlock. In the Notice, we pointed out that a town the size of Crozet would ordinarily be assigned a Class A station but that we were willing to consider a Class B assignment because of the possibility it might provide service to unserved and underserved areas. Oppositions to the Crozet proposed assignment were filed by Clay Realty Company ("Clay"), licensee of Stations WCHV(AM) and WCCB-FM, Charlottesville, Va., and WANV, Inc. ("WANV"), licensee of WANV, Waynesboro, Virginia. Other comments to the Notice were filed by Amherst Broadcasting Associates, Inc., licensee of Station WKYY(AM) ("WKYY"), Amherst, Va. (the party seeking reconsideration of the denial of its petition to assign Channel 300 to Amherst, Va.), and by Radio Harrisonburg, Inc. ("Harrisonburg"), licensee of Station WHBG, Harrisonburg, Va.

3. As with the Crozet proposal, the Amherst request for a Class B assignment to a small town rested on the assertion that service would be provided to unserved and underserved areas. Although data in support of this assertion was provided, petitioner had failed to provide all of the requested engineering showing relating to the extent to which existing AM stations already provided aural service to the areas it proposed to serve. In its petition for reconsideration, WKYY has rectified this omission and provided a showing which indicates that existing AM stations do not provide service at night to the area in which WKYY said it would provide a first FM service. Thus, the area appears to be one where it would offer a first aural service, a matter which is given high priority. In our view, this is sufficient to demonstrate that it would be in the public interest to reopen the Amherst proceeding. Ordinarily, that judgment would have no bearing on the Crozet proposal, but the facts here indicate that the proposals should be given joint consideration. This is the case because the first and second aural service areas of each proposal overlaps that of the other. When such is the case, the action in one has an important bearing on the other, and we do not believe it appropriate to act on the proposals separately without taking this fact into account. This is particularly true here since in each case, a Class A assignment would ordinarily be assigned to such small communities. Thus, the first (or second) service arguments are crucial to the possible assignment of wide-coverage Class B channels.

4. Crozet (1970 pop. 1,433) is located approximately 177 kilometers (110 miles) southwest of Washington, D.C., and 16 kilometers (10 miles) west of Charlottesville, Virginia. Crozet is an unincorporated community which has one daytime-only AM station, WPED (Class II-D). Information regarding Crozet's ability to support an FM assignment is contained in the original Notice and need not be repeated here. Although Crozet is located within a "radio quiet zone" in which radio astronomy is conducted by the National Radio Astronomy Observatory at Greenback, W. Va., and by the Naval Radio Research Observatory at Sugar Grove, W. Va., both observatories have approved the proposed assignment but, as provided by § 73.215(a) of our rules, have reserved the right to later object to any application filed.

5. Amherst (1970 pop. 1,108), seat of Amherst County (1970 pop. 26,072), is located approximately 88 kilometers (55 miles) west of Richmond, 56 kilometers (35 miles) northeast of Roanoke, and 25 kilometers (15 miles) north of Lynchburg, Va. Although there are currently no aural services operating in Amherst, a new AM station (BP-20013) is now under construction. Additionally, Amherst is located within the 1 mV/m contours of two Class A FM stations at Lynchburg, Va. Petitioner has furnished extensive data which would indicate that Amherst could support an FM assignment. There are currently approximately 400 businesses in the county with an annual payroll of $50,000,000, and petitioner claims that there has been a steady increase in both the number of workers and jobs in the area. A new shopping center has been built near the town to encourage new industry to locate in the community.

6. Although Amherst is also located within the Radio Quiet Zone,[2] petitioner has indicated its proposed transmitter site lies outside the Zone, approximately 20 kilometers (12 miles) southeast of Amherst. Further, there appears to be a substantial area 52 square kilometers (20 square miles) outside the Zone within which the transmitter site could be located. Petitioner has indicated that it has informed the National Radio Astronomy Observatory about the proposed transmitter site, but in its Supplemental Engineering Report, petitioner indicated that "No claim is made that it will actually be possible to locate a transmitter at the coordinates shown as a reference point," and petitioner indicated that it would negotiate with the National Radio Astronomy Observatory if it became necessary to locate the transmitter site within the Quiet Zone. Before making this assignment we would expect petitioner to offer more definitive information regarding its intended transmitter location.

7. The Crozet Notice indicated that a Channel 259 assignment there would preclude future assignments to Channels 257A and 259 to five communities in Virginia, but that each of these communities presently had local radio service, as well as alternative FM channels available for assignment. Clay argues that Crozet is too small to merit a Class B assignment, and that fairer use of the channel could be made by assigning it to one of the precluded Virginia communities of Waynesboro (pop. 15,708), Bridgewater (pop. 2,828) or Staunton (pop. 25,504).[3] The Crozet petitioner attempts to demonstrate that these cities are already precluded from assignments by the Radio Quiet Zone. However, even if these places are within the Quiet Zone, the possibility remains that a particular site outside the Zone might be found which would permit the assignment. However, in the absence of a counterproposal, this is not a matter we need to resolve here, as Waynesboro has two local fulltime AM stations and other Class A FM channels available for assignment. Bridgewater has an alternative Class B channel and two Class A channels available for assignment. Staunton has two AM stations, one FM station, an alternative Class B channel and two Class A channels available for assignment. The only interest that has been expressed in this proceeding for assignments at any of these communities is that of WANV, the AM licensee at Waynesboro, which states that it is interested in an FM assignment to

[1] 42 FR 24312 (pub. May 13, 1977).

[2] Harrisonburg, Va. (pop. 14,605), also mentioned by Clay, is just east of the area precluded by the Crozet proposal. Harrisonburg presently has two applications pending for use of Channel 282 assigned to that community. WHBG at Harrisonburg states that it would oppose the assignment of Channel 259 to Harrisonburg, as suggested by Clay. No definitive interest in the use of the channel at any of these communities has yet been expressed.

Waynesboro or Staunton if approval is obtained from the Naval Radio Research Observatory (Sugar Grove) of a proposed transmitter site. This falls short of the required statement of intent required by the Commission in making FM assignments to particular communities.

8. WKKY's preclusion study for Amherst indicates that preclusion would occur only on the co-channel (Channel 300) in a limited area. Three cities with populations greater than 1,000 persons would be precluded if Channel 300 were assigned to Amherst. These cities are Lexington (pop. 7,597), Buena Vista (pop. 6,425), and Glasgow, Virginia (pop. 1,304). Buena Vista and Glasgow presently have no local aural service and Lexington is served by fulltime AM Station WREL. Channel 244A would be available for assignment to one of these communities.

9. In the Crozet Notice, the Commission asked Garlock to demonstrate that his proposal was designed to serve Crozet rather than the nearby and far larger community of Charlottesville. In its opposition, WANV argues that sufficient advertising revenue for an FM station could not be generated within Crozet, and states that the Crozet AM station depends on other communities for its revenues. Clay asserts that the petitioner, Garlock, has not addressed the issue adequately in its comments. Garlock's response is that he became aware of the need for the proposed FM service in Crozet through his residence and employment in the area. He states that he intends to join in an application for the channel with the licensee of Crozet's AM Station WPED to bring service to Crozet and western Albermarle County. Additionally, petitioner argues that this is not a Charlottesville proposal, since Charlottesville is adequately served presently. Petitioner incorporates the information filed earlier in support of the theory that Crozet has community needs distinct from those of Charlottesville. That information indicates that the Census Bureau has delineated arbitrary boundaries for the community, that two industrial plants have home offices and corporate headquarters in Crozet and employ over 3,000 persons there, that increased population growth is projected for Crozet by the Albermarle County Planning Commission, that a new high school is being built in Crozet for western Albermarle County, and that additional development is expected in the future. Petitioner states that Crozet has a business district of various retail stores, a bank, a farm supply cooperative, and a shopping center. Although this information establishes Crozet's status as a community and the appropriations of assigning a channel to it, it does not entirely resolve the Berwick issue raised by the proposal to assign a Class B channel. A Class A assignment would not raise such a problem. Such a channel is available and for the reasons to be discussed we wish to consider its assignment.

10. As mentioned, the Commission's usual policy is to assign Class A channels to small communities like Crozet and Amherst rather than wide coverage Class B channels, unless a showing is made of special circumstances such as first aural service to a significant population. Garlock was therefore given an opportunity by the Notice to justify his proposal for a Class B assignment as an exception to our general policy. He submitted a showing of first nighttime aural service to 10,400 people and a second nighttime aural service to 9,500 persons. A Class A assignment at Crozet would not provide any first service.

11. The Amherst proposed Class B station, operating with maximum facilities, would be able to provide a first aural service to 11,660 persons in an area of 1,264 square kilometers (488 square miles) and a second aural service to 22,930 persons in an area of 1,585 square kilometers (612 square miles). A Class A station with maximum facilities would provide a first service to 3,515 persons in a 339 square kilometer (131 square mile) area and a second service to 3,791 persons in an area of 390 square kilometers (112 square mlies).

12. A comparison of the respective showings indicates that the Amherst station could provide service to virtually the entire first service area of Crozet but that the Crozet proposal would not be able to serve the Amherst first service area. With this in mind it appears that the first service argument does not support making two Class B assignments, and the data now on hand argue in favor of a Class B assignment to Amherst. As to Crozet where there does appear to be a need for a local FM outlet, we believe consideration of a Class A assignment is warranted and have determined that Class A Channels 232A and 272A are available for this purpose. In order to make a final determination, we shall allow the parties to submit any additional first aural service showings, if they so desire. Any comparisons of first aural service that could be offered by each of the two proposals should be in accordance with Roanoke Rapids, 9 F.C.C. 2d 672 (1967) and Aanmosa-Iowa City, 40 F.C.C. 2d 520 (1974). The coverage of existing FM stations should be based on actual or reasonable facilities, whichever is greater, and all vacant assignments should be considered to be operating with reasonable facilities. AM coverage should be that obtaining at night and employ the prediction method unless measurement data is available. One final point needs to be mentioned. The Crozet proponent should state its willingness to construct a Class A FM station in the event its request for a Class B channel is denied.

13. Accordingly, comments are invited on proposals to amend the FM Table of Assignments (§ 73.202(b) of the Commission's rules and regulations) for the following communities (to be considered in conjunction with and as an alternative to the original proposal to assign Channel 259 to Crozet, Va.):

City:	Channel No. Present	Proposed
Amherst, Va		300
Crozet, Va		232A or 272A

14. The Commission's authority to institute rulemaking proceedings; showings required; cut-off procedures; and filing requirements are contained and are incorporated herein.

15. Interested parties may file comments on or before October 14, 1977, and reply comments on or before November 3, 1977.

16. *It is ordered*, That the petition for reconsideration filed by Amherst Broadcasting Associates, Inc., is granted to the extent indicated and in other respects is denied.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and section 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in this notice of proposed rulemaking.

2. *Showings required.* Comments are invited on the proposal(s) discussed in this notice of proposed rulemaking. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rulemaking which conflict with the proposal(s) in this notice, they will be considered as comments in the proceeding, and public notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in this notice of proposed rulemaking. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is

directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc. 77-26043 Filed 9-7-77;8:45 am]

[47 CFR Part 87]

[Docket No. 19699; FCC 77-584]

AVIATION SERVICES

Providing for Procedures to Notify Commission of Aircraft Operating Under a Fleet License

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: This proceeding is being terminated without adopting the proposed rule amendment providing for notification procedures concerning aircraft operating under a fleet license. It was determined from the negative comments received and further investigation that such rulemaking is unnecessary and would be a burden on both the public and the Commission.

EFFECTIVE DATE: Non-applicable.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Robert H. McNamara, Safety and Special Radio Services Bureau, 202-632-7197.

SUPPLEMENTARY INFORMATION: James C. McKinney, Field Operations Bureau, 202-632-7200.

REPORT AND ORDER—Proceeding Terminated

Adopted: August 24, 1977.

Released: September 1, 1977.

In the matter of amendment to Part 87 of the rules to provide for procedures to notify the Commission of the aircraft operating under a fleet license, Docket No. 19699.

1. A notice of proposed rulemaking (FCC 73-253) in the above-captioned matter was released on March 12, 1973, and published in the FEDERAL REGISTER on March 21, 1973 (38 FR 7402). The specified time for filing comments and reply comments has expired.

2. The proposed amendment was designed to provide the Commission a means of readily determining what aircraft are under a fleet licensee's control by requiring fleet licensees to notify the Commission within ten days of a change in the composition of their aircraft fleet. Comments were received from the Aerospace and Flight Test Radio Coordinating Council (AFTRCC), the Aircraft Owners and Pilots Association (AOPA), the Central Committee on Communications Facilities of the American Petroleum Institute (API), the General Aviation Manufacturers Association (GAMA), the National Air Transportation Conferences, Inc. (NATC), the National Business Aircraft Association (NBAA), New Haven Airways, Inc., and Progressive Aviation, Ltd.

3. All of the above-mentioned commenters generally opposed the proffered rule amendment. In essence the commenters indicated that the proposed notification requirements would be burdensome and costly, and would eliminate the administrative advantage of fleet licensing for both the licensee and Commission.

4. In view of the comments received and upon further examination, the Commission is persuaded that the proposed rule amendment would impose an undue inconvenience and hardship on the public. In addition, the administrative burden on the Commission's licensing procedures would be increased, thus producing an unfavorable backlog impact. Therefore, while we have not resolved the identification problems inherent in fleet licensing, we conclude it is not in the public interest to amend the rules as proposed in the notice of proposed rulemaking in this docket.

5. In view of the foregoing: *It is ordered*, That this proceeding is terminated.

FEDERAL COMMUNICATIONS COMMISSION,[1]
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-26041 Filed 9-7-77;8:45 am]

[47 CFR Parts 89, 90, 91, 93]

[Docket No. 21349]

LAND MOBILE RADIO SERVICES

Consolidation of Regulations; Correction

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Correcting Notice of proposed rulemaking, FCC 77-521, Published in the FEDERAL REGISTER at 42 FR 39562.

DATES: Comments due by January 4, 1978, and reply comments by February 2, 1978.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Taube, Industrial and Public Safety Rules Division, Safety and Special Radio Services Bureau, 202-632-6497.

Released: September 2, 1977

In the matter of amendment of the Commission's rules governing the Private Land Mobile Radio Services to provide a New Part 90 that re-regulates and consolidates Parts 89, 91, and 93, Docket No. 21348.

The notice of proposed rulemaking in the above-entitled matter, FCC 77-521 released July 27, 1977, and published in the FEDERAL REGISTER August 4, 1977 at 42 FR 39559, in paragraph 23, is in error, and the dates for comments and reply comments should read January 4, 1978 and February 2, 1978.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-26042 Filed 9-7-77;8:45 am]

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[1] Commissioner Fogarty concurring in the result.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 77-CE-18-AD]

BEECH 55, 56, 58, AND 95 SERIES AIRPLANES

Proposed Airworthiness Directive

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making.

SUMMARY: This notice proposes to add an Airworthiness Directive (AD) that would require repetitive inspection of aileron, rudder, and elevator trim tab control systems for excessive free play and repair as necessary to preclude inflight vibration that could affect aircraft control.

DATES: Comments must be received on or before November 11, 1977.

ADDRESS: Send comments on the proposal to: FAA Central Region, Office of the Regional Counsel, ACE-7, Attention: Rules Docket Clerk, Docket No. 77-CE-18-AD, 601 East 12th Street, Kansas City, Mo. 64106.

Beechcraft Service Instructions No. 0846-152, Revision I, applicable to this proposal may be obtained from Beech Aircraft Corp., Commercial Service Department, 9709 East Central, Wichita, Kans. 67201. A copy of the service instructions cited above is contained in the Rules Docket, Room 916, 800 Independence Avenue SW., Washington, D.C., and Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Mo. 64106.

FOR FURTHER INFORMATION CONTACT:

William L. Schroeder, Aerospace Engineer, Engineering and Manufacturing Branch, FAA, Central Region, 601 East 12th Street, Kansas City, Mo. 64106; telephone 816-374-3446.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons are invited to participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should identify the AD Docket Number, and be submitted in duplicate to the address specified above. All comments received on or before the closing date for comments will be considered by the Administrator before action is taken on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. All comments received will be available before and after the closing date for comments in Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, D.C. 20591, or by calling 202-426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

THE PROPOSAL

The FAA has received one report on a Model 56 TC and two reports on Model 58 Airplanes showing the occurrence of incidents involving inflight vibration of elevator controls. Investigation following the incidents revealed that the vibration was caused by excessive free play of elevator trim tabs. The excessive free play is caused by wear of various components in trim tab control systems. If the wear is not detected and corrected, it could lead to a tab developing excessive free play or becoming completely disconnected from its control system thereby endangering the airplane and its occupants. The manufacturer has determined acceptable free play limits for aileron, rudder, and elevator trim tabs and these limits, along with procedures for measuring free play and elimination of excessive free play, are included in Beechcraft Service Instructions No. 0846-152, Revision I which will be issued on or about August 1, 1977. Results of FAA inspection of approximately 61 Beech 55, 56, 58, and 95 series airplanes show that aileron, elevator, and rudder trim tabs on in service airplanes have excessive free play that must be corrected. The FAA has concluded that trim tab excessive free play on in service airplanes is an unsafe condition that is likely to exist or develop in other airplanes of the same type design. Accordingly, an AD is being proposed that would require repetitive inspection of aileron, rudder, and elevator trim tabs for excessive free play, and if necessary correction of any excessive free play detected, on certain Beech 55, 56, 58, and 95 series airplanes in accordance with Beechcraft Service Instructions No. 0846-152, Revision I. In addition, the proposed AD would allow continued operation of airplanes having a limited amount of excessive free play in one or more trim tab systems at reduced never exceed speed (Vne) for 25 hours time in service to allow owners/operators time to obtain new parts that may be required to eliminate excessive free play in these systems. Accomplishment of the inspections and repair or replacement proposed herein will correct existing and prevent development of unsafe conditions, caused by excessive free play in aileron, rudder, and elevator trim tab systems.

DRAFTING INFORMATION

The principal authors of this document are: William L. Schroeder, Flight Standards Division, Central Region, are John L. Fitzgerald, Jr., Office of the Regional Counsel, Central Region.

THE PROPOSED AMENDMENT

Accordingly, the FAA proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new airworthiness directive:

BEECH.—Applies to the following models and serial number airplanes certified in all categories:

Model	*Serial Numbers*
95-55, 95-A55, 95-B55, and 95-B55A	TC-1 through TC-349 and TC-351 and on.
95-C55, 95-C55A, D55, D55A, E55, and E55A	TC-350 and TE-1 and on.
56TC and A56TC	TG-2 through TG-94.
58 and 58A	TH-1 and on.
58P and 58PA	TJ-2 and on.
58TC and 58TCA	TK-1 and on.
95, B95, B95A, D95A, and E95	TD-2 through TD-721.

COMPLIANCE: Required as indicated unless already accomplished.

To detect and if necessary correct excessive free play that may exist or develop in aileron, rudder, and elevator trim tab control systems, within 100 hours time in service after the effective date of this AD for those aircraft with 300 or more hours total time in service or upon accumulation of 400 hours time in service for those aircraft with less than 300 hours time in service and thereafter each 300 hours time in service or once each 12 months, whichever occurs first, accomplish the following in accordance with Beechcraft Service Instructions No. 0846-152, Revision I or later approved revisions:

(A) Using a dial indicator measure the free play, at locations designated in the above noted service instructions, of aileron (if installed), rudder, and elevator trim tabs. If measured free play does not exceed maximum limits of 0.165 inches for aileron tabs, 0.105 inches for rudder tabs (except 0.044 inches for rudder tabs on Models 95, B95, B95A, D95A and E95), and 0.084 inches for elevator tabs no further action is required until the next repetitive inspection in accordance with this AD.

(B) Visually inspect linkage systems of trim tabs that exceed free play limits shown in Paragraph (A) of this AD, determine the cause of the excessive free play and accomplish Paragraph (C) of this AD prior to the next flight, except as provided in Paragraph (D).

(C) Repair or replace worn components in the trim tab linkage systems as necessary to reduce tab free play measurements down to or below maximum limits shown in Paragraph (A) of this AD.

(D) Airplanes having one or more trim tabs with excessive free play that does not exceed 0.248 inches for aileron tabs, 0.158 inches for rudder tabs (except 0.066 inches for rudder tabs on Models 95, B95, B95A, D95A, and E95), and 0.126 inches for elevator tabs may be operated for 25 hours time-in-service after the determination in accordance with Paragraph (A) of this AD that excessive free play exists provided the following conditions are complied with:

(1) Fabricate, for each airspeed indicator installed on the instrument panel, a temporary placard having 3/16 inch or larger letters restricting never exceed speed (Vne) to 20 knots, or if applicable 23 MPH, less than the Vne published for the airplane in question. The placards will read as follows:

(a) For airplanes having airspeed indicators marked in knots—

"Vne RESTRICTED TO * KNOTS".

*Enter published Vne—20 knots.

(b) For airplanes having airspeed indicators marked in miles per hour—

"Vne RESTRICTED TO ** MPH".

**Enter published Vne—23 MPH.

(2) Install a placard fabricated in accordance with Paragraph (D)(1) (a) or (b) of this AD adjacent to each airspeed indicator on the instrument panel and operate the airplane in accordance with said placard. Upon compliance with Paragraph (C) of this AD (not to exceed 25 hours time-in-service) the restriction on Vne no longer applies and the placards are to be removed.

(E) Compliance time intervals for the 300 hour or annual repetitive inspections required by this AD may be extended up to 330 hours or 400 days to allow compliance at previously scheduled maintenance periods.

(F) Any equivalent method of compliance with this AD must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.85.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821 as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Kansas City, Mo., on August 26, 1977.

JOHN E. SHAW,
Acting Director, Central Region.

[FR Doc.77-26066 Filed 9-7-77;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 77-WE-23]

TRANSITION AREA

Proposed Designation; Ukiah, Calif.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to designate a 700 foot transition area at Ukiah, Calif., to provide protection for aircraft executing a new instrument approach procedure (RNAV-B) to the Ukiah Municipal Airport.

DATES: Comments must be received on or before October 12, 1977.

ADDRESSES: Send comments on the proposal to: Federal Aviation Administration, Chief, Airspace and Procedures Branch, AWE-530, 15000 Aviation Boulevard, Lawndale, Calif. 90261.

FOR FURTHER INFORMATION CONTACT:

Thomas W. Binczak, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, Calif. 90261. Telephone: 213-536-6182.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should identify the Airspace Docket Number and be submitted in triplicate to the Chief, Airspace and Procedures Branch, Federal Aviation Administration, 1500 Aviation Boulevard, Lawndale, Calif. 90261. All communications received on or before October 12, 1977, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments received will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons.

AVAILIABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Chief, Airspace and Procedures Branch, 1500 Aviation Boulevard, Lawndale, Calif. 90261, or by calling 213-536-6180. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

THE PROPOSAL

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate the Ukiah, Calif., 700 foot transition area. This action will provide additional controlled airspace to accommodate aircraft executing the RNAV-B approach procedure to the Ukiah Municipal Airport.

DRAFTING INFORMATION

The principal authors of this document are Thomas W. Binczak, Air Traffic Division, and De Wittee T. Lawson, Jr., Esquire, Regional Counsel.

Accordingly, the Federal Aviation Administration proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by adding the following:

UKIAH, CALIF.

That airspace extending upward from 700 feet above the surface within a five mile radius of the Ukiah Municipal Airport (latitude 39°07'36" N., longitude 123°12'00" W.).

(Sec. 307(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)). Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE: The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Los Angeles, Calif., on August 29, 1977.

HERMAN C. BLISS,
Acting Deputy Director,
Western Region.

[FR Doc.77-25905 Filed 9-7-77;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 77-SW-35]

TRANSITION AREA

Proposed Designation; Tallulah, La.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to designate a transition area at Tallulah, La., to provide controlled airspace for aircraft executing a proposed instrument approach procedure to the Scott Airport, using the newly established NDB located on the airport.[1]

DATES: Comments must be received on or before October 11, 1977.

ADDRESSES: Send comments on the proposal to: Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101.

The official docket may be examined at the following location: Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Rd. Fort Worth, Tex. 76106.

An informal docket may be examined at the Office of the Chief, Airspace and Procedures Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

John A. Jarrell, Airspace and Procedures Branch (ASW-535), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101; telephone: 817-624-4911, extension 302.

SUPPLEMENTARY INFORMATION: Subpart G 17.181 (42 FR 440) of FAR Part 71 contains the description of transition areas designated to provide controlled airspace for the benefit of aircraft conducting IFR activity. Designation of the transition area at Tallulah, La., will necessitate an amendment to this subpart.

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

COMMENTS INVITED

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101. All communications received on or before October 11, 1977, 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 Chief, Airspace and Procedures Branch. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rule making (NPRM) by submitting a request to the Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101, or by calling 817-624-4911, extension 302. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should contact the office listed above.

THE PROPOSAL

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate a transition area at Tallulah, La. The FAA believes this action will enhance IFR operations at Scott Airport by providing controlled airspace for aircraft executing a proposed instrument approach procedure using the newly established NDB on the airport. Subpart G of Part 71 was republished in the FEDERAL REGISTER on January 3, 1977 (42 FR 440).

DRAFTING INFORMATION

The principal authors of this document are John A. Jarrell, Airspace and Procedures Branch, and Robert C. Nelson, Office of the Regional Counsel.

THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (42 FR 440) by adding the Tallulah, La., transition area as follows:

TALLULAH, LA.

That airspace extending upward from 700 feet above the surface within a 5.5-mile

radius of the Scott Airport (Latitude 32°25' 00" N., Longitude 91°09'00" W.), and within 3 miles either side of the Tallulah NDB 005° bearing from the Tallulah NDB (Latitude 32°24'44" N., Longitude 91°09'00" W.) extending from the 5.5-mile radius area to 8.5 miles northeast of the NDB.

(Sec. 307(a), Federal Aviation Act of 1958 (40 U.S.C. 1348(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Fort Worth, Tex., on August 26, 1977.

PAUL J. BAKER,
Acting Director,
Southwest Region.

[FR Doc.77-25906 Filed 9-7-77;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 77-SW-37]

TRANSITION AREA

Proposed Alteration; Buffalo, Okla.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the Buffalo, Okla., transition area to provide controlled airspace for aircraft executing the new NDB-A instrument approach procedure to the Buffalo Municipal Airport.[1]

DATES: Comments must be received on or before October 11, 1977.

ADDRESSES: Send comments on the proposal to: Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101.

The official docket may be examined at the following location: Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101.

An informal docket may be examined at the Office of the Chief, Airspace and Procedures Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

John A. Jarrell, Airspace and Procedures Branch (ASW-535), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101; telephone: 817-624-4911, extension 302.

SUPPLEMENTARY INFORMATION: In Subpart G 71.181 (42 FR 440) of FAR Part 71, the description of the Buffalo, Okla., transition area reflects the controlled airspace provided for the present instrument approach procedure to the Buffalo Municipal Airport. The new NDB-A instrument approach procedure will require alteration of the transition area to provide the necessary controlled airspace for this procedure.

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

COMMENTS INVITED

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101. All communications received on or before October 11, 1977, 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 Chief, Airspace and Procedures Branch. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101, or by calling 817-624-4911, extension 302. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should contact the office listed above.

THE PROPOSAL

The FAA is considering an amendment to subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the Buffalo, Okla., transition area. The FAA believes this action will enhance IFR operations at the Buffalo Municipal Airport by providing controlled airspace for aircraft executing the new NDB-A instrument approach procedure established for the airport. Subpart G of Part 71 was republished in the FEDERAL REGISTER on January 3, 1977 (42 FR 440).

DRAFTING INFORMATION

The principal authors of this document are John A. Jarrell, Airspace and Procedures Branch, and Robert C. Nelson, Office of the Regional Counsel.

THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (42 FR 440) by altering the Buffalo, Okla., transition area as follows:

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Buffalo Municipal Airport, Buffalo, Okla., (latitude 36°51'45" N, longitude 99°37'00" W) within 3.5 miles each side of the 290° bearing from the Buffalo NDB (latitude 36°51'48" N, longitude 99°37'05" W.) extending from the six-mile radius to 11.5 miles east of the NDB.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Fort Worth, Tex., on August 26, 1977.

PAUL J. BAKER,
Acting Director,
Southwest Region.

[FR Doc.77-25907 Filed 9-7-77;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 77-SW-39]

TRANSITION AREA

Proposed Alteration; New Mexico

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice to alter the New Mexico transition area to provide additional controlled airspace for the radar vectoring of aircraft north of Holloman AFB in the interest of aviation safety and to allow greater flexibility in the control of aircraft within the Holloman Radar Approach Control (RAPCON) area of responsibility.[1]

DATES: Comments must be received on or before October 11, 1977.

ADDRESSES: Send comments on the proposal to: Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101.

The official docket may be examined at the following location: Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101.

An informal docket may be examined at the Office of the Chief, Airspace and Procedures Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

John A. Jarrell, Airspace and Procedures Branch (ASW-535), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101; telephone: 817-624-4911, extension 302.

SUPPLEMENTARY INFORMATION: In Subpart G 71.181 (42 FR 440) of FAR Part 71, the description of the New Mexico transition area reflects the controlled airspace now provided in the State of New Mexico upward from 1,200 feet above the surface, excluding certain areas and some airspace below 11,500 feet MSL. It is that excluded airspace below 11,500

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

feet MSL that needs to be changed to provide the necessary additional controlled airspace for radar vectoring purposes.

COMMENTS INVITED

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101. All communications received on or before October 11, 1977, 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 Chief, Airspace and Procedures Branch. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101, or by calling 817-624-4911, extension 302. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should contact the office listed above.

THE PROPOSAL

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the New Mexico transition area. The FAA believes this action will enhance safety and allow greater flexibility in the control of aircraft within the Holloman RAPCON area of responsibility by providing additional controlled airspace for radar vectoring purposes. Subpart G of Part 71 was republished in the FEDERAL REGISTER on January 3, 1977 (42 FR 440).

DRAFTING INFORMATION

The principal authors of this document are John A. Jarrell, Airspace and Procedures Branch, and Robert C. Nelson, Office of the Regional Counsel.

THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (42 FR 440) by altering the New Mexico transition area as follows:

Delete the last portion, that reads: "and excluding that airspace below 11,500 feet MSL bounded by a line beginning at latitude 33°57'00" N., longitude 105°27'00" W., thence to latitude 33°12'50" N., longitude 105°27'00" W., to latitude 33°10'20" N., longitude 105°38'00" W., thence counterclockwise along the arc of a 35-mile radius circle centered at latitude 32°51'04" N., longitude 106°06'05" W. to and along longitude 106°04'00" W. to and along the south boundary of V-264 to longitude 105°50'30" W., thence to point of beginning."

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Fort Worth, Tex., on August 9, 1977.

PAUL J. BAKER,
Acting Director,
Southwest Region.

[FR Doc.77-25908 Filed 9-7-77;8:45 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 77-EA-47]

PROPOSED ALTERATION OF VOR AIRWAYS

Corrections

In FR Doc. 77-25444 appearing at page 43991 in the issue for Thursday, September 1, 1977, the following corrections should be made.

1. Page 43991, third column, the zipcode in the further information paragraph should be changed to 20591.

2. Page 43992, first column, the third line from the bottom, now reading "In V-723, "From INT Sparta, N.J., 133°", should read, "In V-273, "From INT Sparta, N.J., 133°".

[14 CFR Parts 71 and 73]

[Airspace Docket No. 77-EA-60]

PROPOSED TEMPORARY RESTRICTED AREAS

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making.

SUMMARY: This notice proposes to designate temporary restricted areas identified as R-5201A, R-5201B, R-5201C, and R-5201D in the vicinity of Fort Drum, N.Y., to contain military joint readiness exercise called "EMPIRE GLACIER 78." These proposed actions will provide for the safe and efficient use of the navigable airspace by prohibiting unauthorized flight operations of nonparticipating aircraft within the area during the proposed designation period.[1]

DATES: Comments must be received on or before September 29, 1977.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Eastern Region, Attention: Chief, Air Traffic Division, Docket No. 77-EA-60, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430.

The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket, (AGC-24), Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Huff, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone: 202-426-3715.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430. All communications received on or before September 29, 1977, will be considered before action is taken on the proposed amendment. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rule making (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, D.C. 20591, or by calling 202-426-8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

THE PROPOSAL

The FAA is considering amendments to Subpart D of Part 71 and Subpart B of Part 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) to designate temporary restricted areas identified as R-5201A, R-5201B, R-5201C, and R-5201D in the vicinity of Fort Drum, N.Y., to contain military joint readiness exercise called "Empire Glacier 78." These restricted areas would also be included in the contiental control area for the duration of its time of designation. This training exercise, "Empire Glacer

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

78" will involve close air support, interdiction, reconnaissance, electronic warfare, air combat tactics, tactical airlift, airborne drops, air-to-air refueling, search and rescue, and airborne command center operations. Total air traffic associated with this exercise is expected to exceed 100 sorties per day. Restricted Area is specified airspace within which the flight of aircraft, while not wholly prohibited, is subject to restriction. Most restricted areas are designated joint use and IFR/VFR operations in the areas may be authorized by the controlling ATC facility when it is not being utilized by the using agency. The controlling agency for R-5201A/B/C and D would be the FAA Boston ARTCC and the using agency would be 9th Air Force/DOX, Shaw AFB, Sumter, S.C.

DRAFTING INFORMATION

The principal authors of this document are Mr. Richard Huff, Air Traffic Service, and Mr. Jack P. Zimmerman, Office of the Chief Counsel.

THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Parts 71 and 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) as republished (42 FR 345 and 689) and amended (42 FR 29475) as follows:

In § 71.151 the following temporary restricted areas would be added for the duration of their times of designation from 0001 January 24, 1978, through 2400 hours, local time, February 1, 1978: R-5201A Fort Drum, N.Y.; R-5201B Fort Drum, N.Y.; R-5201C Fort Drum, N.Y.; R-5201D Fort Drum, N.Y.

In § 73.52 the following temporary restricted areas would be added:

R-5201A Fort Drum, N.Y.

Boundaries. Beginning at Lat. 44°10'00" N., Long. 75°39'00" W.; to Lat. 44°28'00" N., Long. 75°21'00" W.; to Lat. 44°28'00" N., Long. 75°13'00" W.; to Lat. 44°26'00" N., Long. 75°09'00" W.; to Lat. 44°20'00" N., Long. 75°15'00" W.; to Lat. 44°11'00" N., Long. 75°17'00" W.; to Lat. 44°03'00" N., Long. 75°33'30" W.; to Lat. 44°11'15" N., Long. 75°25'00" W.; to Lat. 44°15'15" N., Long. 75°31'00" W.; to point of beginning.

Designated altitudes. Surface up to but not including Flight Level 180.

Time of designation. Continuous 0001 January 24, 1978, through 2400 hours, local time, February 1, 1978.

Controlling agency. Federal Aviation Administration, Boston ARTCC.

Using agency. 9th Air Force/DOX, Shaw AFB, Sumter, S.C.

R-5201B Fort Drum, N.Y.

Boundaries. Beginning at Lat. 44°03'00" N., Long. 75°33'30" W.; to Lat. 43°51'15" N., Long. 75°33'30" W.; to Lat. 43°51'15" N., Long. 75°47'07" W.; to Lat. 44°05'47" N., Long. 75°44'30" W.; to Lat. 44°03'25" N., Long. 75°39'30" W.; to Lat. 44°00'45" N., Long. 75°37'25" W.; to point of beginning.

Designated altitudes. 6,000 feet MSL up to but not including Flight Level 180.

Time of designation. Continuous 0001 January 24, 1978, through 2400 hours, local time, February 1, 1978.

Controlling agency. Federal Aviation Administration, Boston ARTCC.

Using Agency. 9th Air Force/DOX, Shaw AFB, Sumter, S.C.

R-5201C Fort Drum, N.Y.

Boundaries. Beginning at Lat. 44°33'00" N., Long. 75°21'00" W.; to Lat. 44°36'00" N., Long. 74°40'00" W.; to Lat. 43°53'30" N., Long. 74°41'00" W.; to Lat. 43°45'00" N., Long. 74°46'50" W.; to Lat. 43°45'00" N., Long. 75°48'00" W.; to Lat. 43°51'15" N., Long. 75°47'07" W.; to Lat. 43°51'15" N., Long. 75°33'30" W.; to Lat. 44°03'00" N., Long. 75°33'30" W.; to Lat. 44°11'00" N., Long. 75°17'00" W.; to Lat. 44°20'00" N., Long. 75°15'00" W.; to Lat. 44°26'00" N., Long. 75°09'00" W.; to Lat. 44°28'00" N., Long. 75°13'00" W.; to Lat. 44°28'00" N., Long. 75°21'00" W.; to Lat. 44°10'00" N., Long. 75°39'30" W.; to Lat. 44°05'47" N., Long. 75°44'30" W.; to point of beginning.

Designated altitudes. 3,000 feet MSL up to but not including Flight Level 180.

Time of designation. Continuous 0001 January 24, 1978, through 2400 hours, local time, February 1, 1978.

Controlling agency. Federal Aviation Administration, Boston ARTCC.

Using agency. 9th Air Force/DOX, Shaw AFB, Sumter, S.C.

R-5201D Fort Drum, N.Y.

Boundaries. Beginning at Lat. 44°36'00" N., Long. 74°40'00" W.; to Lat. 44°36'00" N., Long. 74°34'00" W.; to Lat. 44°21'30" N., Long. 74°30'00" W.; to Lat. 44°08'00" N., Long. 74°30'00" W.; to Lat. 43°53'30" N., Long. 74°41'00" W.; to point of beginning.

Designated altitudes. 6,000 feet MSL up to but not including Flight Level 180.

Time of designation. Continuous, 0001 January 24, 1978, through 2400 hours, local time, February 1, 1978.

Controlling agency. Federal Aviation Administration, Boston ARTCC.

Using agency. 9th Air Force/DOX, Shaw AFB, Sumter, S.C.

(Secs. 307(a), 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.65.)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on September 2, 1977.

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

[FR Doc.77-26064 Filed 9-7-77;8:45 am]

[14 CFR Part 75]

[Airspace Docket No. 77-WE-2]

PROPOSED ESTABLISHMENT OF A WAYPOINT AND ALTERATION OF RNAV ROUTES

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish waypoint AROSE at Lat. 30°00'00" N., Long. 125°00'00" W.; realign J938R in part from waypoint PALIS to waypoint AROSE, and also realign J964R in part from waypoint MERLE to waypoint AROSE. These proposed RNAV route realignments will more accurately define these routes and waypoints for trans-Pacific flights to use in conjunction with the existing Pacific composite routes.[1]

DATES: Comments must be received on or before October 12, 1977.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Western Region, Attention: Chief, Air Traffic Division, Docket No. 77-WE-2, Federal Aviation Administration, 15000 Aviation Boulevard, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009.

The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket, (AGC-24), Room 916, 800 Independence Ave., SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.
[77-WE-2]

FOR FURTHER INFORMATION CONTACT:

Mr. David F. Solomon, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Ave. SW., Washington, D.C. 20591; telephone: 202-426-8530.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Western Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 15000 Aviation Boulevard, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009. All communications received on or before October 12, 1977, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Ave. SW., Washington, D.C. 20591, or by calling 202-426-8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

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

THE PROPOSAL

The FAA is considering an amendment to Subpart D of Part 75 of the Federal Aviation Regulations (14 CFR Part 75) to establish waypoint AROSE at Lat. 37°00'00" N., Long. 125°00'00" W.; realign J938R in part from waypoint PALIS to waypoint AROSE and also realign J964R in part from waypoint MERLE to waypoint AROSE. These actions will establish area navigation waypoint and route definition for trans-Pacific flights to use in conjunction with Pacific Composite Route R-64. A pending amendment to Part 75 of the Federal Aviation Regulations (42 FR 39379) effective October 6, 1977, will change the names of waypoints "LEAFS" to "ALCOA" and "FRUIT" to "CLUKK". Accordingly, the actions proposed herein are predicated on these waypoint name changes.

ICOA CONSIDERATIONS

As part of this proposal relates to the navigable airspace outside the United States, this notice is submitted in consonance with the International Civil Aviation Organization (ICAO) International Standards and Recommended Practices.

Applicability of International Standards and Recommended Practices by the Air Traffic Service, FAA, in areas outside domestic airspace of the United States is governed by Article 12 of and Annex 11 to the Convention on International Civil Aviation, pertains to the establishment of air navigation facilities and services necessary to promoting the safe, orderly, and expeditious flow of civil air traffic. Their purpose is to insure that civil flying on international air routes is carried out under uniform conditions designed to improve the safety and efficiency of air operations.

The International Standards and Recommended Practices in Annex 11 apply in those parts of the airspace under the jurisdiction of a contracting State, derived from ICAO, wherein air traffic services are provided and also whenever a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting State accepting such responsibility may apply the International Standards and Recommended Practices to civil aircraft in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the Convention on International Civil Aviation, Chicago, 1944, State aircraft are exempt from the provisions of Annex 11 and its Standards and Recommended Practices. As a contracting State, the United States agreed by Article 3(d) that its State aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since these actions involve, in part, the designation of navigable airspace outside the United States, the Administrator has consulted with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

DRAFTING INFORMATION

The principal authors of this document are Mr. David F. Solomon, Air Traffic Service, and Mr. Jack P. Zimmerman, Office of the Chief Counsel.

THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 75.-400 of Part 75 of the Federal Aviation Regulations (14 CFR Part 75) as republished (42 FR 722) and amended (42 FR 39379 and 55864) as follows:

J938R Title "ALCOA" would be deleted and "AROSE" substituted therefor. Text "ALCOA 37°50'00" N. 125°50'00" W. Ukiah, Calif." would be deleted and "AROSE 37°00'00" N. 125°00'00" W. Oakland Calif." substituted therefor.

J964R Title "CLUKK" would be deleted and "AROSE" substituted therefor. Text "CLUKK 36°06'00" N. 124°50'00" W. Oakland, Calif." would be deleted and "AROSE 37°00'00" N. 125°00'00" W. Oakland, Calif." substituted therefor.

(Secs. 307(a), 313(a), 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a), 1510); Executive Order 10854 (24 FR 9565); Sec. 6 (c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.65.)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on September 2, 1977.

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

[FR Doc.77-26063 Filed 9-7-77;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 AGRICULTURE

Forest Service

DESCHUTES NATIONAL FOREST ADVISORY COMMITTEE

Meeting

The Deschutes National Forest Advisory Committee will meet at the Cinders, 197 NE 3d, Bend, Oreg. 97701, at 8 p.m. on Thursday, September 29, 1977.

The subject of the meeting will be a discussion of the key issues on the Draft Environmental Statement relating to the proposed Forest Land Management Plan.

The meeting will be open to the public. Persons who wish to attend should notify the Forest Supervisor or Kay Coyner at 211 NE Revere, Bend, Oreg. 97701, telephone 503-382-6922. Written statements may be filed with the Committee before or after the meeting.

Dated: August 30, 1977.

EARL E. NICHOLS,
Forest Supervisor.

[FR Doc.77-26132 Filed 9-7-77;8:45 am]

CIVIL AERONAUTICS BOARD

[Order No. 77-9-5; Docket No. 31331]

ASSOCIATED AIR FREIGHT, INC.

Order of Suspension and Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 1st day of September 1977.

By tariff revisions[1] issued August 3 and marked to become effective September 5, 1977, Associated Air Freight, Inc. (Associated), an air freight forwarder, proposes to refuse acceptance for transportation of certain types of shipments.[2] Associated justifies its proposal on the grounds that the classes of shipments it proposes not to accept are the same as those not accepted in effective tariffs of other carriers; that the direct carriers to whom it must tender consolidated shipments publish similar restrictions; and that, in order to facilitate the transportation transaction between the forwarder, the shipper, and the airline, it is necessary to provide for the acceptability of shipments.

The Board finds that Associated's proposal may be unlawful, and should be investigated. The Board further concludes that it should be suspended pending investigation.

Nonacceptance of the listed shipments would constitute a significant reduction in the forwarder's common-carrier responsibility to provide transportation service, without adequate justification. Contrary to Associated's justification, each of the types of shipments is acceptable for transportation by direct carriers.

Our action in suspending these proposals of both direct and indirect carriers which refuse to accept certain shipments for transportation absent justifiable reasons for such action.[3]

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 403, 404, and 1002 thereof,

It is ordered, That:

1. An investigation be instituted to determine whether the provisions in Rule No. 25 A, B, C, D, and F, on 3d Revised Page 5 of CAB No. 16 issued by Associated Air Freight, Inc., and rules, regulations, or practices affecting such 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 provisions and rules, regulations, or practices affecting such provisions;

2. Pending hearing and decision by the Board, Rule No. 25 A, B, C, D, and F, on 3d Revised Page 5 of CAB No. 16 issued by Associated Air Freight, Inc., is suspended and its use deferred to and including December 3, 1977, unless otherwise ordered by the Board, and that no changes be made during the period of suspension, except by order or special permission of the Board;

3. The proceeding here designated Docket 31331, be assigned for hearing before an administrative law judge of the Board at a time and place hereafter to be designated; and

4. Copies of this order shall be filed with the tariff and served upon Associated Air Freight, Inc., which is hereby made a party to Docket 31331.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-26183 Filed 9-7-77;8:45 am]

[1] Revisions to Rule No. 25, Tariff CAB No. 16, issued by Associated Air Freight, Inc.

[2] Corpses, Cremated or Disinterred Remains. Live Animals except: (a) Mice, Rats, Hamsters, Guinea Pigs, and Rabbits, and (b) Cats, Dogs, and Monkeys destined to or originating at medical laboratories within the U.S.; Birds, Fish, Reptiles, or Insects; Gold or other Precious Articles; Furniture or Household Goods, used, not for resale, uncrated, or unwrapped; Shipments requiring special care or attention between origin and destination.

[3] See, inter alia, Board Orders 76-3-88, 76-2-112, 76-2-72, 75-11-118, 74-12-86, 74-4-156, 72-11-112, 72-11-10, 72-8-55, and 70-1-34.

[Order No. 77-9-4; Docket Nos. 30182 and 30788]

IOWA/ILLINOIS-ATLANTA ROUTE PROCEEDING; APPLICATION OF NORTHWEST AIRLINES, INC.

Order on Petition for Reconsideration and Motion to Consolidate

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 1st day of September 1977.

By Order 77-4-6, adopted April 1, 1977, served April 5, 1977, the Board instituted the Iowa/Illinois-Atlanta Route Proceeding to consider whether the public convenience and necessity require the certification of an air carrier or air carriers to engage in air transportation between Atlanta, Ga., on the one hand, and Des Moines, Iowa, Quad Cities (Iowa-Illinois,[1] and/or Peoria, Ill., on the other hand, and if so, to determine which air carrier(s) should be authorized to provide such service and under what conditions.

The only relevant application then pending before the Board was that of Ozark Air Lines. Ozark seeks nonstop authority for a new segment consisting of the terminal point Des Moines, Iowa, intermediate points Quad Cities (Iowa-Illinois), and Peoria, Ill., and the terminal point Atlanta, Ga. Ozark contemplates one daily nonstop DC-9 round trip between Atlanta and each of the other above-named locations. Order 77-4-6 provided that petitions for reconsideration and motions to consolidate had to be filed within 20 days from the April 5 service date, and that answers had to be filed within 10 days after that.

On April 25, Northwest Airlines petitioned for reconsideration of the instituting order and on the same day filed an application for a certificate (Docket 30788) to engage in air transportation between the terminal point Atlanta, Ga., and the co-terminal points Des Moines, Iowa, Quad Cities (Iowa-Illinois), Peoria, Ill., Minneapolis/St. Paul, Minn., Rochester, Minn., and Madison, Wisc.; all flights on the proposed segment would be subject to a restriction that they serve the Atlanta terminal point and one or the other of Des Moines, Quad Cities, and Peoria. Northwest's route and application in Docket 30788 goes far beyond the route application in issue in Docket 30182. Northwest filed a concurrent motion to consolidate its application (Docket 30788) with Docket 30182, alleging that the law compels consolidation under the principles set forth in *Ashbacker Radio Corporation* v. *FCC*, 326 U.S. 327 (1945).

[1] Moline, East Moline, and Rock Island, Ill., and Davenport, Iowa.

Northwest's petition for reconsideration and motion for consolidation is supported by timely answer of the Peoria Parties.[2] Timely answers in opposition were filed by the Bureau of Operating Rights, and by the Cedar Rapids Parties.[3]

By its May 10 motion to file an answer as a late-filed document, Ozark opposed Northwest's effort at expanding the proceeding. The Iowa Department of Transportation (Iowa) filed a similar motion and answer in opposition, received May 27.[4] Subsequently, the Peoria Parties, on June 13, and the Illinois Department of Transportation (Illinois), on June 15, filed motions for leave to file replies to the late-filed answer of the Iowa Department of Transportation.[5]

The Board has decided not to expand the scope of the case. Northwest's petition for reconsideration will, therefore, be denied.[6]

First, expansion of the case to include Minneapolis/St. Paul, Madison, and Rochester is not required as a matter of law. In its motion to consolidate Northwest asserts that the *Ashbacker* doctrine[7] requires simultaneous consideration of its expanded application and Ozark's Atlanta-Des Moines/Quad Cities/Peoria application. Northwest is wrong. It has long been the Board's position, sustained by the courts, that *Ashbacker* does not require the structuring of proceedings in such a way as to make beyond-segment opportunities equal for all applicants.[8] In accordance with our usual practice, however, Northwest will be permitted to introduce evidence on the issue of mutual exclusivity. In addition, parties are free to present evidence showing the need for the imposition of service restrictions on any authority that may be awarded in this case.

Second, the Board has determined as a matter of discretion not to include the additional points sought by Northwest. As currently framed, the proceeding contemplates consideration of first single-plane, single-carrier service in three Atlanta markets. Expansion of the case to include consideration of Minneapolis/St. Paul, Minn., Rochester, Minn., and Madison, Wis., would inject more controversial questions of competitive service in relatively small, well-served markets.[9] These additional markets would likely draw additional applicants, substantially delay the proceeding, and divert the focus of the case from its original purpose: to examine the needs of Des Moines, Peoria, and the Quad Cities for direct air service to Atlanta.[10]

Finally, the Chambers of Commerce of Champaign and Urbana, Ill., filed a petition for leave to intervene which also seeks to expand the case to include direct service between Champaign/Urbana, on the one hand, and Dallas/Fort Worth or Houston, Tex., the Twin Cities, Detroit, and Atlanta, on the other hand. Petitions for intervention are not the proper vehicle for filing requests for modfication of the scope of proceedings. Such requests should have been set forth in a timely filed petition for reconsideration. Since the request to enlarge the case is both improperly filed and over two months late, we will deny it.[11]

Accordingly, *it is ordered*, That:

1. The petition of Northwest Airlines for reconsideration of Order 77-4-6 be denied.

2. The application of Northwest Airlines in Docket 30788, to the extent that it requests amendment of its certificate so as to authorize it to engage in single-plane service between Atlanta, Ga., on the one hand, and Des Moines, Iowa, Quad Cities (Iowa-Illinois), and/or Peoria, Ill., on the other hand, is consolidated for hearing and decision with the *Iowa/Illinois-Atlanta Route Proceeding*, Docket 30182.

3. The motion of Northwest Airlines to consolidate with Docket 30182 its application in Docket 30788 be denied except to the extent stated in ordering paragraph 2 above.

4. The application of Northwest Airlines in Docket 30788, except to the extent that it is consolidated above into Docket 30182, be dismissed without prejudice.

5. Ozark's Motion To File Answer As Late Filed Document and the Iowa Department of Transportation Motion To File Answer As Late Filed Document are granted; the Motion For Leave To File Reply of the Peoria Parties and the Motion For Leave To File Reply of the Illinois Department of Transportation are denied, and the Champaign/Urbana Chambers of Commerce prayers to enlarge the scope of the proceeding and to petition for a general investigation are denied.

6. Except to the extent granted, all requests in the petitions, motions, and answers discussed in this order are denied.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-26185 Filed 9-7-77;8:45 am]

[Docket No. 29058]

NORFOLK-ATLANTA SUBPART M PROCEEDING

Postponement of Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that the hearing in this proceeding, now scheduled to be held on September 13, 1977 (42 FR 38928, August 1, 1977), is hereby postponed to October 4, 1977, at 9:30 a.m. (local time), in Room 1003, Hearing Room B, Universal North Building, 1875 Connecticut Avenue NW., Washington, D.C., before Administrative Law Judge Ronnie A. Yoder.

Dated at Washington, D.C., August 30, 1977.

RONNIE A. YODER,
Administrative Law Judge.

[FR Doc.77-26187 Filed 9-7-77;8:45 am]

[Order No. 77-9-1; Docket No. 30885]

NORTHWEST AIRLINES, INC.

Order to Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 1st day of September, 1977.

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[2] The Greater Peoria Airport Authority, the Peoria Area Chamber of Commerce, and the City of Peoria, Ill.

[3] Cedar Rapids Airport Commission and Cedar Rapids-Marion Area Chamber of Commerce.

[4] We will grant Ozark's and the Iowa Transportation Department's motions for leave to answer out of time. Each motion contains good cause shown, and each is unopposed, although Iowa's answer opposing Northwest's pleadings is, in turn, opposed on the merits by the Peoria Parties and by Illinois.

[5] The motions for leave to file replies will be treated as motions for leave to file otherwise unauthorized documents which we do not find contain sufficient good cause to warrant consideration. In view of the disposition in this order of Northwest's pleading, the position of Iowa complained of in these reply documents is in any case mooted.

[6] Northwest's motion to consolidate will be dismissed to the extent that it does not conform to the scope of the case as framed by Order 77-4-6.

[7] *Ashbacker Radio Corp.* v. *FCC*, 326 U.S. 372 (1945).

[8] Remanded Additional Service to San Diego Case, Order 71-7-34 (July 7, 1971), at page 2: "* * * nothing in the *Ashbacker* doctrine requires that the scope of the issues in a case be expanded through consolidation of applications so as to place all applicant-carriers on an equal footing with respect to beyond-segment service possibilities." See also, *Delta Airlines et al.* v. *Civil Aeronautics Board*, 497 F. 2d 608, 613-614 (D.C. Cir. 1973), cert denied 417 U.S. 930 (1974); *National Airlines* v. *Civil Aeornautics Board*, 392 F. 2d 504, 508 (D.C. Cir., 1968).

[9] Granting Northwest's motion would place in issue first competitive nonstop service in the Minneapolis/St. Paul- Peoria/Moline markets and third competitive nonstop service in the Minneapolis/St. Paul-Des Moines market. Minneapolis/St. Paul-Peoria generated 13,800 O&D plus connecting passengers (year ended June 1976) and receives daily nonstop, two-stop and three-stop service by Ozark. Minneapolis/St. Paul-Moline generated 33,330 O&D plus connecting passengers and receives nonstop, one-stop and two-stop service by Ozark. Minneapolis/St. Paul-Des Mones generated 80,180 O&D plus connecting passengers and receives multiple daily nonstop service by Ozark and Braniff. In addition, Rochester-Des Moines generated 3,060 O&D plus connecting passengers and receives one daily one-stop round trip by Ozark. Rochester-Moline generated 1,900 O&D plus connecting passengers and receives daily one-stop service by Ozark. Madison-Moline/Peoria/Des Moines generated, in the aggregate, only 4,620 O&D plus connecting passengers.

[10] The Board notes that Northwest already has one stop authority in the Rochester-Atlanta market via Chicago or Milwaukee and provides nonstop service in the Minneapolis/St. Paul-Atlanta market (Eastern also provides nonstop service) and one stop service in the Madison-Atlanta market. Official Airline Guide, August 1, 1977.

[11] Even if the request were properly filed, including all of the markets and issues which Champaign/Urbana wishes to hear would expand this case beyond manageable proportions.

By Order 77–4–153, April 29, 1977, the Board proposed to grant authority to three carriers to transport persons, property, and mail in interstate air transportation between certain domestic points which are served on flights operated in foreign or overseas air transportation. While that order did not propose such "fill-up" authority for Northwest Airlines between Washington and Chicago, we indicated that we would be receptive to a request for a further show-cause order to consider such authority upon a reasonable prima facie showing of a specific need for the strengthening of international services, without serious injury to other carriers.

In response to this order, Northwest has filed an application and petition for show-cause order for Washington-Chicago fill-up authority. The carrier asserts that this market compares favorably with the other markets in which fill-up authority was proposed in Order 77–4–153. Specifically, three other carriers provide 25 daily nonstop round trips between Washington and Chicago, and the market had 651,390 true O&D plus interline connecting passengers in 1975.[1] The international passengers on Northwest's daily westbound Washington-Chicago flight gave the carrier a load factor of only 20.26% in 1975, and Northwest argues that, because its Washington service departs from Dulles Airport, fill-up authority for that flight will not seriously affect any other carrier. In addition, Northwest points out that it has carried local traffic on its daily westbound Washington-Chicago-Orient flight since May 1974, pursuant to exemptions granted by the Board.[2]

The Commonwealth of Virginia supports Northwest's petition for show-cause order, arguing that Washington-Chicago fill-up authority will result in substantial improvements in service to Chicago for Dulles passengers. United Air Lines and American Airlines answered in opposition. United's analysis of the facts is limited to Dulles-Chicago where, the carrier points out, United provides the only service (other than that provided by Northwest pursuant to its exemption), which amounts to only one daily round trip. United argues, therefore, that fill-up rights for Northwest would severely harm United and that it should not be penalized for its dedication to the Dulles-Chicago market by the addition of a competitor which is not concerned with the economics of that local operation.

American argues that, since Northwest has Washington-Chicago fill-up authority pursuant to an exemption, there is no need for expeditious processing of this application through show-cause procedures. The carrier also contends that Northwest's Washington-Chicago flight may not be operated primarily to serve the needs of international traffic since it offers many on-line connections at Chicago and since Northwest has never operated its Washington-Chicago-Orient flight without local traffic rights over the domestic segment. Finally, American argues that since Washington-Chicago is a medium-haul market of almost 600 miles, the revenues involved in a haul of this length only increase Northwest's incentives to operate service for the purpose of carrying local traffic. Both American and United object to the grant of fill-up authority by show-cause procedures.

Northwest filed a motion for leave to file an unauthorized document, accompanied by a reply to the answers of American and United. We have decided to deny Northwest's motion. We are becoming increasingly concerned about the number of unauthorized replies being filed by applicants merely because they want to have the last word. In this period of intensive route activity, these replies only increase the Board's workload; and where, as here, adequate justification for receiving the reply has not been shown (for example, Northwest has not demonstrated that the answers contained new material which it could not have anticipated), we will not accept it.

In our view, the information submitted by Northwest demonstrates that the fill-up authority it requests would be in the public interest. As detailed in Northwest's petition, international traffic fills a small percentage of the seats on its daily westbound frequency between Washington and Chicago, and we tentatively conclude that the grant of fill-up authority will benefit Northwest and the public without substantially harming any other carriers in the market. The Washington-Chicago market is quite large (over 1700 daily true O&D plus interline connecting passengers in 1975) and is served with a substantial number of frequencies. We cannot limit our analysis of this market to Dulles-Chicago service. Both National and Dulles airports serve Washington passengers, and it is very unlikely that a significant number use Dulles airport exclusively. This is particularly apparent with respect to the Washington-Chicago market, since the Dulles service is so limited. Undoubtedly, the travel needs of those passengers for whom Dulles would be more convenient do not necessarily coincide with the schedules offered. Thus, any fluctuations in the traffic carried by United in the past between Dulles and Chicago could easily be attributed to a shift of passengers to and from National Airport, rather than to Northwest's fill-up service provided pursuant to the exemptions granted by the Board. It is also significant that the fill-up service provided by Northwest has never been operated within less than two hours of a United Dulles-Chicago flight, further minimizing the likelihood that any appreciable amount of traffic has been diverted.

Any suggestion that Northwest's service between Washington and Chicago would be geared to the needs of the local rather than international traffic is unrealistic. The minimum distance Northwest must operate west of Chicago on its international route is 6300 miles (nonstop Chicago-Tokyo distance) or more than ten times the haul between Washington and Chicago.

Finally, we do not believe that an award of this limited authority to Northwest can give rise to legitimate claims for consideration of Chicago-Washington authority for other carriers on *Ashbacker* grounds.[3] The premise on which the *Ashbacker* doctrine is based is that mutually exclusive cases must be decided together. The extreme long-haul requirement beyond any Northwest Washington-Chicago flights coupled with the limited amount of international traffic available to Northwest economically dictates the provision of very limited service between Chicago and Washington. Thus, just as this award to Northwest will not hurt carriers already serving the market, it will not lessen the chances for success of other carriers who may seek authority in the market.

Interested persons will be given 30 days following adoption of this order to show cause why the tentative findings and conclusions set forth here should not be made final. We expect such persons to direct their objections, if any, to specific markets, and to support such objections with detailed economic analysis. If an evidentiary hearing is requested, the objector should state, in detail, why such a hearing is necessary and what relevant and material facts he would expect to establish through such a hearing that cannot be established in written pleadings. General, vague, or unsupported objections will not be entertained. In this connection, we note that it is not enough merely to state that one objects to the grant of a certain type of authority by show-cause procedures. The necessity of an evidentiary hearing must be demonstrated.[4]

Accordingly, *it is ordered*, That:

1. All interested persons be directed to show cause why the Board should not issue an order making final the tentative findings and conclusions stated here and authorizing Northwest Airlines, Inc. to transport persons, property, and mail in interstate air transportation in the Washington-Chicago market on flights operated in foreign and/or overseas air transportation pursuant to its certificate for Route 129;

2. Any interested persons having objection to the issuance of an order making final the proposed findings, conclusions, and certificate amendment set forth here shall, within 30 days after

[1] These figures exclude Baltimore flights and traffic.

[2] Orders 74–5–150, 74–11–157, 75–4–106, and 76–3–140.

[3] *Ashbacker Radio Corporation* v. *F.C.C.*, 326 U.S. 327 (1945).

[4] We have considered Northwest's representations as to the environmental effect and gross transport revenue increase resulting from an award of Chicago-Washington "fill-up" rights. On the basis of these representations, we find that such an award will not be a major Federal action significantly affecting the quality of the environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969, and that, for purposes of a license fee, the resulting increase in gross transport revenues will be between $1 million and $5 million.

the date of adoption of this order, file with the Board and serve on all persons listed in paragraph 6 below, a statement of objections together with a summary of testimony, statistical data, and such evidence as is expected to be relied on to support the stated objections; answers may be filed 15 days thereafter;

3. If timely and properly supported objections are filed, full consideration will be accorded the matters or issues raised by the objections before further action is taken by the Board;[5]

4. In the event no objections are filed, all further procedural steps will be deemed to have been waived, and the case will be submitted to the Board for final action;

5. The motion of Northwest Airlines, Inc., for leave to file an unauthorized document be denied; and

6. A copy of this order be served upon American Airlines, Inc., Northwest Airlines, Inc., United Air Lines, Inc., and the Commonwealth of Virginia.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board:

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-26186 Filed 9-7-77;8:45 am]

[Order No. 77-9-6; Docket No. 31166]

TRANS WORLD AIRLINES, INC.

Order

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 1st day of September, 1977.

By Order 77-6-68, served June 14, 1977, the Board issued a foreign air carrier permit to Laker Airways Limited (Laker), authorizing the carrier to operate its low-fare, no-frills Skytrain service between New York and London for a period of one year. Laker plans to begin its Skytrain service on September 26, 1977, with eleven round-trip flights per week in the New York-London market (seven flights per week, October through March) at a round-trip fare of $236.48. Laker filed its initial Skytrain tariff on July 8, 1977.[1]

In a complaint filed July 19, 1977, Trans World Airlines, Inc. (TWA), alleges that the initial Skytrain tariff issued by Laker Airways is inconsistent with the terms of Laker's operating authority, and should, therefore, be suspended or rejected.[2] Specifically, TWA takes exception to the definition of "immediate family" provided in Rule 5 of Laker's tariff, and the statement, in Rule 50, that all Laker seats will be available for sale. Both of TWA's objections pertain to alleged violations of Laker's United Kingdom license; TWA does not contend that Laker's Skytrain tariff contravenes any provision of the Federal Aviation Act of 1958, the Board's regulations, or Laker's foreign air carrier permit.

The British-imposed ticketing restrictions which are incorporated in Rule 25 of Laker's tariff stipulate, in part, that tickets must be purchased by the passenger himself or by a member of his immediate family, subject to passport identification; while a passenger may also purchase a ticket for only one other, unrelated person traveling on the same flight, no limit is placed on the number of tickets a passenger may purchase for his immediate family.

Rule 50 of Laker's taiff defines "immediate family" as "the spouse, children, parents, parents of the spouse, children of the parents and children of the parents of the spouse." According to TWA, Laker's definition could eliminate the standby characteristics of Skytrain service by allowing passengers to circumvent one of the ticketing restrictions imposed by Laker's U.K. license. TWA argues that family membership cannot generally be confirmed by passport identification, since the last names and addresses of immediate family members will not necessarily match the last name and address of the ticket purchaser. Unless Laker's definition is revised to include only those family members whose last name and address correspond to those of the ticket purchaser, TWA contends, "* * * there will be no control and the standby feature of Skytrain could be eliminated by persons who for a fee would stand in line to purchase large numbers of tickets for persons who would be claimed as immediate family members."

TWA also objects to the statement, in Rule 50 of Laker's tariff, that no seats will be withheld from sale. Rule 50 indicates that Laker will operate 345-seat DC-10 equipment with no seat restrictions. TWA notes that Laker's U.K. license stipulates that no more than 189 passengers may be carried on any one flight during the months of October through March, and argues that the Board should require Laker to state this restriction in Rule 50.

Answering TWA's complaint on July 27, 1977, Laker asserts that there is no legal basis for the Board to suspend or reject Laker's initial tariff, and that the tariff itself is fully consistent with the requirements of the Act and the Board's regulations. In response to TWA's first objection, Laker maintains that control of its ticket sales is not a proper tariff matter; that it is Laker's obligation to comply with the conditions of its U.K. license, and no further restrictions need be devised by the Board to ensure such compliance; that TWA's proposed definition of "immediate family" is unduly restrictive; that Laker's definition is identical to that provided in section 372.2 of the Board's Economic Regulations, and is clear, conventional, and enforceable; that Laker will be able to control its ticket sales, since a person buying tickets for members of his immediate family must present the passports of the persons for whom the tickets are purchased, and passports are valuable documents, not likely to be entrusted to an entrepreneur who would stand in line for a fee; and that, in any event, the standby feature of Skytrain is not eliminated, since no tickets will be sold more than six hours before scheduled departure of the flight. With regard to TWA's second objection, Laker notes that the capacity restriction limiting Skytrain to a maximum of 189 passengers per flight does not take effect until October 1, 1977. Consequently, Laker contends, Rule 50 is correct in its present form: As of September 7, 1977, the effective date of the tariff, all 345 seats on each Skytrain flight will be available for sale.

The Board finds no basis in TWA's complaint for suspension or rejection of Laker's Skytrain tariff. Laker's tariff definition of "immediate family" conforms exactly to the definition given in section 372.2 of the Board's Economic Regulations, and is comparable to the standard definitions published in several widely used tariffs.[3] TWA's own definition of "immediate family," in C.A.B. No. 37, includes spouse, children, parents, brothers, and sisters, with no requirement that family members share the same last name and address. TWA has not demonstrated that a more stringent definition is required in Laker's case. As TWA suggests, family relationships may be difficult to verify by means of passport identification; it is possible, therefore, that an entrepreneur might take advantage of the terms of Laker's tariff to purchase a block of tickets by claiming a number of unrelated passengers as immediate family members. This would in no way eliminate the standby feature of Skytrain; however, it would simply allow passengers who are willing to entrust their passports to an entrepreneur to avoid the inconvenience of standing in line themselves. Neither legitimate family members nor entrepreneurs will be able to obtain tickets more than six hours before scheduled departure. While we expect Laker Airways to be vigilant and to comply fully with all of its tariff conditions, it is the provision prohibiting ticket sales more than six hours before departure, not Laker's ability to distinguish legitimate family members from unrelated passengers, that determines the standby character of Skytrain serice.

TWA's second objection is equally unfounded. As Laker states in its Answer, the tariff provision in question is correct as it stands. Until October 1, 1977, the

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[5] All motions and/or petitions for reconsideration shall be filed within the period allowed for filing objections and no further motions, requests, or petitions for reconsideration of this order will be entertained.

[1] Laker Airways Limited, Local Passenger Tariff No. 1, C.A.B. No. 2, issued July 8, 1977, to be effective September 7, 1977.

[2] The complaint against Laker's tariff filed by the Port Authority of New York and New Jersey in Docket 31262 was dismissed by Order 77-8-94, August 19, 1977. The low-fare transatlantic fare filings by other carriers will be considered by the Board in a subsequent order.

[3] ATC and Sampson tariffs, for example, define "immediate family" to include not only the persons specified by Laker's definition, but grandparents, sons-in-law, and daughters-in-law as well.

date the capacity restriction takes effect, Laker is authorized to operate 345-seat DC-10 aircraft with no seats withheld from sale, as Rule 50 indicates. If Laker operates 345-seat DC-10's on and after October 1, 1977, an amended tariff filing which reflects the capacity restriction will be in order at that time.

Accordingly, *It is ordered*, That:

1. The complaint filed by Trans World Airlines, Inc., in Docket 31166 be hereby dismissed; and

2. Copies of this order be served upon Laker Airways Limited and Trans World Airlines, Inc.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board:

[SEAL] PHYLLIS T. KAYLOR, *Secretary.*

All Members concurred.

[FR Doc.77-26184 Filed 9-7-77;8:45 am]

DEPARTMENT OF COMMERCE

Economic Development Administration

SONGO SHOE MANUFACTURING CORP.

Petition for a Determination of Eligibility To Apply for Trade Adjustment Assistance

A petition by Songo Shoe Manufacturing Corp., 34 Diamond Street, Portland, Maine 04101, a producer of footwear for men and women, was accepted for filing on August 31, 1977, pursuant to section 251 of the Trade Act of 1974 (Pub. L. 93-618) and section 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315). Consequently, the U.S. Department of Commerce has initiated an investigation to determine whether increased imports into the United States of articles like or directly competitive with those produced by the firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of the petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

JACK W. OSBURN, Jr.,
Chief, Trade Act Certification Division, Office of Planning and Program Support.

[FR Doc.77-26164 Filed 9-7-77;8:45 am]

Maritime Administration

[Docket S-576]

GULF OIL CORP.

Application for Participation by Vessels Built With CDS in the Carriage of Alaskan Oil in the Domestic Trade

Notice is hereby given that Gulf Oil Corporation has applied for written permission under section 506 of the Merchant Marine Act, 1936, as amended, for the temporary employment of its U.S. flag tanker, the SS *American Independence*, in the carriage of Alaskan oil in the domestic trade. The vessel is to commence making voyages from Alaska to Panama on or about November 1, 1977. The SS *American Independence*, of 265,000 DWT, was built with construction-differential subsidy and will be under time charter to the Sohio Petroleum Company of Cleveland, Ohio, for a period of about 26 months. Sohio Petroleum Company intends to use the *American Independence* for approximately 12 voyages during two six-month periods commencing on or about November 1977. During the intervening periods, the vessel would be otherwise employed in accordance with the charter agreement. In acordance with the provisions set forth in Part 250 of Chapter II, Title 46, of the Code of Federal Regulations as published in the FEDERAL REGISTER issue of June 29, 1977 (42 FR 33035), the SS *American Independence* will be permitted to engage in the carriage of Alaskan oil in the Alaska-Panama trade for a period not exceeding six months in any consecutive 12-month period, commencing with the entry date of the vessel in the Alaska-Panama trade.

Interested parties may inspect the application in the Office of the Secretary, Maritime Administration, Room 3099-B, Department of Commerce Building, 14th and E Streets NW., Washington, D.C. 20230.

Any person, firm, or corporation who is a "competitor," as defined in section 250.2 of the regulations and desires to protest such application should submit such protest in writing, in triplicate, to the Secretary, Maritime Administration, Washington, D.C. 20230. Protests must be received within five working days after the date of publication of this Notice in the FEDERAL REGISTER. If a protest is received, the applicant will be advised of such protest by telephone or telegram and will be allowed three working days to respond in a manner acceptable to the Assistant Secretary for Maritime Affairs. Within five working days after the due date for the applicant's response, the Assistant Secretary will advise the applicant, as well as those submitting protests, of the action taken, with a concise written explanation of such action. If no protest is received concerning the application, the Assistant Secretary will take such action as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 11.500 Construction-Differential Subsidies (CDS).)

By Order of the Assistant Secretary for Maritime Affairs.

Dated: September 1, 1977.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.77-26037; Filed 9-7-77;8:45 am]

National Oceanic and Atmospheric Administration

ISSUANCE OF PERMIT FOR MARINE MAMMALS

On June 3, 1977, notice was published in the FEDERAL REGISTER (42 FR 28566), as amended on July 7, 1977 (42 FR 34905), that an application had been filed with the National Marine Fisheries Service by Dr. Donald B. Siniff, Associate Professor, Department of Ecology and Behavioral Biology, 223 Snyder Hall, University of Minnesota, St. Paul, Minn. 55101, for a Scientific Research Permit to take by tagging up to 500 crabeater seals (*Lobodon carcinophagus*), 50 leopard seals (*Hydrurga leptonyx*), 825 Weddell seals (*Leptonychotes weddelli*), 10 Ross seals (*Ommatophoca rossii*), 10 southern elephant seals (*Mirounga leonina*), and 20 southern fur seals (*Arctocephalus* sp.), and to take by killing 110 crabeater seals (*Lobodon carcinophagus*), 10 leopard seals (*Hydrurga leptonyx*), 5 Weddell seals (*Leptonychotes weddelli*), 2 Ross seals (*Ommatophoca rossii*), 2 southern elephant seals (*Mirounga leonina*), and 2 southern fur seals (*Arctocephalus* sp.) in the Antarctic region for scientific research.

Notice is hereby given that, on August 29, 1977, and as authorized by the provisions of the Marine Mammal Protection of 1972 (16 U.S.C. 1361-1407) the National Marine Fisheries Service issued a permit for the above taking to Dr. Donald B. Siniff, subject to certain conditions set forth therein.

The permit is available for review by interested persons at the following offices:

Director, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Northeast Region, Federal Building, 14 Elm Street, Gloucester, Mass. 01930.

Dated: August 29, 1977.

JOSEPH W. SLAVIN,
Acting Associate Director, National Marine Fisheries Service.

[FR Doc.77-26073 Filed 9-7-77;8:45 am]

ISSUANCE OF PERMIT TO TAKE MARINE MAMMALS

On July 14, 1977, notice was published in the FEDERAL REGISTER (42 FR 36280), that an application had been filed with the National Marine Fisheries Service, by Mr. John Slater, 3054 Gordon Drive, Naples, Fla. 33940, for a permit to take two (2) California sea lions (*Zalophus californianus*); two (2) Atlantic bottlenosed dolphins (*Tursiops truncatus*), and two (2) beached/stranded harbor seals (*Phocavitulina*), for the purpose of public display.

The National Marine Fisheries Service has determined that it would be in the best interest of the two (2) rehabilitated harbor seals to remain in captivity and, therefore, authorized the Permit Holder to maintain the animals.

Notice is hereby given that on August 30, 1977, and as authorized by the pro-

visions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the National Marine Fisheries Service issued a permit for the requested taking to Mr. John Slater, subject to certain conditions set forth therein. The Permit is available for review by interested persons in the following offices:

Director, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.;
Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, Calif. 90731;
Regional Director, National Marine Fisheries Service, Southeast Region, Duval Building, 9450 Gandy Boulevard, St. Petersburg, Fla. 33702; and
Regional Director, National Marine Fisheries Service, Northeast Region, Federal Building, 14 Elm Street, Gloucester, Mass. 01930.

Dated: August 30, 1977.

JOSEPH W. SLAVIN,
Acting Associate Director,
National Marine Fisheries Service.

[FR Doc.77-26074 Filed 9-7-77;8:45 am]

National Oceanic and Atmospheric Administration

CERTIFICATE OF EXEMPTION

Receipt of Applications

Notice is hereby given that the following applicants have applied in due form for a Certificate of Exemption under Pub. L. 94–359, and the regulations issued thereunder (50 CFR Part 222, Subpart B), to engage in certain commercial activities with respect to pre-Act endangered species parts or products.

APPLICANTS

1. Leonard F. Porter, Inc., 600 Prefontaine Bldg., Third and Yesler Sts., Seattle, Wash. 98104.

Period of exemption. The applicant requests that the period of time to be covered by the Certificate of Exemption begin on the date of the original issuance of the Certificate of Exemption and be effective for a 3-year period.

Commercial activities exempted. (i) The prohibition, as set forth in section 9(a)(1)(A) of the Act, to export any such species part from the United States;

(ii) The prohibitions, as set forth in section 9(a)(1)(E) of the Act, to deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever and in the course of a commercial activity any such species part;

(iii) The prohibitions, as set forth in section 9(a)(1)(F) of the Act, to sell or offer for sale in interstate or foreign commerce any such species part.

Parts or products exempted. Finished scrimshaw products to be made from approximately 2,000 pounds of sperm whale teeth and 2,800 pounds of sperm whale tooth pieces and scrap.

2. Heinz Lange, d.b.a. Northwest Arts and Crafts, 2408 Seventh Ave. W., Seattle, Wash. 98119.

Period of exemption. The applicant requests that the period of time to be covered by the Certificate of Exemption begin on the date of the original issuance of the Certificate of Exemption and be effective for a 3-year period.

Commercial activities exempted. (i) The prohibition, as set forth in section 9(a)(1)(A) of the Act, to export any such species part from the United States;

(ii) The prohibitions, as set forth in section 9(a)(1)(E) of the Act, to deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever and in the course of a commercial activity any such species part;

(iii) The prohibitions, as set forth in section 9(a)(1)(F) of the Act, to sell or offer for sale in interstate or foreign commerce any such species part.

Parts or products exempted. Finished scrimshaw products to be made from approximately 3,250 pounds of sperm whale teeth, 575 pounds of sperm whale tooth pieces and scrap, 842 pounds of whale bone and 220 pounds of baleen.

3. Scott Krieger, 29 Fairway E., Sayville, N.Y. 11782.

Period of exemption. The applicant requests that the period of time to be covered by the Certificate of Exemption begin on the date of the original issuance of the Certificate of Exemption and be effective for a 3-year period.

Commercial activities exempted. (i) The prohibitions, as set forth in section 9(a)(1)(E) of the Act, to deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever and in the course of a commercial activity any such species part;

(ii) The prohibitions, as set forth in section 9(a)(1)(F) of the Act, to sell or offer for sale in interstate or foreign commerce any such species part.

Parts or products exempted. Finished scrimshaw products to be made from approximately 310 sperm whale teeth, 120 pounds of sperm whale pan bone and 5 pieces of baleen.

4. Leo E. Begin, d.b.a. Olde Windjammer, Little Clear Pond, Plymouth, Mass. 02360.

Period of exemption. The applicant requests that the period of time to be covered by the Certificate of Exemption begin on the date of the original issuance of the Certificate of Exemption and be effective for a 3-year period.

Commercial activities exempted. (i) The prohibition, as set forth in section 9(a)(1)(A) of the Act, to export any such species part from the United States;

(ii) The prohibitions, as set forth in section 9(a)(1)(E) of the Act, to deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever and in the course of a commercial activity any such species part;

(iii) The prohibitions, as set forth in section 9(a)(1)(F) of the Act, to sell or offer for sale in interstate or foreign commerce any such species part.

Parts or products exempted. Finished scrimshaw products consisting of approximately seven whale bone carvings and finished scrimshaw products to be made from approximately 30 large whale teeth, an additional 20 pounds of whale teeth and 30 pounds of whale teeth pieces and scrap.

5. Martin David Dubin, 239 Park Ave., Highland Park, Ill. 60035.

Period of exemption. The applicant requests that the period of time to be covered by the Certificate of Exemption begin on the date of the original issuance of the Certificate of Exemption and be effective for a 3-year period.

Commercial activities exempted. (i) The prohibition, as set forth in section 9(a)(1)(A) of the Act, to export any such species part from the United States;

(ii) The prohibitions, as set forth in section 9(a)(1)(E) of the Act, to deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever and in the course of a commercial activity any such species part;

(iii) The prohibition, as set forth in section 9(a)(1)(F) of the Act, to sell or offer for sale in interstate or foreign commerce any such species part.

Parts or products exempted. Finished scrimshaw products consisting approximately 106 etched whale teeth and 13 items carved from whale teeth, and finished scrimshaw products to be made from approximately 80 whale teeth, 654 individual pieces of whale teeth, one half of the jaw bone of a sperm whale and 20 pieces of whale bone.

6. Werner G. Smith, Inc., 1730 Train Ave., Cleveland, Ohio 44113.

Period of exemption. The applicant requests that the period of time to be covered by the Certificate of Exemption begin on the date of the original issuance of the Certificate of Exemption and be effective for a 3-year period.

Commercial activities exempted. (i) The prohibition, as set forth in section 9(a)(1)(A) of the Act, to export any such species part from the United States;

(ii) The prohibitions, as set forth in section 9(a)(1)(E) of the Act, to deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever and in the course of a commercial activity any such species part;

(iii) The prohibitions, as set forth in section 9(a)(1)(F) of the Act, to sell or offer for sale in interstate or foreign commerce any such species part.

Parts or products exempted. Approximately 8,282 pounds of methylated sperm whale oil and 20,460 pounds of hydrogenated sperm whale oil

Written comments on these applications may be submitted to the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, on or before October 11, 1977.

Dated: September 2, 1977.

MORRIS M. PALLOZZI,
Acting Assistant Director,
for Fisheries Management.

[FR Doc.77-26151 Filed 9-7-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

CANADA—U.S.A. TELEVISION

AUGUST 3, 1977.

In the matter of Amendment of Table A of the Canada-U.S.A. Television Agreement of 1952 (TIAS–2594), *supplement No. 6* to the table of Canadian television channel assignments and allocations within 250 miles of the Canada-U.S.A. border, dated August 1, 1977, as revised to April 12, 1977.

Pursuant to exchange of correspondence between the Department of Communications of Canada and the Federal Communications Commission, Table A of the Canada-U.S.A. Television Agreement has been amended as set forth in the attached list. It is to be noted that those representing assignments will indicate call signs plus parameters.

Further additions, changes, and deletions will be issued as reported to the Commission by the Canadian Department of Communications.

Copies of the basic Table of Allocations may be obtained from Downtown Copy Center, 1730 K Street NW., Washington, D.C. 20036, telephone (202) 452–1422.

WALLACE E. JOHNSON,
Chief, Broadcast Bureau,
Federal Communications Commission.

TV ENGINEERING DATA BASE LISTING - INDEX KEY STATE,CITY,CHAN AUG 01, 1977 PAGE
FEDERAL COMMUNICATIONS COMMISSION - BROADCAST BUREAU
NOTICE UNOFFICIAL SECONDARY SOURCE. USE PRIMARY SOURCES FOR OFFICIAL INFORMATION ***NOTICE***

NEW	CO LIC	CRANBROOK	BC	49-27-30.0	13 Z	.087(KW)	3356(FT)	770706
		ZONE 2 **USA BORDER**		115-37-45.0		HOR	LIMITED TO PROTECT KGVO-TV, MISSOULA, MT.	
CBWGT01	CO LIC	JACK HEAD	MB	51-52-55.0	05 Z	6.4(KW)	600(FT)	770729
		ZONE 2 **USA BORDER**		97-18-50.0	DA	HOR		

[FR Doc.77-26031 Filed 9-7-77;8:45 am]

[Rept. No. 873]

COMMON CARRIER SERVICES INFORMATION

Applications Accepted for Filing

AUGUST 29, 1977.

The applications listed herein have been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any of these applications, if upon further examination, it is determined they are defective and not in conformance with the Commission's Rules and Regulations or its policies.

Final action will not be taken on any of these applications earlier than 31 days following the date of this notice, except for radio applications not requiring a 30 day notice period (See § 309(c) of the Communications Act), applications filed under Part 68, applications filed under Part 63 relative to small projects, or as otherwise noted. Unless specified to the contrary, comments or petitions may be filed concerning radio and Section 214 applications within 30 days of the date of this notice and within 20 days for Part 68 applications.

In order for an application filed under Part 21 of the Commission's Rules (Domestic Public Radio Services) to be considered mutually exclusive with any other such application appearing herein, it must be substantially complete and tendered for filing by whichever date is earlier: (a) the close of business one business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which the subsequent application is in conflict) as having been accepted for filing. In common carrier radio services other than those listed under Part 21, the cut-off date for filing a mutually exclusive application is the close of business one business day preceding the day on which the previously filed application is designated for hearing. With limited exceptions, an application which is subsequently amended by a major change will be considered as a newly filed application for purposes of the cut-off rule. [See §§ 1.227(b)(3) and 21.30(b) of the Commission's Rules.]

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

APPLICATIONS ACCEPTED FOR FILING

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

21976-CD-TC-77 Ram Broadcasting of Oregon, Inc., Consent to Transfer of Control from Ram Broadcasting of Oregon, Inc., Transferor to Paul A. Matschiner, Transferee. Station: KUC874, Portland, Oreg.

21977-CD-AL-77 Martha M. Hahn d/b as St. Cloud and Loop Answering Service, Consent to Assignment of License from

Martha M. Hahn d/b as St. Cloud and Loop Answering Service, Assignor to Answer Iowa, Inc., Assignee. Station: KLF580, St. Cloud, Minn.

21978–CD–P–(2)–77 Airphone Company, Inc. (KCC266), C.P. for additional facilities to operate on 35.58 MHz at a new site described at Loc. No. 3 to be located at Shelburne Mountain, Shelburne; 75.96 MHz Control to be located at Loc. No. 2: Near WHYN–TV Tower, Mt. Tom, Mass.

21979–CD–P–77 M M Answering Service, Inc. (new), C.P. for a new 1-Way station to operate on 152.24 MHz to be located Approximately 1.5 miles West of Bradford, Pa.

21980–CD–P–77 Dr. Robert Casey & Dr. Robert Wynia (new), C.P. for a 2-Way station to operate on 454.050 MHz to be located 0.5 mile North of Great Falls, Mont.

21981–CD–MP–77 Westchester Mobilfone System, Inc. (KAA281), C.P. for additional facilities to operate on 152.24 MHz to be located at a new site described as Loc. No. 2: Westchester Community College, Rte. 100, Valhalla, N.Y.

21983–CD–P–77 Radio Paging, Inc. (KKI 445), C.P. to relocate facilities operating on 35.58 MHz to be located 1.3 Miles SE of intersection of Hwy. No. 523 and County Road 792, Oyster Creek, Tex. (loc. No. 8).

21984–CD–P–77 Harold's Radio Service, Inc. (new), C.P. for a new 2-Way station to operate on 152.06 MHz to be located on Hwy. No. 136, 12 Miles S. of Henderson, Ky.

21985–CD–P–77 Jackson Mobilphone Company, Inc. (KWT944), C.P. to relocate facilities operating on 152.03 MHz to be located: Hwy. 51–S, 2 miles East of Dyersburg, Tenn.

21986–CD–P–(6)–77 David R. Williams d/b as Industrial Communications (new), C.P. for a new 2-Way station to operate on 152.03 152.06 152.15 MHz (Base) to be located at Medicine Butte, 7 Miles NNE of Evanston; 2178.0 MHz (Control) and 2165.2 MHz (Repeater) to be located at Marsh Peak, 23 Miles Northwest of Vernal; 2128.0 MHz (Repeater) to be located at Medicine Butte, 7 Miles of Evanston, Wyo.

21987–CD–P–(3)–77 Beep Communication Systems, Inc. (KAA283), C.P. for additional facilities to operate on 152.24 MHz at a new site described as Loc. No. 4 to be located at North Tower, World Trade Center, New York; 152.24 MHz at a new site described as Loc. No. 5 to be located 901 Ocean Avenue, Asbury Park; 152.24 MHz at a new site described as Loc. No. 6 to be located at West Gate Drive, Huntington, N.Y.

21988–CD–P–77 Grand Porks Telephone Answering Service (KDN400), C.P. to change antenna system and relocate facilities operating on 152.03 MHz to be located 101 N. 3rd Street, Grand Forks, N. Dak.

21989–CD–P–77 Airsignal of California, Inc. (KMA219), C.P. for additional facilities to operate on 152.06 MHz to be located at 2904 Fine Avenue, Modesto, Calif.

21990–CD–P–77 Waco Communications, Inc. (KLB498), C.P. to change antenna system and relocated facilities operating on 152.03 MHz Loc. No. 1 to be located at 1200 Block of North 46th Street, Waco, Tex.

21991–CD–P–(2)–77 Dakota Radio Paging, Inc. (KQK777), C.P. for additional facilities to operate on 454.050 MHz at Loc. No. 1: 18th and Bahanson Avenue; 454.025 MHz at Loc. No. 2: Water Tower, 2 Miles SSW of Sioux Fall, S. Dak.

21992–CD–P–(2)–77 Prospect Communications (new), C.P. for a new 2-Way station to operate on 454.125 MHz Loc. No. 1 to be located West of Yell Rd., 4.3 Miles S. of Lewisburg, 454.300 MHz Loc. No. 2 to be located on Route 6, 2 miles S. of Fayetteville, Tenn.

21994–CD–P–77 Wilson J. Trahan and Ralph E. Antles d/b as Western Electronic and Communications (new), C.P. for a new 1-Way station to operate on 158.70 MHz to be located at 0.5 mile North of Kingman, Ariz.

21995–CD–P–77 Southwestern Bell Telephone Co. (KKB860), C.P. to relocate facilities operating on 152.57 MHz to be located 4 miles SW of Beeville, Tex.

22000–CD–P–(4)–77 Grants Radiotelephone Service, Inc. (KKT397), C.P for additional facilities to operate on 454.100, 454.200, 454.300, 454.350 MHz at Loc. No. 1: La Mosca Peak, 16 miles N.E. of Grants, Milan, N. Mex.

CORRECTION

21905–CD–P–77 Grants Radiotelephone Service, Inc. (KKT397), Correct to Add 2123.6 Repeater at Loc. No. 4. All other particulars remain as reported on PN No. 871, dated 8/15/77.

INFORMATIVE

The following applications is a Major Action as defined by Section 1.1305 of the Commission's Rules concerning the implementation.

22001–CD–P–77 Prospect Communications (KWU365), Loc. No. 2: Rt. 31, 2.5 Miles N.E., Pulaski, Tenn., Loc. No. 1: 1000 Ft. W. of Fall River and Marable Roads Inter., Lawrenceburg, Tenn.

INFORMATIVE

A petition for Reconsideration has been filed regard to the Commission's Action Granted in Part the Application of Tel Star Communication's, Inc. (21291–CD–P–77), Action on PN No. 867–A dated July 18, 1977. The Application has been returned to Pending Status.

MAJOR AMENDMENT

21721–CD–P–(2)–77 Adirondack Mobile Telephone Co., Inc. Lake Placid, N.Y. (new), amend base frequency 152.06 and 152.18 MHz to read 454.125 and 454.350 MHz. All other particulars are to remain the same as reported on PN No. 867 dated, July 18, 1977.

POINT TO POINT MICROWAVE RADIO SERVICE

3460–CF–P–77 The Mountain States Telephone and Telegraph Co. (KY085), Misonry Rdg. 8 miles NE of Durango, Colorado (lat. 37°21'53" N., long. 107°46'56" W.), C.P. to add a new point of communication on frequencies 11245H, 11485H MHz toward Coal Bank, Colo. on azimuth 6 degrees.

3461–CF–P–77 Same (new), Coal Bank 9.5 miles SE of Silverton, Colo. (lat. 37°41'46" N., long. 107°46'41" W.), C.P. for a new station on ferquencies 10875V, 11115V MHz toward Silverton PR on azimuth 47.9 degrees, from the passive reflector to Silverton JC on azimuth 311.7 degrees and 10795V, 11035V MHz toward Misonry Rdg. on azimuth 180.6 degrees.

3462–CF–P–77 Same (new), Silverton J. C. Highway U.S. 550 and Colorado 110, Silverton, Colo. (lat. 37°48'23" N., long. 107°40'24" W.), C.P. for a new station on frequencies 11325H, 11565H MHz toward Silverton PR on azimuth 131.7 degrees and from passive reflector to Coal Bank on azimuth 228.0 degrees.

3467–CF–P–77 The Pacific Northwest Bell Telephone Co. (KOC65), Portland 819 SW. Oat St. Portland, Oreg. (lat. 45°31'22" N., long. 122°40'42" W.), C.P. to change polarization from horizontal to vertical on frequencies 3750, 3830, 3910, 3990, 4070 MHz toward Livingston.

3468–CF–P–77 Same (KOU55), Livington 6.3 miles NE of Camas, Wash. (lat. 45°40'45" N., long. 122°21'58" W.), C.P. to change polarization from horizontal to vertical on frequencies 3710, 3790, 3870, 3950, 4030 MHz toward Portland.

3493–CF–P–77 Navajo Communications Co., Inc. (WPY28), Dilkon, Ariz. (lat. 35°22'15" N., long. 110°19'37" W.), C.P. to increase structure height and add a new point communication on frequency 2164H MHz toward Newberry, Ariz. on azimuth 273.1 degrees.

3494–CF–P–77 Same (new), Newberry Mesa 9.75 miles NE. of Leupp, Ariz. (lat. 35°23'40" N., long. 110°52'56" W.), C.P. for a new station on frequencies 2114.0V MHz toward Dilkon, Ariz. on azimuth 92.8 degrees and 2122.0H MHz toward Leupp, Ariz. on azimuth 226.4 degrees.

3495–CF–P–77 Same (new), Leupp School Leupp, Ariz. (lat. 35°17'49" N., long. 111°00'26" W.), for a new station on frequency 2172. 0V MHz toward Newberry Mesa, Ariz. on azimuth 46.4 degrees.

3510–CF–P–77 American Telephone and Telegraph Co. (KPY99), 4.8 miles SW. of Athanum, Wash. (lat. 46°30'15" N., long. 120°41'06" W.), C.P. to change polarization from vertical to horizontal on frequency 10795 MHz toward Yakima.

3448–CF–P–77 Pacific Northwest Bell Telephone Co. (KOQ80), 6.0 miles West of Condon, Oreg. (lat. 45°14'06" N., long. 120°18'16" W.), C.P. to change coordinates and add a new point of communication on frequency 2172.4V MHz toward Bald Mtn. % on azimuth 31.9 degrees and from passive reflector to fossil.

CORRECTION

3243–CF–P–77 South Central Bell Telephone Co. (KYS48), corrected states name to read Wellington, Ky. and frequency 3730H. All other particular remain as reported on PN No. 870 dated 8–8–77.

3245–CF–P–77 Same (KIV66), corrected to add replace transmitters on frequencies 11525V and 11605V MHz toward Paintsville. All other particular remain as reported on PN No. 870 dated 8–8–77.

3246–CF–P–77 Same (KJW75), corrected to read move and replace antenna on frequencies 10915V MHz toward Hagerhill and replace transmitters on 11075V and 11155V MHz toward Hagerhill.

3262–CF–P–77 General Telephone Co. of Wisconsin (WBP52), corrected latitude to read 44°57'40" N. All other particulars remain as reported on PN No. 870 dated 8–8–77.

3385–CF–MP–77 Eastern Microwave, Inc. (KFN 21), NYC–GWB, 15 Columbus Circle, New York, N.Y. (lat. 40°46'09" N. long. 73°58'55" W.), modification of construction permit to change frequencies to 6271.4H MHz toward Bergenfield, N.J. and Yonkers, N.Y., via power split.

3433–CF–P–77 Mountain Microwave Corp. (KZI51), Medicine Butte, 6.0 miles North of Reliance, S. Dak. (lat. 43°57'55" N., long. 99°36'11" W.), construction permit to add 5945.2V MHz toward Chamberlin, S. Dak., via power split.

3434–CF–MP–77 Eastern Microwave, Inc. (KFN 21), NYC–GWB, 15 Columbus Circle, New York, N.Y. (lat. 40°46'09" N., long. 73°58'55" W.), modification of construction permit to change frequencey to 6330.7V MHz and 6271.4V MHz toward Monsey, N.Y. and to add 6330.7V toward Mt. Kisco, N.Y., via power split, on azimuth 28.8 degrees.

3447–CF–R–77 Indiana Bell Telephone Co. (KYS50), temporary fixed-developmental in any temporary fixed location within the territory of the grantee. Received renewal of the above radio station license.

3451–CF–P–77 Mountain Microwave Corp. (KOB37), Colorow Hill, 2 miles SW. of Golden, Colo. (lat. 39°43'54" N., long. 105°14'58" W.), construction permit to add 11545 MHz toward Lakewood, CATV, Colo.

3459-CF-P-77 Eastern Microwave, Inc. (WBB350), South Mtn., 2.5 miles SSW. of Womelsdorf, Pa. (lat. 40°19'25" No., long. 76°11'48" W.), construction permit to add 6271.4V MHz toward Ephrata, Pa. on azimuth 180.5 degrees, via power split.

3478-CF-P-77 American Television and Communications Corp. (WBA760), 1609 Old Louisburg Road, Raleigh, N.C. (lat. 35°48'12" N., long. 78°37'27" W.), construction permit to add 6271.4V MHz toward Coates, N.C., on azimuth 191.7 degrees, via power split.

3479-CF-P-77 American Television and Communications Corp. (new), 4.5 miles NW. of Coats, N.C. (lat. 35°28'01" N., long. 78°42'33" W.), construction permit for new station—5945.2H MHz toward Sanford and 5945.2V MHz toward Fayetteville, both in North Carolina, via power split, on azimuth 274.5 and 207.8 degrees, respectively.

3480-CF-P-77 James R. Hendershot, dba MDS Systems (new), 4672 Business Park Blvd., Anchorage, Alaska (lat. 61°10'49" N., long. 149°53'06" W.), construction permit for new station—11485H MHz toward Glen Alps, Alaska, on azimuth 310.4 degrees.

[FR Doc.77-26029 Filed 9-7-77;8:45 am]

KSBR MISSION VIEJO, CALIF.

Noncommercial Educational FM Broadcast Application Ready and Available for Processing

Adopted: August 30, 1977.

Released: September 1, 1977.

Notice is hereby given, pursuant to Section 1.573(d) of the Commission's Rules, that on October 17, 1977, the noncommercial educational FM broadcast application listed below, which is being processed expeditiously since it is potentially eligible for funding in this fiscal year from the Department of Health, Education, and Welfare, will be considered as ready and available for processing. Pursuant to Section 1.227(b)(1) and Section 1.591(b) of the Commission's Rules, an application, in order to be considered with the application below or with any other application on file by the close of business on October 14, 1977, which involves a conflict necessitating a hearing with the application below must be substantially complete and tendered for filing at the offices of the Commission in Washington, D.C., by the close of business on October 14, 1977. The attention of prospective applicants is directed to the fact that some contemplated proposals may not be eligible for consideration with the application below by reason of conflicts between the application below and applications appearing in previous notices published pursuant to Section 1.573(d) of the Commission's Rules.

BPED-2545 (KSBR), Mission Viejo, Calif. Saddleback Community College District Has: 88.5 MHz; Channel No. 203D; TPO: .01 kW (Lic), Req: 88.5 MHz; Channel No. 203A, ERP: .6 kW; HAAT: 600 FT.

The attention of any party in interest desiring to file pleadings concerning any pending noncommercial educational FM broadcast application, pursuant to Section 309(d)(1) of the Communications Act of 1934, as amended, is directed to Section 1.580(i) of the Commission's Rules for provisions governing the time for filing and other requirements relating to such pleadings.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-26028 Filed 9-7-77;8:45 am]

RADIOTELEGRAPH OPERATOR LICENSE CERTIFICATES TO BEAR PHOTOGRAPHS

AUGUST 31, 1977.

The Federal Communications Commission announced today that all commercial Radiotelegraph Operator Certificates issued after January 1, 1978 must bear the photograph of the holder, in accordance with the requirements of a Rule adopted in 1974 by the International Telecommunications Union of which the United States is a member.

Applicants for new or renewed Radiotelegraph First, Second, and Third Class Operator Licenses will be required to furnish two passport size photographs with their applications. Approximately 2000 of these certificates are issued annually.

Action by the Commission August 31, 1977. Commissioners Lee, Quello, Washburn and White with Commissioners Wiley (Chairman), and Fogarty dissenting.

FEDERAL COMMUNICATIONS COMMISSION.
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-26030 Filed 9-7-77;8:45 am]

DEPARTMENT OF DEFENSE

Air Force

USAF SCIENTIFIC ADVISORY BOARD

Meeting

AUGUST 29, 1977.

The USAF Scientific Advisory Board ad hoc Committee on Simulation Technology will hold meetings at the Pentagon on October 6 and 7, 1977, from 9 a.m. to 5 p.m. each day.

The Committee will receive briefings and hold discussions on the Air Force Research Program.

The meetings will be open to the public. For further information contact the Scientific Advisory Board Secretariate at 202-697-8404.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison Officer, Directorate of Administration.

[FR Doc.77-26051 Filed 9-7-77;8:45 am]

FEDERAL ENERGY ADMINISTRATION

STRATEGIC PETROLEUM RESERVE

Availability of the Draft Environmental Impact Statement for the Sulphur Mines Storage Site

Pursuant to Section 102(2)(C) of the National Environmental Policy Act, 42 U.S.C. 4332(2)(C), the Federal Energy Administration (FEA) has prepared a draft environmental impact statement (EIS) on the proposed storage of crude oil at the Sulphur Mines site.

The Sulphur Mines storage site has been proposed as an element of the Strategic Petroleum Reserve. The Reserve (mandated by Part B of Title I, Energy Policy and Conservation Act, 42 U.S.C. 6231-6246) has been created for the storage of crude oil and/or petroleum products for use in the event of a Presidential determination of a severe energy supply interruption and to meet the obligations of the United States under the International Energy Program.

Single copies of the draft Sulphur Mines EIS (DES 77-6) may be obtained from the National Energy Information Center, Room 1404, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461. Copies of this draft EIS will also be available for public review in the FEA Information Access Reading Room, Room 2107, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Interested persons are invited to submit data, views and arguments with respect to this EIS to Executive Communications, Box PE, Room 3317, Federal Energy Administration, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

Comments should be identified on the outside of the envelope and on the documents submitted to FEA Executive Communications with the designation "Sulphur Mines Draft EIS (DES 77-6)." Fifteen copies should be submitted.

All comments should be received by FEA by October 21, 1977, in order to receive full consideration.

Any information or data, submitted in response to the draft Sulphur Mines EIS, considered by the person furnishing it to be confidential must be so identified and submitted in one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it according to that determination.

Issued in Washingon, D.C., September 1, 1977.

ERIC J. FYGI,
Acting General Counsel, Federal Energy Administration.

[FR Doc.77-26027 Filed 9-7-77;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. ER77-521]

ARIZONA PUBLIC SERVICE CO.

Extension of Time

AUGUST 31, 1977.

On August 25, 1977, Arizona Public Service Co. filed a motion to extend the time for filing responses to the motion for reconsideration filed in the above-designated docket on August 17, 1977, by Maricopa County Municipal Water Conservation District No. 1 (Maricopa). The motion states that Staff Counsel and

counsel for Maricopa do not object to the requested extension.

Upon consideration, notice is hereby given that the date for filing responses to the August 17, 1977, motion for reconsideration is extended to and including September 8, 1977.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-26168 Filed 9-7-77;8:45 am]

[Docket No. ER77-535]

ARKANSAS POWER AND LIGHT CO.

Order Accepting for Filing and Suspending Proposed Rates and Establishing Procedures

On July 29, 1977, Arkansas Power and Light Co. (AP&L) submitted a proposed superseding interconnection agreement with Arkansas Electric Cooperative Corp. (AECC).[1] AP&L currently provides wheeling service to AECC under a transmission agreement (Rate Schedule FPC No. 52) and wheeling and other services under a power coordination, interchange and transmission agreement (Rate Schedule FPC No. 67). The power that is wheeled is supplied by Southwestern Power Administration. These agreements are being superseded by a single agreement in recognition of the changing nature of AECC's bulk power resources. AP&L requests an effective date of September 1, 1977.

Public notice of the filing was issued on August 9, 1977, with comments, protests or petitions to intervene due on or before August 19, 1977. No such filings have been received.

A review of AP&L's filing indicates that the proposed increase in rates and charges have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential or otherwise unlawful. Based on this review of the filing we will accept for filing the proposed increased rates and will suspend their effectiveness for one day, i.e., to September 2, 1977, at which time they will become effective subject to refund, and will require that AP&L prior to implementation of proposed annual adjustments submit complete support of its proposed rates in accordance with section 35.13 of the Commission's Regulations (18 CFR).

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Federal Power Act that the Commission enter upon a hearing concerning the lawfulness of the proposed increased rates and charges tendered by AP&L on July 29, 1977, establishing procedures for that hearing, and that the proposed increased rates and charges be accepted for filing, suspended, and the use thereof deferred, all as hereinafter ordered.

The Commission orders: (A) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by the Federal Power Act, particularly sections 205, 206, 301, 308, and 309 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the Regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of the rates proposed by AP&L in this proceeding.

(B) Pending such hearing and decision thereon, the proposed increased rates and charges filed by AP&L on July 29, 1977 are hereby accepted for filing, suspended and the use thereof deferred until September 2, 1977, when they shall become effective, subject to refund.

(C) AP&L shall prior to implementation of proposed annual adjustments submit complete support of its proposed rates in accordance with section 35.13 of the Commission's regulations (18 CFR, Chapter I).

(D) The Staff shall prepare and serve top sheets on all parties for settlement purposes on or before January 16, 1978.

(E) A Presiding Administrative Law Judge to be determined by the Chief Administrative Law Judge for that purpose shall preside at a prehearing conference in this proceeding to be held on January 31, 1978, at 10:00 A.M. (ET) in a hearing room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426. Said Law Judge is authorized to establish all procedural dates and to rule upon all motions (except petitions to intervene, motions to consolidate and sever, and motions to dismiss), as provided for in the Commission's Rules of Practice and Procedure.

(F) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-26177 Filed 9-7-77;8:45 am]

[Docket No. CI77-724]

C AND K PETROLEUM INC., ET AL.

Limited-Term Application

SEPTEMBER 1, 1977.

Take notice that on August 10, 1977, C&K Petroleum, Inc. et al.[1], 2500 First City National Bank Bldg., Houston, Tex. 77002, filed in Docket No. CI77-724 an application pursuant to section 7(c) of the Natural Gas Act for a limited-term certificate of public convenience and necessity, with pregranted abandonment, authorizing the sale for resale of natural gas in interstate commerce to Transcontinental Gas Pipe Line Corp. (Transco) for a limited term of three (3) years. The initial price Applicant is seeking is $2.03 per Mcf, plus adjustments. The gas to be covered by the certificate is Applicant's interest in natural gas to be produced from the Jefferson Island Field, Iberia Parish, La., and will be sold under the terms of a gas purchase contract dated July 30, 1977.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 10 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protests with reference to said application should on or before September 9, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene n accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-26179 Filed 9-7-77;8:45 am]

[Docket No. ER77-561]

CONNECTICUT LIGHT AND POWER CO.

Transmission Agreement

AUGUST 26, 1977.

Take notice that on August 22, 1977, Connecticut Light and Power Co. (CL&P) tendered for filing a proposed rate schedule with respect to the Transmission Agreement dated June 29, 1977 between (1) CL&P, the Hartford Electric Light Co. (HELCO) and Western Massachusetts Electric Light (WMECO) and (2) Littleton Electric Light and Water Department (LELWD).

CL&P states that the Transmission Agreement provides for a transmission service to LELWD during the period from July 1, 1977, to October 31, 1977.

CL&P indicates that the transmission charge rate is a monthly rate equal to one-twelfth of the annual average cost of transmission service on the Northeast Utility system determined in accordance with sections 13.9 (Determination of Amount of Pool Transmission Facilities (PTF) Costs) of the New England Power Pool (NEPOOL) Agreement and the uniform rules adopted by the NEPOOL Executive Committee, multiplied by the number of kilowatts which LELWD is entitled to receive.

CL&P requests an effective date of July 1, 1977, for the Transmission Agree-

[1] Designated as: *Arkansas Power & Light Company*, Rate Schedule FPC No. 72 (Supersedes Rate Schedule FPC Nos. 52 and 67 as supplemented).

[1] The et al. parties referred to are C&K-AA, 76 Ltd.; C&K 1976 Ltd.; C&K-AC Venture; C&K-CKC 1976 Ltd.; Mr. Harding A. Orren; Mr. Solly Robins; Mr. Julius E. Davis; KHS Associates; Mr. John Lawrence; Mr. Arthur L. Owen; Vanguard Petroleum Corporation; and Mr. Jack Webre. KHS Associates has not yet signed the contract; however, they have indicated that they will sign in the near future. A fully executed copy of the contract will be filed at that time.

ment, and therefore, requests waiver of the Commission's notice requirements.

HELCO and WMECO have filed certificates of concurrence in this docket.

CL&P states that copies of this rate schedule have been mailed or delivered to HELCO, Hartford, Conn., WMECO, West Springfield, Mass. and LELWD, Littleton Mass.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 14, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-26167 Filed 9-7-77;8:45 am]

[Docket No. RP77-18]

EL PASO NATURAL GAS CO.

Correction

AUGUST 24, 1977.

ORDER APPROVING PIPELINE RATE SETTLEMENT. (Issued August 1, 1977). On page 40025, change 9.17 percent to 9.71 percent.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-26176 Filed 9-7-77;8:45 am]

[Docket No. ID-1815]

FRED L. CLAYTON

Application

SEPTEMBER 1, 1977.

Take notice that on August 23, 1977, Fred L. Clayton, Jr., Senior Vice President, Alabama Power Co., filed an application pursuant to section 305(b) of the Federal Power Act for authorization to hold the following positions:

Senior Vice President, Alabama Power Co., public utility.
Senior Vice President and Director, Southern Electric Generating Co., public utility.

Any person desiring to be heard or to make any protest with reference to said Application should on or before September 27, 1977, file with the Federal Power Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8, 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 participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The Application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-26174 Filed 9-7-77;8:45 am]

[Docket Nos. ER77-411, ER77-412, ER77-413, ER77-414, ER77-415, and ER77-416]

ILLINOIS POWER CO.

Order Granting Intervention and Reconsideration

AUGUST 31, 1977.

On June 30, 1977, Illinois Power Co. (the Company) tendered for filing proposed increases in its demand charges short-term firm capacity and for Maintenance Power Capacity for service to the Illinois Municipalities of Highland, Mascoutah, Freaburg, Princeton, Peru, Breese, and Carlyle (Cities). The filing was initially submitted on May 31, 1977, but was found to be deficient in its omission to notify its State commission. This deficiency was corrected on June 30, 1977. This filing would increase the Company's revenues for this service by $151,148 or 16.67 percent based on the 12-month period ending April 30, 1977.

Public notice of the Company's filings was given with all protest and petitions to intervene due on or before August 1, 1977. By order issued July 26, 1977, we accepted the filing, waived the notice requirements, and suspended it for one day. The increase became effective July 2, 1977, subject to refund.

On August 1, 1977, the Cities tendered for filing a Petition for Reconsideration or Rehearing, Motion to Reject, Motion to Intervene, Complaint, and Motion to Consolidate. The Cities state that they are customers of the company and are served under the Interconnection Agreements that are the subject of these proceedings. They allege that they have a direct interest in these proceedings which cannot adequately be protected by any other party.

On August 18, 1977, the Company filed an answer to the Cities' filing. The Company states that it does not oppose consolidation, but the filing argues against Cities' Motion to Reject and answers Cities' Complaint.

In light of the complex arguments of fact and law raised by the pleadings, the Commission shall grant the Cities' petition for reconsideration. This action does not constitute a grant or denial of the issues raised in the Cities' filings on the merits in whole or in part.

The Commission finds: (1) In order to afford the Commission additional time for the consideration of the issues discussed in Illinois Power and the Cities' pleadings, it is appropriate and proper in the administration of the Federal Power Act and in the public interest to grant reconsideration of the July 26 order as provided below.

(2) Participation by the Cities in these proceedings may be in the public interest.

The Commission orders: (A) Reconsideration of the Commission's order of July 26, 1977, is hereby granted for the limited purpose of further consideration.

(B) The Cities are hereby permitted to intervene in this proceeding subject to the Rules and Regulations of the Commission; *Provided, however,* That participation of such intervenors shall be limited to matters affecting asserted rights and interests as specifically set forth in their respective petitions to intervene; and *Provided, further,* That the admission of such intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(C) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-26178 Filed 9-7-77;8:45 am]

[Docket No. RP77-122]

LOCUST RIDGE GAS PROCESSING CO.

Proposed Change in Rates

SEPTEMBER 1, 1977.

That notice that on August 12, 1977, Locus Ridge Gas Processing Co. ("Locust Ridge") tendered for filing a notice of change in rates for sales to Michigan Wisconsin Pipe Line Co. ("Michigan Wisconsin"), pursuant to Locust Ridge's gas sales contract with Michigan Wisconsin, filed at Locust Ridge FPC Gas Tariff Original Volume 3. Inasmuch as the change in rate proposed by Locust Ridge is provided for by the terms of its FPC Gas Tariff Original Volume 3, no revised tariff sheets were tendered with the notice of change in rates. The proposed change would increase revenues from jurisdictional sales and services by approximately $18,000.

Locust Ridge states that the proposed change in rate is for the purpose of implementing the periodic increase in rate provided for by Locus Ridge's gas sales contract with Michigan Wisconsin. Pursuant to the terms of this contract, Locust Ridge is entitled to receive an increase of $0.025 per Mcf commencing on September 11, 1977. No other change in rates has been proposed. Locust Ridge proposes an effective date for the rate change of September 11, 1977.

Locust Ridge requests waiver of certain of the filing requirements of Section 154.63 of the Commission's regulations. Locust Ridge states that the rate increase proposed by it is akin to a rate increase by an independent producer, and, therefore, the detailed filing requirements of the Commission's regulations should not be applied to it.

Copies of the filing were served upon Michigan, Wisconsin and interested state regulatory commissions.

Any person desiring to be heard or to protest said notice should file a petition to intervene or protest with the Federal Power Commission, Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 9, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken in this proceeding. Any person wishing to become a party must file a petition to intervene. Locust Ridge's rate filing is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-26180 Filed 9-7-77;8:45 am]

[Docket No. RP77-124]

McCULLOCH INTERSTATE GAS CORP.

Proposed Rate Increase

AUGUST 31, 1977.

Take notice that on August 10, 1977, McCulloch Interstate Gas Corp. (McCulloch) tendered for filing a proposed increase in rates for natural gas service rendered under its rate schedules PL-1 and X-1. McCulloch requests that the increased rates be permitted to become effective on June 1, 1977. In its letter of transmittal, McCulloch states as follows:

"McCulloch proposes to increase its presently effective PL-1 rate[1] to 127.68 cents per MMBtu (14.65 psia). This proposed change in rate is made to recover increases in the cost of service on sales of gas in the Powder River Basin, Wyo., to Colorado Interstate Gas Co. ("CIG"), due to diminishing gas reserves, and to insure a reasonable rate of return.

McCulloch proposes to increase its presently effective X-1 rate[2] to 7.67 cents per Mcf (14.65 psia). This rate represents an annual increase in revenue of approximately $43,800.00 over that amount agreed approved by the Commission's order dated April 25, 1977, in Docket No. RP 76-66. This proposed change in rate is made to recover the same increase in cost referred to hereinabove for PL-1 rates for the transporting of gas through McCulloch facilities to CIG in the Powder River Basin, and to insure a reasonable rate of return.

McCulloch previously tendered this revised filing * * * [in Docket No. RP77-61] * * * on April 29, 1977, proposing a change in rates under the said PL-1 and X-1 rate schedules and requesting that said rates be made effective June 1, 1977 (hereinafter the "original filing"). The original filing sought to increase the effective PL-1 rate charged to CIG from 128.24 cents per MMBtu to 132.66 cents per MMBtu (14.65 psia) and to increase the effective X-1 rate to 7.67 cents per Mcf (14.65 psia) from 7.0 cents per Mcf. The two proposed rate changes in the original filing would have resulted in an annual increase in revenue to McCulloch of approximately $68,600.

On May 27, 1977, the Commission issued its order in this [Docket No. RP77-61] proceeding rejecting McCulloch's original filing herein without prejudice to its right to file proposed increased rates with supporting data conforming to the Commission's regulations (Paragraph A). The Commission found that McCulloch had not fully supported the proposed sales rate of 132.66 cents per MMBtu in the original filing. It further found that * * *. "Data accompanying the filing together with the claimed surcharge in McCulloch's PGA filing dated February 14, 1977, indicate the following unit costs:

	Cents per million Btu
Transmission	30.13
Gas cost	74.92
PGA surcharge	21.63
Total supported cost	[1] 126.68

[1] The 1 cent per MMBtu difference between this 126.68 cents per MMBtu rate and the 127.68 cents per MMBtu revised proposed rate filed herein, results from McCulloch's recovery of a carrying surcharge of nine percent (9%) permitted under Ordering Paragraph (D) of Opinion 770.

Compared with the proposed rate of 132.66 cents, the cost data filed and claimed falls short of justifying the proposed rate by 5.98 cents per MMBtu." The Commission further found that "* * * McCulloch shows the present cost of gas in its proposed rate [of 132.66 cents] at 102.53 cents per MMBtu, but the data submitted * * * will support an overall gas cost of only 96.55 cents per MMBtu, including the surcharge of 21.63 cents per MMBtu included in its February 14 PGA filing." Again, a difference of 5.98 cents between the cost of gas in the proposed rate and the data filed in support thereof.

While McCulloch does not agree with, ratify, or acquiesce in the validity or propriety of the principles, procedures or methodology utilized by the Commission as a basis for its order rejecting McCulloch's original filing herein, without prejudice; nevertheless, McCulloch, solely for the purposes of the revised filing herein, has complied with the direction of the Commission's May 27, 1977, order and adjusted its proposed rate increase to reflect submitted support data as discussed in said order.

Pursuant to Section 154.63 of the Commission's Regulations, McCulloch tenders herewith for filing with the Commission ten (10) copies of the following:

1. Revised tariff sheets (Eleventh Revised Sheet No. 32 and Second Revised Sheet No. 38, FPC Gas Tariff, Original Volume No. 1).

2. A Statement of Nature, Reason and Basis for the proposed change in rates.

3. Statements "A" through "M" and Statements "O" and "Q".

4. A representation by McCulloch's chief accounting officer and an opinion of an independent public accountant, as required by Section 154.63 (e)(5) and (e)(6) of the Commission's Regulations.

The schedules set forth on the foregoing statements are for the actual results of McCulloch's operations for the calendar year, 1976, and are adjusted for known and measurable changes for the following nine months, through September 30, 1977, for the test year.

Statement "P" (the prepared testimony of McCulloch's witnesses) which supported the proposed changes in rates in the original filing were forwarded for filing with the Commission herein on May 12, 1977. Said prepared testimony remains unchanged and properly supports the adjusted proposed rates in the revised filing herein.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 9, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-26169 Filed 9-7-77;8:45 am]

[Docket No. ER77-568]

PENNSYLVANIA POWER AND LIGHT CO.

Filing of New Contract Between Pennsylvania Power & Light Co., and the Borough of Mifflinburg Relating to a Proposed Change in Resale Service

AUGUST 31, 1977.

Take notice that on August 26, 1977, Pennsylvania Power & Light Co. ("PP&L") filed, pursuant to section 35 of the Commission's Rules and Regulations, a new contract, lower rate schedule, fuel adjustment clause material information and supporting data relating to a proposed change in the resale service to the Borough of Mifflinburg, Union County, Pa.

PP&L indicates that the purpose of this filing is to reflect a change in rate and service conditions to Mifflinburg. PP&L further indicates that currently, Mifflinburg receives resale service under PP&L's system rate for service at a supply voltage of less than 55 KV but not less than 12 KV at FPC Rate Schedule No. 55. PP&L states that Mifflinburg has determined to take service at 66 KV/138 KV. PP&L had indicated its willingness to

[1] The presently effective PL-1 rate is subject to final Commission action in Docket No. RP 75-98 and McCulloch's pending PGA filing in Docket No. RP 73-91.

[2] The presently effective X-1 rate was approved by the Commission in Docket No. RP 76-66.

provide service at that voltage and the new contract has been executed.

Any person desiring to be heard or to protest this filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 12, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of the filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-26170 Filed 9-7-77;8:45 am]

[Docket No. CP77-579]

SOUTHERN NATURAL GAS CO.

Application

AUGUST 31, 1977.

Take notice that on August 22, 1977, Southern Natural Gas Co. (Applicant), P.O. Box 2563, Birmingham, Ala. 35202, filed in Docket No. CP77-579 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas in interstate commerce for Austell Natural Gas System (Austell) of Austell, Ga., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport natural gas on a best efforts basis for Austell to Chattanooga Gas Co. (Chattanooga) in Tennessee to implement an arrangement between Austell and Chattanooga whereby Chattanooga will liquefy natural gas for Austell. The LNG whould then be transported by an appropriate carrier back to Austell for storage. Applicant says that Austell and Chattanooga have executed an agreement with Applicant dated August 9, 1977, which provides that during the summer season Applicant will transport, using existing facilities, up to 750 Mcf of gas per day for liquefaction by Chattanooga for the account of Austell.

Applicant says that the gas to be transported pursuant to the authority requested in the instant application is part of the gas allocated to Austell pursuant to Applicant's approved curtailment plan. Applicant also says that approval of its application will not result in any new or additional sales of natural gas in interstate commerce.

Applicant notes that the agreement of August 9, 1977, will end on October 31, 1979. This can be extended by consent of the parties, however, and Applicant therefore requests a certificate that is unlimited in time so that the agreement can be expeditiously extended.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 22, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

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 this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if 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 Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-26171. Filed 9-7-77; 8:45 a.m.]

[Docket No. CP77-585]

TEXAS EASTERN TRANSMISSION CORP.; CONSOLIDATED GAS SUPPLY CORP.

Application

SEPTEMBER 1, 1977.

Take notice that on August 24, 1977, Texas Eastern Transmission Corp. (Texas Eastern), Post Office Box 2521, Houston, Tex. 77001, and Consolidated Gas Supply Corp. (Consolidated), 445 West Main St., Clarksburg, W. Va. 26301 (hereinafter referred to jointly as Applicants), filed in Docket No. CP77-585 a joint application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation and delivery of up to 15,000 dekatherms (dths) equivalent of natural gas per day for the account of UGI Corp. (UGI) all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants state that UGI and Amoco Production Co. have developed certain gas supplies of approximately 15,000 dths per day in Somerset County, Pa., and that in order to receive this gas supply into its system, UGI proposes to construct a pipeline to transport and deliver the gas to Peoples Natural Gas Co. (Peoples), an intrastate company, which in turn would reduce its receipts from its supplier, Consolidated, by an equivalent amount. Applicants assert that the gas delivered by UGI to Peoples would be utilized by Peoples wholly within the Commonwealth of Pennsylvania. Applicants state further that Consolidated would then reduce its receipts from Texas Eastern at Rockwood, Somerset County, Pa., for the account of UGI, and that Texas Eastern would in turn transport and deliver the stated quantities to Columbia Gas Transmission Corp. at an existing point of interconnection in Dauphin County, Pa., for redelivery to UGI.

Applicants state that in accordance with an agreement between Consolidated and UGI dated July 18, 1977, Consolidated would not charge UGI for the proposed service and that Texas Eastern would provide the transportation service to UGI pursuant to the terms of its Rate Schedule TS-2. Applicants indicate that under the terms of Rate Schedule TS-2, Texas Eastern would transport and deliver the stated quantities on an interruptible, best efforts basis, and would charge an amount equal to Texas Eastern's rate for deliveries in the particular zone at which the proposed delivery would be made, based on the 100 percent daily contract quantity load factor level rate, less Texas Eastern's purchased gas and fuel costs.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 23, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

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 this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if 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 be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-26175 Filed 9-7-77;8:45 am]

[Docket No. CP76-185]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Petition to Amend

AUGUST 31, 1977.

Take notice that on August 19, 1977, Transcontinental Gas Pipe Line Corp. (Petitioner), P.O. Box 1396, Houston, Tex. 77001, filed in Docket No. CP76-185 a petition to amend the Commission's order issued February 6, 1976, in this docket pursuant to section 7(c) of the Natural Gas Act so as to authorize the transportation and delivery of natural gas from a new source for Lithium Corp. of America (LCA), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

By order issued February 6, 1976, in this proceeding, Petitioner is authorized to transport on an interruptible basis up to 1,500 Mcf of natural gas per day for LCA for use in LCA's plant at Bessemer City, N.C. It is stated that the gas transported pursuant to this authority is purchased by LCA from Glenda Petroleum Corp. (Glenda) in the Monroe Field, Ouachita, Union, and Morehouse Parishes, La., and delivered to United Gas Pipe Line Co. (United) in Union Parish for transportation and delivery to Petitioner, for LCA's account, at existing authorized exchange points.

It is stated that declining deliverability of the Glenda production has forced LCA to acquire a supplemental gas supply of up to 500 Mcf per day from certain wells owned by Weiser-Brown Oil Company, et al. (Weiser-Brown), in Winn Parish, La. Petitioner requests authority to transport and deliver the Weiser-Brown gas for LCA and states that it would receive the gas from United, for LCA's account, at existing authorized exchange points for transportation and delivery to Public Service Co. of North Carolina, Inc., for redelivery to LCA at the Bessemer City plant.

Petitioner states that no increase in the maximum authorized transportation volume of 1,500 Mcf per day is proposed, and that no additional facilities would be required to transport the Weiser-Brown gas. It is asserted that the proposed transportation would continue for the balance of the two-year term authorized by the February 6, 1976, order.

Petitioner states that it is currently charging LCA 29.8 cents per dekatherm of gas transported and delivered and is retaining 3.8 percent of the quantities received for compressor fuel and line loss.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before September 21, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-26172 Filed 9-7-77;8:45 am]

[Docket No. CP76-496]

WESTERN TRANSMISSION CORP.

Application

AUGUST 31, 1977.

Take notice that on August 22, 1977, Western Transmission Corp. (Applicant), 2700 Fidelity Union Tower, Dallas, Tex. 75201, filed in Docket No. CP76-496 an application pursuant to section 7(c) of the Natural Gas Act and section 157.7(b) of the Regulations thereunder (18 CFR 157.7(b)) for a certificate of public convenience and necessity authorizing the construction, during the twelve-month period commencing with the issue date of the requested budget-type certificate, and operation of facilities to enable Applicant to take into its certificated interstate pipeline system natural gas which would be purchased from producers and oher similar sellers hereof, or, in the alternative, to amend its present budget-type authority issued in said Docket on December 15, 1976, all as more fully set forth in the application on file with the Commission and open to public inspection.

By order issued December 15, 1976, in this docket, Applicant was granted budget-type authority to construct and operate gas-purchase facilities of $150,000 total cost and $37,500 cost per project. Applicant states that the total amount presently authorized is insufficient to enable it to connect to its pipeline system supplies of natural gas which are or may become available from various producers in the general area of its pipeline system and requests that the certificate issued by order of December 15, 1976, be amended to authorize total budget expenditures of $500,000, or in the alternative, that it be issued a new budget-type certificate authorizing total expenditures of up to $500,000.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in connecting to its pipeline system supplies of natural gas which are or may become available from various producing areas generally co-extensive with its pipeline system or the systems of other pipeline companies which may be authorized to transport gas for the account of or exchange gas with Applicant.

Applicant states that it anticipates higher than average construction costs due to the remoteness of the area served by its pipeline and the adverse weather conditions in the area. Due to the high costs anticipated in the construction of its gas-purchase facilities, Applicant asserts that its present budget authority, which is limited to a total of $150,000 and $37,500 for a single project, would be inadequate to construct the facilities necessary to connect its system to the facilities of others, but that a total authorization of $500,000 and $125,000 for a single project would be adequate. Applicant states further that $500,000 is in excess of two percent of its plant account, and accordingly requests that the Commission waive the cost limitations of section 157.7(b)(1) of the Regulations under the Natural Gas Act to permit total expenditures of up to $500,000 and expenditures of up to $125,000 for any single project.

Applicant states that the total cost of the proposed facilities would not exceed $500,000, and that the cost of any single project would not exceed $125,000. The application indicates that the proposed capital expenditures would be made from cash on hand, from cash generated from normal internal sources, and from short-term bank loans.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 23, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

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 this application if not petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to interevene is timely filed, or if 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 Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-26173 Filed 9-7-77;8:45 am]

FEDERAL RESERVE SYSTEM

[H.2, 1977 No. 33]

ACTIONS OF THE BOARD

Applications and Reports Received During the Week Ending August 13, 1977

ACTIONS OF THE BOARD

Proposed revision of Article 9 of the SEC S-X, providing for "specific requirements as to form and content for consolidated and unconsolidated financial statements of bank holding companies and banks", response to request for Board's views sent to Mr. Harold M. Williams, Chairman, Securities and Exchange Commission.

Philadelphia International Investment Corp., Philadelphia, Pa., extension of time to October 10, 1977, within which to dispose of the stock of Arbuthnot Latham Holdings Ltd., London, England.

Negotiable orders of withdrawal, letter to Chairman Thomas J. McIntyre, Senate subcommittee on Financial Institutions, in support of the NOW accounts legislation.

Issuance of a subordinated capital note by The Trust Co. of New Jersey, Jersey City, N.J.

Issuance of subordinated capital notes by Central Bank, Monroe, La.

Westland Banks, Inc., Lakewood, Colo., extension of time to December 8, 1977, within which to consummate the acquisition and opening of Westland National Bank South, Longmont, Colo.[1]

Westland Banks, Inc., Lakewood, Colo., extension of time to December 31, 1977, within which to consummate the acquisition and opening of Westland Bank of Lakewood, Lakewood, Colo.[1]

First Missouri Banks, Inc., Creve Coeur, Mo., extension of time to October 31, 1977, within which to open its de novo bank, First Missouri Bank of West County, St. Louis County, Mo.[1]

Alabama Bancorporation, Birmingham, Ala., extension of time to November 11, 1977, within which to acquire Farmers and Merchants Bank, Ashford, Ala.[1]

Citizens Bank of New Haven, New Haven, Mo., to make an additional investment in bank premises.[1]

Warren Bank, Warren, Mich., to make an investment in bank premises.[1]

Termination of Registration for U. of C. Federal Credit Union (University of Colorado, Boulder, Colo.[1]

Detroit Bank—Troy, Troy, Mich., extension of time to October 15, 1977, within which to establish a branch at the northeast corner of the intersection of John R and Watties Road, Troy; and an extension of time to March 15, 1978, within which to establish a branch at the intersection of Square Lake and Rochester Roads, Troy.[1]

Farmers and Merchants Bank of Central California, Lodi, Calif., extension of time to August 22, 1978, within which to establish a branch on McHenry Avenue between Woodrow and Floyd Avenue, Modesto, Calif.[1]

Walker Bank and Trust Co., Salt Lake City, Utah, extension of time to February 17, 1978, within which to establish a branch in downtown Tooele, Utah.[1]

Capital Bank of Miami, N.A., Miami, Fla., and Capital Bank of Kendale, Miami, Fla., proposed merger with Capital Bank of North Bay Village, North Bay Village, Fla., report to the Federal Deposit Insurance Corporation on competitive factors.[1]

Landmark Bank of North Tampa, Hillsborough County, Fla., proposed merger with Landmark Bank of Tampa, Tampa, Fla., report to the Federal Deposit Insurance Corporation on competitive factors.[1]

To Establish a Domestic Branch Pursuant to Section 9 of the Federal Reserve Act.

APPROVED

NB Bank of Richmond, Va. Branch to be established at 1900 Lauderdale Drive, Henrico County.[2]

The Bank of El Paso, El Paso, Tex. Branch to be established as a Drive-in Facility nad Data Processing Center at 5101 Montana Street.[2]

Valley Bank and Trust Co., Salt Lake City, Utah. Branch to be established in the vicinity of 8600 South and 1300 East in Sandy, Salt Lake County.[2]

* * * * *

International Investments and Other Actions 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.

APPROVED

Citibank Overseas Investment Corp.: An extension of the 8-11-77 divestiture deadline re: indirect equity interests at IAC (Holdings) Ltd., Australia.

United States Trust Co. International Corp.: Investment—to acquire 100 percent of the shares of U.S. Trust Co. of New York (Grand Cayman) Ltd.

Philadelphia International Investment Corp.: Investment—to acquire 24 percent of the shares of Australian Finance and Securities Ltd., Sydney, Australia.

Philadelphia International Investment Corp.: To retain its 4.5-percent interest in Arbuthnot Latham Holdings, Ltd., London, England.

Continental International Finance Corp.: Investment—to acquire all the shares of Continental Illinois Investment Corp., Geneva, Switzerland.

To Form a Bank Holding Company Pursuant to Section 3(a)(1) of the Bank Holding Company Act of 1956.

APPROVED

Ark Valley Bankshares, Inc., La Junta, Colo., for approval to acquire 83 percent of the voting shares of The La Junta State Bank, La Junta, Colo. and 56 percent of the voting shares of The Empire State Bank, Rocky Ford, Colo.

Columbus Bancshares, Inc., Columbus, Kans., for approval to acquire 90.92 percent of the voting shares of The Columbus State Bank, Columbus, Kans.[3]

Metropolitan Bank and Trust Co., Philippine Securities Corp. and Tytana Corp., all of Makati, Rizal, Philippines, for approval to acquire 35 percent of the voting shares of International Bank of California, Los Angeles, Calif.

* * * * *

To Expand a Bank Holding Company Pursuant to Section 3(a)(3) of the Bank Holding Company Act of 1956.

APPROVED

The Central Bancorporation, Inc., Cincinnati, Ohio, for approval to acquire 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to First National Bank of Mercer County, Celina, Ohio.

First Bankers Corp. of Florida, Pompano Beach, Fla., for approval to acquire 80 percent or more of the voting shares of First National Bank of Cape Canaveral, Cape Canaveral, Fla.[3]

Central Bancompany, Jefferson City, Mo., for approval to acquire 100 percent of the voting shares of The First National Bank of Mexico, Mexico, Mo.

Caprice Corp., Red Lake Falls, Minn., for approval to acquire 93.33 percent or more of the voting shares of Plummer State Bank, Plummer, Minn.

To expand a Bank Holding Company Pursuant to Section 4(c)(8) of the Bank Holding Company Act of 1956.

WITHDRAWN

United Virginia Bankshares Incorporated, Richmond, Va., notification of intent to relocate de novo activities (originating loans as principal; originating loans as agent; servicing loans for nonaffiliates, individuals, partnerships and corporations; servicing loans for affiliates of United Virginia Bankshares Inc.; the sale as agent, of credit disability mortgage redemption and mortgage cancellation insurance in connection with such loans and such other activities as may be incidental to the business of a mortgage corporation) from 2200 Century Parkway NE., Suite 798, Atlanta, Ga., to 2295 Parklake Drive NE., Suite 470, Atlanta, Ga., through its subsidiary, United Virginia Mortgage Corp. (8/10/77)[3]

DELAYED

Midland Mortgage Corp., Detroit, Mich., notification of intent to engage in de novo activities (servicing loans and other extensions of credit for any person or entity) at 350 First National Building, Detroit, Mich., through its subsidiary, Midland Mortgage Service Corp. (8/11/77)[3]

PERMITTED

Shawmut Corp., Boston, Mass., and Texas American Bancshares, Inc., Fort Worth, Tex., notification of intent to continue to engage in de novo activities (agricultural commodity financing, servicing such financing and related and incidental activities, and in general, making, servicing or acquiring, for its own account or for the account of others, loans and other extensions of credit to agricultural enterprises or secured by agricultural commodities) in Arizona, California, Idaho, Iowa, Nevada, Utah, and Wyoming, through a joint venture, American AgCredit Corp., Guymon, Okla., at offices in Guymon, Okla.; Amarillo, Tex.; and Denver, Colo. (8/12/77)[3]

[1] Application processed on behalf of the Board of Governors under delegated authority.

[2] Application processed by the Reserve Bank on behalf of the Board of Governors under delegated authority.

[3] 4(c)(8) and 4(c)(12) notifications processed by Reserve Bank on behalf of the Board of Governors under delegated authority.

Chemical New York Corp., New York, N.Y., notification of intent to relocate de novo activities (making of direct loans and purchasing sales finance contracts representing extensions of credit such as would be made or acquired by a finance company; acting as agent for the sale of credit life insurance and credit accident and health insurance issued in connection with extensions of credit and making available to its borrowers, credit related property and casualty insurance) from 221 West Main Street, P.O. Box 373, Lakeland, Fla. to 4404 South Florida Avenue, Lakeland, Fla., through tis subsidiary, Sentry Acceptance Co., 802, Inc. (8/8/77)[3]

Chemical New York Corp., New York, N.Y., notification of intent to engage in de novo activities (making "large" loans, in excess of $1,500 and not exceeding $7,500 under the N.C. Gen. Stat. Sec. 24–1.2(a) and Secs. 2412 through 17) at 4010 Oleander Drive, Wilmington; Suite 213, Executive Park Building, Asheville; 104 W. Trade St., Forest City; 533 Marion Plaza, Marion; 2224 North Church Street, Burlington; 332 Highway 84–60, S.W., Hickory; 320 West Dixon Boulevard, Shelby; 255 Charlois Boulevard, Winston-Salem; 897 Peters Creek Parkway, Winston-Salem; 175 Northpoint Avenue, High Point; 143 West Franklin, Chapel Hill; 225 Green Street, Fayetteville; No. 5 Woodlawn Green, Suite 154, Charlotte; 4801 E. Independence Blvd., Charlotte; 600–B South Main Street, Laurinburg; 415 West Meadowview Rd., Greensboro; all located in North Carolina, through its subsidiary, Sun Mortgage Acceptance Corporation (8/7/77)[3]

Fidelcor, Inc., Rosemont, Pennsylvania, notification of intent to relocate de novo activities (making and acquiring, consumer and mortgage loans to individuals including second mortgages on properties in New Jersey where the loans are owned by direct or indirect subsidiaries of Fidelcor; engaging in a general consumer finance business; purchasing installment contracts arising from the sale of personal property and services; and with the respect to all of the above, selling credit life and credit accident and health insurance, mortgage life or disability insurance, accidental death insurance and casualty insurance on the collateral and through Master Life Insurance Company, an indirect subsidiary of Fidelcor, reinsuring consumer-type credit life insurance sold) from 92 Roosevelt Avenue, Carteret, N.J. to 1363 Roosevelt Avenue, Carteret, N.J., through its subsidiary, Fidelcor Financial Centers, Inc. (8/8/77)[3]

Union Trust Bancorp, Baltimore, Md., notification of intent to engage in de novo activities (making installment loans to individuals for personal, family or household purposes; purchasing sales finance contracts executed in connection with the sale of personal, family or household goods of services; and acting as agent in the sale of credit life and credit accident and health insurance directly related to its extensions of credit) at 852–854 Terry Road, Jackson, Miss., 122 East Pine Street, Hattiesburg, Miss., and 283 West Evans Street, Florence, S.C., through its subsidiaries, Landmark Finance Corp. of Mississippi and Landmark Finance Corp. of South Carolina (wholly-owned subsidiaries of Landmark Financial Services, Inc.) (8/7/77)[3]

Landmark Banking Corp., Fort Lauderdale, Florida, notification of intent to engage in de novo activities (providing data processing services and storing and processing banking, financial, or related economic data for Landmark Banking Corp., and its subsidiaries and affiliates, their correspondent banks, and other banking institutions and their respective customers) at Central and Ninth, St. Petersburg, Fla.; 4640 South Orange Blossom Trail, Orlando, Fla.; and 225 East Las Olas Boulevard, Fort Lauderdale, Fla, through a subsidiary, Landmark Data Services Corp. (8/7/77)[3]

BankAmerica Corp., San Francisco, Calif., notification of intent to engage in de novo activities (making and acquiring, for its own account loans and other extensions of credit such as would be made or acquired by a finance company and servicing loans and other extensions of credit; such activities will include, but not be limited to, making loans and other extensions of credit to small businesses and making loans secured by real property; acting as agent or broker for the sale of credit life insurance in connection with extensions of credit made or acquired by FinanceAmerica Mortgage Services, Inc.) at 762 Wolcott Road, Waterbury, Conn., through its indirect subsidiary, FinanceAmerica Mortgage Services, Inc. (8/8/77)[3]

Security Pacific Corp., Los Angeles, Calif., notification of intent to relocate de novo activities (making and acquiring, for its own account or for the account of others, loans and other extensions of credit including secured and unsecured consumer, commercial, and agricultural loans, sale contracts and other forms of receivables and such other types of loans and credit extensions as are customarily made or acquired by a finance company; and acting as broker or agent for the sale of credit-related life/accident and health insurance and credit-related property and casualty insurance) from 1214 Main to 5193 Overland, Boise, Idaho, through its subsidiary, The Bankers Investment Co. (8/11/77).[3]

* * * * *

To Expand a Bank Holding Company Pursuant to Section 4(c)(12) of the Bank Holding Company Act of 1956.

PERMITTED

American Financial Corp., Cincinnati, Ohio, and its subsidiaries, notification of intent to acquire from 5 percent to 35 percent of the outstanding voting shares of the following companies: Alpha Portland Industries, Inc., Easton, Pa.; Florida Gas Co., Winter Park, Fla.; Integrated Resources, Inc., New York, N.Y.; and Pacific Holding Corp., Los Angeles, Calif. (8/9/77).[3]

Berkshire Hathway Inc., New Bedford, Mass., notification of intent to indirectly acquire more than 5 percent of the outstanding voting stock of United Merchants & Manufacturers, Inc., New York, N.Y., a textile manufacturing and retail clothing chain, through its subsidiary, Blue Chip Stamps 8/13/77).[3]

APPLICATIONS RECEIVED

To Establish a Domestic Branch Pursuant to Section 9 of the Federal Reserve Act.

First Bank of Colonia, Colonia, N.J. Branch to be established at 1001 Inman Avenue, Edison, Middlesex County.

The Commercial and Savings Bank of Millersburg, Ohio. Branch to be established at Route 62, Winesburg, Holmes County.

Metropolitan Bank & Trust Company, Tampa, Fla. Branch to be established at State Road 674 and Pebble Beach Boulevard, Sun City Center, Hillsborough County.

* * * * *

To Form a Bank Holding Company Pursuant to Section 3(a)(1) of the Bank Holding Company Act of 1956.

Harrison Bancorporation, Cynthiana, Ky., for approval to acquire 3,000 shares of the voting shares of The Harrison Deposit Bank and Trust Company, Cynthiana, Ky.

Janesville Holding Co., Janesville, Minn., for approval to acquire 80.1 percent of the voting shares of Janesville State Bank, Janesville, Minn.

Country Bancshares, Inc., Jamesport, Mo., for approval to acquire 89 percent of the voting shares of Home Exchange Bank of Jamesport, Jamesport, Mo.

* * * * *

To Expand a Bank Holding Company Pursuant to Section 3(a)(3) of the Bank Holding Company Act of 1956.

First National Boston Corp., Boston, Mass., for approval to acquire 100 percent of the voting shares of the successor by merger to Blackstone Valley National Bank, Whitinsville, Mass.

First Bank System, Inc., Minneapolis, Minn., for approval to acquire 100 percent (less directors' qualifying shares) of the voting shares of Granite City National Bank of St. Cloud, St. Cloud, Minn., a proposed new bank.

Allied Bancshares, Inc., Houston, Tex., for approval to acquire 100 percent of the voting shares (less directors' qualifying shares) of Addicks Bank, Addicks, Tex.

Applied Bancshares, Inc., Houston, Tex., for approval to acquire 100 percent of the voting shares (less director's qualifying shares) of American National Bank, Humble, Tex.

Allied Bancshares, Inc., Houston, Tex., for approval to acquire 100 percent of the voting shares (less director's qualifying shares) of Hillcroft Bank, Houston, Tex.

Allied Bancshares, Inc., Houston, Tex., for approval to acquire 100 percent of the voting shares (less directors' qualifying shares) of The First National Bank of Newton, Newton, Tex.

Allied Bancshares, Inc., Houston, Tex., for approval to acquire 100 percent of the voting shares (less directors' qualifying shares) of Gulf Coast State Bank, Winnie, Tex.

* * * * *

To Expand a Bank Holding Company Pursuant to Section 4(c)(8) of the Bank Holding Company Act of 1956.

Chemical New York Corp., New York, N.Y., notification of intent to engage in de novo activities (extending direct loan credit and purchasing sales finance contracts and such other extensions of credit as would be made or acquired by a consumer finance company operating under Arizona Revised Statutes Section 6–601 to 6–640 inclusive; and providing group credit life and group accident and health insurance directly related to such extensions of credit) at Basha's Shopping Center, Southern and Mesa Drive, Mesa, Ariz., through its subsidiary, Sunamerica Corp. (8/9/77).[3]

Citicorp, New York, N.Y., notification of intent to relocate de novo activities (acquiring and servicing, sale finance and retail installment sales contracts and agreements, and acquiring and servicing indebtedness under such contracts and agreements; such servicing may include issuance of credit and identification cards, billing and related services) from 200 West Baltimore Street, Baltimore, Md., to 7720 York Avenue, Towson, Md., through its subsidiary, Citicorp Financial, Inc. (8/8/77).[3]

Citicorp, New York, N.Y., notification of intent to engage in de novo activities (making consumer installment personal loans, purchasing and servicing for its own account consumer installment sales finance contracts, making loans for the account of others such as one-to-four family unit mortgage loans, making loans to individuals and businesses secured by real and personal property; and sale of credit related life and accident and health insurance) at Chula Vista Square, 542 Broadway, Suite M, San Diego; University Towne Centre Regional Shopping Center, San Diego; College Grove Center, Store No. F-8-E, San Diego; and 1279 Camino Del Rio South, San Diego, all located in California, through its subsidiary, Citicorp Person-to-Person Financial Center, Inc. (8/9/77).[3]

Bank of Virginia Company, Richmond, Va., notification of intent to engage in de novo activities (interim development and construction lending, residential permanent mortgage lending, commercial permanent mortgage lending, commercial permanent mortgage lending and servicing of permanent mortgages) at 3206 Cutshaw Avenue, Richmond, Va., through an indirect subsidiary, Bank of Virginia Second Mortgage Corporation (a wholly-owned subsidiary of BVA Credit Corp.) (8/11/77).[3]

Maryland National Corp., Baltimore, Md., notification of intent to engage in de novo activities (engage generally in the business of a mortgage banker, mortgage broker, and mortgage servicing firm including, but not limited to, second mortgage financing; originating, buying, selling, and otherwise dealing in mortgage loans as principal or agent; servicing mortgage loans for affiliated or nonaffiliated individuals, partnerships, corporations, or other entities; acting as advisor in mortgage loan and second mortgage loan transactions; and engaging in the sale, as agent of credit life, credit disability, credit accident and health, loan redemption, and loan cancellation insurance in connection with extensions of credit by bank and nonbank subsidiaries of the holding company) at 10 Light Street, Baltimore, Md.; 225 North Calvert Street, Baltimore, Md.; Tysons Corners Center, McLean, Va.; and 1114 MacArthur Drive, Greater Wilmington, Airport, New Castle, Del., through its subsidiary, Homeowners Loan Corp. (8/11/77).[3]

Maryland National Corp., Baltimore, Md., notification of intent to engage in de novo activities (engaging generally in the business of a mortgage banker and mortgage broker; and engaging in the business of arranging financing, financial structuring, and analysis of real estate problems) at 450 Park Avenue, New York, N.Y., and 10 Light Street, Baltimore, Md., through a wholly-owned subsidiary known as Old Line Realty Corp. to form a joint venture to be known as Old Line Realty Co. (8/10/77).[3]

Avon Securities, Inc., Avon Park, Fla., notification of intent to engage in de novo activities (data processing services for financial institutions) at 560 E. McNab Road, Pompano Beach, Fla., through a subsidiary, Central Independent Financial Centers, Inc. (8/11/77).[3]

United Missouri Bancshares, Inc., Kansas City, Mo., for approval of the acquisition of United Missouri Insurance Co., Phoenix, Ariz., and to engage in the following activities (underwriting, as reinsurer, credit life and credit disability coverages directly related to extensions of credit by the bank holding company's subsidiaries).

BankAmerica Corp., San Francisco, Calif., notification of intent to engage in de novo activities (making or acquiring, for their own account loans and other extensions of credit such as would be made or acquired by a finance company; FinanceAmerica Corp. will engage in making consumer installment loans, making loans and other extensions of credit to small businesses, purchasing installment sales finance contracts, and servicing loans and other extensions of credit; FinanceAmerica Loan and Investment Co. will engage in making consumer installment loans, making loans and other extensions of credit to small businesses, making loans secured by real or personal property, and servicing loans and other extensions of credit; both corporations will act as agent or broker for the sale of credit related life and credit related accident and disability insurance in connection with extensions of credit made or acquired by FinanceAmerica Corp. or FinanceAmerica Loan and Investment Co.) at 7919 Preston Highway, Okolona, Ky., through its indirect subsidiaries, FinanceAmerica Corp. (a Kentucky corporation) and FinanceAmerica Loan and Investment Co. (8/3/77).[3]

Security Pacific Corp., Los Angeles, Calif., notification of intent to engage in de novo activities (acting as investment or financial adviser to the extent of serving as investment adviser as defined in Section 2(a)(20) of the Investment Company Act of 1940, to an investment company registered under that Act; providing portfolio investment advice to any other person and furnishing general economic information and advice, general economic statistical forecasting services and industry studies) at 333 South Hope Street, Los Angeles, Calif., through its subsidiary, Security Pacific Investment Managers, Inc. (8/4/77).[3]

Sellon, Inc., Toledo, Ohio, notification of intent to continue to engage in de novo activities (leasing motor vehicles to the public or acting as agent, broker, or adviser in leasing such property where at the inception of the initial lease the effect of the transaction (and, with respect to governmental entities only, reasonably anticipated future transactions) will yield a return that will compensate the lessor for not less than the lessors full investment in the property plus the estimated total cost of financing the property over the term of the lease, from rentals; estimated tax benefits (investment tax credit, net economic gain from tax deferral from accelerated depreciation and other tax benefits with a substantially similar effect); the estimated residual value of the property at the expiration of the initial term of the lease which in no case shall exceed 20 percent of the acquisition cost of the property to the lessor and in the case of a lease of not more than seven years in duration, such additional amount, which shall not exceed 60 percent of the acquisition cost of the property as may be provided by an unconditional guarantee by a lessee, independent third party or manufacturer which has been determined by the lessor to have the financial resources to meet such obligation that will assure the lessor of recovery of its investment and cost of financing) at 33 Mitchel Boulevard, San Rafael, Calif., and 1965 South Main Street, Salt Lake City, Utah, through its subsidiary, Bancorporation Leasing (8/8/77).[3]

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REPORTS RECEIVED

None.

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PETITIONS FOR RULEMAKING

None.

Board of Governors of the Federal Reserve System, August 26, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-26089 Filed 9-7-77;8:45 am]

AMERIBANC, INC., ST. JOSEPH, MO.

Order Approving Acquisition of Bank

Ameribanc, Inc., St. Joseph, Mo. ("Applicant"), a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 80 percent or more of the voting shares of Morgan County Bank, Versailles, Mo. ("Bank").

The application has been processed by the Federal Reserve Bank of Kansas City, pursuant to authority delegated by the Board of Governors of the Federal Reserve System under the provisions of section 265.2(f)(24) of the Rules Regarding Delegation of Authority.

Notice of the application affording an opportunity for interested persons to submit comments and views has been given in accordance with section 3(b) of the Act (42 FEDERAL REGISTER 35699 (1977)). The time for filing comments and views has expired, and the Reserve Bank has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act.

Applicant, the ninth largest banking institution in Missouri, controls 14 banks with aggregate deposits of $313.4 million,[1] representing 1.65 percent of the total deposits in commercial banks in the State. Acquisition of Bank, ranked 348th in the State, would increase Applicant's share of deposits to 1.71 percent, and would result in no significant increase in concentration of banking resources in Missouri.

Consummation of the proposed acquisition would neither eliminate any significant existing competition nor foreclose the development of future competition between any of Applicant's subsidiary banks and Bank. Bank ($11.41 million in deposits) is the second largest of three banks in the relevant banking market, defined as Morgan County, and controls 32.78 percent of deposits herein. None of Applicant's subsidiary banks are located in the relevant market. Applicant's nearest subsidiary bank is First State Bank in Rolla, Mo., which is approximately 85 road miles from Versailles. It has been determined that no significant competition would be eliminated as a result of the proposed acquisition. Current population per banking office ratios suggest that *de novo* entry is unlikely. Overall, competitive considerations are consistent with approval.

The financial and managerial resources and future prospects of Applicant, its subsidiaries and Bank are re-

[1] Unless otherwise indicated, all banking data are as of December 31, 1976, and have been adjusted to reflect all acquisitions to date.

garded as satisfactory and consistent with approval.

Affiliation with Applicant should enable Bank to offer expanded services, especially in the areas of lending. These factors, as they relate to the convenience and needs of the community to be served, are consistent with approval of this application. It is the Reserve Bank's judgement that consummation of the proposed acquisition is in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order, or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Kansas City, pursuant to delegated authority.

WILBUR T. BILLINGTON,
Senior Vice President.

AUGUST 26, 1977.

[FR Doc.77-26090 Filed 9-7-77;8:45 am]

AMERICAN STATE BANCSHARES, INC.

Order Approving Formation of Bank Holding Company

American State Bancshares, Inc., Osawatomie, Kans., has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) of formation of a bank holding company by acquiring 80 percent or more of the voting shares of The American State Bank, Osawatomie, Kans. ("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 in light of the factors set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

Applicant, a nonoperating corporation with no subsidiaries, was organized for the purpose of becoming a bank holding company by acquiring Bank (deposits of $4.6 million).[1] Upon acquisition of Bank, Applicant will control the 447th largest bank in Kansas, with approximately 0.05 percent of total deposits of commercial banks in the State.

Bank is the smallest of six banks competing in Miami County, Kans., the relevant banking market, holding approximately 5.3 percent of the total deposits in commercial banks therein. Since the instant proposal is essentially a corporate reorganization, and since Applicant and Applicant's principals do not control any other banks, consummation of the proposal would neither eliminate existing or potential competition nor increase the concentration of banking resources in any relevant area. Thus, the Board concludes that the competitive effects of the proposal are consistent with approval of the application.

Although Applicant will incur debt in connection with the proposal, the projected income from Bank should provide sufficient revenue to service the debt without impairing the financial condition of Bank. Therefore, the financial resources of Applicant and Bank are satisfactory and consistent with approval. Both the managerial resources and the future prospects of Applicant and Bank are considered satisfactory and consistent with approval.

Although consummation of the proposal would have no immediate effect on services offered by Bank, considerations relating to the convenience and needs of the community to be served are also consistent with approval.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Kansas City pursuant to delegated authority.

By order of the Board of Governors,[2] effective August 31, 1977.

ROBERT E. MATTHEWS,
Assistant Secretary of the Board.

[FR Doc.77-26091 Filed 9-7-77;8:45 am]

CHARTER TECHNY BANCORPORATION, INC.

Formation of Bank Holding Company

Charter Techny Bancorporation, Inc., Northfield, Ill., has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Charter Bank of Techny, Northbrook, Ill., a proposed new bank. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 26, 1977.

Board of Governors of the Federal Reserve System, August 29, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-26092 Filed 9-7-77;8:45 am]

[1] All banking data are as of December 31, 1976.

[2] Voting for this action: Vice Chairman Gardner and Governors Wallich, Coldwell, Jackson, Partee and Lilly. Absent and not voting: Chairman Burns.

CONSUMER ADVISORY COUNCIL

Notice of Meeting

Notice is hereby given that the Consumer Advisory Council will meet on Thursday, September 15, 1977. The meeting, which will be open to public observation, will take place in Terrace Room E of the Martin Building beginning at 9:30 a.m. and concluding at approximately 4 p.m. The Martin Building is located on C Street NW., between 20th and 21st Streets in Washington, D.C.

The Council's function is to advise the Board on the exercise of the Board's responsibilities with regard to consumer credit legislation and regulation. It is anticipated that the September 15 meeting of the Council will include consideration of the following topics:

1. *Regulatory and legislative actions since June 2 meeting.* Brief summaries by staff, followed by opportunity for comment by members of Council, of policy decisions made by the Board of Governors since the last meeting of the Council on changes in Regulation Z and B and significant official interpretations, on Board recommendations to Congress for changes in legislation, and any relevant actions taken by congressional committees or subcommittees since June 2.

2. *Open discussion.* Any topics initiated by Council members.

3. *Compliance guidelines for banking institutions.* Report from staff, followed by Council discussion, of proposals jointly prepared by staffs of the Federal Reserve Board, Comptroller of the Currency, Federal Home Loan Bank Board, and Federal Deposit Insurance Corporation to unify compliance policies for violations of consumer credit laws by banking institutions, including provisions for restitution to consumers of overcharges resulting from violation of disclosure requirements.

4. *Residential area discrimination.* Discussion of pending legislation on which the Board's views have been requested prohibiting the use of residential location ("redlining by zip code") or of occupation or title in credit scoring systems or as criteria for refusal of credit.

Information with regard to this meeting may be obtained from Mr. Joseph R. Coyne, Assistant to the Board, at 202-452-3204.

Board of Governors of the Federal Reserve System, September 1, 1977.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.77-26088 Filed 9-7-77;8:45 am]

COMMERCIAL NATIONAL CORP.

Formation of Bank Holding Company

Commercial National Corp., Brady, Tex., has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 81 percent or more of the voting shares of Commercial National Bank of Brady, Brady, Tex. The

factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 27, 1977.

Board of Governors of the Federal Reserve System, August 31, 1977.

ROBERT E. MATTHEWS,
Assistant Secretary of the Board.

[FR Doc.77-26093 Filed 9-7-77;8:45 am]

DAVENPORT BANK AND TRUST CO.

Order Approving Acquisition of Assets

Davenport Bank and Trust Co., Davenport, Iowa, a State member bank of the Federal Reserve System, has applied, pursuant to the Bank Merger Act (12 U.S.C. 1828(c)), for the Board's prior approval to acquire certain assets and assume certain liabilities of Donahue Savings Bank, Donahue, Iowa ($5 million in deposits[1]), and, as an incident thereto, to operate the present office of Donahue Savings Bank as a branch office.

Published notice of the proposed acquisition of assets and assumption of liabilities and requests for reports on the competitive factors involved therein have been dispensed with as authorized by the Bank Merger Act.

The Board has considered all relevant material contained in the record in the light of the factors set forth in the Act, including the effect of the proposal on competition, the financial and managerial resources and prospects of the banks involved, and the convenience and needs of the communities to be served and finds that:

On the basis of the information before the Board, it is apparent that an emergency situation exists so as to require that the Board act immediately pursuant to the provisions of the Bank Merger Act in order to safeguard depositors of Donahue Savings Bank.

Such anticompetitive effects as may be attributable to consummation of the transaction are clearly outweighed in the public interest by considerations relating to and involved in the emergency situation found to exist. From the record in the case, it is the Board's judgment that any disposition of the application other than approval would be inconsistent with the best interests of the depositors of Donahue Savings Bank, and the Board concludes that the proposed transaction should be approved on a basis that would not delay consummation of the proposal.

It is hereby ordered, on the basis of the record, that the application be and hereby is approved and that the acquisition of assets and assumption of liabilities and the establishment of a branch office may be consummated immediately but in no event later than three months after the date of this Order unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Chicago pursuant to delegated authority.

By order of the Board of Governors,[2] effective August 29, 1977.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc. 77-26094 Filed 9-7-77; 8:45 am]

[1] Deposit data are as of December 31, 1976.

FIRST CITY BANCORPORATION OF TEXAS, INC.

Order Approving Acquisition of Bank

First City Bancorporation of Texas, Inc., Houston, Tex. ("Applicant"), 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 100 percent (less directors' qualifying shares) of the voting shares of the successor by merger to The City National Bank of Bryan, Bryan, Tex. ("Bank"). The bank into which Bank is to be merged has no significance except as a means to facilitate the acquisition of the voting shares of Bank. Accordingly, the proposed acquisition of shares of the successor organization is treated herein as the proposed acquisition of the shares of 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 in light of the factors set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

Applicant, the largest banking organization in Texas, controls 28 banks with aggregate deposits of $4.14 billion, representing 7.81 percent of total deposits in commercial banks in the State.[1] Acquisition of Bank, which holds deposits of $54.8 million, would increase Applicant's share of total deposits in commercial banks in the State by 0.1 percent.

Bank is the second largest of six banks in the relevant geographic market.[2] Its $54.8 million in deposits represent 25.1 percent of market deposits. The largest bank in the market holds 27 percent of the market deposits. The third, fourth, and fifth largest banks in the market hold, respectively, 19.6 percent, 14.1 percent, and 13.2 percent of market deposits. The smallest bank in the market, organized in 1976, controls just under 1 percent of market deposits. It appears that none of the banks in the market is currently held by a bank holding company.

Applicant's nearest subsidiary is located 80 miles south of Bank in Wallis, Tex. Several subsidiaries of Applicant derive only marginal amounts of business from the relevant market and none derives any substantial amounts. Thus, and in view of the local nature of banking markets, consummation of Applicant's proposal would not have any significant adverse effects on existing competition within the relevant market.

Although the market's ratio of population to banking offices is 1.4 times the State average, per capita deposits in the market are only 67 percent of the State average. The market has experienced considerable population growth since 1970. The market, on balance, appears slightly attractive for de novo entry. Although Applicant may be considered a potential entrant into this market, it should be noted that no other bank holding companies are represented in the Bryan market. Thus, the loss of Applicant as a potential entrant is not considered significant in view of the relatively large number of remaining bank holding companies that are potential entrants into the market. Bank holds approximately $12 million more in market deposits (5.5 percent of market deposits) than the third largest bank and approximately $4 million less (about 2 percent) than the largest bank in the market. The similarity in size of the five largest of the six banks in the market suggests the absence of alternative foothold means of entry into the market since it does not appear that the smallest bank in the market is available for acquisition. For the foregoing reasons, approval of this application will have only a slightly adverse effect, if any, on potential competition.

The financial and managerial resources of Applicant and its subsidiaries and of Bank are considered generally satisfactory and the future prospects of all appear favorable. Thus, the Board believes that the banking factors involved in the proposal are consistent with approval.

Information contained in the record indicates that most of the banking needs of the area are currently being met. However, the growth in the area has created demands for new services not currently available within the market. Applicant through Bank has the capability of providing these services. Bank has maintained a quite conservative loan to deposit ratio; Applicant intends to infuse capital into Bank to increase commercial and consumer lending. It plans within two years of acquisition to provide credit related insurance through Applicant's subsidiary, First City Life Insurance Co., at rates less than those currently charged by an affiliate of Bank. Applicant also intends to expand mortgage lending services. In light of these factors the Board regards considerations

[2] Voting for this action: Vice Chairman Gardner and Governors Jackson, Partee, and Lilly. Absent and not voting: Chairman Burns and Governors Wallich and Coldwell.

[1] All banking data are as of December 31, 1976 and reflect bank holding company formations and acquisitions approved through June 30, 1977.

[2] The relevant geographic market is approximated by the Bryan-College Station Standard Metropolitan Statistical Area which encompasses all of Brazos County. The January 1, 1977 population estimated for the market was 76,700 persons, an increase of 32.2 percent over 1970. The recent expansion of Texas A&M University, located at College Station, contributed significantly to this increase. Texas population growth Statewide was estimated at 12 percent for the same period.

of the convenience and needs of the community to be served as lending weight in favor of approval of the application.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Dallas pursuant to delegated authority.

By order of the Board of Governors,[1] effective September 1, 1977.

ROBERT E. MATTHEWS,
Assistant Secretary of the Board.

[FR Doc.77-26095 Filed 9-7-77;8:45 am]

HUNTINGTON BANCSHARES INC.

Order Approving Acquisition of Bank

Huntington Bancshares Inc., Columbus, Ohio ("Applicant"), 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 Bank Holding Company Act (12 U.S.C. § 1842(a)(3)) to acquire 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to Bellefontaine National Bank, Bellefontaine, Ohio ("Bank"). The bank into which Bank is to be merged has no significance except as a means to facilitate the acquisition of the voting shares of Bank. Accordingly, the proposed acquisition of shares of the successor organization is treated herein as the proposed acquisition of the shares of 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 of the Department of Justice, in light of the factors set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

Applicant, the seventh largest banking organization in Ohio, controls twelve banking subsidiaries with aggregate deposits of approximately $1.4 billion, representing 4.1 percent of total commercial bank deposits in Ohio.[1] Acquisition of Bank ($29.9 million in deposits) would increase Applicant's share of Statewide commercial bank deposits by only 0.2 percent and would have no appreciable effect upon the concentration of banking resources in Ohio.

Bank is the largest of seven banking organizations located in the Logan County banking market,[2] and controls approximately 35.6 percent of the total deposits in commercial banks in the market. Applicant's closest subsidiary bank, Huntington First National Bank of Kenton, ("Kenton Bank"), is located in the separate Hardin County banking market, which adjoins Logan County to the north. Bank operates four offices, the closest of which is located in Belle Center and is 13.3 miles from the nearest Kenton Bank office and in a different banking market. In light of all the evidence of record, including the fact that Bank and Kenton Bank are located in separate banking markets, it appears that no meaningful amount of existing competition would be eliminated. Furthermore, acquisition of Bank would not have any significant adverse effects upon potential competition, since it is unlikely Applicant would enter the Logan County banking market de novo, and after consummation of this proposal four independent banks would remain as entry vehicles for outside bank holding companies. Accordingly, on the basis of the above and other facts of record, it is concluded that consummation of the proposed transaction would not have any significant adverse competitive effects.

In arriving at this conclusion, the Board has also considered the comments by the Department of Justice that consummation would have adverse competitive effects. While consummation of the proposal may have some slight adverse effects on potential competition, in light of the Board's findings described above, it does not appear that such effects would be significant, and, balanced against the convenience and needs considerations discussed below, the Board is of the view that denial of the subject application is not warranted.

Considerations relating to the financial and managerial resources and future prospects of Bank and Applicant and its subsidiaries are regarded as satisfactory. Managerial succession at Bank will be furnished by Applicant, therefore, banking factors are consistent with approval.

Applicant has indicated that affiliation will enable Bank to increase services currently offered to its customers, including business checking accounts, expanded checking services to include Applicant's "All-in-One Account", bank credit card services, data processing services, and specialized commercial loan services and overdraft protection. Considerations relating to the convenience and needs of the community to be served lend some weight toward approval of the application and outweigh any slightly adverse competitive effects that approval may have. Accordingly, it has been determined that the proposed acquisition would be in the public interest and that the application should be approved.

On the basis of the record, and for the reasons summarized above, the application is approved. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Cleveland pursuant to delegated authority.

By order of the Board of Governors,[3] effective August 31, 1977.

ROBERT E. MATTHEWS,
Assistant Secretary of the Board.

[FR Doc.77-26096 Filed 9-7-77;8:45 a.m.]

MARYVILLE BANCSHARES, INC.

Order Approving Formation of Bank Holding Company

Maryville Bancshares, Inc., Kansas City, Mo., has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) of formation of a bank holding company through acquisition of 94 percent or more of the voting shares of Citizens State Bank of Maryville, Maryville, Mo. ("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 of the Office of the Missouri Commissioner of Finance, in light of the factors set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

Applicant, a nonoperating corporation with no subsidiaries, was organized for the purpose of becoming a bank holding company through the acquisition of Bank. Bank, with deposits of $37.5 million,[1] is the second largest of six banks and controls approximately 32.5 percent of the total deposits in commercial banks in the relevant banking market.[2] Upon acquisition of Bank, Applicant would control the 92nd largest of 702 banking organizations in Missouri, holding 0.2 percent of the total deposits in commercial banks in the State. One of Applicant's principals is associated with four other Missouri banks, none of which is in the relevant banking market. Consummation of the proposal would not eliminate existing or potential competition nor would it increase the concentration of banking resources in the relevant market. Therefore, competitive considerations are consistent with approval of the application.

The financial resoures of Applicant, which are dependent upon those of Bank, and the managerial resources of Ap-

[1] Voting for this action: Vice Chairman Gardner and Governors Wallich, Coldwell, Jackson, Partee and Lilly. Absent and not voting: Chairman Burns.

[1] All banking data are as of December 31, 1976, and reflect bank holding company formations and acquisitions approved as of June 30, 1977.

[2] The relevant geographic market for purposes of analyzing the competitive effects of the proposed transaction is approximated by Logan County, Ohio.

[3] Voting for this action: Vice Chairman Gardner and Governors Wallich, Coldwell, Jackson, Partee and Lilly. Absent and not voting: Chairman Burns.

[1] Unless otherwise indicated, all banking data are as of December 31, 1976.

[2] The relevant banking market is approximated by Nodaway County.

plicant are considered to be satisfactory, and their future prospects appear favorable. Although Applicant will incur some debt as a result of this proposal, it appears that income and dividends from Bank, as well as savings resulting from the filing of consolidated tax returns, should provide Applicant with sufficient revenues to meet its debt service requirements without adversely affecting the financial condition of Bank. The financial and managerial resources of the banks with which one of Applicant's principals is associated are regarded as consistent with approval of this application. Accordingly, considerations relating to banking factors are consistent with approval of the application. While no major changes are contemplated in Bank's services, considerations relating to the convenience and needs of the community to be served are consistent with approval of the application. Accordingly, it is the Board's judgment that consummation of the proposed transaction would be consistent with the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Kansas City pursuant to delegated authority.

By order of the Board of Governors,[3] effective August 30, 1977.

ROBERT E. MATTHEWS,
Assistant Secretary of the Board.

[FR Doc.77-26097 Filed 9-7-77;8:45 am]

NATIONAL CITY CORP.

Acquisition of Bank

National City Corp., Cleveland, Ohio, has applied for the Board's approval under § 3(a)(3) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(3)) to acquire 100 percent (less directors' qualifying shares) of the voting shares of the successor by merger to The First National Bank, Dayton, Ohio. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Cleveland. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than September 29, 1977.

[3] Voting for this action: Vice Chairman Gardner and Governors Jackson, Partee, and Lilly. Absent and not voting: Chairman Burns and Governors Wallich and Coldwell.

Board of Governors of the Federal Reserve System, September 1, 1977.

ROBERT E. MATTHEWS,
Assistant Secretary of the Board.

[FR Doc.77-26098 Filed 9-7-77;8:45 am]

NORTHWEST BANCORPORATION

Order Granting Reconsideration

Northwest Bancorporation, Minneapolis, Minn. ("Northwest"), has requested reconsideration of the Order of May 2, 1977 (63 Fed. Res. Bull. 585 (1977)), whereby the Board of Governors denied the application of Northwest for prior approval of the acquisition of First National Bank, Fort Dodge, Iowa, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956, as amended (12 U.S.C. § 1842(a)(3)).

The request for reconsideration is filed pursuant to section 262.3(g)(5) of the Board's Rules of Procedure (12 CFR § 262.3(g)(5)), which provides that the Board will not grant any request for reconsideration "unless the request presents relevant facts that, for good cause shown, were not previously presented to the Board, or unless it otherwise appears to the Board that reconsideration would be appropriate." The Board finds that the request for reconsideration presents relevant facts and issues which appear appropriate in the public interest for the Board to consider. Accordingly, the request for reconsideration is hereby approved.

In order to facilitate such consideration, comments regarding the proposed acquisition may be filed with the Board not later than September 23, 1977. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application, as supplemented by Northwest's request for reconsideration, may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis.

By order of the Board of Governors,[1] effective August 29, 1977.

ROBERT E. MATTHEWS,
Assistant Secretary to the Board.

[FR Doc.77-26099 Filed 9-7-77;8:45 am]

OTTAWA BANCSHARES, INC.

Order Approving Formation of Bank Holding Company and Performance of Insurance Agency Activities

Ottawa Bancshares, Inc., Ottawa, Kans., has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) of formation of a bank holding company by acquiring 100 percent (less directors' qualifying shares) of the voting shares of The Kansas State Bank, Ottawa, Kans. ("Bank"). The factors that are considered in acting on this application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)). Applicant has also applied, pursuant to § 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y, for permission to acquire the assets of Credit Life Insurance Agency, Ottawa, Kans. ("Agency") and thereby to engage in the sale of insurance directly related to extensions of credit by Bank. Such activities have been determined by the Board to be closely related to banking (12 CFR § 225.4(a)(9)(ii)(a)).

Notice of the applications, affording opportunity for interested persons to submit comments and views, has been given in accordance with §§ 3 and 4 of the Act (42 FR 31839 (1977)). The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)), and the considerations specified in § 4(c)(8) of the Act (12 U.S.C. § 1843(c)(8)).

Bank, with deposits of $6.1 million,[1] is the fourth largest of six banks in the relevant market[2] and controls approximately 10.3 percent of total deposits in commercial banks in the market. Upon acquisition of Bank, Applicant would control the 388th largest banking organization in Kansas, holding approximately 0.1 percent of the total deposits in commercial banks in the State.

Principals of Applicant, through various trusts, control The First National Bank of Louisburg, Louisburg, Kans., and Parsons Commercial Bank, Parsons, Kans. Applicant's president is president and director of Louisburg Bank and vice chairman of the board of directors of Parsons Bank. These banks are located considerable distances from Bank and operate in different banking markets. Accordingly, consummation of the proposal would neither eliminate existing or potential competition nor increase the concentration of banking resources in the relevant market. Accordingly, on the basis of the facts of record, the Board concludes that competitive considerations are consistent with approval of the bank holding company formation application.

The financial resources of Applicant, which are dependent upon Bank, are considered to be satisfactory and future prospects appear favorable. Although Applicant will incur debt in connection with the subject proposal, it appears that Applicant will be able to meet its debt service requirements without adversely affecting the financial position of Bank. Furthermore, managerial resources of

[1] Voting for this action: Vice Chairman Gardner and Governors Wallich, Jackson and Partee. Present and Abstaining: Governor Lilly. Absent and not voting: Chairman Burns and Governor Coldwell.

[1] All banking data are as of December 31, 1976.

[2] The relevant market is approximated by Franklin County.

Applicant and Bank are considered to be satisfactory. Thus, considerations relating to banking factors are consistent with approval. In addition to maintaining Bank's current services, Applicant intends to increase Bank's lending activity resulting in an increase in the availability of credit in the community. Applicant also plans to have Bank construct a detached facility which would provide greater convenience to customers of Bank. Thus, considerations relating to convenience and needs lend weight toward approval of the bank holding company formation application. Accordingly, it is the Board's judgment that Applicant's proposal to form a bank holding company would be consistent with the public interest and that the application should be approved.

In connection with the application to become a bank holding company, Applicant has also applied, pursuant to § 225.4 (a)(9) of Regulation Y, to acquire the assets of Credit Life Insurance Agency, Ottawa, Kans., and thereby to engage in the sale of the following types of insurance: decreasing term single life insurance; decreasing term joint life insurance and disability insurance on installment loans; level term single life insurance on single payment loans; and insurance to protect collateral securing extensions of credit by Bank. Applicant's acquisition of Agency would maintain an existing relationship between Agency and Bank and, accordingly, it does not appear that approval of Applicant's proposal would have any significant effect on existing or potential competition. Approval of the application would, however, assure customers of Bank of a convenient source of such insurance services. Furthermore, there is no evidence in the record indicating that consummation of the proposal would result in any undue concentration of resources, unfair competition, conflicts of interests, unsound banking practices, or other adverse effects on the public interest.

Based upon the foregoing and other considerations reflected in the record, the Board has determined, in accordance with the provisions of section 4(c)(8) of the Act, that consummation of this proposal can reasonably be expected to produce benefits to the public that outweigh possible adverse effects and that the application to engage in credit-related insurance agency activities should be approved.

Accordingly, the applications are approved for the reasons summarized above. The acquisition of Bank shall not made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Kansas City pursuant to delegated authority. The approval of Applicant's insurance activities is subject to the conditions set forth in section 225.4(c) of Regulation Y and to the Board's authority to require reports by, and make examinations of, holding companies and their subsidiaries and to require such modification or termination of the activities of a bank holding company or any of its subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder, or to prevent evasion thereof.

By order of the Board of Governors[1] effective August 25, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-26100 Filed 9-7-77;8:45 am]

SOUTHERN BANK HOLDING CO.

Order Approving Formation of Bank Holding Company

Southern Bank Holding Co., Savannah, Ga. ("Applicant"), has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) ("Act") of the formation of a bank holding company through acquisition of 54.7 percent or more of the voting shares of Southern Bank and Trust Co., Savannah, Ga. ("Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance wih § 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 in light of the factors set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

Applicant is a nonoperating corporation organized for the purpose of becoming a bank holding company by acquiring Bank, which holds deposits of $3.9 million.[1] Upon acquisition of Bank, Applicant would control one of the smaller commercial banking organizations in the State of Georgia, holding approximately 0.03 percent of total deposits in commercial banks in that State.

Bank is the 10th largest commercial banking organization in the relevant banking market and holds approximately 0.78 percent of the total commercial bank deposits in the market.[2] Since Applicant has no subsidiaries and Applicant's principals do not control any other banks, it appears unlikely that consummation of the proposal would have any adverse effect upon existing or potential competition or increase the concentration of banking resources in any relevant area.[3] Thus, the Board concludes that the competitive effects of the proposal are consistent with approval of the application.

The financial resources and future prospects of Applicant and Bank are generally satisfactory. Since the proposed transaction will be accomplished through an exchange of stock, there is no acquisition debt associated with the proposal.

Bank was originally chartered as a building and loan association by the State of Georgia with the name Southern Savings and Loan Co. ("Southern Savings"). Approximately 40 percent of that institution's outstanding voting shares were owned directly and indirectly by Atlantic Insurance and Investment Co., Savannah, Ga. ("Atlantic"). Atlantic's principal officers are also principal officers of Applicant and Atlantic's five largest stockholders will become Applicant's principal owners as a result of the proposed transaction.[4]

In May of 1975 Southern Savings was granted a commercial banking charter by the State and its name was changed to that of Bank. The conversion of South Southern Savings' charter may have caused Atlantic to become a bank holding company without the Board's prior approval in contravention of section 3(a)(1) of the Act. However, in a recently filed request for a "prior certification" under the Bank Holding Company Tax Act of 1976 (26 U.S.C. § 1101 et seq.), Atlantic contends that Southern Savings was a "bank" within the meaning of section 2(c) of the Act since at least as early as July 7, 1970. The Board does not decide this issue at this time, but rather reserves it for consideration in the context of Atlantic's tax certification request. In considering Applicant's managerial resources, the Board does note, however, that even Atlantic's view of the law and the facts would compel the conclusion that Atlantic has violated the Act in that it would have become a bank holding company upon the enactment of the 1970 amendments to the Act and thereafter have failed to register as a bank holding company as required by section 5(a) of the Act. Accordingly, the Board concludes that Atlantic has violated the Act without reaching the issue of whether section 3(a)(1) or section 5(a) of the Act has been violated.

It is the Board's view, however, on the basis of the facts and circumstances of the subject application, that Atlantic's violation of the Act was inadvertent. Additionally, the Board notes that Atlantic, upon becoming aware of the existence of the violation, took steps to conform its operations to the Act by agreeing to terminate its direct and indirect ownership of Bank's shares. The

[1] Voting for this action: Vice Chairman Gardner and Governors Wallich, Jackson, Partee, and Lilly. Absent and not voting: Chairman Burns and Governor Coldwell.

[1] All banking data are as of December 31, 1976.

[2] The relevant banking market is approximated by all of Chatham and Effingham Counties, Ga., and those portions of Liberty and Bryan Counties, Ga., east of Fort Stewart.

[3] Applicant's principals do control several nonbanking corporations. However, none of these corporations is engaged to any significant extent in the provision of any of the services provided by Bank.

[4] Atlantic's direct and indirect interest in Bank will be transferred to Atlantic's shareholders as part of the proposed transaction. Atlantic's shareholders will then exchange those and other shares of Bank for Applicant's shares. The Board's approval of the instant application does not represent a determination that the proposed transaction will terminate Atlantic's control of Bank.

officers of Atlantic and Applicant have taken steps to prevent further violations from occurring by establishing procedures for centralized internal review of all of Applicant's and Atlantic's activities for compliance with the substantive and procedural requirements of the Act and the Board's Regulation Y. The Board expects that these actions will assist Applicant and Atlantic in avoiding a recurrence of similar violations. In consideration of the above and other information in the record of this application, the Board has determined that the circumstances of the above violations do not warrant denial of the application.

Considerations relating to the convenience and needs of the community to be served are consistent with approval. It is the Board's judgment that consummation of the proposed transaction would be consistent with the public interest and the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Atlanta pursuant to delegated authority.

By order of the Board of Governors,[1] effective August 31, 1977.

ROBERT E. MATTHEWS,
Assistant Secretary of the Board.

[FR Doc.77-26101 Filed 9-7-77;8:45 am]

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on August 31, 1977. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed FEA request are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed request, comments (in triplicate) must be received on or before September 26, 1977, and should be addressed to Mr. John M. Lovelady, Acting Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5033, 441 G Street NW., Washington, D.C. 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

FEDERAL ENERGY ADMINISTRATION

The FEA requests clearance of the new form FEA-P135-M-O, Monthly Statement of Accounts. The Office of Oil Imports, FEA, which administers the Mandatory Oil Import Program pursuant to Presidential Proclamation 3279, as amended, has developed a fully computerized accounting system which will track accounts receivable and payments as received as a result of the importation of petroleum products. This computerized system will utilize the form FEA-P135-M-O, Monthly Statement of Accounts. This form will replace two currently active forms FEA-P114-M-O, Monthly Remittance Advice, and the FEA-P116-S-O, Request for Refund of Oil Import Fees. The FEA-P116-S-O will become an optional form to be filed at the discretion of the respondents.

The mandatory monthly form FEA-P135-M-O has been designed to be filed by any importers of crude oil, unfinished oils and finished petroleum products. Two copies of this form will be mailed monthly to importing firms for which FEA records show fees to be due. One copy will be for the firm's records and the second copy will be a "turnaround" document to be used by the importer to indicate to FEA how cash payments and credits shall be applied against the importer's fees due account.

The form FEA-P135-M-O will be mailed to all firms which actually imported crude oil, unfinished oils and finished petroleum products during the current monthly reporting period. The firms which actually import oil are required to submit a form FEA-P135-M-O for those imports made during the reporting period, and which have not been billed by FEA. The FEA estimates that approximately 600 firms come within the reporting universe and that approximately 150 firms actually import oil in any given month. FEA estimates reporting burden to average 8 hours monthly per report.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc.77-26124 Filed 9-7-77;8:45 am]

REGULATORY REPORTS REVIEW

Receipt of Report Proposals

The following requests for clearance of reports intended for use in collecting information from the public were received by the Regulatory Reports Review Staff, GAO, on August 31, 1977. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER, is to inform the public of such receipts.

The notice includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed ICC requests are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed requests, comments (in triplicate) must be received on or before September 26, 1977, and should be addressed to Mr. John M. Lovelady, Acting Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5033, 441 G Street NW, Washington, D.C. 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

INTERSTATE COMMERCE COMMISSION

ICC Orders No. 36445 and No. 36511, which were decided on November 9, 1976, and June 8, 1977, respectively, promulgated revised accounting regulations which govern all carriers subject to ICC accounting rules. Order No. 36445 concerns "Reclassification of Long-Term Debt Discount and Premium" and Order No. 36511 concerns "Accounting for Marketable Equity Securities". These changes were adopted to be effective January 1, 1977. For purposes of this notice, these changes apply to the Annual Report—Class I Railroads (Form R-1) and to the Annual Report—Class II Railroads (Form R-2).

Although the reporting deadline for the forms is March 31, 1978, the ICC expects the reporting companies to apply the changes to their accounting records and procedures as of January 1, 1977. However, this reporting deadline and the effective date for the changes is contingent upon ICC's compliance with 44 U.S.C. 3512 which precludes the collection of information from 10 or more persons until the Comptroller General has had the opportunity to advise that the information is not presently available from other Federal sources and that the proposed plans or report forms are consistent with the provisions of section 3512. This notice represents the beginning of the GAO review.

ICC requests clearance of revisions to Annual Report Form R-1 required to be filed by some 87 Class I line-haul railroads, switching and terminal companies, and railroad holding companies, pursuant to Section 20 of the Interstate Commerce Act. Data collected by Form R-1 are used for economic regulatory purposes. Revisions made in this annual report form resulted from changes in the Uniform System of Accounts (49 CFR Part 1201), adopted through orders issued by the Commission. Reports are mandatory and available for use of the public. ICC estimates reporting burden for the approximately 87 Class I carriers to average 1,277 hours per annual report.

ICC requests clearance of revisions to Annual Report Form R-2 required to be filed by some 409 Class II line-haul rail-

[1] Voting for this action: Vice Chairman Gardner and Governors Wallich, Coldwell, Jackson, Partee and Lilly. Absent and not voting: Chairman Burns.

roads, switching and terminal companies, and stockyard companies, pursuant to Section 20 of the Interstate Commerce Act. Data collected by Form R-2 are used for economic regulatory purposes. Revisions made in this annual report form resulted from changes in the Uniform System of Accounts (49 CFR Part 1201), adopted through orders issued by the Commission. Reports are mandatory and available for use of the public. ICC estimates reporting burden for the approximately 409 Class II carriers to average 175 hours per annual report.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc.77-26125 Filed 9-7-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

SECTION 212 OF THE IMMIGRATION AND NATIONALITY ACT

Section 601 of the Health Professions Educational Assistance Act of 1976 (Pub. L. 94-484) amended section 212 of the Immigration and Nationality Act to, among other things, provide that certain aliens who are graduates of a medical school and are coming to the United States principally to perform services as members of the medical profession or who are coming to participate in a program under which they will receive graduate medical education shall be excluded from entering the United States unless, in addition to other requirements, they have passed Parts I and II of the National Board of Medical Examiners' examination or an equivalent examination as determined by the Secretary of Health, Education, and Welfare.

Notice is hereby given that the Visa Qualifying Examination described in the summary below prepared by the National Board of Medical Examiners (NBME) has been determined by the Secretary of Health, Education, and Welfare to be an equivalent examination (for purposes of this Act) to Parts I and II of the National Board of Medical Examiners' examination. This examination covers topics identical to those encompassed in Parts I and II of the National Board of Medical Examiners' examination with all questions chosen from questions written by test committees of the NBME for the purpose of measuring the achievement of medical students in United States schools. It is a two day written examination made up of approximately 950 multiple choice questions: approximately 500 from the basic science disciplines of anatomy, behavioral science, biochemistry, microbiology, pathology, pharmacology, and physiology; and approximately 450 questions from the clinical science disciplines including internal medicine, obstetrics and gynecology, pediatrics, preventive medicine and public health, psychiatry, and surgery. The scoring standards used are the same as those used for Parts I and II: the basic science component and clinical science component have to be passed separately.

Persons interested in obtaining information concerning the scheduling of this Visa Qualifying Examination as well as any other questions concerning this Notice should contact: Darl W. Stephens, Acting Director, Office of International Affairs, Health Resources Administration, Room 9-03, 5600 Fishers Lane, Rockville, Md. 20857 (301-443-1834).

Dated: June 29, 1977.

JAMES F. DICKSON,
Acting Assistant Secretary for Health.

Approved: September 6, 1977.

JOSEPH A. CALIFANO, Jr.,
Secretary.

[FR Doc.77-26300 Filed 9-7-77;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. D-77-492]

COMMUNITY DEVELOPMENT BLOCK GRANTS; INNOVATIVE PROJECTS

Delegation of Authority

AGENCY: Department of Housing and Urban Development.

ACTION: Delegation of Authority.

SUMMARY: This delegation of authority transfers the administrative functions and exclusive responsibility for administering the "Innovative Projects" from the Assistant Secretary for Policy Development and Research to the Assistant Secretary for Community Planning and Development. This action will make it possible for the Community Block Grant and the Innovative Projects Program to operate in a more coordinated fashion.

EFFECTIVE DATE: June 28, 1977.

FOR FURTHER INFORMATION CONTACT:

Betsy Tibbs, or William Tantum, Deputy Director, Management Support Division, 202-755-6186, U.S. Department of Housing and Urban Development, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: Title I of the Housing and Community Development Act of 1974, establishes the Community Development Block Grant Programs. Section 107(a) of the Act provides that funds shall be reserved and set aside in a special discretionary fund for use by the Secretary in making grants for the purposes set forth in the subsections. In order to achieve a more appropriate management of a portion of those funds, the power and authority of the Secretary with respect to discretionary grants under section 107(a)(4) for Innovative Community Development Projects originally delegated concurrently to the Assistant Secretary for Policy Development and Research and the Assistant Secretary for Community Planning and Development is now being delegated exclusively to the Assistant Secretary for Community Planning and Development. This delegation thus rescinds the delegation of authority published at (40 FR 30306), of July 18, 1975, and as amended and published at (41 FR 15360), of April 12, 1976, and amends the delegation of authority published at (40 FR 5385), of February 5, 1975, and as amended and published at (40 FR 37074), of August 25, 1975 (40 FR 54606), November 25, 1975, and (41 FR 15359), April 12, 1976, by rewriting Section B.3.

Accordingly, the Delegation of Authority to the Assistant Secretary for Community Planning and Development published February 5, 1975, 40 FR 5385, is amended by changing paragraph b3 to read as follows:

3. The power and authority of the Secretary with respect to discretionary grants from the Secretary's Fund under section 107(a)(1) of Title I of the Housing and Community Development Act of 1974 in behalf of new communities, except that initial proposed and final regulations with respect to such grants shall be issued by the Assistant Secretary for Community Planning and Development (42 U.S.C. 5307).

(Sec. 7(d) Department of HUD Act, 42 U.S.C. 3535(d)).

Issued at Washington, D.C., August 30, 1977.

PATRICIA ROBERTS HARRIS,
Secretary of Housing and Urban Development.

[FR Doc.77-26102 Filed 9-7-77;8:45 am]

Federal Disaster Assistance Administration

[Docket No. NFD-549; (FDAA-3045-EM)]

ALABAMA

Emergency Declaration

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This Notice amends the Notice of emergency declaration for the State of Alabama (FDAA-3045-EM), dated July 20, 1977.

DATED: August 18, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank J. Muckenhaupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202-634-7825).

NOTICE: The Notice of emergency for the State of Alabama dated July 20, 1977, and amended on August 8, 1977, and August 16, 1977, is hereby further amended to include the following counties among those areas determined to have been adversely affected by the catastrophe declared an emergency by the President in his declaration of July 20, 1977:

The counties of:

Colbert.	Limestone.
Lauderdale.	Madison.
Lawrence.	

The purpose of this designation is to provide emergency livestock feed assistance only in the aforementioned areas effective the date of this amended notice.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance)

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.77-26115 Filed 9-7-77;8:45 am]

[Docket No. NFD-548; (FDAA-3045-EM)]

ALABAMA

Emergency Delaration

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This notice amends the Notice of emergency declaration for the State of Alabama (FDAA-3045-EM), dated July 20, 1977.

DATED: August 16, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank J. Muckenhaupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202-634-7825).

NOTICE: This notice of emergency for the State of Alabama dated July 20, 1977, and amended on August 8, 1977, is hereby further amended to include the following counties among those areas determined to have been adversely affected by the catastrophe declared an emergency by the President in his declaration of July 20, 1977:

The counties of:

Bullock.	Jackson.
Calhoun.	Jefferson.
Choctaw.	Marion.
Cleburne.	Marshall.
Covington.	Mobile.
Cullman.	Morgan.
De Kalb.	Pike.
Etowah.	Sumter.
Franklin.	Walker.
Geneva.	Wilcox.
Hale.	Winston.
Houston.	

The purpose of this designation is to provide emergency livestock feed assistance only in the aforementioned areas effective the date of this amended notice.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance)

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.77-26114 Filed 9-7-77;8:45 am]

[Docket No. NFD-539; (FDAA-3045-EM)]

ALABAMA

Emergency Declaration

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This notice amends the Notice of emergency declaration for the State of Alabama (FDAA-3045-EM), dated July 20, 1977.

DATED: August 8, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank J. Muckenhaupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202-634-7825).

NOTICE: The notice of emergency for the State of Alabama dated July 20, 1977, is hereby amended to include the following counties among those areas determined to have been adversely affected by the catastrophe declared an emergency by the President in his declaration of July 20, 1977:

The counties of:

Autauga.	Dallas.
Baldwin.	Macon.
Cherokee.	Marengo.
Clarke.	St. Clair.
Conecuh.	Talladega.
Crenshaw.	Washington.
Dale.	

The purpose of this designation is to provide emergency livestock feed assistance only in the aforementioned areas effective the date of this amended notice.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.77-26108 Filed 9-7-77;8:45 am]

[Docket No. NFD-544; (FDAA-3023-EM)]

CALIFORNIA

Emergency Declaration

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This Notice amends the Notice of emergency declaration for the State of California (FDAA-3023-EM), dated January 20, 1977.

DATED: August 15, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank J. Muckenhaupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410, (202-634-7825).

NOTICE: The Notice of emergency for the State of California dated January 20, 1977, and amended on February 2, 1977, February 15, 1977, March 10, 1977, April 20, 1977, June 6, 1977, and June 29, 1977, is hereby further amended to include the following county among those areas determined to have been adversely affected by the catastrophe declared an emergency by the President in his declaration of January 20, 1977:

The county of Alpine.

The purpose of this designation is to provide emergency livestock feed assistance and cattle transportation assistance only in the aforementioned affected area effective the date of this amended Notice.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

THOMAS P. DUNN,
Administer, Federal Disaster Assistance Administration.

[FR Doc.-77-26110 Filed 9-7-77;8:45 am]

[Docket No. NFD-545; (FDAA-3044-EM)]

GEORGIA

Emergency Declaration

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This Notice amends the Notice of emergency declaration for the State of Georgia (FDAA-3044-EM) dated July 20, 1977.

DATED: August 16, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank J. Muckenhaupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202-634-7825).

NOTICE: The Notice of emergency for the State of Georgia dated July 20, 1977, and amended on July 25, 1977, and August 8, 1977, is hereby further amended to include the following counties among those areas determined to have been adversely affected by the catastrophe declared an emergency by the President in his declaration of July 20, 1977.

The Counties of:

Ben Hill	Jeff Davis
Brooks	Liberty
Catoosa	Long
Columbia	Lowndes
Crisp	McIntosh
Douglas	Miller
Echols	Mitchell
Franklin	Murray
Glascock	Pike
Gordon	Richmond
Gwinnett	Talbot
Hancock	Thomas
Harris	Toombs
Hart	Whitfield

The purpose of this designation is to provide emergency livestock feed assistance only in the aforementioned areas effective the date of this amended Notice.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.77-26111 Filed 9-7-77;8:45 am]

[Docket No. NFD-538; FDAA-3044-EM]

GEORGIA

Emergency Declaration

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This Notice amends the Notice of emergency declaration for the State of Georgia (FDAA-3044-EM), dated July 20, 1977.

DATED: August 8, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank J. Muckenhaupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202-634-7825).

NOTICE: The Notice of emergency for the State of Georgia dated July 20, 1977, and amended on July 25, 1977, is hereby further amended to include the following counties among those areas determined to have been adversely affected by the catastrophe declared an emergency by the President in his declaration of July 20, 1977:

The Counties of:

Atkinson	Monroe
Bacon	Newton
Baldwin	Oconee
Bartow	Paulding
Camden	Pickens
Cherokee	Polk
Colquitt	Putnam
Dade	Schley
Dawson	Screven
Elbert	Stephens
Floyd	Stewart
Forsyth	Tift
Glynn	Taylor
Habersham	Treutlen
Hall	Twiggs
Haralson	Walton
Jenkins	Webster
Lumpkin	White
Macon	Wilkes
Madison	

The purpose of this designation is to provide emergency livestock feed assistance only in the aforementioned areas effective the date of this amended Notice.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administrator.

[FR Doc.77-26107 Filed 9-7-77;8:45 am]

[Docket No. NFD-546; FDAA-3049-EM]

NORTH CAROLINA

Emergency Declaration

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This Notice amends the Notice of emergency declaration for the State of North Carolina (FDAA-3049-EM), dated August 11, 1977.

DATED: August 16, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank J. Muckenhaupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202-634-7825).

NOTICE: The Notice of emergency for the State of North Carolina dated August 11, 1977, is hereby amended to include the following counties among those areas determined to have been adversely affected by the catastrophe declared an emergency by the President in his declaration of August 11, 1977:

The Counties of:

Columbus	Wilkes

The purpose of this designation is to provide emergency livestock feed assistance only in the aforementioned areas effective the date of this amended Notice.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.77-26112 Filed 9-7-77;8:45 am]

[Docket No. NFD-542; (FDAA-3049-EM)]

NORTH CAROLINA

Emergency Declaration and Related Determinations

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of an emergency for the State of North Carolina (FDAA-3049-EM), dated August 11, 1977, and related determinations.

DATED: August 11, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank J. Muckenhaupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202-634-7825).

NOTICE: Pursuant to the authority vested in the Secretary of Housing and Urban Development by the President under Executive Order 11795 of July 11, 1974, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285; and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that on August 11, 1977, the President declared an emergency as follows:

I have determined that the impact of a drought on the State of North Carolina is of sufficient severity and magnitude to warrant a declaration of an emergency under Public Law 93-288. I therefore declare that such an emergency exists in the State of North Carolina.

Notice is hereby given that pursuant to the authority vested in the Secretary of Housing and Urban Development under Executive Order 11795, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285, I hereby appoint Mr. Thomas P. Credle, FDAA Region IV, to act as the Federal Coordinating Officer for this declared emergency.

I do hereby determine the following areas to have been adversely affected by this declared emergency:

The Counties of:

Cabarrus	Moore
Chatham	Orange
Cleveland	Person
Davidson	Randolph
Davie	Richmond
Durham	Rockingham
Forsyth	Rowan
Franklin	Stanly
Gaston	Surry
Granville	Vance
Guilford	Warren
Iredell	Wayne
Mecklenburg	Yadkin
Montgomery	

The purpose of this designation is to provide emergency livestock feed assistance only in the aforementioned areas effective the date of this Notice.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.77-26105 Filed 9-7-77;8:45 am]

[Docket No. NFD-537]

PENNSYLVANIA

Determinations Concerning the Administering of the Temporary Housing Programs in Major Disaster Areas

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This is a notice of certain determinations to the Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development, relating to the administering of temporary housing programs under the provisions of Section 404(a), Pub. L. 93-288, in the major disaster in Pennsylvania (FDAA-537-DR).

DATED: August 9, 1977.

FOR FURTHER INFORMATION CONTACT:

Hugh F. Richardson, Individual Assistance Office, Federal Disaster Assistance Administration, Washington, D.C. 20410 (202-634-7860).

NOTICE: Pursuant to the authority vested in me to exercise certain of the powers and authorities of the President with respect to Federal disaster assistance pursuant to Section 1 of the

Executive Order entitled, "Delegating Disaster Relief Functions Pursuant to the Disaster Relief Act of 1974" (EO 11795, 39 FR 25939, dated July 11, 1974), and the delegation from the Secretary of Housing and Urban Development (39 FR 28227, dated August 5, 1974), I made the following determinations to the Assistant Secretary for Housing—Federal Housing Commissioner in administering the temporary housing programs under the provisions of Section 404(a), Pub. L. 93-288, in the major disaster in Pennsylvania, FDAA-537-DR:

On July 29, a determination that "the following actions are in the public interest:

"(1) Waiver of the cost limitation formula contained in 24 CFR 2205.45(h)(4). The Minimal Repair Program (MRP) cost limitation is $4,000 per dwelling repaired using the scope of work authorized in 24 CFR 2205.45(h)(3), with the exceptions contained in (2)

"(2) Suspension of the 'repair only' provision relating to wells contained in the MRP scope of work (24 CFR 2205.45(h)(3)(i)). You may authorize the digging of new wells and install new septic systems, where required, to make an MRP dwelling sanitary and provide water. You may authorize the repair or replacement of the heating system. The cost of each of these items shall not exceed $1,500, and is in addition to the $4,000 limitation established above."

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.77-26106 Filed 9-7-77;8:45 am]

[Docket No. NFD-547; (FDAA-3047-EM)]

SOUTH CAROLINA

Emergency Declaration

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This notice amends the Notice of emergency declaration for the State of South Carolina (FDAA-3047-EM), dated August 4, 1977.

DATED: August 16, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank J. Muckenhaupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202-634-7825).

NOTICE: The notice of emergency for the State of South Carolina dated August 4, 1977, is hereby amended to include the following counties among those areas determined to have been adversely affected by the catastrophe declared an emergency by the President in his declaration of August 4, 1977:

The counties of:

Allendale.	Hampton.
Barnwell.	Jasper
Beaufort	Kershaw.
Charleston.	Sumter.

The purpose of this designation is to provide emergency livestock feed assistance only in the aforementioned areas effective the date of this amended notice.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.77-26113 Filed 9-7-77;8:45 am]

[Docket No. NFD-540; (FDAA-3047-EM)]

SOUTH CAROLINA

Emergency Declaration and Related Determinations

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of an emergency for the State of South Carolina (FDAA-3047-EM), dated August 4, 1977, and related determinations.

DATED: August 4, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank J. Muckenhaupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202-634-7825).

NOTICE: Pursuant to the authority vested in the Secretary of Housing and Urban Development by the President under Executive Order 11795 of July 11, 1974, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285; and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that on August 4, 1977, the President declared an emergency as follows:

I have determined that the impact of a drought on the State of South Carolina is of sufficient severity and magnitude to warrant a declaration of an emergency under Pub. L. 93-288. I therefore declare that such an emergency exists in the State of South Carolina.

Notice is hereby given that pursuant to the authority vested in the Secretary of Housing and Urban Development under Executive Order 11795, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285, I hereby appoint Mr. Thomas P. Credle, FDAA Region IV, to act as the Federal Coordinating Officer for this declared emergency.

I do hereby determine the following areas to have been adversely affected by this declared emergency:

The counties of:

Abbeville.	Lexington.
Aiken.	McCormick.
Anderson.	Newberry.
Bamberg.	Oconee.
Calhoun.	Orangeburg.
Edgefield.	Richland.
Greenwood.	Saluda.
Lancaster.	Spartanburg.
Laurens.	

The purpose of this designation is to provide emergency livestock feed assistance only in the aforementioned areas effective the date of this Notice.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance)

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.77-26103 Filed 9-7-77;8:45 am]

[Docket No. NFD-550; (FDAA-3046-EM)]

VIRGINIA

Emergency Declaration

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This notice amends the notice of emergency declaration for the State of Virginia (FDAA-3046-EM), dated July 25, 1977.

DATED: August 18, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank J. Muckenhaupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202-634-7825).

NOTICE: The notice of emergency for the State of Virginia dated July 25, 1977, and amended on August 1, 1977, and August 16, 1977, is hereby further amended to include the following counties among those areas determined to have been adversely affected by the catastrophe declared an emergency by the President in his declaration of July 23, 1977:

The counties of:

Amherst.	Nottoway.
Botetourt.	Pittsylvania.
Franklin.	Prince Edward.
Greensville.	Sussex.

The purpose of this designation is to provide emergency livestock feed assistance only in the aforementioned areas effective the date of this amended notice.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.77-26116 Filed 9-7-77;8:45 am]

[Docket No. NFD-543; (FDAA-3046-EM]

VIRGINIA

Amendment to Notice of Emergency Declaration

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This notice amends the notice of emergency declaration for the State of Virginia (FDAA-3046-EM), dated July 25, 1977.

DATED: August 16, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank J. Muckenhaupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202-634-7825).

NOTICE: The Notice of emergency for the State of Virginia dated July 25, 1977, and amended on August 1, 1977, is hereby further amended to include the following counties among those areas determined to have been adversely affected by the catastrophe declared an emergency by the President in his declaration of July 23, 1977:

The counties of:

Amelia.	Chesterfield.
Appomattox.	Nelson.

The purpose of this designation is to provide emergency livestock feed assistance only in the aforementioned areas effective the date of this amended notice.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.77-26109 Filed 9-7-77;8:45 am]

[Docket No. NFD-541; FDAA-3048-EM]

WISCONSIN

Emergency Declaration and Related Determinations

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of an emergency for the State of Wisconsin (FDAA-3048-EM), dated August 5, 1977, and related determinations.

DATED: August 5, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank J. Muckenhaupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202-634-7825).

NOTICE: Pursuant to the authority vested in the Secretary of Housing and Urban Development by the President under Executive Order 11795 of July 11, 1974, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285; and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that on August 5, 1977, the President declared an emergency as follows:

2.

I have determined that the impact of high winds, hail, and rain on the State of Wisconsin is of sufficient severity and magnitude to warrant a declaration of an emergency under Pub. L. 93-288. I therefore declare that such an emergency exists in the State of Wisconsin.

In order to provide Federal assistance, you are hereby authorized to allocate, from funds available for these purposes, such amounts as are necessary to provide Federal disaster assistance to remove downed timber from public land and property.

Notice is hereby given that pursuant to the authority vested in the Secretary of Housing and Urban Development under Executive Order 11795, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285, I hereby appoint Mr. Robert E. Connor, FDAA Region V, to act as the Federal Coordinating Officer for this declared emergency.

I do hereby determine the following areas to have been adversely affected by this declared emergency:

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

The counties of:

Barron.	Polk.
Burnett.	Price.
Forest.	Rusk.
Lincoln.	Sawyer.
Oneida.	Washburn.

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.77-26104 Filed 9-7-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM 31474]

NEW MEXICO

Application

AUGUST 30, 1977.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Gulf Oil Corp. has applied for natural gas processing plant across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, N. MEX.

T. 18 S., R. 31 E.,
Sec. 20, SW¼NE¼ and NW¼SE¼.

This facility will convey natural gas across 8.322 acres of public land in Eddy County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, N. Mex. 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-26133 Filed 9-7-77;8:45 am]

[NM 31443]

NEW MEXICO

Application

AUGUST 30, 1977.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Co. has applied for one 4½-inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, N. MEX.

T. 31 N., R. 9 W.,
Sec. 32 lots 1 and 4.

This pipeline will convey natural gas across 0.030 miles of public land in San Juan County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, N. Mex. 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-26134 Filed 9-7-77;8:45 am]

[NM 31449]

NEW MEXICO

Application

AUGUST 30, 1977.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Southern Union Gathering Co. has applied for two 4-inch natural gas pipeline rights-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 31 N., R. 11 W.,
Sec. 18, SE¼NW¼ and E½SW¼;
Sec. 20, W½NW¼, SE¼NW¼ and NE¼SW¼.

These pipelines will convey natural gas across 1.039 miles of public land in San Juan County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Man-

ager, Bureau of Land Management, P.O. Box 6770, Albuquerque, N. Mex. 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-26135 Filed 9-7-77;8:45 am]

[NM 31441]

NEW MEXICO

Application

AUGUST 29, 1977.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Co. has applied for a cathodic protection station right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 28 N., R. 6 W.,
Sec. 33, lot 1, NE¼SE¼;
Sec. 34, NW¼SW¼.

This cathodic protection station will be used for natural gas operations across 0.280 of a mile of public land in Rio Arriba County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Management, P.O. Box 6770, Albuquerque, N. Mex. 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-26136 Filed 9-7-77;8:45 am]

[NM 31478]

NEW MEXICO

Application

AUGUST 29, 1977.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Co. has applied for one 4½-inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 27 N., R. 9 W.,
Sec. 14, S½NW¼.

This pipeline will convey natural gas across 0.045 of a mile of public land in San Juan County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, N. Mex. 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-26137 Filed 9-7-77;8:45 am]

[NM 31477]

NEW MEXICO

Application

AUGUST 29, 1977.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Llano, Inc., has applied for one 4½-inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 21 S., R. 27 E.,
Sec. 15, SW¼NW¼, W½SW¼ and SE¼SW¼;
Sec. 16, E½NE¼;
Sec. 22, NE¼NW¼.

This pipeline will convey natural gas across 1.06 miles of public land in Eddy County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, N. Mex. 88201.

FRED E. PADILLA, *Chief, Branch of Lands and Minerals Operations.*

[FR Doc.77-26138 Filed 9-7-77;8:45 am]

[U-37933]

UTAH

Application

AUGUST 30, 1977.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Northwest Pipeline Corp. has applied for a natural gas pipeline right-of-way across the following lands:

SALT LAKE MERIDIAN, UTAH

T. 20 S., R. 21 E.,
Sec. 14, NW¼NW¼;
Sec. 15, NE¼NE¼.

The needed right-of-way is for a portion of applicant's gas gathering system located in Grand County, Utah.

The purpose of this notice is to inform the public that the Bureau will be proceeding with the preparation of environmental and other analyses necessary for determining whether the application should be approved, and if so, under what terms and conditions.

Interested persons should express their interest and views to the Moab District Manager, Bureau of Land Management, P.O. Box 970, Moab, Utah 84532.

PAUL L. HOWARD,
State Director.

[FR Doc.77-26139 Filed 9-7-77;8:45 am]

[U-37932]

UTAH

Application

AUGUST 30, 1977.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Northwest Pipeline Corp. has applied for a natural gas pipeline right-of-way across the following lands:

SALT LAKE MERIDIAN, UTAH

T. 20 S., R. 22 E.,
Sec. 19, lot 4;
Sec. 30, lot 1.

The needed right-of-way is for a portion of applicant's gas gathering system located in Grand County, Utah.

The purpose of this notice is to inform the public that the Bureau will be proceeding with the preparation of environmental and other analyses necessary for determining whether the application should be approved, and if so, under what terms and conditions.

Interested persons should express their interest and views to the Moab District Manager, Bureau of Land Management, P.O. Box 970, Moab, Utah 84532.

PAUL L. HOWARD,
State Director.

[FR Doc.77-26140 Filed 9-7-77;8:45 am]

[U-37931]

UTAH

Application

AUGUST 30, 1977.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Northwest Pipeline Corp. has applied for a natural gas pipeline right-of-way across the following lands:

SALT LAKE MERIDIAN, UTAH

T. 20 S., R. 21 E.,
Sec. 23, SW¼NE¼.

The needed right-of-way is for a portion of applicant's gas gathering system located in Grand County, Utah.

The purpose of this notice is to inform the public that the Bureau will be proceeding with the preparation of environmental and other analyses necessary for determining whether the application should be approved, and if so, under what terms and conditions.

Interested persons should express their interest and views to the Moab District

Manager, Bureau of Land Management, P.O. Box 970, Moab, Utah 84532.

PAUL L. HOWARD,
State Director.

[FR Doc.77-26141 Filed 9-7-77;8:45 am]

Bureau of Land Management

[Colorado 16210]

COLORADO

Partial Termination of Proposed Withdrawal and Reservation of Lands

AUGUST 30, 1977.

Notice of a Forest Service, U.S. Department of Agriculture application, Colorado 16210, for withdrawal and reservation of lands for public purposes, was published as FR Doc. 72-9347, on page 12245 of the issue of June 21, 1972. The applicant agency has cancelled its application insofar as it affects the following described lands:

SAN JUAN NATIONAL FOREST

NEW MEXICO PRINCIPAL MERIDIAN

Deer Campground Site Addition

T. 40 N., R. 13 W.,
Sec. 24, W½SW¼SW¼.

The above described area contains 20 acres. Therefore, pursuant to the regulations contained in 43 CFR, Part 2310, such lands, at 10 a.m., on ctober 3, 1977, will be relieved of the segregative effect of the above-mentioned applications.

THOMAS N. HARDIN,
Chief, Branch of Adjudication.

[FR. Doc.77-26053 Filed 9-7-77;8:45 am]

[Colorado 25122-F]

NORTHWEST PIPELINE CORP.

Notice of Pipeline Application

AUGUST 22, 1977.

Pursuant to section 28 of the Mineral Leasing Act of 1920 (41 Stat. 449), as amended (30 U.S.C. 185), Northwest Pipeline Corp., P.O. Box 1526, Salt Lake City, Utah 84110, has applied for right-of-way for natural gas pipeline for the Lawrence Barker Gathering System in Rio Blanco, Blanco County, Colo.

The above-named system is comprised of over 16 miles of natural gas pipelines 4½" o.d. and 8⅝" o.d., across the following public lands:

RIO BLANCO COUNTY

T. 3 S., R. 102 W., 6th P.M.
Sec. 34: SE¼NW¼, W½SE¼, S½SE¼.
Sec. 36: S½SW¼.
T. 3 S., R. 101 W., 6th P.M.
Sec. 32: S½SW¼, SW¼SE¼.
T. 4 S., R. 101 W., 6th P.M.
Sec. 3: NW¼NE¼, E½NW¼, SW¼NW¼.
Sec. 4: S½N½, N½SE¼.
Sec. 5: Lots 5, 9, SW¼NE¼, SE¼NW¼, E½SW, SW¼SW¼.
Sec. 6: SW¼NW¼, N½SW¼, SW¼SE¼, SE¼SE¼.
Sec. 7: S½SW¼, SW¼SE¼.
Sec. 17: S½NW¼.
Sec. 18: N½NE¼, SW¼NE¼, N½SE¼, SE¼SE¼.
Sec. 19: NE¼NE¼.
Sec. 20: W½NW¼.
T. 4 S., R. 102 W., 6th P.M.
Sec. 1: Lots 7, 8, S½N¼, NE¼SE¼, S½SE¼, NE¼SE¼.
Sec. 2: S½NE¼, SE¼NW¼, N½S½, SE¼SE¼.
Sec. 3: Lots 5-8, SW¼NE¼, SE¼NW¼, NW¼SE¼.
Sec. 11: NE¼.
Sec. 12: NW¼NE¼, SE¼NE¼, NW¼NW¼.
Sec. 24: NE¼SE¼, W½SE¼.
Sec. 25: NW¼NE¼, N½NW¼.

The above-named system will enable the applicant to expand its natural gas gathering and transportation systems and thereby meet the demands of its customers.

The purpose of this notice are: To inform the public that the Bureau of Land Management will be proceeding with the preparation of environmental and other analyses necessary for determining whether the application should or should not be approved and, if so, under what terms and conditions; to allow all parties asserting claims to the lands of having bona fide objections to the proposed natural gas pipeline right-of-way to file their claims and/or objections in this office. All comments, claims and objections must be identified with the specific lands involved by Township and Range and portions thereof along with the name and number of this right-of-way.

Any person asserting a claim to the lands or having bona fide objections must include evidence that a copy thereof has been served on the applicant.

Any comment, claim or objections must be filed with the Chief, Branch of Adjudication, Bureau of Land Management, Colorado State Office, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colo. 80202, as promptly as possible after publication of this notice.

THOMAS N. HARDIN,
Chief, Branch of Adjudication.

[FR Doc.77-26052 Filed 9-7-77;8:45 am]

Office of Hearings and Appeals

[Docket No. M 77-251]

THE IMPERIAL COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), The Imperial Coal Co., 1010 Western Federal Savings Bldg., Denver, Colo. 80202, has filed a petition to modify the application of 30 CFR 75.326, Aircourses and belt haulage entries, to its Lincoln Mine, located in Weld County, Colo.

The substance of Petitioner's statement is as follows:

1. The present ventilation system (see map No. 1 attached [1]) consists of an exhaust return by coursing exhaust air through a separate entry and crosscut system. The belt line is currently ventilated as required by law with a separate ventilation split.

2. The proposed system would eliminate the separate return and utilize the belt haulage entry for the return airway. (See map No. 2 attached.[1]) The area of the mine currently utilized for the exhaust return would be sealed by approved seals and then abandoned.

3. The reasons for the proposed modification of the existing ventilation system are as follows:

a. The present return system has deteriorated and is a safety hazard to personnel.

b. Maintenance of the present return would expose personnel to undue and unnecessary hazards during inspection and maintenance periods.

c. Necessity mandates the requested modification since it would be impossible to drive a new exhaust return entry because the mine areas adjacent to the entry system under consideration have been worked out. Any new mining would only create additional hazards and diminish the integrity of the mine.

4. The details of the existing belt system and entry are as follows: The belt system consists of two "flights" powered by 20 h.p. and 30 h.p., 440V, 3 phase, A.C. nonpermissible motor drives A small drainage water pump located in the belt haulage entry is powered by a 3 h.p., 440V, 3 phase, A.C. nonpermissible motor. No other electrical equipment is used or will be used on this belt line entry except for routine maintenance. The belt entry has been and is maintained in a good, safe condition. This system, including the nonpermissible motors, has been used without incident since the belt system was installed years ago. Approval for use of nonpermissible motors on this belt system was obtained from the United States Department of the Interior January 10, 1973 (Docket No. M 72-6—See Approval Letter attached.[2]

5. Petitioner submits that safety protection to miners in the Lincoln Mine as a result of this proposed modification will not be diminished because of the following:

a. The Lincoln Mine has never been classified as gassy, and "past history of this mine shows very little, if any, methane gas liberation."

b. The belt haulage entry is and will be maintained in excellent condition including required rock dusting.

c. All motors on the belt entry return are and will be maintained in good repair including existing current overload prevention devices.

d. The belt system itself is and will be maintained in good repair.

e. A methane monitor will be installed and maintained in good repair at a location depicted on map No. 2 attached.[1] Such methane detector will be monitored by a certified person at the beginning of every working shift and at intervals thereafter not to exceed 2 hours.

f. Certified persons shall make frequent methane tests at the working faces throughout all working shifts.

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[1] The enclosed maps are available for inspection at the address listed in the last paragraph of this notice.

[2] The enclosed maps and letter are available for inspection at the address listed in the last paragraph of this notice.

g. Escape by mine personnel can be achieved via entries ventilated with intake air obviating the need to utilize the belt haulage entry for escape from the Lincoln Mine.

REQUESTS FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before October 11, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
Acting Director,
Office of Hearings and Appeals.

AUGUST 29, 1977.

[FR Doc.77-26054 Filed 9-7-77;8:45 am]

[Docket No. M 77-252]

YOUGHIOGHENY AND OHIO COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Youghiogheny and Ohio Coal Co., P.O. Box 460, Martins Ferry, Ohio 43935, has filed a petition to modify the application of 30 CFR 75.1100-2(b), Quantity and location of firefighting equipment, belt conveyors, to its Nelms No. 2 Mine, located in Harrison County, Ohio.

The substance of Petitioner's statement is as follows:

1. As an alternative method to the mandatory safety standard all 1¼-inch dry pipe firefighting systems with hose outlets at 300-foot intervals with adequate fire hose will be installed parallel to slope belt which will be activated by an electric valve that would automatically charge the waterline when the fire sensoring system is activated.

2. A by-pass system with manual valve will be installed at the electric valve so that the water line can be charged during a power failure.

3. All employees who work in the vicinity of the hoist and/or supply house shall be instructed in the location and operation of the manual valve.

4. The water for the dry line will be supplied from a storage tank located at an elevated position approximately 250 feet from the mouth of the slope. The tank capacity is 3020 gallons and it is a gravity flow tank.

5. The slope belt drive will not be equipped with a deluge system since it is located 175 feet outby slope mouth.

6. The automatic sensor system will be inspected weekly and a functional test of the complete system will be made at least once annually.

7. Functional tests shall consist of charging the waterline with water by activating the electric valve. A record of weekly inspection and annual functional tests will be maintained by the operator.

8. The most important reason for having a dry pipe system is to keep it from freezing due to the large volume of air going in the mine. Secondly, in a fully charged line the standing water would have a tendency to corrode the pipe and cause damage. The dry pipe can be activated automatically and manually and is as effective as a fully charged line.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before October 11, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

AUGUST 29, 1977.

DAVID TORBETT,
Acting Director,
Office of Hearings and Appeals.

[FR Doc. 77-26055 Filed 9-7-77; 8:45 am]

National Park Service

NORTH CASCADES NATIONAL PARK SERVICE COMPLEX

Public Workshops

Notice is hereby given that three public workshops will be held concerning the management and development plan for Stehekin Valley in the North Cascades National Park Service Complex. The plan will include proposals related to land use, transportation, visitor use, and resource management.

The first workshop will be held at Campbell's Conference Room on Woodin Avenue in Chelan, Wash., on Monday, October 3, 1977, at 7:30 p.m. The second workshop will be held at the Chelan Public Utility District Building Auditorium, 327 North Wenatchee Ave., in Wenatchee, Wash., on Tuesday, October 4, 1977, at 7:30 p.m. The third workshop will be held at the Golden West Building in Stehekin, Wash., Thursday, October 6, 1977, at 7:30 p.m.

Anyone interested in obtaining a list of the issues to be discussed at the workshops should contact the Superintendent. Written statements may be submitted to the Superintendent, North Cascades National Park Service Complex, 800 State St., Sedro Woolley, Wash. 98284, up to 30 days following the final workshop.

EDWARD J. KURTZ,
Acting Regional Director,
Pacific Northwest Region.

[FR Doc.77-26060 Filed 9-7-77;8:45 am]

DEPARTMENT OF JUSTICE

Attorney General

OWENS-CORNING FIBERGLAS CORP.

Proposed Consent Judgment in Action To Enjoin Discharge of Pollutants

In accordance with Departmental Policy, 28 C.F.R. 50.7, 38 Fed. Reg. 19029, notice is hereby given that on or about August 19, 1977, a proposed consent order in *United States of America* v. *Owens-Corning Fiberglas Corporation*, Civil No. 77-3131-HP (C.D. Cal.), was lodged with the United States District Court for the Central District of California in Los Angeles. The proposed consent order requires Owens-Corning Fiberglas Corp. to install emission control equipment adequate to bring its asphalt roofing plant at 1501 North Tamarind in Compton, Calif., into compliance with Regulation IV, Rule 50 of the Los Angeles County Air Pollution Control District, now known as Rule 401 of the South Coast Air Quality Management District (hereinafter "Rule 401"), and thereby achieve compliance with Rule 401 by July 1, 1978.

The Department of Justice will receive written comments relating to the proposed consent order for thirty days from the date of publication of this notice. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Deparetment of Justice, Washington, D.C. 20530 and should refer to *United States of America* v. *Owens-Corning Fiberglas Corporation*, D. J. Ref. 90-5-2-5-15.

The proposed consent order may be examined at the office of the United States Attorney, 312 North Spring Street, Los Angeles, Calif.; at the office of the Clerk of the District Court, Central District of California, 312 North Spring Street, Los Angeles, Calif.; at the office of the Environmental Protection Agency, Region IX, Enforcement Division, 100 California Street, San Francisco, Calif.; and at the office of the Pollution Control Section, Land and Natural Resources Division, Room 2625, Department of Justice Building, Ninth Street and Pennsylvania Avenue NW., Washington, D.C. 20530. A copy of the proposed consent order may be obtained in person or by mail from the Pollution Control Section.

SANFORD SAGALKIN,
Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc.77-26056 Filed 9-7-77;8:45 am]

Drug Enforcement Administration

[Docket No. 77-8]

GILBERT S. HOGAN, M.D., COLUMBIA, S.C.

Hearing

Notice is hereby given that on February 1, 1977, the Drug Enforcement Administration, Department of Justice, issued to Gilbert S. Hogan, M.D., Columbia, S.C., an Order to Show Cause as to why the Drug Enforcement Administration Registration No. AH0104137 issued to the Respondent pursuant to 21 U.S.C. 823 should not be revoked.

Thirty days having elapsed since the said Order to Show Cause was received by the Respondent, and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in

this matter will be held commencing at 10:00 a.m. on Wednesday, September 7, 1977, in the Hearing Room, Room 1210, Drug Enforcement Administration, 1405 I Street N.W., Washington, D.C.

Dated: August 31, 1977.

PETER B. BENSINGER,
Administrator,
Drug Enforcement Administration.

[FR Doc.77-26075 Filed 9-7-77;8:45 am]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (77-57)]

NASA AEROSPACE SAFETY ADVISORY PANEL

Meeting

The Aerospace Safety Advisory Panel will meet on October 12, 1977, in Room 7002, Federal Office Building 6, 400 Maryland Ave. SW., Washington, D.C. The meeting is open to the public and will be held from 2 p.m. to 3:30 p.m. The seating capacity of the room is about 40 persons, including Council members and other participants. Visitors will be requested to sign a visitor's register.

At this time the Panel will summarize its fact-finding activities, conclusions and recommendations to date on the Shuttle program for the Administrator. The Panel will also present a brief written report to the Administrator for further detailed consideration.

The Panel is chartered by Congress "to review safety studies and operations plans referred to it and shall make reports thereon, shall advise the Administrator with respect to the hazards of proposed or existing facilities and proposed operations and with respect to the adequacy of proposed or existing safety standards, and shall perform such other duties as the Administrator may request."

Pursuant to carrying out its statutory duties, the Panel reviews, evaluates and advises on those program management policies, management systems, procedures and practices that contribute to risk identification and assessment by management. Priority is given to those programs that involve the safety of manned flight.

Chairman of the Panel is Mr. Howard K. Nason. The contact for further information is Carl R. Praktish, Executive Secretary, Aerospace Safety Advisory Panel, 400 Maryland Ave. SW., Washington, D.C. 20546. Phone: Area Code 202-755-8436.

KENNETH R. CHAPMAN,
Assistant Administrator for Department of Defense and Interagency Affairs.

SEPTEMBER 1, 1977.

[FR Doc.77-26032 Filed 9-7-77;8:45 am]

[Notice (77-58)]

APPLICATIONS STEERING COMMITTEE SPACE PROCESSING AD HOC ADVISORY SUBCOMMITTEE

Meeting

The Space Processing Ad Hoc Advisory Subcommittee of the Applications Steering Committee will meet at NASA Headquarters, 600 Independence Ave. SW., Washington, D.C., on October 4-5, 1977. The meeting will be held in Room 226A of FOB 10B from 8 a.m. to 4:30 p.m. on each day. The Subcommittee will discuss, evaluate, and categorize the proposals submitted to NASA in response to the Announcement of Opportunity for Materials Processing Investigations on the Space Processing Application Rocket (SPAR) Project. Discussion of the professional qualifications of the proposers and their potential scientific contributions to Materials Technology would invade the privacy of the proposers and the other individuals involved. Since the Subcommittee sessions will be concerned throughout with matters listed in 5 U.S.C. 552b(c)(6), as described above, it has been determined that the sessions should be closed to the public.

For further information, please contact Mr. Joseph F. Turtil, NASA Headquarters, Washington, D.C. 20546, area code 202-755-3848.

KENNETH R. CHAPMAN,
Assistant Administrator for Department of Defense and Interagency Affairs.

SEPTEMBER 1, 1977.

[FR Doc.77-26033 Filed 9-7-77;8:45 am]

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-302]

FLORIDA POWER CORP., ET AL.

Issuance of Amendment to Facility Operating License and Negative Declaration

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 7 to Facility Operating License No. DPR-72, issued to the Florida Power Corp., City of Alachua, City of Bushnell, City of Gainesville, City of Kissimmee, City of Leesburg, City of New Smyrna Beach and Utilities Commission, City of New Smyrna Beach, City of Ocala, Orlando Utilities Commission and City of Orlando, Sebring Utilities Commission, Seminole Electric Cooperative, Inc., and the City of Tallahassee (the licensees) which revised Technical Specifications for operation of the Crystal River Unit No. 3 Nuclear Generating Plant located in Citrus County, Fla. The amendment is effective as of the date of issuance.

This amendment waives a maximum discharge temperature limit during the three days in August 1977 that the required thermal plume study is conducted. The limit waived is that the maximum discharge temperature may not exceed 103° F for more than three consecutive hours. In addition, the requirement that all Crystal River Units be operated at greater than or equal to 80% capacity during this study has been changed to require a site loading no less than 70%.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has prepared an environmental impact appraisal for the revised Technical Specifications and has concluded that an environmental impact statement for this particular action is not warranted because there will be no significant environmental impact attributable to the action other than that which has already been predicted and described in the Commission's Final Environmental Statement for the facility.

For further details with respect to this action, see (1) the application for amendment dated August 1, 1977, (2) Amendment No. 7 to License No. DPR-72, and (3) the Commission's related Environmental Impact Appraisal. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Crystal River Public Library, Crystal River, Fla. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 26th day of August 1977.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc.77-26143 Filed 9-7-77;8:45 am]

[Docket No. 50-285]

OMAHA PUBLIC POWER DISTRICT

Granting of Relief from ASME Section XI Inservice Inspection (Testing) Requirements

The U.S. Nuclear Regulatory Commission (the Commission) has granted relief from certain requirements of the ASME Code, Section XI, "Rules for In-

service Inspection of Nuclear Power Plant Components" to Omaha Public Power District. The relief relates to the inservice inspection (testing) program for the Fort Calhoun Unit No. 1 (the facility) located in Washington County, Nebraska. The ASME Code requirements are incorporated by reference into the Commission's rules and regulations in 10 CFR Part 50. The relief is effective as of its date of issuance.

The relief consists of exemption from: (1) Certain pump parameter measurements, (2) certain valve tests, and (3) certain pressure vessel weld inspections.

The request for relief complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the letter granting relief. Prior public notice of this action was not required since the granting of this relief from ASME Code requirements does not involve a significant hazards consideration.

The Commission has determined that the granting of this relief will not result in any significant environmental impact and that pursuant to 10 CFR 51.5 (d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

For further details with respect to this action, see (1) the request for relief dated March 23, 1977 as amended on August 22, 1977, (2) the Commission's letter to the licensee dated August 31, 1977.

These items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Blair Public Library, 1665 Lincoln Street, Blair, Nebr. A copy of item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 31st day of August 1977.

GEORGE LEAR,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc.77-26144 Filed 9-7-77;8:45 am]

REGULATORY GUIDE

Issuance and Availability

The Nuclear Regulatory Commission has issued a guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 3.4, Revision 1, "Nuclear Criticality in Safety Operations with Fissionable Materials Outside Reactors," provides guidance for complying with the Commission's regulations for the prevention of criticality accidents in the handling, storing, processing, and transporting of fissionable materials outside of nuclear reactors. The original issuance of this guide endorsed ANSI Standard N16.1–1969, "American National Standard for Nuclear Criticality Safety in Operations with Fissionable Materials Outside Reactors." Revision 1 of the guide endorses the revision of that standard, ANSI Standard N16.1–1975.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Public comments on Regulatory Guide 3.4 will, however, be particularly useful in evaluating the need for an early revision if received by November 7, 1977.

Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a).)

Dated at Rockville, Md., this 31st day of August 1977.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,
Director, Office of Standards Development.

[FR Doc.77-26147 Filed 9-7-77;8:45 am]

REGULATORY GUIDE

Issuance and Availability

The Nuclear Regulatory Commission has issued a new guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 7.7, "Administrative Guide for Verifying Compliance with Packaging Requirements for Shipments of Radioactive Materials," describes a method acceptable to the NRC staff for licensees to verify compliance with certain regulations for shipping radioactive material. This guide endorses ANSI Std N14.10.3–1975, "Administrative Guide for Verifying Compliance with Packaging Requirements for Shipments of Radioactive Materials."

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Public comments on Regulatory Guide 7.7 will, however, be particularly useful in evaluating the need for an early revision if received by November 4, 1977.

Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington D.C. 20555, Attention: Director, Division of Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a).)

Dated at Rockville, Md., this 30th day of August 1977.

For the Nuclear Regulatory Commission.

RAY G. SMITH,
Acting Director, Office of Standards Development.

[FR Doc.77-26148 Filed 9-7-77;8:45 am]

[Docket No. 50-59]

TEXAS A&M UNIVERSITY

Proposed Renewal of Facility Operating License

The Nuclear Regulatory Commission (the Commission) is considering renewal of Facility Operating License No. R-23 issued to Texas A&M University (the licensee) for operation of its AGN-201M research reactor (the facility) located on the campus of Texas A&M University in College Station, Tex., and used for educational training. The facility has been operated by the licensee since 1957 and is currently licensed to operate at 5 watts.

The renewal would extend the expiration date of Facility Operating License No. R-23 to August 26, 1997, in accordance with the licensee's timely application for renewal dated May 20, 1977, and

the supplement thereto dated August 18, 1977.

Prior to renewal of Facility Operating License No. R-23, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations.

By October 11, 1977, the licensee may file a request for a hearing and any person whose interest may be affected by this proceeding may file a request for a hearing in the form of a petition for leave to intervene with respect to renewal of the subject facility operating license. Petitions for leave to intervene must be filed under oath or affirmation in accordance with the provisions of Section 2.714 of 10 CFR Part 2 of the Commission's regulations. A petition for leave to intervene must set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and the petitioner's contentions with respect to the proposed licensing action. Such petitions must be filed in accordance with the provisions of this FEDERAL REGISTER notice and § 2.714, and must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, by the above date. A copy of the petition and/or request for a hearing should be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

A petition for leave to intervene must be accompanied by a supporting affidavit which identifies the specific aspect or aspects of the proceeding as to which intervention is desired and specifies with particularity the facts on which the petitioner relies as to both his interest and his contentions with regard to each aspect on which intervention is requested. Petitions stating contentions relating only to matters outside the Commission's jurisdiction will be denied.

All petitions will be acted upon by the Commission or licensing board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel. Timely petitions will be considered to determine whether a hearing should be noticed or another appropriate order issued regarding the disposition of the petitions. A petition for leave to intervene which is not timely will not be entertained absent a determination by the Commission or the Licensing Board designated to rule on the petition that the petitioner, in addition to the matters specified in 10 CFR 2.714(d), has made a substantial showing of good cause for failure to file on time. The reasons for the tardiness in filing a petition to intervene, as well as the factors specified in 10 CFR 2.714(a)(1)–(4), shall be considered in making a determination as to whether there has been a substantial showing of good cause by the petitioner.

In the event that a hearing is held and a person is permitted to intervene, he becomes a party to the proceeding and has a right to participate fully in the conduct of the hearing. For example, he may present evidence and examine and cross-examine witnesses.

For further details with respect to this action, see the application for license renewal dated May 20, 1977, the transmittal letter dated May 31, 1977, and the supplement thereto dated August 18, 1977, each of which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555.

Dated at Bethesda, Md., this 31st day of August 1977.

For the Nuclear Regulatory Commission.

DON K. DAVIS,
Acting Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc.77-26145 Filed 9-7-77;8:45 am]

[Dockets Nos. 50-280, 50-281]

VIRGINIA ELECTRIC & POWER CO. SURRY POWER STATION, UNITS NOS. 1 AND 2

Order for Modification of License

I. Virginia Electric & Power Co. (the Licensee) is the holder of Facility Operating Licenses Nos. DPR-32 and DPR-37 which authorizes the operation of two nuclear power reactors known as Surry Power Station, Units Nos. 1 and 2 (the facility) at steady state reactor power levels not in excess of 2,441 thermal megawatts (rated power). The reactors are pressurized water reactors (PWR) located at the Licensee's site in Surry County, Va.

II. By letter dated August 24, 1977, the Commission authorized the Licensee to install flow-limiting orifices in the discharge of the outside recirculation spray pumps for the facility. In addition, the Commission ordered the following limits on operating parameters for the facility effective August 24, 1977:

> Service water temperature, 55° F to 85° F. Containment temperature, 100° F to 125° F. Containment air partial maximum pressure, 9.3 PSIA at 85° F service water temperature and 45° F RWST temperature. This value will vary in a manner similar to existing Technical Specification 3.8.

This Order is supplementary and confirmatory to the August 24, 1977, Order and provides the bases, as follows, for our actions.

As a result of the ongoing operating license review of the North Anna Station it appeared that the net positive suction head (NPSH) available to the containment recirculation spray pumps might be insufficient for the post loss-of-coolant accident (LOCA) operation of the recirculation spray system. A review of this matter for the North Anna Station is being conducted by the staff. The Surry Station Units Nos. 1 and 2 are operating plants with a design similar to North Anna.

To determine whether a similar problem may exist at Surry, we requested that the licensee and their architect/engineer, Stone and Webster, meet with the staff on August 19, 1977.

At the meeting held on August 19, 1977, and reported in their letter dated August 20, 1977, VEPCO and their architect engineer, Stone and Webster, reported that they have reanalyzed the containment pressure transient response and associated available NPSH in the recirculation cooling pumps. This reanalysis was performed using new considerations in the overall thermodynamic model. The new modeling assumptions minimize the calculated containment pressure and maximizes the containment sump water temperature, thereby minimizing the NPSH. Information was provided from the pump manufacturer which concluded that the pumps would continue to pump reliably at the minimum NPSH available however at reduced flow.

All four recirculation spray pumps were determined to be operable through recent tests. Considering reduced flow, but with all four pumps in service, the containment would depressurize in less than one hour, meeting the original design requirements. The licensee agreed not to remove any of these pumps from service prior to August 24, 1977, and to submit additional information by August 24, 1977, to justify continued operation beyond August 24, 1977. Based on the short time involved, and the availability of all four recirculation spray pumps the staff concluded that continued operation until August 24, 1977, would not pose an undue threat to the health and safety of the public.

The staff met with the licensee on August 24, 1977, to discuss the above cited submittal. Based on the staff's review of the licensee's submittal and on the discussions cited above, the staff found the licensee's proposed modifications and accompanying restrictions acceptable to permit continued operation. While such continued operation was authorized without requiring that all four recirculation spray pumps be continually available for use, the staff concluded that installation of orifices on two of the pumps, as authorized by the August 24 letter, and imposition of the restrictions ordered by that letter, would provide reasonable assurance that continued plant operation would not pose an undue threat to the health and safety of the public. Additional assurance was provided by the test results discussed below.

The calculated pressure of the containment and the temperature of the water that accumulates in the containment sump are important parameters in determining recirculation spray pump operability following a LOCA with regard to available NPSH. These terms in combination with the pump static head and associated line losses establish available NPSH during the transient.

At the meeting held on August 24, 1977, and in their letter dated August 24, 1977, VEPCO presented a pump performance curve of the minimum NPSH required to prevent cavitation as a function of flow rate. The curve is based on tests per-

formed on August 22, 1977, with a North Anna Unit No. 2 recirculation spray pump, which is the same model as installed in the Surry Units Nos. 1 and 2. Test results preliminarily reported by the licensee indicate that the pumps can be operated in the cavitating mode, though with loss of performance (flow rate and developed head), for periods of time significantly longer than potential periods of cavitation calculated for Surry, without damage to the pump. For a flow rate of 3,300 gpm as assumed in the containment depressurization analyses, the minimum required NPSH is approximately 10.2 feet. The specified NPSH of the pump is 15 feet.

Using the new modeling assumptions an available NPSH of greater than 11 feet is calculated for the two recirculation pumps inside containment, except for the time from 700 to 2,100 seconds after the postulated accident. This NPSH assures satisfactory pump operation. During the 700 to 2,100 second time interval the available NPSH reaches a minimum of 8.4 feet and the pump could potentially operate in a cavitating mode for about 23 minutes with a reduced flow rate of 3,000 gpm.

For the two recirculation pumps located outside containment the friction losses in the suction piping are substantially larger and therefore result in a smaller available NPSH. To assure satisfactory pump operation the licensee has installed a flow limiting orifice, in discharge, reducing the flow to 2,000 gpm with a required NPSH of approximately 6.4 feet compared to an available NPSH of 7.3 feet. This flow reduction assures continued pump operation without cavitation.

On the basis of the above flow as input to the containment response calculation, the licensee stated that the containment spray system pumps will still adequately function and the containment depressurization time requirements are not exceeded for the design basis LOCA.

While we have not been provided with the details of the recent analyses for our review, we believe that the results appear reasonable and are acceptable until additional details have been provided.

The analyses summarized above for plant operations with flow restricting orifices in the discharge piping of the outside recirculation pumps indicate that additional information is required on certain plant operating parameters. These information requirements are given in Section III of this Order.

The licensee has also committed to provide additional detailed analyses to further confirm the operability of the recirculation spray pumps and low head safety injection pumps during potential cavitating modes and to develop a permanent solution eliminating pump operation in a cavitating mode. At the August 24, 1977, meeting the licensee stated that he concluded there was still adequate NPSH margin for the low head safety injection pumping system, a part of the ECCS, while operating in the recirculation mode. Confirmatory calculations are to be provided in subsequent discussions, and as stated in Section III of this Order.

Based on the discussions at our meeting with the licensee on August 19 and 24, 1977, and on their submittals of August 20 and 24, 1977, we conclude, due to the ability of the containment recirculation spray pumps to operate under very adverse NPSH conditions, that operation of Surry Units Nos. 1 and 2, with the modifications detailed above, and until permanent modifications are implemented, will not pose an undue threat to the health and safety of the public.

Copies of the following documents are available for public inspection in the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555, and at the Swem Library, College of William and Mary, Williamsburg, Va., (1) Letters from licensee dated August 20, 1977, August 24, 1977, and August 25, 1977, (2) NRC letter dated August 24, 1977, and (3) This Order for Modification of License, In the Mattter of Virginia Electric and Power Co., Surry Power Station Units Nos. 1 and 2, Dockets Nos. 50–280 and 50–281.

III. Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's Rules and Regulations in 10 CFR Parts 2 and 50; *it is ordered*, That Facility Operating Licenses Nos. DPR–32 and DPR–37 are hereby amended by adding the following new provisions:

1. The Licensee shall submit by August 29, 1977, an interim evaluation concerning the performance of the low head safety injection pumps.

2. The Licensee shall submit by September 12, 1977, the following additional information:

(a) Analyses of the low head safety injection pump performance including input from the pump manufacturer.

(b) The net positive suction head time-history for the inside and outside recirculation spray pumps and the low head safety injection pumps for all modes of operation.

(c) Inspection results of the tests which were conducted on the North Anna recirculation spray pump with additional information on the similarity of the North Anna pump to the Surry pumps.

(d) A description of the bases for the acceptability of operation for these pumps in the cavitating mode.

3. The Licensee shall submit within 90 days from August 24, 1977, their plans and schedules for implementing any required modifications.

4. In order to demonstrate that condition 2.b is complied with the analysis shall include the following containment cooling conditions:

(a) Full containment cooling (i.e., two quench spray pumps and four recirculation spray pumps);

(b) Minimum containment cooling (i.e., one diesel generator operating);

(c) Single failure of a recirculation spray pump; and

(d) Single failure of a quench spray pump.

For each analysis, curves shall be provided to show the responses of containment total pressure, containment vapor pressure, available NPSH, sump water level, and sump water vapor pressure.

Analyze the available NPSH for smaller break sizes in the hot leg and cold leg to demonstrate that the conditions of break location and size which result in the lowest available NPSH have been determined. Provide the mass and energy release rates as a function of time throughout the blowdown, reflood, and post reflood phases.

For each analysis, specify the containment evaluation parameters in a manner similar to that previously reported in your letter dated August 24, 1977. Also, provide a description of the recirculation spray heat exchanger characteristics; e.g., UA and type, parallel flow/counter flow.

Dated in Bethesda, Md., this 24th day of August 1977.

For the Nuclear Regulatory Commission.

EDSON G. CASE,
Acting Director, Office of Nuclear Reactor Regulation.

[FR Doc.77-26146 Filed 9-7-77;8:45 am]

[Docket No. 50–423A]

NORTHEAST NUCLEAR ENERGY CO., CENTRAL MAINE POWER CO., AND MASSACHUSETTS MUNICIPAL WHOLESALE ELECTRIC CO.

Receipt of Attorney General's Advice and Time for Filing of Petitions To Intervene on Antitrust Matters

The Commission has received, pursuant to section 105c of the Atomic Energy Act of 1954, as amended, the following additional advice from the Attorney General of the United States, dated August 25, 1977.

You have requested our further advice pursuant to Section 105c of the Atomic Energy Act of 1954, as amended, in regard to the above-captioned application.

On August 10, 1973, we advised you that there appeared to be no need for an antitrust hearing concerning this nuclear unit. You have now provided us with antitrust information submitted by Central Maine Power Company, a new participant which plans to obtain a 2.5 percent interest in the facility. Massachusetts Municipal Wholesale Electric Company (MMWEC), which proposed to increase its participation from 1.603 to 2.942 percent, also provided information for our review. In addition, Montaup Electric Company, one of the original applicants, plans to increase its ownership interest from 2.372 to 4.009 percent.

Our review of the information submitted by Central Maine and MMWEC, as well as other relevant information, has not disclosed any basis upon which to change our earlier conclusion that an antitrust hearing will not be necessary in this matter.

Any person whose interest may be affected by this proceeding may, pursuant to § 2.714 of the Commission's rules of practice, 10 CFR Part 2, file a petition for

leave to intervene and request a hearing on the antitrust aspects of the application. Petitions for leave to intervene and requests for hearing shall be filed by October 8, 1977, either (1) by delivery to the NRC Docketing and Service Section at 1717 H Street, NW, Washington, D.C., or (2) by mail or telegram addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, ATTN: Docketing and Service Section.

For the Nuclear Regulatory Commission.

JEROME SALTZMAN,
Chief, Antitrust and Indemnity Group, Nuclear Reactor Regulation.

[FR Doc.77-25802 Filed 9-7-77;8:45 am]

[Docket No. 50-72]

UNIVERSITY OF UTAH

Proposed Renewal of Facility Operating License

The Nuclear Regulatory Commission (the Commission) is considering renewal of Facility Operating License No. R-25 issued to The University of Utah (the licensee) for operation of its AGN-201 research reactor located on the licensee's campus in Salt Lake City, Utah, and used for educational training. The facility has been operated by the licensee since 1957 and is currently licensed to operate at 5 watts.

The renewal would extend the expiration date of Facility Operating License No. R-25 to September 12, 1997, in accordance with the licensee's timely application for renewal dated July 8, 1977.

Prior to renewal of Facility Operating License No. R-25, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations.

By October 11, 1977, the licensee may file a request for a hearing and any person whose interest may be affected by this proceeding may file a request for a hearing in the form of a petition for leave to intervene with respect to renewal of the subject facility operating license. Petitions for leave to intervene must be filed under oath or affirmation in accordance with the provisions of § 2.714 of 10 CFR Part 2 of the Commission's regulations. A petition for leave to intervene must set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and the petitioner's contentions with respect to the proposed licensing action. Such petitions must be filed in accordance with the provisions of this FEDERAL REGISTER notice and section 2.714, and must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, by the above date. A copy of the petition and/or request for a hearing should be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

A petition for leave to intervene must be accompanied by a supporting affidavit which identifies the specific aspect or aspects of the proceeding as to which intervention is desired and specifies with particularity the facts on which the petitioner relies as to both his interest and his contentions with regard to each aspect on which intervention is requested. Petitions stating contentions relating only to matters outside the Commission's jurisdiction will be denied.

All petitions will be acted upon by the Commission or licensing board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel. Timely petitions will be considered to determine whether a hearing should be noticed or another appropriate order issued regarding the disposition of the petitions. A petition for leave to intervene which is not timely will not be entertained absent a determination by the Commission or the Licensing Board designated to rule on the petition that the petitioner, in addition to the matters specified in 10 CFR 2.714 (d), has made a substantial showing of good cause for failure to file on time. The reasons for the tardiness in filing a petition for leave to intervene, as well as the factors specified in 10 CFR 2.714(a)(1)-(4), shall be considered in making a determination as to whether there has been a substantial showing of good cause by the petitioner.

In the event that a hearing is held and a person is permitted to intervene, he becomes a party to the proceeding and has a right to participate fully in the conduct of the hearing. For example, he may present evidence and examine and cross-examine witnesses.

For further details with respect to this action, see the application for license renewal dated July 8, 1977, which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C.

Dated at Bethesda, Md., this 31st day of August, 1977.

For the Nuclear Regulatory Commission.

DON K. DAVIS,
Acting Chief Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc.77-25882 Filed 9-7-77;8:45 am]

NATIONAL TRANSPORTATION SAFETY BOARD

[N-AR 77-36]

RESPONSES TO SAFETY RECOMMENDATIONS

Receipt

The National Transportation Safety Board announces the receipt of letters, summarized below, which are in response to or concern certain aviation and railroad safety recommendations issued by the Board in the past several years.

From the Federal Aviation Administration—

Re A-74-105 through 114.—RAA's letter of August 18 is in answer to the Safety Board's request of July 28 (42 FR 39515, August 4, 1977) for a written status report on the ten recommendations issued as a result of the Board's 1974 special study, "Safety Aspects of Emergency Evacuation from Air Carrier Aircraft."

FAA reports regarding A-74-105 that Project No. AFS-230-123 was established in June 1976 to review/revise reporting requirements of FAR's 121.703/705 and 127.313. FAA is evaluating numerous comments from the regions and data from its Maintenance Analysis Center to justify a rule change; estimated completion date is December 1977. Re A-74-106, a training course on emergency evacuation slide systems was commenced on May 5, 1975, at PICO, San Francisco, Calif.

Recommendation A-74-108 was considered in the First Biennial Operations Review, FAA said, and the proposal will be included in Operations Review Notice No. 10, to be published by December 1. FAA reports that the subject of recommendation A-74-110 was proposed in the Biennial Operations Review as Proposal No. 427; the Committee removed the proposal from consideration. FAA notes that present airline practices make it unnecessary to designate the flight attendant responsible for using the megaphone. FAA does not consider it necessary to tell carriers that they must use new, light and compact megaphones and plans no further action at this time.

Recommendation A-74-112 was transferred to the Biennial Operations Review as Proposal No. 586. As a result of Committee recommendation, FAA published Notice of Proposed Rule Making 77-12 on July 21, at 42 FR 37417. Re A-74-113, Advisory Circular AC-121-24, Passenger Safety Information Briefing and Briefing Cards, was forwarded for publication and distribution on June 23.

Recommendations A-74-107, 109, 111, and 114 were transferred to the Biennial Operations Review as Proposals Nos. 3/429, 4/434, 452, and 513/514, respectively. The proposals are being considered for rulemaking action, but FAA is unable to estimate a date for completion of the evaluations. Results of the evaluations will be published in the FEDERAL REGISTER, FAA said.

Re A-75-63.—FAA, by letter of August 19, considers action completed with regard to the recommendation issued following Board investigation into the Beechcraft Model 99 gear-up landing accident at Spokane, Wash., which occurred April 6, 1975. (See 40 FR 36628, August 21, 1975.) The recommendation asked FAA to issue an Airworthiness Directive requiring removal and internal inspection of the Beechcraft Model 99 landing gear motor controller, P/N MC-815-AS-1.

FAA reports that a proposal to issue an AD was published in the FEDERAL REGISTER on January 27, 1976. Subsequently, endurance testing by the motor controller manufacturer established that this part should operate satisfactorily on the affected planes. FAA states, "These testing results, coupled with in-service performance records, led the FAA to con-

clude that the one failure which prompted the NPRM was an isolated case." After determining that the proposed AD was not required, FAA last September 24 issued a "Withdrawal of Notice of Proposed Airworthiness Directive." FAA considers action completed with regard to this recommendation.

Re A-75-70.—Letter dated August 18 references another Beechcraft accident—a BE-55 which crashed in the dark during an instrument approach to the Lawrenceburg (Tenn.) Municipal Airport. (See 40 FR 40879, September 4, 1975.) The Safety Board recommended that FAA change the wording of restrictions of National Ocean Survey instrument approach charts where night approaches are not authorized so that restrictions are clearly understood.

On September 26, 1975, FAA indicated that Handbook 8260.19 would be revised. FAA now reports that letters were sent to its field offices on June 9, 1976, transmitting draft copies of revised Chapter 10, Handbook 8260.19, providing interim guidance pending issuance of Change 14 to the Handbook; a copy of this draft was furnished informally to the Safety Board staff. FAA reports that Change 14 is being printed, issuance expected late this September. In the interim, FAA field offices are operating in accord with the draft and are, therefore, currently fulfilling recommendation A-75-70, FAA said.

Re A-76-97 through 100—FAA's August 17 letter updates its response of last March 18 (42 FR 17197, March 31, 1977). The recommendations concern light twin-engine aircraft that fail to recover from apparently unintentional spins.

FAA reports that a meeting was held with the General Aviation Manufacturers Association to discuss the promulgation of a V_{mc} speed for general aviation aircraft. The meeting indicated that each manufacturer had a different criteria for establishing V_{mc} for his aircraft, and, in light of those discussions and related problems brought up at that meeting, FAA feels that it must not require the use of V_{mc} speed at this time. FAA states:

> The basic problem appears to be the need for an acceptable criteria for determining a V_{mc} and what is expected to be accomplished by the pilot at this speed since required performance velocities are already defined in the certification of the aircraft. We still feel, however, that something of value may be gained by pursuing the subject of V_{mc}. To this end, we are continuing to work with industry in the areas of airman and aircraft certification, flight testing, and flight training to secure answers.

FAA states that it hopes to have some positive results in this area by July 1978.

Re A-77-38 and 39.—FAA's letter of August 19 provides rationale for rejecting the two recommendations issued after Board investigation of the crash last March 31 of a Bell Model 214B-1 helicopter during a logging operation near Liberty, Wash. The tail boom fin installation separated from the tail boom of the helicopter. (See 42 FR 29579, June 9, 1977.)

FAA does not believe that an emergency AD or an immediate adopted rule affecting all Model 214B and 214B-1 helicopters is warranted at this time and therefore rejects recommendation A-77-38. FAA reports that as a result of the subject accident, Bell initiated a reevaluation of the tail-boom-fin/tail-boom analysis by conducting a flight strain survey of the particular logging operation. No significant stresses in the tail boom and fin have been found. Completion of the reevaluation is expected by November 1. Also, Bell Service Bulletin No. 214-77-8 was issued June 15, requiring a daily inspection of several areas of the tail fin and boom on the approximately 32 Model 214 series helicopters in civil operations. No other reports of cracks have been received to date, FAA said.

FAA rejects A-77-39 because Bell's assessment completed thus far indicates that the maximum gross weight of 16,000 pounds for external loads, and the torque requirements, do not cause significant stresses in the tail boom and fin. FAA said that when the reevaluation is completed in November, all significant factors will be considered, and the possible need for lower gross weight and/or torque limitations will be decided.

Re A-77-40 through 42.—Leter of August 19 responds to recommendations issued following investigation of the crash last October 17 of a new Bell 212 helicopter after it lost directional control during a landing approach to Natrona County Airport at Casper, Wyo. Failure of the No. 4 section of tail rotor drive shaft P/N 204-040-620-3, caused by torsional overstress, was found to be the cause of the loss of directional control. (See 42 FR 31851, June 23, 1977.)

Recommendation A-77-40 asked FAA to issue an Operations Bulletin to all operators of Bell 212 helicopters and all other Bell models with P/N's 204-040-620-3 or 204-040-620-5 tail rotor drive shafts installed warning them to use caution when operating in flight regimes conducive to main rotor overspeed, and A-77-41 recommended issuance of a Maintenance Alert Bulletin to inspect the tail rotor drive system installation for evidence of shaft yield or tail-cone structure contact if the main rotor speed has exceeded 110 percent.

FAA rejects these two recommendations. FAA notes that Maintenance Alert Bulletins and Operations Alert Bulletins are primarily internal FAA communications to alert FAA inspectors of problem areas. Using this method would require the inspectors to recommunicate the information, resulting in delay and risking less than complete dispersal of the information, FAA said. Further, FAA states:

> The problem is one in which, at critical speed of approximately 115.5 percent, the shaft enters a whirl condition and contacts rivets in the cowling. The contact results in shaft scoring and subsequent shaft failure. It is unlikely that the shaft could operate at the critical speed and mark or be marked by surrounding structure and not fail because of the high loads on the shaft. Operation below the critical speed, or above that speed within the shaft's structural limits, does not result in visible evidence. Operation at the critical speed results in severe damage obvious to all.

FAA believes that the problem is more one of proper operation than one of maintenance or inspection. The manufacturer, FAA notes, has recognized this with the issuance of Operations Safety Notice 212-77-1, which, together with the Rotorcraft Flight Manual limitations, will if adhered to prevent operation at the critical speed except in the case of fuel control failures that result in overspeed.

Recommendation A-77-42 asked FAA to revise FAR 29.923 and 29.931 to require manufacturers to demonstrate 120 percent rotor system overspeed by driving the power train with an external power source, if installed engine power turbine speed (N_2) limits preclude meeting this requirement. FAA comments that Notice of Proposed Rule Making 75-31 would transfer the overspeed test from 29.923 (endurance test) to 29.927 (additional tests) and would also permit use of test facilities, in lieu of testing on the actual rotorcraft, if these facilities closely simulate the conditions that would exist during a test on the actual rotorcraft. The present rule which allows using less than 120 percent will no longer apply. FAA expects to complete final action by January 1, 1978.

With regard to A-77-42 relative to 29.931, FAA points out that 120 percent overspeed is not a representative test where critical speed is involved. The critical speed could be lower or higher, depending on the overall system. FAA says that the Bell 212 tail rotor drive system, on which the recommendation is based, has a critical speed of 115.5 percent plus or minus 0.5 percent, and testing at 120 percent to meet 29.931 would be meaningless. Therefore, FAA rejects the Board's recommendation to revise 29.931.

Re A-77-23 and 44.—In its letter of August 19 responding to these recommendations, which concern failures in the Teledyne Continental Motors (TCM) IO-520 series engine crankshaft (42 FR 33391, June 30, 1977), FAA reports that its Engineering personnel have been working closely with TCM to determine the cause of these crankshaft failures. Metallurgical examination of the fractured crankshafts revealed that material or processing defects were not evident. The fractures involve low-stress, high-cycle fatigue in bending; but, to date, the investigation has failed to disclose the cause of this specific type of fracture.

FAA says that operators of aircraft which have experienced failures are being contacted to determine if there is any operational pattern that might lead to cause of failure. Findings will be correlated with engine endurance tests now in progress. FAA is investigating maintenance and operational factors that could contribute to crankshaft failures, and FAA will provide advisory information to the public suggesting maintenance and

operational techniques that could help preclude crankshaft failures on all engines.

In rejecting recommendation A–77–43, FAA says that, basically, maintenance alert bulletins would not be used by FAA to alert overhaul shops or manufacturers—other methods would be more suited to this problem. FAA states:

> The IO–520 crankshafts have failed from subsurface fatigue cracks. The present method of inspecting crankshafts is magnaflux, a procedure which is not capable of detecting subsurface cracks. The use of an ultrasonic inspection procedure for detecting subsurface cracks is presently under investigation at TCM. Accordingly, it is premature to issue instructions to inspect the IO–520 series crankshaft for incipient or developed cracks of the type under investigation until such time as an adequate inspection means is identified.

FAA also rejects A–77–44, commenting that a directed safety investigation is used to gather data about a specific problem utilizing the FAA field force of inspectors. In the case of the factured cheeks on crankshafts, FAA states, it would be of little help to gather further information as to the number of failures. From the number of known failures, FAA agrees that there is a problem which needs corrective action but says that the real problem lies in identifying the cause of the failures and the proper corrective action. FAA believes that the continued joint effort of its personnel and TCM Engineering is the best course of action.

From General Aviation Manufacturers Association—

Re A–75–47 through 49.—Letter of August 19 is in response to recommendations issued by the Safety Board in 1975 with a view to further enhancing the accident prevention potential of GAMA's "Specification for Pilots Operating Handbook." The recommendations asked GAMA to supplement the performance section of its handbook by (1) specifying on takeoff distance chart or tables, where applicable, fuel mixture leaning requirements and procedures (A–75–47); (2) specifying a precautionary note on takeoff distance charts or tables indicating the importance, particularly at the higher altitudes and temperatures, or complying with certificated gross weight and center of gravity limitations (A–75–48); and (3) specifying that climb-airspeed data include the indicated airspeed necessary to achieve an airplane's best angle of clumb (A–75–49). (See 40 FR 25107, June 12, 1975.)

GAMA reports that recommendation A–75–47 has been adopted. Paragraph 5.15, Associated Conditions, on page 5–2 of the specification, will be amended to include: "(h) Leaning instructions." Although a formal revision has not been issued, GAMA says that most manufacturers are now including leaning instructions, such as "Lean to appropriate fuel flow," on Takeoff Distance Charts.

With reference to A–75–48, GAMA's Handbook Committee considered that present information on gross weight and center of gravity limitations is adequate. Takeoff Distance Charts now incorporate limits of temperature and altitude where performance in the takeoff configuration is marginal, and center of gravity limits are clearly stated in the Weight and Balance section. GAMA states that the suggested precautionary note "would add no new information but might imply that compliance with gross weight and center of gravity limitations was not too important at low altitudes and temperatures."

In answer to recommendation A–75–49, GAMA states:

> The Committee considered that present climb speed information is adequate. Both the 'best rate of climb' and 'best angle of climb' speeds are given under 'Speeds for Normal Operation' under the Normal Procedures Section. Charts in the Performance Section are predicated on best *rate* which is the normal speed for maximum performance climbs. Best *angle* speeds are used only briefly for obstruction clearance and are not intended for sustained use.

From the Federal Railroad Administration—

Re R–76–24 through 32.—These recommendations resulted from the Safety Board's investigation of the rear end collision of two Penn Central Transportation Co. passenger trains near Wilmington, Del., on October 17, 1975. (See 41 FR 32794, August 5, 1976.) FRA's response letter is dated August 22, 1977.

In answer to recommendation R–76–24, which asked FRA to establish regulations on mainlines used by passenger trains that will require trains to stop if the block in front of them is occupied, FRA states that an analysis of accident investigation data concerning rear end collisions for the period 1965–1974 indicate that the vast majority of rear end collisions are caused by failure of crewmembers to comply with operating rules. FRA believes that failure of operating personnel to comply with operating rules indicates a need for training and testing programs to ensure compliance with existing operating rules, rather than a need for additional regulations to prohibit train operation in occupied blocks. Therefore, FRA is analyzing carrier training and testing programs submitted under Part 217—Railroad Operating Rules. Upon completion of the analysis, FRA will determine what training and testing regulations are necessary to ensure adequate carrier programs.

Recommendation R–76–25 asked FRA to establish standards for rear end visibility of trains. FRA reports publication in the FEDERAL REGISTER last January 11 of a regulation dealing with highly visible markers and rear end conspicuity. After December 31, 1977, each train to which this regulation applies, i.e., one that occupies or operates on a main track, shall be equipped with marking devices on the trailing end of the rear car of the train.

Recommendation R–76–26 asked FRA to require that trains are equipped with emergency flagging equipment, and R–76–27 recommended establishment of regulations for the protection by flagging of the rear end of all stopped trains in passenger territory. FRA reports that last January 27 section 218.37—Flag Protection was published in the FEDERAL REGISTER; the regulation prescribes the instances in which flag protection must be provided, as well as the types of flagman's signals to be used. Whether a train is stopped in passenger or nonpassenger territory, FRA believes that the regulation provides the protection necessary to ensure safe train operation. "Any additional requirement for flagging the rear end of all stopped trains in passenger territory would impose superfluous restrictive procedures that could not be justified with available data," FRA said.

With reference to R–76–28, which asked FRA to require carriers to provide emergency lighting and communication systems on passenger cars and to provide for predeparture inspection to assure their operability, FRA notes that three carriers provide the majority of rail passenger service in the United States: National Railroad Passenger Corporation (Amtrak), Southern Railway Co., and Denver and Rio Grande Western Railroad Co. FRA believes that these carriers' extant lighting and communication systems provide adequate service under emergency conditions and that requiring the installation of additional emergency standby power sources for emergency lighting and communication facilities is economically unjustifiable.

Recommendation R–76–29 called for FRA to require carriers to train employees in emergency procedures to be used after an accident, to establish priorities for emergency action, and to conduct accident simulations to test the effectiveness of the program, inviting civic emergency personnel participation. R–76–39 asked FRA to require railroads to include emergency procedures for cab evacuation in its training program for operating employees. According to the August 22, FRA is analyzing carrier training and testing programs under Part 217, as noted above. Emergency procedures to be used following an accident will be one of many items under consideration.

In accord with recommendation R–76–31, which asked FRA to observe a statistically adequate sample of trains equipped with cab signals to establish the reliability of this system, FRA regional personnel will observe operation of the cab signal system to determine its reliability in a special sample of trains.

In response to R–76–32 and the requirement that trains be equipped with reasonably accurate speed indicators, FRA has published an Advance Notice of Proposed Rule Making concerning installation and use of speed indicators. Recognizing the widespread use of speed indicators and their unquestioned safety benefits in higher speed operations, FRA says that mandatory installation may be warranted. FRA is planning an accompanying cost/benefit impact analysis.

NOTE.—Copies of the full text of the above letters in response to recommendations may be obtained at a cost of $4 for service and 10 cents per page for reproduction. All requests must be in writing, identified by the recommendation number and date of publication of this notice in the FEDERAL REGISTER. Address inquiries to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

(Sec. 307 of the Independent Safety Board Act of 1974 (Pub. L. 93-633, 88 Stat. 2172 (49 U.S.C. 1906)).)

MARGARET L. FISHER,
Federal Register Liaison Officer.

SEPTEMBER 2, 1977.

[FR Doc.77-26193 Filed 9-7-77;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on August 31, 1977 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, 202-395-4529, or from the reviewer listed.

NEW FORMS

DEPARTMENT OF COMMERCE

Domestic and International Business Administration, Ethylene oxide, DIB-996, single time, producers of ethylene oxide, C. Louis Kincannon, 395-3211.

National Fire Prevention, fire department survey, single time, fire departments, economics and General Government Division, Ellett, C.A., 395-3451.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service, needs assessment for natural family planning, single time, title X grantees in the 10 DHEW regions, Richard Eisinger, 395-6140.

Social Security Administration, 1978 survey of widows without benefits, SSA-3584, single time, widows who received lump-sum death benefits in January 1977, Sunderhauf, M. B., 395-6140.

Food and Drug Administration, blood sample identification card, FD 3059, other (see SF-83), volunteer blood donors, Richard Eisinger, 395-6140.

Office of Human Development:
Questionnaire for evaluation of OHD transportation demonstration program, other (see SF-83), agencies providing transportation, service, and individuals receiving it, human resources division, Raynsford, R., 395-3532.
Interview Guides Developmental Assessment: survey and identification of head start practices and needs, single time, Head Start teachers, directors, parents, professional staff, Sunderhauf, M. B., 395-6140.

DEPARTMENT OF LABOR

Departmental and other, the 1977 quality of employment survey, ASPER-3, single time, national sample of households, Strasser, A., 395-5867.

REVISIONS

VETERANS ADMINISTRATION

Financial statement (of ability to handle a loan), 26-6807, on occasion, borrower, Caywood, D. P., 395-3443.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration, new animal drug application (drugs for animal use), FD356V, on occasion, pharmaceutical drug manufacturing, premix and feed manufacturing, Richard Eisinger, 395-6140.

DEPARTMENT OF LABOR

Bureau of Labor Statistics, monthly report on employment (payroll and hours) and industry class supplements, BLS 790, monthly, industrial establishments, Strasser, A., 395-5867.

EXTENSIONS

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration, purchases from fishing vessels (Chesapeake States), NOAA 88-29, on occasion, wholesale dealers of fishery products and fishermen, Caywood, D. P., 395-3443.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Services Administration:
Progress report for HMO planning and development activities, HSA-254, quarterly, HMO planning and development grantees, Richard Eisinger, 395-6140.
Reporting requirements for HMO feasibility grantees, 0927, quarterly, HMO feasibility grantees, Richard Eisinger, 395-6140.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.77-26225 Filed 9-7-77;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-13913]

CERTAIN FOREIGN SECURITIES

List of Foreign Issuers Which Have Submitted Information Required by Exemption

Foreign issuers with total assets in excess of $1,000,000 and a class of equity securities held of record by 500 or more persons, of which 300 or more shareholders reside in the United States, are subject to the registration, reporting, proxy and insider trading provisions of the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq., as amended by Pub. L. No. 94-29 (June 4, 1975)) (the "Act").[1]

Rule 12g3-2(b) (17 CFR 240.12g3-2(b)) provides an exemption from registration under section 12(g) of the Act for a foreign issuer which submits on a current basis material specified in the Rule to the Commission. Such required material includes that information about which investors ought reasonably to be informed with respect to the issuer and its subsidiaries and which the issuer (1) has made public pursuant to the law of the country of its domicile or in which it is incorporated or organized, (2) has filed with a stock exchange on which its securities are traded and which was made public by such exchange and/or (3) has distributed to its security holders.

When it adopted Rule 12g3-2 and other rules relating to foreign securities (see Securities Exchange Act Release No. 8066, April 28, 1967), the Commission indicated that from time to time it would issue lists containing those foreign issuers which have obtained exemptions from the registration provisions of section 12(g) of the Act by providing the information specified in Rule 12g3-2(b). The purpose of the present release is to call to the attention of brokers, dealers, and investors that some form of relatively current information concerning the foreign issuers included on the attached list is available in the public files of the Commission. The attached list includes those foreign issuers which, as of July 31, 1977, appear to be current in furnishing information under Rule 12g3-2(b). There is a total of 141 foreign issuers on the list.

The Commission also wishes to bring to the attention of brokers, dealers, and investors the fact that current information concerning certain foreign issuers may not be available in the United States. The Commission continues to expect that brokers and dealers will consider this fact in connection with their obligations under the federal securities laws to have a reasonable basis for recommending these securities to their customers. The Commission will continue to review activity in the markets for foreign securities to determine whether the present rules are achieving their purpose and whether further rules or rule revisions are necessary in the public interest or for the protection of investors.

Any questions regarding Rule 12g3-2 or the list included herein should be directed to Carl T. Bodolus or Charles L. Evans, Office of International Corporation Finance, Division of Corporation Finance, Securities and Exchange Commission, Washington, D.C. 20549 (202-755-1505).

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

AUGUST 31, 1977.

[1] Foreign issuers may also be subject to such requirements of the Act by reason of having securities registered and listed on a national securities exchange in the United States or subject to the reporting requirements by reason of having registered securities under the Securities Act of 1933 (15 U.S.C. 77a et seq., as amended by Pub. L. 94-29 (June 4, 1975)).

Foreign issuers which are current in submitting material pursuant to the provisions of rule 12g3-2(b) as of July 31, 1977

Registrant	File No.	Domicile
Abitibi Paper Co., Ltd.	82-80	Toronto, Ontario, Canada.
The Afrikander Lease Ltd.	82-245	Johannesburg, South Africa.
Agnico-Eagle Mines Ltd.	82-170	Toronto, Ontario, Canada.
Aktiebolaget Svenska Kullagerfabriken	82-139	Gothenberg, Sweden.
Algoma Steel Corp. Ltd.	82-99	Sault Ste. Marie, Ontario Canada.
Anglo American Corp. of South Africa Ltd.	82-97	Johannesburg, South Africa.
Anglo United Development Corp. Ltd.	82-190	Toronto, Ontario Canada.
B.A.T. Industries Ltd.	82-33	London, England.
Bank of Montreal	82-126	Montreal, Quebec, Canada.
Bank of Nova Scotia	82-132	Toronto, Ontario, Canada.
Bankeno Mines Ltd.	82-162	Do.
Basic Resources International S.A.	82-203	Luxembourg, Luxembourg.
Bell Canada	82-2	Montreal, Quebec, Canada.
Bethlehem Copper Corp.	82-243	Vancouver, British Columbia, Canada.
Bovis Corp. Ltd.	82-62	Toronto, Ontario, Canada.
The Bowater Corp.	82-3	London, England.
Bracken Mines Ltd.	82-219	Johannesburg, South Africa.
Bralorne Resources Ltd.	82-143	Vancouver, British Columbia, Canada.
Brascan, Ltd.	82-4	Toronto, Ontario, Canada.
Bridger Petroleum Corp. Ltd.	82-247	Alberta, Calgary, Canada.
Brinco Ltd.	82-102	Montreal, Quebec, Canada.
Broken Hill Proprietary Co. Ltd.	82-81	Melbourne, Australia.
Burmah Oil Co., Ltd.	82-5	Glasgow, Scotland.
Camflo Mines Ltd.	82-195	Toronto, Ontario, Canada.
Canadian Imperial Bank of Commerce	82-103	Do.
Canadian Marconi Co.	82-86	Montreal, Quebec, Canada.
Celanese Canada Ltd.	82-171	Do.
Charter Consolidated Ltd.	82-233	London, England.
Chromasco Ltd.	82-106	Montreal, Quebec, Canada.
Cominco Ltd.	82-107	Do.
Conigas Mines Ltd.	82-168	Toronto, Ontario, Canada.
Consolidated-Bathurst Ltd.	82-172	Montreal, Quebec, Canada.
Consolidated Gold Fields Ltd.	82-251	London, England.
Cygnus Corp. Ltd.	82-110	Calgary, Alberta, Canada.
DeBeers Consolidated Mines, Ltd.	82-91	Johannesburg, South Africa.
Doelkraal Gold Mining Co. Ltd.	82-246	Do.
Den Norske Amerikalinje A/S.	82-111	Oslo, Norway.
Denison Mines Ltd.	82-155	Toronto, Ontario, Canada.
Dickerson Mines Ltd.	82-8	Do.
Dominion Bridge Co. Ltd.	82-60	Montreal, Quebec, Canada.
Dominion Foundries & Steel Co.	82-114	Hamilton, Ontario, Canada.
Domtar Ltd.	82-18	Montreal, Quebec, Canada.
Doornfontein Gold Mining Co. Ltd.	82-213	Johannesburg, South Africa.
Dresdner Bank AG	82-229	Frankfurt A.M., Federal Republic o Germany.
Dupont of Canada Ltd.	82-19	Montreal, Quebec, Canada.
Durban Roodepoort Deep Ltd.	82-156	Johannesburg, South Africa.
East Daggafontein Mines Ltd.	82-42	Do.
East Driefontein Gold Mining Co., Inc.	82-124	Do.
East Malartic Mines Ltd.	82-212	Toronto, Ontario, Canada.
Elandsrand Gold Mining Co. Ltd.	82-266	Johannesburg, South Africa.
L. M. Ericsson Telephone Co.	82-115	Stockholm, Sweden.
Falconbridge Nickel Mines Ltd.	82-30	Toronto, Ontario, Canada.
Fiat SPA	82-116	Turin, Italy.
Ford Motor Co. of Canada Ltd.	82-20	Oakville, Ontario, Canada.
Free State Geduld Mines Ltd.	82-40	Johannesburg, South Africa.
Fuji Photo Film Co., Ltd.	82-78	Tokyo, Japan.
Futurity Oils Ltd.	82-262	Edmonton, Alberta, Canada.
Glaxo Holdings Ltd.	82-10	London, England.
Gold Fields of South Africa, Ltd.	82-204	Johannesburg, South Africa.
Gold Fields Property Co. Ltd.	82-214	Do.
Great Canadian Oil Sands Ltd.	82-228	Toronto, Ontario, Canada.
Great West Life Assurance Co.	82-77	Winnipeg, Manitoba, Canada.
The Grootvlei Proprietary Mines Ltd.	82-222	Johannesburg, South Africa.
Gulf Oil Ltd. (Canada)	82-101	Toronto, Ontario, Canada.
Host Ventures Ltd.	82-257	Vancouver, British Columbia, Canada.
IAC Ltd.	82-120	Toronto, Ontario, Canada.
Imasco Ltd.	82-118	Montreal, Quebec, Canada.
Industrial Minerals Ltd.	82-201	Toronto, Ontario, Canada.
The Investors Group	82-13	Winnipeg, Manitoba, Canada.
Japan Air Lines Ltd.	82-122	Tokyo, Japan.
Kerr Addison Mines Ltd.	82-14	Toronto, Ontario, Canada.
Kinross Mines Ltd.	82-220	Johannesburg, South Africa.
Kloof Gold Mining Co. Ltd.	82-205	Do.
Lacana Mining Corp.	82-265	Toronto, Ontario, Canada.
Lake Shore Mines Ltd.	82-15	Do.
Lemans Resources Ltd.	82-259	Vancouver, British Columbia, Canada.
Leslie Gold Mines Ltd.	82-223	Johannesburg, South Africa.
Libanon Gold Mining Co. Ltd.	82-215	Do.
Little Long Lac Mines Ltd.	82-198	Toronto, Ontario, Canada.
Magnum Fund Ltd.	82-125	Amsterdam, The Netherlands.
Marievale Consolidated Mines Ltd.	82-224	Johannesburg, South Africa.
M.I.M. Holdings Ltd.	82-173	Brisbane, Australia.
Minas De Cerro Dorado Ltd.	82-258	Vancouver, British Columbia, Canada.
Moore Corp. Ltd.	82-128	Toronto, Ontario, Canada.
Na-Churs International Ltd.	82-209	Do.
Nissan Motor Co., Ltd.	82-207	Tokyo, Japan.
Noranda Mines Ltd.	82-158	Toronto, Ontario, Canada.
Northwest Ventures Ltd.	82-260	Do.
Nowsco Well Service Ltd.	82-261	Calgary, Alberta, Canada.
O'Brien Gold Mines Ltd.	82-262	Toronto, Ontario, Canada.
Oceanic Iron Ore of Canada Ltd.	82-159	Do.
Paling N.V.	82-135	The Hague, The Netherlands.
Philex Mining Corp.	82-136	Manila, The Philippines.
Pioneer Electronic Corp.	82-243	Tokyo, Japan.
Power Corp. of Canada Ltd.	82-137	Montreal, Quebec, Canada.

Registrant	File No.	Domicile
President Brand Gold Mining Co., Ltd	82-39	Johannesburg, South Africa.
President Steyn Gold Mining Co., Ltd	82-44	Do.
Quebec Sturgeon River Mines Ltd	82-186	Toronto, Ontario, Canada.
Rank Organisation Ltd	82-17	London, England.
Reed Shaw Osler Ltd	82-254	Toronto, Ontario, Canada.
Rothmans International Ltd	82-84	Basildon, Essex, England.
Royal Trust Co	82-196	Montreal, Quebec, Canada.
Rustenburg Platinum Holdings Ltd	82-241	Johannesburg, South Africa.
Sabina Industries Ltd	82-244	Ontario, Canada.
St. Helena Gold Mines Ltd	82-232	Johannesburg, South Africa.
Santos Ltd	82-34	Adelaide, Australia.
Sanyo Electric Co., Ltd	82-264	Tokyo, Japan.
Shell Canada Ltd	82-94	Toronto, Ontario, Canada.
Sherritt Gordon Mines, Ltd	82-29	Do.
Siemens Aktiengesellschaft	82-73	Munich, Federal Republic of Germany.
Simpsons Ltd	82-53	Toronto, Ontario, Canada.
South African Land & Exploration Co., Ltd	82-59	Johannesburg, South Africa.
Southvaal Holdings Ltd	82-197	Do.
Spartan Capital Corp. Ltd	82-160	Ottawa, Ontario, Canada.
Spooner Mines & Oils Ltd	82-112	Toronto, Ontario, Canada.
Stampede International Resources Ltd	82-242	Vancouver, British Columbia, Canada.
Steel Co. of Canada Ltd	82-141	Toronto, Ontario, Canada.
TDK Electronics Co., Ltd	82-255	Tokyo, Japan.
Taro-Vit Chemical Industries Ltd	82-210	Haifa, Israel.
The Tokyo Electric Power Co. Inc	82-72	Tokyo, Japan.
Toronto Dominion Bank	82-142	Toronto, Ontario, Canada.
Toyota Motor Co., Ltd	82-208	Tokyo, Japan.
U.C. Investments Ltd	82-235	Johannesburg, South Africa.
Union Corp. Ltd	82-231	Do.
Union Gas Ltd	82-49	Chatham, Ontario, Canada.
Unisel Gold Mines Ltd	82-236	Johannesburg, South Africa.
United Keno Hill Mines Ltd	82-61	Toronto, Ontario, Canada.
United Siscoe Mines Ltd	82-194	Montreal, Quebec, Canada.
Upper Canada Resources Ltd	82-134	Toronto, Ontario, Canada.
Vaal Reefs Exploration & Mining Co. Ltd	82-56	Johannesburg, South Africa.
Venterspost Gold Mining Co. Ltd	82-216	Do.
Vlakfontein Gold Mining Co. Ltd	82-217	Do.
Voyager Petroleums Ltd	82-189	Calgary, Alberta, Canada.
Welkom Gold Mining Co. Ltd	82-57	Johannesburg, South Africa.
West Driefontein Gold Mining Co. Ltd	82-90	Do.
Western Deep Levels Ltd	82-58	Do.
Western Holdings Ltd	82-54	Do.
Willroy Mines Ltd	82-182	Toronto, Ontario, Canada.
Winkelhaak Mines Ltd	82-221	Johannesburg, South Africa.
F. W. Woolworth & Co. Ltd	82-200	London, England.
Wright Hargreaves Mines Ltd	82-60	Toronto, Ontario, Canada.

[FR Doc.77-26131 Filed 9-7-77;8:45 am]

[File No. 1-7089]

FREQUENCY SOURCES, INC.

Application To Withdrawal From Listing and Registration

AUGUST 31, 1977.

The above named issuer has filed an application with the Securities and Exchange Commission, pursuant to section 12(d) of the Securities Exchange Act of 1934 and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the Boston Stock Exchange.

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

As a result of low trading volume on the Exchange, the management of the Company has concluded that the expenses of maintaining the listing on the Exchange outweigh the benefits to be derived therefrom.

The Company will be subject to section 12(g) reporting requirements.

Any interested person may, on or before September 8, 1977, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission will, on the basis of the application and any other information submitted to it, issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-26130 Filed 9-7-77;8:45 am]

[File No. 1-4729]

HAWAIIAN TELEPHONE CO.

Application To Withdraw From Listing and Registration

AUGUST 31, 1977.

The above named issuer has filed an application with the Securities and Exchange Commission, pursuant to section 12(d) of the Securities Exchange Act of 1934 and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the Honolulu Stock Exchange.

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

As a result of no trading volume on the Exchange, the Company has concluded that no purpose would be served in maintaining the listing on the Exchange. Further, the Company will no longer be subject to the reporting requirements under the Securities Exchange Act of 1934.

The Honolulu Stock Exchange has not objected to this application.

Any interested person may, on or before September 28, 1977, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission will, on the basis of the application and any other information submitted to it, issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to the delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-26129 Filed 9-7-77;8:45 am]

[Release No. 13904; SR-MSRB-77-11]

MUNICIPAL SECURITIES RULEMAKING BOARD

Filing of Proposed Rule Change and Order Approving Proposed Rule Change

AUGUST 31, 1977.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act"), as amended by Pub. L. No. 94-29, section 16 (June 4, 1975), notice is hereby given that on August 29, 1977, the Municipal Securities Rulemaking Board ("MSRB"), Suite 507, 1150 Connecticut Avenue NW., Washington, D.C. 20036, filed with the Commission copies of a proposed rule change. The proposed rule change would delay the effective date of subparagraphs (a)(xi)(G) and (a)(xi)(K) of the MSRB rule G-8, filed with the Commission on June 6, 1977 (File No. SR-MSRB-77-5). The text of the proposed rule change is as follows (*italics* indicate new language; [brackets] indicate deletions):

Rule G-8. *Books and Records To Be Made by Municipal Securities Brokers and Municipal Securities Dealers.*

(g) Effective date: The requirements of this rule shall become effective on April 25, 1977, and nothing herein contained shall be construed to require the making of the records specified in paragraph (a) of this rule for events occurring prior to such effective date. The customer account records required by subparagraph (a)(ii) and customer account information required by subparagraph (a)(xi) shall be required only for customers for whom transactions in municipal securities are effective on or after such date. Notwithstanding the foregoing, subparagraphs (a)(xi)(G) and (a)(xi)(K) shall not become effective until [September 1, 1977] *October 15, 1977.*

Interested persons are invited to submit written data, views, and arguments concerning the proposed rule change on or before September 29, 1977. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities

and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. SR–MSRB–77–11.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the MSRB and, in particular, the requirements of Section 15B and the rules and regulations thereunder.

Further, the Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof, since the delayed effective date will provide the Commission with additional time to consider proposed substantive amendments to MSRB rule G–8.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act, that the proposed rule change referenced above be, and it hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-26149 Filed 9-7-77;8:45 am]

[Release No. 13905; SR-MSRB-77-10]

MUNICIPAL SECURITIES RULEMAKING BOARD

Filing of Proposed Rule Change and Order Approving Proposed Rule Change

AUGUST 31, 1977.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act"), as amended by Pub. L. No. 94–29, section 16 (June 4, 1975), notice is hereby given that on August 29, 1977, the Municipal Securities Rulemaking Board ("MSRB"), Suite 507, 1150 Connecticut Avenue NW., Washington, D.C. 20036, filed with the Commission copies of a proposed rule change. The proposed rule change would delay the effectiveness of the principal substantive provisions of MSRB rule G–7 until October 15, 1977. The text of the proposed rule change is as follows (*italics* indicate new language; [brackets] indicate deletions):

Rule G–7(h): The requirements of paragraphs (b), (c), and (f) of this rule shall not become effective until *October 15, 1977* [September 1, 1977], and shall apply with respect to each person who is an associated person on, or becomes an associated person after, such date. The requirements of paragraph (d) of this rule shall apply only with respect to each person who becomes an associated person on or after December 3, 1976.

Interested person are invited to submit written data, views, and arguments concerning the proposed rule change on or before September 29, 1977. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. SR–MSRB–77–10.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the MSRB and, in particular, the requirements of Section 15B and the rules and regulations thereunder.

Further, the Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof, since the delayed effective date will provide the federal bank regulatory agencies with sufficient time for the publication and implementation of regulations designating a form for use by bank dealers in complying with MSRB rule G–7.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act, that the proposed rule change referenced above be, and it hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-26150 Filed 9-7-77;8:45 am]

NATIONAL MARKET ADVISORY BOARD

Renewal

I, Harold M. Williams, Chairman of the Securities and Exchange Commission, with the concurrence of the members of the Commission, have renewed an advisory committee under the Federal Advisory Committee Act designated as the National Market Advisory Board (the "Board") and hereby certify that I have considered the renewal of this Board and, with the concurrence of the members of the Commission, find the renewal of this Board to be in the public interest in connection with the performance of duties of the Commission as stated in the Federal securities laws, particularly the Securities Exchange Act of 1934 as amended by the Securities Acts Amendments of 1975.

The Commission was directed to establish the Board by section 11A(d)(1) of the Securities Exchange Act of 1934 as added by the Securities Acts Amendments of 1975 and did so establish it on September 30, 1975. The Board will continue to operate on a continuous basis subject to that provision and section 14 of the Federal Advisory Committee Act: *Provided, however*, That the Board shall terminate at such time as the terms for which its members are appointed shall all have expired and no further appointments shall have been made. The terms of current Board members are being extended until December 31, 1977.

The Charter of the Board shall be filed with me and with the House Committee on Interstate and Foreign Commerce and with the Senate Committee on Banking, Housing and Urban Affairs. A copy of the Charter shall be furnished to the Library of Congress and a copy shall be furnished to the Office of Public Affairs of the Commission and will be available for public inspection.

HAROLD M. WILLIAMS,
Chairman,
Securities and Exchange Commission.

SEPTEMBER 1, 1977.

[FR Doc.77-26128 Filed 9-7-77;8:45 am]

SMALL BUSINESS ADMINISTRATION

[License No. 05-05-5089]

CHICAGO COMMUNITY VENTURES, INC.

Filing of Application for Approval of Conflict of Interest Transaction Between Associates

Notice is hereby given that Chicago Community Ventures, Inc. (CCVI), 19 South LaSalle, Chicago, Ill. 60603, a Federal licensee under section 301(d) of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 et seq.), has filed an application pursuant to 13 CFR 107.1004 (1977) for approval of a conflict of interest transaction.

CCVI was licensed by the Small Business Administration (SBA) on June 14, 1972. The licensee's voting stock is owned by 17 large Chicago-based businesses.

CCVI is currently considering financing the Washington National Bank (in organization) by purchasing $74,000 of the bank's common stock. Mr. Arthur R. Velasquez is a director and holder of 5 percent of Washington National Bank's common stock. Mr. Velasquez is also a director of CCVI.

The proposed transaction falls within the purview of section 107.1004 by reason of fact that Mr. Velasquez is an associate of the licensee through his dual directorships.

Notice is hereby given that any interested person may submit to SBA written comments, no later than September 23, 1977, on this proposed financing. Any such communication should be addressed to: Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416.

A copy of this notice shall be published by the licensee in a newspaper of general circulation in Chicago, Ill.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: August 31, 1977.

PETER F. MCNEISH,
Deputy Associate
Administrator for Investment.

[FR Doc.77-26121 Filed 9-7-77;8:45 am]

[Application No. 02-02-5332]

KING SMALL BUSINESS INVESTMENT CO.

Application for a License to Operate as a Small Business Investment Co.

On June 17, 1977, notice of the filing of an application for license under section 301(d) of the Small Business Investment Act of 1958, as amended (the Act), (15

U.S.C. 661 et seq.) by King Small Business Invesement Corp. (Applicant) was published by the Small Business Administration pursuant to 13 CFR 107.102 (1977) in Volume 42 of the FEDERAL REGISTER at page 30958 on June 17, 1977.

Since that time, Richard M. Mancuso, president, general manager, director and 47 percent stockholder named in said notice has withdrawn from the applicant and his ownship of 47 percent of applicant's stock has been acquired by Mr. Neil Ritz, named in the notice above mentioned as vice president, treasurer, director and owner of 22 percent of applicant's stock.

As a result of Mr. Mancuso's withdrawal from the applicant, the officers, directors and stockholders of the applicant will be as follows:

Neil Ritz, President, Treasurer, General Manager, Director and 69 percent Stockholder. 32 Longleat Parkway, Eggertsville, N.Y. 14226.

Dr. Lawrence M. Murphy, Vice President, Director and 16 percent Stockholder. 257 E. Ferry St., Buffalo, N.Y. 14208.

Dr. Thomas V. Gullo, Secretary, Director and 10 percent Stockholder. 19 Middlesex Rd., Buffalo, N.Y. 14216.

F. Rene Alvarez, Jr., Assistant Treasurer and 5 percent stockholder. Apartado 354, Valencia, Venezuela.

The Applicant, a New York corporation, authorized to operate in the State of New York, will maintain an office at 110 Pearl Street, Buffalo, N.Y. 14202, and will begin operations with $500,000 of paid-in capital and paid-in surplus derived from the sale of common stock to the above individuals.

As a small business investment company under section 301(d) of the Act, the Applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Act, as amended, from time to time, and will provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the Applicant include the general business reputation and character of the proposed owner and management and the probability of successful operations of the Applicant under this management, including adequate profitability and financial soundness, in accordance with the Act and SBA Rules and Regulations.

Any person may, not later than September 23, 1977, submit to SBA written comments on the proposed Applicant. Any such communication should be addressed to the Deputy Associate Administrator for Investment, 1441 L Street NW., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Buffalo, N.Y.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: August 31, 1977.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc.77-26122 Filed 9-7-77;8:45 am]

[Proposal No. 05-05-0122]

77 CAPITAL CORP.

Application for a License as a Small Business Investment Company

Notice is hereby given of the filing of an application with the Small Business Administration (SBA) pursuant to § 107.102 of the SBA regulations (13 CFR 107.102 (1977)) by 77 Capital Corp., 777 East Wisconsin Ave., Suite 3060, Milwaukee, Wis. 53202 for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958 (the Act), as amended (15 U.S.C. 661 et seq.).

The proposed officers, directors and shareholders are:

Name and address	Title and relationship	Percent of voting ownership
Sheldon B. Lubar, 8160 North Green Bay Rd., Milwaukee, Wis. 53209.	Chairman, President, and director.	6
James C. Rowe, 3058 North Stowell Ave., Milwaukee, Wis. 53211.	Vice President and treasurer.	
Richard A. Van Deuren, 1800 Marine Plaza, Milwaukee, Wis. 53202.	Secretary and director.	0
James F. Junge, c/o Pitcairn Inc., Jenkintown Plaza, 101 Greenwood Ave., Jenkintown, Pa. 19046.	Director.	2
Lubar & Co. Inc., 211 West Wisconsin Ave., Milwaukee, Wis. 53202.	Manager.	45

There are 14 additional owners of voting stock with none owning as much as 10 percent of said stock.

Lubar & Co. Inc. is a private investment, management, advisory firm concentrating on providing capital for corporate acquisitions and corporate growth.

The Applicant will begin operations with a capitalization of $2,520,000 and will be a source of equity capital and long term loan funds for qualified small business concerns.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the new company under their management, including adequate profitability and financial soundness, in accordance with the Act and regulations.

Notice is further given that any person may, not later than September 23, 1977, submit written comments on the proposed SBIC to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L St., N.W., Washington, D.C. 20416.

A copy of this Notice will be published in a newspaper of general circulation in Milwaukee, Wis.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: September 1, 1977.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc.77-26120 Filed 9-7-77;8:45 am]

DEPARTMENT OF STATE

Agency for International Development

[No. 111-1.1]

DEPUTY ASSISTANT SECRETARY OF STATE FOR FOREIGN BUILDINGS

Redelegation of Authority

Pursuant to the Authority delegated to me by Redelegation of Authority No. 111-1 dated April 21, 1964 (29 F.R. 5354), as amended, and the provisions of section 636(a)(10) of the Foreign Assistance Act of 1961, as amended, I hereby redelegate to the Deputy Assistant Secretary of State for Foreign Buildings, as agent for A.I.D., authority to lease, purchase, renovate and furnish housing and office space in Cairo, Egypt, as may be required in support on the USAID Egypt Mission, as determined in consultation with the USAID Mission, and subject to the availability of funds under the provisions of the Supplemental Appropriations Act of 1977 (Pub.L. 95-26), and allotments from A.I.D. operating expense funds. This delegation is subject to the provisions of all other applicable laws and regulations, including A.I.D. right to audit use of its funds under this delegation.

This redelegation of authority supplements the functions authorized under provisions of 66 Stat. 140 (22 U.S.C. 297), an amendment to the Foreign Service Buildings Act of 1926, and is executed in compliance with provisions of the Supplemental Appropriations Act of 1977.

The authority delegated herein may be redelegated as necessary to implement

the program at post in accordance with FBO administrative procedures.

This redelegation of authority shall be effective August 31, 1977, and shall remain in effect only through September 30, 1977.

Dated: August 23, 1977.

SAM C. THORNBURG,
Director,
Office of Management Operations.

[FR Doc.77-26057 Filed 9-7-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

U.S. Coast Guard

[CGD 77-159]

EQUIPMENT, CONSTRUCTION, AND MATERIALS

Approval Notice

1. Certain laws and regulations (46 CFR Chapter I) require that various items of lifesaving, firefighting and miscellaneous equipment, construction, and materials used on board vessels subject to Coast Guard inspection, on certain motorboats and other recreational vessels, and on the artificial islands and fixed structures on the outer Continental Shelf be of types approved by the Commandant, U.S. Coast Guard. The purpose of this document is to notify all interested persons that certain approvals have been granted as herein described during the period from May 5, 1977 to June 22, 1977 (List No. 12-77). These actions were taken in accordance with the procedures set forth in 46 CFR 2.75-1 to 2.75-50.

2. The statutory authority for equipment, construction, and material approvals is generally set forth in sections 367, 375, 390b, 416, 481, 489, 520p, and 1333 of Title 46, United States Code, section 1333 of Title 43, United States Code, and section 198 of Title 50, United States Code. The Secretary of Transportation has delegated authority to the Commandant, U.S. Coast Guard with respect to these approvals (49 CFR 1.46(b)). The specifications prescribed by the Commandant, U.S. Coast Guard for certain types of equipment, construction, and materials are set forth in 46 CFR Parts 160 to 164.

3. The approvals listed in this document shall be in effect for a period of 5 years from the date of issuance, unless sooner cancelled or suspended by proper authority.

COMPASSES, LIFEBOAT

Approval No. 160.014/1/1, Type LMC-101D, compensating mariners liquid-filled magnetic lifeboat compass with mounting, assembly drawing No. D-1 dated July 18, 1945, arranged for chemical light illumination, manufactured by John E. Hand & Sons Co., Beechwood and Birch Avenues, Cherry Hill, N.J. 08034, effective June 7, 1977. (It supersedes Approval No. 160.014/1/0 dated Augase 5, 1974 to show addition of chemical light.)

LIFEBOAT WINCHES FOR MERCHANT VESSELS

Approval No. 160.015/117/0, Type 7.9 lifeboat winch; approval limited to mechanical components only and for a maximum working load of 17,696 lbs. pull at the drums (8,848 lbs, per fall); identified by Schat Davits, Ltd. drawings S-750144/145 revision A dated April 19, 1977, and drawing list dated May 17, 1977, trackway-mounted unit, manufactured by Watercraft America, Inc., P.O. Box 307, Mims, Fla. 32754, effective June 8, 1977.

BUOYANT CUSHIONS, UNICELLULAR PLASTIC FOAM

Approval No. 160.049/47/0, special approval for 15" x 15" x 3" rectangular unicellular plastice foam buoyant cushion with vinyl dip coating, dwg. No. 62D976 and Bill of Materials dated June 24, 1962, Type IV PFD, manufactured by Guntex Corp., Carbondale, Pa. 18407, effective June 2, 1977. (It is an extension of Approval No. 160.049/27/0 dated May 8, 1972.)

BUOYS, LIFE, RING, UNICELLULAR PLASTIC

Approval No. 160.050/17/3, 30-inch unicellular plastic ring life buoy, U.S.C.G. Specification Subpart 160.050 and dwg. No. 12988, revision 6 dated July 28, 1965, dwg. No. 12988-A dated August 23, 1967, Coast Guard letter, file No. 5946/160.050/17 dated March 24, 1976, Hype IV PFD, manufactured by Atlantic-Pacific Manufacturing Corp., 124 Atlantic Ave., Brooklyn, N.Y. 11201, effective June 6, 1977. (It is an extension of Approval No. 160.050/17/3 dated June 5, 1972.)

Approval No. 160.050/18/3, 24-inch unicellular plastic ring life buoy, U.S.C.G. Specification Subpart 160.050 and dwg. No. 12988, revision 6 dated July 28, 1965, dwg. No. 12988-A dated August 23, 1967, Type IV PFD, manufactured by Atlantic-Pacific Manufacturing Corp., 124 Atlantic Ave., Brooklyn, N.Y. 11201, effective June 6, 1977. (It is an extension of Approval No. 160.050/18/3 dated June 5, 1972.)

Approval No. 160.050/19/3, 20-inch unicellular plastic ring life buoy, U.S.C.G. Specification Subpart 160.050 and dwg. No. 12988, revision 6 dated July 28, 1965, dwg. No. 12988-A dated August 23, 1967, Type IV PFD, manufactured by Atlantic-Pacific Manufacturing Corp., 124 Atlantic Ave., Brooklyn, N.Y. 11201, effective June 6, 1977. (It is an extension of Approval No. 160.050/19/3 dated June 5, 1972.)

HYDRAULIC AND MANUAL RELEASES FOR LIFESAVING EQUIPMENT

Approval No. 160.062/2/0, Model 404 hydraulic and manual releases for lifesaving equipment; for buoyant loads of 200 to 3,750 pounds; identified by assembly drawing BH-2-501, revision B dated June 30, 1969 and drawing list dated September 19, 1969, to be used in accordance with installation and pretensioning details shown on tension gripe assembly drawing BH-4-501, revision C dated September 2, 1969, manufactured by Arrow Manufacturing, Inc., 139 Townsend St., San Francisco, Calif. 94107, effective June 2, 1977. (It is an extension of Approval No. 160.062/2/0 dated August 15, 1972.)

MARINE BUOYANT DEVICE

Approval No. 160.064/17/0, adult, Model No. (s) GP-1 and 712-VH-17-5, vinyl dipped unicellular plastic foam "Sport Fishing or Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 16, Type II PFD, Model 7.2-VH-17.5 has additional marking "Work Vest for Merchant Vessels" and "Repeated Wettings will not injure", manufactured by Gentex Corp., Carbondale, Pa. 18407, effective June 2, 1977. (It is an extension of Approval No. 160.064/17/0 dated May 23, 1972.)

Approval No. 160.064/46/1, Model No. 770D or 8425 cloth covered unicellular plastic foam horseshoe life buoy, manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL report file No. MQ 7, Type IV PFD, manufactured by Atlantic-Pacific Manufacturing Corp., 124 Atlantic Ave., Brooklyn, N.Y. 11201, effective June 6, 1977. (It is an extension of Approval No. 160.064/46/1 dated May 9, 1972.)

Approval No. 160.046/55/0, adult, Model No. JPB-2, cloth covered unicellular plastic foam "Motorboat Racing Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 16, Type II PFD, manufactured by Gentex Corp., Carbondale, Pa. 18407, effective June 2, 1977. (It is an extension of Approval No. 160.064/55/0 dated May 23, 1972.)

Approval No. 160.064/60/0, child small, Model Pollywog, cloth covered unicellular plastic foam "Buoyant Vest", manufactured in accordance with U.S.C.G. Specification 160.064 and UL/MD report file No. MQ 16, Type III PFD, manufactured by Gentex Corp., Carbondale, Pa. 18407, effective June 3, 1977. (It is an extension of Approval No. 160.064/60/0 dated May 23, 1972.)

Approval No. 160.064/213/0, child medium, Model Escort, cloth covered unicellular plastic foam "Sailing Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 16, Type III PFD, manufactured by Gentex Corp., Carbondale, Pa. 18407, effective June 2, 1977. (It is an extension of Approval No. 160.064/213/0 dated May 23, 1972.)

Approval No. 160.064/318/0, adult small, Model No. 16260, cloth covered unicellular plastic foam "Flotation Jacket", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL report file No. MQ 27, and approval 160.064/308 (MQ 28, Sec. 1), Type III PFD, manufactured by Buddy Schoellkopf Products, Inc., 4949 Joseph Hardin Dr., Dallas, Tex. 75236, for Red Head Brand Corp., 4949 Joseph Hardin Dr., Dallas, Tex. 75236, effective June 7, 1977. (It is an extension of Approval No. 160.064/318/0 dated May 11, 1972 and change of address of manufacturer and distributor.)

Approval No. 160.064/319/0, adult medium, Model No. 16260, cloth covered unicellular plastic foam "Flotation Jacket", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL report file No. MQ 27, and approval 160.064/309 (MQ 28, Sec. 1), Type III PFD, manufactured by Buddy Schoellkopf Products, Inc., 4949 Joseph Hardin Dr., Dallas, Tex. 75236, for Red Head Brand Corp., 4949 Joseph Hardin Dr., Dallas, Tex. 75236, effective June 7, 1977. (It is an extension of Approval No. 160.064/319/0 dated May 11, 1972 and change of address of manufacturer and distributor.)

Approval No. 160.064/320/0, adult large, Model No. 16260, cloth covered unicellular plastic foam "Flotation Jacket", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL report file No. MQ 27, and approval 160.064/316 (MQ 28, Sec. 1), Type III PFD, manufactured by Buddy Schoellkopf Products, Inc., 4949 Joseph Hardin Dr., Dallas, Tex. 75236, for Red Head Brand Corp., 4949 Joseph Hardin Dr., Dallas, Tex. 75236, effective June 7, 1977. (It is an extension of Approval No. 160.064/320/0 dated May 11, 1972 and change of address of manufacturer and distributor.)

Approval No. 160.064/321/0, adult X-large, Model No. 16260, cloth covered unicellular plastic foam "Flotation Jacket", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL report file No. MQ 27, and approval 160.064/317 (MQ 28, Sec. 1) Type III PFD, manufactured by Buddy Schoellkopf Products, Inc., 4949 Joseph Hardin Dr., Dallas, Tex. 75236, for Red Head Brand Corp., 4949 Joseph Hardin Dr., Dallas, Tex. 75236, effective June 7, 1977. (It is an extension of Approval No. 160.064/321/0

dated May 11, 1972 and change of address of manufacturer and distributor).

Approval No. 160.064/1246/0, adult small, cloth covered unicellular plastic foam, Model No. 725 or 750 "Boating & Ski Vest", or Model 751 "Competition Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 16, factory location: Main St., Simpson, Pa., Type III PFD, manufactured by Gentex Corp., Carbondale, Pa. 18407, effective June 22, 1977.

Approval No. 160.064/1247/0, adult medium, cloth covered unicellular plastic foam, Model No. 725 or 750 "Boating & Ski Vest", or Model 751 "Competition Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 16, factory location: Simpson, Pa., Type III PFD, manufactured by Gentex Corp., Carbondale, 18407, effective June 22, 1977.

Approval No. 160.064/1248/0, adult large, cloth covered unicellular plastic foam, Model No. 725 or 750 "Boating & Ski Vest", or Model 751 "Competition Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 16, factory location: Simpson, Pa., Type III PFD, manufactured by Gentex Corp., Carbondale, Pa. 18407, effective June 22, 1977.

Approval No. 160.064/1249/0, adult X-large, cloth covered unicellular plastic foam, Model No. 725 or 750 "Boating & Ski Vest", or Model 751 "Competition Ski Vest" manufactured in accordance with U.S.C.G. Specification subpart 160.064 and UL/MD report file No. MQ 16, factory location: Simpson, Pa., Type III PFD, manufactured by Gentex Corp., Carbondale, Pa. 18407, effective June 22, 1977.

Approval No. 160.064/1250/0, adult small, cloth covered unicellular plastic foam, Model No. 730 or 731 "Boating & Ski Vest", or Model 750 "Sportsman Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 16, factory location: Simpson, Pa., Type III PFD, manufactured by Gentex Corp., Carbondale, Pa., 18407, effective June 22, 1977.

Approval No. 160.064/1251/0, adult medium, cloth covered unicellular plastic foam, Model No. 730 or 731 "Boating & Ski Vest", or Model 740 "Sportsman Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 16, factory location: Simpson, Pa., Type III PFD, manufactured by Gentex Corp., Carbondale, Pa. 18407, effective June 22, 1977.

Approval No. 160.064/1252/0, adult large, cloth covered unicellular plastic foam, Model No. 730 or 731 "Boating & Ski Vest", or Model 740 "Sportsman Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 16, factory location: Simpson, Pa., Type III PFD, manufactured by Gentex Corp., Carbondale, Pa. 18407, effective June 22, 1977.

Approval No. 160.064/1253/0, adult X-large, cloth covered unicellular plastic foam, Model No. 730 or 731 "Boating & Ski Vest", or Model 740 "Sportsman Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 16, factory location: Simpson, Pa., Type III PFD, manufactured by Gentex Corp., Carbondale, Pa. 18407, effective June 22, 1977.

PROTECTING COVER FOR LIFEBOATS

Approval No. 160.065/4/2, "Sea-Jay Anti-Exposure lifeboat cover", Type I, protecting cover for the occupants of all types of aluminum, steel, and fibrous glass reinforced plastic (FRP) lifeboats for lengths 22' through 37' lifeboats identified by general arrangements dwg. CJH/EC/003, Alt. 1 dated June 1972, modifications to the cover and supports may be necessary in the case of some motor-propelled lifeboats equipped with vertical (dry) exhaust lines, radio cabins and antenna masts, manufactured by C. J. Hendry Co., 139 Hendry Company, San Francisco, Calif. 94107, effective June 2, 1977. (It is an extension of Approval No. 160.065/4/2 dated August 2, 1972.)

SOUND-POWERED TELEPHONE STATION

Approval No. 161.005/51/0, sound-powered telephone station, selective ringing, common talking, 19 stations maximum, bulkhead mounting, splash-proof, with internal hand generator bell, Model SW, dwg. No. 50, Alt. 0 dated April 1957, for use in locations not exposed to the weather and where a loud ringing bell is not necessary, manufactured by Hose-McCann Telephone Co., Inc., 524 W. 23rd Street, New York, N.Y. 10011, effective June 7, 1977. (It is an extension of Approval No. 161.005/51/0 dated August 1, 1972.)

Approval No. 161.005/56/0, sound-powered telephone station, selective ringing, common talking, 19 stations maximum, bulkhead mounting, with separately mounted 6" or 8" bell, Model SWT, dwg. No. 56, Alt. 0 dated May 1957, manufactured by Hose-McCann Telephone Co., Inc., 524 W. 23rd Street, New York, N.Y. 10011, effective June 7, 1977. (It is an extension of Approval No. 161.005/56/0 dated August 1, 1972.)

Approval No. 161.005/57/0, sound-powered telephone station, selective ringing, common talking, 19 stations maximum, pedestal mounting, with attached 6" bell, Model SWTP, dwg. No. 58, Alt. 0 dated May 1957, manufactured by Hose-McCann Telephone Co., Inc., 524 W. 23rd Street, New York, N.Y. 1011, effective June 7, 1977. (It is an extension of Approval No. 161.005/57/0 dated August 1, 1972.)

STRUCTURAL INSULATIONS FOR MERCHANT VESSELS

Approval No. 164.007/38/0, "BX-Spintex Type 643" mineral wool type structural insulation identical to that described in Underwriters Laboratories Report R6797-1, 71NK-5638 dated July 6, 1972, bats and blankets approved for use without other insulating material to meet A-60 Class requirements in a 3-inch (75 mm) thickness at 6 pounds per cubic foot (96KG per cubic meter) density, manufactured by Roclaine S. A., 7, Rue Du Cirque, Paris—VIII, France, effective May 5, 1977. (It is an extension of Approval No. 164.-007/38/0 dated July 20, 1972.)

Approval No. 164.007/43/0, "BX-Spintex Type 693" mineral wool type structural insulation identical to that described in Underwriters Laboratories Report R6797-1, 71 NK5638 dated July 6, 1972, bats and blankets approved for use without other insulating material to meet A-60 Class requirements in a 3-inch (75 mm) thickness at 3.2 pounds per cubic foot (52KG per cubic meter) density, manufactured by Roclaine S. A. 7, Rue Du Cirque, Paris—VIII, France, effective May 5, 1977. (It is an extension of Approval No. 164.007/43/0 dated July 20, 1972.)

Approval No. 164.007/44/0, "BX-Spintex Type 693" mineral wool type structural insulation identical to that described in Underwriters Laboratories Report R6797-1, 71NK5638 dated July 6, 1972, bats and blankets approved for use without other insulating material to meet A-60 Class requirements in a 4-inch (102 mm) thickness at 3.2 pounds per cubic foot (52KG per cubic meter) density, manufactured by Roclaine S. A., 7, Rue Du Cirque, Paris—VIII, France, effective May 5, 1977. (It is an extension of Approval No. 164.007/44/0 dated July 20, 1972.)

Approval No. 164.007/51/1, "Ceramospray," sprayed asbestos free fiber type structural insulation, identical to that described in Underwriters Laboratories, Inc., report 65C7000, File R2923-23-24, dated April 29, 1966, approved for use without other insulating material to meet Class A-60 requirements in a 1¾ inch thickness and 11 pounds per cubic foot density, manufactured by Spraycraft Corp., 2508 Coney Island Avenue, Brooklyn, N.Y. 11223, effective June 10, 1977. (It supersedes Approval No. 164.007/51/0 dated February 11, 1977 to show correct material and identifying data.)

INTERIOR FINISHES FOR MERCHANT VESSELS

Approval No. 164.012/4/0, "Micarta" laminated plastic interior finish type PFR-1, identical to that described in Westinghouse Corp. letter dated March 24, 1972, and Underwriters' Laboratories, Inc., report file R4301, assignment 69NK6512 dated July 21, 1970, bonded with Borden Chemical Cascophen RS-216 adhesive in accordance with instructions accompanying the adhesive, manufactured by Westinghouse Electric Corp., Decorative Micarta Division, Hampton, S.C. 29924, effective June 16, 1977. (It reinstates and supersedes Approval No. 164.012/4/0 terminated May 17, 1977.)

Dated: August 25, 1977.

H. G. LYONS,
Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.

[CGD 77-158]

EQUIPMENT, CONSTRUCTION, AND MATERIALS

Termination of Approval Notice

1. Certain laws and regulations (46 CFR Chapter I) require that various items of lifesaving, firefighting and miscellaneous equipment, construction, and materials used on board vessels subject to Coast Guard inspection, on certain motorboats and other recreational vessels, and on the artificial islands and fixed structures on the Outer Continental Shelf be of types approved by the Commandant, U.S. Coast Guard. The purpose of this document is to notify all interested persons that certain approvals have been terminated as herein described during the period from July 17, 1977, to July 19, 1977 (List No. 13-77). These actions were taken in accordance with the procedure set forth in 46 CFR 2.75-1 to 2.75-50.

2. The statutory authority for equipment, construction, and material approvals is generally set forth in sections 367, 375, 390b, 416, 481, 489, 526p, and 1333 of Title 46, United States Code, section 1333 of Title 43, United States Code, and section 198 of Title 50, United States Code. The Secretary of Transportation has delegated authority to the Commandant, U.S. Coast Guard with respect to these approvals (49 CFR 1.46(b)). The specification prescribed by the Commandant, U.S. Coast Guard for certain types of equipment, construction, and materials are set forth in 46 CFR Parts 160 to 164.

3. Notwithstanding the termination of approval listed in this document, the equipment affected may be used as long as it remains in good and serviceable condition.

GAS MASKS, SELF-CONTAINED BREATHING APPARATUS, AND SUPPLIED-AIR RESPIRATORS, FOR MERCHANT VESSELS

The SurvivAir, Division of U.S. Divers Co., 3323 W. Warner Avenue, Santa Ana, Calif. 92704, no longer manufactures certain self-contained breathing apparatus and Approval No. 160.011/32/0 was therefore terminated effective July 18, 1977.

MARINE BUOYANT DEVICE

The L. S. Brown Co., 228 Margaret Street SE., Atlanta, Ga. 30315, no longer manufactures certain marine buoyant devices and Approval Nos. 160.064/677/0 and 160.064/678/0 were therefore terminated effective July 18, 1977.

The A. B. Sea, Ltd., 3596 Geddes Avenue, Littleton, Colo. 80121, no longer manufactures certain marine buoyant devices for the High Performance Products, Inc., 25 Industrial Park, Hingham, Mass. 02043, and Approval Nos. 160.064/679/0, 160.064/680/0, and 160.064/681/0 were therefore terminated effective July 18, 1977.

SAFETY VALVES (POWER BOILERS)

The MIPCO Division, of Clark-Reliance Corp., 15901 Industrial Parkway, Cleveland, Ohio 44135, Approval Nos. 162.001/91/2, 162.001/92/2, 162.001/94/2, 162.001/95/2, 162.001/98/2, 162.001/99/2, 162.001/177/1, 162.001/178/1, 162.001/179/1, 162.001/180/1, 162.001/181/1, and 162.001/182/1 were expired and were terminated effective July 17, 1977.

SAFETY VALVES (STEAM HEATING BOILERS)

The MIPCO Division of Clark-Reliance Corp., 15901 Industrial Parkway, Cleveland, Ohio 44135, no longer manufacture certain safety valves and Approval Nos. 162.012/3/2, 162.012/4/2, 162.012/5/2, 162.012/6/2, 162.012/10/2, 162.012/11/2, 162.012/12/2, 162.012/13/2, and 162.012/14/2 were therefore terminated effective July 19, 1977.

INCOMBUSTIBLE MATERIALS FOR MERCHANT VESSELS

The Eastern Cold Storage Insulation Co., Inc., 730 3rd Avenue, New York, N.Y. 10017, no longer manufactures certain incombustible materials and Approval Nos. 164.009/105/1, 164.009/113/1, 164.009/150/0, 164.009/157/0, and 164.009/161/0 were therefore terminated effective July 18, 1977.

Dated: August 25, 1977.

H. G. LYONS,
Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.

[FR Doc.77-25985 Filed 9-7-77;8:45 am]

[CGD 77-166]

NEW YORK HARBOR VESSEL TRAFFIC SERVICE ADVISORY COMMITTEE

Open Meeting

The New York Harbor Vessel Traffic Service Advisory Committee will conduct an open meeting on Wednesday, September 28, 1977, in the Community Center, Building 301, Governors Island, N.Y. The meeting is scheduled to begin at 10:30 a.m.

The agenda for this meeting of the New York Harbor Vessel Traffic Service Advisory Committee is as follows:

1. Introduction of Commander P. C. SHEARER, U.S. Coast Guard, the Project Officer and prospective Commanding Officer of the New York Vessel Traffic Service.

2. Status Report on the implementation of the New York Vessel Traffic Service given by the Vessel Traffic Service Staff.

3. Comments or questions from the floor.

The New York Harbor Vessel Traffic Service Advisory Committee was established by the Commander, Third Coast Guard District to advise on the need for, and development, installation and operations of a Vessel Traffic Service for New York Harbor.

Members of the Committee serve voluntarily without compensation from the Federal Government, either travel or per diem.

Interested persons may obtain additional information or the summary of the minutes of the meeting by writing to:

Commander P. C. Shearer, USCG, Project Officer, Vessel Traffic Service, Building 400, Section N, Third Coast Guard District, Governors Island, N.Y. 10004.

or by calling 212-264-0409.

This notice is issued under section 10(a) of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770, 5 U.S.C. App. 1).

Dated: August 17, 1977.

W. F. REA III,
Vice Admiral, U.S. Coast Guard, Commander, Third Coast Guard District.

[FR Doc.77-25983 Filed 9-7-77;8:45 am]

DEPARTMENT OF THE TREASURY

Office of the Secretary

PORTLAND HYDRAULIC CEMENT FROM CANADA

Antidumping Proceeding Notice

AGENCY: United States Treasury Department.

ACTION: Initiation of antidumping investigation.

SUMMARY: This notice is to advise the public that a petition in proper form has been received and an antidumping investigation is being initiated for the purpose of determining whether or not imports of portland hydraulic cement from Canada are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act of 1921, as amended. Sales at less than fair value generally occur when the prices of the merchandise sold for exportation to the United States are less than the prices in the home market.

EFFECTIVE DATE: September 8, 1977.

FOR FURTHER INFORMATION CONTACT:

Vincent P. Kane, Duty Assessment Division, United States Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, telephone 202-566-5492.

SUPPLEMENTARY INFORMATION: On August 2, 1977, information was received in proper form pursuant to §§ 153.26 and 153.27, Customs Regulations (19 CFR 153.26, 153.27), from counsel acting on behalf of Glens Falls Division of the Flintkote Co., Glens Falls, N.Y., a domestic producer of the subject merchandise, indicating a possibility that portland hydraulic cement from Canada is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.).

For purposes of this notice the term "portland hydraulic cement" refers to portland hydraulic cement, other than white non-staining cement.

There is evidence on record concerning injury to, or likelihood of injury to, or prevention of establishment of an industry in the United States. This evidence indicates that losses of sales, production and employment have occurred during the last three years. Further, there is information indicating that the margin by which domestic producers are being undersold by Canadian importers would be eliminated were the price differential between prices in the Canadian home market and for export to the United States eliminated.

Having conducted a summary investigation as required by § 153.29 of the Customs Regulations (19 CFR 153.29) and having determined that there are grounds for doing so, the United States Customs Service is instituting an inquiry to verify the information submitted and to obtain the facts necessary to enable the Secretary of the Treasury to reach a determination as to the fact or likelihood of sales at less than fair value.

A summary of information received from all sources is as follows:

The information received tends to indicate that the prices of the merchandise sold for exportation to the United States are less than the prices for home consumption.

This notice is published pursuant to § 153.30 of the Customs Regulations (19 CFR 153.30).

ROBERT H. MUNDHEIM,
General Counsel.

[FR Doc.77-26142 Filed 9-7-77;8:45 am]

Office of the Secretary

ELEMENTAL SULPHUR FROM MEXICO

Tentative Determination To Modify or Revoke Dumping Finding

AGENCY: U.S. Treasury Department.

ACTION: Tentative modification or revocation of finding of dumping.

SUMMARY: This notice is to advise the public that it appears that Azufrera Panamericana, S.A. (Azufrera), of Mexico is no longer selling elemental sulphur from Mexico at less than fair value within the meaning of the Antidumping Act, 1921, as amended. Sales at less than fair value generally occur when the price of merchandise sold for exportation to the United States is less than the price of

such or similar merchandise sold in the home market or to third countries. In addition, Azufrera has given assurances that future sales will not be at less than fair value. If this action is made final, imports of this merchandise from Azufrera on or after the effective date of this notice, will no longer be liable for special duties under the Antidumping Act, 1921. Interested persons are invited to make comments.

EFFECTIVE DATE: September 8, 1977.

FOR FURTHER INFORMATION CONTACT:

David P. Mueller, Duty Assessment Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-5492).

SUPPLEMENTARY INFORMATION: A finding of dumping with respect to elemental sulphur from Mexico was published as Treasury Decision 72-179 in the FEDERAL REGISTER of June 28, 1972 (37 FR 12727).

After due investigation, it has been determined tentatively that elemental sulphur produced and sold by Azufrera, from Mexico, is no longer being, nor likely to be, sold in the United States at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.).

STATEMENT OF REASONS ON WHICH THIS TENTATIVE DETERMINATION IS BASED

The investigation indicated that all sales of elemental sulphur by Azufrera for a period of two years prior to this determination have been made at not less than fair value, and written assurances have been given that future sales of elemental sulphur to the United States will not be made at less than fair value.

Accordingly, notice is hereby given that the Department of the Treasury intends to modify the finding with respect to elemental sulphur from Mexico, to exclude shipments of sulphur produced and sold by Azufrera.

In accordance with section 153.40, Customs Regulations, (19 CFR 153.40), interested persons may present written views or arguments, or request in writing that the Secretary of the Treasury afford an opportunity to present oral views.

Any requests that the Secretary of the Treasury afford an opportunity to present oral views should be addressed to the Commissioner of Customs, 1301 Constitution Avenue NW., Washington, D.C. 20229, in time to be received by his office not later than September 19, 1977. Such requests must be accompanied by a statement outlining the issues wished to be discussed.

Any written views or arguments should likewise be addressed to the Commissioner of Customs in time to be received by his office not later than October 11, 1970.

This notice is published pursuant to section 153.44(c) of the Customs Regulations (19 CFR 153.44(c)).

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

SEPTEMBER 1, 1977.

[FR Doc.77-26059 Filed 9-7-77;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 476]

ASSIGNMENT OF HEARINGS

SEPTEMBER 2, 1977.

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.

AB 18 (Sub-No. 21), Chesapeake & Ohio Railway Co. Abandonment of Carferry Service Across Lake Michigan Between Ludington, Mich., and Kewaunee, Milwaukee, and Manitowoc, Wis., and AB 31 (Sub-No. 5), Grand Trunk Western Railroad Co. and The Grand Trunk Milwaukee Carferry Co. Abandonment Of Its Lake Michigan Carferry Operation, From Eastern Port Of Muskegon To Western Port of Milwaukee in Muskegon County, Mich., and Milwaukee County, Wis., now being assigned October 17, 1977, at the Offices of the Interstate Commerce Commission in Washington, D.C.

MC 140908 (Sub-No. 4), Commercial & Package Delivery Service, Inc., now being assigned November 28, 1977 (1 week), at Charlotte, N.C., in a hearing room to be later designated.

MC 121240 (Sub-No. 4), ABC Truck Line, Inc., application dismissed.

MC 142207 (Sub-No. 8), Gulf Coast Truck Services, Inc., now being assigned November 8, 1977 (2 days), for hearing in Memphis, Tenn., in a hearing room to be later designated.

MC 114334 (Sub-No. 35), Builders Transportation Co., now being assigned November 10, 1977 (2 days), for hearing in Memphis, Tenn., in a hearing room to be later designated.

MC 82063 (Sub-No. 72), Klipsch Hauling Co., now being assigned November 14, 1977 (1 week), for hearing in Little Rock, Ark., in a hearing room to be later designated.

MC 125551 (Sub-No. 13), K&W Trucking Co., Inc., now being assigned October 31, 1977 (1 week), at Anchorage, Alaska, in a hearing room to be later designated.

MC 60066 (Sub-No. 11), Bee Line Motor Freight, Inc., now being assigned November 1, 1977 (3 days), at Lincoln, Nebr., in a hearing room to be later designated.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-26158 Filed 9-7-77;8:45 am]

[Notice No. 475]

ASSIGNMENT OF HEARINGS

SEPTEMBER 2, 1977.

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.

CORRECTION

MC 127810 (Sub-No. 3), Sherman & Boddie, Inc., now assigned September 15, 1977, at Washington, D.C. is postponed indefinitely instead of being canceled and application dismissed.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc.77-26159 Filed 9-7-77;8:45 am]

FOURTH SECTION APPLICATIONS FOR RELIEF

SEPTEMBER 2, 1977.

An application, as summarized below, has been filed requesting relief from the requirements of section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the General Rules of Practice (49 CFR 1100.40) and filed on or before September 23, 1977.

FSA No. 43424—*Freight, All Kinds from Ramp Points in Texas.* Filed by Southwestern Freight Bureau, Agent (No. B-700), for interested rail carriers. Rates on freight, all kinds, in carloads, as described in the application, from ramp points in Texas, to specified points in Illinois, Kansas, Missouri, Oklahoma, and Tennessee—TOFC Plan II½.

Grounds for relief—Market competition.

Tariffs—Supplement 196 to Southwestern Freight Bureau, Agent, tariff 74-C, I.C.C. No. 5127, and 3 other schedules named in the application. Rates are published to become effective on September 30, 1977.

FSA No. 43425—*Household Goods from New Orleans, La., and Houston, Tex. (Import).* Filed by Southwestern Freight Bureau, Agent (No. B-701), for interested rail carriers. Rates on household goods, in carloads, as described in the application, from New Orleans, La., and Houston, Tex. (Import), to ramp points in southwestern and western trunk-line territories—TOFC Plan II½.

Grounds for relief—Market competition.

Tariffs—Supplement 196 to Southwestern Freight Bureau, Agent, tariff 74-G, I.C.C. No. 5127, and 4 other schedules named in the application. Rates are published to become effective on September 30, 1977.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-26155 Filed 9-7-77;8:45 am]

IRREGULAR ROUTE MOTOR COMMON CARRIERS OF PROPERTY

Elimination of Gateway Letter Notices

SEPTEMBER 2, 1977.

The following letter notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minmizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's Gateway Elimination Rules (49 CFR 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission on or before September 19, 1977. 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 2607 (Sub-No. E96), filed June 4, 1974. Applicant: BERRY VAN LINES, 747 N. Dupont Highway, Dover, Del. 19901. Applicant's representative: Robert J. Gallagher, Suite 1200, 1000 Connecticut Avenue NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned or preserved foodstuffs* (except commodities in bulk), from points in New Jersey on, north and east of a line beginning at the Delaware River, thence along U.S. Highway 322 to junction New Jersey Highway 77, thence along New Jersey Highway 77 to Bridgeton, N.J., thence along New Jersey Highway 533 to Newport, N.J., near the Delaware River, to points in Queen Annes County, Md. The purpose of this filing is to eliminate points in Caroline County, Md.

No. MC 2607 (Sub-No. E97), filed June 4, 1974. Applicant: BERRY VAN LINES, 747 N. Dupont Highway, Dover, Del. 19901. Applicant's representative: Robert J. Gallagher, Suite 1200, 1000 Connecticut Avenue NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned or preserved foodstuffs* (except commodities in bulk), from points in Kent and Sussex Counties, Del., to points in Connecticut. The purpose of this filing is to eliminate points in Caroline County, Md.

No. MC 2607 (Sub-No. E98), filed June 4, 1974. Applicant: BERRY VAN LINES, 747 N. Dupont Highway, Dover, Del. 19901. Applicant's representative: Robert J. Gallagher, Suite 1200, 1000 Connecticut Avenue NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned or preserved foodstuffs* (except commodities in bulk), from points in Kent and Sussex Counties, Del., to points in Massachusetts. The purpose of this filing is to eliminate the gateway of points in Caroline County, Md.

No. MC 2607 (Sub-No. E99), filed June 4, 1974. Applicant: BERRY VAN LINES, 747 N. Dupont Highway, Dover, Del. 19901. Applicant's representative: Robert J. Gallagher, Suite 1200, 1000 Connecticut Avenue NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned or preserved foodstuffs* (except commodities in bulk), from points in Kent and Sussex Counties, Del., to points in Pennsylvania. The purpose of this filing is to eliminate the gateway of points in Caroline County, Md.

No. MC 2607 (Sub-No. E100), filed June 4, 1974. Applicant: BERRY VAN LINES, 747 N. Dupont Highway, Dover, Del. 19901. Applicant's representative: Robert J. Gallagher, Suite 1200, 1000 Connecticut Avenue, NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned or preserved foodstuffs* (except commodities in bulk), from points in Kent and Sussex Counties, Del., to Wilmington, Del. The purpose of the filing is to eliminate the gateway of points in Caroline County, Md.

No. MC 44735 (Sub-No. E2), filed May 9, 1977. Applicant: KISSICK TRUCK LINES, INC., 7101 East 12th Street, 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 and iron and steel articles* (except commodities in bulk and commodities requiring special equipment), between points in Indiana within the commercial zone of Chicago, Ill., on the one hand, and, on the other, points in Kansas City, Mo. The purpose of this filing is to eliminate the gateway of Chicago, Ill.

No. MC 61825 (Sub-No. E1025), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385 Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth Street NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, except commodities of unusual value, commodities in bulk, household goods as defined by the Commission, between the District of Columbia and points in Maryland on and south of a line beginning at the Pennsylvania-Maryland State line, and extending east along U.S. Highway 40 to junction U.S. Highway 40 Alternate, to junction U.S. Highway 40 near Frederick, Md., thence to junction Maryland Highway 144, thence along Maryland Highway 144 to Baltimore, Md., thence along the shores of the Chesapeake Bay and Elk River to the Chesapeake and Delaware Canal, and to the Maryland-Delaware State line, and points in West Virginia on and east of a line beginning at the Virginia-West Virginia State line, and extending west along U.S. Highway 60 to junction U.S. Highway 219, to junction West Virginia Highway 72, to junction West Virginia Highway 26, and thence to the West Virginia-Pennsylvania State line, on the one hand, and, on the other, points in Mississippi. The purpose of this filing is to eliminate the gateways of Lynchburg, Va., and a point in Smyth County, Va.,

No. MC 78228 (Sub-No. E193) (correction), filed August 26, 1975, published in the FEDERAL REGISTER issue of July 7, 1977, and republished, as corrected, this issue. Applicant: J. MILLER EXPRESS, INC., 152 Wabash Street, Pittsburgh, Pa. 15220. Applicant's representative Thomas M. Mulroy, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alloys, ores, and metals*, in dump vehicles, from points in New York bounded by a line beginning at Buffalo, N.Y., thence along New York Highway 5 to Silver Creek, N.Y., thence along New York Highway 428 to junction New York Highway 39, thence along New York Highway 39 to junction New York Highway 16, thence along New York Highway 16 to the place of beginning, to points in Delaware. The purpose of this filing is to eliminate the gateway of Niagara Falls, N.Y.

NOTE.—The purpose of this correction is to state the correct territorial description.

No. MC 114019 (Sub-No. E483), filed May 31, 1974. Applicant MIDWEST EMERY FREIGHT SYSTEM, INC., 7000 South Pulaski Road, Chicago, Ill. 60629. Applicant's representative: Arthur J. Sibik (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such general merchandise as is dealt in by chain grocery stores, and supplies machinery, fixtures, and equipment*, incidental to the production warehousing and sale thereof (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) from Akron, Ohio, to points in that part of Illinois on, south and west of a line beginning at the Indiana-Illinois State line, thence west along Illinois Highway 33 to junction Illinois Highway 128, thence north along Illinois Highway 128 to junction Illinois Highway 16, thence west along Illinois Highway 16 to junction Illinois Highway 29, thence north along Illinois Highway 29 to junction Illinois Highway 104, thence west along Illinois Highway 104 to junction Illinois Highway 78, thence north along Illinois Highway 78 to junction U.S. Highway 67, thence north along U.S. Highway 67 to junction U.S. Highway 136, thence west along U.S. Highway 136 to the Illinois-Iowa State line. The purpose of this filing is to eliminate the gateway of the warehouse and other storage facility of the Colgate-Palmolive Company at Jef-

fersonville, Ind. (which is located in the Louisville, Ky., commercial zone), (2) From Cincinnati, Ohio, to points in that part of Minnesota, on, north and west of a line beginning at the Iowa-Minnesota State line and extending north along U.S. Highway 63 to junction U.S. Highway 52, thence north along U.S. Highway 52 to junction Minnesota Highway 50, thence north along Minnesota Highway 50 to junction Interstate Highway 35, thence north along Interstate Highway 35 to junction Interstate Highway 494, thence north along Interstate Highway 494 to junction Minnesota Highway 152, thence north along Minnesota Highway 152 to junction U.S. Highway 169, thence north along U.S. Highway 169 to junction Minnesota 18, thence north along Minnesota Highway 18 to junction Minnesota Highway 371, thence north along Minnesota Highway 371 to junction U.S. Highway 71, thence north along U.S. Highway 71 to the Minnesota-Canada Line.

The purpose of this filing is to eliminate the gateways of the warehouse and other storage facility of the Colgate-Palmol Co. at Jeffersonville, Ind. (which is located in the Louisville, Ky., commercial zone), and points in Illinois within the commercial zone of Muscatine, Iowa. (3) From Cleveland, Ohio, to points in that part of Illinois on, west and south of a line beginning at the Illinois-Indiana State line, thence west along Illinois Highway 33 to junction Illinois Highway 128, thence north along Illinois Highway 128 to junction Illinois Highway 16, thence west along Illinois Highway 16 to junction Illinois Highway 29, thence north along Illinois Highway 29 to junction Illinois Highway 104, thence west along Illinois Highway 104 to junction U.S. Highway 67, thence north along U.S. Highway 67 to junction Illinois Highway 99, thence north along Illinois Highway 99 to junction U.S. Highway 24, thence west along U.S. Highway 24 to the Illinois-Missouri State line. The purpose of this filing is to eliminate the gateway of the warehouse and other storage facility of the Colgate-Palmolive Company at Jeffersonville, Ind. (which is located in the Louisville, Ky. commercial zone). (4) From Columbus, Ohio, to points in that part of Illinois on, south and west of a line beginning at the Indiana-Illinois State line, thence west along U.S. Highway 50 to junction Illinois Highway 127, thence north along Illinois Highway 127 to junction Interstate Highway 55, thence north along Interstate Highway 55 to junction Illinois Highway 108, thence west along Illinois Highway 108 to junction Illinois Highway 106, thence north along Illinois Highway 106 to junction U.S. Highway 36, thence west along U.S. Highway 36 to junction Illinois Highway 100, thence north along Illinois Highway 100 to junction Illinois Highway 99, thence north along Illinois Highway 99 to junction U.S. Highway 24, thence west along U.S. Highway 24 to the Illinois-Missouri State line. The purpose of this filing is to eliminate the gateway of the warehouse and other storage facility of the Colgate-Palmolive Co. at Jeffersonville, Ind. (which is located in the Louisville, Ky., commercial zone), (5) From Dayton, Ohio, to points in that part of Illinois on and south of U.S. Highway 50. The purpose of this filing is to eliminate the gateway of the warehouse and other storage facility of the Colgate-Palmolive Co. at Jeffersonville, Ind. (which is located in the Louisville, Ky., commercial zone). (6) From Detroit, Mich., to points in that part of Illinois on, south and west of a line beginning at the Illinois-Indiana State line, thence west along Illinois Highway 33 to junction Illinois Highway 128, thence north along Illinois Highway 128 to junction Illinois Highway 16, thence west along Illinois Highway 16 to the Illinois-Missouri State line.

The purpose of this filing is to eliminate the gateway of the warehouse and other storage facility of the Colgate-Palmolive Co. at Jeffersonville, Ind. (which is located in the Louisville, Ky., commercial zone). (7) From Grand Rapids, Mich., to points in that part of Illinois on and south of Illinois Highway 15 and U.S. Highway 460. The purpose of this filing is to eliminate the gateway of the warehouse and other storage facility of the Colgate-Palmolive Co. at Jeffersonville, Ind. (which is located in the Louisville, Ky., commercial zone). (8)(a) From Evansville, Ind., to points in Ohio (except Cincinnati, Dayton, Columbus, Toledo, and Cleveland), the lower Peninsula of Michigan and points in that part of Wisconsin, on and north of U.S. Highway 10. The purpose of this filing is to eliminate the gateway of the warehouse and other storage facility of the Colgate-Palmolive Co. at Jeffersonville, Ind. (which is located in the Louisville, Ky., commercial zone). (8)(b) From Evansville, Ind., to points in that part of Minnesota on, north and west of a line beginning at the North Dakota-Minnesota State line and extending east along U.S. Highway 10 to junction Minnesota Highway 34, thence east along Minnesota Highway 34 to junction Minnesota Highway 371, thence north along Minnesota Highway 371 to junction U.S. Highway 2, thence east along U.S. Highway 2 to unnumbered highway, thence north along unnumbered highway to Minnesota Highway 72, to the Minnesota-Canada line. The purpose of this filing is to eliminate the gateways of the warehouse and other storage facility of the Colgate-Palmolive Co. at Jeffersonville, Ind. (which is located in the Louisville, Ky., commercial zone), and points in Illinois within the commercial zone of Muscatine, Iowa. (9) From Madison, Wis., to points in that part of Ohio on and south of a line beginning at the Indiana-Ohio State line and extending east along Interstate Highway 74 to junction Interstate Highway 275, thence east along Intersetate Highway 275 to junction U.S. Highway 50, thence east along U.S. Highway to junction Ohio Highway 124, thence east along Ohio Highway 124 to junction Ohio Highway 93, thence north along Ohio Highway 93 to junction Ohio Highway 327, thence east along Interstate Highway 275 to along U.S. Highway 50 to junction Ohio east along Ohio Highway 327 to junction Ohio Highway 124, thence east along Ohio Highway 124 to the Ohio-West Virginia State line (except Cincinnati, Ohio).

The purpose of this filing is to eliminate the gateway of the warehouse and other storage facility of the Colgate-Palmolive Co. at Jeffersonville, Ind. (which is located in the Louisville, Ky., commercial zone). (10) From Pittsburgh, Pa., to points in that part of Illinois on, south and west of a line beginning at the Indiana-Illinois State line and extending west along U.S. Highway 150 to junction Illinois Highway 133, thence west along Illinois Highway 133 to junction Illinois Highway 32, thence north along Illinois Highway 32 to junction Illinois Highway 48, thence north along Illinois Highway 48 to junction U.S. Highway 136, thence west along U.S. Highway 136 to junction U.S. Highway 67, thence north along U.S. Highway 67 to junction U.S. Highway 34, thence west along U.S. Highway 34 to the Illinois-Iowa State line. The purpose of this filing is to eliminate the gateway of the warehouse and other storage facility of the Colgate-Palmolive Co. at Jeffersonville, Ind. (which is located in the Louisville, Ky., commercial zone). (11) From St. Louis, Mo., to points in that part of Ohio on, south and east of a line beginning at the Ohio-Michigan State line, thence south along U.S. Highway 23 to junction Interstate Highway 475, thence south along Interstate Highway 475 to junction Interstate Highway 75, thence south along Interstate Highway 75 to junction Ohio Highway 129 thence west along Ohio Highway 129 to the Indiana-Ohio State line (except Cincinnati, Ohio), points in that part of Michigan on and east of a line beginning at the Ohio-Michigan State line and extending north along Michigan Highway 52 to junction Michigan Highway 46, thence west along Michigan Highway 46 to junction Michigan Highway 30, thence north along Michigan Highway 30 to junction Michigan Highay 55, thence along Michigan Highway 55 to junction Michigan Highway 33, thence north along Michigan Highway 33 to Lake Huron. The purpose of this filing is to eliminate the gateway of the warehouse and other storage facility of the Colgate-Palmolive Co. at Jeffersonville, Ind. (which is located in the Louisville, Ky., commercial zone). (12) From Carbondale, Ill., to points in Ohio (except Dayton, Cincinnati, Cleveland, and Columbus).

The purpose of this filing is to eliminate the gateway of the warehouse and other storage facility of the Colgate-Palmolive Co. at Jeffersonville, Ind. (which is located in the Louisville, Ky., commercial zone). *Foodstuffs*, raw and manufactured, from New York, N.Y., and points within 30 miles of New York, N.Y., to points in that part of Minnesota on and west of a line beginning at the

Iowa-Minnesota State line and extending north along U.S. Highway 218 to junction Interstate Highway 35, thence north along Interstate Highway 35 to junction Interstate Highway 494, thence west along Interstate Highway 494 to junction Minnesota Highway 152, thence north along Minnesota Highway 152 to junction U.S. Highway 10, thence north along U.S. Highway 10 to junction Minnesota Highway 371, thence north along Minnesota Highway 371 to junction U.S. Highway 71, thence north along U.S. Highway 71 to the Canada-Minnesota State line, and points in Missouri, on, north and west of a line beginning at the Iowa-Missouri State line and extending west along U.S. Highway 136 to junction Missouri Highway 15, thence south along Missouri Highway 15 to junction Missouri Highway 11, thence west along Missouri Highway 11 to junction U.S. Highway 36, thence west along U.S. Highway 36 to junction U.S. Highway 69, thence south along U.S. Highway 69 to the Missouri-Kansas State line. The purpose of this filing is to eliminate the gateway of points in Illinois within the commercial zone of Muscatine, Iowa. *Foodstuffs*, raw and manufactured (except commodities in bulk and commodities requiring special equipment), (1) from Philadelphia, Pa., and points within 30 miles thereof, and Baltimore, Md., to points in that part of Minnesota on and west of a line beginning at the Iowa-Minnesota State line and extending north along U.S. Highway 218 to junction Interstate Highway 35, thence north along Interstate Highway 35 to junction Interstate Highway 494, thence north along Interstate Highway 494 to junction U.S. Highway 10/52 thence north along U.S. Highway 10/52 to junction Minnesota 25, thence north along Minnesota Highway 25 to junction Minnesota Highway 210, thence east along Minnesota Highway 210 to junction Minnesota Highway 6, thence north along Minnesota Highway 6 to junction U.S. Highway 71, thence north along U.S. Highway 71 to the Minnesota-Canada line, and points in that part of Missouri, on north and west of a line beginning at the Iowa-Missouri State line and extending south along U.S. Highway 63 to junction Missouri Highway 11, thence south along Missouri Highway 11 to junction U.S. Highway 36, thence west along U.S. Highway 36 to junction U.S. Highway 69, thence south along U.S. Highway 69 to junction Missouri Highway 116, thence west along Missouri Highway 116 to the Kansas-Missouri State line.

The purpose of this filing is to eliminate the gateways of points in Ohio and points in Illinois within the commercial zone of Muscatine, Iowa. (2) From points in West Virginia within two miles of the Ohio River extending north from Sistersville, W. Va., to junction West Virginia-Ohio-Pennsylvania State lines, to points in that part of Minnesota, on, north and west of a line beginning at the Iowa-Minnesota State line and extending north along U.S. Highway 59 to the Minnesota-Canada line. The purpose of this filing is to eliminate the gateways of points in Ohio and points in Illinois within the commercial zone of Muscatine, Iowa. *Foodstuffs*, raw and manufactured, from points in Ohio within two miles of the Ohio River extending north from Fly, Ohio, to junction West Virginia-Ohio-Pennsylvania State lines, to points in that part of Minnesota, on, north, and west of a line beginning at the Iowa-Minnesota State line and extending north along U.S. Highway 59 to the Minnesota-Canada line. The purpose of this filing is to eliminate the gateways of points in Illinois within the commercial zone of Muscatine, Iowa.

No. MC 124211 (Sub-No. E94), filed August 14, 1977. Applicant: HILT TRUCK LINE, INC., P.O. Box 988, D.T.S., Omaha, Nebr. 68101. Applicant's representative: Thomas L. Hilt (same as above). 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 frozen foods, hides, and commodities in bulk and except liquid commodities in bulk, in tank vehicles), (a) Between points in Nebraska (except Richardson County), on the one hand, and, on the other, points in Louisiana. *(Lincoln, Nebr.); (b) between points in Richardson County, Nebr., on the one hand, and, on the other, points in Louisiana on and east of the Mississippi River, and on and south of Interstate Highway 12. *(Lincoln, Nebr.); (c) from points in Louisiana, to points in North Dakota, South Dakota, and Wyoming. *(Lincoln, Nebr. and points in Saunders County, Nebr.); (d) from points in Louisiana, to points in Iowa on, north and west of a line beginning at the Iowa-Nebraska State line, thence over U.S. Highway 6 to junction U.S. Highway 71, thence over U.S. Highway 71 to junction U.S. Highway 20, thence over U.S. Highway 20 to junction U.S. Highway 169, thence over U.S. Highway 169 to the Iowa-Minnesota State line. *(Lincoln, Nebr. and points in Saunders County, Nebr.); (e) from points in Louisiana on and south of U.S. Highway 80, to Austin, Minn., and points in Minnesota on and west of U.S. Highway 61, and to points in Wisconsin on, west and north of a line beginning at Ashland, Wis., thence over U.S. Highway 63 to junction U.S. Highway 10, thence over U.S. Highway 10 to the Minnesota-Wisconsin State line. *(Lincoln, Nebr. and points in Saunders County, Nebr.). The purpose of this filing is to eliminate the gateways indicated by the asterisks above.

No. MC 124211 (Sub-No. E95), filed August 16, 1977. Applicant: HILT TRUCK LINE, INC., P.O. Box 988, D.T.S., Omaha, Nebr. 68101. Applicant's representative: Thomas L. Hilt (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, 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), (1) From points in Nebraska (except points on and south of Nebraska Highway 2 and on and east of U.S. Highway 77), to points in Indiana, Michigan (except the upper peninsula), and Ohio, *(points in Saunders County, Nebr.); (2) From points in Nebraska on and west of a line beginning at the Nebraska-South Dakota State line, thence over U.S. Highway 81 to junction U.S. Highway 275, thence over U.S. Highway 275 to junction Nebraska Highway 32, thence over Nebraska Highway 32 to junction U.S. Highway 73, thence over U.S. Highway 73 to junction U.S. Highway 30, thence over U.S. Highway 30 to the Nebraska-Iowa State line (except points on and south of Nebraska Highway 2 and on and east of U.S. Highway 77), to points in Illinois *(points in Saunders County, Nebr.); (3) From points in Nebraska (except points on and south of Nebraska Highway 2 and on and east of U.S. Highway 77), to points in Illinois on and east of Interstate Highway 55 *(points in Saunders County, Nebr.); (4) From points in Nebraska on and south of U.S. Highway 30 and on and west of U.S. Highway 77, to points in the upper peninsula of Michigan *(points in Saunders County, Nebr.); (5) From points in Nebraska on and south of Nebraska Highway 2 (except points in Richardson County, Nebr.), to points in Michigan, and those points in Indiana and Ohio on and north of U.S. Highway 30 *(points in Saunders County, Nebr.). The purpose of this filing is to eliminate the gateways indicated by the asterisks above.

No. MC 124211 (Sub-No. E98), filed August 22, 1977. Applicant: HILT TRUCK LINE, INC., P.O. Box 988, D.T.S., Omaha, Nebr. 68101. Applicant's representative: Thomas L. Hilt (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Processed 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), (a) from Kansas City, Mo., to points in Nebraska on, west, and north of a line beginning at the South Dakota-Nebraska State line and extending along Nebraska Highway 14 to junction U.S. Highway 34, thence along U.S. Highway 34 to the Nebraska-Colorado State line *(Grand Island, Nebr.); (b) from Chicago, Ill., to points in Nebraska on and west of a line beginning at the Kansas-Nebraska State line, thence over Nebraska Highway 15 to junction Nebraska Highway 74, thence

over Nebraska Highway 74 to the junction U.S. Highway 81, thence over U.S. Highway 81 to junction Nebraska Highway 91, thence over Nebraska Highway 91 to junction U.S. Highway 281, thence over U.S. Highway 281 to the Nebraska-South Dakota State line *(Grand Island, Nebr.). The purpose of this filing is to eliminate the gateway indicated by the asterisks above.

No. MC 124211 (Sub-No. E105), filed August 23, 1977. Applicant: HILT TRUCK LINE, INC., P.O. Box 988, D.T.S., Omaha, Nebr. 68101. Applicant's representative: Thomas L. Hilt (same as above). 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 and except liquid commodities in bulk, in tank vessels), (a) from points in Nebraska on and south of U.S. Highway 30, and on and east of U.S. Highway 81, to points in North Dakota *(points in Saunders County, Nebr.); (b) from points in Nebraska on and south of U.S. Highway 30, and on and east of U.S. Highway 281, to points in North Dakota on and north of U.S. Highway 10 *(points in Saunders County, Nebr.); (c) from points in Nebraska on and south of U.S. Highway 30, to points in North Dakota on and east of North Dakota Highway 18 *(points in Saunders County, Nebr.). The purpose of this filing is to eliminate the gateway indicated by asterisks.

By the Commission.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc.77-26160 Filed 9-7-77;8:45 am]

LIST OF INTERMEDIARIES

September 1, 1977.

The provision of the Canons of Conduct of the Interstate Commerce Commission relating to Intermediaries (49 C.F.R. § 1000.735-23) reads as follows:

Intermediaries. Members and employees of the Commission shall not recommend or suggest the use of any nongovernmental intermediary (individual, firm, corporation, or other entity) offering any service as consultant, agency representative, attorney, expeditor, or specialist for the purpose of assisting in any negotiations, transactions, or other business with or before this Commission: *Provided, however*, That making available general reference lists of such nongovernmental intermediaries, the use of which is authorized by the Secretary of the Commission shall not be deemed to be in violation of this section.

The following is a general reference list of nongovernmental intermediaries in the Washington area who regularly utilize the Commission's records in the Public Tariff File Room of its Bureau and others who engage in rate work, the preparation of tariff material, etc.

The list has been prepared solely for the information and convenience of the public. It does not constitute an endorsement by the Commission, nor is any responsibility for the services rendered assumed by the Bureau, its officers, supervisors or employees. Without designating any intermediary listed of the specialized qualifications of any, the entire list must be made available.

Changes and additions to the list will be considered upon request to the Director of the Bureau of Traffic, subject to authorization by the Secretary of the Commission.

H. G. Homme, Jr.,
Acting Secretary.

Alltran Associated, Mr. Lewis, Box 2018, Winchester, Va. 22601, (703-955-3025).

Anderson, James R., 961 South Canosa Ct., Denver, Colo. 80219, (303-934-9998).

Andren, J. Maurice, 1734 Sheridan Lake Rd., Rapid City, S. Dak. 57701, (605-343-4036).

Arbet Trucklines, Inc., Richard E. VanWinkle, 222 East 135th Pl., Chicago, Ill., 60627, (315-928-3400).

Arena, Joseph S., 19 Davenport St., Somerville, N.J. 19113, (201-526-3047).

Arizona Motor Tariff Bureau, Inc., Ms. Carol Hite, 4541 North 12th St., Phoenix, Ariz. 85014, (602-264-5497).

Associated Motor Carrier Tariff Bureau, Mr. W. Hallman, Mr. McKay, or Mr. Anderson, 1745 University Ave., St. Paul, Minn. 55104, (612-647-0166).

Associated Transportation Services, P.O. Box 1397, Hagerstown, Md. 21740, (301-797-6060).

Barrett, Francis E., Jr., Investors Bldg., 536 Granite St., Braintree, Mass. 02184, (617-843-5900).

Bernhard, Russell S., Commonwealth Bldg., 1625 K St. NW., Washington, D.C. 20006, (202-393-3390).

Bowes, Milner & Rodgers, Edward L. Nehez, P.O. Box 1409, Fairfield, N.J. 07006, (201-575-7700).

Bulk Carriers Conference, Bob Roper, P.O. Box 2566, Arlington, Va. 22202, (202-521-2200).

Burch Traffic Service, J. Leo Burch, Jr., 10205 Oasis Dr., suite 101, San Antonio, Tex. 78216, (512-349-5129).

Busch, John A., 4513 Highland Ave., Bethesda, Md. 20014, (301-656-9320).

Butler, Thomas A., P.O. Box 19, Middletown, N.J. 07748, (201-671-6616).

Butler Traffic Service, Inc., Freddy Butler, 300 Wendell Ct., suite 325, Atlanta, Ga. 30336, (404-696-6791).

Carrier Traffic Service, Glen L. Gissing, 4354 South Western Ave., Chicago, Ill. 60609, (312-247-3968).

Carroll, Charles T., 12800 Bluhill Rd., Wheaton, Md. 29096, (301-946-9007).

Casazza, Peter P., P.O. Box 761, Vineland, N.J. 08360, (609-691-9100).

Charleston Traffic Service, John Friedman, 2930 Putman Ave., Hurricane, W. Va. 25526, (304-562-5501).

Christensen, Charles, P.O. Box 854, Downtown Station, Omaha, Nebr. 68101, (402-733-5000).

Consultran, Inc., G. S. Strand, Foshay Tower, 821 Marquette Ave., Minneapolis, Minn. 55402, (612-338-0297).

Continental Traffic Service, Inc., Don Liper, P.O. Box 3309, 220 Falls Bldg., Memphis, Tenn. 38103, (901-525-0747).

Creager, Charles E., 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, Md. 21740, (301-797-6060).

Curnett, Russell B., P.O. Box 366, Harwich, Mass. 02645, (617-432-0907).

Cushman, Frank M., Associates, Transportation Consultants, 36 South Main St., Sharon, Mass. 02067, (617-828-1893).

C. W. Tariff Agency, 5215 Jolly-Cedar Ct., Lansing, Mich. 48910, (517-393-9503).

Danziger, Leroy, 334 King Rd., North Brunswick, N.J. 08902, (201-297-1868).

Davis, Kenneth R., 121 South Main St., Taylor, Pa. 18517, (717-344-8030).

Distribution Publications, Inc., Peter M. Hughes, TPO, 7996 Capwell Dr., Oakland, Calif. 94621, (415-781-8817).

Diversified Traffic Co., Thomas A. Weir, drawer 56, Ellicott Station, Buffalo, N.Y. 14205, (716-632-1345).

Dudley, Kenneth P., 611 Church St., P.O. Box 622, Ottumwa, Iowa 52501, (515-682-6466).

Earnshaw, Samuel W., 833 Washington Bldg., Washington, D.C. 20423, (202-783-4110).

Eastern Freight Traffic Agency, Ralph L. Smith, agent, route 7, box 185X, Pasadena, Md. 21122, (301-255-5602).

Edwards, William, 7420 Grace St., Springfield, Va. 22150, (202-393-1711).

Farrell, James J., 206 North Blvd., Belmar, N.J. 07717, (201-681-3749).

Foley, Thomas F. X., P.O. Box 1409, Fairfield, N.J. 07006, (201-575-7700).

Fort Smith Freight Bureau, Bob C. Worley, P.O. Box 45, Fort Smith, Ariz. 72901, (501-782-0323).

Freeman, Donald E., 172 Green St., Westminster, Md. 21157, (301-833-1729).

General Rate Service, Inc., Joseph H. Herzig, general manager, 121 Shelly Dr., suite 1A, Hackettstown, N.J. 07840, (201-852-4300).

Genesee Traffic Services, Ind., S. Michael Richards, P.O. Box 225, Webster, N.Y. 14580, (716-872-3535).

Gerrity, E. J., Co., E. J. Gerrity, P.O. Box 914, Appleton, Wash. 59411, 414-734-5608).

Goldstein, Sidney L., 109 Church St., New Haven, Conn. 06510, (203-787-1288).

Guthrie, C. B., Tariff Bureau, Inc., David L. Swiger, suite 300, Prudential Bldg., 1334 G St. NW., Washington, D.C. 20005, (202-268-6650).

Hanafan, Ms. Lilia C., P.O. Box 956, Council Bluffs, Iowa 51501, (712-322-7847).

Heckman, August W., counselor-at-law, 297 Academy St., Jersey City, N.J. 07306, (609-653-1113).

Hodder, Clifford C., 212 Venture St., Pittsburgh, Pa. 15214, (412-323-0158).

Hunt, Harold, G.S.B. Bldg., 1 Belmont Ave., Bala-Cynwyd, Pa. 19004, (215-664-5480).

Hunt, Richard, 426 Barclay Bldg., Bala-Cynwyd, Pa. 19004, (215-467-9700).

Idaho Motor Tariff Bureau, Inc., Timothy R. Stivers, P.O. Box 637, Boise, Idaho 83701, (208-343-3430).

Illinois Intrastate Motor Carriers, Rate and Tariff Bureau, Inc., Don Vignali, G.M., Kenn Barr, analyst, Mile Mulvey, compiler, Don Vaughn, assistant to general manager, 301 North 2d St., Springfield, Ill. 62702, (217-522-4494).

Intermountain Tariff Bureau, Inc., C. L. Allen, P.O. Box 686, Salt Lake City, Utah 84110, (801-328-1653).

International Tariff Service, Inc., Dean Putman, 815 15th St. NW., Washington, D.C. 20005, (202-347-6770).

Interstate Tariff Service, Inc., J. C. Shriner, 19706 Center Ridge R., lower suite, Rocky River, Ohio 44116, (216-333-4678).

Interstate Tariff Service, Harold R. Lawson, 2601 Kuerbitz Dr., Lansing, Mich 48906, (517-321-7844).

Kahn, S. Harrison, attorney, Investment Bldg., 15th and K Sts. NW., Washington, D.C. 20005, (202-783-3525).

Kaminsky, Rueben, 410 Asylum St., suite 223, Hartford, Conn. 06103, (203-522-2285).

Kansas Motor Carriers Association, George D. Hutchins, 2900 South Topeka Blvd., Topeka, Kans. 66601, (913-267-1641).

Kelley, Ms. Mary E., 11 Riverside Ave., Medford, Mass 02155, (617-396-4090).
Kiel, Mort, or Collins, Burt, suite 6193, 4 World Trade Center, New York, N.Y. 10048, (212-466-0220).
Kilroy, Thomas P., P.O. Box 624, Springfield, Va. 22150, (703-451-1800).
Kubner, J. J., P.O. Box 22170, Cleveland, Ohio 44122, (216-991-0440).
Lawrence Traffic Bureau, E. M. Hickman, manager, 625 Live Stock Exchange, 1600 Genesee, Kansas City, Mo. 64102, (816-842-3847).
Lawson, Rufus H., P.O. Box 5114, Oklahoma City, Okla. 73107, (405-528-5505).
Logan, Robert H., 32 North Lexow Ave., Nanuet, N.Y. 10954, (914-623-1550).
Mack and Riggle, Town and Country Towers, 1035 Outer Park Dr., Springfield, Ill. 62704, (217-546-2213).
Maine Motor Rate Bureau, Donald Martin, 94 Auburn St., Portland, Maine 04103, (207-797-5194).
Mann, Kim D., 425 13th St. NW., Pennsylvania Bldg., Washington, D.C. 20004, No Phone Available.
MDR Enterprises, Inc., M. Dale Roberts and Carol Krocht, 7701 Pacific St., suite 7, Omaha, Neb. 68124, (402-341-0393).
Middle West Traffic Service, Bernice A. Carney, 24 Cottonwood Lane, R.R. 3, Breman, Ind. 46506, (219-546-3142).
Midwest Motor Carriers Bureau, Inc., George Thomas, 2400 Northwest 23d St., Oklahoma City, Okla. 73107, (405-528-7841).
Mid-West Truckers Association, Harold Eatherington, 2715 North Dirksen Parkway, Springfield, Ill. 62702, (217-525-0310).
Miller, Douglas, 14 Front St., Hempstead, N.Y. 11550, (516-538-3406).
Miraglia, Nancy, Tariff Service, Charles Miraglia, 1 Chaucer Rd., Englishtown, N.J. 07726, (201-446-3183).
Missouri-Illinois Traffic Service, Inc., L. K. Mocabee or L. Dorris, 633 Collinsville Ave., East St. Louis, Ill. 62201, (618-271-6300).
Motor Carrier Consultants, Robert E. Tate, P.O. Box 517, Evergreen, Ala. 36401, (205-578-2836).
Motor Carriers Service Tariff, Frank Green, box 334, Jefferson City, Mo. 65102, (314-636-7912).
Motor Carriers Tariff Bureau, 5275 Ridge Rd., Cleveland, Ohio 44129, (216-661-1132).
Motor Freight Traffic Service, 1505 City Federal Bldg., Birmingham, Ala. 35203, (205-323-9654).
Motor Tariff Service, Dewey Beach, Manager, 5570 South Broadway, Littleton, Colo. 80121, (303-795-0925).
Motor Traffic Consulting Co., Anthony Thomas or Ms. Martha Gierling, 6917 Cermak Rd., Cicero, Ill. 60650 (312-242-2676).
Motor Transport Association of Connecticut, Jos. Roman, 508 Tolland St., P.O. Box 301, East Hartford, Conn. 06108 (203-289-9576).
Motor Truck Rate Bureau, G. F. Murphy, 2425 Devine St., Columbia, S.C. 29205 (803-799-2582).
Motor-Ways, Inc., F. O. Magdefrau, P.O. Box 1634, Des Moines, Iowa 50306 (515-266-1113).
Myers Tariff Bureau, L. Agnew Myers, Jr., Walker Bldg., suite 406-7, Washington, D.C. 20005 (202-737-2188).
Nashville Freight Bureau, Inc., Walter Roach, P.O. Box 2896, Nashville, Tenn. 37219 (615-255-2168).
National Distribution Services, Inc., Gary Rowland, 595 East Tallmadge Ave., Akron, Ohio 44310 (216-535-8222).
New England Motor Rate Bureau, Jack Fraser, 14 New England Executive Park, Burlington, Mass. 01803 (617-272-7540).
New York State Motor Truck Association, 111 Fourth Ave., New York, N.Y. 10003 (212-245-4720).
Norman, Don. H., Associates, Tom Ledman or Gorman Purdy, suite 730, 2341 Jefferson Davis Hwy., Arlington, Va. 22202 (703-521-5670).
O'Donnell, Edward A., 1004 29th St., Sioux City, Iowa 51104 (712-255-3127).
Ohio Carriers Tariff Service, Inc., T. J. Schriner, 14805 Detroit Ave., Cleveland, Ohio 44107 (216-226-2700).
Ohio Motor Bus Association, Langdon D. Bell, 21 East State St., suite 1016, Columbus, Ohio 43215 (614-221-1498).
Oklahoma Motor Carrier Tariff Bureau, Michael H. Lennox, P.O. Box 14607, Oklahoma City, Okla. 73114 (405-843-9480).
Olsen, G. A., 69 Tonnelle Ave., Jersey City, N.J. 07306 (201-435-7140).
Pacific Coast Tariff Bureau, John T. Reed, 450 Mission St., San Francisco, Calif. 94105 (415-392-4535).
Parrish, L. A., P.O. Box 231, Mobile, Ala. 36601 (205-432-0733).
Pennsylvania Motor Truck Association, Martin L. Crawford, Director, Traffic Dept., P.O. Box 276, Camp Hill, Pa. 17011 (717-761-7122).
Pennsylvania Motor Truck Association, C. B. Neilson, Director, 1011 East Erie Ave., Philadelphia, Pa. 19124 (215-743-6555).
Pennsylvania Tariff Agency, Inc., John W. Frame, Box 626, Camp Hill, Pa. 17011 (717-761-0520).
Pepper, Robert B., Tariff Consultant, Forest Park Bldg., 168 Woodbridge Ave., Highland Park, N.J. 08904 (201-572-5551).
Pierce, Harry A., Jr., 21 Victor Dr., Mooresville, Ind. 46158 (317-831-0117).
Piken, Arthur J., suite 1515, 1 Lefrak City Plaza, Flushing, N.Y. 11368 (212-592-8700).
Pitzer, Jim, Tariff Services, Jim Pitzer, 15 South Grady Way, Renton, Wash. 98055 (206-235-1113).
Proctor & Cain, attorneys, S. Proctor, 1107 Blackstone Bldg., Jacksonville, Fla. 32202 (904-632-2300).
Reid, Billy R., P.O. Box 9093, Fort Worth, Tex. 76107 (817-332-4718).
Rhoney, Earl M., P.O. Box 119, LaSalle Station, Niagara Falls, N.Y. 14303 (716-882-2795).
Rittgers, Virden A., 126 North Washington Ave., Bergenfield, N.J. 07621 (201-384-2400).
Roberts, Francis J., 113 Burnham St., Newark, N.Y. 14513 (315-331-7290).
Roberts, William H., P.O. Box 2884, Toledo, Ohio 43606 (419-537-1573).
Rubenstein, Samuel, 301 North Fifth St., Minneapolis, Minn. 55403 (612-339-9481).
Service Bureau Co., 35 East 7th St., Executive Bldg., Cincinnati, Ohio 45202 (513-621-1872).
Sherry, James Patrick, or Sataloff, Kenneth D., P.O. Box 9023, Lester, Pa. 19113 (215-521-2910).
Smith, Ralph L., Route 7, Box 185X, Passadena, Md. 21122 (301-255-5602).
South Florida Tariff Consultants, P.O. Box 530733, Miamishore, Fla. (305-527-0717).
Sweeney, James H., P.O. Box 684, Woodbury, N.J. 08096 (609-228-3037).
Tariff Publishing, Inc., Otto F. Grausz, 124 Bleecker St., Utica, N.Y. 13501 (315-797-6088).
Thomas, Earl J., 5850 North High St., Worthington, Ohio 43085 (614-885-3451).
Tomljanovich, William S., Fisher Nut Bldg., 2375 Wycliff St., St. Paul, Minn. 55114 (612-645-0635).
Transportation Consulting & Service Corp., George S. Mullins, 4704 West Irving Park Rd., Chicago, Ill. 60641 (312-736-1906).
Transportation Services, John J. Hartsell, P.O. Box 88, Washington, D.C. 20044 (202-347-6550).
Trans-World & Research Service, Inc., John Pyne, 1341 G St. NW., suite 915, Washington, D.C. 20005 (202-347-8874).
Tri-State Motor Tariff Service, G. E. Coone, 1635 Burnett Rd., Topeka, Kans. 66604 (913-272-3333).
Tri-State Traffic Bureau, Inc., Raymond J. Glasch, President, 613 Oxford St., Fort Wayne, Ind. 46806 (219-744-3226).
United Tariff Bureau, Joseph J. Traina, 111 4th Ave., New York, N.Y. 10003 (212-245-4720).
Walczak, Robert F. 631 Niagara St., Buffalo, N.Y. 14201 (716-882-4250).
Weiner, Frank J., Attorney-at-Law, 15 Court Sq., Boston, Mass. 02108 (617-742-3530).
Wentzell, Arthur A., P.O. Box 270, Worchester, Mass. 01601 (617-844-4291).
Wentzell, J. Robert, P.O. Box 5338, Turnpike Station, Shrewsbury, Mass. 01545 (617-844-9877).
Western Motor Tariff Bureau, M. J. Nicolaus, P.O. Box 392, South Gate, Calif. 90280 (213-773-8180).
Western Tariff Service, Inc., Osborne R. Thomasson, President, 2340 Merced St., San Leandro, Calif. 94577 (415-895-8866).
Western Traffic Service, Inc., James Nathanson, 8001 Conser, Overland Park, Kans., (913-341-6505).
Willamette Tariff Bureau, Inc., 1444 Southeast Hawthorne Blvd., Portland, Oreg. 97214 (503-236-1183).
Williams, Charles J., 1815 Front St., Scotch Plains, N.J. 07076 (201-322-5030).
Winter, Edward A., 235 Rosewood Dr., Metairie, La. 70005 (504-835-4724).

[FR Doc.26154 Filed 9-7-77;8:45 am]

[Notice No. 109TA]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

SEPTEMBER 1, 1977.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the office of the Secretary, Interstate Commerce Commis-

sion, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 20916 (Sub-No. 28TA), filed August 17, 1977. Applicant: JOHN T. SISK, Rt. 2, Box 182 B, Culpeper, Va. 22701. Applicant's representative: Frank B. Hand, Jr., P.O. Drawer C, Berryville, Va. 22611. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from the plant facilities and sawmills of Taylor-Ramsey Corp., located (1) on Route 501 one mile west of Big Island, Va., (2) on Route 130 in the village of Natural Bridge Station, Va., (3) on Virginia Highway 28 just south of Manassas, (4) on Route 250 two miles west of McDowell in Highland County, Va., and (5) on Rutherford Street in Lynchburg, Va., to points in N.C., for 180 days. Supporting shipper(s): Taylor-Ramsey Corp., P.O. Box 97, Lynchburg, Va. 24505. Send protests to: W. C. Hersman, District Supervisor, Interstate Commerce Commission, 12th and Constitution Ave., N.W., Room 1413, Washington, D.C. 20423.

No. MC 1977 (Sub-No. 27TA), filed August 15, 1977. Applicant: NORTHWEST TRANSPORT SERVICE, INC., 5231 Monroe St., Denver, Colo. 80216. Applicant's representative: Leslie R. Kehl, Suite 1600, Lincoln Center Bldg., 1660 Lincoln St., Denver, Colo. 80264. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except household goods as defined by the Commission, between Boise, Pocatello, Idaho Falls and Blackfoot, Idaho, on the one hand, and, on the other, points in the Idaho Counties of Washington, Payette, Gem, Canyon, Ada, Boise, Elmoore, Owyhee, Gooding, Twin Falls, Lincoln, Jerome, Minidoka, Cassia, Power, Oneida, Bannock, Bingham, Caribou, Franklin, Bear Lake, Bonneville, Jefferson, Madison and Fremont, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: There are approximately one-hundred and seventy-four (174) statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Sent protests to: District Supervisor Roger L. Buchanan, Interstate Commerce Commission, 721 19th St., 492 U.S. Customs House, Denver, Colo. 80202.

No. MC 51146 (Sub-No. 519TA), filed August 19, 1977. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, Wis. 54306. Applicant's representative: Neil A. DuJarden, (Same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal containers and metal container ends*, from Memphis, Tenn., to Nashua, N.H., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): American Can Co., 915 Harger Rd., Oak Brook, Ill. 60521. (W. A. Frazier) Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Ave., Room 619, Milwaukee, Wis. 53202.

No. MC 51146 (Sub-No. 520TA), filed August 17, 1977. Applicant: SCHNEIDER TRANSPORT INC., P.O. Box 2298, Green Bay, Wis. 54306. 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: *Cellulose wood fiber insulation, materials, equipment, supplies, machinery parts and accessories* thereto utilized in the manufacture, production, packaging, installation, and distribution of cellulose wood fiber insulation, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): U.S. Fiber Corp., 101 S. Main, Delphos, Ohio 45833. (Lowell R. Weaner) Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Ave., Room 619, Milwaukee, Wis. 53202.

No. MC 69492 (Sub-No. 59TA), filed August 16, 1977. Applicant: HENRY EDWARDS, d.b.a., HENRY EDWARDS TRUCKING CO., P.O. Box 97, Clinton, Ky. 42031. Applicant's representative: Roland M. Lowell, 618 United American Bank Bldg., Nashville, Tenn. 37219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages, related advertising materials and empty containers and pallets*, between Detroit, Mich., and Flat River, Mo., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Ozark Hill Distributing Co., 211 Reuter St., Flat River, Mo. 63601. Send protests to: Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, Suite 2006, 100 North Main Building, 100 North Main St., Memphis, Tenn. 38103.

No. MC 89697 (Sub-No. 34TA), filed August 11, 1977. Applicant: KRAJACK TANK LINES, INC., 480 Westfield Ave., Roselle Park, N.J. 07204. Applicant's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Liquid *adhesives*, in bulk, in talk vehicles, from Mill Hall, Pa., to Painesville, Ohio, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Avery International, 415 Huntington Dr., San Marino, Calif. 91108. Send protests to: Robert E. Johnston, District Supervisor, Interstate Commerce Commission, 9 Clinton St., Newark, N.J. 07102.

No. MC 107151 (Sub-No. 26TA), filed August 16, 1977. Applicant: H. F. JOHNSON, INC., P.O. Box 1435, 1524 Lockwood Rd., Billings, Mont. 59103. Applicant's representative: Hibbs, Sweeney & Colberg, 175 North 27th St., Billings, Mont. 59101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *No. 6 fuel oil and coal spray oil*, in bulk, in tank vehicles, from Billings, Mont., to the West Delcker coal mine in Big Horn County, Mont., via Sheridan County, State of Wyo., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Jerry R. Smith Plant Superintendent, Decker Coal Co., P.O. Box 12, Decker, Mont. 59025. Send protests to: Paul J. Labane District Supervisor, Interstate Commerce Commission, 2602 First Avenue North, Billings, Mont. 59101.

No. MC 107544 (Sub-No. 140TA), filed August 17, 1977. Applicant: LEMMON TRANSPORT CO., INC., P.O. Box 580, Marion, Va. 24354. Applicant's representative: Daryl J. Henry, P.O. Box 580, Marion, Va. 24354. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prophyllite*, in bulk, in tank vehicles, from Robbins, N.C., to Roanoke, Va., for 180 days. Supporting shipper(s): Dragon Chemical Corp. P.O. Box 7311, Roanoke, Va. 24019. Send protests to: Danny R. Beeler District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 210, Roanoke, Va. 24011.

No. MC 119789 (Sub-No. 366TA), filed August 10, 1977. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 6188, Dallas, Tex. 75222. Applicant's representative: James K. Newbold, Jr., P.O. Box 6188, Dallas, Tex. 75222. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt liquor and related packing supplies and dunnage*, between Fort Worth, Tex., and Milwaukee, Wis.; (2) *malt liquor*, from Fort Worth, Tex., to points in Illinois, Louisiana, and Miss., for 180 days. Supporting shipper(s): Miller Brewing Co., 4000 West State St., Milwaukee, Wis. 53208. Send protests to: Opal M. Jones, Interstate Commerce Commission, 1100 Commerce St., Room 13C12, Dallas, Tex. 75242.

No. MC 119974 (Sub-No. 69TA) (Correction), filed June 1, 1977, published in the FEDERAL REGISTER issue of June 22, 1977, and republished, as corrected this issue. Applicant: L.C.L. TRANSIT CO., 949 Advance St., Green Bay, Wis. 54305. Applicant's representative: L. F. Abel, P.O. Box 949, Green Bay, Wis. 54305. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid sugar and blends thereof*, from the facilities of Am-

star Corp. and SuCrest Corp. at Chicago, Ill., to Columbia, Flat River, Malden, Memphis and Warreton, Mo.; and to Osceola, Oskaloosa and Pella, Iowa, for 180 days. Supporting shipper(s): (1) Amstar Corp., 2905 South Western Ave., Chicago, Ill. (E. J. Zglobicki, District Traffic Manager), (2) SuCrest Corp., 330 East North Water St., Chicago, Ill. 60611 (Richard L. Dorsch, Traffic Manager). Send protests to: Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Ave., Room 619, Milwaukee, Wis. 53202. The purpose of this republication is to include the rest of the territorial description.

No. MC 120427 (Sub-No. 4TA), filed July 27, 1977. Applicant: WILLIAMS TRANSFER, INC., P.O. Box 34, Adams, Nebr. 68301. Applicant's representative: John K. Walker, P.O. Box 488, Grand Island, Nebr. 68801. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Grain storage, drying and handling equipment, and iron and steel articles*, (1) between Grand Island, Nebr.; Webster City, Iowa, and Crawfordsville, Ind.; and (2) from the points mentioned above to Lewisville, and Greenfield, Idaho, Camilla, Ga., and Fairfield, Mont. and Firth, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Don R. Reimer, Jr., Modern Farm Systems, Inc., 2928 E. Highway 30, Grand Island, Nebr. 68801. Send protests to: Max H. Johnson, District Supervisor, 285 Federal Building & Court House, 100 Centennial Mall North, Lincoln, Nebr. 68508.

No. MC 123069 (Sub-No. 18TA), filed August 15, 1977. Applicant: ALLER & SHARP, INC., 817 West 5th Ave., Columbus, Ohio 43212. Applicant's representative: Gregory A. Stayart, Singer & Sullivan, 10 South LaSalle St., Suite 1600, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt and salt products*, in packages, from Akron, Ohio, to points in Indiana and the Chicago, Ill., commercial zone, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Diamond Crystal Salt Co., 916 South Riverside Ave., St. Clair, Mich. 48079. Send protests to: Frank L. Calvary, District Supervisor, Interstate Commerce Commission, 220 Federal Bldg. & U.S. Courthouse, 85 Marconi Boulevard, Columbus, Ohio 43215.

No. MC 135684 (Sub-No. 50TA), filed August 11, 1977. Applicant: BASS TRANSPORTATION CO., INC., P.O. Box 391, Old Croton Rd., Flemington, N.J. 08822. Applicant's representative: Herbert Alan Dubin, 1819 H Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Confectioneries*, in vehicles equipped with mechanical refrigeration, from the facilities of E. J. Brach & Sons, Inc., at Chicago and Carold Stream, Ill., to points in Connecticut, Massachusetts, New Jersey, New York, Ohio and Pa., restricted to traffic originating at the above-named origins and destined to the above-named destination points, for 180 days. Supporting shipper(s): E. J. Brach & Sons, Inc. 4656 West Kinzie St., Chicago, Ill. 60644. Send protests to: District Supervisor, Interstate Commerce Commission, 428 East State St., Room 204, Trenton, N.J. 08608.

No. MC 136343 (Sub-No. 116TA) (Partial correction), filed July 18, 1977, published in the FEDERAL REGISTER issue of August 9, 1977, and republished as corrected this issue. Applicant: MILTON TRANSPORTATION, INC., P.O. Box 355, Milton, Pa. 17847. Applicant's representative: George A. Olsen, 69 Tonnele Ave., Jersey City, N.J. 07306.

NOTE.—The purpose of this partial correction is (1) to add the Supporting shipper: Weis Markets, Inc., P.O. Box 471, Sunbury, Pa. 17801; and (2) to add Send protests to: Charles F. Myers, P.O. Box 869, Harrisburg, Pa. 17108. The rest of the publication remains the same.

No. MC 136371 (Sub-No. 25TA), filed August 12, 1977. Applicant: CONCORD TRUCKING CO., INC., 1 Scout Ave., South Kearny, N.J. 07032. Applicant's representative: Steven J. Kalish, 1750 Pennsylvania Ave. NW., Washington, D.C. 20006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in or used by discount department stores (except foodstuffs and commodities in bulk), between the facilities of Gaylords National Corp., located at points in the New York, N.Y., commercial zone, as defined by the Commission, on the one hand, and, on the other hand, points in Alabama, Florida, Georgia, and North Carolina, under a continuing contract or contracts with Gaylords National Corp., of Secaucus, N.J., for 180 days. Supporting shipper: Gaylords National Corp., 10 Enterprise Ave., Secaucus, N.J. 07094. Send protests to: Robert E. Johnston, District Supervisor, Interstate Commerce Commission, 9 Clinton St., Newark, N.J. 07102.

No. MC 138438 (Sub-No. 18TA), filed August 12, 1977. Applicant: D. M. BOWMAN, INC., Route 9, Box 26, 15 East Oak Ridge Dr., Hagerstown, Md. 21740. Applicant's representative: Charles E. Creager, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, Md. 21740. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Scrap metals, residues, materials, equipment and supplies* used or useful for a recycling process, between Hagerstown, Md., and its commercial zone, on the one hand, and, on the other, points in the United States located in and east of the States of Wisconsin, Iowa, Missouri, Tennessee and Alabama, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Conservit, Inc. Box 1517, Hagerstown, Md. 21740. Send protests to: W. C. Hersman District Supervisor, Interstate Commerce Commission, 12th & Constitution Ave., N.W., Room 1413, Washington, D.C. 20423.

No. MC 140033 (Sub-No. 28TA), filed August 10, 1977. Applicant: COX REFRIGERATED EXPRESS, INC., 10606 Goodnight Lane, Dallas, Tex. 75220. Applicant's representative: D. Paul Stafford, Winkle & Wells, Suite 1125 Exchange Park, P.O. Box 45538, Dallas, Tex. 75245. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods* (unfrozen), from Belledeau and St. Francisville, La., to points in the states of Arizona, California, Colorado, Idaho, Illinois, Montana, New Mexico, Nevada, Oregon, Utah, Washington, Wyoming, and Wisconsin, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Joan of Arc Co., 2231 W. Altorfer Drive, Peoria, Ill. 61614. Send protests to: Opal M. Jones, Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, Tex. 75242.

No. MC 141742 (Sub-No. 3TA), filed August 10, 1977. Applicant: FLOWERS TRANSPORTATION, INC., P.O. Box B, Station A, Auburn, Calif. 95603. Applicant's representative: Randall M. Faccinto, Handler, Baker & Greene, 100 Pine Street, Suite 2550, San Francisco, Calif. 94111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber products*, (1) from Rocklin, Calif., to Phoenix and Tucson, Ariz.; and (2) from Cottonwood, Calif., to Salt Lake City, Utah, and Denver, Colo., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Rocklin Forest Products, Inc., P.O. Box 400, Roseville, Calif. 95678. The Nikkel Corp., 4243 Dominquez Road, Rocklin, Calif. 95677. Send protests to: William J. Huetig, District Supervisor, Interstate Commerce Commission, 203 Federal Bldg., 703 N. Plaza Street, Carson City, Nev. 89701.

No. MC 141776 (Sub-No. 16TA), filed July 28, 1977. Applicant: FOODTRAIN, INC., Spring and South Center Stations, Ringtown, Pa. 17967. Applicant's representative: L. Agnew Myers, Jr., Suite 407, Walker Building, 734 15th Street NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs and food products, not cold packed or frozen, candy and confectionary NOI; rack store displays NOI-KD-flat*, from Vineland, N.J., to points in the states of Arkansas, Illinois, Indiana, Kansas (east of Interstate 35 and U.S. 81), Kentucky, Louisiana, Michigan, Mississippi, Missouri, New York (west of Interstate 81 and Interstate 481), Ohio, Pennsylvania (west of U.S. 220), Tennessee, Texas (east of Interstate 35), and Wisconsin, for 180 days. Supporting shipper(s): Progresso Foods Corp., 500 Elmer Road, Vineland, N.J. 08360. Send protests to: Paul J. Kenworthy, District Supervisor, Interstate

Commerce Commission, Bureau of Operations, 314 U.S. Post Office Building, Scranton, Pa. 18503.

No. MC 143319 (Sub-No. 2TA), filed August 15, 1977. Applicant: IRISH RIDGE TRUCKING CO., Box 162, Philo, Ohio 43771. Applicant's representative: John A. Vuono, Wick, Vuono & Lavelle, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum rock*, in bulk, in dump vehicles, from the facilities of Michigan Gypsum Co. at or near Dundee, Mich., to the plantsites of Columbia Cement Co. at or near East Fultonham, Muskingum County, Ohio, and Southwestern Portland Cement Co. at or near Fairborn, Greene County, Ohio, under a continuing contract, or contracts, with Michigan Gypsum Co. of Saginaw, Mich., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers(s): Michigan Gypsum Co., 2840 Bay Road, Saginaw, Mich. 48606. Send protests to: Frank L. Calvary, District Supervisor, Interstate Commerce Commission, 220 Federal Building and U.S. Courthouse, 85 Marconi Boulevard, Columbus, Ohio 43215.

No. MC 143503 (Sub-No. 3TA), filed July 25, 1977. Applicant: MERCHANTS HOME DELIVERY SERVICE, INC., P.O. Box 5067, Oxnard, Calif. 93030. Applicant's representative: T. J. Brown, 223 Ciudad Bldg., Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture, new home furnishings, appliances, and accessories*, between the facilities of Evans Furniture Co. at or near Louisville, Ky., on the one hand, and, on the other, points in Harrison, Floyd, Clark, Scott, Jefferson, Washington, Orange, Crawford, and Perry Counties, Ind., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Evans Furniture Co., 4600 Shelbyville Road, No. 25 Shelbyville Road Plaza, St. Matthews, Ky. 40207. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321, Federal Building, 300 North Los Angeles Street, Los Angeles, Calif. 90012.

No. MC 143599TA, filed August 12, 1977. Applicant: CENLA CAB COMPANY, INC., 1401 Murray Street, Alexandria, La. 71301. Applicant's representative: Gregory S. Erwin, P.O. Box 906, Alexandria, La. 71301. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Safety valves, safety relief valves, forged steel-globe, gate, and check valves, not exceeding 1,000 pounds*, from the plantsite and facilities of Dresser Industrial Valve and Instrument at or near Alexandria, La., to points in Alabama, Arkansas, Mississippi, Oklahoma, Tennessee, and Texas, under a continuing contract, or contracts, with Dresser Industrial Valve & Instrument Corp., for 180 days. Supporting shipper(s): Dresser Industrial Valve & Instrument Corp., P.O. Box 1430, Alexandria, La. 71301. Send protests to: Ray C. Armstrong, Jr., District Supervisor, 701 Loyola Avenue, 9038 Federal Bldg., New Orleans, La. 70113.

No. MC 143601TA, filed August 15, 1977. Applicant: TRANS COASTAL CORP., P.O. Box 116W, 10 Frankwood Drive, Winslow, Maine 04902. Applicant's representative: Peter L. Murray, 30 Exchange Street, Portland, Maine 04111. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Antique furniture, lamp fixtures, lead glass windows and mirrors, glassware, clocks, crockery, and picture frames* (at least 50 years old), from warehouse of Oregon Trail Antiques, Inc., at Fairfield, Maine, to warehouse of Oregon Trail Antiques, Inc. at Venita, Oreg., under a continuing contract, or contracts, with Oregon Trail Antiques, Inc. for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Oregon Trail Antiques, Inc., 1825 Grant Street, Eugene, Oreg. 97405. Send protests to: Donald G., Weiler, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 307, 76 Pearl Street, Portland, Maine 04111.

PASSENGER APPLICATION

No. MC 143604TA, filed August 16, 1977. Applicant: M.J.M., INC., doing business as WILMINGTON-ATLANTIC CITY SHUTTLE, Suite B-8, 2018 Naamans Road, Wilmington, Del. 19810. Applicant's representative: Martin P. Londergan (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and baggage of passengers*, on regularly scheduled, as well as special round trips, by either 10-12 passenger vans or station wagons, in both directions directly between all points within the territory of northern New Castle County, Del. (an area bounded on the north, east, and west by the boundaries of New Castle County and on the south by the Chesapeake and Delaware) and the entire area comprising the city of Atlantic City, N.J., over the following routes: (1) via the Delaware Memorial Bridge and Route 40 or (2) via the Commodore Barry Bridge and Route 322 to Atlantic City, N.J., and return, for 180 days. Supporting shippers: There are approximately seven (7) statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Monica A. Blodgett, Transportation Assistant, Interstate Commerce Commission, 600 Arch Street, Room 3238, Philadelphia, Pa. 19106.

By the Commission.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc.77-26156 Filed 9-7-77;8:45 am]

[NOTICE NO. 110TA]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

SEPTEMBER 2, 1977.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 109724 (Sub-No. 4TA), filed August 18, 1977. Applicant: PAUL J. SCHMIT, d.b.a. PAUL J. SCHMIT TRUCKING, 17755 Bedford Drive, Brookfield, Wis. 53005. Applicant's representative: Wm. C. Dineen, 710 N. Plankinton Avenue, Milwaukee, Wis. 53203. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Sand*, in bulk, from Marinette, Wis., to points in the Upper Peninsula of Mich., under a continuing contract, or contracts, with Lake Shore Sand & Stone Division of Construction Agreegates Corp., for 180 days. Supporting shipper(s): Lake Shore Sand & Stone Division of Construction Agreegates Corp., 515 West Canal Street, Milwaukee, Wis. 53203 (James D. Cooper). Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wis. 53202.

No. MC 110563 (Sub-No. 207TA), filed August 17, 1977. Applicant: COLDWAY FOOD EXPRESS, INC., P.O. Box 747, 113 N. Ohio Avenue, Ohio Building, Sidney, Ohio 45365. Applicant's representa-

tive: Victor J. Tambascia (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen prepared foods*, from the plantsites and warehouse facilities of Banquet Foods Corp. located at or near Carrollton, Marshall, and Macon, Mo., to points in New Jersey, Massachusetts, New York, Connecticut, Maine, New Hampshire, Rhode Island, Vermont, Delaware, Maryland, Pennsylvania, and Washington, D.C., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Banquet Foods Corp., 100 N. Broadway, St. Louis, Mo. 63102. Send protests to: Keith D. Warner, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 313 Federal Office Bldg., 234 Summit Street, Toledo, Ohio 43604.

No. MC 111401 (Sub-No. 496TA), filed August 17, 1977. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Blvd., P.O. Box 632, Enid, Okla. 73701. Applicant's representative: Victor R. Comstock, P.O. Box 632, Enid, Okla. 73701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Industrial waste materials*, in bulk, in tank vehicles, from Olive Branch, Miss., to Tulsa, Okla., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): W. J. Lamberton Co., 2904 Fourth National Bank Bldg., Tulsa, Okla. 74119. Send protests to: Joe Green, District Supervisor, Room 240, Old Post Office Building, 215 NW. Third Street, Oklahoma City, Okla. 73102.

No. MC 112266 (Sub-No. 10TA), filed August 17, 1977. Applicant: CRAYCRAFT TRUCKING, INC., U.S. Route 30, Rte. No. 2, P.O. Box 267, Upper Sandusky, Ohio 43351. Applicant's representative: David A. Turano, George, Greek, King, McMahon & McConnaughey, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bricks*, from Upper Sandusky, Ohio, and points in Jefferson Township, Franklin County, Ohio, to points in Allegheny County, Pa., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Architectural Clay Products, Inc. 216 S. Highland Avenue, Pittsburgh, Pa. 15206. Send protests to: Keith D. Warner, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 313 Federal Office Building, 234 Summit Street, Toledo, Ohio 43604.

No. MC 115311 (Sub-No. 237TA), filed August 16, 1977. Applicant: J&M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, Ga. 31061. Applicant's representative: Kim G. Meyer, P.O. Box 872, Atlanta, Ga. 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt and salt products*, from Akron, Ohio, to points in North Carolina, South Carolina, and Virginia, for 180 days. Supporting shipper(s): Diamond Crystal Salt Co., 916 South Riverside Avenue, St. Clair, Mich. 48079. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 W. Peachtree Street NW., Room 300, Atlanta, Ga. 30309.

No. MC 115311 (Sub-No. 238TA), filed August 18, 1977. Applicant: J&M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, Ga. 31061. Applicant's representative: Kim G. Meyer, P.O. Box 872, Atlanta, Ga. 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Mineral fibre, mineral fibre products, and insulating materials*, from the facilities of the U.S. Gypsum Co., at Birmingham, Ala., to Arkansas, Georgia, Florida, Kentucky, Louisiana, Missouri, North Carolina, South Carolina, Tennessee, Texas, Oklahoma, and Virginia, for 180 days. Supporting shipper(s): U.S. Gypsum Co., 101 South Wacker Drive, Chicago, Ill. 60606. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 W. Peachtree Street NW., Room 300, Atlanta, Ga. 30309.

No. MC 116073 (Sub-No. 363TA), filed August 17, 1977. Applicant: BARRETT MOBILE HOME TRANSPORT, INC., 1825 Main Avenue, P.O. Box 919, Moorhead, Minn. 56560. Applicant's representative: John C. Barrett, P.O. Box 919, Moorhead, Minn. 56560. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Buildings*, complete or in sections, in initial movement, from Morris, Minn., to points and places in the states of Nebraska, Nort Dakota, and South Dakota, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Trademark Homes of Minnesota, Inc., South Highway 59, Morris, Minn. 56267. Send protests to: Ronald R. Mau, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 2340, Fargo, N. Dak. 58102.

No. MC 116110 (Sub-No. 17TA), filed August 16, 1977. Applicant: P. C. WHITE TRUCK LINE, INC., P.O. Box 1488, Murray Road, Dothan, Ala. 36301. Applicant's representative: Bruce E. Mitchell, Serby & Mitchell, 3379 Peachtree Road NE., Suite 375, Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Brass plumbing fixtures*, from the plantsite and warehouse facilities of Price-Pfister (Suby. of Morris Industries), at or near Pacoima, Calif., to points in Texas, New Mexico, Louisiana, Mississippi, Alabama, Georgia, Florida, Missouri, Kansas, Indiana, Illinois, Ohio, Pennsylvania, New Jersey, and New York, for 180 days. Supporting shipper(s): Price-Pfister, 13500 Paxton Street, Pacoima, Calif. 91331. Send protests to: Mabel E. Holston, Transportation Assistant,, Bureau of Operations, Interstate Commerce Commission, Room 1616—2121 Building, Birmingham, Ala. 35203.

No. MC 116254 (Sub-No. 184TA), filed August 16, 1977. Applicant: CHEM-HAULERS, INC., P.O. Box 339, Florence, Ala. 35630. Applicant's representative: Hampton M. Mills (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Acids and chemicals*, other than in bulk, from Birmingham, Ala., to points in Connecticut, Delaware, Georgia, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, West Virginia, and Wisconsin, for 180 days. Supporting shipper(s): Jim Walter Resources, Inc., 3300 First Avenue, North, Birmingham, Ala. 35202. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Room 1616—2121 Building, Birmingham, Ala. 35203.

No. MC 116880 (Sub-No. 7TA), filed August 18, 1977. Applicant: WALTER D. DAVIS, INC., Box 339, Houlton, Maine 04730. Applicant's representative: Peter L. Murray, 30 Exchange Street, Portland, Maine 04111. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Citrus juices*, in bottles in less than truck-load quantities as part of mixed loads with exempt commodities from points in the Boston, Mass., metropolitan area to Houlton and Calais, on the United States-Canadian boundary line, to points of destination in New Brunswick, under a continuing contract, or contracts, with Atlantic Wholesalers for 180 days. Supporting shipper(s): Atlantic Wholesalers, Fourt Charlotte Street, Sackville, New Brunswick, EOA 3CO. Send protests to: Donald G. Weiler, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 307, 76 Pearl Street, Portland, Maine 04111.

No. MC 118811 (Sub-No. 6TA), filed August 18, 1977. Applicant: McKENZIE TRUCKING SERVICE, d.b.a., LAWRENCE McKENZIE, Route 5, Box 111, Winchester, Ky. 40391. Applicant's representative: William L. Willis, 708 BcClure Building, Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Scrap metal*, in dump vehicles, from points and places in Kanawha, Putnam and Wood Counties, W. Va., to the plantsites of Kentucky Electric Steel Co., located at or near Ashland, Ky., and Mansbach Metal Co., located at or near Ashland, Ky., for 180 days. Supporting shipper(s): Kentucky Electric Steel Co., Mansbach Metal Co., P.O. Box 1179, Ashland, Ky. 41101. Send protests to: Linda H. Sypher, District Supervisor, Room 216 Bakhaus Building, 1500 West Main St., Lexington, Ky. 40505.

No. MC 119872 (Sub-No. 14TA), filed August 17, 1977. Applicant: GULF TRANSPORT, LIMITED, 16 Exhibition Drive, P.O. Box 1507, Charlottetown, Prince Edward Island, Canada. Applicant's representative: Kenneth B. Williams, 84 State St., Boston, Mass. 02109. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen carrots*, from the International boundary between the United States and Canada at or near Houlton and Calais, Maine to Red Hook, Marlboro and New York, N.Y., Jersey City, N.J., and Trappe, Md., restricted to traffic originating at the plant site of Oxford Frozen Foods, Ltd., Oxford, Nova Scotia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Oxford Frozen Foods, Ltd., P.O. Box 220, Oxford, Nova Scotia. Send protests to: Donald G. Weiler, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 307, 76 Pearl St., Portland, Me. 04111.

No. MC 123819 (Sub-No. 44TA), filed August 19, 1977. Applicant: ACE FREIGHT LINE, INC., 3359 Cazassa Rd., P.O. Box 16589, Memphis, Tenn. 38116. Applicant's representative: A. Doyle Cloud, Jr., 2008 Clark Tower, 5100 Poplar Ave., Memphis, Tenn. 38137. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Molasses, liquid feed and liquid feed supplements*, in bulk, in tank vehicles, from Memphis, Tenn., to points in Missouri, Illinois, Indiana, and Kentucky, for 180 days. Supporting shipper(s): Cargill, Inc., P.O. Box 9300, Minneapolis, Minn. 55440. Send protests to: Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, 100 North Main Building, Suite 2006, 100 North Main St., Memphis, Tenn. 38103.

No. MC 123819 (Sub-No. 45TA), filed August 19, 1977. Applicant: ACE FREIGHT LINE, INC., 3359 Cazassa Rd., P.O. Box 16589, Memphis, Tenn. 38116. Applicant's representative: A. Doyle Cloud, Jr., 2008 Clark Tower, 5100 Poplar Ave., Memphis, Tenn. 38137. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper*, from Pensacola, Fla.; Houma, La.; Monroe, La.; Bernice, La.; Crossett, Ark.; Houston, Tex.; Monticello, Miss.; and Chargins Falls, Ohio, and their commercial zones, to Yazoo City, Miss., for 180 days. Supporting shipper(s): Southern Big Division of Masonite Corp., Box 389, Yazoo City, Miss. Send protests to: Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, 100 North Main Building, Suite 2006, 100 North Main St., Memphis, Tenn. 38103.

No. MC 123819 (Sub-No. 46TA), filed August 19, 1977. Applicant: ACE FREIGHT LINE, INC., 3359 Cazassa Rd., P.O. Box 16589, Memphis, Tenn. 38116. Applicant's representative: A. Doyle Cloud, Jr., 2008 Clark Tower, 5100 Poplar Ave., Memphis, Tenn. 38137. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fish meal*, from Empire, La., to Port Arthur, Tex., for 180 days. Supporting shipper(s): Petrou Fisheries, Inc., P.O. Box 128, Empire, La. Send protests to: Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, 100 North Main Bldg., Suite 2006, 100 North Main St., Memphis, Tenn. 38103.

No. MC 124328 (Sub-No. 115TA), filed August 15, 1977. Applicant: BRINK'S, INC., One Crossroads of Commerce Corner, Suite 710, Algonquin Road at Rte. 53, Chicago, Ill. 60008. Applicant's representative: William Gambone, (Same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Precious metal, scrap and sweeps*, between Chicago, Ill., on the one hand, and, on the other, Detroit, Mich., points in New Jersey, points in New York, points in Pennsylvania and points in Connecticut, under a continuing contract, or contracts, with Simmons Refining Co. for 180 days. Supporting shipper(s): Simmons Refining Co., Ellis H. Brown, President, 4105 W. Chicago Ave., Chicago, Ill. 60651. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 S. Dearborn St., Room 1386, Chicago, Ill. 60604.

No. MC 124947 (Sub-No. 69TA), filed August 15, 1977. Applicant: MACHINERY TRANSPPORT, INC., 608 Cass St., P.O. Box 2338, East Peoria, Ill. 61611. Applicant's representative: David J. Lister, 1945 South Redwood Rd., Salt Lake City, Utah 84104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Particleboard, lumber and lumber mill products*, from Navajo, N. Mex., to Illinois, Indiana, and Michigan, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Navajo Forest Products Industries, P.O. Box 1280, Navajo, N. Mex. 87328. Send protests to: Joe Green, District Supervisor, Interstate Commerce Commission, Room 240 Old Post Office Bldg., 215 N.W. Third St., Oklahoma City, Okla. 73102.

No. MC 125023 (Sub-No. 48TA), filed August 15, 1977. Applicant: SIGMA-4 EXPRESS, INC., 3825 Beech Ave., P.O. Box 9117, Erie, Pa. 16504. Applicant's representative: Richard G. McCurdy, (Same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, in containers, from Monroe, Wis., to points in North Carolina, South Carolina, Virginia and W. Va., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Joseph Huber Brewing Co., 1208 14th Ave., Monroe, Wis. 53566. Send protests to: John J. England, District Supervisor, Interstate Commerce Commission, 2111 Federal Bldg., 1000 Liberty Ave., Pittsburgh, Pa. 15222.

No. MC 126276 (Sub-No. 184TA), filed August 15, 1977. Applicant: FAST MOTOR SERVICE, INC., 9100 Plainfield Rd., Brookfield, Ill. 60513. Applicant's representative: Albert A. Andrin, 180 N. La Salle St., Chicago, Ill. 60601. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Metal containers and metal container ends*, from the plantsite of American Can Co. at Memphis, Tenn., to Nashua, N.H., under a continuing contract, or contracts, with American Can Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): American Can Co., William Frazier Transportation Coordinator, 915 Harger Road, Oak Brook, Ill. 60521, send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 S. Dearborn St., Room 1386, Chicago, Ill. 60604.

No. MC 127283 (Sub-No. 15TA), filed August 15, 1977. Applicant: SILICA SAND TRANSPORT, INC., P.O. Box 208, Routes 47 and 71, Yorkville, Ill. 60560. Applicant's representative: Albert A. Andrin, 180 N. La Salle St., Chicago, Ill. 60601. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Filter sand*, in bags, fom Muscatine, Iowa to Deer Park, Tex., under a continuing contract, or contracts, with Bos Sand Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Bos Sand Co., Harold Bos, Owner, 9500 S. Avers, Evergreen Park, Ill. 60642. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 S. Dearborn St., Room 1386, Chicago, Ill. 60604.

No. MC 129897 (Sub-No. 5TA), filed August 18, 1977. Applicant: M.S.B.P., INC., P.O. Box 904, Council Bluffs, Iowa 51501. Applicant's representative: Gailyn L. Larsen, Peterson, Bowman, Coffman & Larsen, 521 South 15th Street, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Tankage and meat scraps*, from Denver and Greeley, Colo., to points in Missouri, Nebraska, and Iowa, under a continuing contract, or contracts, with Mid-States By-Products Co. for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Clyde Huddle, president, Mid-States By-Products Co., P.O. Box 7177, Omaha, Nebr. 68107. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, Nebr. 68102.

No. MC 136315 (Sub-No. 22TA), filed August 19, 1977. Applicant: OLEN BURRAGE TRUCKING, INC., Route 9, Box

22-A, Philadelphia, Miss. 39350. Applicant's representative: Fred W. Johnson, Jr., 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, Miss. 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum wallboard*, from the facilities of Weyerhaeuser Co., at Briar, Ark., to points in Alabama, Kentucky, Louisiana, Mississippi, and Tennessee, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Weyerhaeuser Co., P.O. Box 1060, Hot Springs, Ark. 71901. Send protests to: Alan C. Tarrant, District Supervisor, Interstate Commerce Commission, Room 212, 145 East Amite Building, Jackson, Miss. 39201.

No. MC 136605 (Sub-No. 29TA), filed August 15, 1977. Applicant: DAVIS BROS. DIST., INC., P.O. Box 9058, 2024 Trade Street, Missoula, Mont. 59807. 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: *Flour glue extender*, in bags or sacks, from Great Falls, Mont., to points in Washington, Oregon, Idaho, and California (excluding Portland, Oreg., and Seattle, Wash., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Gregory H. Schmidt, president, Manzanita International, Inc., 207 S.E. Clay, Portland, Oreg. 97208. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, 2602 First Avenue North, Billings, Mont. 59101.

No. MC 139495 (Sub-No. 260TA), filed August 18, 1977. Applicant: NATIONAL CARRIERS, INC., P.O. Box 1358, 1501 East 8th Street, Liberal, Kans. 67901. Applicant's representative: Herbert Alan Dubin, Sullivan, Dubin & Kingsley, Suite 1030, 1819 H Street, NW., Washington, D.C., 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Crayon plaster* (except in bulk, in tank vehicles), from Blue Rapids, Kans., to Easton, Pa., and (2) *Corrugated cases*, from Baltimore, Md., to Winfield, Kans., for 180 days. Supporting shipper(s): Binney & Smith, Inc., 1100 Church Lane, P.O. Box 431, Easton, Pa. 18042. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, Suite 101, Litwin Building, Wichita, Kans. 67202.

No. MC 139713 (Sub-No. 5TA), filed August 16, 1977. Applicant: DONALD M. NASS, d.b.a. DON NASS TRUCKING, 136 High Street, Clinton, Wisc. 53525. Applicant's representative: Nancy J. Johnson, 4506 Regent Street, Madison, Wis. 53705. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Newport, Ky., to Beloit, Wis., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Beloit Beverage Co., 408 Colby Street, Beloit, Wis. 53511. Send protests to: Ronald A. Morken, District Supervisor, Interstate Commerce Commission, 139 W. Wilson Street, Room 202, Madison, Wis. 53703.

By the Commission.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc.77-26157 Filed 9-7-77;8:45 am]

[Volume No. 33]

PETITIONS, APPLICATIONS, FINANCE MATTERS (INCLUDING TEMPORARY AUTHORITIES), RAILROAD ABANDONMENTS, ALTERNATE ROUTE DEVIATIONS, AND INTRASTATE APPLICATIONS.

September 2, 1977.

Petitions for Modification, Interpretation, or Reinstatement of Operating Rights Authority

NOTICE

The following petitions seek modification or interpretation of existing operating rights authority, or reinstatement of terminated operating rights authority.

The Commission has recently provided for easier identification of substantive petition matters and all documents should clearly specify the "docket", "sub", and "suffix" (e.g. M1, M2) numbers identified by the Federal Register notice.

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.

No. MC 921 (Sub-No. 22), M1, filed July 25, 1977. (Notice of filing of petition to eliminate restriction). Petitioner: DEAN TRUCK LINE, INC., P.O. Box 631, Corinth, Miss. 38834, representative: A. Doyl Cloud, Jr., 2008 Clark Tower, 5100 Popular Ave., Memphis, Tenn. 38127. Petitioner holds a motor *common carrier* Certificate in No. MC 921 (Sub-No. 22), issued December 11, 1975, authorizing transportation, over regular routes, *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):

(1) Between Birmingham, Ala., and Red Bay, Ala., as an alternate route for operating convenience only in connection with carrier's otherwise authorized regular-route operations, serving all intermediate points in Mississippi: From Birmingham over U.S. Highway 78 to Tupelo, Miss., thence over U.S. Highway 45 to Corinth, Miss., thence over U.S. Highway 72 to Iuka, Miss., thence over Mississippi Highway 25 to Belmont, Miss., thence over Mississippi Highway 366 to the Alabama-Mississippi State Line, thence over Alabama Highway 19 to Red Bay, and return over the same route.

(2) Between Belmont, Miss., and Fulton, Miss., as an alternate route for operating convenience only in connection with carrier's otherwise authorized regular-route operations, serving no intermediate points: From Belmont over Mississippi Highway 25 to Fulton, and return over the same route.

(3) Between Tremont, Miss., and Red Bay, Ala., as an alternate route for operating convenience only in connection with carrier's otherwise authorized regular-route operations, serving no intermediate points: From Tremont over Mississippi Highway 23 to the Alabama-Mississippi State Line, thence over Alabama Highway 24 to Red Bay, and return over the same route.

(4) Between Winfield, Ala., and Hackleburg, Ala., as an alternate route for operating convenience only in connection with carrier's otherwise authorized regular-route operations, serving no intermediate points; and serving Hackleburg for purposes of joinder only: From Winfield over Alabama Highway 57 to junction Alabama Highway 44, thence over Alabama Highway 44 to junction Alabama Highway 45, thence over Alabama Highway 45 to junction Alabama Highway 49, thence over Alabama Highway 49 to Hackleburg, and return over the same route.

(5) Between Hackleburg, Ala., and Red Bay, Ala., as an alternate route for operating convenience only in connection with carrier's authorized regular-route operations, serving no intermediate points; and serving Hackleburg for purposes of joinder only: From Hackleburg over Alabama Highway 172 to junction Alabama Highway 19, at or near Vina, Ala., thence over Alabama Highway 19 to Red Bay, Ala., and return over the same route.

(6) Between Hamilton, Ala., and Hackleburg, Ala., as an alternate route for operating convenience only in connection with carrier's authorized regular-route operations, serving no intermediate points: From Hamilton over U.S. Highway 43 to Hackleburg, and return over the same route.

(7) Between Birmingham, Ala., and Iuka, Miss., as an alternate route for operating convenience only in connection with carrier's authorized regular-route operations, serving no intermediate points: From Birmingham over U.S. Highway 31 to junction Alabama Highway 157, thence over Alabama Highway 157 to junction U.S. Highway 72 south of Muscle Shoals, Ala., thence over U.S. Highway 72 to Iuka, and return over the same route.

[1] Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

The authority granted above may not be tacked or joined with, any other authority now held by carrier.

By the instant Petition, Petitioner seeks to delete the restriction "the authority granted above may not be tacked or joined with, any other authority now held by carrier."

No. MC 129455 and (Sub-Nos. 2, 5 and 6)M1 (Correction) (Notice of Filing of Petition to Broaden Commodity Description and Add Origin Points), filed June 13, 1977, as published in the FEDERAL REGISTER issue of August 18, 1977, and republished, as corrected, this issue. Petitioner: CARRETTA TRUCKING INC., 301 Mayhill Street, Saddle Brook, N.J. 07662. Petitioner's representative: Martin M. Geffon, P.O. Box 154, Willingboro, N.J. 08046. Petitioner holds motor *contract carrier* Permits in No. MC 129455 and (Sub-Nos. 2, 5 and 6) issued July 10, 1970, November 10, 1969, September 27, 1974 and November 11, 1975, respectively, authorizing transportation in (1) No. MC 129455, as pertinent, over irregular routes, of *Materials and supplies* used in the manufacture of swimming pools and garden sheds, from St. Louis, Mo., and Bakerstown, Pa., to Paterson, N.J., and the plant site of Quaker City Industries at Carlstadt, N.J., with no transportation for compensation on return except as otherwise authorized. Restriction: The operation authorized herein are limited to a transportation service to be performed, under a continuing contract, or contracts, with Quaker City Industries of Carlstadt, N.J. (2) in MC 129455 (Sub-No. 2), as pertinent, over irregular routes of *Steel coils*, from McKeesport, Pa., to Paterson, N.J., with no transportation for compensation on return except as otherwise authorized. Restriction: The operations authorized herein are limited to a transportation service to be performed, under a continuing contract, or contracts with Quaker City Industries, Inc., of Carlstadt, N.J.; (3) in No. MC 129455 (Sub-No. 5), over irregular routes, of *Steel* used in the manufacturer of garden sheds, (a) from Youngstown, Ohio, to Saddle Brook, N.J., with no transportation for compensation on return except as otherwise authorized; (b) from Wheeling, W. Va., to Lyndhurst and Saddle Brook, N.J., with no transportation for compensation on return except as otherwise authorized. Restriction: The operations authorized herein are limited to a transportation service to be performed under a continuing contract, or contracts, with Quaker City Industries, Inc.; (4) in MC 129455 (Sub-No. 6), over irregular routes of (A) *Steel* used in the manufacture of garden sheds, (1) from Yorkville, Ohio, to Lyndhurst and Saddle Brook, N.J., and Allentown and Morrisville, Pa., with no transportation for compensation on return except as otherwise authorized; and (2) from Morrisville and Allentown, Pa., to Saddle Brook, N.J., with no transportation for compensation on return except as otherwise authorized; (B) *Steel*, in coils, from Philadelphia, Pa., to Allentown, Pa., and Lyndhurst and Saddle Brook, N.J., with no transportation for compensation on return except as otherwise authorized. Restriction: The operations authorized herein are limited to a transportation service to be performed under a continuing contract, or contracts, with Quaker City Industries, Inc., of Carlstadt, N.J. By the instant petition, petitioner seeks to include *materials and supplies used in the manufacture of swimming pools and garden sheds* and to add the origins points of Pennsylvania, West Virginia and Ohio, in the above-named authorities, under a continuing contract, or contracts, with Quaker City Industries, Inc., of Saddle Brook, N.J. The purpose of this correction is to clarify administrative matters in assigning the docket No. MC 129455 and (Sub-Nos. 2, 5 and 6) M1.

No. MC 129455 and (Sub-Nos. 2 and 3)M2 (Correction) (Notice of Filing of Petition to Broaden Commodity Description), filed June 20, 1977, as published in the FEDERAL REGISTER issue of August 18, 1977, and republished, as corrected, this issue. Petitioner: CARRETTA TRUCKING, INC., 301 Mayhill Street, Saddle Brook, N.J. 07662. Petitioner's representative: Martin M. Geffon, P.O. Box 154, Willingboro, N.J. 08046. Petitioner holds motor *contract carrier* Permits in No. MC 129455 and (Sub-Nos 2 and 3), issued July 10, 1970, November 10, 1969, and March 23, 1972, respectively, authorizing transportation (1) in No. MC 129455 as pertinent, over irregular routes, of *Swimming pools, garden sheds, and radiator enclosures*, from Paterson, N.J., and the plantsite of Quaker City Industries located at Carlstadt, N.J., to points in Arkansas, California, Illinois, Indiana, Kentucky, Michigan, Minnesota, Missouri, New York, Ohio, Oklahoma, Virginia (except Arlington and Fairfax Counties), and those points in that part of Pennsylvania west of the Susquehanna River, under a continuing contract, or contracts with Quaker City Industries of Carlstadt, N.J.; (2) in No. MC 129455 (Sub-No. 2) as pertinent over irregular routes, of *swimming pools, garden sheds, and radiator enclosures*, from Carlstadt and Paterson, N.J., to points in Georgia, Florida, South Carolina, North Carolina, Maryland, Delaware, Connecticut, Rhode Island, Massachusetts, Washington, Colorado, Utah, Arizona, Texas, Louisiana, Wisconsin, Tennessee, the District of Columbia, points in Arlington and Fairfax Counties, Va., and points in that part of Pennsylvania east of the Susquehanna River, under a continuing contract or contracts with Quaker City Industries, Inc., of Carlstadt, N.J.; and (3) in No. MC 129455 (Sub-No. 3), over irregular routes, of: *swimming pools, garden sheds, and radiator enclosures*, from Paterson, Carlstadt, and Saddle Brook, N.J., to points in Alabama, Idaho, Iowa, Kansas, Maine, Mississippi, Montana, Nebraska, Nevada, New Hampshire, New Mexico, North Dakota, Oregon, South Dakota, Vermont, West Virginia, and Wyoming, under a continuing contract or contracts with Quaker City Industries, Inc., of Saddle Brook, N.J. By the instant petition, petitioner seeks to broaden the commodity description of all three of the above Permits to include "redwood products." The purpose of this correction is to clarify administrative matters in assigning the docket No. MC 129455 and (Sub-Nos. 2 and 3)M2 in lieu of No. MC 129455 and (Sub-Nos. 2 and 3) M1.

REPUBLICATIONS OF GRANTS OF OPERATING RIGHTS AUTHORITY PRIOR TO CERTIFICATION

NOTICE

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 a petition for leave to intervene in the proceeding must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such pleading 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 copies of intervenor's conflicting authorities and a concise statement of intervenor's interest in the proceeding setting forth in detail the precise manner in which it has been prejudiced by lack of notice of the authority granted. A copy of the pleading shall be served concurrently upon the carrier's representative, or carrier if not representative is named.

No. MC 119395 (Sub-No. 2) (Republication) (Notice of Filing of Petition to Modify Permit), filed November 30, 1976, published in the FEDERAL REGISTER issue of December 30, 1976, and republished this issue. Petitioner: WILLIAM'S CHEMICAL TRANSPORT, INC., 509 Lambson Lane, New Castle, Del. 19720. Petitioner's representative: E. Stephen Heisley, 805 McLachen Bank Building, 666 Eleventh Street NW., Washington, D.C. 20001. An Order of the Commission, Review Board Number 3, dated August 5, 1977, and served August 19, 1977, finds that modification of petitioner's Permit No. MC 119395 (Sub-No. 2), issued November 16, 1973 to read "(1) Drugs and chemicals, in containers, and materials, equipment, and supplies used in the manufacture and distribution of drugs and chemicals (except in bulk), between the facilities of ICI United States, Inc., at or near Newark, Del., on the one hand, and, on the other, points in Connecticut, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont and the District of Columbia; (2) drugs and chemicals, in containers, and materials, equipment, and supplies used in the manufacture and distribution of drugs and chemicals (except in bulk), from the facilities of ICI United States, Inc., at or near New Castle, Del., to points in Connecticut, Maine, Maryland (except Baltimore), Massachusetts, New Hampshire, New Jersey (except Trenton, Camden,

and points within 20 miles of New York, N.Y.), New York (except Beacon and points in the New York, N.Y., commercial zone, as defined by the Commission), Pennsylvania (except Ambler, Harrisburg, Philadelphia, Chester, Fernwood, and Marcus Hook), Rhode Island, and Vermont, and the District of Columbia; and (3) drugs and chemicals, in containers, and materials, equipment, and supplies used in the manufacture and distribution of drugs and chemicals (except in bulk), from points in the destination set forth in (2) above, including the excepted points, to the above described origin facilities in (1), (2), and (3) above under a continuing contract or contracts with ICI United States, Inc., of Wilmington, Del." will be consistent with the public interest and the national transportation policy; that petitioner is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. The purpose of this republication is to give notice of the broadening of the commodity description in (2) and (3) above in the modifications authorized to petitioner's Permit.

No. MC 126545 (Sub-No. 8) (Republication), filed January 14, 1976, published in the FEDERAL REGISTER issue of February 26, 1977, and republished this issue. Applicant: GLENERY, INC., 173 Hickory Street, Kearny, N. J. 07032. Applicant's representative: William J. Augello, 120 Main Street, P.O. Box Z, Huntington, N.Y. 11743. An Order by the Commission, Division 1, Acting as an Appellate Division, dated August 9, 1977, and served August 17, 1977, finds on reconsideration, that operation by applicant, in interstate or foreign commerce, as a *contract carrier* by motor vehicle, over irregular routes, of (1) *sanitary tissue paper*, from Milltown, N.J., to Holyoke, Mass., (2) *plastic film*, from Edison, N.J. to Holyoke, Mass., (3) *disposable surgical and clinical paper products*, from Holyoke, Mass. to New York, N.Y. and points in New Jersey and (4) *inter-office correspondence sales, accounting, and computer data*, and *materials, equipment* and *supplies* used in the manufacture, sale or distribution of sanitary paper products, between Milltown and Edison, N.J., on the one hand, and, on the other, Holyoke, Mass., in mixed loads with the commodities in (1), (2), and (3) above, under a continuing contract or contracts with Cel Fibe, a division of Johnson and Johnson, of Milltown, N.J., and Graham Manufacturing Co., a division of Cel Fibe, of Holyoke, Mass., will be consistent with the public interest and the national transportation policy; 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 the additional grant of authority in (4) above.

No. MC 128698 (Sub-No. 13) (Republication), filed September 21, 1976, published in the FEDERAL REGISTER issue of October 21, 1976, and republished this issue. Applicant: ERDNER BROTHERS, INC., Davidson Road, Swedesboro, N.J. 08085. Applicant's representative: Chester A. Zyblut, 366 Executive Bldg., 1030 15th St. NW., Washington, D.C. 20005. An Order of the Commission, Review Board Number 3, dated April 28, 1977, and served May 25, 1977, finds that operation by applicant, in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, in the transportation of *materials, supplies, and equipment* used in the manufacture and distribution of foodstuffs (except salt, glass bottles and commodities in bulk), from points in Delaware, New Jersey, New York, Ohio, Pennsylvania, Michigan, Virginia, West Virginia, and the District of Columbia to Salisbury, Md., and Downington, Pa., restricted to the transportation of shipments originating at the above-named origin points and destined to the facilities of Campbell Soup Company and Pepperidge Farm, Incorporated, at or near Salisbury, Md., and Downingtown, Pa.; 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 broaden the territorial description by the addition of Downingtown, Pa. as a destination point.

No. MC 138875 (Sub-No. 45) (Republication), filed February 16, 1977, published in the FEDERAL REGISTER issue of April 7, 1977, and republished this issue. Applicant: SHOEMAKER TRUCKING CO., a Corporation, 11900 Franklin Road, Boise, Idaho 83705. Applicant's representative: F. L. Sigloh (Same address as applicant). An Order of the Commission, Review Board Number 2, dated August 2, 1977, and served August 19, 1977, 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, in the transportation of *doors and door hardware*, from the plantsite of Jim Walter Doors, located at Lindenhurst, N.Y., and Williamsport, Pa., to points in California, Colorado, Idaho, Nevada, Oregon, Utah and Washington. Applicant is fit and willing and able properly to perform the granted service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to indicote the grant of authority of Lindenhurst N.Y. as an origin point in lieu of Lindenhurst, Pa. as originally published in the FEDERAL REGISTER.

No. MC 141241 (Sub-No. 1) (Republication), filed June 28, 1976, published in the FEDERAL REGISTER issue of August 5, 1976, and republished this issue. Applicant: PAUL BREWER, doing business as BREWER TRUCKING COMPANY, P.O. Box 1036, Dillon, S.C. 29536. Applicant's representative: William J. McLeod, 102 N. Third Avenue, Dillon, S.C. 29536. An Order of the Commission, Review Board Number 3, dated July 5, 1977, and served August 12, 1977, 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, in the transportation of (1) *furniture and plywood*, from the facilities of Dillon Furniture and Plywood Co., Inc., at Dillon, S.C., to points in Arkansas, Connecticut, Florida, Georgia, Illinois, Iowa, Mississippi, Missouri, New Jersey, North Carolina, Pennsylvania, Tennessee, Virginia, and Wisconsin, and (2) *tires, tubes, and related articles*, from points in Tennessee, Alabama, Ohio, and Oklahoma, to the facilities of Dillon Tire Service, Inc., at Dillon, S.C.; 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 give notice of the grant of common carrier authority in lieu of contract carrier authority, and also to give notice of the authority granted in (2) above.

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER OPERATING RIGHTS APPLICATIONS

NOTICE

The followng 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 to 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 particularly 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 not 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 2900 (Sub.-No. 311), filed August 3, 1977. Applicant: RYDER TRUCK LINES, INC., 2050 Kings Road, P.O. Box 2408, Jacksonville, Fla. 32203. Applicant's representative: S. E. Somers, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: General commodities (except household goods as defined by the Commission, commodities in bulk, commodities of unusual value and those requiring special equipment): Between the junction of U.S. Highway 41 and Interstate Highway 20 and the junction of U.S. Highway 75 and Interstate Highway 20 as an alternate route for operating convenience only; from junction U.S. Highway 41 and Interstate Highway 20 over Interstate Highway 20 to junction of U.S. Highway 75 and Interstate Highway 20, and return over the same route serving the termini and the junction of U.S. Highway 31 and Interstate Highway 20 for the purpose of joinder only.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Jacksonville, Fla., or Washington, D.C.

No. MC 2960 (Sub-No. 16), filed August 2, 1977. Applicant: ENGLAND TRANSPORTATION COMPANY OF TEXAS, (a corporation), 2301 McKinney Street, Houston, Tex. 77023. Applicant's representative: E. Larry Wells, P.O. Box 45538, Dallas, Tex. 75245. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting home furnishings, furniture and home accessories, crated, from the plantsite and storage facilities of Best Imports, Inc., located at Caldwell, Nacogdoches, Dallas, Fort Worth, and Odessa, Tex.; and Fort Smith, Ark., to Houston, Tex., restricted to traffic having a subsequent movement by water.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Dallas or Houston, Tex.

No. MC 3854 (Sub-No. 38), filed July 28, 1977. Applicant: BURTON LINES, INC., 815 Ellis Road, P.O. Box 11306, East Durham Station, Durham, N.C. 27703. Applicant's representative: Edward G. Villalon, 1032 Pennsylvania Bldg., Pennsylvania Ave. and 13th St. NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of roofing materials from the plantsite of Johns-Manville Corp., in Chatham County, Ga., to points in Tennessee, Virginia, and West Virginia.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Raleigh, N.C., or Washington, D.C.

No. MC 8973 (Sub-No. 46), filed July 28, 1977. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th Street, North Bergen, N.J. 07047. Applicant's representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street, NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) Aluminum articles, aluminum products, plastic articles, building materials, equipment and supplies used in the manufacture, sale, processing, distribution and installation of the commodities above (except commodities in bulk), between the plant site of and warehouse facilities utilized by Alcan Aluminum Corp. at or near Woodbridge, N.J., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Washington, D.C.

No. MC 8989 (Sub-No. 224), filed July 26, 1977. Applicant: HOWARD SOBER, INC., 5810 Moeller Road, P.O. Box 216, Fort Wayne, Ind. 46801. Applicant's representative: Gary Geiger (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Motor vehicles and motor vehicle chassis, in initial movements in driveway and truckaway service, and bodies, cabs, parts and accessories for each vehicle, from Harrisburg, Pennsylvania, to points in the United States, including Alaska, but excluding Hawaii.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 19227 (Sub-No. 239), filed July 26, 1977. Applicant: LEONARD BROS. TRUCKING CO., INC., 2515 Northwest 20th Street, P.O. Box 520602, Miami, Fla. 33152. Applicant's representative: Thomas A. Leonard, 2515 Northwest 20th Street, Miami, Fla. 33152. Authority is sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *(1) Construction, earth moving, excavating, hoisting and material handling machinery and equipment. (2) Attachments, accessories, and parts for (1) above when moving in the same shipment with (1) above. (3) Materials, supplies, and equipment used in the manufacture, assembly and distribution of commodities in (1) and (2) above (except commodities in bulk)*. Between the plantsite and facilities of ATO Construction Equipment Division at or near Goose Creek, South Carolina, on the one hand, and on the other, points in the United States (except Hawaii and Alaska).

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at either Charleston, S.C., Atlanta, Ga., or Washington, D.C.

No. MC 22229 (Sub-No. 117), filed July 21, 1977. Applicant: TERMINAL TRANSPORT COMPANY, INC., 48 Chester Avenue SE., Atlanta, Ga. 30316. Applicant's representative: Harold H. Clokey, 410 The Equitable Building, Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Paper and Paper Products, from Yulee, Florida, to points in Alabama, Georgia, Illinois, Indiana, Kentucky, and Tennessee.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the Applicant requests that it be held in Jacksonville, Fla., or Atlanta, Ga.

No. MC 25798 (Sub-No. 297), filed August 2, 1977. Applicant: CLAY HYDER TRUCKING LINES, INC., P.O. Box 1186, Auburndale, Fla. 33823. Applicant's representative: Tony G. Russell, Post Office Box 1186, Auburndale, Fla. 33823. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General Commodities* (except commodities in bulk, those which because of size or weight require the use of special equipment, household goods as defined by the Commission, articles of unusual value and Classes A and B Explosives) from the facilities of Drumtop Atlanta Shippers Association, Inc., at Smyrna, Ga., to points in Florida south and east of the Suwanee River. Restricted to shipments originating at and destined to the above described points.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Tampa, Fla., or Atlanta, Ga.

No. MC 26396 (Sub-No. 155), filed August 1, 1977. Applicant: POPELKA TRUCKING CO., doing business as THE WAGGONERS, P.O. Box 990, Livingston, Mont. 59047. Applicant's representative: Jacob P. Billig, 2033 K Street NW., Suite 300, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe, and fittings and accessories necessary for the installation thereof* (1) from the facilities of Certain-Teed Corp. located at or near McPherson, Kans., to points in Florida, Illinois, Oklahoma, and Texas, (2) from the facilities of Certain-Teed Corp. located at or near Social Circle, Ga., to points in Alabama, Arkansas, Colorado, Florida, Illinois, Indiana, Kansas, Kentucky, Maryland, Minnesota, Mississippi, Nebraska, North Carolina, North Dakota, South Carolina, South Dakota, Tennessee, Virginia, West Virginia, Wisconsin, and Wyoming; and (3) from the facilities of Certain-Teed Corp. located at or near Williamsport, Md., to points in Col-

orado, Illinois, Indiana, Kansas, Minnesota, Nebraska, North Dakota, South Dakota, Wisconsin, and Wyoming.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Washington, D.C.

No. MC 26739 (Sub-No. 97), filed July 22, 1977. Applicant: CROUCH FREIGHT SYSTEMS, INC., P.O. Box 1159, St. Joseph, Mo. 64502. Applicant's representative: Charles W. Singer, 2440 East Commercial Blvd., Fort Lauderdale, Fla. 33308. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in, or used by, agricultural equipment, industrial equipment and lawn and leisure products manufacturers and dealers (except commodities in bulk), (1) between the facilities of, or used by, International Harvester Co. at East Moline, Moline, and Rock Island, Ill., on the one hand, and, on the other, points in Arkansas, Kansas, Louisiana, Mississippi, Missouri, New Mexico, Oklahoma, Tennessee, and Texas; and (2) between the facilities of, or used by, an International Harvester Co. at Canton, Ill., on the one hand, and, on the other, points in Kansas, Missouri, New Mexico, Oklahoma, and Texas. Restrictions: The above authorities are restricted to the transportation of traffic (a) originating at the facilities of, or used by, International Harvester Co. at the points named in each of the respective paragraphs above and destined to points in the States named in said paragraphs, or (b) originating at points in the States named in each of the respective paragraphs above and destined to the facilities of, or used by International Harvester Co. at the points named in said paragraphs, except that the restrictions in (a) and (b) above shall not apply to traffic moving in foreign commerce.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C. Common control may be involved.

No. MC 35706 (Sub-No. 5), filed July 19, 1977. Applicant: ATSL, INC., 6801 State Street, Philadelphia, Pa. 19135. Applicant's representative: Richard Rueda, Suite 612, Two Penn Center Plaza, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier* by motor vehicle over irregular routes; transporting juvenile furniture and children's vehicles, and materials, supplies and parts used in the manufacture and packaging of such commodities between the plant site and warehouse facilities of Graco Children's Products located in Elverson, Pa., and Hellam, Pa., on the one hand, and, on the other, points in New Jersey, Delaware, Maryland, New York, Connecticut, and Virginia, and the District of Columbia.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Philadelphia, Pa. or Camden, N.J.

No. MC 35831 Sub-No. 13, filed July 28, 1977. Applicant: E. A. Holder, Inc., P.O. Box 69, Kennedale, Tex. 76060. Applicant's representative: Billy R. Reid, P.O. Box 9093, Fort Worth, Tex. 76107. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Lime and limestone, in bags, from the plantsites of Texas Lime Co., at or near Cleburne, Tex., to points in New Mexico, Oklahoma, Louisiana, Arkansas, Kansas, and Colorado.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Fort Worth, Tex., or Dallas, Tex.

No. MC 36509 (Sub-No. 29), filed July 22, 1977. Applicant: LOOMIS ARMORED CAR SERVICE, INC., 821 Sansome Street, San Francisco, Calif. 94111. Applicant's representative: George H. Hart, 1100 IBM Building, Seattle, Wash. 98101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *silver bullion*, between points in Owyhee County, Idaho, on the one hand, and, on the other, Portland, Oreg., under a continuing contract or contracts with Earth Resources Co., DeLamar Silver Mine.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at San Francisco, Calif., Portland, Oreg.; or Seattle, Wash. Common control may be involved.

No. MC 41404, Sub-No. 128, filed August 1, 1977. Applicant: ARGO-COLLIER TRUCK LINES CORPORATION, Post Office Box 440, Martin, Tenn. 38237. Applicant's representative: Mark L. Horne (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food, food products, and food ingredients*, in vehicles equipped with mechanical refrigeration, from the plant and storage facilities of Archer Daniels Midland Co., at Decatur, Ill., to points in Arkansas, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio, and Wisconsin, restricted to shipments originating at the named origins.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Springfield, Ill., or St. Louis, Mo. Common control may be involved.

No. MC 43038 (Sub-No. 462), filed July 21, 1977. Applicant: COMMERCIAL CARRIERS, INC., 10701 Middlebelt Road, Romulus, Mich. 48174. Applicant's representative: Paul H. Jones, 29725 Shacket Ave., Madison Heights, Mich. 48071. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Motor Vehicles* (except trailers) in secondary movements, in driveaway service, between Sharonville, Cementdale, and Cincinnati, Ohio, on the one hand, and, on the other, points in Virginia and West Virginia, restricted to the transportation of shipments manufactured, assembled, imported, or distributed by Ford Motor Co.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Detroit, Mich., or Washington, D.C. Common control may be involved.

No. MC 43038 (Sub-No. 465), filed July 25, 1977. Applicant: COMMERCIAL CARRIERS, INC., 10701 Middlebelt Road, Romulus, Mich. 48174. Applicant's representative: Paul H. Jones, 29725 Shacket Ave., Madison Heights, Mich. 48071. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Motor Vehicles* (except trailers) in secondary movements, in truckaway service, between Sharonville, Cementdale, and Cincinnati, Ohio, on the one hand, and, on the other, points in Virginia and West Virginia, restricted to the transportation of shipments manufactured, assembled, imported, or distributed by Ford Motor Co.

NOTE.—Common control may be involved. If a hearing is deemed necessary the applicant requests it be held at either Detroit, Mich., or Washington, D.C.

No. MC 48017 (Sub-No. 9), filed: July 21, 1977. Applicant: CAMEL TRUCKING, INC., 7 Nay Street, East Boston, Mass. 02128. Applicant's representative: Ronald I. Shapss, 450 Seventh Avenue, New York, N.Y. 10001. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, in the transportation 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), (1) between Philadelphia, Pa., on the one hand, and, on the other, Haverhill, Boston, and Lowell, Mass., and points within 10 miles of Lowell, Mass.; (2) between Philadelphia, Pa., on the one hand, and, on the other, points in Morris, Passaic, and Somerset Counties, N.J.; and (3) Between Boston and Haverhill, Mass., on the one hand, and, on the other, points in that part of New Hampshire on and south of a line beginning at the Maine-New Hampshire state boundary line and extending along U.S. Highway 202 to junction New Hampshire Highway 9 thence along New Hampshire Highway 9 to the New Hampshire-Vermont state boundary line and those in Vermont on and south of Vermont Highway 9.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Boston, Mass., or New York, N.Y.

No. MC 48221 (Sub-No. 11), filed August 4, 1977. Applicant: W. N. MOREHOUSE TRUCK LINE, INC., 4010 Dahlman Avenue, Omaha, Nebr. 68107. Applicant's representative: Bruce A. Bullock, Suite 530, Univac Building, 7100 West Center Road, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages, and advertising material and premiums*, from Golden, Colo., to points in Nebraska; and (2) *Empty malt beverage containers, packaging material, pallets, and scrap malt beverage containers, and packing dunnage*, from points in Nebraska to Golden, Colo.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Omaha, Nebr., or Denver, Colo.

No. MC 51146 (Sub-No. 511), filed July 25, 1977. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, Wis. 54306. Applicant's representative: Neil A. Du Jardin (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Stuffed toys* from Omaha, Nebr., to points in Colorado, Kansas, Missouri, Iowa, Wisconsin, Minnesota, Illinois, Indiana, and Michigan.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Chicago, Ill.

No. MC 51146 (Sub-No. 512), filed July 28, 1977. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, Wis. 54306. Applicant's representative: Wayne Downing (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Frozen foodstuffs* (except commodities in bulk, in tank vehicles), and (2) *frozen meats and meat by-products*, unfit for human consumption (except commodities in bulk, in tank vehicles) from the facilities of Wiscold, Inc. at or near Beaver Dam and Milwaukee, Wis., to points in Georgia, North Carolina, South Carolina, Tennessee, Virginia, and West Virginia.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Chicago, Ill.

No. MC 60014 (Sub-No. 52), filed August 4, 1977. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: John P. McMahon, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *lumber, particle-board, plywood, insulating board, hardboard, and accessories and supplies* used in the installation of the named products from the plantsites and storage facilities of Georgia-Pacific Corp. at or near Citronelle, Hurtsboro, and Peterman, Ala.; Chiefland and Cross City, Fla.; Bellville, Camilla, Durand, Lithonia, McRae, Monticello, Port Wentworth, Savannah, Vienna, and Warrenton, Ga.; Ahoskie, Conway, Dudley, Enfield, Murfreesboro, Plymouth, and Whiteville, N.C.; Alcolu, Conway, Prosperity, Russellville, and Varnville, S.C.; and Emporia, Jarratt, and Vansant, Va., to points in Connecticut, Delaware, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Virginia, Vermont, West Virginia, Wisconsin, and the District of Columbia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 61396 (Sub-No. 334), filed July 28, 1977. 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: *Liquified petroleum gas*, in bulk, in tank vehicles, from (1) West Memphis, Ark., and (2) Arcadia, La., to Arkansas, Tennessee, Missouri, and Mississippi.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Minneapolis, Minn., or Omaha, Nebr.

No. MC 64651 (Sub-No. 10), filed July 15, 1977. Applicant: STAR TRANSPORT CO., INC., P.O. Box 2006, High Point, N.C. 27261. Applicant's representative: C. G. Pusey, 1791 Westchester Drive, High Point, N.C. 27260. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from points in Cumberland and Salem Counties, N.J., to points in Connecticut, Massachusetts, and Rhode Island.

NOTE.—Applicant states it can tack the requested authority at points in Salem County, N.J., with its existing authority in No. MC 64651 (Sub-No. 3) which authorizes transportation between points in New Jersey, on the one hand, and, on the other, Baltimore, Md., thence it could tack at Baltimore to provide a through service between points in North Carolina, South Carolina, and Georgia, on the one hand, and, on the other, points in Connecticut, Massachusetts, and Rhode Island by joinder with Old Dominion's authority held in No. MC 107478 and related subs pursuant to purchase agreement in No. MC-F-12292. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at either High Point, Charlotte, or Greensboro, N.C.

No. MC 64932 (Sub-No. 573), filed August 2, 1977. Applicant: ROGERS CARTAGE CO., a corporation, 10735 South Cicero Avenue, Oak Lawn, Ill. 60453. Applicant's representative: Carl L. Steiner, 39 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank vehicles, from Kankakee, Ill., to points in Arizona, Colorado, Florida, Louisiana, Massachusetts, New Mexico, North Carolina, Oklahoma, Pennsylvania, Texas, Utah, and West Virginia.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Chicago, Ill.

No. MC 69397 (Sub-No. 28), filed July 26, 1977. Applicant: JAMES H. HARTMAN & SON, INC., P.O. Box 85, Pocomoke City, Md. 21851. Applicant's representative: Wilmer B. Hill, 805 McLachlen Bank Building, 666 11th Street NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, lumber products, wood, and wood products*, from points in Accomack and Northampton Counties, Va., to points in Maryland, Delaware, Pennsylvania, New Jersey, New York, Connecticut, Rhode Island, Massachusetts, and the District of Columbia.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Washington, D.C., or Salisbury, Md. Common control may be involved.

No. MC 69492 (Sub-No. 57), filed August 2, 1977. Applicant: HENRY EDWARDS, d.b.a. HENRY EDWARDS TRUCKING CO., P.O. Box 97, Clinton, Ky. 42301. Applicant's representative: A. O. Buck, 618 United American Bank Building, Nashville, Tenn. 37219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages, and related advertising materials*, (1) from Fort Worth, Tex., to Woodland Mills, Tenn.; and (2) from Detroit, Mich., to Marston, Mo.

NOTE.—If a hearing is deemed necessary applicant requests that it be held at Memphis, Tenn.

No. MC 69492 (Sub-No. 58), filed August 1, 1977. Applicant: HENRY EDWARDS, d.b.a. HENRY EDWARDS TRUCKING CO., P.O. Box 97, Clinton, Ky. 42301. Applicant's attorney: A. O. Buck, 618 United American Bank Building, Nashville, Tenn. 37219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages and related advertising materials*, from Detroit, Mich., to Memphis, Tenn.

NOTE.—If hearing is deemed necessary applicant requests that it be held at Memphis, Tenn.

No. MC 78687 (Sub-No. 49), filed July 28, 1977. Applicant: LOTT MOTOR LINES, INC., P.O. Box 751, West Cayuga Street, Moravia, N.Y. 13118. Applicant's McLachlen Bank Building, 666 11th Street NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt and salt products*, from Horseheads, N.Y., to points in Connecticut, Delaware, Indiana, Maine, Maryland, Massachusetts, the Lower Peninsula of Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at New York, N.Y., or Washington, D.C. Applicant holds contract carrier authority in No. MC 2505, therefore, dual operations may be involved. Common control may be involved.

No. MC 95876 (Sub-No. 206), filed July 22, 1977. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Ave. North, St. Cloud, Minn. 56301. Applicant's representative: Andrew R. Clark, 1000 First National Bank Bldg., Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles* from Joliet, Ill., to North Dakota, South Dakota, Wisconsin, Minnesota, and that part of Iowa on, north and west of the line from the intersection of the Iowa-Minnesota state line and U.S. Highway 69, south over U.S. Highway 69 to Iowa Highway 3, then west over Iowa Highway 3 to U.S. Highway 75 then south over U.S. Highway 75 to Sioux City then over U.S. Highway 20 to Iowa-South Dakota state line. Restricted to traffic originating at and destined to the named origin and destinations.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill. Common control may be involved.

No. MC 104104 (Sub-No. 14), filed July 21, 1977. Applicant: GEORGE A. FETZER, INC., Newton-Sussex Road, Augusta, N.J. 07882. 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: *Lawn furniture*, from Hamburg, Pa., Stamford, Conn., Tranquility, N.J., and West Brookfield, Mass., to points in Connecticut, Delaware, Indiana, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and Washington, D.C., and on return movements, materials and supplies used in connection therewith except in bulk).

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Newark, N.J., or New York, N.Y.

No. MC 105501 (Sub-No. 20), filed July 22, 1977. Applicant: TERMINAL WAREHOUSE CO., INC., 1851 Raddison Road NE., Blaine, Minn. 55434. Applicant's representative: Joseph J. Dudley, Dudley & Smith, W-1260 First National Bank Building, St. Paul, Minn. 55101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Precast and prestressed concrete products* (except in bulk) from Lino Lakes, Minn., to points in South Dakota.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at St. Paul, Minn.

No. MC 105733 (Sub-No. 61), filed July 28, 1977. Applicant: H. R. RITTER TRUCKING CO., INC., 928 East Hazelwood Avenue, Rahway, N.J. 07065. Applicant's representative: Chester A. Zyblut, 366 Executive Building, 1030 15th Street NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquefied petroleum gas*, in bulk, in tank vehicles, from points in Connecticut to points in New Jersey and New York.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held in Washington, D.C.

No. MC 106674 (Sub-No. 247), filed Aug. 1, 1977. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, Ind. 47977. Applicant's representative: Linda J. Sundy (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Building and roofing materials* (except iron and steel articles and commodities in bulk), from the plantsite and warehouse facilities of the GAF Corp. at Joliet, Ill., to points in the Lower Peninsula of Michigan; and (2) *materials, equipment and supplies* used in the manufacture, distribution, and sale of building and roofing materials, from points in the Lower Peninsula of Michigan to the plantsite and warehouse facilities of the GAF Corp. at Joliet, Ill., restricted to traffic originating at and destined to points as noted above.

NOTE.—If a hearing is deemed necessary, applicant requests it be held in either Chicago, Ill., or Indianapolis, Ind.

No. MC 107002 (Sub-No. 513), filed July 22, 1977. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, Miss. 39205. Applicant's representatives: John J. Borth, P.O. Box 8573, Battlefield Station, Jackson, Miss. 39204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, in bulk, in tank vehicles, from Memphis, Tenn., to points in Arkansas on and west of a line beginning at the Arkansas-Louisiana State line and extending along U.S. Highway 167 to Little Rock, Ark., thence along U.S. Highway 65 to the Arkansas-Missouri State line, Illinois, Indiana, points in Kentucky west of U.S. Highway 231, Ohio, and Virginia.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Memphis, Tenn., or Jackson, Miss.

No. MC 107002 (Sub-No. 514), filed August 1, 1977. Applicant MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, Miss. 39205. Applicant's representatives: John J. Borth, P.O. Box 8573, Battlefield Station, Jackson, Miss. 39204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fuel oils*, in bulk, in tank vehicles, (A) from the facilities of Mobile Bulk Terminal, Inc., at or near Mobile, Ala., to points in Louisiana and points in Mississippi north of U.S. Highway 80; (B) from the facilities of Ergon, Inc., at or near Greenville, Miss., to points in Arkansas on, west, and north of a line beginning at the Arkansas-Texas State line and extending along U.S. Highway 67 to Malvern, Ark., thence U.S. Highway 270 to Sheridan, Ark., thence U.S. Highway 167 to Fordyce, Ark., thence U.S. Highway 79 to junction U.S. Highway 49, thence U.S. Highway 49 to the Arkansas-Mississippi State line, points in Louisiana on and north of U.S. Highway 84, and to the site of U.S. Naval Air Station at or near Millington, Tenn.; (C) from the facilities of Ergon, Inc., at or near Vicksburg, Miss., to points in Arkansas.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Jackson, Miss., or Memphis, Tenn.

No. MC 107515 (Sub-No. 1098), filed August 1, 1977. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 30050. Applicant's representative: Alan E. Serby, 3379 Peachtree Road NE., Suite 375, Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of *intravenous solutions, related drugs and medicines, and related medical supplies*, in vehicles equipped with mechanical refrigeration, from North Cove, N.C., to points in Arizona, California, Colorado, Florida, Illinois, Indiana, Iowa, Missouri, Maryland, Massachusetts, Michigan, Minnesota, Nebraska, New Jersey, New Mexico, New York, Ohio, Pennsylvania, Texas, Washington, and Wisconsin.

NOTE.—Applicant holds contract carrier authority in MC 126436 (Sub-No. 2), therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, the applicant requests that it be held at either Chicago, Ill., or Washington, D.C.

No. MC 107839 (Sub-No. 172), filed July 19, 1977. Applicant: DENVER-ALBUQUERQUE MOTOR TRANSPORT, INC., P.O. Box 16106, Denver, Colo. 80216. Applicant's representative: David E. Driggers, Suite 1600, Lincoln Center, 1660 Lincoln Street, Denver, Colo. 80264. Authority is sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from Cade and Lozes, La., to points in Iowa, Kansas, Missouri, Nebraksa, and Oklahoma.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at New Orleans, La., or Denver, Colo.

No. MC 108207 (Sub-No. 464), filed July 25, 1977. Applicant: FROZEN FOOD EXPRESS, INC., 318 Cadiz Street, Dallas, Tex. 75207. Applicant's representative: Mike Smith, P.O. Box 5888, Dallas, Tex. 75222. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk, in tank vehicles), in vehicles equipped with mechanical refrigeration, from Benton and Washington Counties, Ark., to points in Louisiana and Mississippi, and points in Tennessee on and west of Interstate Highway 65. Restricted to traffic originating at the plantsites and warehouse facilities of Welch Foods, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Dallas, Tex.

No. MC 108341 (Sub-No. 65), filed August 1, 1977. Applicant: MOSS TRUCKING COMPANY, INC., 3027 N. Tryon St., P.O. Box 3409, Charlotte, N.C. 28208. Applicant's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Construction, earth moving, excavating, hoisting, and material handling machinery and equipment;* (2) *attachments, accessories, and parts*, for (1) above when moving in the same shipment with (1) above; and (3) *materials, supplies, and equipment*, used in the manufacture, assembly and distribution of commodities in (1) and (2) (except commodities in bulk), between the plantsite and facilities of ATO Construction Equipment Division, at or near Goose Creek, S.C., on the one hand, and, on the other, points in the United States in and east of Minnesota, Iowa, Missouri, Arkansas, and Louisiana.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant does not specify a location.

No. MC 108341 (Sub-No. 67), filed August 11, 1977. Applicant: MOSS TRUCKING COMPANY, INC., 3027 N. Tryon St., P.O. Box 8409, Charlotte, N.C. 28208. Applicant's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Aluminum, aluminum products, and supplies, materials and equipment* used in the manufacturing of aluminum and aluminum products (except in bulk), between the plantsites of Alumax, Inc., and its subsidiary and affiliated companies located at or near Decatur, Ala.; Casa Grande, Ariz.; Long Beach, Riverside, Visalia, Perris Valley, and Woodland, Calif.; Loveland, Colo.; Ocala and Plant City, Fla.; Peachtree City and Jonesboro, Ga.; Boise and Twin Falls, Idaho; Chicago, Morris, and St. Charles, Ill.; Bristol, Franklin, and Bicknell, Ind.; McPherson, Kans.; Frederick, Md.; Montevideo, Minn.; St. Louis, Mo.; Hernando, Miss.; Dunkirk, N.Y.; Reidsville, N.C.; Cleveland, Ohio; Tulsa and Checotah, Okla.; Stayton, Oreg.; Bloomsburg, Pa.; Dennison and Mansfield, Tex.; Harrisonburg, Va.; Spokane and Ferndale, Wash.; and Marshfield, Wis., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii); (2) *Zinc and zinc alloys* between the plantsites of Alumax, Inc., and its subsidiary and affiliated companies located at or near Long Beach, Calif.; Chicago, Ill.; Cleveland, Ohio; and Checotah, Okla., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—Common control may be involved. Hearing: Set for San Francisco, Calif. starting November 7, 1977 (one week); and Atlanta, Ga., on November 14, 1977 (one week).

No. MC 108393 (Sub-No. 124), filed July 26, 1977. Applicant: SIGNAL DELIVERY SERVICE, INC., 201 E. Ogden Avenue, Room 126, Hinsdale, Ill. 60521. Applicant's representative: J. A. Kundtz, 1100 National City Bank Bldg., Cleveland, Ohio 44114. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: Such merchandise as is dealt in by mail order houses and retail department stores, and equipment, materials and supplies used in the conduct of such business (except commodities in bulk); From Findlay, Ohio to Buffalo, New York. Restrictions: The operations are restricted against the transportation of commodities in bulk, in tank vehicles; The operations are limited to a transportation service to be performed under a continuing contract or contracts with Sears, Roebuck and Co.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 110420 (Sub-No. 770), filed July 25, 1977. 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, NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal fats and oils*, in bulk, in tank vehicles, from Whitehall, Wis., to Morris, Ill.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill., or Minneapolis, Minn. Common control may be involved.

No. MC 110563 (Sub-No. 203), filed August 4, 1977. Applicant: COLDWAY FOOD EXPRESS, INC., P.O. Box 747, State Route 29 North, Sidney, Ohio 45365. Applicant's representative: Mr. Joseph M. Scanlan, 111 West Washington Street, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Confectionery (except in bulk), in vehicles equipped with mechanical refrigeration, from Chicago and Carol Stream, Ill., to points in Maine, New Hampshire, Ohio, and Vermont.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 111302 (Sub-No. 109), filed July 28, 1977. Applicant: HIGHWAY TRANSPORT, INC., P.O. Box 10470, Knoxville, Tenn. 37919. Applicant's representative: David A. Petersen, P.O. Box 10470, Knoxville, Tenn. 37919. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) Chemicals, in bulk, in tank vehicles from the plantsite of Alpine Laboratories in Baldwyn County, Ala., to points in the United States (except Alaska and Hawaii); (2) Styrene, in bulk, in tank vehicles from Baton Rouge, La. and Houston, Tex., to the plantsite of Alpine Laboratories in Baldwyn County, Ala.; (3) butyl phenol, in bulk, in tank vehicles, from Orangeburg, S.C., to the plantsite of Alpine Laboratories in Baldwyn County, Ala.

NOTE.—Common control may involved. If a hearing is deemed necessary, applicant requests that it be held at Mobile, Ala.

No. MC 113434 (Sub-No. 81), filed July 28, 1977. Applicant: GRA-BELL TRUCK LINE, INC., 679 Lincoln Avenue, Holland, Mich. 49423. Applicant's representative: Wilhelmina Boersma, 1600 First Federal Building, Detroit, Mich. 48226. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Glass containers* and *accessories therefor* and *materials, equipment* and *supplies used in the manufacture and distribution thereof*, except commodities in bulk, (1) from Charlotte, Mich., to points in Illinois, Indiana, Iowa, Kentucky, Maryland, Missouri, New Jersey, New York, Ohio, Pennsylvania, West Virginia, and Wisconsin, and (2) from Holland, Mich., to North East, Pa.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Columbus, Ohio, Detroit, Michigan, or Washington, D.C.

No. MC 113651 (Sub-No. 226), filed July 25, 1977. Applicant: INDIANA REFRIGERATOR LINES, INC., Post Office Box 552, Muncie, Ind. 47305. Applicant's representative: George E. Batty, Post Office Box 552, Muncie, Ind. 47305. 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 Worthington, Ind., to points in Alabama, Arkansas, California, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Massachusetts, Missouri, Michigan, Minnesota, Mississippi, Maryland, Nebraska, New Hampshire, New Jersey, New York, North Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, District of Columbia, and ports of entry on the International Boundary Line between the United States and Canada located at Buffalo and Niagara Falls, N.Y., and Detroit, Mich. Restriction: Restricted to traffic originating at the plantsite and storage facilities of Herkly Packing Co. located at or near Worthington, Ind., and destined to the named destination States or to traffic destined to the named ports of entry for movement to final destinations located in Canada.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Indianapolis, Ind. or Chicago, Ill.

MC 113651 (Sub-No. 227), filed August 1, 1977. Applicant: INDIANA REFRIGERATOR LINES, INC., Post Office Box 552, Muncie, Ind. 47305. Applicant's representative: George E. Batty, Post Office Box 552, Muncie, Ind. 47305. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *confectionery and confectionery products* (except in bulk), *and advertising and display matter* in the same vehicle at the same time, from Covington, Tenn., to points in Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, and South Carolina.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Nashville, Tenn., or Washington, D.C.

No. MC 113855 (Sub-No. 384), filed August 8, 1977. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road SE., Rochester, Minn. 55901. Applicant's representative: Thomas J. van Osdel, 502 First National Bank Bldg., Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, in interstate or foreign commerce, transporting: (1) *self-propelled articulating terminal tractors* each weighing less than 15,000 lbs., and (2) *parts, materials*, and *supplies* used in the construction or manu-

facture of the commodities described in (1) above, between points in King County, Wash., on the one hand, and, on the other, points in the United States (including Alaska, but excluding Hawaii).

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Seattle, Wash. or Portland, Oreg.

No. MC 114323 (Sub-No. 21), filed August 1, 1977. Applicant: PAUL MARCKESANO AND SONS CO., INC., 36 Ferris Street, Brooklyn, N.Y. 11231. Applicant's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Fly ash, in bulk, from Portland, Pa., to points in Connecticut, New York, and New Jersey.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 114457 (Sub-No. 319), filed July 25, 1977. Applicant: DART TRANSIT COMPANY, a corporation, 2102 University Avenue, St. Paul, Minn. 55114. Applicant's representative: James H. Wills (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Paper and paper products and woodpulp*, from Calhoun, Tenn., to points in Iowa, Illinois, Indiana, Kansas, Michigan, Minnesota, Missouri, Nebraska, Ohio, South Dakota, and Wisconsin; (2) *materials, equipment and supplies* used in the manufacture of the commodities described in (1) above (except in bulk), from points in the destination States named in (1) above, to the plantsite of Bowater Southern Paper Corp. located at Calhoun, Tenn.; and (3) *paper and paper products* having prior movement by motor carrier, rail or water, from the warehouses and facilities of Bowater Southern Paper Corp., located at Chicago, Ill., to points in Iowa, Illinois, Indiana, Michigan, Minnesota, and Wisconsin.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Nashville, Tenn., or Louisville, Ky.

No. MC 114457 (Sub-No. 323), filed August 1, 1977. Applicant: DART TRANSIT COMPANY, a corporation, 2102 University Avenue, St. Paul, Minn. 55114. Applicant's representative: James C. Hardman, 33 N. LaSalle Street, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fibreboard containers and container ends*, from Ponca City, Okla., to Chicago, Ill.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at St. Paul, Minn., or Chicago, Ill.

No. MC 114552 (Sub-No. 133), filed July 28, 1977. Applicant: Senn Trucking Co., a corporation, Post Office Drawer 220, Newberry, S.C. 29108. Applicant's representative: William P. Jackson, Jr., 3426 North Washington Boulevard, Post Office Box 1267, Arlington, Va. 22210. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from the facilities of Nucor Steel, a Division of Nucor Corp., at or near Darlington, S.C., to points in Alabama, Connecticut, Delaware, Florida, Georgia, Indiana, Kentucky, Maryland, Massachusetts, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, Tennessee, Virginia, West Virginia, and the District of Columbia.

NOTE.—If an oral hearing is deemed necessary, applicant requests that it be held in Columbia, S.C.

No. MC 114552 (Sub-No. 134), filed August 1, 1977. Applicant: SENN TRUCKING COMPANY, a corporation, P.O. Drawer 220, Newberry, S.C. 29108. Applicant's representative: Ken Simons (same address as applicant). Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Pulpboard, wrapping paper, paper bags, paper and paper products*, from the facilities of Gilman Paper Co. located at or near St. Marys, Ga., to points in and east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Jacksonville, Fla.

No. MC 114552 (Sub-No. 136), filed August 2, 1977. Applicant: Senn Trucking Co., a corporation, P.O. Drawer 220, Newberry, S.C. 29108. Applicant's representative: William P. Jackson, Jr., 3426 north Washington Boulevard, P.O. Box 1267, Arlington, Va. 22210. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: (1) Roofing, building, and insulating materials (except iron and steel articles and commodities in bulk), from the facilities of CertainTeed Corp. in Chatham County, Ga., to points in Alabama, Florida, Mississippi, North Carolina, South Carolina and Tennessee, and (2) materials, equipment and supplies (except iron and steel articles and commodities in bulk) used in the manufacture, installation and distribution of roofing and building materials, from points in the to the facilities of CertainTeed Corp., in Chatham County, Ga.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Washington, D.C.

No. MC 114569 (Sub-No. 183), filed July 21, 1977. 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: *frozen foods*, in mechanically refrigerated trailers, from the shipping facilities of Donetta Foods, Inc., located at or near Scranton, Pa., and Gaithersburg, Md., to points in the United States (except Alaska, Hawaii, Georgia, Alabama, North Carolina, South Carolina, Florida, Maine, New Hampshire, Vermont, Montana, Wyoming, North Dakota, and South Dakota).

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 115162 (Sub-No. 377), filed July 28, 1977. Applicant: POOLE TRUCK LINE, INC., Post Office Drawer 500, Evergreen, Ala. 36401. Applicant's representative: Robert E. Tate, Post Office Drawer 500, Evergreen, Ala. 36401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) Petroleum products and lubricating oils, in packages from the plantsite and warehouses of Mobil Oil Corp. located at or near Beaumont, Tex., to points in Arkansas, Louisiana, New Mexico and Oklahoma; and (2) Empty Containers from Arkansas, Louisiana, New Mexico, and Oklahoma to Port Arthur, Texas.

NOTE.—If a hearing is deemed necessary the applicant requests it be held at either Dallas, Tex. or Houston, Tex.

No. MC 115162 (Sub-No. 378), filed August 1, 1977. Applicant: POOLE TRUCK LINE, INC., Post Office 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: *Ground clay*, in containers, from the plantsites of the Floridin Co., located at or near Havana and Quincy, Fla., and Ochlocknee, Ga., to points in Alabama, Arkansas, Mississippi, Louisiana, Georgia, South Carolina, North Carolina, Tennessee and Kentucky.

NOTE: If a hearing is deemed necessary the applicant requests it be held at either Atlanta, Ga., or Washington, D.C.

MC No. 115162 (Sub-No. 379), filed August 4, 1977. Applicant: POOLE TRUCK LINE, INC., Post Office 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: Conduit or pipe, cement, containing asbestos fibre and fittings therefor from the plantsite of Cement Asbestos Products Co. (subsidiary of ASARCO Inc.), at or near Ragland, Ala., to points in 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, Texas, Vermont, Virginia, West Virginia and the District of Columbia.

NOTE: If a hearing is deemed necessary the applicant requests it be held at either St. Louis, Mo. or Birmingham, Ala.

No. MC 115730 (Sub-No. 34), filed August 8, 1977. Applicant: THE MICKOW CORP., P.O. Box 1774, 531 SW. Sixth Street, 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* over irregular routes in the transportation of *plastic pipe, and fittings and accessories for plastic pipe* from Fairfield, Iowa to points in Arkansas, Colorado, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, New Mexico, North Dakota, Ohio, Oklahoma, South Dakota, Texas, Wisconsin, and Wyoming.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill. or Des Moines, Iowa.

No. MC 115826 (Sub-No. 271), filed July 28, 1977. Applicant: W. J. DIGBY, INC., P.O. Box 5088 Terminal Annex, Denver, Colo. 80217. Applicant's representative: Charles J. Kimball, 350 Capitol Life Center, 1600 Sherman Street, Denver, Colo. 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Meat, and meat products, fresh, frozen, cooked or prepared, between points in Utah, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Denver, Colo.

No. MC 116763 (Sub-No. 387), filed August 1, 1977. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, Ohio 45380. Applicant's Representative: H. M. Richters, P.O. Box 81, Versailles, Ohio 45380. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: Citrus Products, from Cameron and Hidalgo Counties, Tex., to points in Alabama, Arkansas, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, Ohio, Oklahoma, Tennessee, and Wisconsin.

NOTE.—If hearing is deemed necessary, the applicant requests it to be at San Antonio, Tex.

No. MC 116763 (Sub-No. 389), filed August 4, 1977. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, Ohio 45380. Applicant's representative: H. M. Richters, P.O. Box 81, Versailles, Ohio 45380. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: Paper and paper products (except commodities in bulk), from Ludlow and Covington, Kentucky to points in the United States (except Alaska and Hawaii).

NOTE.—If hearing is deemed necessary, the applicant requests it be held at Columbus, Ohio.

No. MC 116913 (Sub-No. 7), filed: July 22, 1977. Applicant: RAYMOND BUIS doing business as BUIS TRUCKING, 110 Tandy Ave., Somerset, Ky. 42501. Applicant's representative: Robert H. Kinker, 314 W. Main St., P.O. Box 464, Frankfort, Ky. 40601. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer*, from the plantsite of C F Industries, Inc., Terre Haute Nitrogen Complex, near Terre Haute, Ind., to points in Kentucky, under a continuing contract or contracts with Southern States Cooperative, Inc. located at Richmond, Va.

NOTE.—If a hearing is deemed necessary applicant requests that it be held at Louisville, Ky.

No. MC 116915 (Sub-No. 31), filed August 1, 1977. Applicant: ECK MILLER TRANSPORTATION CORPORATION, P.O. Box 1365, Kokomo, Ind. 46901. Applicant's representative: Fred F. Bradley, P.O. Box 773, Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) mining equipment, and parts and attachments of such equipment and (2) equipment, materials and supplies (except in bulk) used in the manufacture of mining equipment: between the facilities of Reading U.S., Inc., located at or near Orange Park, Fla., on the one hand, and, on the other, points in the U.S. including Alaska but excluding Hawaii.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Jacksonville, Fla.

No. MC 116915 (Sub-No. 32) filed August 8, 1977. Applicant: ECK MILLER TRANSPORTATION CORP., 1830 South Plate Street, P.O. Box 1365, Kokomo, Ind. 46901. Applicant's representative: Fred F. Bradley, P.O. Box 773, Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting aluminum pipe, tubing, and accessories between the facilities of Consolidated Pipe & Tube Co. located at or near San Angelo and Lubbock, Texas, on the one hand, and on the other, points in the United States in and east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Lubbock, Tex.

No. MC 116915 (Sub-No. 34), filed August 8, 1977. Applicant: ECK MILLER TRANSPORTATION CORP., 1830 South Plate St., P.O. Box 1365, Kokomo, Ind. 46901. Applicant's representative: Fred F. Bradley, P.O. Box 773, Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: iron and steel and iron and steel articles, between the plantsite and facilities of Sheffield Southern located at or near Lenoir City, Tennessee, on the one hand, and, on the other, points in Alabama, Florida, Georgia, Kentucky, Illinois, Indiana, Michigan, Mississippi, North Carolina, Ohio, South Carolina, Tennessee, and West Virginia.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Knoxville, Tenn., Nashville, Tenn., or Louisville, Ky.

No. MC 116915 (Sub-No. 35), filed August 8, 1977. Applicant: ECK MILLER TRANSPORTATION CORP., 1830 South Plate Street, P.O. Box 1365, Kokomo, Ind. 46901. Applicant's representative: Fred F. Bradley, P.O. Box 773, Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: steel cryogenic storage vessels, parts and accessories and material used in manufacture thereof: between the plant site of Ryan Industries, located at Louisville, Ky., on the one hand, and, on the other, points and places in the United States (except Hawaii and Alaska).

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Louisville or Frankfort, Ky.

No. MC 116915 (Sub-No. 36), filed August 8, 1977. Applicant: ECK MILLER TRANSPORTATION CORP., 1830 South Plate St., P.O. Box 1365, Kokomo, Ind. 46901. Applicant's representative: Fred F. Bradley, P.O. Box 773, Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: general commodities (except in bulk, Classes A and B explosives, household goods as defined by the Commission, livestock and articles of unusual value.) Between the port site and facilities of the Paducah-McCracken County Riverport Authority, located at or near Paducah, Ky., on the one hand, and, on the other, points in Alabama, Arkansas, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Mississippi, Missouri, North Carolina, Ohio, Oklahoma, South Carolina, Tennessee, Texas, Virginia, West Virginia, and Wisconsin.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Louisville, Ky., St. Louis, Mo., or Frankfort, Ky.

No. MC 117303 Sub-11, filed July 26, 1977. Applicant: HUDSON VALLEY CEMENT LINES, INC., 6 West Market Street, Hyde Park, N.Y. 12538. Applicant's representative: Norman Weiss, 2 West 45th Street, New York, N.Y. 10036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement* from Belchertown, Mass., to points in Connecticut, Massachusetts, New Hampshire, Vermont, Rhode Island and New York.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either New York, N.Y. or Albany, N.Y.

No. MC 118055 (Sub-No. 2), filed June 29, 1977. Applicant: ISLAND SEAFOODS, LTD., Borden, Prince Edward Island, Canada, COB 1XO. Applicant's representative: Lloyd E. Inman, 253 Coronation Avenue, Summerside, Prince Edward Island, Canada C1N 2E6. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fruit juices* in mixed loads with bananas and other fruits and vegetables, from Boston, Mass. to ports of entry on the International Boundary Line between the United States and Canada at or near Houlton and Calais, Maine.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Bangor, Maine or Portland, Maine.

No. MC 118142 (Sub-No. 154), filed July 28, 1977. Applicant: M. BRUENGER & CO., INC., 6250 North Broadway, Wichita, Kansas 67219. Applicant's representative: Lester C. Arvin, 814 Century Plaza Building, Wichita, Kans. 67202. Authority sought to operate as a *common carrier* by motor vehicle, over *irregular routes*, transporting: *Bananas, and agricultural commodities, otherwise exempt from economic regulation under Section 203(b)(6) of the Act, when transported in mixed loads with bananas, restricted to the transportation of traffic having immediately prior movement by water*, from Charleston, S.C., to points in Indiana, Illinois, Ohio, Wisconsin, Michigan, Minnesota, Kentucky, Tennessee, and West Virginia.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Wichita, Kans., or Kansas City Mo.

No. MC 118151 (Sub-No. 7), filed August 2, 1977. Applicant: R. L. LETSON, P.O. Box 57, Weatherford, Tex. 76086. Applicant's representative: E. Larry Wells, P.O. Box 45538, Dallas, Tex. 75245. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Bananas and agricultural commodities exempt from regulation under Section 203(b)(6) of the Interstate Commerce Act, when transported in mixed loads with bananas, from Galveston, Tex. to points in Washington, Wyoming, Oregon, and Idaho.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Dallas, Tex. or Miami, Fla.

No. MC 118159 (Sub-No. 217), filed August 1, 1977. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC., P.O. Box 51366—Dawson Station, Tulsa, Okla. 74151. Applicant's representative: Warren Taylor (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, 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 from Omaha, Nebr. to points in Alabama, Connecticut, Delaware, District of Columbia, Florida, Georgia, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, and Ohio (restricted to traffic originating at the plantsite and storage facilities of Armour and Co. and facilities utilized by Armour and Co. at or near Omaha, Nebr.).

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Chicago, Ill. Common control may be involved.

No. MC 118159 (Sub-No. 223), filed August 8, 1977. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC., P.O. Box 51366—Dawson Station, Tulsa, Okla. 74151. Applicant's representative: Warren Taylor (same address as applicant). 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 Lexington, Ky. to points in the United States (except Alaska and Hawaii).

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Chicago, Ill.

No. MC 118202 (Sub-No. 74), filed August 2, 1977. Applicant: SCHULTZ TRANSIT, INC., P.O. Box 406, 323 Bridge Street, Winona, Minn. 55987. Applicant's representative: Thomas J. Beener, P.O. Box 5000, Waterloo, Iowa 50704. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Such commodities as are dealt in by electrical and plumbing wholesalers from points in the United States (except Alaska, Hawaii, and the District of Columbia), to points in Minnesota, South Dakota, and Wisconsin, restricted to shipments destined to the warehouses and job sites of the J. H. Larson Electrical Co. located in the named destination states.

NOTE.—Applicant holds motor contract carrier authority in No. MC-134631 (Sub-No. 4) and other subs, therefore dual operations may be involved. An application is now pending to convert this contract carrier authority to common carrier authority in MC-118202 (Sub.-No. 60). If a hearing is deemed necessary, the applicant requests it be held at Minneapolis-St. Paul, Minn.

No. MC 118318 (Sub-No. 30), filed August 1, 1977. Applicant: IDA-CAL FREIGHT LINES, INC., P.O. Drawer M, Nampa, Idaho 83651. Applicant's representative: Kenneth G. Bergquist, P.O. Box 1775, 910 Main St., Boise, Idaho 83701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting beer and wine from Alameda, Kern, Los Angeles, Madera, Marin, Napa, Orange, Solano, Sonoma, and Stainislaus Counties, Calif., to points in Idaho south of the southern boundaries of Adams, Valley, and Lemhi Counties, Idaho.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Boise, Idaho.

No. MC 118468 (Sub-No. 51), filed August 2, 1977. Applicant: UMTHUN TRUCKING CO., a Corporation, 910 South Jackson Street, Eagle Grove, Iowa 50533. Applicant's representative: William L. Fairbank, 1980 Financial Center, Des Moines, Iowa 50309. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe and fittings and accessories for plastic* pipe from Fairfield, Iowa to points in Arkansas, Colorado, Idaho, Illinois, Indiana, Kansas, Kentucky, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, North Dakota, Ohio, Oregon, Pennsylvania, South Dakota, Tennessee, Utah, Washington, Wisconsin, and Wyoming, under a continuing contract, or contracts, with Plexco, a Division of Amsted Industries.

NOTE.—If a hearing is deemed necessary, applicant requests that the hearing be held at St. Paul, Minn. or Chicago, Ill. Applicant holds motor common carrier authority in No. MC 124813 (Sub-No. 1 and other subs); therefore dual operations may be involved.

No. MC 118776 (Sub-No. 23), filed July 25, 1977. Applicant: C. L. CONNORS, INC., 3820 Wisman Lane, Quincy, Ill. 62301. Applicant's representative: Frank W. Taylor, Jr., Suite 600, 1221 Baltimore Avenue, Kansas City, Mo. 64105. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Limestone, limestone products, trace minerals, and trace mineral ingredients*, (1) From the plantsite of Calcium Carbonate Co. located at Hannibal, Mo., to points in Alabama, Arkansas, Colorado, Delaware, Florida, Georgia, Louisiana, Maryland, Mississippi, Montana, New York, North Carolina, South Carolina, Virginia, and West Virginia; and (2) from the plantsite of Calcium Carbonate Co. located at Quincy, Ill., to points in North Carolina, South Carolina, and Florida.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held on a consolidated hearing with similar applications, at St. Louis, Mo.

No. MC 118806 (Sub-No. 56), filed August 2, 1977. Applicant: ARNOLD BROS. TRANSPORT LTD., 851 Lagimodiere Boulevard, Suite 200, Winnipeg, Manitoba, Canada R2S 3K4. Applicant's representative: Daniel C. Sullivan, 10 South LaSalle Street, Suite 1600, Chicago, Ill. 60603. Authority sought to operate as a *common carrier* by motor vehicle over irregular routes, transporting: (A)(1) Forestry and logging machinery and equipment; (2) Attachments and parts for the Commodities in (1): From Ports of Entry on the International Boundary Line between the United States and Canada in Michigan and New York to points in the United States (except Alaska and Hawaii); and (B) Equipment, materials and supplies used in the manufacture or distribution of the Commodities in A (1) and (2): From points in the United States (except Alaska and Hawaii) to the Ports of Entry on the International Boundary Line between the United States and Canada in Michigan and New York; restricted to traffic moving in foreign commerce in (A) and (B) above.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Detroit, Mich. or Chicago, Ill.

No. MC 119619 (Sub-No. 110) (correction), filed July 1, 1977, published in the FEDERAL REGISTER issue of August 11, 1977, and republished as corrected this issue. Applicant: DISTRIBUTORS SERVICE CO., INC., a Corporation, 2000 West 43rd St., Chicago, Ill. 60609. Applicant's representative: Arthur J. Piken, One Lefrak City Plaza, Flushing, N.Y. 11368. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Pneumatic tires and tire tubes*, from the facilities of Seiberling Tire and

Rubber Co., located in Akron and/or Barberton, Ohio, to points in the United States (except Alaska, Hawaii, Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, and Connecticut), (2) *antifreeze* (except in bulk in tank vehicles), from Pittsburgh, Pa., Wyandotte, Mich., Omaha, Nebr., Kansas City, Mo., Bayonne, N.J., Atlanta, Ga., St. Louis, Mo., Ludlow, Ky., West Memphis, Ark., Houston, Tex., Geismar, La., McKees Rocks, Pa., Minneapolis, Minn., Chicago, Ill., Los Angeles, Calif., San Francisco, Calif., and Vancouver, Wash. to points in the United States (except Alaska, Hawaii, Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, and Connecticut); and (3) batteries, from Fairfield, Conn., Atlanta, Ga., Memphis, Tenn., Minneapolis, Minn., Omaha, Nebr., Dallas, Tex., Denver, Colo., Logansport, Ind., and Richmond, Calif., to points in the United States (except Alaska, Hawaii, Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, and Connecticut).

NOTE.—The purpose of this republication is to indicate the correct exception in paragraph (2). If a hearing is deemed necessary, the applicant requests that it be held at Chicago, Ill.

No. MC 119670 (Sub-No. 29), filed August 2, 1977. Applicant: THE VICTOR TRANSIT CORP., 5250 Este Ave., P.O. Box 32115, Cincinnati, Ohio 45232. Applicant's representative: Robert H. Kinker, 314 W. Main St., P.O. Box 464, Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper, fibreboard, pulpboard and strawboard (except corrugated)*, from Carthage, Ind. to Illinois, Ohio, West Virginia, and Louisville, Ky. and its commercial zone.

NOTE.—If a hearing is deemed necessary applicant requests that it be held at Cincinnati, Ohio.

No. MC 119875 (Sub-No. 10), filed August 4, 1977. Applicant: WAR-HUNT TRUCKING CO., INC., Box 92A, R.D. No. 3, Allentown, Pa. 18104. Applicant's representative: John W Frame, Box 626, 2207 Old Gettysburg Road, Camp Hill, Pa. 17011. Authority sought to operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting: *Confectionery and confectionery products* in vehicles equipped with mechanical refrigeration (except in bulk), from the plantsite and storage facilities of M. & M./Mars, division of Mars, Inc., at or near Hackettstown, N.J. and Elizabethtown, Pa., to points in Ohio, restricted to traffic originating at the above-named origins and destined to points in the named destination state.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Harrisburg, Pa.

No. MC 119988 (Sub-No. 119), filed July 26, 1977. Applicant: GREAT WESTRN TRUCKING CO., INC., Highway 103 East, P.O. Box 1384, Lufkin, Tex. 75901. Applicant's representative: Clayte Binion, 1108 Continental Life Building, Fort Worth, Tex., 76102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *lumber and lumber mill products*, from the plantsites of W. S. Fox & Sons, Inc. and Arkansas Oak Flooring Co., located in Pine Bluff, and Sheridan, Ark., to points in Texas.

NOTE.—If a hearing is deemed necessary the applicant requests that it be held at either Dallas, Tex. or Little Rock, Ark.

No. MC 119991 (Sub-No. 17), filed August 1, 1977. Applicant: YOUNG TRANSPORT, INC., Post Office Box 3, Logansport, Ind., 46947. Applicant's representative: Warren C. Moberly, 777 Chamber of Commerce Building, Indianapolis, Ind., 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum ingots, aluminum scrap, aluminum sheet metal, aluminum plate and aluminum foil*, (a) between the plantsites of Alcan Aluminum Division of Alcan Service, Inc., at or near Oswego, N.Y., Warren, Ohio, and Fairmont, W. Va.; (b) from such plantsites in (a) above to points in Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, North Carolina, Ohio, Oklahoma, South Carolina, Tenneessee, Texas and Wisconsin.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Indianapolis, Ind. or Washington, D.C.

No. MC 120257 (Sub-No. 39), filed July 26, 1977. 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: (1) *Roofing asphalt*, in drums, from Memphis, Tenn., to points in Alabama, Arkansas, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, and Texas; and (2) *items utilized in the manufacture and distribution* of roofing asphalt, from points in Alabama, Arkansas, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, and Texas to Memphis, Tenn.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Memphis, Tenn., or Dallas, Tex.

No. MC 120761 (Sub No. 27), filed August 1, 1977. Applicant: NEWMAN BROS. TRUCKING CO., a Corporation, 6559 Midway Road, P.O. Box 13302, Fort Worth, Tex. 76118. Applicant's representative: Clayte Binion, 1108 Continental Life Building, Fort Worth, Tex. 76102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *Iron and steel, and iron and steel articles*, from the plantsite of Nucor Steel Corp., located at or near Jewett, Tex., to points in Alabama, Georgia, Florida and South Carolina.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex. Common control may be involved.

No. MC 120981 (Sub-No. 22), filed July 21, 1977. Applicant: BESTWAY EXPRESS, INC., 905 Visco Dr., Nashville, Tenn. 37210. Applicant's representative: George M. Catlett, Suite 708, McClure Building, Frankfort, Ky. 40601. 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 Nashville, Tenn. and Lexington, Ky.: From Nashville, Tenn. over Interstate Highway 65 to junction of Bluegrass Parkway, thence over Blue Grass Parkway to junction of U.S. Highway 60, thence over U.S. Highway 60, to Lexington, Ky., and return over the same route, serving no intermediate points, restricted against the transportation of traffic moving from or to points in the Louisville, Ky., commercial zone; and (2) between Lexington, Ky., and Delaplain, Ky.: From Lexington, Ky., over U.S. Highway 25 to junction of Ky. Highway 620, thence over Ky. Highway 620 to Delaplain, Ky., and return over the same route, serving all intermediate points, restricted against the handling of traffic originating at, or destined to, points in Connecticut, Delaware, Illinois, Indiana, Iowa, Maine, Maryland, Massachusetts, Michigan, Minnesota, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Virginia, West Virginia, Wisconsin, and the District of Columbia.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Nashville, Tenn. or Lexington, Ky.

No. MC 121060 (Sub No. 47), Filed July 28, 1977. Applicant: ARROW TRUCK LINES, INC., P.O. Box 1416, Birmingham, Ala. 35201. Applicant's representative: William P. Jackson, Jr., 3426 North Washington Blvd., P.O. Box 1267, Arlington, Va. 2210. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: Pipe, valves, fittings, hydrants and parts and accessories for the foregoing commodities (except in bulk), from the facilities of United States Pipe and Foundry Co., at or near Birmingham and Bessemer, Ala., to points in Iowa, Wisconsin, Illinois, Indiana, Michigan, Ohio, Kentucky and Missouri.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Birmingham, Ala.

No. MC 123048 (Sub-No. 361), filed: August 1, 1977. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 5021–21st St., Post Office Box 1557, Racine, WI 53401. Applicant's representative: Paul C. Gartzke, 121 West Doty St., Madison, WI 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Bus Bodies and Attachments, Accessories and Parts, from Woodlawn, Tex. to Ports of Entry on the International Boundary between the United States and

Canada in Michigan and New York; restricted to movements destined to Canada.

No. MC 123048 (Sub-No. 362), filed: August 1, 1977. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 5021–21st Street, Post Office Box 1557, Racine, WI 53401. Applicant's representative: Paul C. Gartzke, 121 West Doty St., Madison, WI 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Truck Cabs, from St. Joseph County, Ind. to Woodlawn, Tex.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held either at Chicago, Ill. or Washington, D.C.

MC 123048 (Sub-No. 363), filed August 5, 1977. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 5021–21st Street, Post Office Box 1557, Racine, WI 63401. Applicant's representative: Paul C. Gartzke, 121 West Doty Street, Madison, WI 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) Grain Dryers, Prefabricated Grain Bins, Tanks, Fans and Heaters, Attachments, Accessories and Parts, from Marengo, Ill. to points in the United States (except Alaska and Hawaii); and (2) Materials, Equipment and Supplies used in the manufacture, sale and/or distribution of commodities in (1) above, from points in the United States (except Alaska and Hawaii) to Marengo, Ill.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held either at Chicago, Ill. or Washington, D.C.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held either at Chicago, Ill., or Washington, D.C.

No. MC 123272 (Sub-No. 14), filed July 28, 1977. Applicant: FAST FREIGHT, INC., 9651 Ewing Ave., Chicago, Ill., 60617. Applicant's representative: Joseph M. Scanlan, 111 West Washington St., Chicago, Ill., 60602. Authority sought to operate as a *Common Carrier*, by motor vehicle over *irregular routes*, Transporting: Canned goods, from the plantsite of Lakeside Packing Co. in Manitowoc, Wis. and the plantsite in Plainview, Minn. to points in Alabama, Arkansas, California, Colorado, Connecticut, Delaware, Florida Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Wyoming. Restricted to traffic originating at the plantsites of Lakeside Packing Co. in Manitowoc, Wis. and Plainview, Minn.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 123476 (Sub-No. 27), filed July 28, 1977. Applicant: CURTIS TRANSPORT, INC., P.O. Box 388, Arnold, Mo. 63010. Applicant's representative: David G. Dimit (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Expanded plastic products (except in bulk, in tank vehicles), from Channahon, Ill., to points in the United States in and east of Montana, Wyoming, Colorado, and New Mexico, and refused or rejected shipments on return.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at St. Louis, Mo. or Chicago, Ill.

No. MC 123788 (Sub-No. 2), filed July 26, 1977. Applicant: AMERICAN-WESTERN COMPANY, INC., P.O. Box 430, Dallas, Oreg. 97338. Applicant's representative: Earle V. White, 2400 S.W. Fourth Ave., Portland, Oreg. 97201. Authority sought to operate as a *contract carrier* by motor vehicle, over irregular routes, transporting: *Lift trucks*, including their parts and attachments when shipped therewith, from Dallas, Oreg. to ports in Oregon, restricted to the transportation of shipments having an immediately subsequent movement by water, under contract with Towmotor Corp.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Portland, Oreg.

No. MC 123805 (Sub-No. 13), filed: August 8, 1977. Applicant: LOMAX TRUCKING SERVICE, INC., R.R. No. 1, Hannibal, Mo. 63401. Applicant's representative: Thomas P. Rose, P.O. Box 205, Jefferson City, Mo. 65101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Gypsum, crude, crushed, ground or pulverized, in bulk, in dump vehicles, from the plantsite and warehouse facilities of United States Gypsum Co. located at or near Mediapolis, Iowa to points in Missouri and Illinois.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Jefferson City, Mo. or Hannibal, Mo.

Docket No. MC 124111 (Sub-No. 57), filed August 4, 1977. Applicant: OHIO EASTERN EXPRESS, INC., P.O. Box 2297, 300 West Perkins Ave., Sandusky, Ohio 44870. Applicant's representative: David A. Turano, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *bananas* and *agricultural commodities exempt from economic regulation under Section 203(b)(6) of the Interstate Commerce Act*, when transported in mixed loads with bananas, from Philadelphia, Pa. to St. Louis, Mo., and points in Connecticut, Delaware, Illinois, Indiana, Kentucky, Maryland, Michigan, New Jersey, New York, Ohio, Pennsylvania, Virginia, West Virginia, Wisconsin, and the District of Columbia.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at New York, N.Y. or Washington, D.C.

MC 124211 (Sub-No. 300) filed August 4, 1977. Applicant: HILT TRUCK LINE, INC., P.O. Box 988, D.T.S., Omaha, NE 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: (1) Athletic or Sporting Goods and Equipment, Games or Toys, Recreational Equipment, Clothing, Accessories and Supplies; and (2) Commodities used in the manufacture, distribution, sale, and installation of the commodities described in (1) above, between points in Maricopa County, Ariz., Craighead County, Ark., Los Angeles, Orange, and Stanislaus Counties, Calif., Dade County, Fla., Troup County, Ga., Cook, DuPage, and Lake Counties, Ill., Cumberland County, Me., Harford County, Md., Kent County, Mich., Middlesex and Passaic Counties, N.J., Bronx, Cortland, Kings, New York, and Onondaga Counties, N.Y., Ashland and Hardin Counties, Ohio, Multnomah and Washington Counties, Ore., Coffee, Davidson, Gibson, and Putnam Counties, Tenn., Davis County, Utah, South Carolina, and New York, N.Y., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—Common control may be involved. If oral hearing is deemed necessary, applicant requests it be held at Chicago, Ill. or Washington, D.C.

No. MC 124692 (Sub-No. 178), filed July 28, 1977. Applicant: SAMMONS TRUCKING, (A Corporation), P.O. Box 4347, Missoula, Mont. 59806. Applicant's representative: J. David Douglas, (same as above). Authority sought to operate as a *common carrier*, by motor carrier, over irregular routes, transporting: Heating and cooling units, from Owatonna, Minn., to points in California, Idaho, Montana, Oregon, Utah, Washington and Wyoming.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Minneapolis, Minn.

MC 124711 (Sub-No. 47), filed August 8, 1977 Applicant: BECKER CORP., P.O. Box 1050, El Dorado, Kans. 67042. Applicant's representative: T. M. Brown, 223 Ciudad Bldg., Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *molasses, liquid feeds, and liquid feed supplements*, in bulk, in tank vehicles, from the facilities of Cargill, Inc., located at or near Garden City, Kans., to points in Colorado, Kansas, Nebraska, New Mexico, Oklahoma, and Texas.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at Minneapolis, Minn., or Kansas City, Mo.

No. MC 124920 (Sub-No. 14), filed: August 4, 1977. Applicant: LA BAR'S, INC., 771 Scott Street, Wilkes Barre, Pa. Applicant's representative: L. Agnew Meyers, Jr., 734 15th Street NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor

vehicle, over irregular routes, transporting: *Mineral Wool and insulating materials*, from the plantsite or facilities of CertainTeed Products Corp., CSG Group, at Mountain Top, PA., TO Points in Connecticut, Delaware, District of Columbia, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Rhode Island, Vermont, Virginia, West Virginia and Wisconsin.

NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at either Scranton, Pa. or Philadelphia, Pa.

No. MC 124947 (Sub-No. 65), filed August 4, 1977. Applicant: MACHINERY TRANSPORTS, INC., 116 Allied Road, Stroud, Okla. 74079. Applicant's representative: David J. Lister, 1945 South Redwood Rd., Salt Lake City, Utah 84104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) Buildings, complete, knocked down or in sections, (2) buildings, sections and panels, (3) component parts, materials and supplies for (1) and (2), and (4) parts, accessories and equipment used in the installation of (1), (2), and (3) (except commodities in bulk), from the plantsite and storage facilities of Star Manufacturing Co. located at or near Homer City, Pa., to points in Connecticut, Delaware, Illinois, Indiana, Iowa, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, New Hampshire, New Jersey, New York, Ohio, Rhode Island, Vermont, Virginia, West Virginia and Wisconsin.

NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at either Salt Lake City, Utah or Chicago, Ill.

No. MC 126904 (Sub-No. 24), filed August 1, 1977. Applicant: H. C. PARRISH TRUCK SERVICE, INC., R.R. 2, Box 264, Freeburg, Ill. 62243. Applicant's representative: James W. Patterson, 1200 Western Savings Bank Bldg., Philadelphia, Pa. 19107. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Malt beverages from Belleville, Ill., to points to Alabama, Mississippi, and Louisiana.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Philadelphia, Pa., or Washington, D.C.

MC 127064 (Sub-No. 7), filed July 25, 1977. Applicant: E. J. PETER TRUCKING, INC., Route 2, Box 21, Athens, Wis. 54411. Applicant's representative: Robert S. Lee, 1000 First National Bank Bldg., Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal and poultry feed and animal and poultry feed ingredients* (except liquid commodities in bulk, in tank vehicles) from points in Hennepin, Ramsey, Anoka, Dakota, and Washington Counties, Minn., to points in Wisconsin (except points in Clark, Taylor, Marathon, and Langlade Counties, Wis.).

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Minneapolis, Minn.

No. MC 127625 (Sub-No. 22), filed August 2, 1977. Applicant SANTEE CEMENT CARRIERS, INC., P.O. Box 638, Holly Hill, S.C. 29059. Applicant's representative: Frank B. Hand, Jr., P.O. Drawer C, Berryville, Va. 22611. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Cement and mortar, between points in Florida restricted to traffic originating at the plantsite of Santee Portland Cement Corp., Inc., at Holly Hill, S.C., having a prior movement by rail.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Columbia, S.C. Common control may be involved.

No. MC 128007 (Sub-No. 105), filed August 3, 1977. Applicant: HOFER, INC., P.O. Box 583, Pittsburg, Kans. 66762. Applicant's representative: Larry E. Gregg, 641 Harrison Street, Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry fish meal*, (1) from Empire, La.; Port Arthur, Tex.; and Gulfport, Miss., to points in Alabama, Georgia, Indiana, Kentucky, Louisiana, Minnesota, Mississippi, Tennessee, and Wisconsin; (2) from Port Arthur, Tex., and Gulfport, Miss., to points in Texas; (3) from Gulfport, Miss., to points in Arkansas, Illinois, Iowa, Kansas, Missouri, and Oklahoma.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at New Orleans, La.

No. MC 128896 (Sub-No. 6), filed July 19, 1977. Applicant: ANDREWS TRUCKING LIMITED, R.R. No. 4, St. Catharines, Ontario, Canada L2R 6R1. Applicant's representative: Robert G. Gawley, P.O. Box 184, Buffalo, N.Y. 14221. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Boats* (1) between the ports of entry on the International Boundary Line between the United States and Canada located in Idaho and Washington, on the one hand, and, on the other, points in the United States (excluding Alaska and Hawaii). Restricted to foreign commerce only. (2) Between the ports of entry on the International Boundary Line between the United States and Canada located in Maine, on the one hand, and, on the other, points in the United States (excluding Alaska and Hawaii). Restricted to foreign commerce only. (3) Between Portland, Maine and points in the United States (excluding Alaska and Hawaii). Restricted to foreign commerce only. (4) Between the ports of entry on the International Boundary Line between the United States and Canada located on the Detroit, Niagara, St. Clair, St. Marys and St. Lawrence Rivers, on the one hand, and, on the other, points in the United States (excluding Alaska and Hawaii). Restricted to foreign commerce only. (5) Between the ports of entry on the International Boundary Line between the United States and Canada located in New York and Vermont, on the one hand, and, on the other, points in the United States (excluding Alaska and Hawaii). Restricted to foreign commerce only.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Buffalo, N.Y.

No. MC 129326 (Sub-No. 26), filed July 25, 1977. Applicant: CHEMICAL TANK LINES, INC., P.O. Drawer 437, Mulberry, Fla. 33860. Applicant's representative: L. Agnew Myers, Jr., 734 15th Street NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Phosphate, phosphate products, phosphate byproducts, and fertilizer and fertilizer materials*, in bulk, in tank vehicles, from the facilities of International Minerals and Chemicals Corp. and New Wales Chemicals, Inc. (a subsidiary of IMCC), in Polk County, Fla., to points in Delaware, Florida, Indiana, Maryland, New Jersey, Pennsylvania, Texas, and West Virginia.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Tampa or Jacksonville, Fla.

No. MC 129387 (Sub-No. 33), filed July 28, 1977. Applicant's Name: PAYNE TRANSPORTATION, INC., P.O. Box 1271, Huron, S. Dak. 57350. Applicant's representative: Scott E. Daniel, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods*, from the facilities of Oregon Fruit Products at or near Salem, Oreg., to points in that part of the United States in and east of Montana, Wyoming, Colorado, and New Mexico.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash., or San Francisco, Calif.

No. MC 133119 (Sub-No. 122), filed July 22, 1977. Applicant: HEYL TRUCK LINES, INC., 200 Norka Drive, Akron, Iowa 51001. Applicant's representative: A. J. Swanson, 521 So. 14th Street, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from points in California to ports of entry on the International Boundary between the United States and Canada, located at or near Sweetgrass, and Raymond, Mont.; Fortuna, Portal and Pembina, N. Dak.; and Noyes, Minn., restricted to the transportation of traffic moving in foreign commerce to points in Saskatchewan and Manitoba, Canada.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Omaha, Nebr., or Great Falls, Mont.

No. MC 133221 (Sub-No. 27), filed August 4, 1977. Applicant: OVERLAND CO., INC., 1991 Buford Hwy., Lawrenceville, Ga. 30245. Applicant's representative: Alvin Button, 2477 N. Decatur Rd.,

Decatur, Ga. 30033. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Rigid polystyrene, from the plantsites of Southeastern Foam Products, Inc., located at Conyers, Ga., Adamstown, Md., Bargersville, Ind., Burlington, N.C., Elkhorn, Wis., Foglesville, Pa., Jonesboro, Tenn., New Middleton, Ohio; Ocala, Fla., Petersburg, Va., and Wentzville, Mo., to points in the United States (except Alaska and Hawaii).

NOTE: If a hearing is deemed necessary, applicant requests that it be held at Atlanta, Ga., or Washington, D.C.

No. MC 133233 (Sub-No. 53), filed August 8, 1977. Applicant: CLARENCE L. WERNER, d.b.a. WERNER ENTERPRISES, I-80 & Highway 50, P.O. Box 37308, Omaha, Neb. 68137. Applicant's representative: Donna Ehrlich (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, lumber products, and forest products*, from points in Colorado, Wyoming, and Pennington County, S. Dak., to points in Arizona, New Mexico, Texas, Oklahoma, and Arkansas, under a continuing contract, or contracts, with Edward Hines Lumber Co.

NOTE: Applicant holds motor common carrier authority in No. MC 138328 (Sub-No. 1) and other subs, therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests that it be held at Chicago, Ill. or Omaha, Neb.

No. MC 133391 (Sub-No. 3), filed August 1, 1977. Applicant: SCHWERMAN TRUCKING CO. OF VA., INC., 611 South 28 Street, Milwaukee, Wis. 53215. Applicant's representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, Wis. 53201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, from Botetourt County, Va., to points in Delware, District of Columbia, Maryland, North Carolina, Pennsylvania, South Carolina, Virginia and West Virginia.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Washington, D.C.

No. MC 133655 (Sub-No. 99), filed July 26, 1977. Applicant: TRANS-NATIONAL TRUCK, INC., P.O. Box 31300, Amarillo, Tex. 79120. Applicant's representative: James Steffel (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 or used by florists and lawn and garden care retailers, and *equipment, materials*, and *supplies* used in the manufacture, sale, or distribution of the above described commodities (except commodities in bulk and commodities requiring special equipment), between the plant sites and warehouse facilities of or utilized by Highland Supply Co., Inc. located at or near Hobart, Okla.; Highland, Ill.; LaMirada, Calif.; Colton, Calif.; and points in the United States (except Alaska and Hawaii), non-radial movement.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at Chicago, Ill.

No. MC 133966 (Sub-No. 49), filed August 1, 1977. Applicant: NORTH EAST EXPRESS, INC., P.O. Box 127, Mountaintop, Pa. 18707. Applicant's representative: Joseph F. Hoary, 121 South Main Street, Taylor, Pa. 18517. Authority sought to operate as a *common carrier*, over irregular routes transporting: *Building materials*, as described in descriptions of motor carrier certificate, *Ex Parte No. MC-45, Appendix VI*, from points in Minnesota, Iowa, Missouri, Wisconsin Illinois, Michigan, Indiana, Kentucky, Tennessee, Ohio, West Virginia, Virginia, Maryland, Delaware, New Jersey, New York, Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, North Carolina, and South Carolina, to Old Forge, Pa.

NOTE.—Applicant holds contract carrier authority in MC-139962 and subs thereunder, therefore dual authority may be involved. Common control may also be involved. If a hearing is deemed necessary, the applicant requests that it be held at Washington, D.C.

No. MC 134038 (Sub-No. 6), filed July 28, 1977. Applicant: MAJORS TRANSIT, INC., P.O. Box 7, Caneyville, Ky., 42721. Applicant's representative: John M. Nader, Rt. 3, Box 4. Bowling Green, Ky. 42101. Authority sought 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) between Central City, Ky. and Nashville, Tenn., serving no intermediate points: from Central City over U.S. Highway 431 to its intersection with U.S. Highway 41, thence over U.S. Highway 41 to Nashville and return over the same route. Restriction: Service at Central City, Ky., is restricted against the transportation of traffic originating at, destined to, or interchanged at Louisville, Ky., or points in its Commercial Zone, as defined by the Commission; and (B) between Central City, Ky., and Nashville, Tenn., as an alternate route for operating convenience only, serving no intermediate points, but serving the intersection of the Green River Parkway and U.S. Highway 231, near Logansport, Ky., for purposes of joinder only: from Central City over U.S. Highway 431 to its intersection with the Western Kentucky Parkway, thence over the Western Kentucky Parkway to its intersection with the Green River Parkway, near Prentis, Ky., thence over the Green River Parkway to its intersection with Interstate Highway 65, thence over Interstate Highway 65 to Nashville and return over the same route.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at either Louisville, Ky., or Nashville, Tenn.

No. MC 134134 (Sub-No. 24), filed August 2, 1977. Applicant: MAINLINER MOTOR EXPRESS, INC., 4202 Dahlman Avenue, Omaha, Nebr. 68107. Applicant's representative: Bruce A. Bullock, Suite 530 Univac Building, 7100 West Center Road, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) malt beverages, and advertising material and premiums, from Golden, Colo., to points in Nebraska; and (2) empty malt beverage containers, packaging material, pallets, and scrap malt beverage containers, and packing dunnage, from points in Nebraska, to Golden, Colo.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Omaha, Nebr. or Denver, Colo.

MC 134264 (Sub-No. 16), filed August 1, 1977. Applicant: OCKENFEL'S TRANSFER, INC., 1301 Sheridan, Iowa City, Iowa 52240. Applicant's representative: Kenneth F. Dudley, 611 Church Street, P.O. Box 279, Ottumwa, Iowa 52501. Authority sought to operate as a *contract carrier* by motor vehicle, over irregular routes, transporting, scrap paper, materials, equipment, and supplies between Iowa City, Iowa, and Alton, Ill., under a continuing contract, or contracts, with City Carton Co., Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Des Moines, Iowa.

No. MC 134341 (Sub-No. 7), filed July 30, 1977. Applicant: STROP TRANSPORTATION, INC., Rural Route No. 1, Hastings, Nebr. 68901. Applicant's representative: Arlyn L. Westergren, Suite 530 Univac Building, 7100 West Center Road, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Meats, meat products, meat byproducts and articles distributed by meat packinghouses, as described in 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 of Dubuque Packing Co., at or near Mankato, Kans., to points in Rhode Island, Connecticut, Florida, Georgia, Illinois, Indiana, Iowa, Maine, Massachusetts, Michigan, Missouri, New Jersey, New York, Nebraska, Ohio, Pennsylvania, and Wisconsin.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Omaha, Nebr.

No. MC 134404 (Sub-No. 37), filed July 25, 1977. Applicant: AMERICAN TRANS-FREIGHT, INC., P.O. Box 796, Manville, N.J. 08835. Applicant's representative: Eugene M. Malkin, 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: (1) Steel bath tubs, lavatories, sinks, and parts and accessories thereto; and (2) plumbers fittings and supplies, from Salem, Ohio, to points in Michigan, Illinois, Indiana, New Jersey, West Virginia, and those points in Pennsylvania on and east of a line beginning at the West Virginia-Pennsylvania State Boundary Line, and extending along U.S. Highway 119 to Junction U.S. Highway 219, and thence

along U.S. Highway 219 to the Pennsylvania-New York State Boundary Line, under a continuing contract or contracts with American Standard, Inc., of New Brunswick, N.J.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either New York, N.Y. or Washington, D.C.

Applicant has a common carrier application pending in MC 140768 and subs thereunder, therefore dual operations may be involved.

No. MC 134467 (Sub-No. 22), filed July 29, 1977. Applicant: POLAR EXPRESS, Inc., P.O. Box 845, Springdale, Ark. 72764. Applicant's representative: Charles M. Williams, 350 Capitol Life Center, 1600 Sherman Street, Denver, Colo. 80203, 303-571-0798. Authority to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Packaged petroleum Products, except in bulk*, from New Kensington, Pa., to Memphis, Tenn., and points in Arkansas, Oklahoma, Louisiana, Texas, and Mississippi.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Pittsburg, Pa., or Little Rock, Ark.

No. MC 134531 (Sub-No. 9), filed August 3, 1977. Applicant: AGGREGATE HAULERS, INC., Route 2, Box 559-A, W. Columbia, S.C. 29169. Applicant's representative: Eric Meierhoefer, Suite 712, 1511 K Street NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry fertilizer and fertilizer materials*, (a) between Wayne, Iredell, Brunswick, and Columbus Counties, N.C., on the one hand, and on the other, points in South Carolina, and (b) from Columbia, S.C. to Augusta, Ga. and Charlotte, N.C.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Columbia, S. C.

No. MC 134783 (Sub-No. 37), filed August 1, 1977. Applicant: DIRECT SERVICE, INC., 940 East 66th Street, Lubbock, Tex. 79408. Applicant's representative: Charles M. Williams, 350 Capitol Life Center, 1600 Sherman Street, Denver, Colo. 80203. Authority sought as a *common carrier* by motor vehicle, over irregular routes transporting: *Canned and preserved foodstuffs*, in containers, from Timberville, Va., to Chicago, Ill., and New Orleans, La., and points in the commercial zones of each respective city and points in Texas.

NOTE.—Common control may be involved. Applicant holds contract carrier authority in Docket No. MC 139309 and Sub-No. 1 thereto, therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests that it be held at New York City, N.Y.

No. MC 134859 (Sub-No. 11), filed August 1, 1977. Applicant: WILLIAM CARL RUSSELL AND JAMES FRANKLIN RUSSELL, doing business as Frank Russell & Son, 401 S. Ida Street, West Frankfort, Ill. 62896. Applicant's representative: William C. Russell (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Magnetite*, in bulk in pneumatic tank vehicles, from Bristol, Tenn., to coal mines located in Union County, Ky., and Illinois, under a continuing contract or contracts with Reiss Viking Corp.

NOTE.—Applicant has motor common carrier authority pending in No. MC 13845 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests that it be held at St. Louis, Mo., or Springfield, Ill.

No. MC 134959 (Sub-No. 11), filed August 1, 1977. Applicant: BEN-K TRUCKING, INC., 651 O Street, Greeley, Colo. 80631. Applicant's representative: Charles M. Williams, 350 Capitol Life Center, 1600 Sherman Street, Denver, Colo. 80203. Authority to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Feed and feed ingredients*, except in bulk in tank vehicles, (1) from Houston, Tex., and Denver and Fort Collins, Colo., to points in New Mexico and Utah; (2) from points in Arkansas, Utah, Texas; points in Butte and Lawrence Counties, S. Dak.; and Minneapolis, Minn., to points in Nebraska and Colorado; (3) from points in Weston, Crook, Natrona, and Converse Counties, Wyo., to points in Kansas, Oklahoma, Nebraska, Texas, Colorado, and New Mexico; (4) from points in Adams and Cass Counties, Nebr., to points in Colorado and Utah. Restricted to transportation services performed under a continuing contract or contracts with Feed Products, Inc.

NOTE.—Common control may be involved. If a hearing is deemed necessary, Applicant requests that it be held at Denver, Colo.

No. MC 135236 (Sub-No. 21), filed July 25, 1977. Applicant: LOGAN TRUCKING, INC., 801 Erie Avenue, Logansport, Ind. 47904. 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) *Plastic resin*, from Trenton, N.J., to points in Michigan, Illinois, Indiana, Ohio, Tennessee, and Arkansas; and (2) *scrap plastic*, from points in Michigan, Illinois, Indiana, Ohio, Tennessee, and Arkansas to Trenton, N.J.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 135457 (Sub-No. 5), filed August 2, 1977. Applicant: COMMERCIAL CARTAGE CO., a corporation, 343 Axminster Drive, Fenton (St. Louis County), Mo. 63026. Applicant's representative: R. A. Wilson, P.O. Box 777, Bridgeton, Mo. 63044. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, in bulk, in tank vehicles, from the plantsite of Williams Pipe Line Co., located at or near St. Charles, Mo., to points in Illinois.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at either St. Louis, Mo., Springfield, Ill., or Kansas City, Mo.

No. MC 135639 (Sub-No. 7), filed July 28, 1977. Applicant: QUEENSWAY, INC., 105 North Keyser Avenue, Old Forge, Pa. 18518. Applicant's representative: John W. Frame, Box 626, 2207 Old Gettysburg Road, Camp Hill, Pa. 17011. Authority sought to operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting: (a) *Plastic dishwashing machine racks, and shelving, wire*, including *materials, parts, and accessories* necessary for the installation thereof, from the plantsites or facilities of Metropolitan Wire Corp., Wilkes-Barre, Pa., and Berkely Heights, N.J., to points in Indiana, Illinois, Ohio, Michigan; and (b) *materials handling vehicles, including food serving carts, wagons or trays*, from the plantsite or facilities of Bucksco, Inc., a subsidiary of Metropolitan Wire Corp., at Quakertown, Pa., to points in Indiana, Illinois, Ohio, and Michigan.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Harrisburg, Pa.

No. MC 135684 (Sub-No. 47), filed July 22, 1977. Applicant: BASS TRANSPORTATION CO. INC., P.O. Box 391, Old Croton Road, Flemington, N.J. 08822. Applicant's representative: Herbert Alan Dubin, Federal Bar Building West, 1819 H Street NW., Suite 1030, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Laboratory, and hospital equipment, and chemicals*, except in bulk, between Bridgewater Township (Somerset County), N.J., and Chicago, Ill., St. Louis, Mo., Houston, Tex., and Rochester, N.Y.; (2) *materials, supplies, and equipment* used in the manufacture, distribution, or sale of laboratory and hospital equipment and chemicals from Boston, Mass., Philadelphia, Pa., Pittsburgh, Pa., Cleveland, Ohio, Cincinnati, Ohio, Chicago, Ill., St. Louis, Mo., Houston, Tex., Rochester, N.Y., Elmira, N.Y., Baltimore, Md., Detroit, Mich., and Washington, D.C., to Bridgwater Township (Somerset County), N.J.

NOTE.—Applicant holds motor contract authority in No. MC 87720 (Sub-No. 2) and other subs, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 135684 (Sub-No. 48), filed July 22, 1977. Applicant: BASS TRANSPORTATION CO. INC., P.O. Box 391, Old Croton Road, Flemington, N.J. 08822. Applicant's representative: Herbert Alan Dubin, Federal Bar Building West, 1819 H Street NW., Suite 1030, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Salt and salt products*, except in bulk, from the plantsite and warehouse facilities of Diamond Crystal

Salt Co. at or near St. Clair, Mich., and Akron, Ohio, to points in Connecticut, Delaware, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, and Rhode Island; (2) *materials, supplies, and equipment* used in the manufacture, sale, and distribution of salt and salt products, except in bulk, from the above-described destination territory to St. Clair, Mich., and Akron, Ohio.

NOTE.—Applicant holds motor contract authority in No. MC 87720 (Sub-No. 2) and other subs, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 135797 (Sub-No. 78) (correction), filed June 22, 1977, published in the FEDERAL REGISTER issue of August 11, 1977, and republished as corrected this issue. Applicant: J. B. HUNT TRANSPORT, INC., Post Office Box 200, Lowell, Ark. 72745. Applicant's representative: Paul A. Maestri (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Non-alcoholic beverages* (except in bulk), (a) from Auburndale, Fla., to Plymouth and Trafalgar, Ind., and points in Texas; (b) from Plymouth, Ind., to points in Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, Missouri, Ohio, and Wisconsin; (c) from Trafalgar, Ind., to points in Missouri; (d) from Dallas, Tex., to points in Arkansas, Kansas, Louisiana, Mississippi, Missouri, Oklahoma, Tennessee, and Texas; (e) from Weslaco, Tex., to points in Alabama, Arizona, Arkansas, California, Colorado, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Minnesota, Mississippi, Missouri, Nebraska, New Mexico, Oklahoma, Oregon, Tennessee, Texas Washington, and Wisconsin; and (2) *machinery materials* (except in bulk), *equipment and supplies* (except in bulk), used in or in connection with the manufacture, distribution, or use of the commodities named in (1) above, from points in the United States (except Alaska and Hawaii), to Plymouth and Trafalgar, Ind., and Dallas and Weslaco, Tex.

NOTE.—The purpose of this correction is to show the correct territory sought in part (2) above. Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Washington, D.C.

No. MC 235874 (Sub-No. 91), filed July 28, 1977. Applicant: LTL PERISHABLES, INC., 550 E. 5th Street South, South St. Paul, Minn. 55075. Applicant's representative: Kenneth O. Petrick, 550 E. 5th Street South, South St. Paul, Minn. 55075. Authority sought to operate as a *common carrier* by motor vehicle transporting: (1) *Frozen foodstuffs* (except commodities in bulk, in tank vehicles), and (2) *frozen meats and meat by-products*, unfit for human consumption (except commodities in bulk, in tank vehicles), from the facilities of Wiscold, Inc., at or near Beaver Dam and Milwaukee, Wis., to points in Kentucky, North Carolina, South Carolina, Virginia, and West Virginia.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Madison, Wis., or St. Paul, Minn.

No. MC 136968 (Sub-No. 1), filed August 4, 1977. Applicant: IRMAR TRUCKING, INC., 3701 National Road West, Richmond, Ind. 47374. Applicant's representative: Donald W. Smith, Suite 2465, One Indiana Square, Indianapolis, Ind. 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Florist and decorators foam*, from Kent, Ohio, and Richmond, Ind., to points in Alabama, Florida, and Georgia, under a continuing contract, or contracts, with Hill Floral Products, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Chicago, Ill., or Indianapolis, Ind.

MC 138054 (Sub-No. 17), filed July 22, 1977. Applicant: CONDOR CONTRACT CARRIERS, INC., P.O. Box 1354, Garden Grove, Calif. 92642. Applicant's representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Lockers, cabinets, storage cases, shelving, sheet metal products, and related parts and accessories*, from Cleveland, Ohio, to points in the United States (except Alaska and Hawaii); and (2) *materials, supplies, and equipment*, utilized in the manufacture, production, and distribution of commodities named in (1) above, from points in the United States (except Alaska and Hawaii), to Cleveland, Ohio. Restriction: Restricted against the transportation of commodities in bulk, in tank vehicles, and further restricted to a transportation service to be performed under a continuing contract, or contracts, with the Interior Steel Equipment Co.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Cleveland, Ohio.

No. MC 138104 (Sub-No. 43), filed July 26, 1977. 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: *Soda ash*, in bulk, from Baton Rouge, La., to Decatur, Tex.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Fort Worth or Dallas, Tex.

No. MC 138235 (Sub-No. 16), filed August 1, 1977. Applicant: DECKER TRANSPORT CO., INC., 412 Route 23, Pompton Plains, N.J. 07444. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting (1) *Motor vehicles* (except new and used trucks, automobiles, motor homes, new tractors, and new chassis, in secondary movements, in driveaway service), *hardware, conveyors and conveyor equipment, furniture, lawn mowers, power equipment, wheel goods, and bicycles*, (2) *parts, attachments, and accessories* for the commodities in (1) above; and (3) *materials, equipment, and supplies* (except commodities in bulk), used in the manufacture and sale of the commodities in (1) and (2) above, between the facilities of MTD Products, Inc., located at or near Westfield, Mass., on the one hand, and, on the other, points in Colorado, Connecticut, Delaware, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, West Virginia, Virginia, Wisconsin, and the District of Columbia, under a continuing contract or contracts with MTD Products, Inc., Willard, Ohio.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Columbus, Ohio, or Indianapolis, Ind.

No. MC 138328, (Sub-No. 41), filed August 8, 1977. Applicant: CLARENCE L. WERNER, d.b.a. Werner Enterprises, I–80 and Hiway 50, P.O. Box 37308, Omaha, Nebr. 68137. Applicant's representative: Donna Ehrlich (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Calcium propionate, sodium propionate, and sodium diacetate* (except commodities in bulk), from Verona, Mo.; Dallas, Tex.; and Lodi, N.J., to points in Alabama, Arizona, Arkansas, California, Florida, Georgia, Illinois, Iowa, Maine, Massachusetts, Michigan, Minnesota, New York, North Carolina, Ohio, Oregon, Pennsylvania, South Carolina, Tennessee, Virginia, and Washington.

NOTE.—Applicant holds motor contract carrier authority in No. MC 133233 (Sub-No. 1) and other subs, therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests that it be held at New York, N.Y.

No. MC 138956 (Sub-No. 7), filed July 25, 1977. Applicant: ERGON TRUCKING, INC., 202 East Pearl Street, Jackson, Miss. 39201. Applicant's representative: Donald B. Morrison, 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, Miss. 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fuel oils*, in bulk, in tank vehicles, (1) from the facilities of Ergon, Inc., at or near Memphis, Tenn., to points in Alabama, Arkansas, Kentucky, Mississippi, and Missouri; (2) from the facilities of Ergon, Inc., at or near Barfield, Ark., to the facilities of Arkansas-Missouri Power Co. at or near Blytheville, Ark.; (3) from the facilities of Ergon, Inc., at or near Greenville, Miss., to points in Alabama, Arkansas, Louisiana, Mississippi, and Tennessee; (4) from the facilities of Ergon, Inc., at or near Vicksburg, Miss., to points in Alabama, Arkansas, Louisiana, and Mississippi; (5) from the facilities of Mobile Bulk Terminal, Inc., at or near Mobile, Ala., to points in Alabama, Florida, Louisiana, and Mississippi; (6) from the facilities of Ergon, Inc., at or near Chattanooga, Tenn., to points in Alabama, Georgia,

North Carolina, South Carolina, Tennessee, and Kentucky, restricted in (2) above to traffic having a prior movement by water.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Jackson, Miss., or Memphis, Tenn.

No. MC 139312 (Sub-No. 8), filed August 1, 1977. Applicant: JOE H. TIDWELL, doing business as Northeast Truck Brokers, P.O. Box 826, Pharr, Tex. 78577. Applicant's representative: Thomas R. Kingsley, 1819 H Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Used clothing, used rags, and used burlap*, (1) from points in Arizona, Arkansas, California, Colorado, Connecticut (except Bridgeport), Delaware, Idaho, Maine, Massachusetts, Minnesota, Montana, Nevada, New Hampshire, New Jersey (except points in Bergen County), New Mexico, New York (except points in New York, N.Y., and Nassau and Suffolk Counties), North Dakota, Oregon, Rhode Island, South Dakota, Texas, Utah, Vermont, Washington, Wyoming, and the District of Columbia to Nogales, Ariz., McAllen, Tex., and the ports of entry on the international boundary line between the United States and the Republic of Mexico located in Texas; and (2) from Nogales, Ariz., McAllen, Tex., and ports of entry on the international boundary line between the United States and the Republic of Mexico located in Texas to points in the United States (except points in Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either San Antonio, Tex., or Brownsville, Tex.

No. MC 139923 (Sub.No. 35), filed August 1, 1977. Applicant: MILLER TRUCKING CO., INC., P.O. Drawer D, Stroud, Okla. 74079. Applicant's representative: Max G. Morgan, 223 Ciudad Building, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Quicklime, hydrated lime, and ground limestone*, from the facilities of St. Clair Lime Co. near Marble City and Sallisaw, Okla., to points in Columbia, Conway, Pulaski, and Union Counties, Ark.; and Barton, Butler, Cowley, Ellis, Ford, Graham, McPherson, Russel, Sedgwick, and Sumner Counties, Kans.

NOTE.—Applicant holds motor contract carrier authority in No. MC 139926 (Sub-No. 2), therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests that it be held at Oklahoma City, Okla., or Dallas, Tex.

No. MC 140022 (Sub-No. 4), filed July 28, 1977. Applicant: DONOVAN P. RODRIGUEZ, d.b.a. West Michigan Trucking Service, 4630 Benzie Highway, Benzonia, Mich. 49616. Applicant's representative: James R. Davis, 1018 Michigan National Tower, Lansing, Mich. 48933. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pallets and other shipping and storage devices* made of wood and materials used in the manufacture of the above between points in Michigan, Indiana, and Illinois.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in Lansing, Mich., or as an alternate Detroit, Mich.

No. MC 140024 (Sub-No. 72), filed August 2, 1977. Applicant: J. B. MONTGOMERY, INC., 5565 East 52nd Avenue, Commerce City, Colo. 80022. Applicant's representative: John F. DeCock (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except frozen and except commodities in bulk), in vehicles equipped with mechanical refrigeration, from the plantsite and storage facilities of RJR Foods, Inc., at or near Plymouth, Ind., to Denver, Colo., restricted to traffic originating at the named origin and destined to the named destination.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 140033 (Sub-No. 26) (Correction), filed June 30, 1977, published in the FEDERAL REGISTER issued of August 18, 1977, and republished as corrected this issue. Applicant: COX REFRIGERATED EXPRESS, INC., 10606 Goodnight Lane, Dallas, Tex. 75220. Applicant's representative: Lawrence A. Winkle, Suite 1125, Exchange Park, P.O. Box 45538, Dallas, Tex. 75245. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plastics and plastic products*, from Troup, Tex., to points in the United States (except Alaska and Hawaii); and (2) *plastics, plastic products, and rubber articles* (except sponge, foam or celluar); and (b) *games and toys*, from Jacksonville, Tex., to points in the United States (except Alaska and Hawaii).

NOTE.—The purpose of this republication is to indicate the correct MC No. as 140033 (Sub-No. 26), in lieu of MC No. 140033 (Sub-No. 263). If a hearing is deemed necessary, the applicant requests that it be held at either Dallas, Tex., or Washington, D.C.

No. MC 140037 (Sub-No. 4), filed August 4, 1977. Applicant's name: SUNFLOWER CARRIERS, INC., P.O. Box 355, York, Nebr. 68467. Applicant's representative: Scott E. Daniel, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Aluminum*, from Oswego, N.Y., Lancaster, Pa., Lewisport and Hawesville, Ky., Davenport, Iowa, Terre Haute, Ind., McCook, Ill., and Omal, Ohio, to Hastings, Nebr., and Powell, Wyo.; and (2) *irrigation pipe*, from Hastings, Nebr. and Powell, Wyo. to points in the United States (except Alaska and Hawaii). Restricted to a transportation service to be performed under a continuing contract or contracts in (1) and (2) with Hastings Irrigation Pipe Co.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Lincoln or Omaha, Nebr.

No. MC 140587 (Sub-No. 4), filed August 4, 1977. Applicant: CECIL CLAXTON TRUCKING, Box 7, Route 3, Wrightsville, Ga. 31096. Applicants' representative: Ronald K. Kolins, 1055 Thomas Jefferson Street NW., Washington, D.C. 20007. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, in containers, from Baltimore, Md., to points in Georgia and Alabama.

NOTE.—Applicant holds motor contract carrier authority in No. MC 133492 (Sub-No. 1) and other subs, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests that it be held at Atlanta, Ga., or Washington, D.C.

No. MC 140596 (Sub-No. 2), filed July 28, 1977. Applicant: NEWPORT AIR FREIGHT, INC., Airport Road, Newport, Vt. 05855. Applicant's representative: S. Arnold Smith, Craftsbury, Vt. 05826. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Electronic connectors and allied components required in the generation, transmission, and distribution of electricity for consumer and industrial consumption*, between the facilities of Burndy Corp. located at or near St. Johnsbury, Vt., on the one hand, and, on the other, points in Logan International Airport located at or near East Boston, Mass., with prior or subsequent movement by air, under a continuing contract or contracts with Burndy Corp. of St. Johnsbury, Vt.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Boston, Mass., or Montpelier, Vt.

No. MC 140612 (Sub-No. 26), filed July 28, 1977. Applicant: ROBERT F. KAZIMOUR, P.O. Box 2207, Cedar Rapids, Iowa 52406. Applicant's representative: A. J. Swanson, P.O. Box 81849, Lincoln, Neb. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Appliances, furnaces, and air-conditioners (except commodities which because of size or weight require the use of special equipment) and materials, parts, and supplies (except commodities in bulk) used in the manufacture, production, and distribution of the above*, between Fort Smith, Ark., on the one hand, and on the other, points in Iowa, Indiana, Ohio, Kentucky, and Tennessee.

NOTE.—Applicant holds motor contract carrier authority in MC 138003 and sub numbers thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at either Lincoln, Neb., or Fort Smith, Ark.

No. MC 140612 (Sub-No. 27), filed August 1, 1977. Applicant: ROBERT F. KAZIMOUR, P.O. Box 2207, Cedar Rapids, Iowa 52406. Applicant's representative: A. J. Swanson, P.O. Box 81849, Lincoln, Neb. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transport-

ing: *Appliances, furnaces, and air-conditioners (except commodities which because of size or weight require the use of special equipment) and materials, parts, and supplies (except commodities in bulk) used in the manufacture, production, and distribution of the above,* between the plantsite and warehouse facilities of Rheem Manufacturing Co. located in Baldwin County, Ga., on the one hand, and, on the other, points in and west of Ohio, Kentucky, Tennessee, and Mississippi (except Hawaii and Alaska).

NOTE.—Applicant holds motor contract carrier authority in MC 138003 and sub numbers thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests that it be held at either Lincoln, Neb., or Fort Smith, Ark.

No. MC 140829 (Sub-No. 55), filed July 25, 1977. Applicant: CARGO CONTRACT CARRIER CORP., P.O. Box 206, U.S. Highway 20, Sioux City, Iowa 51102. Applicant's representative: William J. Hanlon, 55 Madison Ave., Morristown, N.J. 07960. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Deodorants, disinfectants, breath fresheners, cleaning compounds, swimming pool treatment compounds, insecticides, and materials, supplies, and equipment* used by deodorant and cleaning compound manufacturers (except commodities in bulk, in tank vehicles) between the facilities of Airwick Industries, Inc. at Barberton, Ohio, on the one hand, and, on the other, Carlstadt, N.J., and points in Cook County, Ill.; Dallas, Tex.; Detroit, Mich.; Maple Heights, Ohio; Milwaukee, Wis.; Minneapolis, Minn.; Omaha, Nebr.; St. Peters, Mo.; and Stockton, Calif., restricted to the transportation of shipments originating at and destined to the named facilities of Airwick Industries, Inc.

NOTE.—Applicant holds contract carrier authority in MC 136408 and subs thereunder; therefore dual operations may be involved. If a hearing is deemed necessary the applicant requests it to be held in Washington, D.C.

No. MC 141426 (Sub-No. 8), filed July 25, 1977. Applicant: WHEATON CARTAGE CO., a corporation, Millville, N.J. 08332. Applicant's representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 11th Street NW., Washington, D.C. 20001. Authority sought to operate in interstate or foreign commerce, as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Glass, metal, plastic, paper, wax, clay, feldspar* and *wood articles* and *products, foodstuffs, antipollution* and *biochemical apparatus, products* used in radiological research, *organic chemistry kits, bottle coating systems, talc, feldspar, candles, pottery, chinaware, ceramics, gift items, molds* and *machinery, parts* and *accessories* for the above-described commodities, and *materials, equipment,* and *supplies* used in the coating, production, distribution, assembly, fabrication, manufacture or sale of the above-named commodities (except in bulk, in tank vehicles), between the plant site of and facilities utilized by Wheaton Industries at or near Syracuse, Nebr., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), restricted to a transportation service to be performed under a continuing contract or contracts with Wheaton Industries of Millville, N.J.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Washington, D.C.

Applicant states that it is a commonly-controlled contract carrier for Wheaton Industries and that it holds authority already on the same commodities between other facilities of Wheaton Industries on the one hand, and, on the other, points in the Continental United States. The purpose of this application is to expand the contract carrier services to embrace the Wheaton facilities at or near Syracuse, Nebr.

No. MC 141426 (Sub.-No. 9), filed July 28, 1977. Applicant: WHEATON CARTAGE CO. (a corporation), Millville, N.J. 08332. Applicant's representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 11th Street NW., Washington, D.C. 20001. Authority sought by applicant to operate in interstate or foreign commerce, as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Glass, metal, plastic, paper, wax, clay, feldspar* and *wood articles* and *products, foodstuffs, antipollution* and *biochemical apparatus, products* used in radiological research, *organic chemistry kits, bottle coating systems, talc, feldspar, candles, pottery, chinaware, ceramics, gift items, molds* and *machinery, parts* and *accessories* for the above-described commodities, and *materials, equipment,* and *supplies* used in the coating, production, distribution, assembly, fabrication, manufacture or sale of the above-named commodities (except in bulk, in tank vehicles), between the plant site of and facilities utilized by Wheaton Industries at or near Easton, Md., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii). Restriction: The authority granted herein is limited to a transportation service to be performed under a continuing contract or contracts with Wheaton Industries of Millville, N.J.

NOTE.—If a hearing is deemed necessary, applicant requests that the hearing be held in Washington, D.C.

Applicant states that it is a commonly-controlled contract carrier for Wheaton Industries and that it holds authority already on the same commodities between other facilities of Wheaton Industries on the one hand, and, on the other, points in the Continental United States. The purpose of this application is to expand the contract carrier services to embrace the Wheaton facilities at or near Easton, Md.

Docket No. MC 141546 (Sub-No. 23), filed July 15, 1977. Applicant: BULK TRANSPORT SERVICE, INC., One Dundee Park, Andover, Mass. Applicant's representative: Kenneth B. Williams, 84 State St., Boston, Mass. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: Cement, in bulk, in tank vehicles, from ports of entry on the International Boundary line between the United States and Canada located at points in Maine, New Hampshire, Vermont, and New York to points in Massachusetts, Rhode Island and Connecticut, restricted to traffic originating in the Province of Quebec, Canada.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Boston, Mass. Common control may be involved.

No. MC 141599 (Sub-No. 3), filed July 28, 1977. Applicant: MOUNTAIN PACIFIC TRANSPORT (EDMONTON), LTD., DOING BUSINESS AS SHADOW LINES, 241 Schoolhouse Rd., Coquitlam, British Columbia, Canada V3K 4X9. Applicant's representative: George LaBissoniere, 1100 Norton Building, Seattle, Wash. 98104. Authority sought to operate as a *common carrier* over irregular routes transporting lumber and wood products from ports of entry on the United States/Canada boundary line located in Washington, Idaho and Montana to points in Idaho, Montana, North Dakota, South Dakota, Wyoming, Minnesota, Colorado, and Utah; restricted to traffic moving in foreign commerce from the provinces of British Columbia, Alberta and Saskatchewan, Canada to the named destination states.

NOTE.—If a hearing is deemed necessary, the applicant reqeusts that it be held at Seattle, Wash.

No. MC 141776 (Sub-No. 13), filed July 28, 1977. Applicant: FOODTRAIN, INC., Spring and South Center Sts., Ringtown, Pa. 17967. Applicant's representative: L. Agnew Myers, Jr., 734 15th St. NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: Foodstuffs and food products (except cold packed or frozen), candy and confectionery, and rack store displays, from Vineland, N.J., to points in Arkansas, Illinois, Indiana, points in Kansas on and east of Interstate Highway 35 and U.S. Highway 81, Kentucky, Louisiana, Michigan, Mississippi, Missouri, points in New York on and west of Interstate Highway 81 and Interstate Highway 481, Ohio, points in Pennsylvania on and west of U.S. Highway 220, Tennessee, points in Texas on and east of Interstate Highway 35, and Wisconsin.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Philadelphia, Pa. or Washington, D.C.

No. MC 141776 (Sub-No. 15), filed August 1, 1977. Applicant: FOODTRAIN, INC., Spring and South Center Sts., Ringtown, Pa. 17967. Applicant's representative: L. Agnew Myers, Jr., 734 15th Street NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Aluminum Sheet, Aluminum Plate, flat or in coils; Aluminum Blanks, flat,* from Lancaster, Pa., to

points in Indiana, Illinois, Michigan, Ohio, and Wisconsin.

NOTE.—If a hearing is deemed necessary, applicant request it be held at Philadelphia, Pa. or Washington, D.C.

No. MC 141804 (Sub-No. 72), filed August 8, 1977. Applicant: WESTERN EXPRESS, DIVISION OF INTERSTATE RENTAL, INC., P.O. Box 422, Goodlettsville, Tenn. 37072. Applicant's representative: Charles R. Parker, P.O. Box 422, Goodlettsville, Tenn. 37072. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Welders, welder parts* and *systems, welding compounds* and *materials* and *supplies* used in the manufacture, production and distribution thereof (except commodities in bulk and which because of size or weight require special handling or equipment), (1) from City of Industry and Whittier, Calif. to points in the United States in and east of Minnesota, Iowa, Missouri, Arkansas and Louisiana and (2) from points in the United States in and east of Minnesota, Iowa, Missouri, Arkansas and Louisiana to City of Industry and Whittier, Calif., restricted in parts (1) and (2) above to traffic originating at or destined to the plantsites or storage facilities utilized by Stoody International Co. and Stoody Co.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Los Angeles, Calif. or Memphis, Tenn.

No. MC 141914 (Sub-No. 12), filed July 26, 1977. Applicant: FRANKS & SON, INC., Route 1, Box 108A, Big Cabin, Okla. 74332. Applicant's representative: Gary Brasel, Mezzanine Floor, Beacon Building, Tulsa, Okla. 74103. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes transporting: *Maple syrup products* from the ports of entry located on the International Boundary Line between the United States and Canada, located at or near Trout River, N.Y., to Chicago, Ill., and Kansas City, Mo.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Buffalo or New York, N.Y.

No. MC 141914 (Sub-No. 14), field: August 2, 1977. Applicant: FRANKS & SON, INC., Box 108–A, Big Cabin, Okla. 74332. Applicant's representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, D.C. 20001. Authority sought by applicant to operate as a *common carrier*, by motor vehicle, in interstate and foreign commerce, over irregular routes transporting: *rubber piping, tubing and hose, including rubber hose, reinforced with fabric or steel*, from the port of entry on the International Boundary line between the United States and Canada, located at or near Stanhope, Vt., to points in the United States (except Alaska and Hawaii), restricted to the transportation of traffic originating at the plant site of and facilities of IVG Rubber Canada Ltd., located at or near St. Alphonse de Granby, Quebec, Canada.

NOTE.—If a hearing is deemed necessary it is requested that it be held in Tulsa, Okla.

No. MC 142015 (Sub No. 1), filed July 28, 1977. Applicant: PERISHABLES TRANSPORT, INC., Route 2, Box 295, Chesterton, Ind. 46304. Applicant's representative: William P. Jackson, Jr., 3426 North Washington Blvd., Post Office Box 1267, Arlington, Va. 22210. Authority sought to operate as a *contract carrier* by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by wholesale, retail, and chain grocery and food business houses, and in connection therewith, *equipment, materials and supplies* used in the conduct of such business (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from the facilities of the Kroger Co., at or near Salem, Va., to the facilities of the Kroger Co., in Greenville, N.C., restricted to the transportation of shipments originating at or destined to facilities of the Kroger Co.; and further restricted to the transportation of shipments under a continuing contract or contracts with the Kroger Co.

NOTE.—If an oral hearing is deemed necessary, applicant requests that it be held in Indianapolis, Ind.

No. MC 142277 (Sub-No. 3), filed: July 28, 1977. Applicant: CONSOLIDATED PARCEL SERVICE, INC., 9847 Page, St. Louis, Mo. 63132. Applicant's representative: Douglas E. Tonkinson (Same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: Such merchandise as is dealt in by Department Stores (including, but not limited to, uncrated furniture, loose hanging garments on rods and in cages, and bakery goods) between the department stores and warehouse facilities of the The May Department Stores Co., d.b.a. Famous-Barr Co. located in St. Louis and St. Louis County, Mo., and Springfield, Ill., under a continuing contract or contracts with The May Department Stores Co. d.b.a. Famous-Barr Co.

NOTE.—Applicant holds common carrier authority in MC 136746 (Sub-No. 2), therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at St. Louis, Mo.

No. MC 142279 (Sub-No. 3), filed August 1, 1977. Applicant: RAY A. REICH, d.b.a. Ray Reich Trucking Co., Route 1, Box 133F, Forest Hill, La. 71430. Applicant's representative: Paul D. Angenend, P.O. Box 2207, Austin, Tex. 78768. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular route, transporting: Forest products, lumber products and wood products between points in Red River and Rapides Parishes, La., on the one hand, and, on the other, points in Arkansas, Louisiana, Mississippi and Texas, under continuing contract with the Pineville Kraft Corp.

NOTE.—If a hearing is deemed necessary, the applicant requests it to be held in Alexandria or Baton Rouge, La.

MC 142892 (Sub-No. 1), filed July 25, 1977. Applicant: J. H. FOODS, INC., 915 West 80th Street, Minneapolis, Minn. 55420. Applicant's representative: Val M. Higgins, 1000 First National Bank Building, Minneapolis, Minn. 55402. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, in the transportation of: *Meat and poultry*, from the facilities of J. H. Foods, Inc., in Bloomington, Minn., to points in Anoka, Dakota, Hennepin, Ramsey, and Washington Counties, Minn., under a continuing contract or contracts with Country Club Markets, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Minneapolis, Minn.

No. MC 142941 (Sub-No. 6), filed August 4, 1977. Applicant: SCARBOROUGH TRUCK LINES, a corporation, 1313 North 25th Avenue, Phoenix, Ariz. 85009. Applicant's representative: Lewis P. Ames/Phil B. Hammond, 111 West Monroe, Phoenix, Ariz. 85003. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Candy and confectionery items, dessert preparations, and coin operated vending machines* (except in bulk), in vehicles equipped with mechanical refrigeration, from the plantsite and warehouse facilities of Leaf Confectionery, Inc., at Chicago, Ill., to points in Arizona, California, Colorado, Idaho, Montana, New Mexico, Nevada, Oregon, Utah, Washington, and Wyoming.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Chicago, Ill., or Phoenix, Ariz.

No. MC 143150 (Sub-No. 1), filed July 28, 1977. Applicant: JAMES E. ROBERTS, d.b.a. Roberts Trucking, 7086 Washington Blvd., Elkridge, Md. 21227. Applicant's representative: Edward N. Button, 1329 Pennsylvania Avenue, Post Office Box 1417, Hagerstown, Md. 21740. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Concrete products, materials, supplies and equipment* used in the manufacture and installation thereof, between Jessup, Md., and Manassas, Va., on the one hand, and, on the other, points in Maryland, Delaware, Virginia, West Virginia, Pennsylvania, Ohio, and the District of Columbia. Under a continuing contract or contracts with Concrete Pipe and Products Co., Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Baltimore, Md.

No. MC 143197 (Sub-No. 2), filed July 8, 1977. Applicant: BONDED MAIL DELIVERY SERVICE, INC., 2040 Prospect Avenue, Erie, Pa. 16510. Applicant's representative: Robert B. McCullough, 416 Marine Bank Building, Erie, Pa. 16501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Electrical equipment parts used in jet aircraft*, in packages not exceeding 60 pounds in

weight, between the General Electric plant located in Erie County, Pa., on the one hand, and, on the other, points in New York, Ohio, and Michigan.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Erie, Pa., or Pittsburgh, Pa.

No. MC 143291 (Sub-No. 1), filed August 1, 1977. Applicant: RAYLS BROTHERS TRANSFER, INC., North Dixie Highway, Box 342, Hoopeston, Ill. 60942. Applicant's representative: Robert T. Lawley, 300 Reisch Building, Springfield, Ill. 62701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods*, unfrozen, from the plantsites and facilities of Joan of Arc Co., Inc., at Hoopeston and Princeton, Ill., to points in Indiana, Iowa, Kentucky, Michigan, and Missouri.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Chicago, Ill., or St. Louis, Mo.

No. MC 143299 (Sub-No. 1), filed July 28, 1977. Applicant: RAYMOND J. FILASKY, JR., JOHN H. FILASKY, and RAYMOND J. FILASKY, SR., doing business as Filasky Ag-Services, a partnership, Route No. 301, Middletown, Del. 19709. Applicant's representative: Gary F. Dalton, 30 The Green, Dover, Del. 19901. Authority is sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Animal and poultry feed and feed ingredients*, in bulk, utilizing pneumatic unloading equipment, from the Agway Feed Division plantsite in Bordentown, N.J., to points in Delaware, and to points in Cecil, Kent, Queen Annes, Talbot, Caroline, Dorchester, Wicomico, Worcester, and Somerset Counties, Md., under a continuing contract or contracts with Agway, Inc.

NOTE.—If a hearing is deemed necessary, Applicant requests that it be held in Philadelphia, Pa., or Washington, D.C.

No. MC 143359 (Sub-No. 2), filed July 28, 1977. Applicant: Helen McNay, d.b.a. McNay Truck Line, R.R. No. 8, Quincy, Ill. 62301. Applicant's representative: Robert T. Lawley, 300 Reisch Building, Springfield, Ill. 62701. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Carbonated beverages* from Quincy, Ill. to Burlington, Iowa, under a continuing contract or contracts with Pepsi-Cola Quincy Bottling Co., located at Quincy, Ill.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at St. Louis, Mo., or Springfield, Ill.

No. MC 143470 (Sub-No. 1), filed August 1, 1977. Applicant: ROBERT CLIFFORD CAST, Box 151, Gratis, Ohio 45330. Applicant's representative: Robert Clifford Cast (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Wooden pallets*, from Gratis, Ohio, to Richmond, Ind.; and (2) *lumber*, from points in Kentucky, Tennessee, Mississippi, Alabama, and Georgia, to Gratis, Ohio, under contract with Tolson & Lawson Pallet Manufacturing Co., at Gratis, Ohio.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Cincinnati or Columbus, Ohio.

No. MC 143503 (Sub-No. 1), filed July 22, 1977. Applicant: MERCHANTS HOME DELIVERY SERVICE, INC., P.O. Box 5067, Oxnard, Calif. 93031. Applicant's representative: T. M. Brown, 223 Ciudad Building, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture, new home furnishings, appliances, and accessories*, between the facilities of Evans Furniture Co., at or near Louisville, Ky., on the one hand, and, on the other, points in Harrison, Floyd, Clark, Scott, Jefferson, Washington, Orange, Crawford, and Perry Counties, Ind.

NOTE.—Applicant holds contract carrier authority under No. MC 136211 (Sub-No. 1) and other subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Louisville, Ky.

No. MC 143504 (Sub-No. 2), filed July 22, 1977. Applicant: VERNON CAMPBELL, d.b.a. Campbell Trucking, P.O. Box 234, Preston, Iowa 52069. Applicant's representative: James M. Hodge, 1980 Financial Center, Des Moines, Iowa 50309. Authority sought to operate as a *contract carrier*, by motor vehicle, over *irregular routes*, transporting: *Agricultural concrete products*, from Maquoketa, Iowa, to points in Minnesota, Wisconsin, Illinois, Iowa, and Missouri, restricted to transportation service under continuing contract or contracts with F & W Sales, Inc., of Maquoketa, Iowa.

NOTE.—If a hearing is deemed necessary, applicant requests it be held in either Chicago, Ill., or St. Paul, Minn.

No. MC 143517, filed July 21, 1977. Applicant: EMPIRE TRUCKING CO., a Corporation, Post Office Box 206, Old Washington, Ohio 43768. Applicant's representative: E. H. van Deusen, Post Office Box 97, 220 West Bridge Street, Dublin, Ohio 43017. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Petroleum and petroleum products, except in bulk, from the facilities of the Quaker State Oil Refining Corp., at or near Emlenton, Pa., Buffalo, N.Y.; Congo, and St. Marys, W. Va., to points in Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, and Texas.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Pittsburgh, Pa., or Columbus, Ohio.

No. MC 143525, filed July 18, 1977. Applicant: ANDY KING, doing business as Andy's Garage, 309 North Main Street, Perryville, Missouri 63775. Applicant's representative: Kim R. Moore, 11 N. Main Street, Perryville, Mo. 63775. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: Wrecked and disabled motor vehicles, between Perryville, Mo., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Cape Girardeau or St. Louis, Mo. Common control may be involved.

No. MC 143529, filed July 28, 1977. Applicant: NORTH & SOUTH LINES, INC., 2710 S. Main Street, Harrisonburg, Va. 22801. Applicant's representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425 13th Street NW., Washington, D.C. 20004. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: Corrugated containers, from Harrisonburg, Va., to points in Delaware, Maryland, North Carolina, New Jersey, New York, Pennsylvania, West Virginia, Virginia, and the District of Columbia, under a continuing contract or contracts with Packaging Corp. of America of Harrisonburg, Va.

NOTE.—Applicant holds motor common carrier authority in No. MC 28068 (Sub-No. 1) and other subs, therefore dual operations may be involved. Common control may be involved. If a hearing is deeemd necessary, applicant requests that it be held at Washington, D.C.

No. MC 143536 (Sub-No. 1), filed July 28, 1977. Applicant: WALLACE GRAIN CO., INC., 807 Park Avenue, Sheridan, Ind. 46069. Applicant's representative: Warren C. Moberly, 777 Chamber of Commerce Building, Indianapolis, Ind. 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Molding Compound* From Noblesville, Ind., to points in Florida, Illinois, Michigan, New Jersey, New York, North Carolina, Ohio, and Wisconsin; *Materials and Supplies used in producing or processing molding compound*, From Swanton, Ohio; Erie, Mich.; Huntington and Bridgeport (Montgomery Co.), Pa.; Cartersville, Ga.; La Crosse, Wis.; and Postville, Iowa; to Noblesville, Ind., under a continuing contract or contracts with Industrial Dielectrics, Inc., of Noblesville, Ind.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Indianapolis, Ind., or Washington, D.C.

No. MC 143540 (Sub-No. 1), filed August 2, 1977. Applicant: MARINE TRANSPORT CO., a Corporation, 1901 Carolina Beach Road, Wilmington, N.C. 28401. Applicant's representative: Ralph McDonald, Post Office Box 2246, Raleigh, N.C. 27602. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *Dimethyl Terephthalate and terephthalic acid (except in bulk)*: From New Hanover County, N.C., to Charleston, S.C. and Norfolk, Va., under a continuing contract or contracts with Hercules, Inc., located in New Hanover County, N.C.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Wilmington, N.C., or Raleigh, N.C.

No. MC 143543 (Sub-No. 1), filed August 1, 1977. Applicant: THOMAS H. KENNEDY, d/b/a K-Lines Transportation, 726 16th Avenue West, Birmingham, Ala. 35214. Applicant's representative: Archie B. Culbreth, Suite 246, 1252 West Peachtree St. NW., Atlanta, Ga. 30309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron and steel, iron and steel articles, iron and steel pipe and pipe fittings, valves, hydrants, parts thereof and accessories therefor*, from Birmingham Ala. to points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, 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 (2) *Materials, equipment, machinery and supplies* used in the manufacturing, processing and distribution of commodities named in (1) above, from points in the States named in (1) above to Birmingham, Ala.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Birmingham, Ala.

No. MC 143545, filed August 1, 1977. Applicant: BLACK ANGUS, INC., P.O. Box 8780, Jackson, Miss. 39202. Applicant's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Reflective traffic marking products*, except in bulk, from Jackson, Miss., to points in Ohio, West Virginia, Virginia, District of Columbia, Maryland, Delaware, Pennsylvania, New Jersey, New York, Connecticut, Massachusetts, Rhode Island, Vermont, New Hampshire, and Maine.

NOTE.—If hearing is deemed necessary, applicant requests that it be held at Jackson, Miss. Applicant holds contract carrier authority in MC 141410 (Sub-No. 1), therefore dual operations may be involved.

No. MC 143548 (Sub-No. 1), filed August 1, 1977. Applicant: LARRY VITITOW, 300 Lee Street, Sulphur Springs, Tex., 75482. Applicant's representative: D. Paul Stafford, Suite 1125 Exchange Park, P.O. Box 45538, Dallas, Tex. 75245. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: sulphur, in bags and in bulk: From the plantsite and warehouse facilities of Agri-Sul, Inc. at or near Mineola, Tex., to points in the United States, (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Dallas, Tex.

No. MC 143560, filed August 3, 1977. Applicant: STANLEY TRANSPORTS, CO., 2641 Faxon Avenue, Memphis, Tenn. 38112. Applicant's representative: John Paul Jones, P.O. Box 3140, Front Street Station, Memphis, Tenn. 38103. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: Malt Beverages from Belleville, Ill., to Memphis, Tenn., under a continuing contract or contracts with Shelby Sales Co., Inc., Memphis, Tenn.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Memphis, Tenn.

No. MC 143588, filed August 8, 1977. Applicant: A-1 MOVING & STORAGE CO., 1219 Eraste Landry Road, Lafayette, La. 70501. Applicant's representative: Richard R. Sigmon, 501 Perpetual Building, 1111 E Street NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods* and *unaccompanied baggage*, 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 and unpacking, uncrating, and decontainerization of such traffic, between points in Louisiana (except points in Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. James, St. John the Baptist, St. Tammany, Tangipahoa, Terrebonne, and Washington Parishes).

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Washington, D.C. or at any point in Louisiana.

No. MC 143590, filed August 8, 1977. Applicant: NEW HAMPSHIRE CONTINENTAL EXPRESS, INC., P.O. Box 4956, Manchester, N.H. 03108. 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 irregular routes, transporting: (1) *Meats, meat products, meat by-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, 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 commodities in bulk), from the plantsite and warehouse facilities utilized by Claremont Beef Co., Inc., located at or near Claremont, N.H., to points in Michigan, Wisconsin, Illinois, Indiana, Ohio, West Virginia, Virginia, Kentucky, Texas, Arkansas, Louisiana, Tennessee, North Carolina, Mississippi, Alabama, Georgia, South Carolina, and Florida; and (2) *Materials, supplies and equipment utilized in the manufacture, sale and distribution of the commodities described in (1) above*, from points in the United States in and east of North Dakota, South Dakota, Nebraska, Colorado, Texas, and Oklahoma to the plantsite and warehouse facilities utilized by Claremont Beef Co., Inc., located at or near Claremont, N.H. Restriction: Restricted against the transportation of hides or commodities in bulk and further restricted to traffic destined to or originating at the plantsite or warehouse facilities utilized by Claremont Beef Co., Inc., Claremont, N.H.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Concord, N.H. or Manchester, N.H.

No. MC 143595, filed July 14, 1977. Applicant: WALNUT TRUCKING CO., INC., R.D. No. 1, New Oxford, Pa. 17350. Applicant's representative: Charles E. Creager, 1329 Pennsylvania Avenue, Post Office Box 1417, Hagerstown, Md. 21740. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Brick*, from Rocky Ridge and Baltimore, Md., to points in Connecticut, New Jersey, New York, and Pennsylvania.

NOTE.—Applicant seeks by this application to convert its permit in MC 126885 into a certificate of Public Convenience and Necessity. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

PASSENGERS

No. MC 143507, filed July 25, 1977. Applicant: ACE TRANSPORTATION CO., INC., 156 W. Chelten Ave., Suite 4, Philadelphia, Pa. 19144. Applicant's representative: Alan Kahn, 1920 Two Penn Center Plaza, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *passengers and their baggage* in special and charter operations, in non-scheduled door-to-door service, limited to the transportation of not more than 11 passengers in one vehicle, not including the driver, and not including children under 10 years of age, who do not occupy a seat or seats, between Philadelphia, Pa. on the one hand, and, on the other, points in Atlantic County, N.J.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in Philadelphia, Pa.

No. MC 143528, filed July 28, 1977. Applicant: BECK BUS TRANSPORTATION CORP., Post Office Box 768, Mt. Vernon, Ill. 62864. Applicant's representative: Bruce E. Mitchell, 3379 Peachtree Road NE., Suite 375, Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of: Passengers and their baggage, in the same vehicle with passengers, in special and charter operations, from ponts in Perry, Jefferson, Franklin, Hamilton, Wayne, Williamson, Washington, and Marion Counties, Ill., to points in the United States (including Alaska, excluding Hawaii), and return.

NOTE.—If an oral hearing is deemed necessary, applicant requests that it be held at Mt. Vernon, Ill. or St. Louis, Mo.

FINANCE APPLICATIONS

NOTICE

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or

acquire control through ownership of stock, or 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 against the granting of the requested authority must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such protests 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.

Florida East Coast Railway Co., One Malaga Street, St. Augustine, Fla. 32084, represented by Mr. Charles B. Evans, General Counsel, Florida East Coast Railway Co., One Malaga Street, St. Augustine, Fla. 32084, hereby give notice that on the 12th day of May, 1977, as supplemented, August 16, 1977, it filed with the Interstate Commerce Commission at Washington, D.C., an application under Section 1(18) of the Interstate Commerce Act for an order approving and authorizing the acquisition and operation of a line of railroad owned by the Jacksonville Terminal Co., a distance of 1.3 miles located entirely in Duval County, Fla., which application is assigned Finance Docket No. 28474.

Applicant is proposed to acquire and operate a line of railroad presently owned and operated by the Jacksonville Terminal Co. which is the subject of an application for abandonment in docket No. AB-143 filed July 18, 1977.

The route of line proposed to be acquired is from the zero mile post of Florida East Coast Railway Co. on the north bank of the St. John River in Jacksonville, Fla., northwestward to interchange tracks between Seaboard Coast Line Railroad Co. and the Florida East Coast Railway Co.; and the Georgia Southern and Florida Railway Co. and Florida East Coast Railway Co., wholly within the city limits of Jacksonville, Fla.

In the opinion of the applicant, the granting of the authority sought will not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

In accordance with the Commission's regulations (49 CFR 1108.12) in Ex Parte No. 55 (Sub-No. 4), *Implementation-National Environmental Policy Act, 1969*, 352 I.C.C. 451 (1976), 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 indicate with specific data the exact nature and degree of the anticipated impact. See *Implementation-National Environmental Policy Act, 1969, supra* at p. 487.

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 NW., Washington, D.C. 20423, and the aforementioned counsel for applicant, within 30 days after date of first publication in a newspaper of general circulation. Any interested person is entitled to recommend to the Commission that it approve, disapprove, or take any other specified action with respect to such application.

Goodwin Railroad, Inc., P.O. Box 1423, Concord, N.H. 03301, represented by Mr. Herbert W. Goodwin, President, Goodwin Railroad Inc., P.O. Box 1423, Concord, N.H. 03301, hereby give notice that on the 8th day of August, 1977, it filed with the Interstate Commerce Commission at Washington, D.C., an application under section 1(18) of the Interstate Commerce Act for an order approving and authorizing the operation over a line of railroad owned by the State of New Hampshire from Concord to Lincoln, in Merrimack, Belknap, and Grafton Counties, N.H., a distance of 76.4 miles, which application is assigned Finance Docket No. 28531.

Applicant is operating a railroad line from Concord to Lincoln, N.H. owned by the State of New Hampshire connecting with the Boston and Maine Corp. at Concord, N.H. The above mentioned line was formerly owned by the Boston and Maine Corp.

In the opinion of the applicant, the granting of the authority sought will not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969. In accordance with the Commission's regulations (49 CFR 1108.12) in Ex Parte No. 55 (Sub-No. 4), *Implementation—National Environmental Policy Act 1969*, 352 I.C.C. 451 (1976), 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 indicate with specific data the exact nature and degree of the anticipated impact. See *Implementation—National Environmental Policy Act, 1969, supra* at p. 487.

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 NW., Washington, D.C. 20423, and the aforementioned counsel for applicant, within 30 days after date of first publication in a newspaper of general circulation. Any interested person is entitled to recommend to the Commission that it approve, disapprove, or take any other specified action with respect to such application.

No. MC-F-13300. Authority sought to control and merge by STEVENS VAN LINES, INC., 121 So. Niagara Street, Saginaw, Mich., 48602, of AIRLINE VANS, INC., Dallas, Tex., and for acquisition by ARCHIBALD H. STEVENS, 1920 Kennedy, Saginaw, Mich., MORRISON M. STEVENS, 7818 Geddes, Saginaw, Mich., ARCHIE H. STEVENS, JR., 3810 N. Henlock Rd., Henlock, Mich., and JAMES R. STEVENS, 1920 Kennedy, Saginaw, Mich., of control of such rights through the transaction. Applicants' attorney: Robert J. Gallagher, 1000 Connecticut Ave., NW., Suite 1200, Washington, D.C. 20036. Operating rights sought to be controlled and merged: Household goods, as defined by the Commission, as a common carrier over irregular routes between points within 500 miles of Fort Worth, Tex., including Fort Worth. Between points within 500 miles of Fort Worth, Tex., including Fort Worth, on the one hand, and, on the other, points more than 500 miles from Fort Worth, in Alabama, Colorado, Connecticut, Georgia, Illinois, Indiana, Iowa, Kansas, Maryland, Massachusetts, Michgan, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, New York, Ohio, Pennsylvania, Tennessee, Virginia, and the District of Columbia. Vendee is authorized to operate as a common carrier in Arkansas, Colorado, Connecticut, Delaware, the District of Columbia, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Dakota, Tennessee, Texas, Virginia, Washington, West Virginia, and Wisconsin. Application has been filed for temporary authority under section 210a(b).

NOTE.—No. MC 74681 (Sub-No. 6) is a directly related matter.

No. MC-F-13302. Authority sought for purchase by RISS INTERNATIONAL CORPORATION, 903 Grand Ave., P.O. Box 2809, Kansas City, Mo., 64142, of the operating rights and certain properties of KOWALSKY'S EXPRESS SERVICE, a corporation, 2235 West Main St., Millville, N.J., 08332, and for acquisition by REPUBLIC INDUSTRIES INC., and, in turn, by ROBERT B. RISS, 903 Grand Ave., P.O. Box 2809, Kansas City, Mo., 64142, of control of the rights and property through the purchase. Applicants' attorneys: Alan Kahn, Suite 1920, Two Penn Center Plaza, Philadelphia, Pa., 19102, and Ivan E. Moody, P.O. Box 3809, Kansas City, Mo., 64142. Operating rights sought to be transferred: General commodities, with certain specified exceptions, as a common carrier over irregular routes, between points in defined portions of Delaware, Maryland, New Jersey, New York, and Pennsylvania, and of special commodities, as a common carrier over irregular routes, between points in Connecticut, Delaware, Maryland, New Jersey, New York, Pennsylvania, and Vir-

ginia, all of which are more fully described in Certificates Nos. MC 29919 and Subs thereunder. Vendee is authorized to operate as a common carrier in Colorado, Connecticut, Delaware, Iowa, Illinois, Indiana, Kansas, Kentucky, Maryland, Massachusetts, Missouri, Nebraska, New Jersey, New York, Ohio, Oklahoma, Pennsylvania, Rhode Island, Texas, Virginia, and West Virginia, and the District of Columbia. Application has been filed for temporary authority under section 210a(b).

NOTE.—MC 200 (Sub-No. 294) is a directly related matter.

No. MC-F-13311. Authority sought for purchase by WHITFIELD TRANSPORTATION, INC., 821 East Pasadena, P.O. Box 7676, Phoenix, Ariz. 85011, of the operating rights and property of IDAHO FALLS TRANSFER & STORAGE CO., Pocatello Industrial Park, P.O. Box 2618, Pocatello, Idaho 83201, and for acquisition by SUNDANCE TRANSPORTATION, INC., AND ALLAN D. MUSGROVE, of 821 East Pasadena, P.O. Box 7676, Phoenix, Ariz. 85011, of control of such rights and property through the purchase. Applicants' attorney: William S. Richards, P.O. Box 2465, Salt Lake City, Utah 84110. Operating rights sought to be transferred: *General commodities, household goods and petroleum products* as a *common carrier* over irregular routes within the entire State of Idaho. Vendee is authorized to operate as a *common carrier* in Arizona, California, Colorado, Idaho, Montana, New Mexico, Texas, and Utah. Application has been filed for temporary authority under section 210a(b).

NOTE.—The applicant has tendered a directly related gateway elimination application.

No. MC-F-13318. Authority sought for purchase by TRANSCON LINES, 101 Continental Boulevard, El Segundo, Calif. 90245, of a portion of the operating rights of M & M TRANSPORTATION COMPANY, 750 Third Avenue, New York, N.Y. 10017. Applicant's attorneys: Wentworth E. Griffin, 1221 Baltimore Avenue, Kansas City, Mo. 64105 and Herbert Burstein, One World Trade Center, New York, N.Y. 10048. Operating right sought to be transferred: *General commodities*, with the usual exceptions, as a *common carrier* over regular routes, between Scranton, Pa., and Syracuse, N.Y., serving all intermediate points in New York, and off-route points in Pennsylvania on and east of a line beginning at the Maryland-Pennsylvania State line and extending along U.S. Highway 15 to junction U.S. Highway 11, thence along U.S. Highway 11 to junction U.S. Highway 6, thence along U.S. Highway 6 to the Pennsylvania-New York State line, and those in Broome, Cayuga, Chemung, Chenango, Cortland, Madison, Onondaga, Schuyler and Tioga Counties, N.Y.; from Scranton over U.S. Highway 11 to Syracuse, and return over the same route, with restrictions. Applicant is authorized to operate as a *common carrier* in Alabama, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, District of Columbia, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Mississippi, Missouri, Montana, Nebraska, Nevada, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Dakota, South Carolina, Tennessee, Texas, Utah, Virginia, Washington, West Virginia, Wisconsin, and Wyoming. In Docket No. MC 110325 (Sub-No. 42), Vendee has regular route authorities between Irwin and Harrisburg, Pa.; Buffalo and New York, N.Y.; Pittsburgh, Pa., and Baltimore, Md.; Elizabeth, N.J., and Harrisburg, Pa.; New York, N.Y., and Erie, Pa.; Harrisburg, Pa., and Buffalo, N.Y., among others, which authorize regular route operations through portions of the area sought herein. Application has been filed for temporary authority under section 210a(b).

No. MC-F-13321. Authority sought for control and merger by BENDER & LOUDON MOTOR FREIGHT LINES, INC., 3024 Brecksville Road, Richfield Ohio 44286, of RUSSOM TRANSFER, INC., 823 Carberry Road, Niles, Mich. 49120, and for acquisition by ELIZABETH L. BENDER and ROBERT C. BENDER, both of 3024 Brecksville, Richfield, Ohio 44286, GAIL B. MELL, 731 Delaware, Akron, Ohio 44303, and JEAN B. PRESTON, TRUSTEE, 1200 Yellow Creek Lane, Arkon, Ohio 44313, of control of such rights and properties through the transaction. Applicant's attorney: Rex Eames, 900 Guardian Building, Detroit, Mich 48226. Operating rights sought to be controlled and merged: *General commodities*, with exceptions, as a *common carrier* over regular routes, between Dowagiac, Mich., and South Bend, Ind., serving all intermediate points, and serving Diamond Lake, Mich. and the plantsite of Consolidated Die Cast Corp. of America, located approximately five miles north of Dowagiac, Mich., as off-route points. Transferee is authorized to operate as a *common carrier* in Ohio, Michigan, and Indiana. Application has been filed for temporary authority under section 210a(b).

OPERATING RIGHTS APPLICATION(S) DIRECTLY RELATED TO FINANCE PROCEEDINGS

NOTICE

The following operating rights application(s) 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 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 Rules 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 application.

No. MC 200 (Sub-No. 294), filed August 29, 1977. Applicant: RISS INTERNATIONAL CORP., 903 Grand Ave., P.O. Box 2809, Kansas City, Mo. 64142. Applicant's representative: Alan Kahn, 1920 Two Penn Center Plaza, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular 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 commodities requiring special equipment) between Harrisburg, Pa., on the one hand, and, on the other, points in New Jersey within 30 miles of City Hall, New York, N.Y., and those in that part of Pennsylvania, Maryland, and Delaware bounded by a line beginning at Easton, Pa., and extending along U.S. Highway 22 to Allentown, Pa., thence along U.S. Highway 222 to Lancaster, Pa., thence along U.S. Highway 30 to the bank of the Susquehanna River, thence southeast along the east bank of the Susquehanna River to U.S. Highway 1 in Maryland, thence along U.S. Highway 1 to Baltimore, Md., thence southeast, across the Chesapeake Bay to Centreville, Md., thence through Carville and Ingleside, Md., to the Maryland-Delaware State line, at or near Marydel, Md., thence along Delaware Highway 8 to Dover, Del., and thence north along the Delaware River to point of beginning, including all points on the described line. Restriction: Service at Harrisburg, Pa., is restricted for the purpose of joinder only with carrier's presently authorized regular route service at that point.

NOTE.—This application is directly related to Section 5 purchase application captioned Riss International Corporation—Purchase—Kowalsky's Express Service, MC-F-13308. The sole purpose of this application is to change the point of joinder of the rights being purchased with those of the transferee from Philadelphia, Pa. to Harrisburg, Pa. No additional points will be served. If a hearing is deemed necessary, applicant requests that it be held at either Washington, D.C. or Philadelphia, Pa.

Notice of the application filing in MC-F-13308 appears in a prior section of this Federal Register issue.

No. MC 65880 (Sub-No. 22), filed August 24, 1977. Applicant: MUSHROOM TRANSPORTATION CO., INC., 845 East Hunting Park Avenue, Philadelphia, Pa. 19124. Applicant's representatives: A. David Millner, P.O. Box 1409, 167 Fairfield Road, Fairfield, N.J. 07006. 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 Commis-

sion, commodities in bulk, and commodities requiring special equipment); between Cleveland, Ohio on the one hand, and, on the other, points in Ohio.

NOTE.—The purpose of the application is to effectuate a conversion of a Registered Certificate to a Certificate of Public Convenience and Necessity and is directly related to a Section 5 proceeding in MC-F-13283 published in the FEDERAL REGISTER issue of August 4, 1977. If a hearing is deemed necessary, Applicant requests that it be held at Cleveland, Ohio.

No. MC 74681 (Sub-No. 6), filed August 19, 1977. Applicant: STEVENS VAN LINES, INC., 121 So. Niagara Street, Saginaw, Mich. 48602. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Ave. NW., Suite 1200, Washington, D.C. 20036. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, in the transportation of *Household Goods* as defined by the Commission: (1) between points in Colorado, Connecticut, Illinois, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Missouri, Nebraska, New Jersey, New York, North Dakota, Ohio, Pennsylvania, South Dakota, Tennessee, Virginia, Wisconsin, West Virginia, and the District of Columbia on the one hand, and, on the other, points within 500 miles of Fort Worth, Tex., including Fort Worth, Tex., and points in New Mexico and Louisiana; (2) between points in Colorado, Connecticut, Illinois, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Missouri, Nebraska, New Jersey, New York, North Dakota, Ohio, Pennsylvania, South Dakota, Tennessee, Virginia, Wisconsin, West Virginia, and the District of Columbia on the one hand, and, on the other, points in Alabama, Colorado, Connecticut, Georgia, Illinois, Indiana, Iowa, Kansas, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, New York, Ohio, Pennsylvania, Tennessee, Virginia, and the District of Columbia. (As to these two paragraphs of the authority, the common points would be in the Missouri, Nebraska, Tennessee, Iowa, and Colorado, which are within 500 miles of Fort Worth, Tex, and these would be the gateways that would be eliminated.); (3) between points in Alabama, Colorado, Connecticut, Georgia, Illinois, Indiana, Iowa, Kansas, Maryland, North Carolina, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, New York, Ohio, Pennsylvania, Tennessee, Virginia, and the District of Columbia on the one hand, and, on the other, points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, Tennessee, Virginia, West Virginia, Wisconsin, and the District of Columbia. Removing the gateway of the state of Michigan, and points in Missouri, Nebraska, Tennessee, Iowa, and Colorado, which are within 500 miles of Fort Worth. (These movements would be made as follows: For example from Alabama to Arkansas, Paragraph A-1 to Michigan, Paragraph B-1 to Arkansas.)

NOTE.—This application is directly related to Purchase Application by Stevens Van Lines, Inc. of the operating authority or Airline Vans, Inc., by which Purchase Application Stevens Van Lines, Inc. is purchasing Certificate of Public Convenience and Necessity No. MC-107520. Basically, this is a gateway elimination application. If a hearing is deemed necessary, applicant requests that it be held in Saginaw, Michigan, however, modified procedure is requested. Notice of the finance application in MC-F-13300 appears in a prior section of this FEDERAL REGISTER issue.

No. MC 99623 (Sub-No. 4), filed July 12, 1977. Applicant: JAMES E. GRIFFIN & SONS, INC., 275 Circuit St., P.O. Box 1194, West Hanover, Mass. 02339. Applicant's representative: Frederick T. O'Sullivan, P.O. Box 2184, Peabody, Mass. 01960. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from points in Massachuetts to points in Allegany, Broom, Cattaraugus, Chautaugua, Erie, Genesee, Chemung, Livingston, Niagara, Orleans, Steuben, Tioga, and Wyoming Counties, N.Y.

NOTE.—The purpose of this filing is to eliminate the gateways of Concord and Acton, Mass. If a hearing is deemed necessary, applicant requests that it be held at Boston, Mass. This application will be processed on a consolidated record with MC-F-13218 which was noticed in the FEDERAL REGISTER issue of July 7, 1977.

No. MC 109533 (Sub-No. 93), filed July 19, 1977. Applicant: OVERNITE TRANSPORTATION CO., 1000 Semmes Avenue, Richmond, Va. 23224. Applicant's representative: E. T. Liipfert, Suite 1000, 1660 L Street NW., 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 Elkton, Md., and Reading, Pa., serving all intermediate points in Delaware and Pennsylvania: From Elkton over Maryland Highway 7 to junction U.S. Highway 40, thence over U.S. Highway 40 to Wilmington, Del., thence over U.S. Highway 202 to West Chester, Pa., thence over Pennsylvania Highway 100 to Pottstown, Pa., thence over U.S. Highway 42 to Reading and return over same route;

(2) Between Lancaster, Pa., and Reading, Pa., serving all intermediate points in Berks County, Pa.: From Lancaster over U.S. Highway 222 to Reading and return over same route;

(3) Between Lancaster, Pa., and Lebanon, Pa., serving all intermediate points in Lebanon County, Pa.; From Lancaster, Pa., over Pennsylvania Highway 72 to Lebanon and return over the same route;

(4) Between Lancaster, Pa., and Carlisle, Pa., serving all intermediate points in Cumberland and York Counties, Pa.: From Lancaster over U.S. Highway 222 to junction Interstate Highway 76, thence over Interstate Highway 76 to Carlisle, Pa., and return over same route;

(5) Between Wilmington, Del., and Philadelphia, Pa., serving all intermediate points in Delaware and Pennsylvania: From Wilmington over Interstate Highway 95 to Philadelphia, and return over same route;

(6) Between Reading, Pa., and Carlisle, Pa., serving all intermediate points in Berks, Lebanon, York, and Cumberland Counties, Pa.: From Reading over U.S. Highway 422 to junction U.S. Highway 322, thence over U.S. Highway 322 to junction Interstate Highway 83, thence over Interstate Highway 83 to junction U.S. Highway 11, thence over U.S. Highway 11 to Carlisle, and return over the same route;

(7) Between Philadelphia, Pa., and Pottstown, Pa., serving all intermediate points: From Philadelphia over U.S. Highway 422 to Pottstown, and return over same route; and

(8) In connection with service routes (1) through (7) in Delaware, New Jersey, and Pennsylvania, or other regular routes of carrier, the carrier may serve the following off-route points:

(a) Delaware—all points on and north of the Chesapeake-Delaware Canal;

(b) New Jersey—Camden;

(C) Pennsylvania:

(i) Berks County—points on and south of U.S. Highway 22 from Berks-Lehigh County line to Berks-Lebanon County line; also, the points of Grimes and Schubert;

(ii) Bucks County—Argus, Chalfont, Eureka, Geryville, Hatboro, Line Lexington, Mount Pleasant, Milford Square, Neshaminy, Perkasie, Silverdale, Sellersville, Souderton, Spinners Town, Tradesville, Trumbauersville, Telford, Warrington, and Warminster;

(iii) Chester County—points on and north of Pennsylvania Highway 896;

(iv) Cumberland County—points on and east of Pennsylvaia Highway 34 from Perry-Cumberland County lines, thence along Pennsylvania Highway 34 to Carlisle, thence along Interstate Highway to junction Pennsylvania Highway 233, thence along Pennsylvania Highway 233 to the Cumberland-Adams County line; also the points of Greason, Hackersville, and Plainfield;

(v) Delaware County;

(vi) Lebanon County;

(vii) Lehigh County—Alburtis, Breinigsville, Hosensack, Old Zionsville, Shimerville, Weilersville, and Zettlemoyer;

(viii) Montgomery County;

(ix) Perry County—Cove, Duncannon, Keystone, Kenkora Heights, Marysville, Perdix, and Sterretts Gap;

(x) Philadelphia County—points on and south of Pennsylvania Highway 63;

(xi) Schuylkill County—Auburn, Brommerstown, Camp, Deturksville, Friedensburg, Lincoln, Lorberry June, Marstown, Orwin, Paradise, Pine Grove, Port Clinton (Ravine, Rock, Roedersville, Suedberg, and Summit Station;

(xii) York County;

Restriction: The operations requested in Routes (1) through (8) above are restricted to the transportation of traffic moving from, to, or through a point in Maryland.

Restriction: The authority sought herein shall not be severable, by sale or otherwise, from the authority contained in carrier's Sub-No. 63 authority.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Washington, D.C. This application is a matter directly related to a finance application in MC-F-12715 which appeared in the FEDERAL REGISTER issue of December 31, 1975, and which is presently pending on exceptions to the initial decision dated June 8, 1977, and served June 15, 1977.

No. MC 115331 (Sub-No. 427), filed July 19, 1977. Applicant: TRUCK TRANSPORT INC., 29 Clayton Hills Lane, St. Louis, Mo. 63131. Applicant's representative: Leonard A. Jaskiewicz, Suite 501, 1730 M Street NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Lime*, in bulk (except lime used for agricultural purposes), from points in Shelby County, Ala., to points in Oklahoma, Missouri, Kentucky, Illinois, Texas (except Houston and points in Texas within 50 miles of Houston), Indiana, Michigan, Minnesota, Wisconsin, Ohio, Montana, North Dakota, South Dakota, and Wyoming. The purpose of this filing is to remove the gateways of Limedale, Ark.; Ste. Genevieve, Mo.; Pike County, Mo.; Adams County, Ill.; and Hannibal, Mo.; (2) *lime*, in bulk, from points in Shelby County, Ala., to points in Colorado, Kansas, Arizona, New Mexico, and Nebraska. The purpose of this filing is to remove the gateways of Limedale, Ark.; and Kansas City, Kans.; (3) *anhydrous ammonia*, in bulk, in tank vehicles, and *dry urea*, in bulk, from the plantsite of American Cyanamid at Avondale, La., to points in Illinois, Iowa, Indiana, Ohio, South Dakota, North Dakota, Wyoming, Minnesota, Nebraska, Wisconsin, and Michigan. The purpose of this filing is to remove the gateways of Selma, Mo.; St. Louis, Mo.; the Part Neal Industrial Complex, Woodbury County, Iowa; Fort Madison, Iowa; and Marseilles, Ill.

NOTE.—This application is directly related to Truck Transport Inc.—Purchase (Portion)—Ecoff Trucking, Inc., MC-F-13174, and seeks the elimination of certain gateways which would be created upon approval of the Section 5 application. The proceeding in No. MC-F-13174 was noticed in the FEDERAL REGISTER issue of April 7, 1977. If a hearing is deemed necessary, applicant requests that such hearing be held at St. Louis, Mo. Common control may be involved.

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-28 (Sub-No. 1)]

CENTRAL OF GEORGIA RAILROAD CO. ABANDONMENT OF OPERATIONS BETWEEN CLAYTON AND OZARK IN BARBOUR AND DALE COUNTIES, ALA.

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 March 28, 1977, and the decision and order of the Commission, Division 3, served July 27, 1977, which affirmed and adopted the initial decision of the Administrative Law Judge entered on March 28, 1977, a finding, which is administratively final, was made 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 the abandonment of operations by Central of Georgia Railroad Co. over that portion of its line of railroad extending from railroad milepost 355.1 near Clayton, Ala., to railroad milepost 394.1 at Ozark, Ala., consisting of 39 miles of main track and 3.43 miles of yard tracks and sidings, all in Barbour and Dale Counties, Ala. A certificate of abandonment will be issued to the Central of Georgia Railroad Co. 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 execution 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.

[Docket No. AB-42 (Sub-No. 20)]

ILLINOIS CENTRAL GULF RAILROAD CO.—ABANDONMENT BETWEEN SAXONY AND PONTIAC, IN LIVINGSTON COUNTY, ILL.

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 July 20, 1977, 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 the abandonment by the Illinois Central Gulf Railroad Co. of a line 19.5 miles in length between Saxony, on the east, and Pontiac, on the west, in Livingston County, Ill., beginning at milepost 86 and ending at milepost 105.5. A certificate of abandonment will be issued to the Illinois Central Gulf Railroad Co. 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 proviidng 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 execution 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.

[Docket No. AB-57 (Sub-No. 4)]

SOO LINE RAILROAD CO., ABANDONMENT NEAR A POINT IN DULUTH, ST. LOUIS COUNTY, MINN.

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 July 18, 1977, 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, and for public use as set forth in said order, the present and future public convenience and necessary permit the abandonment by the Soo Line Railroad Co. of its Duluth Branch line of railroad extending northeasterly from a point in Duluth, Minn., at railroad milepost 467.93, to the end of the line in Duluth, Minn., at railroad milepost 468.20, a distance of .27 miles, and .71 miles of side track in St. Louis County, Minn. A certificate of abandonment will be issued to the Soo Line Railroad Co. 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 execution 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.

[Docket No. AB-69 (Sub-No. 3)]

WESTERN MARYLAND RAILWAY CO.—ABANDONMENT—HENRY, GRANT COUNTY, W. VA., TO END OF LINE-IN GARRETT COUNTY, MD.

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 July 6, 1977, a finding, which is administratively final, was made by the Commission, Review Board Number 5, 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, and for public use as set forth in said order, the present and future public convenience and necessity permit the abandonment by the Western Maryland Railway Co., of a line of railroad constituting its Kempton Branch, extending between Valuation Station 0+00 at or near Henry, Grant County, W. Va., to end of line at Valuation Station 127+05 in Garrett County, Md., a distance of approximately 2.4 miles. A certificate of abandonment will be issued to the Western Maryland Railway Co. 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 execution 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.

[Docket No. AB-101 (Sub-No. 2)]

DULUTH, MISSABE AND IRON RANGE RAILWAY CO.—ABANDONMENT BETWEEN SAWBILL LANDING AND FOREST CENTER IN LAKE COUNTY, MINN.

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 July 15, 1977, a finding, which is administratively final, was made by the Commission, Review Board Number 5, 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, as supplemented by those established pursuant to section 405 of the Rail Passenger Service Act, the present and future public convenience and necessity permit the abandonment by the Duluth, Missabe and Iron Range Railway Co., of a portion of the Wales Branch extending from milepost 42 north of and near Sawbill Landing, in a northerly direction to the end of the line near Forest Center, a distance of 7.34 miles, all in Lake County, Minn. A certificate of abandonment will be issued to the Duluth, Missabe and Iron Range Railway Co. 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 exception 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.

[Docket No. AB-125]

NORFOLK SOUTHERN RAILWAY CO. ABANDONMENT OF OPERATIONS BETWEEN DICKERSON SPUR AND BAYBORO IN CRAVEN AND PAMLICO COUNTIES, N.C.

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 July 7, 1977, a finding, which is administratively final, was made by the Commission, Review Board Number 5, 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 the abandonment of operations over that portion of its line between Dickerson spur, milepost BB-3.0 (near Bridgeton) and Bayboro, N.C., milepost BB-17.0 (the branch line), a distance of 14 miles in Craven and Pamlico Counties, N.C. A certificate of abandonment will be issued to the Norfolk Southern Railway 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 execution 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.

MOTOR CARRIER ALTERNATE ROUTES DEVIATIONS

NOTICE

The following letter notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Deviation Rules—Motor Carrier of Property (49 CFR 1042.4(c)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules 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 2202 (Deviation No. 162), ROADWAY EXPRESS, INC., P.O. Box 471, 1077 Gorge Blvd., Akron, Ohio 44309, filed August 19, 1977. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over deviation routes as follows: (1) From Marion, Ill., over Interstate Highway 57 to junction Interstate Highway 24, thence over Interstate Highway 24 to Nashville, Tenn., and (2) from Anna, Ill., over Illinois Highway 146 to junction Interstate Highway 24, thence over Interstate Highway 24 to Nashville, Tenn., and return over the same routes for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over pertinent service routes as follows: (1) From Marion, Ill., over Illinois Highway 13 to junction U.S. Highway 51, thence over U.S. Highway 51 to junction U.S. Highway 50, thence over U.S. Highway 50 to Seymour, Ind., thence over U.S. Highway 31E or 31W to Louisville, Ky., thence over U.S. Highway 31W to Nashville, Tenn., and (2) from Anna, Ill., over U.S. Highway 51 to Centralia, Ill., thence over the above-specified routes to Nashville, Tenn., and return over the same routes.

No. MC 29555 (Deviation No. 20), BRIGGS TRANSPORTATION CO., North 400, Griggs-Midway Bldg., St. Paul, Minn. 55104, filed August 26, 1977. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Des Moines, Iowa, over Interstate Highway 80 to junction U.S. Highway 59, thence over U.S. Highway 59 to junction Interstate Highway 29, thence over Interstate Highway 29 to junction U.S. Highway 71, 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 Des Moines, Iowa, over U.S. Highway 6 to junction U.S. Highway 275 near Council Bluffs, Iowa, thence over U.S. Highway 275 to junction Iowa Highway 2, thence over Iowa Highway 2 to junction U.S. Highway 71 near Clarinda, Iowa, thence over U.S. Highway 71 to Kansas City, Mo., and return over the same route.

No. MC 41432 (Deviation No. 30), EAST TEXAS MOTOR FREIGHT LINES, INC., 2355 Stemmons Freeway, P.O. Box 10125, Dallas, Tex. 75207, filed August 12, 1977. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over deviation routes as follows: (1) From junction U.S. Highway 67 and U.S. Highway 290 over U.S. Highway 290 to Comfort, Tex., thence over U.S. Highway 87 to Stockdale, Tex., thence over Texas Highway 123 to Seguin, Tex.; (2) from junction U.S. Highway 67 and U.S. Highway 290 over U.S. Highway 290 to Comfort, Tex., thence over U.S. Highway 87 to Stockdale, Tex., thence over Texas Highway 123 to Seguin, Tex., thence over Texas Highway 46 to New Braunfels, Tex.; and (3) from junction U.S. Highway 67 and U.S. Highway 290 over U.S. Highway 290 to Comfort, Tex., thence over U.S. Highway 87 to Stockdale, Tex., thence over Texas Highway 123 to San Marcos, Tex., and return over the same routes for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over pertinent service routes as follows: (1) From junction U.S. Highway 67 and U.S. Highway 290 over U.S. Highway 67 to San Angelo, Tex., thence over U.S. Highway 87 to Fredericksburg, Tex., thence over U.S. Highway 290 to Austin, Tex., thence over U.S. Highway 81 to San Antonio, Tex., thence over U.S. Highway 90 to Seguin, Tex.; (2) from junction U.S. Highway 67 and U.S. Highway 290 over U.S. Highway 67 to San Angelo, Tex., thence over U.S. Highway 87 to Fredericksburg, Tex., thence over U.S. Highway 290 to Austin, Tex., thence over U.S. Highway 81 to New Braunfels,

Tex.; and (3) from junction U.S. Highway 67 and U.S. Highway 290 over U.S. Highway 67 to San Angelo, Tex., thence over U.S. Highway 87 to Fredericksburg, Tex., thence over U.S. Highway 290 to Austin, Tex., thence over U.S. Highway 81 to San Marcos, Tex., and return over the same routes.

No. MC 42487 (Deviation No. 113), CONSOLIDATED FREIGHTWAYS CORP. OF DELAWARE, P.O. Box 5138, Chicago, Ill. 60680, filed August 15, 1977. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Marion, Ohio, over Ohio Highway 4 to junction Interstate Highway 70 near Springfield, Ohio, thence over Interstate Highway 70 to Indianapolis, Ind., 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 Marion, Ohio, over U.S. Highway 30S (now Ohio Highway 309) to Kenton, Ohio, thence over U.S. Highway 68 to Springfield, Ohio, thence over Ohio Highway 440 (formerly portion U.S. Highway 40) via Donnellsville, Phoneton, Vandalia, and Englewood, Ohio, to junction U.S. Highway 40 (near Clayton, Ohio), thence over U.S. Highway 40 to Indianapolis, Ind., and return over the same route.

No. MC 108835 (Deviation No. 8), HYMAN FREIGHTWAYS, INC., 1745 University Ave., St. Paul, Minn. 55104, filed August 26, 1977. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Minneapolis, Minn., over Interstate Highway 35E to junction Interstate Highway 94, thence over Interstate Highway 94 to junction Minnesota Highway 56, thence over Minnesota Highway 56 to junction U.S. Highway 52, thence over U.S. Highway 52 to junction U.S. Highway 63, thence over U.S. Highway 63 to Waterloo, Iowa, 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 Minneapolis, Minn., over U.S. Highway 169 to Fort Dodge, Iowa, thence over U.S. Highway 20 to Waterloo, Iowa, and return over the same route.

No. MC 111231 (Deviation No. 62), JONES TRUCK LINES, INC., 610 E. Emma Ave., Springdale, Ark. 72764, filed August 17, 1977. Carrier's representative: Kim Mann, Suite 1010, 7101 Wisconsin Ave., Washington, D.C. 20014. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Oklahoma City, Okla., over Interstate Highway 35 to junction Interstate Highway 35W, thence over Interstate Highway 35W to junction U.S. Highway 81, thence over U.S. Highway 81 to Belleville, Kans., 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 Oklahoma City, Okla., over U.S. Highway 66 to junction U.S. Highway 69, thence over U.S. Highway 69 to junction U.S. Highway 24, thence over U.S. Highway 24 to junction U.S. Highway 81, thence over U.S. Highway 81 to Belleville, Kans., and return over the same route.

Motor Carrier Alternate Route Deviations

NOTICE

The following letter notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Deviation Rules—Motor Carrier of Passengers (49 CFR 1042.(c)(9)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules 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 Passengers

No. MC 1515 (Deviation No. 731) (Cancels Deviation No. 722), GREYHOUND LINES, INC., Greyhound Tower, Phoenix, Ariz. 85077, filed August 23, 1977. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passenger and their baggage*, and *express* and *newspapers* in the same vehicle with passengers, over deviation routes as follows: From Hillsville, Va., over U.S. Highway 58 to junction Interstate Highway 77, thence over Interstate Highway 77 to Charlotte, N.C., with the following access route: (1) From Mount Airy, N.C., over North Carolina Highway 89 to junction Interstate Highway 77 and return over the same routes for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property over a pertinent service route as follows: From Hillsville, Va., over U.S. Highway 52 via Mount Airy, N.C., to Winston-Salem, N.C., thence over U.S. Highway 158 to Mocksville, N.C., thence over U.S. Highway 64 to Statesville, N.C., thence over North Carolina Highway 115 via Shepherd, Mooresville, Davidson, and Huntersville to junction U.S. Highway 21, thence over U.S. Highway 21 to Charlotte, N.C., and return over the same route.

No. MC 74761 (Deviation No. 11), TAMIAMI TRAIL TOURS, INC., 525 Madison St., Tampa, Fla. 33602, filed August 23, 1977. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage*, and *express* and *newspapers* in the same vehicle with passengers, and a deviation route as follows: From Woodbury, Ga., over Georgia Highway 85E to Manchester, Ga., thence over U.S. Highway Alternate 27 to junction U.S. Highway 80, and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property over a pertinent service route as follows: From Woodbury, Ga., over Georgia Highway 85W to Warm Springs, Ga., thence over Georgia Highway 41 to Talbotton, Ga., thence over U.S. Highway 80 to junction U.S. Highway Alternate 27, and return over the same route.

Motor Carrier Intrastate Application(s)

NOTICE

The following application(s) 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.

Alaska Docket No. 77-269-MF-O, filed August 3, 1977. Applicant: CHUGIAK ENTERPRISES, INC., Lee Road, Box 44, Eagle River, Alaska 99577. Applicant's representative: John M. Stern, Jr., P.O. Box 1672, Anchorage, Alaska 99510. Certificate of Public Convenience and Necessity sought to operate a freight service in *contract carrier* operations transporting: *Dairy and bakery products*, between points in Alaska.

NOTE.—Some of the products transported may be classified as interstate from time to time.

Hearing: Date, time, and place not yet fixed. Requests for procedural information should be addressed to the Alaska Public Utilities Commission, 1000 Mackay Building, 338 Denali St., Anchorage, Alaska 99501, and should not be directed to the Interstate Commerce Commission.

Montana Docket No. 3387, filed August 15, 1977. Applicant: RIMROCK STAGES INC., 1225 Dublin St., Billings, Mont. 59101. Applicant's representative: Hugh Sweeney, 175 N. 27th St., Suite 1201, Billings, Mont. 59101. Certificate of Public Convenience and Necessity sought to operate a freight service as follows: Transportation of *Passengers, baggage and express*, between Helena and Missoula, Mont., via Elliston, Avon, Garrison, and Drummond, Mont., as a Class A (scheduled) intrastate carrier, interstate and foreign commerce authority also sought. Hearing: Date, time, and place set for October 11, 1977, in Helena,

Mont., at a time and address to be assigned later. Requests for procedural information should be addressed to the Montana Public Service Commission, 1227 11th Avenue, Helena, Mont. 59601, and should not be directed to the Interstate Commerce Commission.

South Carolina Docket No. 77-473-T, filed August 15, 1977. Applicant: SMITH & WATERS, INC., Nation Rd., Ware Shoals, S.C. 29692. Applicant's representative: William B. Patrick, Jr., P.O. Drawer 1207, Greenwood, S.C. 29646. Certificate of Public Convenience and Necessity sought to operate a freight service as follows: Transportation of *Commodities in general* over irregular routes (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 reissues 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, supplements thereto or reissues thereof); between points and places in Abbeville, Aiken, Anderson, Edgefield, Greenwood, Laurens, McCormick, Newberry, Oconee, Pickens, and Saluda Counties, S.C.; and between points and places in these counties and points and places in South Carolina and between points and places in Greenville County for the purpose of interchange only, and between points and places in Greenville County for the purpose of interchange only and points and places in South Carolina (except that no commodities in bulk in dump vehicles may be transported between points and places in Laurens, Newberry, Oconee and Pickens Counties, and between points and places in these counties and points and places in South Carolina, not including that area within a five mile radius of the post office at Ware Shoals); *cotton in bales, cotton waste, cotton bagging and cotton ties; and, fertilizer and fertilizer materials:* Between points and places in South Carolina; *fruits and vegetables:* Between points and places in Edgefield and Saluda Counties, S.C., and between points and places in Edgefield and Saluda Counties and points and places in South Carolina; *Brick, tile, terra cotta pipe, concrete blocks, pipe and slabs:* Between points and places in Aiken, Fairfield, Greenwood, Lexington, and Richland Counties, S.C., and from points and places in these counties to points and places in South Carolina, *grain:* Between points and places in Aiken, Edgefield, and Saluda Counties, S.C., and between points and places in these counties and points and places in South Carolina; *and petroleum products* in drums and packages: From Charleston, S.C., to points and places in Edgefield County, S.C. No other change is sought. 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, 8th Floor, Owens Building, P.O. Box 11649, Columbia, S.C. 29211 and should not be directed to the Interstate Commerce Commission.

By the Commission.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc.77-26152 Filed 9-7-77;8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409), 5 U.S.C. 552b(e)(3).

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1

FEDERAL DEPOSIT INSURANCE CORPORATION.

FEDERAL REGISTER CITATIONS OF PREVIOUS ANNOUNCEMENTS: 10:30 a.m.—42 FR 44111; 10:45 a.m. and 11 a.m.—FR 44112 and 42 FR 44113, September 1, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETINGS: 10:30 a.m., 10:45 a.m., and 11 a.m., September 6, 1977.

CHANGES IN THE MEETING: The three above entitled meetings are cancelled.

CONTACT PERSON FOR MORE INFORMATION:

Alan R. Miller, Executive Secretary (202–389–4446).

[S–1257–77 Filed 9–6–77; 10:59 am]

2

FEDERAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Monday, September 12, 1977.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

STATUS. Closed.

MATTERS TO BE CONSIDERED:

NONADJUDICATIVE MATTER

(1) Approval of minutes of nonadjudicative matters considered at meetings of July 22, 26, and 28, 1977.

(2) Consideration of issuance of complaint in (non-public) part II matter.

(3) Consideration of Maroor, et al. (Docket 9092): Motion by respondent to dismiss complaint and recommendation by staff to amend complaint.

(4) Consideration of issuance of proposed resolution authorizing compulsory process in (nonpublic) part 2 matter.

ADJUDICATIVE MATTERS UNDER PART 3 OF THE RULES OF PRACTICE

(1) Approval of minutes of adjudicative matters considered at meeting of July 26, 1977.

CONTACT PERSON FOR MORE INFORMATION:

Leonard J. McEnnis, Jr., Office of Public Information, 202–523–3830; recorded message, 202–523–3806.

[S–1252–77 Filed 9–6–77; 10:10 am]

3

FEDERAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Thursday, September 15, 1977.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission has not yet scheduled any matters for discussion at this meeting. If no item is placed on the agenda by 10 a.m., or Thursday, September 15, 1977, the meeting will automatically be cancelled. Any item that is placed on the agenda before that time will be announced in accordance with the additional information procedures posted with Commission meeting notices outside Room 130 of the Federal Trade Commission Building.

CONTACT PERSON FOR MORE INFORMATION:

Leonard J. McEnnis, Jr., Office of Public Information, 202–523–3830; recorded message, 202–523–3806.

[S–1253–77 Filed 9–6–77; 10:10 am]

4

FEDERAL TRADE COMMISSION.

TIME AND DATE: 2 p.m., Thursday, September 15, 1977.

PLACE: Room 532 (open); Room 540 (closed), Federal Trade Commission Building, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to public: (1) Oral argument in Perpetual Federal Savings & Loan Association, Docket No. 9083.

Portions closed to the public: (2) Executive session for consideration of oral argument in Perpetual Federal Savings & Loan Association, Docket No. 9083.

CONTACT PERSON FOR MORE INFORMATION:

Leonard J. McEnnis, Jr., Office of Public Information, 202–523–3830; recorded message, 202–523–3806.

[S–1254–77 Filed 9–6–77; 10:10 am]

5

SEPTEMBER 2, 1977.

INTERSTATE COMMERCE COMMISSION.

TIME AND DATE: 2:30 p.m., Monday, September 12, 1977.

PLACE: Room 5124, Interstate Commerce Commission Building, 12th Street and Constitution Avenue NW., Washington, D.C.

STATUS: Notice of open meeting.

MATTER TO BE CONSIDERED: Division 3, Division Chairman Brown and Commissioners MacFarland and Christian voted unanimously to hold a meeting to consider the following agenda: 1. Review of present Division workload.

CONTACT PERSON FOR MORE INFORMATION:

Mrs. Hildred Hersman, Confidential Assistant to Commissioner Brown, telephone 202–275–7535.

[S–1250–77 Filed 9–6–77; 8:56 am]

6

NATIONAL TRANSPORTATION SAFETY BOARD.

TIME AND DATE: 9:30 a.m., Friday, September 16, 1977 (NM–77–28).

PLACE: NTSB Board Room, National Transportation Safety Board, 800 Independence Avenue SW,, Washington, D.C. 20594.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. *Aircraft accident report.*—Ruel Insurance Corp. Cessna 414, N8PR, and USAF F–4E, 67–0255, near Brighton, Fla., September 13, 1976.

2. Recommendation to Federal Aviation Administration re timely dissemination by air traffic controllers of all available weather information to flightcrews in the terminal area.

3. Recommendation to Federal Aviation Administration re implementation of an aviation subsystem for air traffic control environment.

4. *Proposed special study on alcohol.*—Alternatives I and II, proposals for phases II and III.

5. Recommendations to American Gas Association and Connecticut Natural Gas Corp. re pipeline accident in Greenwich, Conn., May 25, 1977.

6. Additional recommendations re Southern Airways, Inc., DC–9 accident in Atlanta, Ga., April 4, 1977.

CONTACT PERSON FOR MORE INFORMATION:

Sharon Flemming (202–755–4930).

[S–1251–77 Filed 9–6–77;9:20 am]

7

NUCLEAR REGULATORY COMMISSION.

FEDERAL REGISTER CITATION ON PREVIOUS ANNOUNCEMENT: 42 FR 43475, additional meeting.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: Thursday, September 1.

CHANGES IN THE MEETING: 3:30 p.m.—Briefing on status of Price-Anderson litigation (additional meeting) (public meeting).

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee (202–634–1410).

Dated: September 2, 1977.

WALTER MAGEE,
Chief, Operations Branch,
Office of the Secretary.

[S–1256–77 Filed 9–6–77;10:18 am]

8

NUCLEAR REGULATORY COMMISSION.

NOTE.—This document originally appeared at page 44870 in the FEDERAL REGISTER for Wednesday, September 7, 1977. It is reprinted in this issue to meet the assigned day of the week publication schedule.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 44622.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: Week of September 5.

CHANGES IN THE MEETING:

WEDNESDAY, SEPTEMBER 7

10 a.m.—New Mexico Uranium Mill lawsuit (approx. 1 hr.) (rescheduled from September 8) (closed—exemption 10).

11 a.m.—Affirmation of ALAB–425—Exxon (public meeting) (rescheduled from 2:30 p.m., Sept. 7) (approx. 5 min.).

2:30 p.m. (approx.)—Discussion of draft administration bill for nuclear plant licensing reform (closed—exemption 9) (continuation of September 1 meeting) (additional meeting). (Meetings on policy statement on alternatives site evaluations under NEPA for nuclear generating stations; and mandatory licensee participation in the nuclear plant reliability data system are postponed to a date to be announced.)

THURSDAY, SEPTEMBER 8

9 a.m.—1. Discussion of proposed testimony on export legislation (as announced) (closed—exemption 9). 2. Discussion of draft administration bill for nuclear plant licensing reform (continuation of September 7 meeting) (closed—exemption 9).

1:30 p.m.—Draft order in Seabrook (as announced) (closed—exemption 10). (The meeting on Commission review of Director's denial of petition for revocation of Bailly Construction permit is postponed to a date to be announced.)

FRIDAY, SEPTEMBER 9

9:30 a.m.—Joint NRC/ACRS meeting (approx. 1 hr.) (as announced) (public meeting).

10:30 a.m.—Discussion of draft administration bill for nuclear plant licensing reform (closed—exemption 9) (continuation of September 8 meeting).

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee (202–634–1410).

Dated: September 2, 1977.

WALTER MAGEE,
Chief, Operations Branch,
Office of the Secretary.

[S–1255–77 Filed 9–6–77;10:10 am]

9

RAILROAD RETIREMENT BOARD.

TIME AND DATE: 9 a.m., September 12, 1977.

PLACE: Board's meeting room on the 8th floor of its headquarters building at 844 Rush Street, Chicago, Ill. 60611.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to the public: (1) Direct access terminals in the Bureau of Retirement Claims.

(2) Delegation of authority.

(3) Union contract interpretation dispute—Mrs. Josephine Schumacher.

(4) Cost-of-living inquiries.

(5) Quality control review of unemployment benefits.

(6) Weekly microfiche of BUSI Master.

Portion closed to the public: (7) Appeal to the Board of denial of waiver of recovery of overpayment, Agnes Reynolds.

CONTACT PERSON FOR MORE INFORMATION:

R. F. Butler, Secretary of the Board, Telephone No. 312–387–4920.

[S–1249–77 Filed 9–2–77;3:45 pm]

federal register

THURSDAY, SEPTEMBER 8, 1977

PART II

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

■

NATIONAL FLOOD INSURANCE PROGRAM

Proposed and Final Flood Elevation Determinations for Various Communities

Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI-3288]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

City of Macon, Mo.; Final Flood Elevation Determination

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the City of Macon, Mo.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the City of Macon, Mo.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Macon are available for review at City Hall, Macon, Mo.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh St. SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the city of Macon, Missouri.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. 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 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917).

An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Dock Creek, tributary No. 1.	Rustic Dr.	785
Salt River, tributary No. 3.	U.S. Highway 63 (upstream side).	825
	5th St.	832
	6th St.	830
Salt River, tributary No. 4.	Main St.	832
Salt River, tributary No. 5.	Riggs St.	833
Salt River, tributary No. 6.	Walnut St.	814
	Hilldale Dr.	824
Salt River, tributary No. 7.	Vine St.	807
	Walnut St.	835

(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 (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-25186 Filed 9-7-77;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

[24 CFR Part 1917]

[Docket No. FI-3292]

CITY OF PLATTE CITY, MO.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Platte City, Mo. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: 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.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, Main Street, Platte City, Mo.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Truman Glenn, P.O. Box 716, Platte City, Mo. 64079.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Platte City, Mo., in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. 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 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Platte River	Highway M-92	786
	Corporate limits	785
	do.	780
	do.	777

(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 (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-25170 Filed 9-7-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2944]

CITY OF PHOENIX, MARICOPA COUNTY, ARIZ.

Correction of Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration.

ACTION: Correction of proposed rule.

SUMMARY: The notice of Proposed Base Flood Elevation for the City of Phoenix, Maricopa County, Ariz., published in the FEDERAL REGISTER on June 23, 1977, at 42 FR 31952 has been published in error. The Federal Insurance Administration will publish a new notice of Proposed Flood Elevations at a later date.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

(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: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-25171 Filed 9-7-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3275]

CITY OF WILLCOX, COCHISE COUNTY, ARIZ.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Willcox, Cochise County, Ariz. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: 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.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the bulletin board in City Hall, 151 West Maley St., Willcox, Ariz.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify the Honorable Wayman Hopkins, Mayor of Willcox, 151 West Maley St., Willcox, Ariz. 85643.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Willcox, Cochise County, Ariz., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. 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 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will

also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year-flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Sales Barn Diversion Channel.	Haskell Ave	4,173
	Wood St	4,169
	Railroad	4,166
	Downstream corporate limit.	4,163
Shallow flooding west of I-10.	North corporate limit	4,180
	South corporate limit	4,177
Shallow flooding west of Sales Barn Diversion Channel.	Rex Allen Dr	4,172
	Wood Street Dike	4,170
	Intersection of Curtis Ave. and Fremont St.	4,168
	Intersection of McCourt St. and Railroad Ave.	4,166
	South corporate limit	4,164

(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 (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-25172 Filed 9-7-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3276]

SACRAMENTO COUNTY, CALIF.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in Sacramento County, Calif. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: 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.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the County Administration Building, 827 7th St., Sacramento County, Calif.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Fred Wade, Chairman, Board of County Supervisors, Sacramento County, County Administration Building, 827 7th St., Sacramento County, Calif. 95814.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh St., SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for Sacramento County, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. 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 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Whitehouse Creek	Elk Grove-Florin Rd	39
	Southern Pacific RR	37
	Highway 99 and Alternate 5.	28
Verde Cruz Creek	Crestview Dr	115
	Schuyler Dr	112
	Manzanita Ave	101
Unionhouse Creek	Elk Grove-Florin Rd	35
	Southern Pacific RR	34
	Cottonwood Lane	31
	Elsie Ave	30
	Iona Way	28
	Stockton Blvd	26
Strong Ranch Slough.	Walnut Ave	86
	El Camino Ave	86
	Roxie Way	82
	Melvin Dr	79
	Mission Ave	75
	Eastern Ave	68
	Iona St	65
	Maple Glen Rd	61
	do	58
	Winding Creek Rd	54
	Watt Ave	53
	Cottage way	51
	do	47
	Alta Arden Expressway.	44
	Armstrong Dr	42
	Arden Way And Fulton Ave.	40
	Wittkop Way	37
	Hurley Way	36
	Bell St	36
	Howe Manor East	35
	Howe Ave	35
Strawberry Creek	Southern Pacific RR	35
	Calvine Rd	30
	Highway 99 and Alternate 5.	25
	Frontage Rd	25
Sierra Creek	32d St (projected)	74
	28th St	67
San Juan Creek	Sunrise Blvd	162
	Greenback Lane	155
	San Pablo Ave	148
	Santa Catarina Ave	147
	San Simeon Dr	146
	Mariposa Ave	145
	Sylvan Rd	138
	Woodside Rd	134
Robla Creek	Larchmont Dr	99
	Floral Dr	97
	Stoneman Dr	93
	La Cienga Dr	92
	Channing Dr	88
	Thomas Dr	85
	Watt Ave	85
	34th St	82
	32d St	75
	AFB Patrol Rd	71
	do	67
	I St	65
	26th St	64
	24th St	60
	E St	57
	22d St	57
	20th St	54
	E St	49
	16th St	48
	E St	46
	Dry Creek Rd	43
Natomas West Drainage Canal.	Elkhorn Blvd	19
	Schoolhouse Rd	13
	I-5	13
	Power Line Rd	13
	Del Paso Rd	12
	El Centro Rd	12
	San Juan Rd	9
Natomas North Drainage Canal.	Access road	23
Natomas Main Drainage Canal.	I-880	9
	West El Camino Ave	8
Natomas East Main Drainage Canal, tributary 3.	U St	56
	10th St	56
	8th St	54
	6th St	54
	Sacramento Northern RR.	54
	Rio Linda Blvd	45
	2d St	42
	West 2d St	39
	West 4th St	35
	Q St	34
	Marysville Blvd	33
	Western Pacific RR	33
Natomas East Main Drainage Canal, tributary 2.	Elverta Rd	52
	El Verano Rd	48
	El Medena Rd	47
	Sacramento Northern RR.	43
	Rio Linda Blvd	41
	Sorento Rd	33
	Western Pacific RR	33
Natomas East Main Drainage Canal, tributary 1.	El Medena Ave	50
	Elwyn Ave	40
	Sacramento Northern RR.	39
	Rio Linda Blvd	39
	Sorento Rd	33
	Elverta Rd	33
Natomas East Main Drainage Canal.	Elkhorn Blvd	33
	Sorento Rd	33
Natomas East Drainage Canal.	Elverta Rd	14
	Elkhorn Blvd	12
Morrison Creek	Kiefer Blvd	75
	Jackson Rd	59
	Bradshaw Rd	57
	Mayhew Rd	52
	Hedge Ave	49
	Alder Ave	47
	Elk Grove-Florin Rd	47
	Steiner Dr	21
	Highway 99 and Alternate 5.	18
	Florin Rd	18
	Center Parkway	17
	Franklin Blvd	16
	I-5	12
Mariposa Creek	Old Auburn Rd	155
	Mariposa Rd	150
	Pratt Ave	147
	Sycamore Rd	147
	Antelope Rd	146
	Watson Way	141

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Magpie Creek	Brett Rd	112
	Green Glen Way	111
	Meghan Way	110
	Walerga Rd	109
	Sewer Plant Rd	98
	Palm Dr	93
	Harrison foot bridge	91
	Madison Ave	82
	Polk St	80
	Watt Ave	80
	AFB traffic bridge	78
	AFB foot bridge	77
	do	76
	do	76
	Roseville Rd	74
	Southern Pacific RR	74
	Railroad spur	72
	45th St. and railroad spur.	71
	47th St	70
	Taxiway 7 overrun	69
	Air Freight terminal taxiway.	63
	Taxiway 16/Patrol Rd.	61
	AFB patrol road	59
Linda Creek	Cherry Ave	231
	Granite Ave	225
	Hazel Ave	195
Laguna Creek	Excelsior Creek	79
	Vineyard Rd	66
	Central California Traction RR.	64
	Carmencita Ave	64
	Bradshaw Rd	60
	Calvine Rd	56
	Sheldon Rd	53
	Bond-Waterman Rd	47
	Southern Pacific RR	42
	Elk Grove-Florin Rd	39
	Bond Rd	37
	Frontage Rd	30
	Highway 99 and alternate 5.	29
	Frontage Rd	28
	Elk Grove Creek	27
	Whitehouse Creek	27
	Bruceville Rd	27
	Sheldon Rd	22
	Franklin Blvd	18
	Western Pacific RR	18
Gerber Creek	Vineyard Rd	62
	Gerber Rd	61
	Bradshaw Rd	58
	Gerber Rd	55
	do	51
	Central California Traction RR.	51
Florin Creek	McComber St	35
	Southern Pacific RR	34
	Tokay Ave	34
	McCurdy Lane	34
	Florin Rd	31
	Kara Dr	29
	Power Inn Rd	28
	Palmer House Dr	27
	Del Coronado	27
	Stockton Blvd	26
	Orange Ave	24
	Highway 99 and Alternate 5	21
	Persimmon Ave	19
Elk Grove Creek	Waterman Rd	48
	Southern Pacific RR	46
	Elk Grove-Florin Rd	39
	Elk Grove Blvd	36
	Frontage Rd	34
	Highway 99 and Alternate 5.	34
	Frontage Rd	34
Elder Creek	Elder Creek Rd	75
	Irrigation Rd	62
	Bradshaw Rd	60
	Florin Rd	51
	Central California Traction RR.	50
	McCoy Ave	45
	Gerber Creek	44
	Elk Grove-Florin Rd	43
	French Rd	37
	Southern Pacific RR	34
	Reese Rd	30
	Gerber Rd	28
	Power Inn Rd	27
	Stockton Blvd	22
	Highway 99 and Alternate 5.	20
Dry Creek, north branch.	U St. (extended)	64
	Q St	57
	Dry Creek Rd	51
	Curved Bridge Rd	49
	Sacramento Northern R.R. (abandoned).	47
	Elk Horn Blvd	47
	Rio Linda Blvd	41
Dry Creek	Elverta Rd	70
	Q St	59
	Dry Creek Rd	52
	Elkhorn Blvd	49
	Sacramento Northern R.R. (abandoned).	45
	Rio Linda Blvd	41
Cripple Creek	Hickory Ave	210
	Almond Ave	205
	Menke Rd	201
	Oak Ave	200
	Big Oak Dr. No. 2	184
	Big Oak Dr. No. 1	181
	Old Auburn Ave	176
	Twin Oaks Ave	641
	Glentree Dr	157
	Garino Lane	154
	Sunrise Blvd	154
	Jurgens Lane	151
	Fair Lane	150
	Patton Ave	149
	Mariposa Ave	145
	Baird Way	144
	Scribner Dr	143
	Holly Dr	139
	Cripple Creek Rd	138
	Mariposa Creek	137
	Auburn Blvd	136
	Antelope Rd	131
	Calvin Dr	121
	Van Maren Lane	119
	Sewer Plant Rd	109
Coyle Creek	Madison Ave	152
	Link Dr	139
	Dewey Dr	130
	Park Oaks Dr	118
Chicken Ranch Slough.	Walnut Ave	91
	Whitney Ave	90
	Mission Ave	85
	Eastern Ave	77
	Norris Ave	73
	Montclaire St	66
	Watt Ave	62
	Marconi Ave	58
	Fulton Ave	50
	El Camino Ave	46
	Hernando Rd	45
	Bell St	41
	Cottage Way	38
	Wyda Way	37
	Alta-Arden Expressway.	36
	Arden Way	36
	Howe Ave	35
	Hallmark Dr	35
	Hurley Way	35
Carmichael Creek	Flar Oaks Blvd	108
	Sutter Ave	106
	Casaloma Way	99
	Landis Ave	77
	Stanley Ave	86
	Palm Dr	78
	Tarshes Dr	70
	do	70
Brooktree Creek	San Juan Dr	149
	Sperry Way	144
	Brooktree Dr	134
	Dewey Dr	122
	Park Oaks Dr	117
	Coyle Creek	111
	Auburn Blvd	108
Arcade Creek, south branch.	Illinois Ave	212
	Kenneth Ave	199
	Hoffman Lane, east	185
	Hoffman Lane, west	180
	Greenback Lane	169
	Fair Oaks Blvd	199
Arcade Creek	Birks Lane	216
	Almond Ave	216
	Gaines Ave	210
	Kenneth Ave	204
	Trajan Dr	199
	Fair Oaks Blvd	164
	Sunrise Blvd	153
	Sayonara Dr	147
	Mariposa Ave	140
	Sylvan Rd	135
	Crestwoods Circle	122
	Retreat House Rd	118
	Van Maren Lane	117
	Auburn Blvd	115
	Matheney Way	109
	Greenback Lane	106
	Auburn Blvd	97
	Madison Ave	90
	Garfield Ave	86
	Winding Way	77
	College Oak Dr	79
	I-80	62
	Watt Ave	62
American River	Greenback Lane	128
	Hazel Ave	105
	Bridge St	92
	Sunrise Blvd	91
	Watt Ave	46

(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 (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-25173 Filed 9-7-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3277]

TOWN OF GLEN RIDGE, FLA.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of Glen Ridge, Fla. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: 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.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Town Hall, 1300 Glen Rd., West Palm Beach, Fla.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Anita G. Yount, Town Hall, 1300 Glen Rd., West Palm Beach, Fla. 33406.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh St. SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Glen Ridge, Fla.,

in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. 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 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
West Palm Beach Canal.	South end of Glen Rd.	12
Rainfall and Ponding.	Intersection of Gem Lake Dr. to Island Rd.	12

(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 (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-25174 Filed 9-7-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3278]

TOWN OF PALM BEACH, FLA.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of Palm Beach, Fla. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: 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.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Town Hall, 360 South County Road, Palm Beach, Fla.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. George R. Frost, Town Manager, Town of Palm Beach, P.O. Box 2029, Palm Beach, Fla. 33480.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Palm Beach, Fla., in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. 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 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Atlantic Ocean	South Ocean Blvd. and State Rd. A-1-A.	7
	South Ocean Blvd. and Kings Rd.	7
	South Ocean Blvd. and Sea View Ave.	7
	North County Rd. and Sanford La.	7
	North Ocean Blvd. and Dolphin Rd.	7
Lake Worth at coast.	Lake Trail Way and El Pueblo Way.	7
	Lake Trail Way and Wells Rd.	7
	Lake Dr. and Peruvian Ave.	7
Inland	State Rd. A-1-A to south corporate limits.	7
	State Rd. A-1-A and South Ocean Blvd.	7
	South Ocean Blvd. and Ocean View Rd.	7
	Cocoanut Row and Sea Spray Ave.	7
	North Lake Way and Cherry Lane.	7

(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 (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary,

[FR Doc.77-25175 Filed 9-7-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3279]

TOWN OF SOUTH PALM BEACH, FLA.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of South Palm Beach, Fla. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: 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.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Town Hall, 3577 South Ocean Boulevard, South Palm Beach, Fla.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor William B. Henry, Town Hall, 3577 South Ocean Boulevard, South Palm Beach, Fla. 33480.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance,

202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of South Palm Beach, Fla., in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. 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 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stingent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Atlantic Ocean	Shoreline north and south to corporate limits.	7
Lake Worth at coast.	....do....	7
Inland	880 ft north along Ocean Blvd. from intersection of Ocean Ave. and Ocean Blvd.	7
	2,600 ft north along Ocean Blvd. from intersection of Ocean Ave. and Ocean Blvd.	7

(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 (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-25176 Filed 9-7-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3280]

CITY OF TIFTON, GA.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Tifton, Ga. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: 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.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, Central and Second Streets, Tifton, Ga.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Webster Morgan, City Manager, City of Tifton, City Hall, P.O. Box 229, Tifton, Ga. 31794.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Tifton, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. 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 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Channel A	Interstate 75	327
	Lake Dr.	338
Channel B	Interstate 75	304
	Magnolia Dr.	311
Channel B-1	2d St.	327
	4th St.	328
Channel C	College Ave.	331
	11th St.	336
Channel D	Maple St.	318
	13th St.	327
Channel D-1	Seaboard Coast Line RR.	327
	Main St.	332
Channel E	Love Ave.	350
	Hall Ave.	361
Channel F	Pineview Ave.	329
	Love Ave.	337
	U.S. 41 (downstream side).	356
	U.S. 41 (upstream side).	358
Channel G	Lee Ave.	332
	Tift Ave.	339
New River	Elizabeth Circle	342

(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 (39 FR 2787, January 24, 1974).

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-25177 Filed 9-7-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3281]

VILLAGE OF LA GRANGE PARK, COOK COUNTY, ILL.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Village of La Grange Park, Cook County, Ill. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: 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.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the bulletin board at the Village Hall, 447 North Catherine Avenue, La Grange Park, Ill.

Any person having knowledge, information, or wishing to make a comment

on these proposed elevations should immediately notify Mr. Charles H. Lively, Village Manager of La Grange Park, 447 North Catherine Avenue, La Grange Park, Ill. 60525.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270,
451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Village of La Grange Park, Cook County, Ill., in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. 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 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Fedearal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Salt Creek	Wolf Rd.	635
	Corporate limits upstream from Wolf Rd.	634
	31st St.	631
	Indiana Harbor Belt R.R.	620
	25th (Kenman) Ave.	620
	17th (Maple) Ave.	618

(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 (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-25178 Filed 9-7-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3282]

CITY OF PINEVILLE, BELL COUNTY, KY.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Pineville, Bell County, Ky. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: 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.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Hall in the Municipal Building, Pineville, Ky.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify the Honorable Andrew Williams, P.O. Box 688, Pineville, Ky. 40977.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Pineville, Bell County, Ky., in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. 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 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Cumberland River	Confluence of Straight Creek.	1,020
	Pine Street Bridge.	1,020
	Confluence of Stewart Branch.	1,020
	Tennessee Avenue Bridge.	1,020
	Confluence of Mile Branch.	1,019
Straight Creek	State Route 66 Bridge.	1,021
	Louisville & Washville R.R. Bridge.	1,021
	Confluence with Cumberland River.	1,021

(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 (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-25179 Filed 9-7-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3283]

TOWN OF SORRENTO, ASCENSION PARISH, LA.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of Sorrento, Ascension Parish, La. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Town Hall, Sorrento, La.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor John Nolan Le Blanc, Sr., Route 1, P.O. Box 314, Sorrento, La.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Sorrento, Ascension Parish, La., in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. 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 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Bayou Conway	Intersection of Main (LA-22) and Trabeaux Sts.	6
	Intersection of Brittany and Robert Sts.	7
Bayou Francois	Intersection of Main (LA-22) and the northeastern corporate limits.	5

(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 (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-25180 Filed 9-7-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3284]

VILLAGE OF PENTWATER, MICH.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Village of Pentwater, Mich. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: 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.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Village Hall, 327 Hancock Street, Pentwater, Mich.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Edward A. Schimke, Village Hall, 327 Hancock Street, Pentwater, Mich. 49449.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line (800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Village of Pentwater, Mich., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. 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 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordiances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Pentwater Lake	1 Lake Rd., starting 105 ft east of Bean Rd. and extending west to the lake.	584
	On 6th St., starting at its intersection with Hancock extending to 150 ft east of Wythe St.	584

(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 (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-25181 Filed 9-7-77;8:45 a.m.]

[24 CFR Part 1917]

[Docket No. FI-3285]

TOWNSHIP OF PORT SHELDON, MICH.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Township of Port Sheldon, Mich. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: 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.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Township Hall, 16201 Port Sheldon Road, West Olive, Mich.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Lloyd Bakker, Township Supervisor, Township of Port Sheldon, Township Hall, 16201 Port Sheldon Road, West Olive, Mich. 49460.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Township of Port Sheldon, Mich., in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. 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 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to caluculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Lake Michigan.....	Van Buren St. (extended).	584
	New Holland St. (extended).	584

(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 (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-25182 Filed 9-7-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3291]

CITY OF WYANDOTTE, MICH.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Wyandotte, Mich. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: 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.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, 3131 Biddle Avenue, Wyandotte, Mich.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor William L. Cook, City Hall, 3131 Biddle Avenue, Wyandotte, Mich. 48192.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determination of base flood elevations (100-year flood) for the City of Wyandotte, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. 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 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Sexton-Kilfoil drain.	Emmons St.	579
	Harrison St.	581
Ecorse Creek.....	Jefferson Ave.	577
	Detroit-Toledo Shoreline RR.	577

(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 (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-25183 Filed 9-7-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3286]

CITY OF BRAGG CITY, PEMISCOT COUNTY, MO.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Bragg City, Pemiscot County, Mo. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: 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.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Napier Supermarket, Main Street, Bragg City, Mo. 63827.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify the Honorable Warren J. Napier, Mayor, City of Bragg City, Box 95, Bragg City, Mo. 63827.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Bragg City, Mo., in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. 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 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any

existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected location are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Ditch No. 72	At Main St. and ditch No. 72.	257
	At intersection of St Louis San Francisco R.R. and Clay Roost Bayou.	259
Clay Roose Bayou	At Cypress and 3d Sts.	261
	At Main and 2d Sts.	261

(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 (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-25184 Filed 9-7-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3287]

CITY OF COMMERCE, SCOTT COUNTY, MO.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Commerce, Scott County, Mo. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: 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.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the home of Mayor Ann Huck, Corner of St. Mary's and Tywapity, Commerce, Mo. 63742.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify the Honorable Ann Huck, Mayor, City of Commerce, P.O. Box 45, Commerce, Mo. 63742.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–775–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Commerce, Mo., in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. 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 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected location are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Mississippi River	State Highway E and Missouri St.	343
	Washington and Water Sts.	343
	At confluence of Commerce Creek.	343
Commerce Creek	940 ft upstream of Water Street Bridge.	343
	At corporate limit	362

(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 (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-25185 Filed 9-7-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3289]

CITY OF NORTHMOOR, MO.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Northmoor, Mo. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: 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.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, 2032 Northwest 49th Street, Northmoor, Mo.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Ford Filger, City Hall, 2022 Northwest 49th Street, Northmoor, Mo. 64151.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Northmoor, Mo., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. 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 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the

second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Line Creek	50th Ter.[1]	768
	50th St.[1]	768
	49th Ter.[1]	768
	49th St.[1]	767
	U.S. 69 and 169	766
East Creek	do	772

[1] Extended.

(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 (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-25187 Filed 9-7-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3290]

CITY OF PARKVILLE, MO.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Parkville, Mo. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: 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.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, 8701 River Park Drive, Parkville, Mo.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor William M. Latta, P.O. Box 12045, Parkville, Mo. 64152.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Parkville, Mo., in accordance with Section 110 of Flood Disaster Protection Act of 1973 (Pub. 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 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Missouri River	Upstream corporate limits.	763
	Downstream corporate limits.	761
White Aloe Branch	12th St.	771
	16th St.	762
	Highway M-9	762
	Burlington Northern R.R.	762

(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 (39 FR 2787, January 24, 1974.)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-25188 Filed 9-7-77;8:45 am]

federal register

THURSDAY, SEPTEMBER 8, 1977

PART III



ENVIRONMENTAL PROTECTION AGENCY

■

HEAVY-DUTY ENGINES FOR 1979 AND LATER MODEL YEARS

Certification and Test Procedures

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL 767-7]

PART 86—CONTROL OF AIR POLLUTION FROM NEW MOTOR VEHICLES AND MOTOR VEHICLE ENGINES: CERTIFICATION AND TEST PROCEDURES

Certification and Test Procedures for Heavy-Duty Engines for 1979 and Later Model Years

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This rule prescribes more stringent gaseous emission standards for heavy-duty gasoline-fueled and Diesel engines for the 1979 and later model years, and revises parts of the current instrument requirements and test procedures. Although there have been gains in control of air pollution, there are many air quality control regions which will not be able to meet ambient air quality standards with currently implemented control strategies. Heavy-duty vehicles contribute a significant percentage of the total hydrocarbons (HC), carbon monoxide (CO), and oxides of nitrogen (No_x) in the air. This regulatory action will result in significant reductions in gaseous emissions from heavy-duty vehicles.

This action is forecast to result in a reduction by 1990 in nationwide emissions of .18 to .30 million tons of HC, up to .80 million tons of CO, and .12 to .22 million tons of NO_x. These reductions correspond to urban air quality improvements of 2 to 5 percent for oxidants, 1 percent for carbon monoxide and 1 to 2 percent for nitrogen dioxide.

EFFECTIVE DATE: October 18, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert Smith, Regulatory Management Staff, Office of Mobile Source Air Pollution Control (AW-455), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460 (202-755-0596).

SUPPLEMENTARY INFORMATION: The Environmental Protection Agency (EPA) published a Notice of Proposed Rulemaking (NPRM) on May 24, 1976, proposing to revise the heavy-duty engine (HDE) emission regulations for 1979 and later model years (41 FR 21292). EPA proposed to lower the current gaseous emission standards of 16 grams/brake horsepower-hour[1] (g/BHP-hr) hydrocarbons plus oxides of nitrogen (HC + NO_x) and 40 g/BHP-hr carbon monoxide (CO) to 1.5 g/BHP-hr, HC, 25 g/BHP-hr CO, and 10 g/BHP-hr HC + NO_x. Also, a more stringent peak smoke opacity standard for Diesel engines was proposed. The current peak smoke opacity is 50 percent and the proposed level was 35 percent.

Other proposed changes included test procedure and instrumentation revisions. Several significant changes for both gasoline-fueled and Diesel engine sampling and analytical systems were proposed. Hydrocarbons (HC) would be measured by a heated flame ionization detector (HFID), replacing the present non-dispersive infrared (NDIR) analyzer used in testing gasoline-fueled engines. The Diesel test procedure already uses an HFID. Oxides of nitrogen would be measured by a chemiluminescence (CL) analyzer instead of the current NDIR instruments. The CL analyzer, when coupled with a reducing converter, would measure total oxides of nitrogen (NO + NO_2) and not just nitrict oxide (NO) as is the case with the current NDIR analyzers.

Concurrent with the change in exhaust gas analyzers, changes to the exhaust sample conditioning and transport system were proposed. These revisions in sample line length, sample transit time, arrangements, heating requirements, etc. were considered necessary to insure accurate results. Calibration procedures and instrument checks were revised accordingly.

Air-flow measurement of gasoline-fueled engines was also proposed in order to provide a basis for calculating the wet to dry sample correction factor (Kw), and also to compute a measured air-fuel ratio. The measured air-fuel ratio could then be compared to the air-fuel ratio calculated from the exhaust gas constituents. This would serve as the only overall system quality control check. Measured and calculated values were to agree within 10 percent for a valid test.

Several changes were also proposed to the test cycle for both gasoline-fueled and Diesel engines. For gasoline-fueled engines a change to engine torque to define the various operating modes (instead of engine manifold vacuum) for the 9-mode test was most significant. Two other related changes in the 9-mode test procedures were proposed. First, time in mode was increased to a uniform 60 seconds for each mode. Second, the number of cycles per test was reduced from 4 to 2.

Only one significant change was made in the Diesel 13-mode test cycle. The time in mode was reduced from 10 minutes per mode to 5 minutes per mode to significantly reduced the time required to complete an entire test.

The 90-day comment period on the proposed rules ended August 23, 1976. Twenty-two (22) commenters responded to the request for comments. The bulk of the comments received were from the heavy-duty engine manufacturers. After analyzing the comments, EPA identified several major issues associated with the proposed action. They are: (1) lead time, (2) need for revised test procedures and instrument changes, (3) gasoline emission test cycle percent torque values, (4) emission standards, (5) technological impact, (6) fuel economy, (7) performance, (8) engine and vehicle costs, (9) certification and testing costs, (10) cost effectiveness, and (11) medium-duty Diesel engine test procedures. Each of these issues is discussed in this preamble.

In response to the comments, EPA in this final rulemaking has made 6 significant revisions to the regulations initially proposed:

1. For 1979 only, optional use of the existing test procedures and instrumentation will be allowed. Standards generally equivalent in stringency to these newly promulgated standards will be required to be met for 1979 when using these optional procedures. In addition, optional compliance with a standard of 5 g/BHP-hr HC + NO_x and 25 g/BH-hr CO may be demonstrated using either the existing or new test procedures. All subsequent emission testing (1980 and later) will be by the new test procedures, with the exception of small volume manufacturers, who will afford the option of continuing to use the existing test procedures. For 1980 and subsequent model years compliance may be demonstrated to the originally proposed emission standards (1.5 g/BHP-hr HC, 25 g/BHP-hr CO, and 10 g/BHP-hr + NO_x or the more stringent (5 g/BHP-hr HC + NO_x and 25 g/BHP-hr CO) levels at the option of the manufacturer.

2. EPA has decided not to promulgate the proposed 35 percent peak smoke opacity standard for Diesel engines. The current 50 percent peak smoke opacity standard will remain in effect.

3. The requirement for compliance, without deviation, with a specified analysis system schematic has been deleted. Instead, minimum requirements and performance specifications are substituted. The detailed schematic remains to provide guidance only.

4. The requirement for intake air-flow measurement for gasoline-fueled engines was deleted.

5. A chemiluminescence analyzer was specified for NO_x measurement in the NPRM. In the final rule a chemiluminescence analyzer or a high performance NDIR analyzer with an NO_x to NO converter is specified for NO_x measurement. An option to allow the use of current NDIR analyzers with an NO_2 to NO converter is also included.

6. The CO_2 measurement for Diesel engines, required in the NPRM, is made optional in the final rule.

Discussion of Major Issues

Lead Time

The commenters claimed that there is insufficient lead time to comply with the regulations as proposed for the 1979 model year. EPA's analysis supports the manufacturers' claim that lead time for implementing the new instrumentation and test procedures is tight for the 1979 model year. Consequently, EPA is promulgating the emission standards for 1979 and subsequent model years, but is allowing the continued use of the existing test procedures and instrumentation to demonstrate compliance for 1979. All subsequent demonstrations of compliance (1980 and later) will

[1] Grams per brake horsepower-hour (g/BHP-hr) is the method of choice for expressing engine emission standards since engine emissions must be expressed in terms of units of work performed rather than in terms of grams per mile as is the case with vehicles.

be only by the new test procedures (with the exception of small volume manufacturers), and compliance may be demonstrated to the originally proposed standards (1.5 HC, 25 CO, 10 HC+NO_x or the more stringent levels (5.0 HC +NO_x, 25 CO) at the option of the manufacturer.

Heavy-duty engine test data submitted prior to the 1980 model year may be used in subsequent model years' certification without regard to the test procedure used to generate the data. Any heavy-duty engine that is certified in the 1979 model year may be certified for 1980 and later model years on a carryover basis if no changes in the engine are made to the 1979 certified configuration that would require a new demonstration of compliance. If a new demonstration of compliance is required because of design or calibration changes on the 1980 or later model year engine and/or emission control systems, the new test procedures and standards will apply.

The following chart lists the optional combinations of emission standards and test procedures applicable beginning in 1979. These optional standards are not considered to be absolutely equivalent in stringency to the primary standards but are being allowed to ease the tight lead time situation.

Engine type	Test procedures and instrumentation	Emission standards (grams per brake horsepower-hour)		
		Hydrocarbons[1]	Carbon monoxide	Hydrocarbons plus oxides of nitrogen
Primary standards applicable to 1979 and later.	Gasoline and diesel.	New	1.5	25	10.0
				25	5.0
Optional standards applicable to 1979 model year only.	Diesel	Current	1.5	25	10.0
	Gasoline and diesel.	do		25	5.0
	Gasoline	do	1.0	25	9.5

[1] The current regulations for gasoline engines specify hydrocarbon measurement by nondispersive infrared. However, the new procedures require heated flame ionization detector (HFID). The empirical HFID to NDIR ratio is about 1.5. The current procedures for diesel engines already require a HFID for HC measurement.

Test Procedure and Instrumentation Changes

EPA proposed in the heavy-duty NPRM various equipment specifications and equipment operational procedures to insure that the emission levels are measured accurately and precisely. Among the equipment specifications proposed were chemiluminescence for NO_x measurement (currently measured by NDIR), heated flame ionization detector for gasoline engine HC measurement (currently measured by NDIR), intake air-flow measurement for gasoline-fueled engines, and CO_2 measurement for Diesel engines. The operational procedures proposed included analytical system leak checks, HC hang-up checks, and response-time checks. More detailed analyzer checkout, optimization, and calibration and test procedures were also proposed.

The commenters questioned the need for the extensive test procedure and instrumentation changes proposed. After analyzing the manufacturers' comments and re-evaluating the need for the proposed test procedure and instrumentation changes, EPA has made the following major revisions to the heavy-duty NPRM:

(a) The requirement for use of a specified analysis system designed without deviation in accordance with EPA's schematic diagram has been deleted. Instead, minimum requirements and performance specifications are substituted. The detailed schematic diagram remains to provide guidance only.

(b) The requirement for intake air-flow measurement for gasoline-fueled engines was deleted.

(c) A chemiluminescence analyzer or high performance NDIR analyzer with an NO_2 to NO converter is specified for NO_x measurement. An option to allow the use of current NDIR analyzers with an NO_2 to NO converter is also included.

(d) The CO_2 measurement is made optional for Diesel engines.

Other minor changes in specifications, tolerances, and procedures were made to provide greater flexibility in complying with the regulations. Detailed discussions of these changes can be found in Appendix I of the "Summary and Analysis of Comments to the NPRM: Revised Heavy-Duty Engine Regulations for 1979 and Later Model Years".

Additionally, variations from the test procedure requirement are permitted if equivalency is proven.

Recent investigations related to the HC measurement system for light-duty Diesels have indicated that the current procedure, which is designed to measure essentially all HC emissions, may result in the measurement of some hydrocarbons that do not contribute to the formation of photochemical smog. It has been suggested that the heated sample system, since it is maintained at high temperature (375° F), measures HC compounds in the vapor state that might normally condense as aerosols in the atmosphere without contributing to smog formation.

The standards now being finalized for heavy-duty engines include the requirement for measurement of HC by means of a heated flame ionization detector (HFID). While this has always been the procedure for heavy-duty Diesel engines, the use of an HFID for gasoline engines is a new requirement. The requirement for such a procedure is being retained for the following reasons even though the issue regarding the appropriateness of measuring HC aerosols is not yet fully resolved:

1. The new heavy-duty engine standards are interim standards which were based on technology limitations and not ultimate air quality needs. Air quality needs would have dictated even more stringent standards. These technology-based standards were developed by considering the lowest emission levels achievable with currently available technology and with measurements being made with an HFID. Until more stringent long term standards are adopted based on air quality needs, there is no need to address further the issue regarding what HC compounds should or should not be regulated.

2. The HC standards was developed by considering the lowest level currently achievable with gasoline engines. This was determined to be 1.0 g/BHP-hr on a "cold basis" using a non-dispersive infrared analyzer. The new standards were adjusted upward to 1.5 g/BHP-hr to account for the fact that the new procedure using an HFID results in higher amounts of HC being recorded. This approach was taken to allow the use of an HFID which avoids HC hang-up problems and provides for a more reliable and repeatable test.

3. Diesel engines certified under current regulations, on the average, have had HC levels well below the 1.5 g/BHP-hr standard being adopted for 1979. The average HC level for 1974 Diesel certification engines was 0.92 g/BHP-hr. These measurements were on a total HC basis using an HFID. Thus, the new regulations will not have caused any undue hardship on Diesel engine manufacturers regardless of the outcome of the total HC measurement issue.

4. If a new test procedure would be developed which eliminated the measurement of any HC compounds that should not be counted, these interim standards would have to be readjusted to reflect the change. At least in the case of Diesel engines if less HC was going to be measured, the combined HC plus NO_x standard would have to be lowered to retain the desired level of NO_x control. That is, without changing the HC+NO_x standard, a new procedure recording less HC would allow a manufacturer a greater margin in the effective NO_x standard. The result would be to require less than the maximum control of NO_x achieveable with current technology. This would be a severe compromise, since in the case of Diesel engines, additional NO_x control is the only significant impact of the regulations.

Gasoline Emission Test Cycle Percent Torque Values

EPA proposed to replace the 19, 16, 10 and 3 in-Hg (manifold vacuum) load levels in the 9-mode gasoline Federal Test Procedure (FTP) with percent torque values of 10, 25, 55, and 90, respectively. In general, the gasoline engine manufacturers disagreed with the 90 percent and 55 percent torque equivalents to replace the 3 in-Hg and 10 in-Hg power levels. EPA re-examined its data base and incorporated into it data sup-

plied by the commenters. The data analysis indicates that the 90 percent and 55 percent torque values were correct. Most importantly, the latest truck operational data available to EPA (CAPE-21) clearly demonstrated that a substantial amount of truck operation was above 90 percent. EPA has therefore retained the proposed percent torque values in the final regulation.

EMISSION STANDARDS

In general, the comments submitted indicated that the proposed heavy-duty standards could be met by all of the manufacturers with the use of currently available emission control technology. The majority of the commenters did not object to the proposed gaseous emission standards. EPA has retained the proposed gaseous emission standards in the final regulation.

Several commenters questioned EPA's rationale for proposing to reduce the Diesel smoke opacity from 50 percent to 35 percent and projected losses in acceleration performance to achieve compliance. Based on EPA's analysis, it appears that the Diesel manufacturers can meet the proposed peak smoke standard with a low level of effort and little or no cost. Nearly all Diesel engine families already meet a peak smoke level of 35 percent. On the other hand, an air quality benefit obtained by reducing the current peak smoke level is not readily identifiable. Moreover, if the claimed losses in acceleration in fact occur, and in the face of major technical difficulties in enforcing in the field the difference between a 35 percent and 50 percent opacity standard, widespread misadjustment in the field to regain a performance feature important to the driver might be common. In light of the above facts, EPA deleted the proposed 35 percent peak smoke opacity in the final rule. The current 50 percent peak smoke opacity remains in effect.

TECHNOLOGICAL IMPACT OF THE PROPOSED EMISSION STANDARDS

All the manufacturers indicated that the proposed heavy-duty emission standards for 1979 could be met with the use of currently available emission control technology. Thus, the manufacturers did not take issue with EPA's premise that the technology to meet the proposed standards is available. Rather, the commenters summarized the technological impact of the proposed standards. Also, several manufacturers pointed out areas of disagreement in the supporting documents to this regulatory action. The most important issues raised by the manufacturers are:

1. Catalyst technology may be necessary for gasoline engines to meet the proposed standards; and,

2. The proposed standards will force discontinuance of naturally aspirated Diesel engines and require the use of intercoolers and turbochargers.

On the first point, EPA maintains that the proposed emission standards are achievable with currently available control technology. Further, EPA believes that the standards are obtainable without the use of catalysts or of costly and unproven technology. (The General Motors statements support EPA's position on this). However, EPA recognizes that catalyst technology may be an alternative for some manufacturers, especially if fuel economy needs to be maximized without using sophisticated engine improvements.

On the second point, EPA believes that the existing trend toward Diesel engines that use intercoolers and turbochargers is only marginally related to the emission standards. The trend toward constant speed (55 mph) heavy-duty vehicles equipped with an engine with significant torque backup is in response to the desire for improved fuel economy, not emission control. The manufacturers did not submit data that would demonstrate that turbochargers and intercoolers are required to meet the emission standards. Most importantly, a maximum increase of only 4 percent in the use of turbocharges may occur. Therefore, EPA views the costs of intercoolers and turbochargers as not being properly chargeable to the emission control standards.

FUEL ECONOMY

The major Diesel engine manufacturers stated that, when compared to fuel efficiency of existing engines, no fuel economy penalty will result in complying with the proposed emission standards though some potential fuel economy gains may be foregone. On the other hand, the gasoline engine manufacturers have claimed fuel economy penalties ranging from zero to 20 percent. After evaluating the manufacturers' comments, EPA concluded that Diesel engines will not suffer any real fuel economy penalty as a result of the proposed action. However, gasoline engines may have an industry-wide fuel economy penalty anywhere from zero to 5 percent. (The 5 percent figure represents a projection of a sales weighted average fuel economy penalty based on the data submitted by the industry and assumes very limited use of catalyst control technology.) EPA views the 5 percent limit as a worst-case temporary penalty for several reasons. One manufacturer, accounting for over 30 percent of the market, has indicated that he will be able to produce in model year 1979 engines equipped with non-catalyst technology that will not experience a fuel penalty. Over time, other manufacturers should be able to develop similar technologies for use on their engines. Manufacturers could also elect to perfect the use of catalyst technology on heavy-duty gasoline engines to optimize fuel economy.

In general, utilization of fuel efficient emission control technologies by all manufacturers by the 1979 model year is probably precluded at this time, though in one to three years after that manufacturers should have been able to perfect these systems. Certainly the current operating environment for heavy-duty engines is such that the need to conserve energy and limit operating expenses are recognized, and should provide engine manufacturers an incentive to develop fuel efficient technologies. Thus, any fuel penalty which does occur in 1979 should disappear in one to three years' time.

PERFORMANCE

One gasoline-fueled engine manufacturer claimed that the imposition of the more stringent gaseous emission standards would have a deleterious effect on vehicle performance. Based on evaluation of the comments, EPA agrees that some loss in acceleration for gasoline-fueled vehicles could occur in meeting the proposed emission standards. The magnitude of these possible losses and the associated impacts could not be quantified. On the other hand, competitive market pressures should cause manufacturers to maintain more than acceptable levels of vehicle performance in their products.

ENGINE AND VEHICLE COSTS

EPA stated in the preamble to the NPRM that the retail price increase per engine would be approximately $110 for gasoline and $120 for Diesel. Except for International Harvester Corp. and General Motors, the gasoline engine manufacturers agreed fairly closely with EPA's estimate. Averaging Ford's, Chrysler's and EPA's estimates results in a cost increase of $120 for gasoline vehicles. This cost increase projection ($120) will replace EPA's original estimate of $110.

The Diesel manufacturers claimed the need for turbochargers to meet the proposed regulations. As explained in the issue on technological impact, EPA has concluded that turbochargers are used primarily to improve fuel economy. A side effect may be lower emissions, but EPA estimates that to meet the 1979 standards improved fuel systems and EGR (exhaust gas recirculation) will suffice, at a total projected cost of $130.

Over a five-year period it will cost the industry approximately $350 million to comply with this regulation assuming no fuel penalty occurs. Approximately $5 million of this is the cost for modifying industry emission test cells to comply with the new regulations and $6 to $8 million for recertification of engines. If a five percent fuel penalty occurs for gasoline-fueled engines, the five-year costs of compliance increases between $200 to $560 million depending upon whether the fuel penalty is incurred for one year only or all five.

CERTIFICATION AND TESTING COSTS

Several manufacturers commented that EPA's estimates of the costs to certify heavy-duty engines were too low. The expense of running a certification program for heavy-duty engines is not the primary cost passed on to the vehicle purchaser. The emission control system hardware is the major factor. But, if the manufacturers' most pessimistic estimates were used, the overall cost effectiveness of this regulation would not be appreciably affected. Based on conversations with independent laboratories and experience with EPA contracts, it is esti-

mated that certification costs per test engine will be approximately the same as stated in the draft Environmental and Inflationary Impact Statement:

	Durability	Emission data
Diesel	$50,000	$15,000
Gasoline	55,000	10,000

For the typical Diesel engine family with 3000 sales/year and a 3-year certification life, the straight-line amortized cost is about $10 per engine. Gasoline engine families will have lower unit costs due to larger sale volumes.

Cost Effectiveness

Based on the re-evaluation of baseline emission and fuel economy impacts, the cost effectiveness of the standards was recalculated.

From the comments, it appears that a fuel economy penalty (for gasoline engines) of zero to 5 percent may result from imposing the proposed regulation (refer to discussion of the Fuel Economy Issue above). This possible fuel economy impact was factored into the cost effectiveness analysis. For purposes of comparison with other programs, a mid-range value of 2.5 percent fuel economy penalty was assumed for gasoline engines. A zero percent fuel economy penalty was assumed for Diesel engines. The following costs effectiveness figures were obtained:

	Dollars ($) per ton		
	Hydrocarbon	Carbon monoxide	Oxides of nitrogen
Gasoline	154	71	347
Diesel			129

The results indicated that at moderate levels of fuel economy penalty, this action remains cost effective. EPA has used the above values for the cost effectiveness of this regulation. EPA anticipates that any fuel economy penalty which may initially occur will most likely disappear, as stated previously. This will improve the cost effectiveness for subsequent model years.

Diesel Engine Test Procedures for Medium-Duty Application

Currently, the vast majority of all Diesel truck engines are used in vehicles over 26,000 pounds GVWR. The present Diesel engine test procedure was designed specifically for these heavy-duty applications. With increased fuel prices, there is a trend toward installing Diesels in lighter trucks for medium-duty (approximately 8,500–26,000 pounds GVWR) applications. EPA solicited comments on changes to the test procedure to accommodate this trend.

In response to EPA's request, the commenters recommended the following changes in the Diesel test procedure: (1) Optional, less severe certification for trucks up to 26,000 pounds GVWR, (2) revised durability and emission test cycles, and (3) useful life reduced to 5 years/50,000 miles. The commenters did not provide any substantial information or data that could be relied upon as a basis for developing a new class, test procedures, or a redefinition of useful life for a Diesel engine in medium-duty applications. Data available to EPA indicate to EPA that the recommended changes are not called for.

EPA has made no changes in the Diesel engine class definition, test procedures, or useful life at this time. However, if the manufacturers want to certify and build a Diesel engine for medium-duty application, they are encouraged to submit data that demonstrate that the current Diesel test procedures are unreasonable or unrealistic for emission testing. They are also encouraged to submit data and recommendations for an alternative test procedure that would be appropriate for the engine in question. Section 86.079–27, Special Test Procedures (corresponds to § 86.077–27 of existing regulations) of the regulations provides the means for the manufacturers to request special test procedures for emissions testing. If the test procedures specified in Subparts D and J can be shown to be unsatisfactory for testing of a particular power plant, the Administrator has the authority to prescribe alternate procedures. Since it does not appear that there is an urgent requirement for such modified Diesel engine test procedures, § 86.079–27 should serve as an adequate interim means of dealing with this issue until a formal test procedure for medium-duty application can be promulgated, should the need arise.

Additional Information

Comments which were received in response to the NPRM are available for inspection and copying during normal business hours at the U.S. Environmental Protection Agency, Public Information Reference Unit, Room 2922 (EPA Library), 401 M St. SW., Washington, D.C. 20460. As provided for in 40 CFR Part 2, a reasonable fee may be charged for copying services.

Single copies of EPA's detailed analysis of comments received, entitled "Summary and Analysis of Comments to the NPRM: Revised Heavy-Duty Engine Regulations for 1979 and Later Model Years," dated July 1977, as well as copies of the Final Environmental Impact Statement, entitled "Environmental Impact Statement: Emission Standards for New Heavy-Duty Engines," dated August 4, 1977, are available upon request from the Printing Management Section (PM–215), U.S. Environmental Protection Agency, 401 M St. SW., Washington, D.C. 20460.

Readers are alerted that, due to enactment of the Clean Air Act Amendments of 1977 on August 7, 1977, certain provisions of the regulations applicable to light-duty motor vehicles intended for sale at high-altitude locations which are being reprinted herein are no longer in effect. In order not to delay the issuance of this regulation, these provisions have not been removed from this document. EPA intends to modify its high-altitude certification regulations in the near future in order to conform those regulations to the recently enacted law.

NOTE:—The Environmental Protection Agency has determined that this document contains a major regulation requiring preparation of an Economic Impact Analysis under Executive Orders 11821 and 11949, and OMB Circular A–107 and certifies that an Economic Impact Analysis has been prepared.

Dated: August 22, 1977.

DOUGLAS M. COSTLE,
Administrator.

40 CFR Part 86 is amended as follows:

Subpart A—General Provisions for Emission Regulations for 1977 and Later Model Year New Light-Duty Vehicles, 1977 and Later Model Year New Light-Duty Trucks, and for 1977 and Later Model Year New Heavy-Duty Engines

1. Paragraph (a) of § 86.077–2 is revised to read as follows:

§ 86.077–2 Definitions.

(a) The definitions in this section apply to this subpart and also to Subparts B, D, H, I, and J of this part.

* * * * *

2. Paragraph (a) of § 86.078–3 is revised to read as follows:

§ 86.078–3 Abbreviations.

(a) The abbreviations in this section apply to this subpart and also to Subparts B, D, H, I, and J of this part and have the following meanings:

* * * * *

3. Section 86.079–2 is revised by adding the following definitions interspersed among the existing definitions in alphabetical order.

§ 86.079–2 Definitions.

* * * * *

"Curb-idle" for manual transmission code heavy-duty engines means the manufacturer's recommended engine speed with the transmission in neutral or with the clutch disengaged. For automatic transmission code heavy-duty engines, curb-idle means the manufacturer's recommended engine speed with the automatic transmission in gear and the output shaft stalled.

* * * * *

"Dynamometer-idle" for automatic transmission code heavy-duty engines means the manufacturer's recommended engine speed without a transmission that simulates the recommended engine speed with a transmission and with the transmission in neutral.

* * * * *

"Gross vehicle weight rating" (GVWR) means the value specified by the manufacturer as the maximum design loaded weight of a single vehicle.

"Hang-up" refers to the process of hydrocarbon molecules being absorbed, adsorbed, condensed, or by any other method removed from the sample flow prior to reaching the instrument detector. It also refers to any subsquent desorption of the molecules into the sample flow when they are assumed to be absent.

"Intermediate speed" means peak torque speed if peak torque speed occurs between 60 and 75 percent of rated speed. If the peak torque speed is less than 60 percent of rated speed, intermediate speed means 60 percent of rated speed. If the peak torque speed is greater than 75 percent of rated speed, intermediate speed means 75 percent of rated speed.

* * * * *

4. A new § 86.079-10 is added and reads as follows:

§ 86.079-10 Emission standards for 1979 gasoline-fueled heavy-duty engines.

(a) Exhaust emissions from new 1979 model year gasoline-fueled heavy-duty engines shall not exceed one of the three following standards, to be selected at the manufacturer's option:

(1) As measured in Subpart D of this part:

(i) *Hydrocarbons.* 1.5 grams per brake horsepower hour.

(ii) *Carbon monoxide.* 25 grams per brake horsepower hour.

(iii) *Hydrocarbons plus oxides of nitrogen.* 10 grams per brake horsepower hour.

(2) As measured in Subpart H of this part:

(i) *Hydrocarbons.* 1.10 gram per brake horsepower hour.

(ii) *Carbon monoxide.* 25 grams per brake horsepower hour.

(iii) *Hydrocarbons plus oxides of nitrogen.* 9.5 grams per brake horsepower hour.

(3) As measured in Subparts D or H of this part:

(i) *Hydrocarbons plus oxides of nitrogen.* 5 grams per brake horsepower hour.

(ii) *Carbon monoxide.* 25 grams per brake horsepower hour.

(b) [Reserved].

(c) No crankcase emissions shall be discharged into the ambient atmosphere from any new 1979 and later model year gasoline-fueled heavy-duty engine.

(d) Every manufacturer of new motor vehicle engines subject to the standards prescribed in this section shall, prior to taking any of the actions specified in section 203(a)(1) of the Act, test or cause to be tested motor vehicle engines in accordance with applicable procedures in Subparts D or H of this part to ascertain that such test engines meet the requirements of paragraphs (a) and (c) of this section.

5. A new § 86.079-11 is added and reads as follows:

§ 86.079-11 Emission standards for 1979 Diesel heavy-duty engines.

(a) Exhaust emissions from new 1979 model year Diesel heavy-duty engines shall not exceed one of the two following standards, to be selected at the manufacturer's option:

(1) As measured in Subparts D or J of this part:

(i) *Hydrocarbons.* 1.5 grams per brake horsepower hour.

(ii) *Carbon monoxide.* 25 grams per brake horsepower hour.

(iii) *Hydrocarbons plus oxides of nitrogen.* 10 grams per brake horsepower hour.

(2) As measured in Subpart D or J of this part:

(i) *Hydrocarbons plus oxides of nitrogen.* 5 grams per brake horsepower hour.

(ii) *Carbon monoxide.* 25 grams per brake horsepower hour.

(b) (1) The opacity of smoke emissions from new 1979 and later model year Diesel heavy-duty engines shall not exceed:

(i) 20 percent during the engine acceleration mode.

(ii) 15 percent during the engine lugging mode.

(iii) 50 percent during the peaks in either mode.

(2) The standards set forth in paragraph (b)(1) of this section refer to exhaust smoke emissions generated under the conditions set forth in Subpart I of this part and measured and calculated in accordance with those procedures.

(c) [Reserved]

(d) Every manufacturer of new motor vehicle engines subject to the standards prescribed in this section shall, prior to taking any of the actions specified in section 203(a)(1) of the Act, test or cause to be tested motor vehicle engines in accordance with applicable procedures in Subpart D, I, or J of this part to ascertain that such test engines meet the requirements of paragraphs (a) and (b) of this section.

6. Section 86.079-21 is amended to read as follows:

§ 86.079-21 Application for certification.

(a) A separate application for a certificate of conformity shall be made for each set of standards and each class of new motor vehicles or new motor vehicle engines. Such application shall be made to the Administrator by the manufacturer and shall be updated and corrected by amendment.

(b) The application shall be in writing, signed by an authorized representative of the manufacturer, and shall include the following:

(1) Identification and description of the vehicle (or engines) covered by the application and a description of their engine (vehicles only), emission control system, and fuel system components. This shall include a detailed description of each AECD to be installed in or on any certification test vehicle (or certification test engine).

(2) Projected U.S. sales data sufficient to enable the Administrator to select a test fleet representative of the vehicles (or engines) for which certification is requested.

(3) A description of the test equipment and fuel proposed to be used.

(4) (i) A description of the proposed mileage (or service) accumulation procedure for durability testing.

(ii) A description of the test procedures to be used to establish the evaporative emission deterioration factors required to be determined and supplied in § 86.079-23(a)(2).

(5) A statement of recommended maintenance and procedures necessary to assure that the vehicles (or engines) covered by a certificate of conformity in operation conform to the regulations, and a description of the program for training of personnel for such maintenance, and the equipment required.

(6) At the option of the manufacturer, the proposed composition of the emission-data and durability-data test fleet.

(c) Complete copies of the application and of any amendments thereto, and all notifications under §§ 86.079-32, 86.079-33, and 86.079-34 shall be submitted in such multiple copies as the Administrator may require.

(d) Incomplete light duty trucks shall have a maximum completed curb weight and maximum completed frontal area specified by the manufacturer.

7. New §§ 86.079-22 through 86.079-25 are added and read as follows:

§ 86.079-22 Approval of application for certification; test fleet selections.

(a) After a review of the application for certification and any other information which the Administrator may require, the Administrator may approve the application and select a test fleet in accordance with § 86.079-24.

(b) The Administrator may disapprove in whole or in part an application for certification for reasons including incompleteness, inaccuracy, inappropriate proposed mileage (or service) accumulation procedures, test equipment, or fuel, and incorporation of defeat devices in vehicles (or on engines) described by the application.

(c) Where any part of an application is rejected, the Administrator shall notify the manufacturer in writing and set forth the reasons for such rejection. Within 30 days following receipt of such notification, the manufacturer may request a hearing on the Administrator's determination. The request shall be in writing, signed by an authorized representative of the manufacturer and shall include a statement specifying the manufacturer's objections to the Administrator's determinations, and data in support of such objections. If, after the review of the request and supporting data, the Administrator finds that the request raises a substantial factual issue, he shall provide the manufacturer a hearing in accordance with § 86.078-6 with respect to such issue.

(d) The Administrator does not approve the test procedures for establishing the evaporative emission deterioration factors. The manufacturer shall submit the procedures as required in § 86.079-21(b)(4)(ii) prior to the Administrator's selection of the test fleet under § 86.079-24(b)(1) and if such procedures will involve testing of durability-data vehicles selected by the Administrator or elected by the manufacturer under § 86.079-24(c)(1), prior to initiation of such testing.

§ 86.079-23 Required data.

(a) The manufacturer shall perform the tests required by the applicable test procedures, and submit to the Adminis-

trator the following information: *Provided, however*, That:

(1) If requested by the manufacturer, the Administrator may waive any requirement of this section for testing of vehicles (or engines) for which emission data are available, or will be made available, under the provisions of § 86.079–29, or

(2) If requested by the manufacturer, the Administrator may waive any requirement of this section for testing of vehicles at zero kilometers of operation.

(b) (1) Exhaust emission durability data on such vehicles (or engines) tested in accordance with applicable test procedures and in such numbers as specified, which will show the performance of the systems installed on or incorporated in the vehicle (or engine) for extended mileage (or extended operation), as well as a record of all pertinent maintenance (all maintenance and servicing for heavy-duty engines) performed on the test vehicles (or test engines). Records of maintenance and servicing of heavy-duty engines performed prior to the zero-hour point do not need to be submitted but must be maintained.

(2) Evaporative emission deterioration factors for each evaporative emission family—evaporative emission control system combination and all test data that are derived from testing described under § 86.079–21(b)(4)(ii) designed and conducted in accordance with good engineering practice to assure that the vehicles covered by a certificate issued under § 86.079–30 will meet the evaporative emission standards in § 86.078–8 or § 86.079–9, as appropriate, for the useful life of the vehicle.

(c) Emission data.

(1) *Certification vehicles.* (i) Emission data on such vehicles tested in accordance with applicable test procedures and in such numbers as specified, which will show their emissions after zero kilometers (zero miles) and 6,436 kilometers (4,000 miles) of operation.

(ii) Emission data on those vehicles selected under § 86.079–24(b)(1)(v) and § 86.079–24(b)(1)(vii)(D) and tested in accordance with the applicable test procedures of this subpart and in such numbers as therein specified, which shall be tested at zero kilometers (zero miles) at any altitude, and under high-altitude conditions after 6,436 kilometers (4,000 miles) of operation at any altitude.

(2) *Certification engines.* Emission data on such engines tested in accordance with applicable emission test procedures and in such numbers as specified, which will show their emissions after 125 hours of operation. A zero-hour test may be performed after the engine has been approved by the Administrator to begin service accumulation.

(d) A statement that the vehicles (or engines) for which certification is requested conform to the requirements in § 86.078–5(b), and that the descriptions of tests performed to ascertain compliance with the general standards in § 86.078–5(b), and the data derived from such tests, are available to the Administrator upon request.

(e) (1) A statement that the test vehicles (or test engines) with respect to which data are submitted to demonstrate compliance with §§ 86.078–8, 86.079–9, 86.079–10, 86.079–11, 86.080–10, or 86.080–11, as applicable, are in all material respects as described in the manufacturer's application for certification, have been tested in accordance with the applicable test procedures utilizing the fuels and equipment described in the application for certification and that on the basis of such tests the vehicles (or engines) conform to the requirements of the regulations in this part. If such statements cannot be made with respect to any vehicle (or engine) tested, the vehicle (or engine) shall be identified, and all pertinent data relating thereto shall be supplied to the Administrator. If, on the basis of the data supplied and any additional data as required by the Administrator, the Administrator determines that the test vehicle (or test engine) was not as described in the application for certification or was not tested in accordance with the applicable test procedures utilizing the fuels and equipment as described in the application for certification, the Administrator may make the determination that the vehicle (or engine) does not meet the applicable standards. The provisions of § 86.079–30(b) shall then be followed.

(2) For evaporative emission durability, the statement of compliance with paragraph (b)(2) of this section.

§ 86.079–24 Test vehicles and engines.

(a) (1) The vehicles or engines covered by an application for certification will be divided into groupings of engines which are expected to have similar emission characteristics throughout their useful life. Each group of engines with similar emission characteristics shall be defined as a separate engine family.

(2) To be classed in the same engine family, engines must be identical in all the following respects:

(i) The cylinder bore center-to-center dimensions.

(ii) The dimension from the centerline of the crankshaft to the centerline of the camshaft.

(iii) The dimension from the centerline of the crankshaft to the top of the cylinder block head face.

(iv) The cylinder block configuration (air cooled or water cooled; L–6, 90° V–8, etc.).

(v) The location of intake and exhaust valves, (or ports) and the valve (or port) sizes (within a ¼-inch range on the valve head diameter or within 10 percent on the port area).

(vi) The method of air aspiration.

(vii) The combustion cycle.

(viii) Catalytic converter characteristics.

(ix) Thermal reactor characteristics.

(x) Type of air inlet cooler (e.g., intercoolers and after-coolers) for Diesel heavy-duty engines.

(3) Engines identical in all the respects listed in paragraph (a)(2) of this section may be further divided into different engine families if the Administrator determines that they may be expected to have different emission characteristics. This determination will be based upon a consideration of the following features of each engine.

(i) The bore and stroke.

(ii) The surface-to-volume ratio of the nominally dimensioned cylinder at the top dead center position.

(iii) The intake manifold induction port size and configuration.

(iv) The exhaust manifold port size and configuration.

(v) The intake and exhaust valve sizes.

(vi) The fuel system.

(vii) The camshaft timing and ignition or injection timing characteristics.

(4) Where engines are of a type which cannot be divided into engine families based upon the criteria listed in paragraphs (a)(2) and (3) of this section, the Administrator will establish families for those engines based upon the features most related to their emission characteristics.

(5) The gasoline-fueled vehicles covered by an application for certification will be divided into groupings which are expected to have similar evaporative emission characteristics throughout their useful life. Each group of vehicles with similar evaporative emission characteristics shall be defined as a separate evaporative emission family.

(6) To be classed in the same evaporative emission family, vehicles must be identical in all of the following respects:

(i) Type of vapor storage device (e.g., canister, air cleaner, crankcase).

(ii) Basic canister design.

(iii) Fuel system.

(7) Where vehicles are of a type which cannot be divided into evaporative emission families based on the criteria listed above, the Administrator will establish families for those vehicles based upon the features most related to their evaporative emission characteristics.

(b) Emission data: (1) *Emission-data vehicles.* Paragraph (b)(1) of this section applies to light-duty vehicle and light-duty truck emission-data vehicles.

(i) Vehicles will be chosen to be operated and tested for emission data based upon the engine family groupings. Within each engine family, the requirements of this paragraph must be met.

(ii) Vehicles of each engine family will be divided into engine displacement-exhaust emission control system combinations as applicable. A projected sales volume will be established for each combination for the model year for which certification is sought. One vehicle of each combination will be selected in order of decreasing projected sales volume until 70 percent of the projected sales of a manufacturer's total production of vehicles of that engine family is represented, or until a maximum of four vehicles is selected. If any single combination represents over 70 percent, then two vehicles of that combination may be selected. The vehicle selected for each combination will be specified by the Administrator as to such features as engine code, transmission type, fuel system, and inertia weight class.

(iii) The Administrator may select a maximum of four additional vehicles within each engine family based upon features indicating that they may have the highest emission levels of the vehicles in that engine family. In selecting these vehicles, the Administrator will consider such features as the emission control system combination, induction system characteristics, ignition system characteristics, fuel system, rated horsepower, rated torque, compression ratio, inertia weight class, transmission options, and axle ratios.

(iv) If the vehicles selected in accordance with paragraphs (b)(1)(ii) and (iii) of this section do not represent each engine-system combination, then one vehicle of each engine-system combination not represented will be selected by the Administrator. The vehicle selected shall be of the engine displacement with the largest projected sales volume of vehicles with the control system combination in the engine family and will be designated by the Administrator as to such features as transmission type, fuel system, and inertia weight class.

(v) The Administrator will also select one vehicle for each engine-system combination within an engine family for which vehicles are to be sold to ultimate purchasers at high altitude.

(vi) The Administrator may combine testing requirements for any vehicle selected under paragraph (b)(1)(v) or (b)(1)(vii)(D) of this section with the testing requirements for any similar vehicle in the same engine-system combination selected under paragraph (b)(1)(ii), (iii), or (iv) of this section or any similar vehicle in the same engine-system, evaporative emission family, evaporative emission control system combination selected under paragraph (b)(1)(vii)(A) or (B) of this section. The testing requirements may be combined by the Administrator requiring a vehicle selected for testing under paragraphs (b)(1)(ii), (iii), (iv), (vii)(A), or (vii)(B) of this section to be modified (if necessary) after mileage accumulation and emission testing for the purpose of demonstrating compliance with § 86.079-23(b)(1)(ii).

(vii) (A) Vehicles of each evaporative emission family will be divided into evaporative emission control systems. One vehicle of each evaporative emission control system within the evaporative emission family will be selected.

(B) The Administrator may select a maximum of four (4) additional vehicles within each evaporative emission family based upon features indicating that they may have the highest evaporative emission levels of vehicles in that family.

(C) The Administrator may determine that the vehicles selected under paragraph (b)(1)(ii) through (iv) of this section may be used to satisfy the requirements of paragraph (b)(1)(vii)(A) and (B) of this section.

(D) The Administrator will also select one vehicle for each evaporative emission control system within each evaporative family for which vehicles are to be sold at high altitude.

(E) Vehicles selected under paragraph (b)(1)(v) of this section may be used to satisfy the requirements of paragraph (b)(1)(vii)(D) of this section.

(2) *Gasoline-fueled heavy-duty emission-data engines.* Paragraph (b)(2) of this section applies to gasoline-fueled heavy-duty emission-data engines.

(i) Engines will be chosen to be run for emission data based upon the engine family groupings. Within each engine family, the requirements of this paragraph must be met.

(ii) Engines of each engine family will be divided into engine displacement-exhaust emission control system combinations. A projected sales volume will be established for each combination for the applicable model year. One engine of each combination will be selected in order of decreasing projected sales volume until 70 percent of the projected sales of a manufacturer's total production of engines of that family is represented, or until a maximum of four engines is selected. The engines selected for each combination will be specified by the Administrator as to fuel system.

(iii) The Administrator may select a maximum of two additional engines within each engine family based upon features indicating that they may have the highest emission levels of the engines in that engine family. In selecting these engines, the Administrator will consider such features as the exhaust emission control system, induction system characteristics, ignition system characteristics, fuel system, rated horsepower, rated torque, and compression ratio.

(iv) If the engines selected in accordance with paragraphs (b)(2)(ii) and (iii) of this section do not represent each engine displacement-exhaust emission control system combination, then one engine of each engine displacement-exhaust emission control system combination not represented shall be selected by the Administrator.

(3) *Diesel heavy-duty emission-data engines.* Paragraph (b)(3) of this section applies to Diesel heavy-duty emission-data engines.

(i) Engines will be chosen to be run for emission data based upon engine family groupings. Within each engine family, the requirements of this paragraph must be met.

(ii) Engines of each engine family will be divided into groups based upon their exhaust emission control systems. One engine of each engine-system combination shall be run for smoke emission data and gaseous emission data as prescribed in § 86.079-26(c)(3). Either the complete gaseous emission test or the complete smoke test may be conducted first. Within each combination, the engine that features the highest fuel feed per stroke, primarily at the speed of maximum rated torque and secondarily at rated speed, will usually be selected. If there are military engines with higher fuel rates than other engines in the same engine system combinations, then one military engine shall be also selected. The engine with the highest fuel feed per stroke will usually be selected.

(iii) The Administrator may select a maximum of one additional engine within each engine-system combination based upon features indicating that it may have the highest emission levels of the engines of that combination. In selecting this engine, the Administrator will consider such features as the injection system, fuel system, compression ratio, rated speed, rated horsepower, peak torque speed, and peak torque.

(c) Durability data: (1) *Durability-data vehicles.* Paragraph (c)(1) of this section applies to light-duty vehicle and light-duty truck durability-data vehicles.

(i) A durability-data vehicle will be selected by the Administrator to represent each engine-system combination. The vehicle selected shall be of the engine displacement with the largest projected sales volume of vehicles with that control-system combination in that engine family and will be designated by the Administrator as to transmission type, fuel system, and inertia weight class.

(ii) A manufacturer may elect to operate and test additional vehicles to represent any engine-system combination. The additional vehicles must be of the same engine displacement, transmission type, fuel system, and inertia weight class as the vehicle selected for that engine-system combination in accordance with the provisions of paragraph (c)(1)(i) of this section. Notice of an intent to operate and test additional vehicles will be given to the Administrator not later than 30 days following notification of the test fleet selection.

(2) *Gasoline-fueled heavy-duty durability-data engines.* Paragraph (c)(2) of this section applies to gasoline-fueled heavy-duty durability-data engines.

(i) A durability-data engine will be selected by the Administrator to represent each engine-system combination.

(ii) [Reserved]

(iii) A manufacturer may elect to operate and test additional engines to represent any engine-system combination. The additional engines must be of the same engine displacement and fuel systems as the engine selected for that combination in accordance with the provisions of paragraph (c)(2)(i) of this section. Notice of an intent to run additional engines shall be given to the Administrator not later than 30 days following notification of the test fleet selection. Deterioration factors calculated for each engine-system combination shall be applied separately to military and nonmilitary engines within the same engine-system combination.

(3) *Diesel heavy-duty durability-data engines.* Paragraph (c)(3) of this section applies to Diesel heavy-duty durability-data engines.

(i) One engine from each engine-system combination shall be tested as prescribed in § 86.079-26(c)(3)(ii). At each test point, either the complete gaseous emission test or the complete smoke test may be conducted first. Within each combination, the engine which features the highest fuel feed per stroke, pri-

marily at rated speed and secondarily at the speed of maximum rated torque, will usually be selected for durability testing. In the case where more than one engine in an engine-system combination has the highest fuel feed per stroke, the engine with the highest maximum rated horsepower will usually be selected for durability testing. If an engine system combination includes both military and nonmilitary engines, then the nonmilitary engine with the highest maximum rated horsepower will usually be selected for durability testing.

(ii) A manufacturer may elect to operate and test additional engines to represent any engine-system combination. The additional engines must be of the same model and fuel system as the engine selected in accordance with the provisions of paragraph (c)(3)(i) of this section. Notice of an intent to test additional engines shall be given to the Administrator not later than 30 days following notification of the test fleet selection. Deterioration factors calculated for each engine-system combination shall be applied separately to military and non-military engines within the same engine system combination.

(d) For purposes of testing under § 86.079-26 (a)(9), (b)(9), or (c)(11), the Administrator may require additional emission-data vehicles (or emission-data engines) and durability-data vehicles (or durability-data engines) identical in all material respects to vehicles (or engines) selected in accordance with paragraphs (b) and (c) of this section: *Provided*, That the number of vehicles (or engines) selected shall not increase the size of either the emission-data fleet or the durability-data fleet by more than 20 percent or one vehicle (or engine), whichever is greater.

(e) Any manufacturer whose projected sales for the model year in which certification is sought is less than

(1) 2000 gasoline-fueled light-duty vehicles, or

(2) 2000 Diesel light-duty vehicles, or

(3) 2000 gasoline-fueled light-duty trucks, or

(4) 2000 Diesel light-duty trucks, or

(5) 2000 gasoline-fueled heavy-duty engines, or

(6) 200 Diesel heavy-duty engines,

may request a reduction in the number of test vehicles (or engines) determined in accordance with the foregoing provisions of this section. The Administrator may agree to such lesser number as he determines would meet the objectives of this procedure.

(f) In lieu of testing an emission-data or durability-data vehicle (or engine) selected under paragraph (b) or (c) of this section, and submitting data therefore, a manufacturer may, with the prior written approval of the Administrator, submit exhaust emission data and/or fuel evaporative emission data, as applicable, on a similar vehicle (or engine) for which certification has previously been obtained or for which all applicable data required under § 86.079-23 have previously been submitted.

(g)(1) This paragraph (g) applies to light-duty vehicles and light-duty trucks.

(2) Where it is expected that more than 33 percent of an engine family will be equipped with an optional item, the full estimated weight of that item shall be included, unless excluded by the Administrator, in the curb weight computation for each vehicle available with that option in the engine family. Where it is expected that 33 percent or less of the vehicles in an engine family will be equipped with an item of optional equipment, no weight for that item will be added in computing curb weight. In the case of mutually exclusive options, only the weight of the heavier option will be added in computing curb weight. Optional equipment weighing less than 3 pounds per item need not be considered.

(3) Where it is expected that more than 33 percent of an engine family will be equipped with an item of optional equipment that can reasonably be expected to influence emissions, then such items of optional equipment shall actually be installed, unless specifically excluded by the Administrator, on all emission-data and durability-data vehicles in the engine family on which the option is intended to be offered in production. Optional equipment that can reasonably be expected to influence emissions are the air conditioner, power steering, power brakes, and other items determined by the Administrator.

(4) Optional equipment that can reasonably be expected to influence emissions and which is utilized on 33 percent or less of the vehicles in the engine family shall not be installed on any vehicle in that engine family unless specifically required under this section.

§ 86.079-25 Maintenance.

(a) *Light-duty vehicles and light-duty trucks.* Paragraph (a) of this section applies to light-duty vehicles and light-duty trucks.

(1) Scheduled maintenance on the engine, emission control system, and fuel system of durability-data vehicles, selected by the Administrator or elected by the manufacturer under § 86.079-24(c)(1), shall be scheduled for performance during durability testing at the same mileage intervals that will be specified in the manufacturer's maintenance instructions furnished to the ultimate purchaser of the motor vehicle. Such maintenance shall be performed, except as provided in paragraph (a)(5)(iii) of this section, only under the following provisions:

(i) Scheduled major engine tuneups to manufacturer's specifications may be performed no more frequently than every 12,500 miles of scheduled driving: *Provided*, That no tuneup may be performed after 45,000 miles of scheduled driving. A scheduled major engine tuneup shall be restricted to paragraph (a)(1)(i)(A) or (B) of this section, and shall be conducted in a manner consistent with service instructions and specifications provided by the manufacturer for use by customer service personnel.

(A) *For gasoline-fueled vehicles*, the following items may be inspected, replaced, cleaned, adjusted, and/or serviced as required:

(*1*) Ignition system.

(2) Cold starting enrichment system (includes fast idle speed setting).

(3) Curb idle speed and air/fuel mixture.

(*4*) Drive belt tension on engine accessories.

(*5*) Valve lash.

(*6*) Inlet air and exhaust gas control valves.

(7) Engine bolt torque.

(*8*) Spark plugs.

(*9*) Fuel filter and air filter.

(*10*) Crankcase emission control system.

(*11*) Fuel evaporative emission control system.

(B) *For Diesel vehicles*, a major engine tuneup shall be restricted to the following:

(*1*) Adjust low idle speed.

(2) Adjust valve lash if required.

(3) Adjust injector timing.

(*4*) Adjust governor.

(*5*) Clean and service injector tips.

(*6*) Adjust drive belt tension on engine accessories.

(7) Check engine bolt torque and tighten as required.

(ii) Change of engine and transmission oil, and change or service of oil filter will be allowed at the same mileage intervals that will be specified in the manufacturer's maintenance instructions.

(iii) Readjustment of the engine idle speed (curb idle and fast idle) may be performed, in addition to adjustment during scheduled major engine tuneups, once during the first 5,000 miles of vehicle operation.

(2) (i) *For gasoline-fueled vehicles*, unscheduled maintenance on the engine, emission control system, and fuel system of durability vehicles may be performed, except as provided in paragraph (a)(5)(i) of this section, only under the following provisions:

(A) Any persistently misfiring spark plug may be replaced, in addition to replacement at scheduled major engine tuneup points.

(B) Readjustment of the engine cold starting enrichment system may be performed if there is a problem of stalling or if there is visible black smoke.

(C) Readjustment of the engine idle-speed (curb idle and fast idle) may be performed, in addition to that performed as scheduled maintenance under paragraph (a)(1) of this section, if the idle speed exceeds the manufacturer's recommended idle speed by 300 r.p.m. or more, or if there is a problem of stalling.

(D) The idle mixture may be reset, other than during scheduled major engine tuneups, only with the advance approval of the Administrator.

(ii) *For Diesel vehicles*, unscheduled maintenance on the engine emission control system, and fuel system of durability-data vehicles may be performed except as provided in paragraph (a)(5)(i) of this section, only under the following provisions:

(A) Injectors may be changed if a persistent misfire is detected.

(B) Readjustment of the engine idle speed (curb idle and fast idle) may be performed in addition to that performed as scheduled maintenance under paragraph (a)(1) of this section, if the idle speed exceeds the manufacturer's recommended idle speed by 300 r.p.m. or more, or if there is a problem of stalling.

(3) An exhaust gas recirculation (EGR) system may be serviced during durability testing only under one of the following provisions:

(i) Manufacturers may schedule service to the EGR system at the scheduled major engine tuneups if an audible and/or visual signal approved by the Administrator alerts the vehicle operator to the need for EGR system maintenance at each of those mileage points. One additional servicing may also be performed as unscheduled maintenance if there is an overt indication of malfunction and if the malfunction or repair of the malfunction does not render the test vehicle unrepresentative of vehicles in use.

(ii) Manufacturers may service the EGR system as unscheduled maintenance a maximum of three times during the 50,000 miles if failure of the EGR system activates an audible and/or visual signal approved by the Administrator which alerts the vehicle operator to the need for EGR system maintenance. One additional servicing may also be performed as unscheduled maintenance if there is an overt indication of malfunction and if the malfunction or repair of the malfunction does not render the test vehicle unrepresentative of vehicles in use.

(iii) Manufacturers may service the EGR system a maximum of three times during the 50,000 miles either at a scheduled major engine tuneup point or as unscheduled maintenance, if an audible and/or visual signal approved by the Administrator alerts the vehicle operator to the need for EGR system maintenance. The signal may be activated either by EGR system failure (unscheduled maintenance) or need for scheduled periodic maintenance. If maintenance is performed, the signal for scheduled periodic maintenance shall be reset. One additional servicing may also be performed as unscheduled maintenance if there is an overt indication of malfunction and if the malfunction or repair of the malfunction does not render the test vehicle unrepresentative of vehicles in use.

(iv) Manufacturers may schedule service to the EGR system at the scheduled major engine tuneup(s) if failure to perform EGR system maintenance is not likely, as determined by the Administrator, to result in an improvement in vehicle performance. One additional servicing may also be performed as unscheduled maintenance if there is an overt indication of malfunction and if the malfunction or repair of the malfunction does not render the test vehicle unrepresentative of vehicles in use.

(4) The catalytic converter may be serviced once during 50,000 miles if an audible and/or visual signal approved by the Administrator alerts the vehicle operator to the need for maintenance. The signal may be activated either by component failure or need for maintenance at a scheduled point.

(5) Any other engine, emission control system, or fuel system adjustment, repair, removal, disassembly, cleaning, or replacement on durability-data vehicles shall be performed only with the advance approval of the Administrator.

(i) In the case of unscheduled maintenance, such approval will be given if the Administrator:

(A) Has made a preliminary determination that part failure or system malfunction, or the repair of such failure or malfunction, does not render the vehicle unrepresentative of vehicles in use, and does not require direct access to the combustion chamber, except for spark plug, fuel injection component, or removable prechamber removal or replacement; and

(B) Has made a determination that the need for maintenance or repairs is indicated by an overt indication of malfunction such as persistent misfiring, vehicle stalling, overheating, fluid leakage, loss of oil pressure, or charge indicator warning. For the evaporative emission control system this overt indication may be indicated by such items as fuel odor or fluid leakage.

(ii) Emission measurements may not be used as a means of determining the need for unscheduled maintenance under paragraph (a)(5)(i)(A) of this section.

(iii) Requests for authorization of scheduled maintenance of emission control-related components not specifically authorized to be maintained by these regulations must be made prior to the beginning of durability testing. The Administrator will approve the performance of such maintenance if the manufacturer makes a satisfactory showing that the maintenance will be performed on vehicles in use.

(6) If the Administrator determines that part failure or system malfunction occurrence and/or repair rendered the vehicle unrepresentative of vehicles in use, the vehicle shall not be used as a durability-data vehicle.

(7) Where the Administrator agrees under § 86.079-26 to a mileage accumulation of less than 50,000 miles for durability testing, he may modify the requirements of this paragraph.

(8) (i) Adjustment of engine idle speed on emission-data vehicles may be performed once before the 6,436-kilometer (4,000-mile) test point. Any other engine, emission control system, or fuel system adjustment, repair, removal, disassembly, cleaning, or replacement on emission-data vehicles shall be performed only with the advance approval of the Administrator.

(ii) Maintenance on emission-data vehicles selected under § 86.079-24 (b)(1)(v) or (b)(1)(vii)(D) and permitted to be tested for purposes of § 86.079-23 (b)(1)(ii) under the provisions of § 86.079-24(b)(1)(vi) may be performed in conjunction with emission control system modifications at the 6,436-kilometer (4,000-mile) test point, and shall be performed in accordance with the maintenance instructions to be provided to the ultimate purchaser required under § 86.079-38.

(iii) Maintenance on those emission-data vehicles selected under § 86.079-24(b)(1)(v) which are not capable of being modified in the field for the purpose of complying with emission standards at an altitude other than intended by the original design may be performed in conjunction with the emission control system modifications at the 6,436-kilometer (4,000-mile) test point, and shall be approved in advance by the Administrator.

(9) Repairs to vehicle components of the durability-data or emission-data vehicle, other than the engine, emission control system, or fuel system, shall be performed only as a result of part failure, vehicle system malfunction, or with the advance approval of the Administrator.

(10) Complete emission tests (see §§ 86.106 through 86.145) are required, unless waived by the Administrator, before and after any vehicle maintenance which may reasonably be expected to affect emissions. These test data shall be air posted to the Administrator within 24 hours (or delivered within 3 working days), after the tests, along with a complete record of all pertinent maintenance, including a preliminary engineering report of any malfunction diagnosis and the corrective action taken. A complete engineering report shall be delivered or air posted to the Administrator within 10 working days after the tests. In addition, all test data and maintenance reports shall be compiled and provided to the Administrator in accordance with § 86.079-23.

(11) The Administrator shall be given the opportunity to verify the existence of an overt indication of part failure and/or vehicle malfunction (e.g., misfiring, stalling, black smoke), or an activation of an audible and/or visual signal, prior to the performance of any maintenance to which such overt indication or signal is relevant under the provisions of this section.

(12) Equipment, instruments, or tools may not be used to identify malfunctioning, maladjusted, or defective engine components unless the same or equivalent equipment, instruments, or tools will be available to dealerships and other service outlets and

(i) Are used in conjunction with scheduled maintenance on such components,

(ii) Are used subsequent to the identification of a vehicle or engine malfunction, as provided in paragraph (a)(5)(i) of this section for durability-data vehicles or paragraph (a)(8)(i) of this section for emission-data vehicles, or

(iii) Unless specifically authorized by the Administrator.

(b) [Reserved]

(c) (1) *Heavy-duty engines.* Paragraph (c) of this section applies to heavy-duty engines.

(2) (i) The scheduled maintenance described in this section may be performed on a durability-data engine pro-

vided the maintenance is requested in the application for certification. Such scheduled maintenance must be specified at the same intervals in the maintenance instructions furnished to the ultimate purchaser of the vehicle in which the engine, represented by the test engine, is installed. (For equivalent dynamometer hours, engine hours, and mileage intervals, see § 86.079–2.) A scheduled major engine servicing shall be restricted to items listed in this subparagraph and shall be conducted in a manner consistent with service instructions and specifications provided by the manufacturer for use by the customer service personnel.

(A) For gasoline-fueled engines, major engine tuneups to manufacturer's specifications may be performed no more frequently than every 375 hours of scheduled dynamometer operation: *Provided*, No tuneups are performed after 1375 hours of scheduled dynamometer operation. The following items may be inspected, replaced, cleaned, adjusted, and/or serviced as required:

(*1*) Ignition system.

(*2*) Cold starting enrichment system (includes fast idle speed setting).

(*3*) Curb idle speed and air/fuel mixture.

(*4*) Drive belt tension on engine accessories.

(*5*) Valve lash.

(*6*) Inlet air and exhaust gas control valves.

(*7*) Engine bolt torque.

(*8*) Spark plugs.

(*9*) Fuel filter and air filter.

(*10*) Crankcase emission control system.

(*11*) Fuel evaporative emission control system.

(B) For Diesel engines one major engine servicing to the manufacturer's specifications may be performed prior to 875 hours (±8 hours) of scheduled dynamometer operation. The following items may be inspected, replaced, cleaned, adjusted, and/or serviced as required:

(*1*) Low idle speed.

(*2*) Drive belt tension.

(*3*) Engine bolt torque.

(*4*) Valve lash.

(*5*) Injection timing.

(*6*) Injector assemblies.

(*7*) Governor settings.

(C) Normal engine servicing such as engine oil change, and oil filter, fuel filter, and air filter cleaning or replacement will be allowed at manufacturer's recommended intervals. If approved in advance by the Administrator, the maintenance for these items may differ from that specified in the manufacturer's maintenance instructions.

(D) Readjustment of the engine low idle speed may be performed once during the first 125 hours of engine operation.

(ii) Unscheduled maintenance may be performed on durability-data engines, except as provided in paragraph (c)(2)(v)(A) of this section, only under the following provisions:

(A) An injector or spark plug may be changed if a persistent misfire is detected.

(B) Readjustment of a gasoline-fueled engine cold-start enrichment system may be performed if there is a problem of stalling or if there is visible black smoke.

(C) Readjustment of the engine idle speed (curb idle and fast idle) may be performed, in addition to that performed as scheduled maintenance under paragraph (c)(2)(i) of this section, if the idle speed exceeds the manufacturer's recommended idle speed by 300 r.p.m. or more, or if there is a problem of stalling.

(D) The idle mixture may be reset, other than during scheduled major engine tuneups, only with the advance approval of the Administrator.

(iii) Any exhaust gas recirculation (EGR) system may be serviced during durability testing only under one of the following provisions:

(A) Manufacturers may schedule service to the EGR system at the scheduled major engine tuneup if an audible and/or visual signal approved by the Administrator alerts the engine operator to the need for EGR system maintenance at the service point. One additional servicing may also be performed as unscheduled maintenance if there is an overt indication of malfunction and if the malfunction or repair of the malfunction does not render the test engine unrepresentative of engines in use.

(B) Manufacturers may service the EGR system as unscheduled maintenance a maximum of one time during durability testing (1500 hours for gasoline-fuel engines or 1000 hours for Diesel engines) if failure of the EGR system activates an audible and/or visual signal approved by the Administrator which alerts the engine operator to the need for EGR system maintenance. One additional servicing may also be performed as unscheduled maintenance if there is an overt indication of malfunction and if the malfunction or repair of the malfunction does not render the test engine unrepresentative of engines in use.

(C) Manufacturers may service the EGR system a maximum of three times during durability testing (1500 hours for gasoline-fueled engines or 1000 hours for Diesel engines) either at a scheduled major engine tuneup point or as unscheduled maintenance, if an audible and/or visual signal approved by the Administrator alerts the engine operator to the need for EGR system maintenance. The signal may be activated either by EGR system failure (unscheduled maintenance) or need for scheduled periodic maintenance. If maintenance is performed, the signal for scheduled periodic maintenance shall be reset. One additional servicing may also be performed as unscheduled maintenance if there is an overt indication of malfunction and if the malfunction or repair of the malfunction does not render the test engine unrepresentative of engines in use.

(D) Manufacturers may schedule service to the EGR system at the scheduled major engine tuneup(s) if failure to perform EGR system maintenance is not likely, as determined by the Administrator, to result in an improvement in engine performance. One additional servicing may also be performed as unscheduled maintenance if there is an overt indication of malfunction and if the malfunction or repair of the malfunction does not render the test engine unrepresentative of engines in use.

(iv) The catalytic converter may be serviced once during durability testing (1500 hours for gasoline-fueled engines or 1000 hours for Diesel engines) if an audible and/or visual signal approved by the Administrator alerts the engine operator to the need for maintenance. The signal may be activated either by component failure or need for maintenance at a scheduled point.

(v) Any other engine, emission control system, or fuel system adjustment, repair, removal, disassembly, cleaning, or replacement on durability-data engines shall be performed only with the advance approval of the Administrator.

(A) In the case of unscheduled maintenance such approval will be given if the Administrator:

(*1*) Has made a preliminary determination that part failure or system malfunction, or the repair of such failure or malfunction, does not render the engine unrepresentative of engines in use, and does not require direct access to the combustion chamber, except for spark plug, fuel injection component, or removable prechamber removal or replacement; and,

(*2*) Has made a determination that the need for maintenance or repairs is indicated by an overt indication of malfunction such as persistent misfiring, engine stalling, overheating, fluid leakage, loss of oil pressure, excessive fuel consumption or excessive power loss.

(B) Emission measurements may not be used as a means of determining the need for unscheduled maintenance under paragraph (c)(2)(v)(A)(*1*) of this section.

(C) Requests for authorization of scheduled maintenance of emission-control related components not specifically authorized to be maintained by these regulations must be made prior to the beginning of durability testing. The Administrator will approve the performance of such maintenance if the manufacturer makes a satisfactory showing that the maintenance will be performed on engines in use.

(vi) If the Administrator determines that part failure or system malfunction occurrence and/or repair rendered the engine unrepresentative of engines in use, the engine shall not be used as a durability-data engine.

(3)(i) Scheduled maintenance on emission-data engines is limited to the adjustment of idle speed once before the 125-hour test point, provided the idle speed is outside the manufacturer's specifications.

(ii) Any other engine, emission control system, or fuel system, adjustment, repair, removal, disassembly, cleaning, servicing, or replacement shall be performed only with the advance approval of the Administrator.

(4) [Reserved]

(5) (i) Complete emission tests (see Subparts D or H of this part for gasoline-fueled engines and Subparts D and I, or I and J of this part for Diesel engines) are required, unless waived by the Administrator, before and after:

(A) Scheduled maintenance approved for durability-data engines, except maintenance performed under § 86.079–25(c)(2)(i)(c);

(B) Unscheduled maintenance which may reasonably be expected to affect emissions.

(ii) The tests before and after scheduled maintenance, which are performed on durability-data engines prior to 117 hours, are waived. The test before scheduled maintenance, which is performed on durability-data engines after 117 hours and prior to 133 hours, is waived. The after-maintenance test must be run and the results used in the deterioration factor calculation in accordance with § 86.079–28.

(iii) The idle speed reset and any scheduled maintenance on the emission-data engine shall be performed prior to the 125-hour test. The before-maintenance and after-maintenance tests associated with idle speed reset and scheduled maintenance on the emission-data engine are waived.

(iv) Test data required by this paragraph shall be air posted to the Administrator within 72 hours of test completion (or delivered within 5 working days), along with a complete record of all pertinent maintenance.

(v) When unscheduled maintenance is approved, a preliminary engineering report, unless waived by the Administrator, shall be air posted within 72 hours (or delivered within 5 working days). A final engineering report shall be delivered or air posted within 10 working days after the completion of the emission tests. The Administrator may approve an extension of the time requirements for the final engineering report.

(vi) All test data, maintenance reports, and required engineering reports shall be compiled and provided to the Administrator in accordance with § 86.-079–23.

(6) The Administrator shall be given the opportunity to verify the existence of an overt indication of part failure and/or engine malfunction (e.g., misfiring, stalling).

(7) Equipment, instruments, or tools may not be used to identify malfunctioning, maladjusted, or defective engine components unless the same or equivalent equipment, instruments, or tools will be available to dealerships and other service outlets, and:

(i) Are used in conjunction with scheduled maintenance on such components;

(ii) Are used subsequent to the identification of an engine failure or malfunction, as provided in paragraph (c)(2)(v)(A) of this section for durability-data engines or paragraph (c)(3) of this section for emission-data engines; or,

(iii) Unless specifically authorized by the Administrator.

8. Section 86.079–26 is revised to read as follows:

§ 86.079–26 Mileage and service accumulation; emission measurements.

(a) (1) Paragraph (a) of this section applies to light-duty vehicles and light-duty trucks.

(2) The procedure for mileage accumulation will be the Durability Driving Schedule as specified in Appendix IV to this part. A modified procedure may also be used if approved in advance by the Administrator. Except with the advance approval of the Administrator, all vehicles will accumulate mileage at a measured curb weight which is within 100 pounds of the estimated curb weight. If the loaded vehicle weight is within 100 pounds of being included in the next higher inertia weight class as specified in § 86.125, the manufacturer may elect to conduct the respective emission tests at the higher loaded vehicle weight. Mileage will be accumulated on four-wheel drive vehicles in their normal on-highway mode of operation.

(3) Emission-data vehicles.

(i) *Gasoline-fueled.* (A) Each gasoline-fueled emission-data vehicle shall be driven 4000 miles with all emission control systems installed and operating. Complete exhaust emission tests shall be conducted at zero miles and 4000 miles on those vehicles selected under § 86.079–24(b)(1)(ii) through (b)(1)(v). Complete exhaust and evaporative emission tests shall be conducted at zero miles and 4000 miles on those vehicles selected under § 86.079–24(b)(1)(vii). The manufacturer may at his option test the vehicles selected under § 86.079–29(b)(1)(vii) up to three times at the 4000-mile test point as long as the ±250-mile test tolerance is adhered to. The Administrator may determine under § 86.079–24(f) that no testing is required.

(B) The emission-data vehicle(s) selected for testing under § 86.079–24(b)(1)(v) or (b)(1)(vii)(D) shall be driven 6436 kilometers (4000 miles) at any altitude. Emission tests shall be conducted at zero kilometers (zero miles) at any altitude and 6436 kilometers (4000 miles) under high altitude conditions.

(C) The emission-data vehicle(s) selected for testing under § 86.079–24(b)(1)(v) or (b)(1)(vii)(D) and permitted to be tested for purposes of § 86.079–23(b)(1)(ii) under the provisions of § 86.-079–24(b)(1)(vi) shall be driven 6436 kilometers (4000 miles) at low altitude. Emission tests shall be conducted at zero kilometers (zero miles) at low altitude and 6436 kilometers (4000 miles) under both low and high altitude conditions. For the purposes of this subparagraph, low altitude means any elevation less than 549 meters (1800 feet).

(ii) *Diesel.* (A) Each Diesel emission-data vehicle shall be driven 6436 kilometers (4000 miles) with all emission control systems installed and operating. Emission tests shall be conducted at zero kilometers (zero miles) and 6436 kilometers (4000 miles).

(B) The emission-data vehicle(s) selected for testing under § 86.079–24(b)(1)(v) shall be driven 6436 kilometers (4000 miles) at any altitude. Emission tests shall be conducted at zero kilometers (zero miles) at any altitude and 6436 kilometers (4000 miles) under high altitude conditions.

(C) The emission-data vehicle(s) selected for testing under § 86.079–24(b)(1)(v) and permitted to be tested for purposes of § 86.079–23(b)(1)(ii) under the provisions of § 86.079–24(b)(1)(vi) shall be driven 6436 kilometers (4000 miles) at low altitude. Emission tests shall be conducted at zero kilometers (zero miles) at low altitude and 6436 kilometers (4000 miles) under both low and high altitude conditions. For the purpose of this subparagraph low altitude means any elevation less than 549 meters (1800 feet).

(4) Durability-data vehicles.

(i) *Gasoline-fueled.* Each gasoline-fueled durability-data vehicle selected by the Administrator or elected by the manufacturer under § 86.079–24(c)(1) shall be driven, with all emission control systems installed and operating, for 50,000 miles or such lesser distance as the Administrator may agree to as meeting the objective of this procedure. Complete exhaust emission tests shall be made on all durability-data vehicles selected by the Administrator or elected by the manufacturer under § 86.079–24(c) at the following mileage points: 0; 5000; 10,000; 15,000; 20,000; 25,000; 30,000; 35,000; 40,000; 45,000; 50,000. The Administrator may determine under § 86.079–24(f) that no testing is required.

(ii) *Diesel.* Each Diesel durability-data vehicle shall be driven, with all emission control systems installed and operating, for 50,000 miles or such lesser distance as the Administrator may agree to as meeting the objectives of this procedure. Complete emission tests (see §§ 86.106 through 86.145) shall be made at the following mileage points: 0; 5,000; 10,000; 15,000; 20,000; 25,000; 30,000; 35,000; 40,000; 45,000; and 50,000.

(5) All tests required by this subpart to be conducted after every 5,000 miles of driving of durability-data vehicles and 4,000 miles for emission-data vehicles must be conducted at any accumulated mileage within 250 miles of each of those test points.

(6) (i) The results of each emission test shall be supplied to the Administrator immediately after the test. The manufacturer shall furnish to the Administrator explanation for voiding any test. The Administrator will determine if voiding the test was appropriate based upon the explanation given by the manufacturer for the voided test. If a manufacturer conducts multiple tests at any test point at which the data are intended to be used in the calculation of the deterioration factor, the number of tests must be the same at each point and may not exceed three valid tests. Tests between test points may be conducted as required by the Administrator. Data from all tests (including voided tests) shall be air posted to the Administrator within 24 hours (or delivered within 3 working days). In addition, all test data

shall be compiled and provided to the Administrator in accordance with § 86.-079–23. Where the Administrator conducts a test on durability-data vehicle at a prescribed test point, the results of that test will be used in the calculation of the deterioration factor.

(ii) The results of all emission tests shall be rounded, using the "Rounding Off Method" specified in ASTM E 29–67, to the number of places to the right of the decimal point indicated by expressing the emission standards of this subpart to three significant figures.

(7) Whenever the manufacturer proposes to operate and test a vehicle which may be used for emission or durability data, he shall provide the zero-mile test data to the Administrator and make the vehicle available for such testing under § 86.079–29 as the Administrator may require before beginning to accumulate mileage on the vehicle. Failure to comply with this requirement will invalidate all test data submitted for this vehicle.

(8) Once a manufacturer begins to operate an emission-data or durability-data vehicle, as indicated by compliance with paragraph (a)(7) of this section, he shall continue to run the vehicle to 4,000 miles or 50,000 miles, respectively, and the data from the vehicle will be used in the calculations under § 86.079–28. Discontinuation of a vehicle shall be allowed only with the written consent of the Administrator.

(9)(i) The Administrator may elect to operate and test any test vehicle during all or any part of the mileage accumulation and testing procedure. In such cases, the manufacturer shall provide the vehicle(s) to the Administrator with all information necessary to conduct this testing.

(ii) The test procedures in §§ 86.106 through 86.145 will be followed by the Administrator. The Administrator will test the vehicles at each test point. Maintenance may be performed by the manufacturer under such conditions as the Administrator may prescribe.

(iii) The data developed by the Administrator for the engine-system combination shall be combined with any applicable data supplied by the manufacturer on other vehicles of that combination to determine the applicable deterioration factors for the combination. In the case of a significant discrepancy between data developed by the Administrator and that submitted by the manufacturer, the Administrator's data shall be used in the determination of deterioration factors.

(10) Emission testing of any type with respect to any certification vehicle other than that specified in this subpart is not allowed except as such testing may be specifically authorized by the Administrator.

(11) This section does not apply to testing conducted to meet the requirements of § 86.079–23(b)(2).

(b)(1) Paragraph (b) of this section applies to heavy-duty engines.

(2)(i) For gasoline-fueled engines, the dynamometer service accumulation schedule will consist of several operating conditions which give the percent loads and the modes as specified in the following chart. The percentage of time in each mode must be held within the limits specified. The maximum observed torque for each mode in the service accumulation cycle must be determined at the rpm at which the mode is being conducted. The percent load for that mode will be determined from the maximum torque at the rpm at which the mode is being conducted.

Mode	Observed torque (percentage of maximum observed)	Percentage of time
Idle	Idle	23 (22 to 24).
CT	CT	14 (13 to 15).
PTD	10	6 (5 to 7).
Cruise	25	31 (30 to 32).
PTA	55	15 (14 to 16).
FL	90	11 (10 to 12).

(ii) The equivalent control parameter for engine loading will be manifold vacuum, manifold pressure, or torque. Usage of one of the three parameters will require approval in advance by the Administrator. The control parameter values that correspond to the appropriate percent loads as specified in the emission test cycle will be initially determined at the zero-hour point or after an appropriate break-in procedure. The control parameter values determined initially will be used for the entire service accumulation schedule. If at any time during the service accumulation, the 90 percent torque value cannot be attained, the engine shall be operated at wide-open throttle.

(iii) The average speed shall be between 1,650 and 1,700 rpm. Subject to the requirements as to average speed, there must be operation at speeds in excess of 3,200 rpm (but not in excess of governed speed for governed engines or rated speed for non-governed engines) for a cumulative maximum of 0.5 percent of the actual cycle time, excluding time in transient conditions. Maximum cycle time shall be 15 minutes. A cycle approved in advance by the Administrator shall be used.

(3) (i) For Diesel engines, the following criteria must be met before service accumulation can begin. Failure to comply with these requirements shall invalidate all test data submitted for an engine.

(A) Each engine shall produce at least 95 percent of the maximum horsepower, corrected to rating conditions, at 95 to 100 percent of the rated speed.

(B) The fuel rate at maximum horsepower shall be within manufacturer's specifications.

(ii) During service accumulation, hours can be credited toward the required service accumulation hours when the following criteria are met. If these criteria cannot be met, engine operation shall be discontinued and the Administrator shall be notified immediately. (Adjustments to the fuel rate can be approved under the provisions of § 86.079–25.)

(A) Each engine shall produce at least 95 percent of the maximum horsepower, at 95 to 100 percent of the rated speed, observed at the zero-hour point. Horsepower values shall be corrected to the rating conditions.

(B) The engine shall be operated at 75 percent of the inlet and exhaust restrictions specified in § 86.879–8 except that the tolerance will be ±3 inches of water and ±0.5 inch of Hg respectively.

(C) During each emission test the inlet and exhaust restrictions shall be as specified in § 86.879–8.

(4) If a break-in procedure is used the procedure must be the same as recommended to the ultimate purchaser. Prior approval by the Administrator is required for use of any break-in procedure. The hours accumulated during the break-in procedure will not be counted as part of the service accumulation.

(5) Emission-data engines: Each emission-data engine shall be operated for 125 hours with all emission control systems installed and operating. An emission test shall be conducted at 125 hours. A zero-hour emission may be performed after the engine has been approved by the Administrator to begin service accumulation. Evaporative emission controls need not be connected provided normal operating conditions are maintained in the engine induction system.

(6) Durability-data engines: Each gasoline-fueled durability-data engine shall be operated, with all emission control systems installed and operating, for 1,500 hours. Each Diesel durability-data engine shall be operated for 1,000 hours. Emission measurement, as prescribed, shall be made at 125-hour intervals beginning at 125 hours of operation. A zero-hour emission test may be performed after the engine has been approved by the Administrator to begin service accumulation. Evaporative emission controls need not be connected provided normal operating conditions are maintained in the engine induction system.

(7) All tests required by this subpart to be conducted after 125 hours of operation or at any multiple of 125 hours may be conducted at any accumulated number of hours within 8 hours of 125 hours or the appropriate multiple of 125 hours respectively.

(8)(i) Daata from all emission tests (including voided tests) shall be air posted to the Administrator within 72 hours (or delivered within 5 working days). The manufacturer shall furnish to the Administrator an explanation for voiding any test. The Administrator will determine if voiding the test was appropriate based upon the explanation given by the manufacturer for the voided test. If a manufacturer conducts multiple tests at any test point at which the data are intended to be used in the calculation of the deterioration factor, the number of tests must be the same at each point and may not exceed 3 valid tests. Tests between test points may be conducted as required by the Administrator. In addition, all test data shall be compiled and provided to the Administrator in accordance with § 86.079–23. Where the Administrator conducts a test on a durability-data engine at a prescribed test point, the results of that test will

be used in the calculation of the deterioration factor.

(ii) The results of all emission tests shall be recorded and reported to the Administrator using two places to the right of the decimal point. These numbers shall be rounded in accordance with the "Rounding Off Method" specified in ASTM E 29-67.

(9) Whenever the manufacturer proposes to operate and test an engine which may be used for emission or durability data, he shall provide such information concerning components used on the engine as the Administrator may require and make the engine available for such testing under § 86.079-29 as the Administrator may require, before beginning to accumulate hours on the engine. Failure to comply with this requirement will invalidate all test data later submitted for this engine.

(10) Once a manufacturer begins to operate an emission-data or durability-data engine, as indicated by compliance with paragraph (b)(9) of this section, he shall continue to run any emission-data engine to 125 hours, any gasoline-fueled durability-data engine to 1,500 hours, and any Diesel durability-data engine to 1000 hours. The data from the engine will be used in the calculations under § 86.345. Discontinuation of an engine shall be allowed only with the prior written consent of the Administrator.

(11)(i) The Administrator may elect to operate and test any test engine during all or any part of the service accumulation and testing procedure. In such cases the manufacturer shall provide the engine(s) to the Administrator with all information necessary to conduct the testing.

(ii) The test procedures (Subparts D or H of this part for gasoline-fueled engines, and Subparts D, I, or J of this part for Diesel engines) will be followed by the Administrator. The Administrator will test the engines at each test point. Maintenance may be performed by the manufacturer under such conditions as the Administrator may prescribe.

(iii) The data developed by the Administrator for the engine-system combination shall be combined with any applicable data supplied by the manufacturer on other engines of that combination to determine the applicable deterioration factors for the combination. In the case of a significant discrepancy between data developed by the Administrator and that submitted by the manufacturer, the Administrator's data shall be used in the determination of deterioration factors.

(12) Emission testing of any type with respect to any certification engine other than that specified in this subpart is not allowed except as such testing may be specifically authorized by the Administrator.

9. New §§ 86.079-27 through 86.079-29 are added and read as follows:

§ 86.079-27 Special test procedures.

(a) For light-duty vehicles and light-duty trucks the Administrator may, on the basis of a written application therefore by a manufacturer, prescribe test procedures, other than those set forth in this part, for any motor vehicle which he determines is not susceptible to satisfactory testing by the procedures set forth herein or in Subpart B of this part.

(b) For heavy-duty engines:

(1) The Administrator, may on the basis of a written application therefore by a manufacturer, prescribe test procedures, other than those set forth in this subpart, for any motor-vehicle engine which he determines is not susceptible to satisfactory testing by the procedures set forth herein or in Subparts D and I of this part.

(2) If the manufacturer does not submit a written application for use of special test procedures but the Administrator determines that a motor-vehicle engine is not susceptible to satisfactory testing by the procedures set forth herein, the Administrator will reject the applicable portions of the application. The Administrator shall notify the manufacturer in writing and set forth the reasons for such rejection in accordance with the provisions of § 86.079-22(c).

§ 86.079-28 Compliance with emission standards.

(a)(1) Paragraph (a) of this section applies to light-duty vehicles and light-duty trucks.

(2) The applicable exhaust and fuel evaporative emission standards of this subpart apply to the emissions of vehicles for their useful life.

(3) Since it is expected that emission control efficiency will change with mileage accumulation on the vehicle, the emission level of a vehicle which has accumulated 50,000 miles will be used as the basis for determining compliance with the standards.

(4) The procedure for determining compliance of a new motor vehicle with exhaust emission standards is as follows:

(i) Separate emission deterioration factors shall be determined from the exhaust emission results of the durability-data vehicle(s) for each engine-system combination. A separate factor shall be established for exhaust HC, exhaust CO, and exhaust NO_x for each engine-system combination. A separate evaporative emission deterioration factor shall be determined for each evaporative emission family-evaporative emission control system combination from the testing conducted by the manufacturer.

(A) The applicable results to be used in determining the exhaust emission deterioration factors for each engine-system combination shall be:

(1) All valid exhaust emission data from the tests required under § 86.079-26(a)(4) except the zero-mile tests. These shall include the official test results, as determined in § 86.079-29 for all tests conducted on all durability-data vehicles of the combination selected under § 86.079-24(c) (including all vehicles elected to be operated by the manufacturer under § 86.079-24(c)(1)(ii)).

(2) All exhaust emission data from the tests conducted before and after the scheduled maintenance provided in § 86.079-25.

(3) All exhaust emission data from tests required by maintenance approved under § 86.079-25, in those cases where the Administrator conditioned his approval for the performance of such maintenance on the inclusion of such data in the deterioration factor calculation.

(B) All applicable exhaust emission results shall be plotted as a function of the mileage on the system, rounded to the nearest mile, and the best fit straight lines, fitted by the method of least squares, shall be drawn through all these data points. The interpolated 4,000- and 50,000-mile points on this line must be within the standards provided in § 86.078-8 or § 86.079-9, as applicable, or the data will not be acceptable for use in calculation of a deterioration factor, unless no applicable data point exceeded the standard. An exhaust emission deterioration factor shall be calculated for each engine-system combination as follows:

Factor = Exhaust emissions interpolated to 50,000 miles ÷ exhaust emissions interpolated to 4,000 miles.

These interpolated values shall be carried out to a minimum of four places to the right of the decimal point before dividing one by the other to determine the deterioration factor. The results shall be rounded to three places to the right of the decimal point in accordance with ASTM E 29-67.

(C) An evaporative emissions deterioration factor shall be determined from the testing conducted as described in § 86.079-21(b)(4)(ii), for each evaporative emission family-evaporative emission control system combination to indicate the evaporative emission level at 50,000 miles relative to the evaporative emission level at 4,000 miles as follows:

Factor = Evaporative emission level at 50,000 miles minus the evaporative emission level at 4,000 miles.

The factor shall be established to a minimum of two places to the right of the decimal.

(ii)(A) The official exhaust emission test results for each emission-data vehicle at the 4,000-mile test point shall be multiplied by the appropriate deterioration factor: *Provided*, That if a deterioration factor as computed in paragraph (a)(4)(i)(B) of this section is less than one, that deterioration factor shall be one for the purposes of this paragraph.

(B) The official evaporative emission test results for each evaporative emission-data vehicle at the 4,000-mile test point shall be adjusted by addition of the appropriate deterioration factor: *Provided*, That if a deterioration factor as computed in paragraph (a)(4)(i)(C) of this section is less than zero, that deterioration factor shall be zero for the purposes of this paragraph.

(iii) The emissions to compare with the standard shall be the adjusted emissions of paragraph (a)(4)(ii) (A) and (B) of this section for each emission-data vehicle. Before any emission value

is compared with the standard, it shall be rounded, in accordance with ASTM E 29–67, to two significant figures. The rounded emission values may not exceed the standard.

(iv) Every test vehicle of an engine family must comply with the exhaust emission standards, as determined in paragraph (a)(4)(iii) of this section, before any vehicle in that family may be certified.

(v) Every test vehicle of an evaporative emission family must comply with the evaporative emission standards, as determined in paragraph (a)(4)(iii) of this section, before any vehicle in that family may be certified.

(b) (1) Paragraph (b) of this section applies to heavy-duty engines.

(2) The exhaust emission standards for gasoline-fueled engines in § 86.079–10 or for Diesel engines in § 86.079–11 apply to the emissions of engines for their useful life.

(3) Since emission control efficiency decreases with the accumulation of hours on the engine, the emission level of a gasoline-fueled engine which has accumulated 1,500 hours of dynamometer operation or a Diesel engine which has accumulated 1,000 hours of dynamometer operation will be used as the basis for determining compliance with the standards.

(4) The procedure for determining compliance of a new engine with exhaust emission standards is as follows:

(i) Separate emission deterioration factors shall be determined from the emission results of the durability-data engines for each engine-system combination. Separate factors shall be established for HC, CO, and for the combined emissions of HC and NOx. For Diesel engines, separate factors shall also be established for the acceleration mode (designated as "A"), the lugging mode (designated as "B") and the peak opacity (designated as "C").

(A) The applicable results to be used in determining the deterioration factors for each combination shall be:

(*1*) All valid emission data from the tests required under § 86.079–26(b). These shall include the official test results, as determined in § 86.079–29, for all tests conducted on all gasoline-fueled durability-data engines of the combination selected under § 86.079–24(c)(2) or on all Diesel durability-data engines of the combination selected under § 86.079–24(c)(3) (including all engines elected to be operated by the manufacturer under § 86.079–24(c)(2)(iii) for gasoline-fueled engines or under § 86.079–24(c)(3)(ii) for Diesel engines).

(*2*) All emission data from the tests conducted before and after maintenance provided in § 86.079–25(c)(2)(i)(A) for gasoline-fueled engines or in § 86.079–25(c)(2)(i)(B) for Diesel engines.

(*3*) All emission data from the tests conducted before and after maintenance provided in § 86.079–25(c)(2)(v)(C) for Diesel engines if emission tests were conducted.

(B) All applicable emission results for (1) HC, (2) CO, (3) HC+NOx, (4) acceleration smoke ("A"), (5) lugging smoke ("B"), and (6) peak smoke ("C") shall be plotted as a function of durability hours which shall be consistently rounded to the nearest hour. Emission data shall have two figures to the right of the decimal. The best fit straight lines, fitted by the method of least squares, shall be drawn through these data points. The interpolated 125-hour and 1,500-hour points for gasoline-fueled engines or the 1,000-hour point for Diesel engines on each line, rounded to whole numbers in accordance with ASTM E 29–67, must be within the standards specified in § 86.079–10 for gasoline-fueled engines or in § 86.079–11 for Diesel engines or the data shall not be used in the calculation of a deterioration factor, unless no applicable data points exceed the standards.

(C) The interpolated values shall be used to calculate a deterioration factor as follows:

Factor = Exhaust emissions interpolated to 1,500 hours for gasoline-fueled engines or to 1,000 hours for Diesel engines minus the exhaust emissions interpolated to 125 hours. (Negative deterioration factors shall be considered zero.)

(ii) The appropriate deterioration factor, carried out to two places to the right of the decimal point, shall be added to the exhaust emission test results, carried out to two places to the right of the decimal point, for each emission-data engine.

(iii) The emission values to compare with the standards shall be the adjusted emission values of paragraph (b)(4)(ii) of this section rounded to two significant figures in accordance with ASTM E 29–67 for each emission-data engine.

(iv) Every test engine of engine family must comply with all applicable standards, as determined in paragraph (b)(4)(iii) of this section, before any engine in that family will be certified.

§ 86.079–29 Testing by the Administrator.

(a)(1) Paragraph (a) of this section applies to light-duty vehicles and light-duty trucks.

(2) The Administrator may require that any one or more of the test vehicles be submitted to him, at such place or places as he may designate, for the purposes of conducting emissions tests. The Administrator may specify that he will conduct such testing at the manufacturer's facility, in which case instrumentation and equipment specified by the Administrator shall be made available by the manufacturer for test operations. Any testing conducted at a manufacturer's facility pursuant to this paragraph shall be scheduled by the manufacturer as promptly as possible.

(3)(i) Whenever the Administrator conducts a test on a test vehicle, the results of that test shall, unless subsequently invalidated by the Administrator, comprise the official data for the vehicle at the prescribed test point and the manufacturer's data for that prescribed test point shall not be used in determining compliance with emission standards.

(ii) Whenever the Administrator does not conduct a test on a test vehicle at a test point, the manufacturer's test data will be accepted as the official data for that test point: *Provided*, That if the Administrator makes a determination based on testing under paragraph (a)(2) of this section that there is a lack of correlation between the manufacturer's test equipment and the test equipment used by the Administrator, no manufacturer's test data will be accepted for purposes of certification until the reasons for the lack of correlation are determined and the validity of the data is established by the manufacturer; *And further provided*, That if the Administrator has reasonable basis to believe that any test data submitted by the manufacturer is not accurate or has been obtained in violation of any provisions of this part, the Administrator may refuse to accept that data as the official data pending retesting or submission of further information. If the manufacturer conducts more than one test on a vehicle, as authorized under § 86.079–26(a)(3)(i)(A), the data from the last test in that series of tests on that vehicle will constitute the official data.

(iii)(A) The emission-data vehicle presented to the Administrator for testing shall be calibrated within the production tolerances applicable to the manufacturer's specifications to be shown on the vehicle label (see § 86.079–35(a)(1)(iii)(D)) as specified in the application for certification. If the Administrator determines that a vehicle is not within such tolerances, the vehicle shall be adjusted at the facility designated by the Administrator prior to the test and an engineering report shall be submitted to the Administrator describing the corrective action taken. Based on the engineering report, the Administrator will determine if the vehicle shall be used as an emission-data vehicle.

(B) If the Administrator determines that the test data developed on an emission-data vehicle under paragraph (a)(3)(i) of this section would cause that vehicle to fail due to excessive 4,000 mile emissions or by application of the appropriate deterioration factor, then the following procedure shall be observed:

(*1*) The manufacturer may request a retest. Before the retest, the vehicle may be readjusted to manufacturer's specifications, if these adjustments were made incorrectly prior to the first test, and other maintenance or repairs may be performed in accordance with § 85.079–25. All work on the vehicle shall be done at such location and under such conditions as the Administrator may prescribe.

(2) The vehicle will be retested by the Administrator and the results of this test shall comprise the official data for the emission-data vehicle.

(iv) If sufficient durability data are not available at the time of any emission test conducted under paragraph (a)(2) of this section to enable the Administrator to determine whether an

emission-data vehicle would fail, the manufacturer may request a retest in accordance with the provisions of paragraphs (a)(3)(iii) (A) and (B) of this section. If the manufacturer does not promptly make such request, he shall be deemed to have waived the right to a retest. A request for retest must be made before the manufacturer removes the vehicle from the test premises.

(b) (1) Paragraph (b) of this section applies to heavy-duty engines.

(2) The Administrator may require that any one or more of the test engines be submitted to him, at such place or places as he may designate, for the purpose of conducting emissions tests. The Administrator may specify that he will conduct such testing at the manufacturer's facility, in which case instrumentation and equipment specified by the Administrator shall be made available by the manufacturer for test operations. Any testing conducted at a manufacturer's facility pursuant to this paragraph shall be scheduled by the manufacturer as promptly as possible.

(3) (i) Whenever the Administrator conducts a test on a test engine the results of that test, unless subsequently invalidated by the Administrator, shall comprise the official data for the engine at that prescribed test point and the manufacturer's data for that prescribed test point shall not be used in determining compliance with emission standards.

(ii) Whenever the Administrator does not conduct a test on a test engine at a test point, the manufacturer's test data will be accepted as the official data for that test point: *Provided*, That if the Administrator makes a determination based on testing under paragraph (b)(2) of this section that there is a lack of correlation between the manufacturer's test equipment and the test equipment used by the Administrator, no manufacturer's test data will be accepted for purposes of certification until the reasons for the lack of correlation are determined and the validity of the data is established by the manufacturer: *And further provided*, That if the Administrator has reasonable basis to believe that any test data submitted by the manufacturer is not accurate or has been obtained in violation of any provision of this part, the Administrator may refuse to accept that data as the official data pending retesting or submission of further information.

(iii) (A) The emission-data engine presented to the Administrator for testing shall be calibrated within the production tolerances applicable to the manufacturer's specifications to be shown on the engine label (see § 86.079-35(a)(2)(iii)) as specified in the application for certification. If the Administrator determines that an engine is not within such tolerances, the engine shall be adjusted at the facility designated by the Administrator prior to the test and an engineering report shall be submitted to the Administrator describing the corrective action taken. Based on the engineering report the Administrator will determine if the engine shall be used as an emission-data engine.

(B) If the Administrator determines that the test data developed under paragraph (b)(3)(iii)(A) of this section would cause the emission-data engine to fail due to excessive 125-hour emission values or by the application of the appropriate deterioration factor, then the following procedure shall be observed.

(*1*) The manufacturer may request a retest. Before the retest, the engine may be readjusted to manufacturer's specifications if these adjustments were made incorrectly prior to the first test, and other maintenance or repairs may be performed in accordance with § 86.079-25. All work on the engine shall be done at such location and under such conditions as the Administrator may prescribe.

(2) The engine will be retested by the Administrator and the results of this test shall comprise the official data for the emission-data engine.

(iv) If sufficient durability data are not available at the time of any emission test conducted under paragraph (b)(2) of this section to enable the Administrator to determine whether an emission-data engine would fail, the manufacturer may request a retest in accordance with the provisions of paragraphs (b)(3)(iii)(B) (*1*) and (2) of this section. If the manufacturer does not promptly make such request, he shall be deemed to have waived the right to a retest. A request for retest must be made before the manufacturer removes the engine from the test premises.

10. Section 86.079-30 is revised to read as follows:

§ 86.079-30 Certification.

(a) (1) If, after a review of the test reports and data submitted by the manufacturer, data derived from any inspection carried out under § 86.078-7(c) and any other pertinent data or information, the Administrator determines that a test vehicle(s) (or test engine(s)) meets the requirements of the Act and of this subpart, he will issue a certificate of conformity with respect to such vehicle(s) (or engine(s)) except in cases covered by paragraph (c) of this section. If applicable, the certificate will state which vehicles are certified for sale at high altitude.

(2) Such certificate will be issued for such period not to exceed one model year as the Administrator may determine and upon such terms as he may deem necessary to assure that any new motor vehicle (or new motor vehicle engine) covered by the certificate will meet the requirements of the Act and of this part. Each such certificate shall contain the following language:

This certificate covers only those new motor vehicles (or new motor vehicle engines) which conform, in all material respects, to the design specifications that applied to those vehicles (or engines) described in the application for certification and which are produced during the ____ model year production period of the said manufacturer, as defined in 40 CFR 86.079-2.

It is a term of this certificate that the manufacturer shall consent to all inspections described in 40 CFR 86.078-7(c) which concern either the vehicle (or engine) certified, or any production vehicle (or production engine) covered by this certificate, or any production vehicle (or production engine) which when completed will be claimed to be covered by this certificate. Failure to comply with all the requirements of § 86.078-7(c) with respect to any such vehicle (or engine) may lead to revocation or suspension of this certificate as specified in 40 CFR § 86.079-30(c). It is also a term of this certificate that this certificate may be revoked or suspended for the other reasons stated in § 86.079-30 (c) or (d).

(3) One such certificate will be issued for each engine family and will certify compliance with no more than one set of applicable standards except that for gasoline-fueled light-duty vehicles and light-duty trucks, one such certificate will be issued for each engine family-evaporative emission family combination and will certify compliance with no more than one set of applicable standards.

(4) A violation of section 203(a)(1) of the Clean Air Act occurs when any manufacturer sells, offers for sale, introduces or delivers for introduction into commerce any light-duty vehicle or light-duty truck, subject to the regulations under the Act, which is not covered by a certificate of conformity at high altitude issued under this part:

(i) At a designated high-altitude location, unless such manufacturer has substantial reason to believe that such motor vehicle will not be sold to an ultimate purchaser for principal use at a designated high-altitude location; or,

(ii) At an other than designated high-altitude location, when such manufacturer has reason to believe that such motor vehicle is intended by the ultimate purchaser to be used principally at a designated high-altitude location.

(5) For the purpose of paragraph (a) of this section, "designated high-altitude location" is any county which has substantially all of its area located above 1,219 meters (4,000 feet) and which is identified below.

COUNTIES LOCATED SUBSTANTIALLY ABOVE 1,219 METERS (4,000 FEET) IN ELEVATION

STATE OF ARIZONA	
Apache	Navajo
STATE OF COLORADO	
Adams	Jefferson
Alamosa	Lake
Arapahoe	La Plata
Archuleta	Larimer
Boulder	Las Animas
Chaffee	Lincoln
Clear Creek	Mesa
Conejos	Mineral
Costilla	Moffat
Crowley	Montezuma
Custer	Montrose
Dolores	Morgan
Delta	Ouray
Denver	Park
Douglas	Pitkin
Eagle	Pueblo
Elbert	Rio Banco
El Paso	Rio Grande
Fremont	Routt
Garfield	Saguache
Gilpin	San Juan
Grant	San Miguel
Gunnison	Summit
Hinsdale	Teller
Huerfano	Washington
Jackson	Weld

STATE OF IDAHO

Bannock	Custer
Bear Lake	Franklin
Bingham	Fremont
Blaine	Jefferson
Bonneville	Madison
Butte	Minidoka
Camas	Oneida
Caribou	Power
Cassia	Teton
Clark	Valley

STATE OF MONTANA

Beaverhead	Madison
Deer Lodge	Meagher
Gallatin	Park
Jefferson	Silver Bow

STATE OF NEBRASKA

Banner	Sioux
Kimball	

STATE OF NEVADA

Carson City	Lander
Douglas	Lyon
Elko	Mineral
Esmeralda	Storey
Eureka	White Pine
Humboldt	

STATE OF NEW MEXICO

Bernalillo	Mora
Catron	Rio Arriba
Colfax	Sandoval
Curry	San Juan
De Baca	San Miguel
Grant	Santa Fe
Guadalupe	Sierra
Harding	Socorro
Lincoln	Taos
Los Alamos	Torrance
Luna	Union
McKinley	Valencia

STATE OF OREGON

Lake

STATE OF UTAH

Beaver	Piute
Box Elder	Rich
Cache	Salt Lake
Carbon	San Juan
Daggett	Sanpete
Davis	Sevier
Duchesne	Summit
Emery	Tooele
Grand	Uintah
Iron	Utah
Juab	Wasatch
Kane	Wayne
Millard	Weber
Morgan	

STATE OF WYOMING

Albany	Natrona
Carbon	Niobrara
Converse	Park
Fremont	Platte
Goshen	Sublette
Hot Springs	Sweetwater
Johnson	Teton
Laramie	Uinta
Lincoln	Weston

(6) The provisions of paragraph (a)(4) of this section shall not apply to any light-duty vehicle or light-duty truck, sold, offered for sale, introduced, or delivered for introduction into commerce in California, provided that the vehicle is covered by a certificate of conformity with emission standards in effect in California.

(7) Certificates issued for light-duty vehicles or light-duty trucks certified with catalytic converters shall be subject to the following term in addition to the term in paragraph (a)(2) of this section: "Catalyst-equipped vehicles, otherwise covered by this certificate, which are driven outside the United States, Canada, and Mexico will be presumed to have been operated on leaded gasoline resulting in deactivation of the catalysts. If these vehicles are imported or offered for the importation without retrofit of the catalyst, they will be considered not to be within the coverage of this certificate unless included in a catalyst control program operated by a manufacturer or a United States Government Agency and approved by the Administrator."

(8) Certificates issued for incomplete light-duty trucks shall be subject to the following term in addition to the term in paragraph (a)(2) of this section: "For incomplete light-duty trucks, this certificate covers only those new motor vehicles which when completed by having the primary load-carrying device or container attached, conform to the maximum curb weight and frontal area limitations described in the application for certification as required in 40 CFR 86.-079-21(d)."

(9) Certificates issued for heavy-duty engines shall be subject to the following term in addition to the term in paragraph (a)(2) of this section: "For heavy-duty engines, this certificate covers only those new motor vehicle engines installed in heavy-duty vehicles which conform to the minimum gross vehicle weight rating, curb weight, or frontal area limitations for heavy-duty vehicles described in 40 CFR 86.079-2."

(b)(1) The Administrator will determine whether a vehicle (or engine) covered by the application complies with applicable standards by observing the following relationships:

(i) *Light-duty vehicles and light-duty trucks.* (A) The durability-data vehicle(s) selected under § 86.079-24(c)(1)(i) shall represent all vehicles of the same engine-system combination.

(B) The emission-data vehicle(s) selected under § 86.079-24(b)(1)(ii), (b)(1)(iii), and (b)(1)(iv) shall represent all vehicles of the same engine-system combination as applicable to be sold below 4,000 ft.

(C) The emission-data vehicle(s) selected under § 86.079-24(b)(1)(vii)(A) and (b)(i)(vii)(B) shall represent all vehicles of the same evaporative control system within the evaporative family, as applicable, to be sold below 4,000 ft.

(D) The emission-data vehicle(s) selected under § 86.079-24(b)(1)(v) shall represent all vehicles of the same engine-system combination to be sold at high altitude.

(E) The emission-data vehicle(s) selected under § 86.079-24(b)(1)(vii)(D) shall represent all vehicles of the same evaporative control system within the evaporative family sold at high altitude.

(ii) *Gasoline-fueled heavy-duty engines.* (A) A test engine selected under § 86.079-24(b)(2)(ii) and (iv) shall represent all engines in the same engine family of the same engine displacement-exhaust emission controll system combination.

(B) A test engine selected under § 86.079-24(b)(2)(iii) shall represent all engines in the same engine family of the same engine displacement-exhaust emission control system combination.

(C) A test engine selected under § 86.079-24(c)(2)(i) shall represent all engines of the same engine-system combination.

(iii) *Diesel heavy-duty engines.* (A) A test engine selected under § 86.079-24(b)(3)(ii) shall represent all engines in the same engine-system combination.

(B) A test engine selected under § 86.079-24(b)(3)(iii) shall represent all engines of that emission control system at the rated fuel delivery of the test engines.

(C) A test engine selected under § 86.078-24(c)(3)(i) shall represent all engines of the same engine-system combination.

(2) The administrator will proceed as in paragraph (a) of this section with respect to the vehicles (or engines) belonging to an engine family or engine family-evaporative emission family combination (as applicable), all of which comply with all applicable standards.

(3) If, after a review of the test reports and data submitted by the manufacturer, data derived from any additional testing conducted pursuant to § 86.079-29, data or information derived from any inspection carried out under § 86.078-7(c) or any other pertinent data or information, the Administrator determines that one or more test vehicles (or test engines) of the certification test fleet do not meet applicable standards, he will notify the manufacturer in writing, setting forth the basis for his determination. Within 30 days following receipt of the notification, the manufacturer may request a hearing on the Administrator's determination. The request shall be in writing, signed by an authorized representative of the manufacturer and shall include a statement specifying the manufacturer's objections to the Administrator's determination and data in support of such objections. If, after a review of the request and supporting data, the Administrator finds that the request raises a substantial factual issue, he shall provide the manufacturer a hearing in accordance with § 86.078-6 with respect to such issue.

(4) For light-duty vehicles and light-duty trucks the manufacturer may, at his option, proceed with any of the following alternatives with respect to an emission-data vehicle determined not in compliance with all applicable standards for which it was tested:

(i) Request a hearing under § 86.078-6; or

(ii) Remove the vehicle configuration (or evaporative vehicle configuration, as applicable) which failed, from his application;

(A) If the failed vehicle was tested for compliance with exhaust emission standards only: The Administrator may select, in place of the failed vehicle, in

accordance with the selection criteria employed in selecting the failed vehicle, a new emission-data vehicle to be tested for exhaust emission compliance only.

(B) If the failed vehicle was tested for compliance with both exhaust and evaporative emission standards: The Administrator may select, in place of the failed vehicle, in accordance with the selection criteria employed in selecting the failed vehicle, a new emission-data vehicle which will be tested for compliance with both exhaust and evaporative emission standards. If one vehicle cannot be selected in accordance with the selection criteria employed in selecting the failed vehicle, then two vehicles may be selected (i.e., one vehicle to satisfy the exhaust emission vehicle selection criteria and one vehicle to satisfy the evaporative emission vehicle selection criteria). The vehicle selected to satisfy the exhaust emission vehicle selection criteria will be tested for compliance with exhaust emission standards only. The vehicle selected to satisfy the evaporative emission vehicle selection criteria will be tested for compliance with both exhaust and evaporative emission standards; or

(iii) Remove the vehicle configuration (or evaporative vehicle configuration, as applicable) which failed from the application and add a vehicle configuration(s) (or evaporative vehicle configuration(s), as applicable) not previously listed. The Administrator may require, if applicable, that the failed vehicle be modified to the new engine code (or evaporative emission code, as applicable) and demonstrate by testing that it meets applicable standards for which it was originally tested. In addition, the Administrator may select, in accordance with the vehicle selection criteria given in § 86.079–24(b), a new emission-data vehicle or vehicles. The vehicles selected to satisfy the exhaust emission vehicle selection criteria will be tested for compliance with exhaust emission standards only. The vehicles selected to satisfy the evaporative emission vehicle selection criteria will be tested for compliance with both exhaust and evaporative mission standards; or

(iv) Correct a component or system malfunction and show that with a correctly functioning system or component the failed vehicle meets applicable standards for which it was originally tested. The Administrator may require a new emission-data vehicle, of identical vehicle configuration (or evaporative vehicle configuration, as applicable) to the failed vehicle, to be operated and tested for compliance with the applicable standards for which the failed vehicle was originally tested.

(5) For heavy-duty engines the manufacturer may, at his option, proceed with any of the following alternatives with respect to any engine family represented by a test engine(s) determined not in compliance with applicable standards:

(i) Request a hearing under § 86.078–6; or

(ii) Delete from the application for certification the engines represented by the failing test engine. (Engines so deleted may be included in a later request for certification under § 86.079–32.) The Administrator will then select in place of each failing engine an alternate engine chosen in accordance with selection criteria employed in selecting the engine that failed; or

(iii) Modify the test engine and demonstrate by testing that it meets applicable standards. Another engine which is in all material respects the same as the first engine, as modified, shall then be operated and tested in accordance with applicable test procedures.

(6) If the manufacturer does not request a hearing or present the required data under paragraphs (b)(4) or (b)(5) (as applicable) of this section, the Administrator will deny certification.

(c) (1) Notwithstanding the fact that any certification vehicle(s) (or certification engine(s)) may comply with other provisions of this subpart, the Administrator may withhold or deny the issuance of a certificate of conformity (or suspend or revoke any such certificate which has been issued) with respect to any such vehicle(s) (or engine(s)) if:

(i) The manufacturer submits false or incomplete information in his application for certification thereof;

(ii) The manufacturer renders inaccurate or invalid any test data which he submits pertaining thereto or otherwise circumvents the intent of the Act or of this part with respect to such vehicle (or engine);

(iii) Any EPA Enforcement Officer is denied access on the terms specified in § 86.078–7(c) to any facility or portion thereof which contains any of the following:

(A) The vehicle (or engine);

(B) Any components used or considered for use in its modification or build-up into a certification vehicle (or certification engine);

(C) Any production vehicle (or production engine) which is or will be claimed by the manufacturer to be covered by the certificate;

(D) Any step in the construction of a vehicle (or engine) described in (C) of this subdivision;

(E) Any records, documents, reports, or histories required by this part to be kept concerning any of the above;

(iv) Any EPA Enforcement Officer is denied "reasonable assistance" (as defined in § 86.078–7(c)) in examining any of the items listed in paragraph (c)(1)(iii) of this section.

(2) The sanctions of withholding, denying, revoking, or suspending of a certificate may be imposed for the reasons in paragraphs (c)(1)(i), (ii), (iii), or (iv) of this section only when the infraction is substantial.

(3) In any case in which a manufacturer knowingly submits false or inaccurate information or knowingly renders inaccurate or invalid any test data or commits any other fraudulent acts and such acts contribute substantially to the Administrator's decision to issue a certificate of conformity, the Administrator may deem such certificate void ab initio.

(4) In any case in which certification of a vehicle (or engine) is proposed to be withheld, denied, revoked, or suspended under paragraph (c)(1)(iii) or (c)(1)(iv) of this section, and in which the Administrator has presented to the manufacturer involved reasonable evidence that a violation of § 86.078–7(c) in fact occurred, the manufacturer, if he wishes to contend that, even though the violation occurred, the vehicle (or engine) in question was not involved in the violation to a degree that would warrant withholding denial, revocation, or suspension of certification under either paragraph (c)(1)(iii) or (c)(1)(iv) of this section, shall have the burden of establishing that contention to the satisfaction of the Administrator.

(5) Any revocation or suspension of certification under paragraph (c)(1) of this section shall:

(i) Be made only after the manufacturer concerned has been offered an opportunity for a hearing conducted in accordance with § 86.078–6 hereof.

(ii) Extend no further than to forbid the introduction into commerce of vehicles (or engines) previously covered by the certification which are still in the hands of the manufacturer, except in cases of such fraud or other misconduct as makes the certification invalid ab initio.

(6) The manufacturer may request in the form and manner specified in paragraph (b)(3) of this section that any determination made by the Administrator under paragraph (c)(1) of this section to withhold or deny certification be reviewed in a hearing conducted in accordance with § 86.078–6. If the Administrator finds, after a review of the request and supporting data, that the request raises a substantial factual issue he will grant the request with respect to such issue.

(d) (1) Notwithstanding the fact that any vehicle configuration or engine family may be covered by a valid outstanding certificate of conformity, the Administrator may suspend such outstanding certificate of conformity in whole or in part with respect to such vehicle configuration or engine family if:

(i) The manufacturer refuses to comply with the provisions of a test order issued by the Administrator pursuant to § 86.603; or

(ii) The manufacturer refuses to comply with any of the requirements of § 86.603; or

(iii) The manufacturer submits false or incomplete information in any report or information provided pursuant to the requirements of § 86.609; or

(iv) The manufacturer renders inaccurate any test data which he submits pursuant to § 86.609; or

(v) Any EPA Enforcement Officer is denied access to a facility on the terms specified in § 86.606; or

(vi) Any EPA Enforcement Officer is denied the opportunity on the terms specified in § 86.606 to:

(A) Monitor vehicle selection pursuant to § 86.607, or

(B) Select vehicles for testing pursuant to § 86.607, or

(C) Monitor vehicle testing performed to satisfy any of the requirements of this part; or

(vii) Any EPA Enforcement Officer is denied "reasonable assistance" as defined in § 86.606 in examining any of the items listed in that section; or

(viii) The manufacturer refuses to comply with the requirements of §§ 86.-604(a), 86.605, and 86,607, 86.608, 86.610, or 86.611.

(2) The sanction of suspending a certificate may not be imposed for the reasons in paragraphs (d)(1) (i), (ii), or (viii) of this section where such refusal is caused by conditions and circumstances outside the control of the manufacturer which renders it impossible to comply with those requirements. Such conditions and circumstances shall include, but not be limited to, any uncontrollable factors which result in the temporary unavailability of equipment and personnel needed to conduct the required tests, such as equipment breakdown or failure or illness of personnel, but shall not include failure of the manufacturer to adequately plan for and provide the equipment and personnel needed to conduct the tests. The manufacturer will bear the burden of establishing the presence of the conditions and circumstances required by this paragraph.

(3) The sanctions of suspending a certificate may be imposed for the reasons in paragraphs (d)(1) (iii), (iv), (v), (vi), or (vii) of this section only when the infraction is substantial.

(4) In any case in which a manufacturer knowingly submitted false or inaccurate information or knowingly rendered inaccurate any test data or committed any other fraudulent acts, and such acts contributed substantially to the Administrator's original decision not to suspend or revoke a certificate of conformity in whole or in part, the Administrator may deem such certificate void from the date of such fraudulent act.

(5) In any case in which certification of a vehicle is proposed to be suspended under paragraph (d)(1)(v), (d)(1)(vi), or (d)(1)(vii) of this section, and in which the Administrator has presented to the manufacturer involved reasonable evidence that a violation of § 86.606 in fact occurred, the manufacturer, if he wishes to contend that even though the violation occurred, the vehicle configuration or engine family in question was not involved in the violation to the degree that would warrant suspension of certification under either paragraph (d)(1)(v), (d)(1)(vi), or (d)(1)(vii) of this section, shall have the burden of establishing that contention to the satisfaction of the Administrator.

(6) Any suspension of certification under paragraph (d)(1) of this section shall:

(i) Be made only after the manufacturer concerned has been offered an opportunity for a hearing conducted in accordance with § 86.613 hereof, and

(ii) Not apply to vehicles no longer in the hands of the manufacturer.

11. New §§ 86.079-31 through 86.079-34 are added and read as follows:

§ 86.079-31 Separate certification.

Where possible a manufacturer should include in a single application for certification all vehicles (or engines) for which certification is required. A manufacturer may, however, choose to apply separately for certification of part of his product line. The selection of test vehicles (or test engines) and the computation of test results will be determined separately for each application.

§ 86.078-32 Addition of a vehicle or engine after certification.

(a) If a manufacturer proposes to add to his product line a vehicle (or engine) of the same engine-system combination as vehicles (or engines) previously certified but which was not described in the application for certification when the test vehicle(s) (or test engine(s)) representing other vehicles (or engines) of that combination was certified, he shall notify the Administrator. Such notification shall be in advance of the addition unless the manufacturer elects to follow the procedure described in § 86.079-34. This notification shall include a full description of the vehicle (or engine) to be added.

(b) The Administrator may require the manufacturer to perform such tests on the test vehicle(s) (or test engine(s)) representing the vehicle (or engine) to be added which would have been required if the vehicle (or engine) had been included in the original application for certification.

(c) If, after a review of the test reports and data submitted by the manufacturer, and data derived from any testing conducted under § 86.079-29, the Administrator determines that the test vehicle(s) or test engine(s) meets all applicable standards, the appropriate certificate will be amended accordingly. If the Administrator determines that the test vehicle(s) (or test engine(s)) does not meet applicable standards, he will proceed under § 86.079-30(b).

§ 86.079-33 Changes to a vehicle or engine covered by certification.

(a) The manufacturer shall notify the Administrator of any change in production vehicles (or production engines) in respect to any of the parameters listed in § 86.079-24(a)(3), § 86.079-24(b)(1)(iii), § 86.079-24(b)(2)(iii) or § 86.079-24(b)(3)(iii) as applicable, giving a full description of the change. Such notification shall be in advance of the change unless the manufacturer elects to follow the procedure described in § 86.079-34.

(b) Based upon the description of the change, and data derived from such testing as the Administrator may require or conduct, the Administrator will determine whether the vehicle (or engine), as modified, would still be covered by the certificate of conformity then in effect.

(c) If the Administrator determines that the outstanding certificate would cover the modified vehicles (or engines) he will notify the manufacturer in writing. Except as provided in § 86.079-34 the change may not be put into effect prior to the manufacturer's receiving this notification. If the Administrator determines that the modified vehicles (or engines) would not be covered by the certificate then in effect, the modified vehicles (or engines) shall be treated as additions to the product line subject to § 86.079-32.

§ 86.079-34 Alternative procedure for notification of additions and changes.

(a) A manufacturer may, in lieu of notifying the Administrator in advance of an addition of a vehicle (or engine) under § 86.079-32 or a change in a vehicle (or engine) under § 86.079-33 notify him concurrently with the making of the change if the manufacturer believes the addition or change will not require any testing under the appropriate section. Upon notification to the Administrator, the manufacturer may proceed to put the addition or change into effect.

(b) The manufacturer may continue to produce vehicles (or engines) as described in the notification to the Administrator for a maximum of 30 days, unless the Administrator grants an extension in writing. This period may be shortened by a notification in accordance with paragraph (c) of this section.

(c) If the Administrator determines, based upon a description of the addition or change, that no test data will be required, he will notify the manufacturer in writing of the acceptability of the addition or change. If the Administrator determines that test data will be required, he will notify the manufacturer to rescind the change within 5 days of receipt of the notification. The Administrator will then proceed as in § 86.079-32 (b) and (c), or § 86.079-33 (b) and (c), as appropriate.

(d) Election to produce vehicles (or engines) under this section will be deemed to be a consent to recall all vehicles (or engines) which the Administrator determines under § 86.079-32(c) do not meet applicable standards, and to cause such nonconformity to be remedied at no expense to the owner.

12. Section 86.079-35 is revised to read as follows:

§ 86.079-35 Labeling.

(a) The manufacturer of any motor vehicle (or motor vehicle engine) subject to the applicable emission standards of this subpart, shall, at the time of manufacture, affix a permanent legible label, of the type and in the manner described below, containing the information hereinafter provided, to all production models of such vehicles (or engines) available for sale to the public and covered by a certificate of conformity under § 86.079-30(a).

(1) *Light-duty vehicles and light-duty trucks.* (i) A permanent, legible label shall be affixed in a readily visible position in the engine compartment.

(ii) The label shall be affixed by the vehicle manufacturer who has been issued the certificate of conformity for such vehicle, in such a manner that it cannot be removed without destroying or defacing the label. The label shall not

be affixed to any equipment which is easily detached from such vehicle.

(iii) The label shall contain the following information lettered in the English language in block letters and numerals, which shall be of a color that contrasts with the background of the label:

(A) The label heading: Vehicle Emission Control Information;

(B) Full corporate name and trademark of manufacturer;

(C) Engine displacement (in cubic inches), engine, family identification and evaporative family identification;

(D) Engine tuneup specifications and adjustments, as recommended by the manufacturer in accordance with the altitude at which the vehicle is to be sold to the ultimate purchaser, including but not limited to idle speed(s), ignition timing, the idle air-fuel mixture setting procedure and value (e.g., idle CO, idle air-fuel ratio, idle speed drop), high idle speed, initial injection timing, and valve lash (as applicable) as well as other parameters deemed necessary by the manufacturer. These specifications should indicate the proper transmission position during tuneup and what accessories (e.g., air-conditioner), if any, should be in operation;

(E) An unconditional statement of compliance with the appropriate model year U.S. Environmental Protection Agency regulations which apply to light-duty vehicles or light-duty trucks;

(F) The altitude at which the vehicle is intended for sale to the public as specified by a certificate of conformity under § 86.079-30.

(2) *Heavy-duty engines.* (i) A permanent legible label shall be affixed to the engine in a position in which it will be readily visible after installation in the vehicle.

(ii) The label shall be attached to an engine part necessary for normal engine operation and not normally requiring replacement during engine life.

(iii) The label shall contain the following information lettered in the English language in block letters and numerals which shall be of a color that contrasts with the background of the label:

(A) The label heading: Engine Exhaust Emission Control Information;

(B) Full corporate name and trademark of manufacturer;

(C) Engine displacement (in cubic inches) and engine family and model designations;

(D) Date of engine manufacture (month and year);

(E) Engine specifications and adjustments as recommended by the manufacturer. These specifications should indicate the proper transmission position during tuneup and what accessories (e.g., air conditioner), if any, should be in operation;

(F) For gasoline-fueled engines the label should include the idle speed, ignition timing, and the idle air-fuel mixture setting procedure and value (e.g., idle CO, idle air-fuel ratio, idle speed drop), and valve lash.

(G) For Diesel engines the label should include the advertised hp. at rpm, fuel rate at advertised hp. in mm^3/stroke, valve lash, initial injection timing, and idle speed.

(H) An unconditional statement of compliance with the appropriate model year (e.g., 1979) U.S. Environmental Protection Agency regulations applicable to heavy-duty engines.

(iv) The label may be made up of one or more pieces: *Provided*, That all pieces are permanently attached to the same engine or vehicle part as applicable.

(b) The provisions of this section shall not prevent a manufacturer from also reciting on the label that such vehicle (or engine) conforms to any applicable State emission standards for new motor vehicles (or new motor vehicle engines) or any other information that such manufacturer deems necessary for, or useful to, the proper operation and satisfactory maintenance of the vehicle (or engine).

(c)(1) The manufacturer of any light-duty vehicle or light-duty truck subject to the emission standards of this subpart, shall, in addition and subsequent to setting forth those statements on the label required by the Department of Transportation (DOT) pursuant to 49 CFR 567.4, set forth, on the DOT label or on an additional label located in proximity to the DOT label and affixed as described in 49 CFR 567.4(b), the following information in the English language, lettered in block letters and numerals not less than three thirty-seconds of an inch high, of a color that contrasts with the background of the label:

(i) The heading: "Vehicle Emission Control Information";

(ii) The statement: "This Vehicle Conforms to U.S. EPA Regulations Applicable to 1979 Model Year New Motor Vehicles".

(iii) One of the following statements, as applicable, in letters and numerals not less than six thirty-seconds of an inch high and of a color that contrasts with the background of the label:

(A) For all vehicles certified as noncatalyst-equipped: "NON-CATALYST";

(B) For all vehicles certified as catalyst-equipped which are included in a manufacturer's catalyst control program for which approval has been given by the Administrator: "CATALYST-APPROVED FOR IMPORT";

(C) For all vehicles certified as catalyst-equipped which are not included in a manufacturer's catalyst control program for which prior approval has been given by the Administrator: "CATALYST".

(2) In lieu of selecting either of the labeling options of paragraph (c)(1) of this section, the manufacturer may add the information required by paragraph (c)(1)(iii) of this section to the label required by paragraph (a) of this section. The required information will be set forth in the manner prescribed by paragraph (c)(1)(iii) of this section.

(d) Incomplete light-duty trucks or incomplete heavy-duty vehicles optionally certified as light-duty trucks shall have the following statement printed on the label required in paragraph (a)(1) of this section in lieu of the statement required by paragraph (a)(1)(iii)(E) of this section: "This vehicle conforms to U.S. EPA regulations applicable to 19— Model Year New Motor Vehicles when completed at a maximum curb weight of _____ pounds and a maximum frontal area of _____ square feet."

(e) Incomplete heavy-duty vehicles having an 8,500 pound gross vehicle weight rating or less shall have the following statement printed on the label required in paragraph (a)(2) or (a)(3) of this section in lieu of the statement required by paragraph (a)(2)(iii)(F) or (a)(3)(iii)(F) of this section: "This engine conforms to U.S. EPA regulations applicable to 19— Model Year New Heavy-Duty Engines when installed in a vehicle completed at a curb weight of more than 6,000 pounds or with a frontal area greater than 46 square feet."

(f) The manufacturer of any incomplete vehicle shall notify the purchaser of such vehicle of any curb weight, frontal area, or gross vehicle weight rating limitations affecting the emissions certificate applicable to that vehicle. This notification shall be transmitted in a manner consistent with National Highway Traffic Safety Administration safety notification requirements published in 40 CFR Part 568.

13. New §§ 86.079-36 through 86.079-39 are added and read as follows:

§ 86.079-36 Submission of vehicle identification numbers.

(a) The manufacturer of any light-duty vehicle or light-duty truck covered by a certificate of conformity under § 86.079-30(a) shall, not later than 60 days after its manufacture, submit to the Administrator the vehicle identification number of such vehicle: *Provided*, That this requirement shall not apply with respect to any vehicle manufactured within any State, as defined in section 302(d) of the Act.

(b) The requirements of this section may be waived with respect to any manufacturer who provides information satisfactory to the Administrator which will enable the Administrator to identify those vehicles which are covered by a certificate of conformity.

§ 86.079-37 Production vehicles and engines.

(a) Any manufacturer obtaining certification under this part shall supply to the Administrator, upon his request, a reasonable number of production vehicles (or engines) selected by the Administrator which are representative of the engines, emission control systems, fuel systems, and transmissions offered and typical of production models available for sale under the certificate. These vehicles (or engines) shall be supplied for testing at such time and place and for such reasonable periods as the Administrator may require. Heavy-duty engines supplied under this paragraph may be required to be mounted in chassis and

appropriately equipped for operation on a chassis dynamometer.

(b)(1) Any manufacturer of light-duty vehicles or light-duty trucks obtaining certification under this part shall notify the Administrator, on a quarterly basis, of the number of vehicles domestically produced for sale in the United States and the number of vehicles produced and imported for sale in the United States during the preceding quarter. A manufacturer may elect to provide this information every 60 days instead of quarterly, to combine it with the notification required under § 86.079-36. The notification must be submitted 30 days after the close of the reporting period. The vehicle production information required shall be submitted as follows:

(i) Total production volume expressed in terms of units produced;

(ii) Model type production volume, expressed for each model type in terms of units produced and as a percentage of total production;

(iii) Base level production volume, expressed for each base level in terms of units produced and as a percentage of:

(A) Total production of its respective model type(s), and

(B) Total production; and

(iv) Vehicle configuration production volume, expressed for each vehicle configuration in terms of units produced, and as a percentage of the total production of its respective base level. In addition, each vehicle configuration shall be identified by its appropriate engine-system combination.

(2) All light-duty vehicles and light-duty trucks covered by a certificate of conformity under § 86.079-30(a) shall be adjusted by the manufacturer to the ignition or injection timing specification detailed in § 86.079-36(a)(1)(iii)(D).

(c) Any heavy-duty engine manufacturer obtaining certification under this part shall notify the Administrator, on a quarterly basis, of the number of engines of such engine family-engine displacement-exhaust emission control system-fuel system combination produced for sale in the United States during the preceding quarter.

(d) The following definitions apply to this section:

(1) "Model type" means a unique combination of car line, basic engine, and transmission class.

(2) "Base level" means a unique combination of basic engine, inertia weight, and transmission class.

(3) "Vehicle configuration" means a unique combination of basic engine, engine code, inertia weight, transmission configuration, and axle ratio within a base level.

§ 86.079-38 Maintenance instructions.

(a) The manufacturer shall furnish or cause to be furnished to the purchaser of each new motor vehicle (or motor vehicle engine) subject to the standards prescribed in §§ 86.078-8, 86.079-9, 86.079-10, or 86.079-11, as applicable, written instructions for the maintenance and use of the vehicle (or engine) by the purchaser as may be reasonable and necessary to assure the proper functioning of emission control systems.

(1) Such instructions shall be provided for those vehicle and engine components listed in Appendix VI to this part (and for any other components) to the extent that maintenance of these components is necessary to assure the proper functioning of emission control systems.

(2) Such instructions shall be in clear, and to the extent practicable, nontechnical language.

(b) The maintenance instructions required by this section shall contain a general description of the documentation which the manufacturer will require from the ultimate purchaser or any subsequent purchaser as evidence of compliance with the instructions.

(c) *For gasoline-fuel light-duty vehicles and light-duty trucks.* (1) Such instructions shall specify the performance of all scheduled maintenance performed by the manufacturer under § 86.079-25(a)(2) or § 86.079-25(b)(2) as applicable, and shall explain the conditions under which EGR system and catalytic converter maintenance are to be performed (e.g., what type of warning device is being employed and whether the device is activated by component failure or the need for periodic maintenance).

(2) Such instructions shall indicate, for vehicles to be sold to ultimate purchasers at low altitude, what adjustments or modifications, if any, are necessary to allow the vehicle to meet emissions standards at high altitude. The maintenance instructions shall, if applicable, include a statement that the vehicle's emission control system was not designed for conversion to allow the vehicle to meet emissions standards when operated at high altitude.

(3) Such instructions shall indicate, for vehicles to be sold to ultimate purchasers at high altitude, what adjustments or modifications, if any, are necessary to allow the vehicle to meet emissions standards at low altitude. The maintenance instructions shall, if applicable, include a statement that the vehicle's emission control system was not designed for conversion to allow the vehicle to meet emissions standards when operated at low altitude.

(d) *For Diesel light-duty vehicles and light-duty trucks.* (1) Such instructions shall indicate, for vehicles to be sold to ultimate purchasers at low altitude, what adjustments or modifications, if any, are necessary to allow the vehicle to meet emissions standards at high altitude. The maintenance instructions shall, if applicable, include a statement that the vehicle's emission control system was not designed for conversion to allow the vehicle to meet emissions standards when operated at high altitude.

(2) Such instructions shall indicate, for vehicles to be sold to ultimate purchasers at high altitude, what adjustments or modifications, if any, are necessary to allow the vehicle to meet emissions standards at low altitude. The maintenance instructions shall, if applicable, include a statement that the vehicle's emission control system was not designed for conversion to allow the vehicle to meet emissions standards when operated at low altitude.

(e) For gasoline-fueled heavy-duty engines, such instructions shall specify the performance of all scheduled maintenance performed by the manufacturer under § 86.079-25(c)(2). Scheduled maintenance in addition to that performed on the durability-data engine under § 86.079-25(c)(2) may be recommended for reasons such as to offset the effects of operating conditions which differ from the dynamometer durability cycle or to increase the life of the engine beyond 1500 hours (or the equivalent). The instructions may schedule maintenance on a calendar time basis and/or mileage basis in addition to the engine service time basis that was followed by the manufacturer under § 86.079-25(c)(2).

(f) For Diesel heavy-duty engines, such instructions shall specify the performance of all scheduled maintenance performed by the manufacturer under § 86.079-25(c)(2). Scheduled maintenance in addition to that performed on the durability-data engine under § 86.079-25(c)(2) may be recommended for reasons such as to offset the effects of operating conditions which differ from the dynamometer durability cycle or to increase the life of the engine beyond 1,000 hours (or the equivalent). The instructions may schedule maintenance on a calendar time basis, mileage basis, engine service time basis, or combinations of each.

§ 86.079-39 Submission of maintenance instructions.

(a) The manufacturer shall provide to the Administrator, no later than the time of the submission required by § 86.079-23, a copy of the maintenance instructions which the manufacturer proposes to supply to the ultimate purchaser in accordance with § 86.079-38(a). The Administrator will review such instructions to determine whether they are reasonable and necessary to assure the proper functioning of the vehicle's (or engine's emission control systems. The Administrator will notify the manufacturer of his determination whether such instructions are reasonable and necessary to assure the proper functioning of the emission control systems.

(b) Any revision to the maintenance instructions which will affect emissions shall be supplied to the Administrator at least 30 days before being supplied to the ultimate purchaser unless the Administrator consents to a lesser period of time.

14. A new § 86.080-10 is added and reads as follows:

§ 86.080-10 Emission standards for 1980 gasoline-fueled heavy-duty engines.

(a)(1) Exhaust emissions from new 1980 model year gasoline-fueled heavy-duty engines shall not exceed one of the two following standards, to be selected at the manufacturer's option:

(i) (A) *Hydrocarbons.* 1.5 grams per brake horsepower hour.

(B) *Carbon monoxide.* 25 grams per brake horsepower hour.

(C) *Hydrocarbons plus oxides of nitrogen.* 10 grams per brake horsepower hour.

(ii) (A) *Hydrocarbons plus oxides of nitrogen.* 5.0 grams per brake horsepower hour.

(B) *Carbon monoxide.* 25 grams per brake horsepower hour.

(2) The standards set forth in paragraph (a) (1) of this section refer to exhaust gaseous emissions generated under the conditions set forth in Subpart D of this part and measured in accordance with those procedures. For low-volume manufacturers, as defined in § 86.080–24(e), the test procedure in either Subpart D or Subpart H of this part may be used; however, standards (a) (1) (i) (A) and (a) (1) (i) (C) shall be reduced by 0.5 gram per brake horsepower hour if Subpart H of this part is used.

(b) [Reserved]

(c) No crankcase emissions shall be discharged into the ambient atmosphere from any new 1980 and later model year gasoline-fueled heavy-duty engine.

(d) Every manufacturer of new motor vehicle engines subject to the standards prescribed in this section shall, prior to taking any of the actions specified in section 203(a) (1) of the Act, test or cause to be tested motor vehicle engines in accordance with applicable procedures to ascertain that such test engines meet the requirements of paragraphs (a) and (c) of this section.

15. A new § 86.080–11 is added and reads as follows:

§ 86.080–11 Emissions standards for 1980 Diesel heavy-duty engines.

(a) (1) Exhaust emissions from new 1980 model year Diesel heavy-duty engines shall not exceed one of the two following standards, to be selected at the manufacturer's option:

(i) (A) *Hydrocarbons.* 1.5 grams per brake horsepower hour.

(B) *Carbon monoxide.* 25 grams per brake horsepower hour.

(C) *Hydrocarbon plus oxides of nitrogen.* 10 grams per brake horsepower hour.

(ii) (A) *Hydrocarbons plus oxides of nitrogen.* 5 grams per brake horsepower hour.

(B) *Carbon monoxide.* 25 grams per brake horsepower hour.

(2) The standards set forth in paragraph (a) (1) of this section refer to exhaust gaseous emissions generated under the conditions set forth in Subpart D of this part and measured in accordance with those procedures. For low volume manufacturers, as defined in § 86.080–24 (e), the test procedure in either Subpart D or Subpart J of this part may be used.

(b) (1) The opacity of smoke emissions from new 1980 and later model year Diesel heavy-duty engines shall not exceed:

(i) 20 percent during the engine acceleration mode.

(ii) 15 percent during the engine lugging mode.

(iii) 50 percent during the peaks in either mode.

(2) The standards set forth in paragraph (b) (1) of this section refer to exhaust smoke emissions generated under the conditions set forth in Subpart I and measured and calculated in accordance with those procedures.

(c) [Reserved]

(d) Every manufacturer of new motor vehicle engines subject to the standards prescribed in this section shall, prior to taking any of the actions specified in section 203(a) (1) of the Act, test or cause to be tested motor vehicle engines in accordance with applicable procedures to ascertain that such test engines meet the requirements of paragraphs (a) and (b) of this section.

15. A new § 86.080–24 is added and reads as follows:

§ 86.080–24 Test vehicles and engines.

(a) (1) The vehicles or engines covered by an application for certification will be divided into groupings of engines which are expected to have similar emission characteristics throughout their useful life. Each group of engines with similar emission characteristics shall be defined as a separate engine family.

(2) To be classed in the same engine family, engines must be identical in all the following respects:

(i) The cylinder bore center-to-center dimensions.

(ii) The dimension from the centerline of the crankshaft to the centerline of the camshaft.

(iii) The dimension from the centerline of the crankshaft to the top of the cylinder block head face.

(iv) The cylinder block configuration (air cooled or water cooled; L–6, 90° V–8, etc.).

(v) The location of intake and exhaust valves (or ports) and the valve (or port) sizes (within a ⅛-inch range on the valve head diameter).

(vi) The method of air aspiration.

(vii) The combustion cycle.

(viii) Catalytic converter characteristics.

(ix) Thermal reactor characteristics.

(x) Type of air inlet cooler (e.g., inter-coolers and after-coolers) for Diesel heavy-duty engines.

(3) Engines identical in all the respects listed in paragraph (a) (2) of this section may be further divided into different engine families if the Administrator determines that they may be expected to have different emission characteristics. This determination will be based upon a consideration of the following features of each engine.

(i) The bore and stroke.

(ii) The surface-to-volume ratio of the nominally dimensioned cylinder at the top dead center position.

(iii) The intake manifold induction port size and configuration.

(iv) The exhaust manifold port size and configuration.

(v) The intake and exhaust valve sizes.

(vi) The fuel system.

(vii) The camshaft timing and ignition or injection timing characteristics.

(4) Where engines are of a type which cannot be divided into engine families based upon the criteria listed in paragraphs (a) (2) and (3) of this section, the Administrator will establish families for those engines based upon the features most related to their emission characteristics.

(5) The gasoline-fueled vehicles covered by an application for certification will be divided into groupings which are expected to have similar evaporative emission characteristics throughout their useful life. Each group of vehicles with similar evaporative emission characteristics shall be defined as a separate evaporative emission family.

(6) To be classed in the same evaporative emission family, vehicles must be identical in all of the following respects:

(i) Type of vapor storage device (e.g., canister, air cleaner, crankcase).

(ii) Basic canister design.

(iii) Fuel system.

(7) Where vehicles are of a type which cannot be divided into evaporative emission families based on the criteria listed above, the Administrator will establish families for those vehicles based upon the features most related to their evaporative emission characteristics.

(b) Emission data:

(1) *Emission-data vehicles.* Paragraph (b) (1) of this section applies to light-duty vehicle and light-duty truck emission-data vehicles.

(i) Vehicles will be chosen to be operated and tested for emission data based upon the engine family groupings. Within each engine family, the requirements of this paragraph must be met.

(ii) Vehicles of each engine family will be divided into engine displacement-exhaust emission control system combinations as applicable. A projected sales volume will be established for each combination for the model year for which certification is sought. One vehicle of each combination will be selected in order of decreasing projected sales volume until 70 percent of the projected sales of the manufacturer's total production of vehicles of that engine family is represented, or until a maximum of four vehicles is selected. If any single combination represents over 70 percent, then two vehicles of that combination may be selected. The vehicle selected for each combination will be specified by the Administrator as to such features as engine code, transmission type, fuel system, and inertia weight class.

(iii) The Administrator may select a maximum of four additional vehicles within each engine family based upon features indicating that they may have the highest emission levels of vehicles in that engine family. In selecting these vehicles, the Administration will consider such features as the emission control system combination, induction system characteristics, ignition system characteristics, fuel system, rated horsepower, rated torque, compression ratio,

inertia weight class, transmission options, and axle ratios.

(iv) If the vehicles selected in accordance with paragraphs (b)(1) (ii) and (iii) of this section do not represent each engine-system combination, then one vehicle of each engine-system combination not represented will be selected by the Administrator. The vehicle selected shall be of the engine displacement with the largest projected sales volume of vehicles with the control system combination in the engine family and will be designated by the Administrator as to such features as transmission type, fuel system, and inertia weight class.

(v) The Administrator will also select one vehicle for each engine-system combination within an engine family for which vehicles are to be sold to ultimate purchasers at high altitude.

(vi) The Administrator may combine testing requirements for any vehicle selected under paragraph (b)(1)(v) or (b)(1)(vii)(D) of this section with the testing requirements for any similar vehicle in the same engine-system combination selected under paragraph (b)(1)(ii), (iii), or (iv) of this section or any similar vehicle in the same engine-system, evaporative emission family, evaporative emission control system combination selected under paragraph (b)(1)(vii) (A) or (B) of this section. The testing requirements may be combined by the Administrator requiring a vehicle selected for testing under paragraphs (b)(1) (ii), (iii), (iv), (vii)(A), or (vii)(B) of this section to be modified (if necessary) after mileage accumulation and emission testing for the purpose of demonstrating compliance with § 86.080-23(b)(1)(ii).

(vii) (A) Vehicles of each evaporative emission family will be divided into evaporative emission control systems. One vehicle of each evaporative emission control system within the evaporative emission family will be selected.

(B) The Administrator may select a maximum of four (4) additional vehicles within each evaporative emission family based upon features indicating that they may have the highest evaporative emission levels of vehicles in that family.

(C) The Administrator may determine that the vehicles selected under paragraph (b)(1) (ii) through (iv) of this section may be used to satisfy the requirements of paragraph (b)(1)(vii) (A) and (B) of this section.

(D) The Administrator will also select one vehicle for each evaporative emission control system within each evaporative family for which vehicles are to be sold at high altitude.

(E) Vehicles selected under paragraph (b)(1)(v) of this section may be used to satisfy the requirements of paragraph (b)(1)(vii)(D) of this section.

(2) *Gasoline-fueled heavy-duty emission-data engines.* Paragraph (b)(2) of this section applies to gasoline-fueled heavy-duty emission-data engines.

(i) Engines will be chosen to be run for emission data based upon the engine family groupings. Within each engine family, the requirements of this paragraph must be met.

(ii) Engines of each engine family will be divided into engine displacement-exhaust emission control system combinations. A projected sales volume will be established for each combination for the applicable model year. One engine of each combination will be selected in order of decreasing projected sales volume until 70 percent of the projected sales of a manufacturer's total production of engines of that family is represented, or until a maximum of four engines is selected. The engines selected for each combination will be specified by the Administrator as to fuel system.

(iii) The Administrator may select a maximum of two additional engines within each engine family based upon features indicating that they may have the highest emission levels of the engines in that engine family. In selecting these engines, the Administrator will consider such features as the exhaust emission control system, induction system characteristics, ignition system characteristics, fuel system, rated horsepower, rated torque, and compression ratio.

(iv) If the engines selected in accordance with pargaraphs (b)(2)(ii) and (iii) of this section do not represent each engine displacement-exhaust emission control system combination, then one engine of each engine displacement-exhaust emission control system combination not represented shall be selected by the Administrator.

(3) *Diesel heavy-duty emission-data engines.* Paragraph (b)(3) of this section applies to Diesel heavy-duty emission-data engines.

(i) Engines will be chosen to be run for emission data based upon engine family groupings. Within each engine family, the requirements of this paragraph must be met.

(ii) Engines of each engine family will be divided into groups based upon their exhaust emission control systems. One engine of each engine-system combination shall be run for smoke emission data and gaseous emission data as prescribed in § 86.079-26(c)(3). Either the complete gaseous emission test or the complete smoke test may be conducted first. Within each combination, the engine that features the highest fuel feed per stroke, primarily at the speed of maximum rated torque and secondarily at rated speed, will usually be selected. If there are military engines with higher fuel rates than other engines in the same engine system combinations, then one military engine shall be also selected. The engine with the highest fuel feed per stroke will usually be selected.

(iii) The Administrator may select a maximum of one additional engine within each engine-system combination based upon features indicating that it may have the highest emission levels of the engines of that combination. In selecting this engine, the Administrator will consider such features as the injection system, fuel system, compression ratio, rated speed, rated horsepower, peak torque speed, and peak torque.

(c) Durability data: (1) *Durability-data vehicles.* Paragraph (c)(1) of this section applies to light-duty vehicle and light-duty truck durability-data vehicles.

(i) A durability-data vehicle will be selected by the Administrator to represent each engine-system combination. The vehicle selected shall be of the engine displacement with the largest projected sales volume of vehicles with that control-system combination in that engine family and will be designated by the Administrator as to transmission type, fuel system, and inertia weight class.

(ii) A manufacturer may elect to operate and test additional vehicles to represent any engine-system combination. The additional vehicles must be of the same engine displacement, transmission type, fuel system, and inertia weight class as the vehicle selected for that engine-system combination in accordance with the provisions of paragraph (c)(1)(i) of this section. Notice of an intent to operate and test additional vehicles shall be given to the Administrator not later than 30 days following notification of the test fleet selection.

(2) *Gasoline-fueled heavy-duty durability-data engines.* Paragraph (c)(2) of this section applies to gasoline-fueled heavy-duty durability-data engines.

(i) A durability-data engine will be selected by the Administrator to represent each engine-system combination. The engine selected shall be of the displacement with the largest projected sales volume of engines with that exhaust emission control system in that engine family and will be designated by the Administrator as to fuel system.

(ii) [Reserved]

(iii) A manufacturer may elect to operate and test additional engines to represent any engine-system combination. The additional engines must be of the same engine displacement and fuel system as the engine selected for that combination in accordance with the provisions of paragraph (c)(2)(i) of this section. Notice of an intent to run additional engines shall be given to the Administrator not later than 30 days following notification of the test fleet selection. Deterioration factors calculated for each engine-system combination shall be applied separately to military and nonmilitary engines within the same engine-system combination.

(3) *Diesel heavy-duty durability-data engines.* Paragraph (c)(3) of this section applies to Diesel heavy-duty durability-data engines.

(i) One engine from each engine-system combination shall be tested as prescribed in § 86.079-26(c)(3)(ii). At each test point, either the complete gaseous emission test or the complete smoke test may be conducted first. Within each combination, the engine which features the highest fuel feed per stroke, primarily at rated speed and secondarily at the speed of maximum rated torque, will usually be selected for durability testing. In the case where more than one engine in an engine-system combination has the highest fuel feed per stroke, the engine with the highest maximum rated horsepower will usually be selected for durability testing. If an engine-system combination

includes both military and nonmilitary engines, then the nonmilitary engine with the highest maximum rated horsepower will usually be selected for durability testing.

(ii) A manufacturer may elect to operate and test additional engines to represent any engine-system combination. The additional engines must be of the same model and fuel system as the engine selected in accordance with the provisions of paragraph (c)(3)(i) of this section. Notice of an intent to test additional engines shall be given to the Administrator not later than 30 days following notification of the test fleet selection. Deterioration factors calculated for each engine-system combination shall be applied separately to military and nonmilitary engines within the same engine system combination.

(d) For purposes of testing under § 86.079–26 (a)(9), (b)(9), or (c)(11), the Administrator may require additional emission-data vehicles (or emission-data engines) and durability-data vehicles (or durability-data engines) identical in all material respects to vehicles (or engines) selected in accordance with paragraphs (b) and (c) of this section: *Provided*, That the number of vehicles (or engines) selected shall not increase the size of either the emission-data fleet or the durability-data fleet by more than 20 percent or one vehicle (or engine), whichever is greater.

(e) Any manufacturer whose projected sales for the model year in which certification is sought is less than

(1) 2,000 gasoline-fueled light-duty vehicles, or (2) 2,000 Diesel light-duty vehicles, or (3) 2,000 gasoline-fueled light-duty trucks, or (4) 2,000 Diesel light-duty trucks, or (5) 2,000 gasoline-fueled heavy-duty engines, or (6) 2,000 Diesel heavy-duty engines,

may request a reduction in the number of test vehicles (or engines) determined in accordance with the foregoing provisions of this section. The Administrator may agree to such lesser number as he determines would meet the objectives of this procedure.

(f) (1) In lieu of testing an emission-data or durability-data vehicle (or engine) selected under paragraph (b) or (c) of this section, and submitting data therefore, a manufacturer may, with the prior written approval of the Administrator, submit exhaust emission data and/or fuel evaporative emission data, as applicable on a similar vehicle (or engine) for which certification has previously been obtained or for which all applicable data required under § 86.079–23 has previously been submitted.

(2) Heavy-duty engine test data submitted prior to the 1980 model year and which complies with paragraph (f)(1) of this section, can be used in subsequent model years, without regard to the test procedure. Any heavy-duty engine certified in the 1979 model year will be certified for 1980 and subsequent model years if requested by the manufacturers.

(g) (1) This paragraph applies to light-duty vehicles and light-duty trucks.

(2) Where it is expected that more than 33 percent of an engine family will be equipped with an optional item, the full estimated weight of that item shall be included, unless excluded by the Administrator, in the curb weight computation for each vehicle available with that option in the engine family. Where it is expected that 33 percent or less of the vehicles in an engine family will be equipped with an item of optional equipment, no weight for that item will be added in computing curb weight. In the case of mutually exclusive options, only the weight of the heavier option will be added in computing curb weight. Optional equipment weighing less than 3 pounds per item need not be considered.

(3) Where it is expected that more than 33 percent of an engine family will be equipped with an item of optional equipment that can reasonably be expected to influence emissions, then such items of optional equipment shall actually be installed, unless specifically excluded by the Administrator, on all emission-data and durability-data vehicles in the engine family on which the option is intended to be offered in production. Optional equipment that can reasonably be expected to influence emissions are the air conditioner, power steering, power brakes, and other items determined by the Administrator.

(4) Optional equipment that can reasonably be expected to influence emissions and which is utilized on 33 percent or less of the vehicles in the engine family shall not be installed on any vehicle in that engine family unless specifically required under this section.

16. A new Subpart D is added to Part 86 and reads as follows:

Subpart D—Emission Regulations for New Gasoline—Fueled and Diesel Heavy-Duty Engines; Gaseous Exhaust Test Procedure

Sec.

86.301–79 Scope; applicability.
86.302–79 Definitions.
86.303–79 Abbreviations.
86.304–79 Section numbering; construction.
86.305–79 Introduction; structure of subpart.
86.306–79 Equipment required and specifications; overview.
86.307–79 Fuel specifications.
86.308–79 Gas specifications.
86.309–79 Sampling and analytical system; schematic drawing.
86.310–79 Sampling and analytical system; component specifications.
86.311–79 Miscellaneous equipment; specifications.
86.312–79 Dynamometer and engine equipment specifications.
86.313–79 Air flow measurement specifications; Diesel engines.
86.314–79 Fuel flow measurement specifications.
86.315–79 General analyzer specifications.
86.316–79 Carbon monoxide and carbon dioxide analyzer specifications.
86.317–79 Hydrocarbon analyzer specifications.
86.318–79 Oxides of nitrogen analyzer specifications.
86.319–79 Analyzer checks and calibrations; frequency and overview.
86.320–79 Analyzer bench check.
86.321–79 NDIR water rejection ratio check.
86.322–79 NDIR CO_2 rejection ratio check.
86.323 through 86.326 [Reserved]
86.327–79 Quench check; NOx analyzer.
86.328–79 Leak checks.
86.329–79 System response-time; check procedure.
86.330–79 NDIR analyzer calibration.
86.331–79 Hydrocarbon analyzer calibration.
§ 86.332–79 Oxides of nitrogen analyzer calibration.
§ 86.333–79 Dynamometer calibration.
§ 86.334–79 Test procedure overview.
§ 86.335–79 Gasoline-fueled engine test cycle.
§ 86.336–79 Diesel engine test cycle.
§ 86.337–79 Information.
§ 86.338–79 Exhaust measurement accuracy.
§ 86.339–79 Pre-test procedures.
§ 86.340–79 Gasoline-fueled engine dynamometer test run.
§ 86.341–79 Diesel engine dynamometer test run.
§ 86.342–79 Post-test procedure.
§ 86.343–79 Chart reading.
§ 86.344–79 Humidity calculations.
§ 86.345–79 Emission calculations.
§ 86.346–79 Alternative NOx measurement technique.
§ 86.347–79 Alternative calculations for Diesel engines.

AUTHORITY: Secs. 202, 206, 207, 208, 301(a), Clean Air Act, as amended (42 U.S.C. 1857f–1, 1857f–5, 1857f–5a, 1857f–6, 1857g(a))

Subpart D—Emission Regulations for New Gasoline-Fueled and Diesel Heavy-Duty Engines; Gaseous Exhaust Test Procedures.

§ 86.301–79 Scope; applicability.

This subpart contains gaseous emission test procedures for gasoline-fueled and Diesel heavy-duty engines. It applies to 1979 and later model years.

§ 86.302–79 Definitions.

The definitions in § 86.077–2, § 86.078–2, and § 86.079–2 apply to this subpart.

§ 86.303–79 Abbreviations.

The abbreviations in § 86.078–3 apply to this subpart.

§ 86.304–79 Section numbering; construction.

(a) The model year of initial applicability is indicated by the section number. The two digits following the hyphen designate the first model year for which a section is effective. A section remains effective until superseded.

Example: Section § 86.311–79 applies to the 1979 and subsequent model years until superseded. If a section § 86.311–81 is promulgated it would take effect beginning with the 1981 model year; § 86.311–79 would apply to model years 1979 and 1980.

(b) A section reference without a model year suffix refers to the section applicable for the appropriate model year.

(c) Unless indicated, all provisions in this subpart apply to both gasoline-fueled and Diesel heavy-duty engines.

§ 86.305–79 Introduction; structure of subpart.

(a) This subpart describes the equipment required and the procedures to follow in order to perform exhaust emission tests on gasoline-fueled and Diesel heavy-duty engines. Subpart A sets forth the testing requirements and test intervals necessary to comply with EPA certification procedures.

(b) Four topics are addressed in this subpart. Sections 86.306 through 86.318 set forth specifications and equipment requirements; §§ 86.319 through 86.333 discuss calibration methods and frequency; test procedures and data requirements are listed (in approximately chronological order) in §§ 86.334 through 86.343; and calculation formulas are found in §§ 86.344 and 86.345. Alternative procedures and calculations are set forth in §§ 86.346 and 86.347.

§ 86.306–79 Equipment required and specifications; overview.

(a) This subpart contains procedures for both gasoline-fueled and Diesel engine gaseous emission tests. Generally, the equipment required is identical for both types of engines. Equipment required and specifications are found in §§ 86.307 through 86.318.

(b) Some analyzer specifications refer to calibration checks found in §§ 86.320 through 86.332.

§ 86.307–79 Fuel specifications.

(a) *Gasoline.* (1) Gasoline having the following specifications will be used by the Administrator in exhaust emission testing. Gasoline having the following specifications or substantially equivalent specifications approved by the Administrator shall be used by the manufacturer in exhaust testing, except that the lead and octane specifications do not apply.

Item designation	ASTM	Leaded	Unleaded
Octane, research, minimum	D2699	100	96.
Pb, (organic), grams/U.S. gallon		1.4 [1]	0.00 to 0.05.
Distillation range:			
IBP, °F	D86	75 to 95	75 to 95.
10 pct point, °F	D86	120 to 135	120 to 135.
50 pct point, °F	D86	200 to 230	200 to 230.
90 pct point, °F	D86	300 to 325	300 to 325.
EP, °F (maximum)	D86	415	415.
Sulfur, weight percent, maximum	D1266	0.10	0.10.
Phosphorus, grams/U.S. gallon, maximum		0.01	0.005.
RVP, pounds	D323	8.0 to 9.2	8.0 to 9.2.
Hydrocarbon composition—Olefins, percent, maximum	D1319	10	10.
Aromatics, percent, maximum	D1319	35	35.
Saturates	D1319	Remainder	Remainder.

[1] Minimum.

(2) Gasoline representative of commercial gasoline which will be generally available through retail outlets shall be used in service accumulation. For leaded gasoline, the minimum lead content shall be 1.4 grams per U.S. gallon, except that where the Administrator determines that engines represented by a test engine will be operated using gasoline of different lead content from that prescribed in this paragraph, he may consent in writing to use of a gasoline with a different lead content. The octane rating of the gasoline used shall be no higher than 4.0 research octane numbers above the minimum recommended by the manufacturer and have a minimum sensitivity of 8.0 octane numbers for unleaded fuel and 7.0 octane numbers for leaded fuel, where sensitivity is defined as research octane number minus motor octane number.

(b) *Diesel fuel.* (1) The Diesel fuels employed for testing shall be clean and bright, with pour and cloud points adequate for operability. The Diesel fuel may contain nonmetallic additives as follows: Cetane improver, metal deactivator, antioxidant, dehazer, antirust, pour depressant, dye, and dispersant.

(2) Diesel fuel meeting the following specifications, or substantially equivalent specifications approved by the Administrator, shall be used in exhaust emissions testing. The grade of Diesel fuel recommended by the engine manufacturer commercially designated as "Type 1–D" or "Type 2–D", shall be used.

Item	ASTM test Method No.	Type 1-D	Type 2-D
Cetane	D613	48 to 54	42 to 50.
Distillation range	D86		
IBP, °F		330 to 390	340 to 400.
10 pct point, °F		370 to 430	400 to 460.
50 pct point, °F		410 to 480	470 to 540.
90 pct point, °F		460 to 520	550 to 610.
EP, °F		500 to 560	580 to 660.
Gravity, °API	D287	40 to 44	33 to 37.
Total sulfur, percent	D129 or D2622	0.05 to 0.20	0.2 to 0.5.
Hydrocarbon composition	D1319		
Aromatics, percent		8 (minimum)	27 (minimum).
Paraffins, naphthenes, olefins		Remainder	Remainder.
Flash point, °F (minimum)	D93	120	130.
Viscosity, centistokes	D445	1.6 to 2.0	2.0 to 3.2.

(3) Diesel fuel meeting the following specifications, or substantially equivalent specifications approved by the Administrator, shall be used in service accumulation. The grade of Diesel fuel recommended by the engine manufacturer, commercially designated as "Type 1-D" or "Type 2-D", shall be used.

ASTM test method number

Item	ASTM test method No.	Type 1-D	Type 2-D
Cetane (minimum)	D613	42 to 56	38 to 58.
Distillation range 90 pct point, °F	D86	440 to 530	540 to 630.
Gravity, °API	D287	39 to 45	30 to 42.
Total sulfur, percent	D129 or D2622	0.05 (minimum)	0.2 (minimum).
Flash point, °F (minimum)	D96	120	130.
Viscosity, centistokes	D445	1.2 to 2.2	1.5 to 4.5.

(4) Other petroleum distillate fuels may be used for testing and service accumulation provided:

(i) They are commercially available;

(ii) Information, acceptable to the Administrator, is provided to show that only the designated fuel would be used in customer service;

(iii) Use of a fuel listed under paragraphs (b)(2) and (b)(3) of this section would have a detrimental effect on emissions or durability; and,

(iv) Written approval from the Administrator of the fuel specifications was provided prior to the start of testing.

(5) The specification range of the fuels to be used under subparagraphs (b)(2), (b)(3), and (b)(4) of this section shall be reported in accordance with § 86.079-21(b)(3).

§ 86.308-79 Gas specifications.

(a) *Analyzer gases.* (1) Calibration or span gases for the CO and CO_2 analyzers shall have zero-grade nitrogen as a diluent.

(2) Calibration or span gases for the hydrocarbon analyzer shall be propane with zero-grade nitrogen as a diluent when testing gasoline-fueled engines. For Diesel engine tests the diluent shall be zero-grade air.

(3) Calibration or span gases for the NO_x analyzer shall be NO named as NO_x with a maximum NO_2 concentration of 5 percent of the nominal value. Zero-grade nitrogen shall be the diluent.

(4) Zero-grade gases for hydrocarbon analyzers shall be nitrogen when testing gasoline-fueled engines and air when testing Diesel engines.

(5) Zero-grade gases for the carbon monoxide, carbon dioxide and oxides of nitrogen analyzers shall be either zero-grade air or zero-grade nitrogen.

(6) The allowable zero grade gas (air or nitrogen) impurity concentrations shall not exceed 2 ppmC hydrocarbon, 10 ppm carbon monoxide, 400 ppm carbon dioxide and 1 ppm nitric oxide.

(7) "Zero-grade air" includes artificial "air" consisting of a blend of nitrogen and oxygen with oxygen concentrations between 18 and 21 mole percent.

(b) *Calibration gas.* Calibration gas values are to be derived from NBS "Standard Reference Materials" (SRM's) or other gas standards approved by the Administrator. The uncertainty of the assigned calibration gas values shall not exceed 2.0 percent of the assigned value. The uncertainly is defined as the sum of the precision errors (at the 90 percent confidence level) and the bias errors. Precision and bias errors apply to both the equipment and the derivation procedures.

(c) *Span gas.* Span gas values are to be derived from NBS "Standard Reference Materials" (SRM's) or other gas standards approved by the Administrator. The uncertainty of the assigned calibration gas values shall not exceed 3.0 percent of the assigned value. The uncertainty is defined as the sum of the precision errors (at the 90 percent confidence level) and the bias errors. Precision and bias errors apply to both the equipment and the derivation procedures.

(d) *Hydrocarbon analyzer fuel*—(1) *The fuel shall contain 40±2 percent hydrogen.* The balance shall be helium. The mixture shall contain less than 2 ppmC hydrocarbon.

(2) *Alternate pure hydrogen fuel.* Some HFID's are designed to operate on pure hydrogen. Generally the HFID fuel is incompatible with good relative hydrocarbon response.

(i) For Diesel engines this fuel is not recommended. However, this fuel may be used if the engine manufacturer demonstrates, on each basic combustion system (i.e., 4 cycle DI, 2 cycle DI, 4 cycle pre-cup, etc.) that an HFID using this fuel produces comparable results to an HFID using 40% H_2/60% He fuel. These data must be submitted to and approved by the Administrator prior to testing. Pure H_2 fuel, that may be allowed for testing, must contain at least 99.0 percent hydrogen and contain less than 2 ppmC hydrocarbon.

(ii) For gasoline-fueled engines, pure hydrogen fuel for the HFID is not allowed.

(e) *Hydrocarbon analyzer burner air.* The concentration of oxygen must be within 1 mole percent of the oxygen concentration of the burner air used in the latest oxygen interference check ($\%O_2I$). If the difference in oxygen concentration is greater than 1 mole percent, then the oxygen interference must be checked and the analyzer adjusted, if necessary, to meet the $\%O_2I$ requirements. The burner air must contain less than 2 ppmC hydrocarbon.

(f) Oxygen interference check gases shall contain propane with 350 ppmC ±75 ppmC hydrocarbon. The concentration value shall be determined to calibration gas tolerances by chromatographic analysis of total hydrocarbons plus impurities or by dynamic blending. Nitrogen shall be the predominant diluent with the balance oxygen. Blends required for gasoline-fueled and Diesel engine testing are as follows:

Applicability	O_2 concentration (percent)	Balance
Diesel	21 (20 to 22)	N_2
Diesel and gasoline	10 (9 to 11)	N_2
Do	5 (4 to 6)	N_2
Gasoline	0 (0 to 1)	N_2

§ 86.309-79 Sampling and analytical system; schematic drawing.

(a) Any variation from the specifications in this subpart including performance specifications and emission detection methods may be used only with prior approval by the Administrator.

(b) Schematic drawing.

(1) An example of a sampling and analytical system which may be used for testing under this subpart is shown in Figure D79-1. All components or parts of components that are wetted by the sample or corrosive calibration gases shall be either chemically cleaned stainless steel or inert material, e.g. polytetrafluoroethylene resin. The use of "gauge savers" or "protectors" with nonreactive diaphragms to reduce dead volumes is permitted. The specific detection methods to be used for each exhaust component can be found in § 86.316 for CO, § 86.317 for HC, and § 86.318 for NO_x. Additional components such as instruments, valves, solenoids, pumps, switches, etc. may be employed to provide additional information and coordinate the functions of the component systems.

(2) The following requirements must be incorporated in each system used for testing under this subpart.

(i) All analyzers must obtain the sample to be analyzed from the same sample line.

(ii) The sample transport system from the engine exhaust pipe to the HC analyzer and the NO_x analyzer must be heated as is indicated in Figure D79-1.

(iii) Carbon monoxide and carbon dioxide measurements must be made on a dry basis. Specific requirements for the means of drying the sample can be found in § 86.309(b)(5) and § 86.311(e).

(iv) All NDIR analyzers must have a pressure gauge immediately downstream of the analyzer. The gauge tap must be within 2 inches of the analyzer exit port. Gauge specifications can be found in § 86.309(b)(3).

(v) All bypass and analyzer flows exiting the analysis system must be measured. Capillary flows such as in HFID and CL analyzers are excluded. For each NDIR analyzer with a flow meter located upstream of the analyzer, an upstream pressure gauge must be used. The gauge tap must be within 2 inches of the analyzer entrance port.

(vi) Calibration or span gases for the NO_x measurement system must pass through the NO_x to NO converter.

(vii) The temperature of the NO_x to NO converter must be displayed continuously.

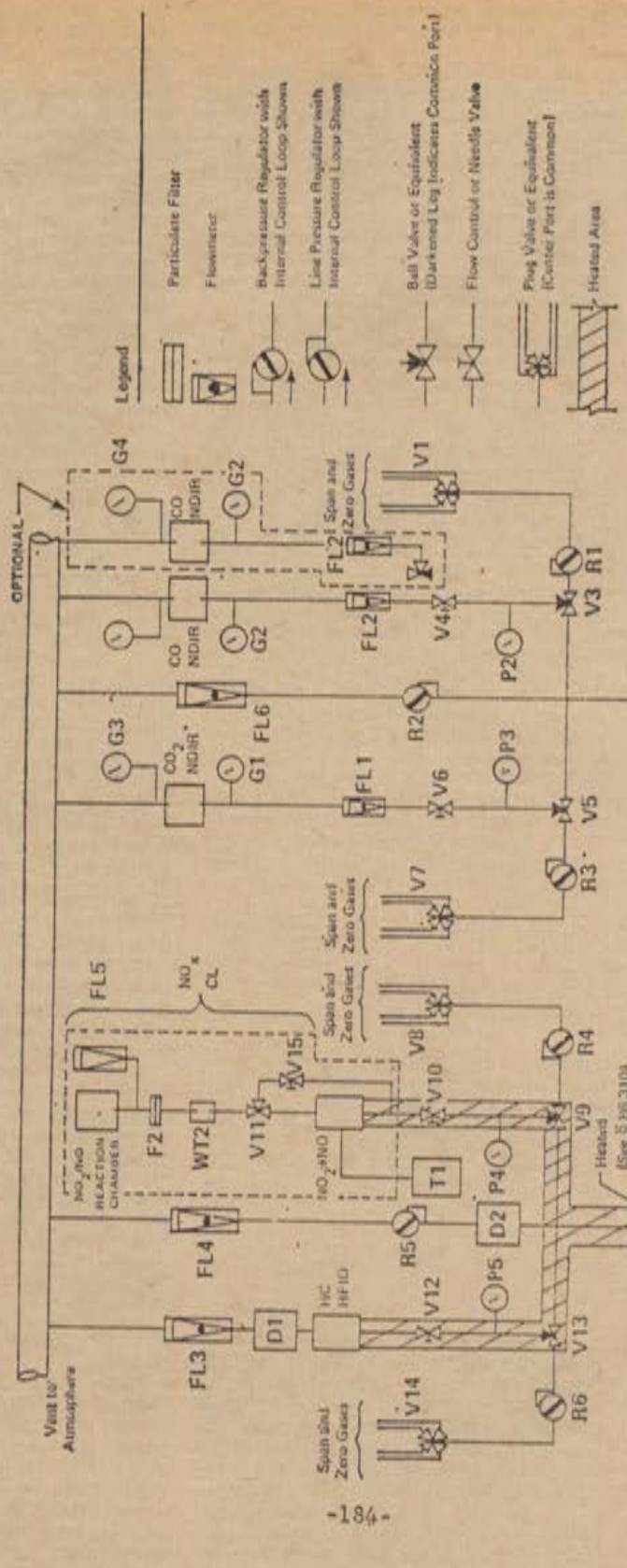


Figure D79-1 HEAVY-DUTY EXHAUST GAS SAMPLING AND ANALYTICAL TRAIN

(c) *System components list.* The following is a list of components shown in Fig. D79-1 by numeric identifier.

(1) *Filters.* Glass fiber filter paper is permitted for F1, F2, and F3. Optional filter F4 is a coarse filter for large particulates.

(i) F1—Fine particulate filter.

(ii) F2—Fine particulate filter.

(iii) F3—Fine heated particulate filter.

(iv) F4—Coarse heated particulate filter.

(2) *Flowmeters.* (i) Flowmeters FL 1 and FL 2 indicate sample flow rates through the CO and CO_2 analyzers.

(ii) Flowmeters FL 3, FL 4, FL 5, and FL 6 indicate bypass flow rates.

(3) *Gauges.* Downstream gauges are required for any system used for testing under this subpart. Upstream gauges may be required under this subpart per § 86.309(b)(2)(v).

(i) Upstream gauges G1 and G2 measure the input pressure to the CO and CO_2 analyzers.

(ii) Downstream gauges G3 and G4 measure the exit pressure of the CO and CO_2 analyzers. If the normal operating range of the downstream gauges is less than 3 inches of water, then the downstream gauge must be capable of reading both pressure and vacuum.

(4) *Pressure gauges.* (i) P1—bypass pressure.

(ii) P2, P3, P4 and P5—sample or span pressure at inlet to flow control valves.

(5) *Water traps.* Water traps WT1, and WT2 to remove water from the sample. A water trap performing the function of WT1 and meeting the specifications in § 86.311(e) is required for any system used for testing under this subpart. Chemical dryers are not an acceptable method of removing the water. Water removal by condensation is acceptable. Means other than condensation may be used only with prior approval from the Administrator.

(6) *Regulators.* (i) R1, R3, R4, and R6—line pressure regulators to control span pressure at inlet to flow control valves.

(ii) R2 and R5—back pressure regulators to control sample pressure at inlet to flow control valves.

(7) *Valves.* (i) V1, V7, V8, and V14—selector valves to select zero or calibration gases.

(ii) V2—optional heated selector valve to purge the sample probe, perform leak checks, or to perform hang-up checks.

(iii) V3 and V5—Selector valves to select sample or span gases.

(iv) V4, V6, and V15—flow control valves.

(v) V9 and V13—heated selector valve to select sample or span gases.

(vi) V10 and V12—heated flow control valves.

(vii) VII—Selector valve to select NO_x or bypass mode in the chemiluminescence analyzer.

(viii) V16—heated selector valve to perform leak checks.

(8) *Pump.* Sample transfer pump to transport sample to analyzers.

(9) *Temperature sensor.* A temperature sensor (T1) to measure the NO_x to NO converter temperature is required for any system used for testing under this subpart.

(10) *Dryer.* Dryers D1 and D2 to remove the water from the bypass flows to prevent condensation in flowmeters FL3, FL4, and FL6.

§ 86.310-79 Sampling and analytical system; component specifications.

(a) *Temperature.* (1) For gasoline-fueled engines any heated component;

(i) in the HC sample path must be maintained above 110°C (230°F) and shall not exceed 230°C (446°F),

(ii) in the NO_x sample path must be maintained above 95°C (203°F) and shall not exceed 230°C (446°F).

(2) For Diesel engines any heated component;

(i) in the HC sample path must be maintained above 180°C (356°F) and shall not exceed 230°C (446°F),

(ii) in the NO_x sample path must be maintained above 95°C (203°F) and shall not exceed 230°C (446°F).

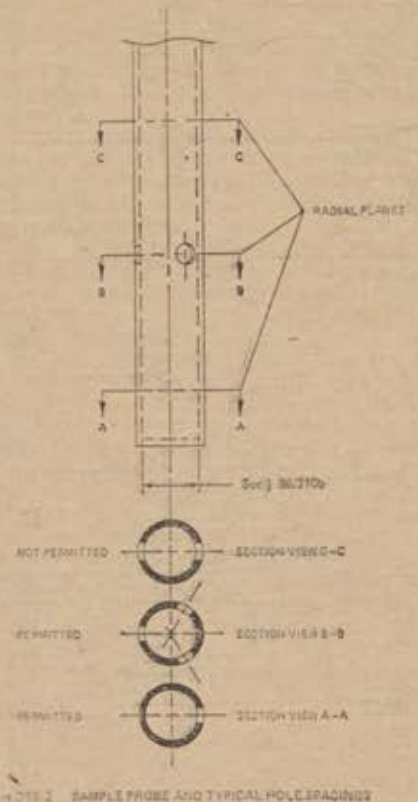


Figure D79-2 SAMPLE PROBE AND TYPICAL HOLE SPACINGS

(3) The sample line outside wall temperature must be maintained at the temperature specified in this paragraph. An exception is made for the first 4 feet of sample line from the exhaust duct. The upper temperature tolerance for this 4 foot section is waived and only the minimum temperature specification applies.

(b) *Sample probe.* (1) The sample probe shall be a straight, closed end, stainless steel, multi-hole probe. The Inside Diameter (I.D.) shall not be greater than the I.D. of the sample line (+.010 in.). The wall thickness of the probe shall not be greater than .040 inch. The fitting that attaches the probe to the exhaust pipe shall be as small as practical in order to minimize heat loss from the probe.

(2) There shall be a minimum of three holes in the probe. The spacing of the radial planes for each hole in the probe must be such that they cover approximately equal cross-sectional areas of the exhaust duct. The angular spacing of the holes must be approximately equal. The angular spacing of any two holes in one plane may not be 180°±20° (i.e., section C-C of Figure D79-2). The holes should be sized such that each has approximately the same flow. If only three holes are used, they may not all be in the same radial plane. See Figure D79-2.

(3) The probe shall extend radially across the exhaust duct. The probe must pass through the approximate center and must extend across at least 80 percent of the diameter of the duct.

(c) *Sample transfer.* (1) The maximum I.D. of the sample line shall not exceed 0.52 inch.

(2) If valve V2 is used, the sample probe must connect directly to valve V2. The location of optional valve V2 may not be greater than 4 feet from the exhaust duct.

(3) The location of optional valve V16 may not be greater than 24 inches from the sample pump. The leakage rate for this section on the pressure side of the sample pump may not exceed the leakage rate specification for the vacuum side of the pump.

(d) *Venting.* All vents including analyzer vents, bypass flows, and pressure relief vents of regulators should be vented in such a manner to avoid endangering personnel in the immediate area.

§ 86.311-79 Miscellaneous equipment; specifications.

(a) *Chart recorders.* (1) The minimum chart speed allowed is 3 inches per minute for gasoline-fueled engines and 0.5 inches per minute for Diesel engines.

(2) When testing gasoline-fueled engines all chart recorders (analyzers, torque, rpm, etc.) shall be provided with Automatic markers which indicate one second intervals. Preprinted chart paper (one second intervals) may be used in lieu of the automatic markers provided the correct chart speed is used.

(b) *Accuracy of temperature measurements.* (1) The following temperature measurements shall be accurate to within 1.2° C:

(i) temperature measurements used in calculating the engine intake humidity;

(ii) the temperature of the fuel in volume measuring flow rate devices;

(iii) The temperature of the sample within the water trap(s).

(2) All other temperature measurements shall be accurate within 2.5° C.

(c) *Intake air humidity and temperature measurements.* (1) Humidity conditioned air supply. Air that has had its absolute humidity altered is considered humidity-conditioned air. For this type of intake air supply, the humidity measurement must be made within the intake

air supply system, and after the humidity conditioning has taken place.

(2) Nonconditioned air supply. Humidity measurements in non-conditioned intake air supply systems must be made in the intake air stream entering the supply system. Alternatively, the humidity measurements can be measured within the intake air supply stream.

(3) Engine intake air temperature measurement must be made within 48 inches of the engine. The measurement location must be made either in the supply system or in the air stream entering the supply system.

(d) *Sample component surface temperature.* For each component (pump, sample line section, filters, etc.) in the heated portion of the sampling system that has a separate source of power or heating element, use engineering judgment to locate the coolest portion of that component and monitor the temperature at that location. If several components are within an oven, then only the surface temperature of the component with the largest thermal mass and the oven temperature need be measured.

(e) If water is removed by condensation the sample gas temperature within the water trap must be monitored and may not exceed 7° C (45° F).

§ 86.312–79 Dynamometer and engine equipment specifications.

(a) *Dynamometer.* (1) The dynamometer test stand and other instruments for measurement of power output shall be accurate to within 2 percent of point at all power settings above 10 percent of full-scale. Below 10 percent of full-scale the accuracy shall be within 5 percent of point. The dynamometer must be capable of performing the test cycle described in § 86.335 or § 86.336. Dynamometers used for testing gasoline-fueled engines must have sufficient motoring capability to meet the test requirements. A 60-tooth wheel in combination with a frequency counter shall be considered an absolute standard for engine speed.

(2) *Dynamometer calibration weights.* A minimum of 6 calibration weights for each range used are required. The weights must be equally spaced and traceable to within 0.5 percent of NBS weights. Laboratories located in foreign countries may certify calibration weights to local government bureau standards.

(b) *Engine cooling.* Means of engine cooling which will maintain the engine operating temperatures (e.g., intake air, oil, water, etc.) at approximately the same temperature as specified by the manufacturer shall be used. Auxiliary fan(s) may be used to maintain engine cooling during operation on the dynamometer.

(c) *Exhaust system.* (1) When testing gasoline-fueled engines:

(i) A chassis-type single exhaust pipe shall be used. Standard or specially fabricated "Y" pipes may be used on engines designed for dual exhaust systems.

(ii) For all catalyst systems, the distance from the exhaust manifold flange(s) to the catalyst shall be the same as in the vehicle configuration unless the manufacturer provides temperature data showing equivalent performance at another location.

(iii) For catalyst systems, the probe shall be located in the single exhaust pipe and from 2 to 10 feet downstream of the catalyst(s).

(iv) For noncatalyst systems, the probe shall be located in the single exhaust pipe and from 3 to 20 feet downstream from the exhaust manifold flange or turbocharger exit flange.

(v) For all exhaust systems, the probe shall be located at least 24 inches from the end of the tail pipe. Additional exhaust pipe may be added to the tail pipe to meet the specification.

(2) When testing Diesel engines, a noninsulated exhaust system extending 15±5 feet from the exhaust manifold, or the crossover junction in the case of Vee engines, shall be used. The exhaust back pressure must be within 0.2 inch Hg. of the upper limit at maximum rated horsepower, as established by the engine manufacturer in his sales and service literature for vehicle application. A conventional automotive muffler of a size and type commonly used with the engine being tested shall be employed in the exhaust system during smoke emission testing. The terminal 2 feet of the exhaust pipe shall be a circular cross section and be free of elbows and bends. The end of the pipe shall be cut off squarely. The terminal 2 feet of the exhaust pipe shall have a nominal inside diameter in accordance with the engine being tested, as specified below:

Maximum rated horsepower:	*Exhaust pipe inside diameter (inches)*
Less than 101	2
101 to 200	3
201 to 300	4
301 or more	5

§ 86.313–79 Air flow measurement specifications; Diesel engines.

(a) The air flow measurement method used must have a range large enough to accurately measure the air flow over the engine operating range during the test. Overall measurement accuracy must be ±2 percent of full-scale value of the measurement device for all modes except the idle and 2-percent modes. For the idle and 2-percent modes, the measurement accuracy shall be ±5 percent or less of the full-scale value. The Administrator must be advised of the method used prior to testing.

(b) Corrections to the measured air mass-flow-rate shall be made when an engine system incorporates devices that add or subtract air mass (air injection, bleed air, etc.). The method used to determine the air mass from these devices shall be approved by the Administrator.

(c) An engine air inlet system presenting an air inlet restriction within 1 inch of water of the upper limit for the engine operating condition which results in maximum air flow, as established by the engine manufacturer in his sales and service literature, for the Diesel engine being tested shall be used.

§ 86.314–79 Fuel flow measurement specifications.

(a) The fuel flow rate measurement instrument must have a minimum accuracy of ±1 percent of full-scale flow rate for each measurement range used. An exception for Diesel engines is allowed at the idle and 2-percent power points. For these modes, the minimum accuracy is ±2 percent of full-scale flow rate for each measurement range used. The controlling parameters are the elapsed time measurement of the event and the weight or volume measurement. Restrictions on these parameters are:

(1) The error in the elapsed time measurement of the event must not be greater than 1 percent of the absolute event time. This includes errors in starting and stopping the clock as well as the period of the clock.

(2) For Diesel engines only, if the mass of fuel consumed is measured by discrete weights, then the error in the actual weight of the fuel consumed must not be greater than ±1 percent of the measuring weight. An exception for Diesel engines is allowed at the idle and 2-percent power points. For these modes the error in the actual weight of the fuel consumed must not be greater than ±2 percent of the measuring weight.

(3) If the mass of fuel consumed is measured electronically (load cell, load beam, etc.), the error in the actual weight of fuel consumed must not be greater than ±1 percent of the full-scale value of the electronic device.

(4) If the mass of fuel consumed is measured by volume flow and density, the error in the actual volume consumed must not be greater than ±1 percent of the full-scale value of the volume measuring device.

(b) For devices that have varying mass scales (electronic weight, volume, density, etc.), measurements may not be used for calculations if the measurement is less than 20 percent of full scale.

(c) *Option.* Complete flow-rate measurement systems may be used below 20 percent of full-scale measurement as long as the combination of mass and time measurements indicate a flow rate that has an error of less than 5 percent of the absolute flow rate.

§ 86.315–79 General analyzer specifications.

(a) *Analyzer response time.* The analyzer must respond to an instantaneous step change at the entrance to the analyzer with a response equal to 95 percent of that step change in 6.0 seconds or less on all ranges used. The step change shall be at least 60 percent of full-scale chart deflection. For NO_x analyzers using a water trap, the response time increase due to the water trap and associated plumbing need not be included in the analyzer response time.

(b) *Precision.* The precision of the analyzer must be no greater than ±1 percent of full-scale concentration for each range used. The precision is defined as 2.5 times the standard deviation(s) of 10 repetitive responses to a given calibration or span gas.

(c) *Noise.* The analyzer peak-to-peak response to zero and calibration or span gases over any 10-second period shall not exceed 2 percent of full-scale chart deflection on all ranges used.

(d) *Zero drift.* The analyzer zero-response drift during a 1-hour period shall be less than 2 percent of full-scale chart deflection on the lowest range used. The zero-response is defined as the mean response including noise to a zero-gas during a 30-second time interval.

(e) *Span drift.* The analyzer span drift during a 1-hour period shall be less than 2 percent of full-scale chart deflection on the lowest range used. The analyzer span is defined as the difference between the span-response and the zero-response. The span-response is defined as the mean response including noise to a span gas during a 30-second time interval.

§ 86.316–79 Carbon monoxide and carbon dioxide analyzer specifications.

(a) Carbon monoxide and carbon dioxide measurements are to be made with nondispersive infrared (NDIR) analyzers.

(b) The use of linearizing circuits is permitted.

(c) The minimum water rejection ratio (maximum CO_2 interference) as measured by § 86.321 shall be:

(i) For CO analyzers, 1000:1.

(ii) For CO_2 analyzers, 100:1.

(d) The minimum CO_2 rejection ratio (maximum CO_2 interference) as measured by § 86.322 for CO analyzers shall be 5000:1.

(e) *Zero suppression.* Various techniques of zero suppression may be used to increase readability, but only with prior approval by the Administrator.

§ 86.317–79 Hydrocarbon analyzer specifications.

(a) Hydrocarbon measurements are to be made with a heated flame ionization detector (HFID) analyzer.

(b) *Option.* A non-heated flame ionization detector (FID) that measures hydrocarbon emissions on a dry basis is permitted for gasoline-fueled testing; *Provided,* That equivalency is demonstrated to the Administrator. With the exception of temperatures, all specifications contained in Subpart D apply to the optional system.

(c) The analyzer shall be fitted with a constant temperature oven housing the detector and sample-handling components. It shall maintain temperature within 2° C of the set point. The detector, oven, and sample-handling components within the oven shall be suitable for continuous operation at temperatures to 200° C.

(d) Fuel and burner air shall conform to the specifications in § 86.308.

(e) The percent of oxygen interference must be less than 3 percent, as specified in § 86.331(d)(7).

(f) Premixed burner air:

(1) For Diesel engines, premixing a small amount of air with the HFID fuel prior to combustion within the HFID burner is not recommended as a means of improving oxygen interference ($\%O_2I$). However, this procedure may be used if the engine manufacturer demonstrates on each basic combustion system (i.e., 4 cycle DI, 2 cycle DI, 4 cycle precup, etc.) that an HFID using this procedure produces comparable results to an HFID not using this procedure. These data must be submitted to the Administrator for his approval prior to testing.

(2) For gasoline-fueled engines, premixing burner air with the HFID fuel is not allowed.

§ 86.318–79 Oxides of nitrogen analyzer specifications.

(a) Oxides of nitrogen are to be measured with a chemiluminescence analyzer.

(1) The NO_x sample must be heated per § 86.309(a) and § 86.310(a) up to the NO_2 to NO converter.

(2) For high vacuum CL analyzers with heated capillary modules, supplying a heated sample to the capillary module is sufficient.

(3) The NO_2 to NO convertor efficiency shall be at least 90 percent.

(4) The quench interference must be less than 3.0 percent as measured in § 86.327.

(b) *Option.* The oxides of nitrogen may be measured with an NDIR analyzer system that meets the following specifications:

(1) The system shall include an NO_2 to NO converter, a water trap, and an NDIR analyzer in that order.

(2) The NO_2 to NO converter shall obtain a sample directly from the heated sample line.

(3) The water trap shall meet the specifications in § 86.311(e).

(4) The NO NDIR analyzer shall be calibrated per § 86.330.

(5) The minimum water rejection ratio (maximum water interference) for the NO NDIR analyzer shall be 5,000:1 (see § 86.321).

(6) The minimum CO_2 rejection ratio (maximum CO_2 interference) for the NO NDIR analyzer shall be 30,000:1 (see § 86.322).

§ 86.319–79 Analyzer checks and calibrations; frequency and overview.

(a) Prior to initial use and after major repairs bench check each analyzer (see § 86.320).

(b) At least once every 7 days during testing check the NO_x converter efficiency (see § 86.332).

(c) At least once every 30 days during testing perform the following:

(1) Leak check the pressure side of the system (see § 86.328). If the option described in § 86.328(b)(2) is used, a pressure leak check is not required.

(2) Calibate all analyzers (see §§ 86.330 through 86.332).

(3) Check the analysis system response time (see § 86.329). If the option described in § 86.329(b) is used, a response time check is not required.

(4) Verify that the automatic data collection system (if used) meets the chart reading requirements found in § 86.343.

(5) Check the fuel flow measurement instrument to insure that the specifications in § 86.314 are met. Flow meters of the tapered tube and float design (rotometers) or the balance beam principle need be checked only every 90 days.

(d) At least once every 90 days during testing check the water rejection ratio and the CO_2 rejection ratio on all NDIR analyzers (see §§ 86.321 and 86.322).

(e) At least once every 180 days during testing check the dynamometer test stand and power output instrumentation (see § 86.333).

§ 86.320–79 Analyzer bench check.

(a) Prior to initial use and after major repairs verify that each analyzer complies with the following specifications:

(1) Response time (see § 86.315(a)).

(2) Precision (see § 86.315(b)).

(3) Noise (see § 86.315(c)).

(4) Zero drift (see § 86.315(d)).

(5) Span drift (see § 86.315(e)).

(6) Water rejection ratio, NDIR analyzers only (see §§ 86.316(c) and 86.318(b)(5)).

(7) CO_2 rejection ratio, NDIR analyzers only (see §§ 86.316(d) and 86.318(b)(6)).

(8) Quench check, CL analyzers only (see § 86.327).

(b) If a stainless steel NO_2 to NO converter is used, condition all new or replacement converters. The conditioning consists of either purging the converter with air for a minimum of 4 hours or until the converter efficiency is greater than 90 percent. The converter must be at operational temperature while purging. Do not use this procedure prior to checking converter efficiency on in-use converters.

§ 86.321–79 NDIR water rejection ratio check.

(a) Zero and span the analyzer on the lowest range that will be used.

(b) Introduce a saturated mixture of water and zero gas at room temperature directly to the analyzer.

(c) Determine and record the analyzer operating pressure (*GP*) in absolute units in pascals. Gauges G3 and G4 may be used if the values are converted to the correct units.

(d) Determine and record the temperature of the zero-gas mixture.

(e) Record the analyzers' response (*AR*) in ppm to the saturated zero-gas mixture.

(f) For the temperature recorded in step (d), determine the saturation vapor pressure (P_{WB}) from § 86.344(d).

(g) Calculate the water concentration (Z) in the mixture from:

$$Z = (P_{WB}/GP)(10^6)$$

(h) Calculate the water rejection ratio (WRR) from:

$$WRR = (Z/AR)$$

§ 86.322–79 NDIR CO_2 rejection ratio check.

(a) Zero and span the analyzer on the lowest range that will be used.

(b) Introduce a CO_2 calibration gas of at least 10 percent CO_2 or greater to the analyzer.

(c) Record the CO_2 calibration gas concentration in *ppm*.

(d) Record the analyzers' response (*AR*) in *ppm* to the CO_2 calibration gas.

(e) Calculate the CO_2 rejection ratio (CO_2RR) from:

$$CO_2RR = (ppm\ CO_2)/AR.$$

§ 86.323 through § 86.326 [Reserved]

§ 86.327–79 Quench checks; NO_x analyzer.

(a) Perform the reaction chamber quench check for each model of high vacuum reaction chamber analyzer prior to initial use.

(b) Perform the reaction chamber quench check for each new analyzer that has an ambient pressure or "soft vacuum" reaction chamber prior to initial use. Additionally, perform this check prior to reusing an analyzer of this type any time any repairs could potentially alter any flow rate into the reaction chamber. This includes, but is not limited to, sample capillary, ozone capillary, and if used, dilution capillary.

(c) Quench check as follows:

(1) Calibrate the NO_x analyzer on the lowest range that will be used for testing.

(2) Introduce a mixture of CO_2 calibration gas and NO_x calibration gas to the CL analyzer. Dynamic blending may be used to provide this mixture. Dynamic blending may be accomplished by analyzing the CO_2 in the mixture. The change in the CO_2 value due to blending may then be used to determine the true concentration of the NO_x in the mixture. The CO_2 concentration of the mixture shall be approximately equal to the highest concentration experienced during testing. Record the response.

(3) Recheck the calibration. If it has changed more than ±1 percent of full scale, recalibrate and repeat the quench check.

(4) Prior to testing, the difference between the calculated NO_x response and the response of NO_x in the presence of CO_2 (step 2) must not be greater than 3.0 percent. The calculated NO_x response is based on the calibration performed in step (1).

§ 86.328–79 Leak checks.

(a) *Vacuum side leak check.* (1) Any location within the analysis system where a vacuum leak could affect the test results must be checked.

(2) The maximum allowable leakage rate on the vacuum side is 0.5 percent of the in-use flow rate for the portion of the system being checked. The analyzer flows and bypass flows may be used to estimate the in-use flow rates.

(3) The sample probe and the connection between the sample probe and valve V2 (Figure D79–1) may be excluded from the leak check.

(b) *Pressure side leak check.* (1) The maximum allowable leakage rate on the pressure side is 5 percent of the in-use flow rate.

(2) Option: If the flow rate for each flow meter is equal to or greater than the flow rate recorded in § 86.329(b)(1)(ii), then a pressure side leak check is not required.

§ 86.329–79 System response time; check procedure.

(a) Check the system response time by the following procedure:

(1) Stabilize the operating temperature of the sample line, sample pump, and heated filters.

(2) Introduce an HC span gas into the sampling system at the sample probe or valve V2 at atmospheric pressure. Simultaneously, start the time measurement.

(3) When the HC instrument response is 95 percent of the span gas concentration used, stop the time measurement.

(4) If the elapsed time is more than 20.0 seconds, make necessary adjustments.

(5) Repeat with the CO, CO_2, and NO_x instruments and span gases.

(b) Option. If the following parameters are determined, the initial system response time may be generally applied to future checks.

(1) Analyzer and bypass flow rates: (i) Determine by experimentation the minimum analyzer and bypass flow rates individually and in combination that will produce a response time as close as possible to 20.0 seconds per paragraph (a) of this section.

(ii) Record the highest minimum flow rate for each flow meter as determined in step (i).

(2) Capillary flow analyzers. This procedure is applicable only to analyzers that have sample capillaries such as the HFID and CL analyzers. It is also assumed that the system has sample/span valves that perform the function of valves V9 and V13 in Figure D79–1.

(i) Operate the analyzer(s) at the in-use capillary pressure.

(ii) Adjust the bypass flow rate to the flow rate recorded in paragraph (b)(1)(ii) of this section.

(iii) Measure and record the response time from the sample/span valve(s) per paragraph (a) of this section.

(iv) The response time (step (iii)) can be determined by switching from the "sample" position to the "span" position of the sample/span valve and observing the analyzer response on a chart recorder. Normally, the "sample" position would select a "room air" sample and the "span" position would select a span gas.

(v) Adjust the bypass flow rate to the normal in-use value.

(vi) Measure and record the response time from the sample/span valve(s) per paragraph (a) of this section.

(vii) Determine the slowest response time (step (iii) or step (iv)) and add 2 seconds to it.

§ 86.330–79 NDIR analyzer calibration.

(a) *Detector optimization.* If necessary, follow the manufacturer's instructions for initial start-up and basic operating adjustments.

(b) *Calibration curve.* Develop a calibration curve for each range used as follows:

(1) Zero the analyzer.

(2) Span the analyzer to give a response of approximately 90 percent of full-scale chart deflection.

(3) Recheck the zero response. If it has changed more than 0.5 percent of full scale, repeat steps (1) and (2).

(4) Record the response of calibration gases having nominal concentrations of 15, 30, 45, 60, 75, and 90 percent of full-scale concentration.

(5) Generate a calibration curve. The calibration curve shall be of fourth order or less, have five or fewer coefficients, and be of the form of equation (1) or (2). Include zero as a data point. Compensation for known impurities in the zero gas can be made to the zero-data point. The calibration curve must fit the data points within 2 percent of point or 1 percent of full scale, whichever is less.

$$y = Ax^4 + Bx^3 + Cx^2 + Dx + E \quad (1)$$

$$y = \frac{x}{Ax^4 + Bx^3 + Cx^2 + Dx + E} \quad (2)$$

where:
y = concentration
x = chart deflection

(6) *Option.* A new calibration curve need not be generated if: (i) A calibration curve conforming to step (5) exists; (ii) The responses generated in step (4) are within 1 percent of full scale or 2 percent of point, whichever is less, of the responses predicted by the calibration curve for the gases used in step (4).

(c) If any range is within 2 percent of being linear, a linear calibration may be used. To determine if this criterion is met:

(1) Perform a linear least-square regression on the data generated. Use an equation of the form $y = mx$, where x is the actual chart deflection and y is the concentration.

(2) Use the equation $z = y/m$ to find the linear chart deflection (z) for each calibration gas concentration (y).

(3) Determine the linearity ($\%L$) for each calibration gas by:

$$\text{Percent } L = \frac{(z - x)}{\text{Full-scale linear chart deflection}} (100)$$

(4) The linearity criterion is met if the $\%L$ is less than ±2 percent for each data point generated. For each emission test, a calibration surve of the form $y = mx$ is to be used. The slope (m) is defined for each range by the spanning process.

§ 86.331–79 Hydrocarbon analyzer calibration.

The following steps are followed in sequence to calibrate the hydrocarbon analyzer. It is suggested, but not required, that efforts be made to minimize relative response variations.

(a) If necessary, follow manufacturer's instructions for instrument start-up and basic operating adjustments.

(b) Set the oven temperature 5°C hotter than the required sample-line temperature. Allow at least one-half hour after the oven has reached temperature for the system to equilibrate.

(c) Initial fuel flow adjustment. With the fuel and air-flow rates set at the

manufacturer's recommendations, introduce a 350 ppmC ± 75 ppmC span gas to the detector. Determine the response at a given fuel flow from the difference between the span-gas response and the zero-gas response. Incrementally adjust the fuel flow above and below the manufacturer's specification. Record the span and zero response at these fuel flows. A plot of the difference between the span and zero response versus fuel flow will be similar to the one shown in Fig. D79–3. Adjust the fuel-flow rate to the rich side of the curve, as shown. This is initial flow-rate setting and may not be the final optimized flow rate.

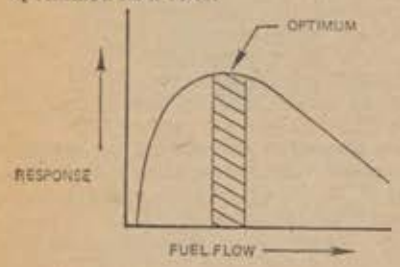


Figure D79-3 RESPONSE VS. FUEL FLOW

(d) Oxygen interference optimization. Choose a range where the oxygen interference check gases (see § 86.308) will fall in the upper 50 percent. Conduct this test with the oven temperature set as required. Oxygen interference check gas specifications are found in § 86.308.

(1) Zero the analyzer.

(2) Span the analyzer with the zero-percent oxygen blend for gasoline-fueled engines. Diesel engine instruments shall be spanned with the 21-percent oxygen blend.

(3) Recheck zero response. If it has changed more than 0.5 percent of full scale repeat subparagraphs (1) and (2) of this paragraph.

(4) Introduce the 5 percent and 10 percent oxygen interference check gases.

(5) Recheck the zero response. If it has changed more ±1 percent of full scale, repeat the test.

(6) Calculate the percent of oxygen interference (%O_2I) for each mixture in step (4).

$$\text{Percent } O_2I = \frac{B - \text{Analyser response } (ppmC)}{B} (100)$$

$$\text{Analyser response} = \frac{A}{\text{Percent of full-scale analyzer response due to } A} \times (\text{Percent of full-scale analyser response due to } B)$$

A=hydrocarbon concentration (*ppmC*) of the span gas used in step (2).

B=hydrocarbon concentration (*ppmC*) of the oxygen interference check gases used in step (4).

(7) The percent of oxygen interference (%O_2I) must be less than ±3.0 percent for all required oxygen interference check gases prior to testing.

(8) If the oxygen interference is greater than the specifications, incrementally adjust the air flow above and below the manufacturer's specifications, repeating subparagraphs (1) through (7) of this paragraph for each flow.

(9) If the oxygen interference is greater than the specification after adjusting the air flow, vary the fuel flow and thereafter the sample flow, repeating subparagraphs (1) through (7) of this paragraph for each new setting.

(10) If the oxygen interference is still greater than the specifications, repair or replace the analyzer, FID fuel, or burner air prior to testing. Repeat this section with the repaired or replaced equipment or gases.

(e) Linearity check. For each range used, check linearity as follows:

(1) With the fuel flow, air flow and sample flow adjust to meet the oxygen interference specification, zero the analyzer.

(2) Span the analyzer using a calibration gas that will provide a response of approximately 90 percent of full-scale concentration.

(3) Recheck the zero response. If it has changed more than 0.5 percent of full scale, repeat steps (1) and (2).

(4) Record the response of calibration gases having nominal concentrations of 30, 60, and 90 percent of full-scale concentration. It is permitted to use additional concentrations.

(5) Perform a linear least square regression on the data generated. Use an equation of the form $y=mx$, where x is the actual chart deflection and y is the concentration.

(6) Use the equation $z=y/m$ to find the linear chart deflection (z) for each calibration gas concentration (y).

(7) Determine the linearity (%L) for each calibration gas by:

$$\text{Percent } L = \frac{(z-x)}{\text{Full-scale linear chart deflection}} (100)$$

(8) The linearity criterion is met if the %L is less than ±2 percent for each data point generated. Below 40 *ppmC* the linearity criterion may be expanded to ±4 percent. For each emission test, a calibration curve of the form $y=mx$ is to be used. The slope (m) is defined for each range by the spanning process.

(9) If the %L for any point exceeds the specifications in step (8), the air, fuel, and sample-flow rates may be varied within the boundaries of the oxygen interference specifications.

(10) If the %L for any data point still exceeds the specifications, repair or replace the analyzer, FID fuel, burner air, or calibration bottles prior to testing. Repeat the procedures of this section with the repaired or replaced equipment or gases.

(f) Optimized flow rates. The fuel-flow rate, air-flow rate and sample-flow rate are defined as "optimized" at this point.

§ 86.332–79 Oxides of nitrogen analyzer calibration.

(a) Perform a converter-efficiency check, (see paragraph (b) of this section), every 7 days. Every 30 days perform a linearity check, (see paragraph (c) of this section), which must be followed by a converter-efficiency check.

(b) *Converter-efficiency check.* The apparatus described and illustrated in Figure D79–4 is to be used to determine the conversion efficiency of devices that convert NO_2 to NO. The following procedure is to be used in determining the values to be used in the equation below:

(1) Follow the manufacturer's instructions for instrument startup and operation.

(2) Zero the oxides of nitrogen analyzer.

(3) Connect the outlet of the NO_x generator (see Figure D79–4) to the sample inlet of the oxides of nitrogen analyzer which has been set to the most common operating range.

(4) Introduce into the NO_x generator-analyzer system a span gas with a NO concentration equal to approximately 80 percent of the most common operating range.

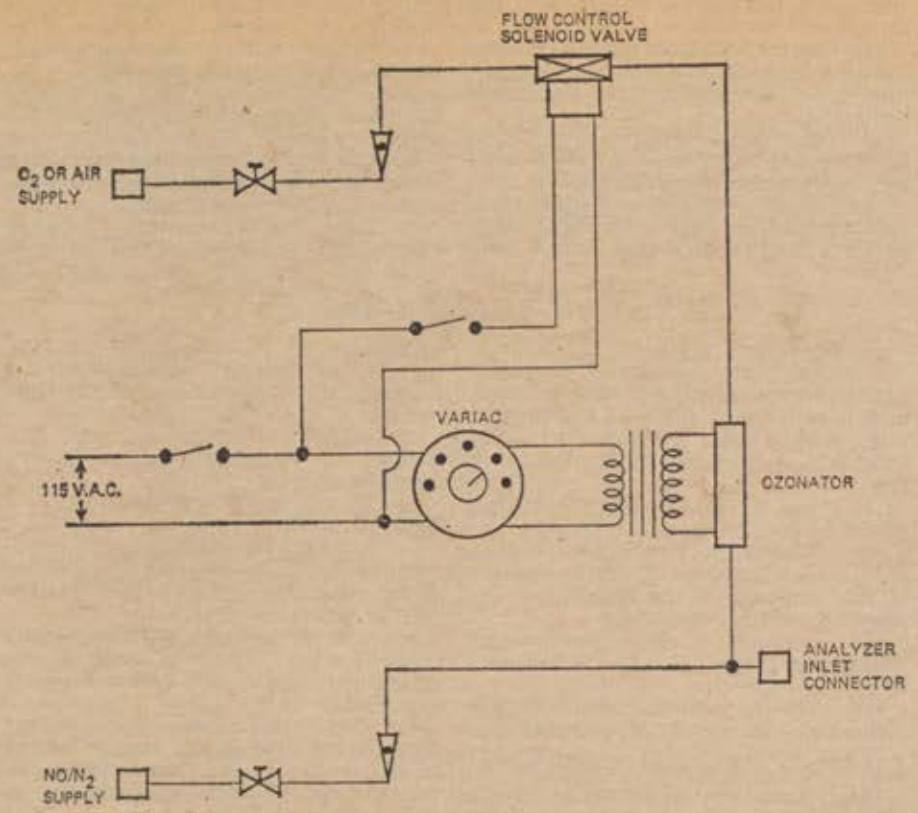


FIGURE D79-4 NO_X CONVERTER EFFICIENCY DETECTOR

(5) With the oxides of nitrogen analyzer in the NO mode, record the concentration of NO indicated by the analyzer.

(6) Turn on the NO_x generator O_2 (or air) supply and adjust the O_2 (or air) flow rate so that the NO indicated by the analyzer is about 10 percent less than indicated in step (5). Record the concentration of NO in this NO+O_2 mixture.

(7) Switch the NO_x generator to the generation mode and adjust the generation rate so that the NO measured on the analyzer is 20 percent of that measured in step (5). There must be at least 10 percent unreacted NO at this point. Record the concentration of residual NO.

(8) Switch the oxides of nitrogen analyzer to the NO_x mode and measure total NO_x. Record this value.

(9) Switch off the NO_x generation, but maintain gas flow through the system. The oxides of nitrogen analyzer will indicate the total NO_x in the NO+O_2 mixture. Record this value.

(10) Turn off the NO_x generator O_2 (or air) supply. The analyzer will now indicate the total NO_x in the original NO in N_2 mixture. This value should be no more than 5 percent above the value indicated in step (4).

(11) Calculate the efficiency of the NO_2 converter by substituting the concentrations obtained into the following equation:

$$\text{Percent efficient} = 1 + \frac{a-b}{c-d} \times 100$$

where:
a = concentration obtained in step (8).
b = concentration obtained in step (9).
c = concentration obtained in step (6).
d = concentration obtained in step (7).

The efficiency of the converter shall be greater than 90 percent. Adjustment of the converter temperature may be necessary to maximize the efficiency. If the converter does not meet the conversion-efficiency specifications, repair or replace the unit prior to testing. Repeat the procedures of this section with the repaired or new converter.

(c) *Linearity check.* For each range used, check linearity as follows:

(1) With the operating parameters adjusted to meet the converter efficiency

check and the quench checks, zero the analyzer.

(2) Span the analyzer using a calibration gas that will give a response of approximately 90 percent of full-scale concentration.

(3) Recheck the zero response. If it has changed more than 0.5 percent of full scale, repeat steps (1) and (2).

(4) Record the response of calibration gases having nominal concentrations of 30, 60 and 90 percent of full-scale concentration. It is permitted to use additional concentrations.

(5) Perform a linear least-square regression on the data generated. Use an equation of the form $y=mx$, where x is the actual chart deflection and y is the concentration.

(6) Use the equation $z=y/m$ to find the linear chart deflection (z) for each calibration gas concentration (y).

(7) Determine the linearity ($\%L$) for each calibration gas by:

$$\text{Percent } L=\frac{(z-x)}{\text{Full-scale linear chart deflection}}\times 100$$

(8) The linearity criterion is met if the $\%L$ is less than ± 2 percent for each data point generated. For each emission test, a calibration curve of the form $y=mx$ is to be used. The slope (m) is defined for each range by the spanning process.

(9) If the $\%L$ exceeds ± 2 percent for any data point generated, repair or replace the analyzer or calibration bottles prior to testing. Repeat the procedures of this section with the repaired or replaced equipment or gases.

(10) Perform a converter-efficiency check (see paragraph (b) of this section).

(11) The operating parameters are defined as "optimized" at this point.

§ 86.333–79 Dynamometer calibration.

(a) If necessary, follow the manufacturer's instructions for initial start-up and basic operating adjustments.

(b) Check the dynamometer torque measurement for each range used by the following:

(1) Warm up the dynamometer following the equipment manufacturer's specifications.

(2) Determine the dynamometer calibration moment arm. Equipment manufacturer's data, actual measurement, or the value recorded from the previous calibration used for this subpart may be used.

(3) Calculate the indicated torque (IT) for each calibration weight to be used by:

IT=calibration weight (lb) x calibration moment arm (ft)

(4) Attach each calibration weight specified in § 86.312 to the moment arm at the calibration distance determined in step (2). Record the power measurement equipment response (ft-lb) to each weight.

(5) For each calibration weight, compare the torque value measured in step (4) to the calculated torque determined in step (3).

(6) The measured torque must be within 2 percent of the calculated torque.

(7) If the measured torque is not within 2 percent of the calculated torque, adjust or repair the system. Repeat steps (1) through (6) with the adjusted or repaired system.

(c) *Option.* A master load-cell or transfer standard may be used to verify the in-use torque measurement system.

(1) The master load-cell and read out system must be calibrated with weights at each test weight specified in § 86.312–79. The calibration weights must be traceable to within 0.1 percent of NBS weights.

(2) Warm up the dynamometer following the equipment manufacturer's specifications.

(3) Attach the master load-cell and loading system.

(4) Load the dynamometer to a minimum of 6 equally spaced torque values as indicated by the master load-cell for each in-use range used.

(5) The in-use torque measurement must be within 2 percent of the torque measured by the master system for each load used.

(6) If the in-use torque is not within 2 percent of the master torque, adjust or repair the system. Repeat step (2) through step (5) with the adjusted or repaired system.

(d) The dynamometer calibration must be completed within 2 hours from the completion of the dynamometer warm-up.

§ 86.334–79 Test procedure overview.

(a) The test consists of prescribed sequences of engine operating conditions to be conducted on an engine dynamometer. The exhaust gases generated during engine operation are sampled for specific component analysis through the analytical train. The test is applicable to engines equipped with catalytic or direct-flame afterburners, induction system modifications, or other systems, or to uncontrolled engines.

(b) The tests are designed to determine the brake-specific emissions of hydrocarbons, carbon monoxide, and oxides of nitrogen. The gasoline-fueled engine test consists of 1 warm-up cycle and 1 hot cycle. The Diesel engine test consists of 3 idle modes and 5 power modes at each of 2 speeds which span the typical operating range of Diesel engines. These procedures require the determination of the concentration of each pollutant, the fuel flow and the power output during each mode. The measured values are weighted and used to calculate the grams of each pollutant emitted per brake-horsepower hour.

(c)(1) When an engine is tested for exhaust emissions or is operated for service accumulation on an engine dynamometer, the complete engine shall be tested, with all emission control devices installed and functioning.

(2) Evaporative emission controls need not be connected if data are provided to

show that normal operating conditions are maintained in the engine induction system.

(3) On air cooled engines, the fan shall be installed.

(4) Additional accessories (e.g., oil cooler, alternators, air compressors, etc.) may be installed with advance approval by the Administrator.

(d) All emission control systems installed on or incorporated in a new motor vehicle engine shall be functioning during all procedures in this subpart. In cases of component malfunction or failure, maintenance to correct component failure or malfunction shall be authorized in accordance with § 86.-079–25.

§ 86.335–79 Gasoline-fueled engine test cycle.

(a) The following test sequence shall be followed in dynamometer operation tests of gasoline-fueled heavy-duty engines. Diesel engines are covered in § 86.-336.

Cycle No.	Mode No.	Mode	Observed torque (percent of maximum observed)	Time in mode-seconds	Cumulative time-seconds	Weighting factors
1	1	Idle		60	60	0.232
1	2	Cruise	25	60	120	.077
1	3	PTA	55	60	180	.147
1	4	Cruise	25	60	240	.077
1	5	PTD	10	60	300	.057
1	6	Cruise	25	60	360	.077
1	7	FL	90	60	420	.113
1	8	Cruise	25	60	480	.077
1	9	CT		60	540	.143
2	10	Cruise	25	60	600	.077
2	11	PTA	55	60	660	.147
2	12	Cruise	25	60	720	.077
2	13	PTD	10	60	780	.057
2	14	Cruise	25	60	840	.077
2	15	FL	90	60	900	.113
2	16	Cruise	25	60	960	.077
2	17	CT		60	1,020	.143
2	18	Idle		60	1,080	.232

(b) Except for idles, the engine dynamometer shall be operated at a constant speed of 2000 rpm±100 rpm. Speed deviations, not to exceed 200 rpm, will be allowed during the first 10 seconds of each mode.

(c) The times in-mode specified in paragraph (a) for the CT modes are ±2 seconds. All other times in-mode are ±4 seconds.

(d) Torque for each mode must be held at the specified value ±2 percent of the maximum torque observed except for the first 20 seconds of each mode. For example, mode 3 torques shall be held between 53 and 57 percent of maximum torque (55 ±2%).

(e) The idle operating mode shall be carried out at the manufacturer's recommended curb-idle engine speed. Arrive at the last idle mode by closing the throttle, braking the dynamometer to the engine idle speed, and unloading the dynamometer.

(f) The CT operating mode shall be carried out at the same engine speed as specified in paragraph (b) of this section.

(g) If the Administrator determines that an engine shall be tested as an automatic transmission code engine, then a load shall be applied by the dynamometer during the idle modes (1 and 18) such that the engine speed is decreased from the recommended dynamometer-idle speed to the recommended curb-idle speed. The engine idle torque recorded for the calculations in § 86.345 shall be zero.

(h) If the operating conditions specified in paragraph (a) of this section for modes 2 through 8, and 10 through 16 cannot be maintained, the Administrator may authorize deviations from the specified load conditions. Such deviations shall not exceed 5 percent of the maximum torque at the test speed. The minimum deviations, above and below the specified load, necessary for stable operation shall be determined by the manufacturer and approved by the Administrator prior to the test run. Emission tests shall be performed by operating the engine at the higher approved load setting during cycle 1 and at the lower approved load setting during cycle 2. The weighting factors shall be as specified in paragraph (a) of this section.

§ 86.336–79 Diesel engine test cycle.

(a) The following 13-mode cycle shall be followed in dynamometer operation tests of heavy-duty Diesel engines. Gasoline-fueled engines are covered in § 86.-335.

Test Segment	Mode No.	Engine Speed	Observed torque (percent of maximum observed)	Time in mode (minutes) Minimum	Time in mode (minutes) Maximum	Maximum cumulative time (minutes)
1	1	Curb-idle		4.5	6.0	
1	2	Intermediate	2	4.5	6.0	
1	3	do	25	4.5	6.0	
1	4	do	50	4.5	6.0	42
1	5	do	75	4.5	6.0	
1	6	do	100	4.5	6.0	
1	7	Curb-idle		4.5	6.0	
2	8	Rated	100	4.5	6.0	
2	9	do	75	4.5	6.0	
2	10	do	50	4.5	6.0	36
2	11	do	25	4.5	6.0	
2	12	do	2	4.5	6.0	
2	13	Curb-idle		4.5	6.0	

(b) During each mode the specified speed shall be held to within 50 rpm. Torque for each mode must be held at the specified value ±2 percent of the maximum torque observed. For example, mode 4 torque shall be held between 48 and 52 percent of maximum torque (50 ±2%).

(c) If the operating conditions specified in paragraph (b) of this section for modes 3, 4, 5, 9, 10, and 11 cannot be maintained, the Administrator may authorize deviations from the specified load conditions. Such deviations shall not exceed 10 percent of the maximum torque at the test speed. The minimum deviations, above and below the specified load, necessary for stable operation shall be determined by the manufacturer and approved by the Administrator prior to the test run. Emission tests shall be performed at each of the approved load settings, one above and one below the operating conditions specified in paragraph (a) of this section. The emission values obtained shall be calculated in accordance with § 86.345 except that the weighting factor shall be 0.04.

(d) If the Administrator determines that an engine shall be tested as an automatic transmission code engine, then a load shall be applied by the dynamometer during the idle modes (1, 7, and 13) such that the engine speed is decreased from the recommended dynamometer-idle speed to the recommended curb-idle speed. The engine-idle torque recorded for the calculations in § 86.345 shall be zero.

§ 86.337–79 Information.

The following information, as applicable, shall be recorded for each test:

(a) *Engine description and specification.* A copy of the information specified in this paragraph must accompany each engine sent to the Administrator for compliance testing. The manufacturer need not record the information specified in this paragraph for each test if the information, with the exception of subparagraphs (3), (12), and (13), is included in the manufacturer's Part I.

(1) Engine-system combination.

(2) Engine identification numbers.

(3) Number of hours of operation accumulated on engine.

(4) Rated maximum horsepower and torque.

(5) Maximum horsepower and torque speeds.

(6) Engine displacement.

(7) Governed speed.

(8) Manufacturer's start-up and warm-up reference, gasoline-fueled engines only).

(9) Curb-idle rpm.

(10) Dynamometer-idle rpm (automatic transmission code engines only).

(11) Maximum horsepower at 2000 rpm (gasoline-fueled engines only).

(12) Fuel consumption and maximum torque at 2000 rpm (gasoline-fueled engines only).

(13) Fuel consumption at maximum power and torque (Diesel engines only).

(14) Maximum air flow (Diesel engines only).

(15) Air inlet restriction (Diesel engines only).

(16) Exhaust pipe diameter(s) (Diesel engines only).

(17) Maximum exhaust system back pressure (Diesel engines only).

(18) Maximum exhaust system back pressure at 2000 rpm, if applicable (gasoline-fueled engines only).

(b) *Test data; general.* This information may be recorded at any time between 4 hours prior to the test and 4 hours after the test.

(1) Engine-system combination.

(2) Engine identification number.

(3) Instrument operator.

(4) Engine operator.

(5) Number of hours of operation accumulated on the engine prior to beginning the warm-up portion of the test.

(6) Fuel identification, including H/C ratio.

(7) Date of most recent analytical assembly calibration.

(8) All pertinent instrument information such as tuning, gain, serial numbers, detector number, calibration curve numbers, etc. As long as this information is traceable, it may be summarized by system number or analyzer identification numbers.

(c) *Test data; pre-test.* (1) Date and time of day.

(2) Test number.

(3) Ambient temperature in dynamometer testing room (gasoline-fueled engines only).

(4) Barometric pressure, pre-test for gasoline-fueled engines, pre-test segment for Diesel engines.

(5) Engine intake humidity, pre-test for gasoline-fueled engines, pre-test segment for Diesel engines with nonconditioned air supply systems.

(6) Maximum observed torque for intermediate and rated speeds (Diesel engines only).

(7) Maximum observed torque at 2000 rpm (gasoline-fueled engines only).

(8) Recorder chart or equivalent. Identify for each test (test segment for Diesel engines) zero traces for each range used, and span traces for each range used.

(d) *Test data; modal.* (1) Recorder chart or equivalent. Identify for each test mode the emission concentration traces and the associated analyzer range(s). The start and finish of each test.

(2) Observed engine torque.

(3) Observed engine rpm.

(4) Record engine torque and engine rpm continuously with a chart recorder or equivalent recording device.

(5) Intake air flow and depression for each mode (Diesel engines only).

(6) Engine intake air temperature for each mode (Diesel engines only).

(7) Fuel flow for each mode. If the fuel flow measurement is a volume measurement system, record the fuel temperature in the measurement system for fuel density corrections to the mass flow rate. If the fuel temperature is within 3°C (5.4° F) of the calibration temperature, no density correction is required.

(8) Engine intake humidity (only for Diesel engines with humidity conditioned air supply).

(e) *Test data; post-test.* (1) Recorder chart or equivalent. Identify the hang-up check.

(2) Recorder chart or equivalent. Identify the zero traces for each range used and the span traces for each range used.

(3) Ambient temperature in the dynamometer testing room (gasoline-fueled engines only).

(4) Total number of hours of operation accumulated on the engine.

§ 86.338–79 Exhaust measurement accuracy.

(a) The analyzers must be operated between 15 percent and 100 percent of full-scale chart deflection during the measurement of the emissions for each mode. The exceptions to the lower limit of this operating rule are:

(1) The analyzer's response may be less than 15 percent of full scale if the full-scale value is 120 ppm (or ppmC) or less.

(2) *Option.* For CO analysis the analyzer's response may be less than 15 percent of full scale if the full-scale value is 5500 ppm or less.

(3) The analyzer's response may be less than 15 percent of full scale if the emissions from the engine are erratic and the average chart-deflection value is greater than 15 percent of full scale.

(4) For gasoline-fueled engines, the analyzer's response may be less than 15 percent of full scale during the initial part of the CT mode provided that the average chart-deflection value is greater than 15 percent of full scale.

(5) The analyzer's response may be less than 15 percent of full scale if the contribution of all modes read below the 15 percent level is less than 10 percent by mass of the final test results.

§ 86.339–79 Pre-test procedures.

(a) Allow a minimum of 30 minutes warm-up in the stand-by or operating mode prior to spanning the analyzers.

(b) Replace or clean the filter elements and then vacuum leak check the system, §86.328(a). A pressure leak check is also permitted per §86.328(b). Allow the heated sample line, filters, and pumps to reach operating temperature.

(c) Perform the following system checks:

(1) If a stainless steel NO_2 to NO converter is used, prior to gasoline-fueled engine tests, purge the converter with air (zero-grade air, room air, or O_2) for a minimum of 30 minutes. The converter must be at operational temperature while purging.

(2) Check the sample-line temperature (see §86.310).

(3) Check the system response time (see §86.329). System response time may be applied from the most recent check of response time if all of the following are met:

(i) The flow rate for each flow meter is equal to or greater than the flow rate recorded in §86.329(b)(1)(ii).

(ii) For analyzers with capillaries, the response time from the sample/span valve is measured using in-use pressures and bypass flows (see § 86.329(b)(2)).

(iii) The response time measured in step (ii) is equal to or less than the response time determined in § 86.329(b)(2)(vii).

(4) A hang-up check is permitted.

(5) A converter-efficiency check is permitted. The check need not conform to § 86.332(b). The test procedure may be aborted at this point in the procedure in order to repair the NO_2 to NO converter. If the test is aborted, the converter must pass the efficiency check described in § 86.332(b) prior to starting the dynamometer test run.

(d) Introduce the zero-grade gases at the same flow rates and pressures used to calibrate the analyzers and zero the analyzers on the lowest anticipated range that will be used during the test. Immediately prior to each test (segment, for Diesel engines), obtain a stable zero for each anticipated range that will be used during the test.

(e) Introduce span gases to the instruments under the same flow conditions as were used for the zero gases. Adjust the instrument gains on the lowest range that will be used to give the desired value. Span gases should have a concentration greater than 70 percent of full scale for each range used. Immediately prior to each test and also prior to each segment of the Diesel test, record the response to the span gas and the span-gas concentration for each range that will be used during the test.

(f) Check the zero responses. If they have changed more than 0.5 percent of full scale, repeat paragraphs (d) and (e) of this section.

(g) Check system flow rates and pressures. Note the values of gauges G3 and G4 for reference during the test.

§ 86.340–79 Gasoline-fueled engine dynamometer test run.

(a) This section applies to gasoline-fueled engines only. Diesel engines are covered in § 86.341.

(b) (1) Mount test engine on the engine dynamometer.

(2) Install instrumentation and sample probe.

(3) Read and record the general test data as specified in § 86.337(b).

(c) Precondition the engine by the following continuous steps:

(1) The engine shall be started and operated at:

(i) Zero load in accordance with the manufacturer's start-up and warm-up procedures for 1 minute ±30 sec;

(ii) A torque equivalent to 10±3 percent of the most recent determination of maximum torque for 4 minutes ±30 sec at 2000 rpm;

(iii) A torque equivalent to 55±5 percent of the most recent determination of maximum torque for 35 minutes ±1 minute at 2000 rpm;

(iv) Option. If the engine has been operating on service accumulation for a minimum of 40 minutes, the service accumulation may be substituted for steps (i) through (iii).

(2) If tested under the provisions of § 86.079–29, check specifications as required. This check must be performed within 10 minutes after completion of engine preconditioning;

(3) Determine the maximum torque of the engine at 2000 rpm ± 100 rpm;

(i) Operate the engine with the throttle fully opened for a maximum of three minutes. During the second minute of operation, record the high and low torque readings. The average of these two readings will be the maximum torque value at 2000 rpm.

(ii) Calculate the torque corresponding to 10, 25, 55, and 90 percent of the observed maximum torque value.

(4) Determine the analyzer ranges required for each mode specified in § 86.335 to meet the range specifications of § 86.338. The engine must not be operated for more than 10 minutes. Cycle 1, specified in § 86.335, may be used for this purpose;

(5) The engine shall be turned off and allowed to stand for at least 1 hour, but not more than 2 hours, at an average ambient temperature of 25° C±5° C (77° F±9° F).

(d) The following steps shall be taken for each test:

(1) Maintain dynamometer test cell average ambient temperature at 25° C± 5° C (77°F±9°F);

(2) Observe pre-test procedures; § 86.339;

(3) Start cooling system;

(4) Start engine and operate in accordance with manufacturer's start-up and warm-up procedures. The duration of the warm-up procedure shall be 5 minutes ±30 seconds. Sample flow may begin during the warm-up;

(5) Read and record all pre-test data specified in § 86.337(c) during the 5-minute warm-up;

(6) Release the choke idle-stop (if necessary) and return the engine throttle control to the curb-idle position, start sample flow and recorders if not already started, and begin test sequence of § 86.335;

(7) Should it be determined that the test must be rerun, then only the soak specified in paragraph (c)(5) of this section need be performed prior to paragraph (d) of this section;

(8) Perform the test cycle, § 86.335, and continuously record exhaust gas concentrations;

(9) Read and record all modal data specified in § 86.337(d) during the test cycle;

(10) The engine speed and load must be maintained within the requirements of § 86.343;

(11) If at any time during a test, the test equipment malfunctions or the specifications in paragraph (d)(10) of this section are not met, the test is void, and may be aborted. The test sequence may be restarted under the provisions of paragraph (c)(5) of this section.

(e) *Exhaust gas measurements.* (1) Measure HC, CO, CO_2, and NOx volume concentration in the exhaust sample. Should the analyzer response exceed 100 percent of full scale or respond less than 15 percent of full scale, the next higher or lower analyzer range shall be used per § 86.338. For exceptions to the lower limit see § 86.338. Should the fuel flow instrument read below 20 percent of the full-scale value, a flow measurement unit with a lower scale must be used unless the option in § 86.314 is desired.

(2) For each analyzer, each range that may be used during a test must have the zero and span responses recorded prior to the execution of that test. Only the range(s) used to measure the emissions during a test are required to have their

zero and span recorded after the completion of the test.

(3) If during an emission test the value of gauges downstream of the NDIR analyzer(s) (G3 or G4) differs by more than ±2 inches of water from the pretest value, the test is void.

§ 86.341–79 Diesel engine dynamometer test run.

(a) This section applies to Diesel engines only. Gasoline-fueled engines are covered in § 86.340.

(b) The temperature of the air supplied to the engine shall be between 68° F and 86° F. The fuel temperature at the pump inlet shall be 100° F±10° F. The observed barometric pressure shall be between 28.5 inches and 31 inches Hg. Higher air temperature or lower barometric pressure may be used, if desired, but no allowance shall be made for increased emissions because of such conditions.

(c) The governor and fuel system shall have been adjusted to provide engine performance at the levels in the application for certification required under § 86.079–21. These adjustments are only permitted under the provisions of § 86.-079–25.

(d) The following steps shall be taken for each test:

(1) Install instrumentation and sample probes as required;

(2) Observe pre-test procedure, § 86.-339;

(3) Read and record the general test data as specified in § 86.337(b);

(4) Start cooling system;

(5) Precondition the engine in the following manner:

(i) Operate the engine at idle for 2 to 3 minutes;

(ii) Operate the engine at approximately 50 percent power at the peak torque speed for 5 to 7 minutes;

(iii) Operate the engine at rated speed and maximum horsepower for 25 to 30 minutes;

(iv) *Option.* It is permitted to precondition the engine at rated speed and maximum horsepower until the oil and water temperatures are stabilized. The temperatures are defined as stabilized if they are maintained within 2 percent of point for 2 minutes. The engine must be operated a minimum of 10 minutes for this option. This optional procedure may be subsituted for step (iii);

(v) *Option.* If the engine has been operating on service accumulation for a minimum of 40 minutes, the service accumulation may be substituted for steps (i) through (iii);

(vi) Longer preconditioning times may be used only if prior approval is obtained from the Administrator.

(6) Within a total elapsed time of 10 minutes or less, determine by experimentation the maximum torque at the rated and intermediate speeds;

(7) Calculate the torque corresponding to 2, 25, 50, 75, and 100 percent of the maximum observed torque for the rated and intermediate speeds;

(8) Read and record all pre-test data specified in § 86.337(c);

(9) Start the test cycle, § 86.336, within 10 minutes, after determining test load using the torque values determined in paragraph (d)(6) of this section;

(10) Read and record all modal data specified in § 86.337(d) during the last 2 minutes of each mode;

(11) Continuously record the analyzer's response to the exhaust gas during each test segment;

(12) Test segments may be repeated;

(13) If a delay of more than 20 minutes occurs between the end of one segment and the beginning of another segment the test is void. The test may be restarted at paragraph (d)(8) of this section. If the delay exceeds 4 hours, the test shall be restarted at paragraph (d)(2) of this section;

(14) The engine speed and load must be maintained within the requirements of § 86.336 during the last 2 minutes of each mode. If the requirement is not met for all modes during a test segment, that segment of the test is void. The test segment may be restarted beginning with paragraph (d)(8) of this section;

(15) If at any time during a test segment, the test equipment malfunctions or the specifications in paragraph (d)(14) of this section are not met, the test segment is void, and may be aborted. The test segment may be restarted beginning with paragraph (d)(8) of this section;

(16) Fuel flow and air flow during the idle or 2-percent load conditions may be determined just prior to or immediately following the dynamometer sequence, if longer times are required for accurate measurements.

(e) *Exhaust gas measurements.* (1) Measure HC, CO, CO_2, and NO_x volume concentration in the exhaust sample. Should the analyzer response exceed 100 percent of full scale or respond less than 15 percent of full scale, the next higher or lower analyzer range shall be used per § 86.338. For exceptions to the lower limit see § 86.338. Should the fuel flow instrument read below 20 percent of full-scale value, a smaller flow measurement unit must be used unless the option in § 86.314 is desired.

(2) Each analyzer range that may be used during a test segment must have the zero and span responses recorded prior to the execution of that test segment. Only the range(s) used to measure the emissions during a test segment are required to have their zero and span recorded after the completion of the test segment.

(3) It is permitted to change filter elements between test segments.

(4) A leak check is permitted between test segments.

(5) A hang-up check is permitted between test segments.

(6) If, during the emission measurement portion of a test segment, the value of the gauges downstream of the NDIR analyzer(s) G3 or G4 differs by more than ±2 inches of water from the pretest value, the test segment is void.

§ 86.342–79 Post-test procedures.

(a) Begin a hang-up check within 30 seconds of the completion of the last mode in the test. Use the following procedure:

(1) Introduce a zero-grade gas into the sample probe or valve V2 to check the "hang-up zero" response. Simultaneously start a time measurement;

(2) Select the lowest HC range used during the test;

(3) The difference between the span-zero response and the hang-up zero response shall not be greater than 5.0 percent of full scale or 10 ppmC whichever is greater, within:

(i) 50 seconds for gasoline-fueled engine tests, or

(ii) 4 minutes for Diesel engine tests;

(b) Begin the analyzer span checks within 6 minutes after the completion of the last mode in the test. Record for each analyzer the zero and span response for each range used during the preceding test or test segment.

(c) If during the test, the filter element(s) were replaced or cleaned, a vacuum check must be performed per § 86.328 immediately after the span checks. If the vacuum side leak check does not meet the requirements of § 86.328 the test is void.

(d) Read and record the post-test data specified in § 86.337(e).

(e) For a valid test, the analyzer drift between the before-test and after-test (before-segment and after-segment for Diesels) span checks for each analyzer must meet the following requirements:

(1) The span drift (defined as the change in the difference between the zero response and the span response) must not exceed 2.0 percent of full-scale chart deflection for each range used;

(2) The zero response drift must not exceed 2.0 percent of full-scale chart deflection for each range used.

§ 86.343–79 Chart reading.

(a) A computer or any other automatic data processing device(s) may be used as long as the system meets the requirements of this subpart.

(b) Determine the location on the chart of the analyzer responses corresponding to the end of each mode.

(c) For gasoline-fueled engines, determine whether the test cycle was run in accordance with § 86.335 by observing either chart event marks, speed trace, torque trace, or concentration traces. The test will be invalidated if there is a deviation of more than:

(1) 2 seconds from the specified time for each CT mode, and 4 seconds for all other modes; or,

(2) 2 percent of maximum torque during each mode excluding the first 20 seconds of each mode; or,

(3) 200 rpm during the first 10 seconds of each mode, or 100 rpm during the remainder of each mode.

(d) Determine chart deflections.

(1) Locate the last 10 seconds of each gasoline-fueled engine mode except CT. Locate the last 50 seconds of each gasoline-fueled engine CT mode. For all Diesel engine modes locate the last 60 seconds.

(2)(i) Divide the last 10 seconds or 60 seconds, whichever is applicable, into a minimum of 10 equally spaced incre-

ments. Determine the chart deflection of each increment for the CO_2, CO, HC, and NO_x analyzers.

(ii) Option for Diesel engine modes. If the deviation from a straight line (other than instrument noise) during this 60 seconds is less than ±5 percent of full-scale, the average chart deflection may be determined by eye. The average value (one number) may then be used in lieu of the 10 values required by paragraph (d)(2)(i) of this section.

(3) Other methods of determining the chart deflection of the analyzers may be used only with prior approval by the Administrator.

(e) Determine CO_2, CO, HC, and NO_x concentrations for each mode.

(1) If the option in paragraph (d)(2)(ii) of this section is employed, then those chart deflections for both linear and non-linear analyzers may be substituted for the average chart deflection in step (e)(2).

(2) For linear instruments, average the chart deflections determined in paragraph (d)(2)(i) of this section. Determine the concentration for this average chart deflection using calibration data.

(3) For non-linear instruments, calculate concentrations for each chart deflection determined in paragraph (d)(2)(i) of this section. Take the average of these concentrations for each mode.

(4) For purposes of this paragraph, calibration data includes calibration curves, linearity curves, span-gas responses, and zero-gas responses.

§ 86.344–79 Humidity calculations.

(a) The following abbreviations (and units) are used in this section:

$BARO$ = barometric pressure (Pa)
H = specific humidity, (gm H_2O/gm of dry air)
K = 0.6220 gm H_2O/gm dry air
M_{air} = Molecular weight of air = 28.9645
M_{H_2O} = Molecular weight of water = 18.01534
P_{DB} = Saturation vapor pressure of water at the dry bulb temperature (Pa)
P_{DP} = saturation vapor pressure of water at the dew-point temperature (Pa)
P_v = partial pressure of water vapor (Pa)
P_{WB} = saturation vapor pressure of water at the wet bulb temperature (Pa)
T_{DB} = Dry bulb temperature (°K)
T_{WB} = Wet bulb temperature (°K)
Y = Water-vapor volume concentration

(b) The specific humidity on a dry basis of the intake air (H) is defined by equation (1).

$$H = \frac{(K)(P_v)}{BARO - P_v} \quad (1)$$

(c) The partial pressure of water vapor may be determined in two manners:

(1) A dew point device may be used. In that case:

$$P_v = P_{DP}$$

(2) A wet-bulb, dry-bulb method may be used. In that case "Ferrels equation" (eq. (2)) is used.

$$P_v = P_{WB} - 0.000660\ (T_{DB} - T_{WB})\ BARO\ [1 + 0.00115\ (T_{WB} - 273.15)] \quad (2)$$

(d)(1) The saturation vapor pressure (P_{WB}) of water at the wet-bulb temperature is defined by equation (3) (Ref. Wexler and Greenspan, equation (23), National Bureau of Standards).

$$P_{WB} = \exp\left[B \ln T_{WB} + \sum_{i=0}^{5} F_i T_{WB}^{i-2}\right] \quad (3)$$

where:
P_{WB} is in Pascals (Pa)
T_{WB} = Wet-bulb temperature (°K)
$B = -12.150799$
$F_0 = -8.49922(10)^3$
$F_1 = -7.4231865(10)^3$
$F_2 = 96.1635147$
$F_3 = 2.4917546(10)^{-2}$
$F_4 = -1.3160119(10)^{-4}$
$F_5 = -1.1460454(10)^{-7}$
$F_6 = 2.1701289(10)^{-11}$
$F_7 = -2.610258(10)^{-15}$
$F_8 = 3.8904519(10)^{-18}$
$F_9 = -1.4317(10)^{-21}$

(2) The table in Figure D79–5 may be used in lieu of equation (3).

(e) The saturated vapor pressure of water at the dry-bulb temperature (P_{DB}) is found (if required) by using dry-bulb absolute termperature (°K) in equation (3).

(f) The percent of relative humidity (RH) (if required) is defined by equation (4).

$$RH = \frac{P_v}{P_{DB}}\ (100) \quad (4)$$

(g) The water-vapor volume concentration on a dry basis of the engine intake air (Y) is defined by equation (5).

$$Y = \frac{(H)(M_{air})}{(M_{H_2O})} = \frac{P_v}{BARO - P_v} \quad (5)$$

Figure D79- 5

Saturation Vapor Pressure Over Water (pascals)

Temperature deg C	0.0	0.1	0.2	0.3	0.4	0.5	0.6	0.7	0.8	0.9
0	610.752	615.207	619.690	624.203	628.744	633.315	637.916	642.545	647.205	651.894
1	656.614	661.364	666.144	670.955	675.796	680.669	685.572	690.507	695.473	700.471
2	705.500	710.562	715.655	720.781	725.939	731.130	736.354	741.611	746.901	752.224
3	757.581	762.971	768:396	773.854	779.347	784.874	790.436	796.033	801.664	807.331
4	813.034	818.771	824.545	830.355	836.200	842.082	848.001	853.956	859.948	865.978
5	872.045	878.149	884.291	890.470	896.688	902.945	909.239	915.573	921.945	928.357
6	934.808	941.298	947.828	954.399	961.009	967.660	974.351	981.083	987.856	994.670
7	1001.53	1008.42	1015.36	1022.34	1029.37	1036.43	1043.54	1050.70	1057.89	1065.13
8	1072.41	1079.74	1087.11	1094.52	1101.98	1109.48	1117.03	1124.63	1132.27	1139.95
9	1147.68	1155.46	1163.28	1171.15	1179.07	1187.04	1195.05	1203.11	1211.21	1219.37
10	1227.57	1235.83	1244.13	1252.48	1260.88	1269.32	1277.82	1286.37	1294.97	1303.62
11	1312.32	1321.07	1329.87	1338.73	1347.63	1356.59	1365.60	1374.67	1383.78	1392.95
12	1402.17	1411.45	1420.78	1430.16	1439.60	1449.10	1458.64	1468.25	1477.91	1487.62
13	1497.39	1507.22	1517.11	1527.05	1537.04	1547.10	1557.21	1567.39	1577.62	1587.90
14	1598.25	1608.66	1619.12	1629.65	1640.24	1650.88	1661.59	1672.36	1683.18	1694.08
15	1705.03	1716.04	1727.12	1738.26	1749.46	1760.73	1772.06	1783.45	1794.91	1806.43
16	1818.01	1829.67	1841.38	1853.17	1865.02	1876.93	1888.91	1900.96	1913.08	1925.27
17	1937.52	1949.84	1962.23	1974.69	1987.21	1999.81	2012.48	2025.21	2038.02	2050.90
18	2063.85	2076.87	2089.97	2103.13	2116.37	2129.68	2143.07	2156.53	2170.06	2183.66
19	2197.34	2211.10	2224.93	2238.84	2252.82	2266.88	2281.02	2295.23	2309.52	2323.89

Figure D79-5, Continued

Temperature deg C	0.0	0.1	0.2	0.3	0.4	0.5	0.6	0.7	0.8	0.9
20	2338.34	2352.86	2367.47	2382.15	2396.91	2411.76	2426.68	2441.68	2456.77	2471.93
21	2487.18	2502.51	2517.93	2533.42	2549.00	2564.66	2580.41	2596.24	2612.16	2628.16
22	2644.25	2660.42	2676.68	2693.02	2709.46	2725.98	2742.59	2759.28	2776.07	2792.94
23	2809.91	2826.96	2844.11	2861.34	2878.67	2896.09	2913.60	2931.20	2948.89	2966.68
24	2984.56	3002.54	3020.61	3038.77	3057.03	3075.39	3093.84	3112.39	3131.03	3149.78
25	3168.62	3187.55	3206.59	3225.73	3244.96	3264.30	3283.73	3303.27	3322.91	3242.65
26	3362.49	3382.43	3402.48	3422.63	3442.89	3463.24	3483.71	3504.28	3524.95	3545.73
27	3566.62	3587.62	3608.72	3629.93	3651.25	3672.67	3694.21	3715.86	3737.61	3759.48
28	3781.46	3803.55	3825.75	3848.07	3870.50	3893.04	3915.70	3938.47	3961.36	3984.36
29	4007.48	4030.71	4054.06	4077.53	4101.12	4124.83	4148.65	4172.59	4196.66	4220.84
30	4245.15	4269.58	4294.13	4318.80	4343.60	4368.52	4393.56	4418.73	4444.02	4469.44

§ 86.345–79 Emission calculations.

(a) The following abbreviations (and units) are used in this section.

α = atomic hydrogen/carbon ratio of the fuel
ϕ = dry fuel-air ratio (measured)/fuel-air ratio (stoichiometric)
BARO = Barometric pressure (in. *Hg*A)
BHP = Brake horsepower
BSCO = Brake specific carbon monoxide emissions, (gm/*BHP-HR*)
BSFC = Brake specific fuel consumption (lb/*BHP-HR*)
BSHC = Brake specific hydrocarbon emissions (gm/*BHP-HR*)
BSNO$_x$ = Brake specific oxides of nitrogen emissions (gm/*BHP-HR*)
DCO = CO volume concentration in exhaust, ppm (dry)
DCO$_2$ = CO_2 volume concentration in exhaust, percent (dry)
DHC = HC volume carbon concentration in exhaust, ppmC (dry)
DKNO = NO volume concentration in exhaust, in ppm (dry and humidity corrected)
EIP = engine intake pressure (in. *Hg*A) = *BARO* − inlet depression
f/a = measured dry fuel-air ratio
G = humidity of the inlet air in grains of water per pound of dry air = (453.59/0.0648) *H*, (see § 86.344)
K = water–gas equilibrium constant = 3.5
K_{NO_x} = Humidity correction factor for oxides of nitrogen
K_w = Wet to dry correction factor
M_C = Atomic weight of carbon
(M_C+M_H) = mean molecular weight of the fuel per carbon atom
M_{CO} = Molecular weight of CO
M_f = Mass flow-rate of fuel used in the engine in lb/hr = W_f/453.59
M_H = Atomic weight of hydrogen
M_{NO_2} = Molecular weight of nitrogen dioxide (NO_2)
T = Temperature of inlet air (°F)
W_{CO} = Mass rate of CO in exhaust, grams/hr
W_f = Mass flow-rate of fuel used in the engine, in grams/hr = (453.59) x (W_f lbs/hr)
WHC = HC volume concentration in exhaust, ppm *C* (wet)
W_{HC} = Mass rate of HC in exhaust, grams/hr
W_{NO_x} = Mass rate of NO_x in exhaust, grams/hr
Y = H_2O volume concentration of intake air (See § 86.344)

(b) Determine the exhaust species volume concentration for each mode.

(c)(1) Convert wet basis measurements to a dry basis by the following:

Dry concentrations = $1/K_W$ x wet concentrations. K^w is defined by the equation in Figure D79-6.

(2) For Diesel engines, for each mode use the measured engine (*f/a*) entering the combustion chamber when calculating ϕ. If applicable bleed air, etc. must be subtracted from the measured air flow (see § 86.313).

(3) For gasoline-fueled engines, optional for Diesel engines, calculate ϕ for each mode by substituting *WHC* for *DHC* in the (*f/a*) equations in paragraph (d) of this section.

(4) Calculate a *Y* value for each gasoline-fueled engine test from the pre-test data. Apply the *Y* value to the K_W equation for the entire test.

(5) Calculate a separate *Y* value for each Diesel test segment from the pre-test-segment data. Apply the *Y* value to the K_W equation for the entire test-segment.

$$K_W = \frac{1}{\alpha\left(\frac{DCO_2}{10^2}+\frac{DCO}{10^6}\right)+\frac{2Y}{\phi}\left(\frac{DCO_2}{10^2}+\frac{DCO}{10^6}+\frac{WHC}{10^6}\right)\left(1+\frac{\alpha}{4}\right)}{1+\left[\frac{2\left(1+\frac{DCO}{10^6}\right)}{\left(\frac{DCO_2}{10^2}\right)K}\right]}$$

Figure D79-6 K_W = WET TO DRY CORRECTION FACTOR

(d) Compute the dry (*f/a*) if required as follows:

$$(f/a)=\frac{4.77\,(1+\alpha/4)\,(f/a)\text{ stoich}}{\frac{1}{X}-\left(\frac{DCO}{2X(10)^6}\right)-\left(\frac{DHC}{X10^6}\right)+\frac{\alpha}{4}\left(1-\frac{DHC}{X(10^6)}\right)-\frac{.75\alpha}{\left(\frac{K}{\frac{DCO}{X(10)^6}}\right)+\left(\frac{(1-K)}{1-\frac{DHC}{X(10)^6}}\right)}}$$

$$(f/a)\text{ stoich}=\frac{M_C+\alpha M_H}{138.18\,(1+\alpha/4)}$$

where

$$X=DCO_2/10^2+DCO/10^6+DHC/10^6$$

(e) *Data validation*—(1) *Diesel engines only.* Compare the calculated dry (*f/a*) with the measured fuel and air flow. For a valid test the emission calculated (*f/a*) must agree within 10 percent of the measured (*f/a*) for each mode. Diesel engine idle and 2 percent modes do not have to meet this requirement.

(2) *Fuel/Air ratio comparison.* When comparing measured (*f/a*) ratio to an emissions calculated (*f/a*) ratio, the measured air flow (in terms of mass) is the total mass of air entering the exhaust pipe. This may include additions of air mass to the exhaust pipe by an air injection system.

(3) Other methods of data validation may be used if prior approval is obtained from the Administrator.

(4) Data validation techniques that have obtained prior approval from the Administrator for use on gasoline-fueled engines may be used to determine void tests.

(f) Multiply the dry nitric oxide volume concentrations by the following humidity correction factor to obtain *DKNO:*

(1) Gasoline-fueled engines:

$$K_{NO_x}=0.6272+0.00629G-0.0000176G^2$$

(2) Diesel engines:

$$K_{NO_x}=\frac{1}{1+A\,(G-75)+B\,(T-85)}$$

where:

$A=0.044\,(f/a)-0.0038$
$B=-0.116\,(f/a)+0.0053$
T = Temperature of inlet air, °F.

(g) Calculate the mass emissions of each species in grams per hour for each mode as follows:

(1) $$\text{HC grams/hr}=W_{HC}=\frac{(DHC/10^6)W_f}{(DCO/10^6)+DCO_2+(DHC/10^6)}$$

(2) $$\text{CO grams/hr}=W_{CO}=\frac{M_{CO}(DCO/10^6)W_f}{(M_C+\alpha M_H)[(DCO/10^6)+DCO_2+(DHC/10^6)]}$$

(3) $$\text{NO}_x\text{ grams/hr}=W_{NO_x}=\frac{M_{NO_2}(DKNO/10^6)W_f}{(M_C+\alpha M_H)[(DCO/10^6)+DCO_2+(DHC/10^6)]}$$

(h)(1) For gasoline-fueled engines, weight the mass values of *BHIP*, W_{HC}, W_{CO}, M_f, and W_{NO_x} for each mode by multiplying the modal mass values by the appropriate modal weighting factor prescribed by § 86.335.

(2) For Diesel engines, weight the values of *BHP*, W_{HC}, W_{CO}, W_{NO_x}, and M_f as follows:

(i) Weight the values from each idle mode by multiplying the values by (0.067);

(ii) Weight the remaining modes by multiplying the values by 0.08.

(i) Calculate the brake specific emissions for:

(1) Each gasoline-fueled engine test cycle, and

(2) Each Diesel engine test by summing the weighted values (*BHP*, W_{HC}, W_{CO}, and W_{NO_x}) from each mode as follows:

$$BSHC(t)=\frac{\sum \text{weighted } W_{HC}}{\sum \text{weighted } BHP}$$

$$BSCO(t)=\frac{\sum \text{weighted } W_{CO}}{\sum \text{weighted } BHP}$$

$$BSNOx(t)=\frac{\sum \text{weighted } W_{NOx}}{\sum \text{weighted } BHP}$$

(t)=Test cycle number (t=1, 2) (gasoline-fueled engines only).

(j) (1) Calculate the brake-specific fuel consumption (*BSFC*) from the non-weighted *BHP* and M_f for each mode. Gasoline-fueled engine idle and *CT* modes, and Diesel idle modes are excluded.

(2) For gasoline-fuel engines use:

$$BSFC=\frac{M_f}{BHP}$$

(3) For Diesel engines use:

$$CBSFC=\frac{M_f}{CBHP}$$

where:

$$CBHP=BHP\left[\frac{29.00}{EIP}\right]\left[\frac{T+459.69}{85+459.69}\right]^{0.7}$$

(4) Other methods of correcting power to determine *BSFC* may be used only with prior approval of the Administrator.

(k) Calculate the weighted brake-specific fuel consumption (*WBSFC*) for

(1) each gasoline engine test cycle by:

$$WBSFC(t)=\frac{\sum \text{weighted } M_f}{\sum \text{weighted } BHP}$$

where:

t=Test cycle number (t=1,2)

(2) each Diesel engine test by:

$$WCBSFC=\frac{\sum \text{weighted } M_f}{\sum \text{weighted } CBHP}$$

(l) For gasoline-fueled engines, calculate the brake-specific emissions and fuel consumption for the complete test as follows:

$$BSHC(T)=0.35\ BSHC(1)+0.65\ BSHC(2)$$
$$BSCO(T)=0.35\ BSCO(1)+0.65\ BSCO(2)$$
$$BSNO_x(T)=0.35\ \ BSNO_x(1)+0.65\ \ BSNO_x(2)$$
$$WBSFC(T)=0.35\ WBSFC(1)+0.65\ WBSFC(2)$$

§ 86.346–79 Alternative NO_x measurement technique.

(a) Oxides of nitrogen (NO_x) may be measured with the following "alternative instrumentation" for both Diesel and gasoline-fueled engines. The "alternative instrumentation" shall consist of:

(1) A heated sample line maintained above the dew point;

(2) An NO_x to NO converter obtaining a sample directly from the heated sample line; and

(3) A combination per 40 CFR 86.777 or 40 CFR 86.977, whichever is applicable, of a water trap, dryer, flow controls, and an NO NDIR analyzer obtaining a sample from the converter.

(b) The provisions of 40 CFR 86 Subpart D shall apply to the "alternative instrumentation", where applicable, with the following exceptions:

(1) Analyzer specifications found in §§ 86.315, 86.321, and 86.322 do not apply to the "alternative instrumentation".

(2) For the purposes of this section, the full-scale value specified in § 86.338 (a)(1) shall be 1,500 ppm for Diesel engines and 2,500 ppm for gasoline-fueled engines.

(c) The "alternative instrumentation" shall be calibrated per § 86.330.

(d) The NO NDIR analyzer shall meet the performance and interference specifications contained in 40 CFR 86.777 or 40 CFR 86.977, whichever is applicable.

(e) The operation of the dryer shall follow good engineering practice such that the test results are not altered. Proper preconditioning of the dryer is allowed.

§ 86.347–79 Alternative calculations for Diesel engines.

(a) This section applies to Diesel engines only. Gasoline-fueled engines must use the calculations in § 86.345.

(b) For Diesel engines, the calculations specified in 40 CFR 86.977–15 may be substituted for § 86.345.

(c) The modal *BSFC* and weighted *BSFC* shall be calculated per § 86.345.

(d) If the provisions of this section are used, a CO_2 measurement is not required.

(e) Both 40 CFR 86.977–15(a) and § 86.313 shall apply to air-flow measurements. For the purposes of this section, the air-flow measurement accuracy specified in § 86.313 shall be ±1 percent.

17. The title to Subpart H is revised to read as follows:

Subpart H—Emission Regulations for New 1977 and 1978 Model Year Gasoline-Fueled Heavy-Duty Engines; Test Procedures

18. Section 86.777–1 is revised to read as follows:

§ 86.777–1 General applicability.

The provisions of this subpart apply to new 1977 and 1978 model year gasoline-fueled heavy-duty engines.

19. New §§ 86.879–5 through 86.879–14 are added to Subpart I and read as follows:

§ 86.879–5 Test procedures.

The procedures described in this and subsequent sections will be the test program to determine the conformity of engines with the standard set forth in § 86.079–11(a).

(a) The test consists of a prescribed sequence of engine operating conditions on an engine dynamometer with continuous examination of the exhaust gases. The test is applicable equally to controlled engines equipped with means for preventing, controlling, or eliminating smoke emissions and to uncontrolled engines.

(b) The test is designed to determine the opacity of smoke in exhaust emissions during those engine operating conditions which tend to promote smoke from Diesel vehicles.

(c) The test procedure begins with a preconditioned engine which is then run through preloading and preconditioning operations. After an idling period, the engine is operated through acceleration and lugging modes during which smoke emission measurements are made to compare with the standards. The engine is then returned to the idle condition and the acceleration and lugging modes are repeated. Three consecutive sequences of acceleration and lugging constitutes the full set of operating conditions for smoke emission measurement.

(d) Except in cases of component malfunction or failure, all emission control systems installed on or incorporated in a new motor vehicle engine shall be functioning during all procedures in this subpart. Maintenance to correct component malfunction or failure shall be authorized in accordance with § 86.079–24.

§ 86.879–6 Diesel fuel specifications.

The requirements of this section are set forth in § 86.307.

§ 86.879–7 Dynamometer operation cycle for smoke emission tests.

(a) The following sequence of operations shall be performed during engine dynamometer testing of smoke emissions, starting with the dynamometer preloading determined and the engine preconditioned (§ 86.879–12(c)).

(1) *Idle mode.* The engine is caused to idle for 5 to 5.5 minutes at the manufacturer's recommended curb-idle speed. The dynamometer controls shall be set to provide minimum load by turning the load switch to the "off" position or by adjusting the controls to the minimum load position.

(2) *Acceleration mode.* (i) The engine speed shall be increased to 200±50 rpm above the manufacturer's recommended curb-idle speed within 3 seconds.

(ii) Immediately upon completion of the mode specified in paragraph (a)(2)(i) of this section, the throttle shall be moved rapidly to, and held in, the fully-open position. The inertia of the engine and the dynamometer, or alternately a preselected dynamometer load, shall be used to control the acceleration of the engine so that the speed increases to 85

percent of the rated speed in 5±1.5 seconds. This acceleration shall be linear within 100 rpm as specified in § 86.879–13(c).

(iii) After the engine reaches the speed required in paragraph (a)(2)(ii) of this section, the throttle shall be moved rapidly to, and held in, the fully-closed position. Immediately after the throttle is closed, the preselected load required to perform the acceleration in paragraph (a)(2)(iv) of this section shall be applied.

(iv) When the engine decelerates to the intermediate speed (within 50 rpm), the throttle shall be moved rapidly to, and held in, the fully-open position. The preselected dynamometer load which was applied during the preceding transition period shall be used to control the acceleration of the engine so that the speed increases to at least 95 percent of the rated speed in 10±2 seconds.

(3) *Lugging mode.* (i) Immediately upon completion of the preceding acceleration mode, the dynamometer controls shall be adjusted to permit the engine to develop maximum horsepower at rated speed. This transition period shall be 50 to 60 seconds in duration. During the last 10 seconds of this period, the engine speed shall be maintained within 50 rpm of the rated speed, and the power (corrected, if necessary, to rating conditions) shall be no less than 95 percent of the maximum horsepower developed at the zero-hour point.

(ii) With the throttle remaining in the fully-open position, the dynamometer controls shall be adjusted gradually so that the engine speed is reduced to the intermediate speed (within 50 rpm). This lugging operation shall be performed smoothly over a period of 35±5 seconds. The rate of slowing of the engine shall be linear, within 100 rpm, as specified in § 86.879–13(c).

(4) *Engine unloading.* Immediately upon completion of the preceding lugging mode, the dynamometer and engine controls shall be returned to the idle position described in paragraph (a)(1) of this section. The engine must be at the curb-idle condition within one minute after completion of the lugging mode.

(b) The procedures described in paragraphs (a)(1) through (a)(4) of this section shall be repeated until 3 consecutive valid cycles have been completed. If 3 valid cycles have not been completed after a total of 6 consecutive cycles have been run, the engine shall be preconditioned by operation at maximum horsepower at rated speed for 10 minutes before the test sequence is repeated.

§ 86.879–8 Dynamometer and engine equipment.

The following equipment shall be used for smoke emission testing of engines on engine dynamometers.

(a) An engine dynamometer with adequate characteristics to perform the test cycle described in § 86.879–7.

(b) An engine cooling system having sufficient capacity to maintain the engine at normal operating temperatures during conduct of the prescribed engine tests.

(c) A noninsulated exhaust system extending 15±5 feet from the exhaust manifold, or the crossover junction in the case of Vee engines, and presenting an exhaust back pressure within ±0.2 inch Hg of the upper limit at maximum rated horsepower, as established by the engine manufacturer in his sales and service literature for vehicle application. A conventional automotive muffler of a size and type commonly used with the engine being tested shall be employed in the exhaust system during smoke emission testing. The terminal 2 feet of the exhaust pipe shall be circular cross section and be free of elbows and bends. The end of the pipe shall be cut off squarely. The terminal 2 feet of the exhaust pipe shall have a nominal inside diameter in accordance with the engine being tested, as specified below:

Maximum rated horsepower:	*Exhaust pipe inside diameter*
Less than 101	inches... 2
101–200	do.... 3
201–300	do.... 4
301 or more	do.... 5

(d) An engine air inlet system presenting an air inlet restriction within 1 inch of water of the upper limit for the engine operating condition which results in maximum air flow, as established by the engine manufacturer in his sales and service literature, for the engine being tested.

§ 86.879–9 Smoke measurement system.

(a) *Schematic drawing.* The Figure I79–1 is a schematic drawing of the optical system of the light extinction meter.

(b) *Equipment.* The following equipment shall be used in the system:

(1) Adapter—the smokemeter optical unit may be mounted on a fixed or movable frame. The normal unrestricted shape of the exhaust plume shall not be modified by the adaptor, the meter, or any ventilator system used to remove the exhaust from the test site.

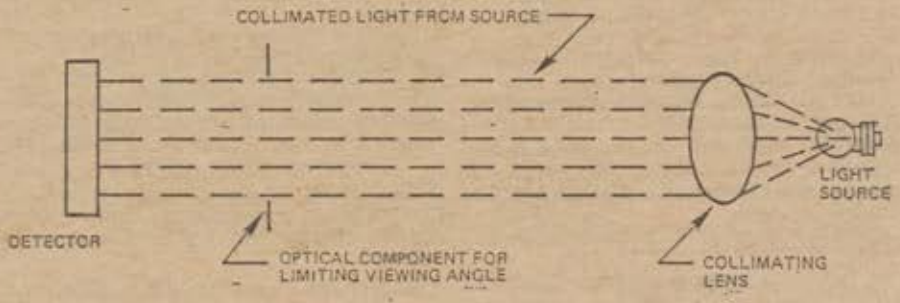


Figure I79-1 SMOKEMETER OPTICAL SYSTEM (SCHEMATIC)

(2) Smokemeter (light extinction meter)—continuous recording, full-flow light obscuration meter. It shall be positioned near the end of the exhaust pipe so that a built-in light beam traverses the exhaust smoke plume which issues from the pipe at right angles to the axis of the plume. The light source is an incandescent lamp operated at a constant voltage of not less than 15 percent of the manufacturer's specified voltage. The lamp output is collimated to a beam with a nominal diameter of 1.125 inches. The angle of divergence of the collimated beam shall be within 4° included angle. A light detector, directly opposed to the light source, measures the amount of light blocked by the smoke in the exhaust. The detector sensitivity is restricted to the visual range and comparable to that of the human eye. A collimating tube with apertures equal to the beam diameter is attached to the detector. It restricts the viewing angle of the detector to within 16° included angle. An amplified signal corresponding to the amount of light blocked is recorded continuously on a remote recorder. An air curtain across the light source and detector window assemblies may be used to minimize deposition of smoke particles on those surfaces provided that it does not measurably affect the opacity of the plume. The meter consists of two units, an optical unit and a remote control unit. Light extinction meters employing substantially identical measurement principles and producing substantially equivalent results but which employ other electronic and optical techniques may be used only after having been approved in advance by the Administrator.

(3) Recorder—a continuous recorder, with variable chart speed over a minimal range of 0.5 to 8.0 inch per minute (or equivalent) and an automatic marker indicating 1-second intervals shall be used for continuously recording the exhaust gas opacity, engine rpm and throttle position. The recorder shall be equipped to indicate only when the throttle is in the fully-open or fully-closed position. The recorder scale for opacity shall be linear and calibrated to read from 0 to 100 percent opacity full scale. The opacity trace shall have a resolution within 1-percent opacity. The recorder scale for engine rpm shall be linear and have a resolution of 30 rpm. The throttle position trace must clearly indicate when the throttle

is in the fully-open and fully-closed positions. Any means other than a strip-chart recorder may be used provided it produces a permanent visual data record of quality equal to or better than that described above.

(4) The recorder used with the smokemeter shall be capable of full-scale deflection in 0.5 second or less. The smokemeter-recorder combination may be damped so that signals with a frequency higher than 10 cycles per second are attenuated. A separate low-pass electronic filter with the following performance characteristics may be installed between the smokemeter and the recorder to achieve the high-frequency attenuation.

(i) 3 decibel point—10 cycles per second.

(ii) Insertion loss—zero ± 0.5 decible.

(iii) Selectivity—12 decibles per octave above 10 cycles per second.

(iv) Attenuation—27 decibels down at 40 cycles per second minimum.

(c) *Assembling equipment.* (1) The optical unit of the smokemeter shall be mounted radially to the exhaust pipe so that the measurement will be made at right angles to the axis of the exhaust plume. The distance from the optical centerline to the exhaust pipe outlet shall be 5±1 inch. The full flow of the exhaust stream shall be centered between the source and detector apertures (or windows and lenses) and on the axis of the light beam.

(2) Power shall be supplied to the control unit of the smokemeter in time to allow at least 15 minutes for stabilization prior to testing.

§ 86.879–10 Information.

The following information, as applicable, shall be recorded for each test:

(a) Engine description and specifications. A copy of the information specified in this paragraph must accompany each engine sent to the Administrator for compliance testing. If the engine is submitted to the Administrator for testing under Subpart D, only the information specified in § 86.337 need accompany the engine. The manufacturer need not record the information specified in this paragraph for each test if the information, with the exception of subparagraphs (3), (12), and (13) of this paragraph, is included in the manufacturer's Part I.

(1) Engine-system combination.

(2) Engine identification numbers.

(3) Number of hours of operation accumulated on engine.

(4) Rated maximum horsepower and torque.

(5) Maximum horsepower and torque speeds.

(6) Engine displacement.

(7) Governed speed.

(8) Curb-idle rpm.

(9) Fuel consumption at maximum power and torque.

(10) Maximum air flow.

(11) Air inlet restriction.

(12) Exhause pipe diameter(s).

(13) Maximum exhaust system back pressure.

(b) Test data: general. This information may be recorded at any time between 4 hours prior to the test and 4 hours after the test.

(1) Engine-system combination.

(2) Engine identification numbers.

(3) Instrument operator.

(4) Engine operator.

(5) Number of hours of operation accumulated on the engine prior to beginning the warm-up portion of the test.

(6) Calibration date(s) of neutral density filters used to calibrate the smokemeter.

(c) Test data; pre-test.

(1) Date and time of day.

(2) Test number.

(3) Barometric pressure.

(4) Smokemeter: Number-zero control setting—calibration control setting—gain.

(5) Intake air humidity and temperature:

(i) Humidity-conditioned air supply. Air that has had its absolute humidity altered is considered humidity-conditioned air. For this type of intake air supply, the humidity measurement must be made within the intake air supply system, and after the humidity conditioning has taken place.

(ii) Non-conditioned air supply. Humidity measurements in non-conditioned intake air supply systems must be made in the intake air stream entering the supply system and within 18 inches of the inlet for supply system. Alternatively, the humidity measurements can be measured within the intake air supply stream.

(iii) Engine intake air temperature measurement must be made within 48 inches of the engine. The measurement location must be made either in the supply system or in the air stream entering the supply system.

(d) Test data; modal.

(1) Observed engine torque and speed during the steady-state test conditions specified in § 86.879–7(a)(3)(i).

(2) Recorder chart: Identify zero traces—calibration traces—idle traces—closed-throttle trace—open-throttle trace—acceleration and lugdown test traces—start and finish of each test.

§ 86.879–11 Instrument checks.

(a) The smokemeter shall be checked according to the following procedure prior to each test:

(1) The optical surfaces of the optical section shall be visually checked to verify that they are clean and free of foreign material and fingerprints;

(2) The zero control shall be adjusted under conditions of "no smoke" to give a recorder trace of zero;

(3) Calibrated neutral density filters having approximately 10, 20, and 40 percent opacity shall be employed to check the linearity of the instrument. The filter(s) shall be inserted in the light path perpendicular to the axis of the beam and adjacent to the opening from which the beam of light from the light source emanates, and the recorder response shall be noted. The nominal opacity value of the filter shall be confirmed by the Administrator semi-annually. Deviations in excess of 1 percent of the nominal opacity shall be corrected.

(b) The instruments for measuring and recording engine rpm, engine torque, air inlet restrictions, exhaust system back pressure, throttle position, etc., which are used in the tests prescribed herein, shall be calibrated in accordance with good engineering practice.

§ 86.879–12 Test run.

(a) The temperature of the air supplied to the engine shall be between 68° F and 86° F. The fuel temperature at the pump inlet shall be 100° F±10° F. The observed barometric pressure shall be between 28.5 inches and 31 inches Hg. Higher air temperature or lower barometric pressure may be used, if desired, but no allowance will be made for possible increased smoke emissions because of such conditions.

(b) The governor and fuel system shall have been adjusted to provide engine performance at the levels in the application for certification required under § 86.079–21.

(c) The following steps shall be taken for each test:

(1) Start cooling system;

(2) Warm-up the engine by the procedure described in § 86.341(d)(5);

(3) Determine by experimentation the dynamometer inertia and dynamometer load required to perform the acceleration in the dynamometer cycle for smoke emission tests (§ 86.879–7(a)(2)). In a manner appropriate for the dynamometer and controls being used, arrange to conduct the acceleration mode;

(4) Install smokemeter optical unit and connect it to the recorder. Connect the engine rpm and throttle position sensing devices to the recorder;

(5) Turn on purge air to the optical unit of the smokemeter, if purge air is used;

(6) Check and record zero and span settings of the smokemeter recorder at a chart speed of approximately 1 inch per minute. (The optical unit shall be retracted from its position about the exhaust stream if the engine is left running.);

(7) Precondition the engine by operating it for 10 minutes at maximum rated horsepower;

(8) Proceed with the sequence of smoke emission measurements on the engine dynamometer as prescribed in § 86.879–7;

(9) During the test sequence of § 86.879–7, continuously record smoke measurements, engine rpm, and throttle position at a minimum chart speed of 1 inch per minute during the idle mode and transitional periods and 8 inches per minute during the acceleration and lugging modes. The smokemeter zero and full-scale recorder deflections may be rechecked during the idle mode of each test sequence. If either zero or full-scale drift is in excess of 2 percent opacity, the smokemeter controls must be readjusted and the test must be repeated;

(10) Turn off engine;

(11) Check zero and reset if necessary and check span of the smokemeter recorder by inserting neutral density filters. If either zero or span drift is in excess of 2 percent opacity, the test results shall be invalidated.

§ 86.879–13 Chart reading.

The following procedure shall be used to analyze the recorder chart:

(a) Locate the modes specified in § 86.879–7 (a)(1) through (a)(4) by applying the following starting and ending criteria:

(1) The idle mode specified in § 86.879–7(a)(1) starts when engine preconditioning or the lugging mode of a preceding cycle has been completed and ends when the engine speed is raised above the idle speed.

(2) The acceleration mode specified in § 86.879–7(a)(2)(i) starts when the preceding idle mode has been completed and ends when the throttle is in the fully-open position as indicated by the throttle position trace.

(3) The acceleration mode specified in § 86.879–7(a)(2)(ii) starts when the preceding acceleration mode has been completed and ends when the engine speed reaches 85 percent of the rated speed.

(4) The transition period specified in § 86.879–7(a)(2)(iii) starts when the preceding acceleration mode has been completed and ends when the throttle is in the fully-open position as indicated by the throttle position trace.

(5) The acceleration mode specified in § 86.879–7(a)(2)(iv) starts when the preceding transition period has been completed and ends when the engine speed reaches 95 percent of the rated speed.

(6) The transition period specified in § 86.879–7(a)(3)(i) starts when the preceding acceleration mode has been completed and ends when the engine speed is 50 rpm below the rated speed and the provisions of § 86.879–7(a)(3)(i) are met.

(7) The lugging mode specified in § 86.879–7(a)(3)(ii) starts when the preceding transition period has been completed and ends when the engine speed is at the intermediate speed.

(b) Determine if the test requirements of § 86.879–7 are met by applying the following modal criteria:

(1) Idle mode as specified in § 86.879–7(a)(1):

(i) Duration: 5 to 5.5 minutes.

(ii) Speed: Within specifications during the last 4 minutes of the mode.

(2) Acceleration mode as specified in § 86.879–7(a)(2)(i).

(i) Duration: 3 seconds or less.

(ii) Speed increase: 200±50 rpm.

(3) Acceleration made as specified in § 86.879–7(a)(2)(ii):

(i) Linearity: ±100 rpm as specified in paragraph (c) of this section.

(ii) Duration: 3.5 to 6.5 seconds.

(iii) Throttle position: Fully-open until speed is at least 95 percent of the rated speed.

(4) Transition period as specified in § 86.879–7(a)(2)(iii):

(i) Throttle position: Moved rapidly to, and held in the fully-closed position.

(5) Acceleration mode as specified in § 86.879–7(a)(2)(iv):

(i) Duration: 8 to 12 seconds.

(ii) Throttle position: Fully-open when speed is at intermediate speed.

(6) Transition period as specified in § 86.879–7(a)(3)(i):

(i) Duration: 50 to 60 seconds.

(ii) Speed during last 10 seconds within ±50 rpm of rated speed.

(iii) Corrected power during last 10 seconds: At least 95 percent of horsepower developed during zero-hour testing.

(7) Lugging mode as specified in § 86.879–7 (a)(3)(ii):

(i) Linearity: ±100 rpm as specified in paragraph (c) of this section.

(ii) Duration: 30 to 40 seconds.

(iii) Speed at end: Intermediate speed.

(c) Determine if the linearity requirements of § 86.879–7 were met by means of the following procedure:

(1) For the acceleration mode specified in § 86.879–7(a)(2)(ii), note the maximum deflection of the rpm trace from a straight line drawn between the starting and ending points specified in paragraph (a)(3) of this section.

(2) For the lugging mode specified in § 86.879–7(a)(3)(ii), note the maximum deflection of the rpm trace from a straight line drawn from the starting and ending points specified in paragraph (a)(7) of this section.

(3) The test results will be invalid if any deflection is greater than 100 rpm.

(d) Analyze the smoke trace by means of the following procedure:

(1) Starting at the beginning of the first acceleration, as defined in paragraph (a)(2) of this section, and stopping at the end of the second acceleration, as defined in paragraph (a)(3) of this section, divide the smoke trace into ½-second intervals. Similarly, subdivide into ½-second intervals the third acceleration mode and the lugging mode as defined by paragraphs (a)(5) and (7) respectively, of this section.

(2) Determine the average smoke reading during each ½-second interval.

(3) Locate and record the 15 highest ½-second readings during the acceleration mode of each dynamometer cycle.

(4) Locate and record the five highest ½-second readings during the lugging mode of each dynamometer cycle.

(5) Examine the average ½-second values which were determined in subparagraphs (3) and (4) of this paragraph and record the 3 highest values for each dynamometer cycle.

§ 86.879–14 Calculations.

(a) Average the 45 readings in § 86.879–13(d)(3) and designate the value as "A".

(b) Average the 15 readings in § 86.879–13(d)(4) and designate the value as "B".

(c) Average the 9 readings in § 86.879–13(d)(5) and designate the value as "C".

20. The title to Subpart J is revised to read as follows:

Subpart J—Emission Regulations for New 1977 and 1978 Model Year Diesel Heavy-Duty Engines; Gaseous Exhaust Test Procedure

21. Section 86.977–1 is revised to read as follows:

§ 86.977–1 General applicability.

The provisions of this subpart apply to new 1977 and 1978 model year Diesel heavy-duty engines.

(Secs. 202, 206, 207, 208, 301(a), Clean Air Act, as amended (42 U.S.C. 7521, 7525, 7541, 7542, 7601, formerly 42 U.S.C. 1857f–1, 1857f–5, 1857f–5a, 1857f–6, 1877g(a) which was reclassified by 91 Stat. 685 (August 7, 1977)).)

[FR Doc.77–25747 Filed 9–7–77;8:45 am]

federal register

THURSDAY, SEPTEMBER 8, 1977

PART IV

DEPARTMENT OF TRANSPORTATION

■

PROCUREMENT REGULATIONS

Revision

Title 41—Public Contracts and Property Management

CHAPTER 12—DEPARTMENT OF TRANSPORTATION

[OST Docket No. 19]

PROCUREMENT REGULATIONS

Revision

AGENCY: Department of Transportation.

ACTION: Final rule.

SUMMARY: The purposes of this document are to: (1) revise and update the Department of Transportation Procurement Regulations (DOTPR) to bring them into line with the Federal Procurement Regulations (FPR), no substantive change being intended; and (2) add a new Part and a Supplement, both concerning Government Property, which, in the absence of comparable FPR coverage, constitute DOT supplementation of the FPR.

EFFECTIVE DATE: September 8, 1977.

FOR FURTHER INFORMATION CONTACT:

H. E. Tetirick, Chief, Procurement Management Division, Office of Installations and Logistics, Department of Transportation, Washington, D.C. 20590 (202-426-4237).

SUPPLEMENTARY INFORMATION: With the exception of the new Part 12-70 and the new supplement 1, discussed below, this update of the DOTPR consists primarily of editorial and administrative additions and deletions to bring the DOT PR into consonance with current FPR coverage; hence, this revision does not promulgate new substantive policy. Where coverage of any subject may now be found in the FPR, previous DOTPR coverage has simply been revoked. Coverage on the subjects of Value Engineering and Classified Material has been updated to current Armed Services Procurement Regulation coverage. For these reasons, and for the additional reason that this material concerns public property and contracts, it is being published without notice and opportunity for public comment and being made effective upon publication in the FEDERAL REGISTER.

The new Part 12-70 and the new Supplement 1 on which public comment was invited (42 FR 5324, January 27, 1977) and received established for the Department a uniform system for the provision, use, control, accounting and disposition of Government property used by contractors in connection with the performance of work under DOT contracts. The regulations prescribe policies, procedures, authorities, and responsibilities as necessary to effectuate such a system, with respect to both the preaward and postaward phases of contracting. Part 12-70 contains directive material applicable to DOT contracting personnel, whereas Supplement 1 is applicable to those DOT contractors that are provided Government property.

The regulations were developed in response to a demonstrated need for such directives within the Department. In the absence of a prescribed Departmental system, the contractual and administrative aspects associated with Government-provided property have not been accorded uniform treatment by the various procurement activities of the Department. By the same token, there has been a lack of consistency in the requirements levied on DOT contractors with respect to the control and accountability of Government property. With regard to the matter of consistency, it is recognized that many contractors presently utilize Government property procedures established by other Federal agencies, particularly the Department of Defense (DOD), the National Aeronautics and Space Administration (NASA), and the Department of Health, Education, and Welfare.

Accordingly, in developing these regulations the existing procurement regulations of such agencies were used as guidelines. In some subject areas the DOTPR coverage is identical to that found in the regulations just cited, while in other areas the coverage of a particular subject is modified or condensed to accommodate DOT's specific needs. Additionally, pertinent provisions of the FPR and the Federal Property Management Regulations have been referenced where appropriate.

As previously indicated, the new Part 12-70 provides direction to DOT contracting personnel. Within this part are set forth policies, procedures, authorities, and responsibilities relative to the following general subjects:

(1) Furnishing Government material to contractors;

(2) Providing Government facilities to contractors;

(3) Use of Government facilities in the possession of contractors or subcontractors;

(4) Property administration;

(5) Vesting of title to equipment under research contracts; and

(6) Disposition of excess and residual contract inventory. Supplement 1 (the manual) sets forth the basic requirements to be followed by contractors in establishing and maintaining control over Government property. It will be incorporated by reference in all contracts under which Government property is provided to contractors, and be made available to each such contractor. Within this manual are contained procedures and responsibilities relative to the following general subjects:

(1) Contractor's assumption of, and relief from, responsibility for Government property;

(2) Records of Government property to be maintained by the contractor;

(3) Identification of Government property;

(4) Conduct of physical inventories;

(5) Care, maintenance, and utilization of Government property;

(6) Passage of title to equipment under research contracts; and

(7) Reports to be provided to the Government.

In response to the notice of proposed rulemaking (42 FR 5324, January 27, 1977), a number of substantive comments were received. After careful consideration, the Department believes none of them should be adopted for the reasons stated below. The proposal, therefore, is being adopted without change, except as explained below:

1. *Comment.* The regulations as written are contrary to the principles established by Office of Management and Budget (OMB) Circular A-21 (Federal Management Circular (FMC) 73-8), OMB Circular A-110, and Cost Accounting Standards.

Response. There is no conflict between the regulations cited in this comment and the DOTPR's. FMC 73-8 and the Cost Accounting Standards pertain solely to cost principles and contractor cost accounting standards, and the DOTPR's do not affect or have an impact on such principles and standards. With respect to OMB Circular A-110, contracts which are awarded and administered under Federal procurement laws and regulations are specifically exempted from the requirements of OMB Circular A-110.

2. *Comment.* Proposed regulations would increase record keeping costs far more than any benefits derived by maintaining detailed records of items costing between $50 and $200.

Response. This comment implies that items under $200 should not be included in the contractor's property records. Exclusion of such items would be inconsistent with the general requirement that accountability be maintained for Government property. In the case of contractor-held property, this requirement is satisfied by having the necessary property records maintained by the contractor rather than by the Government. The standard Government Property clause, which is required to be included in contracts involving Government property, makes the contractor responsible for and accountable for all Government property in his possession and obligates him to maintain records of all such property. The record keeping requirements set forth in the DOTPR are consistent with generally accepted practices and we feel they are not unreasonable.

3. *Comment.* The definition for Materials in § 12-70.101 and Supplement S-101 also includes nonexpendable items with a unit cost of less than $50 unless the Government designates any such items to be classified as plant equipment.

Recommendation. The inclusion of nonexpendable items is at variance with the definitions established by DOD, NASA, and other Government agencies. This variance causes contractors engaged in work for these other agencies to set up different criteria and classification for such items under DOT contracts. It is recommended this be stricken from the definition.

Response. Not adopted. While DOT's definition of Materials is slightly differ-

ent from that of DOD/NASA, it is not a different or additional "classification" of property. The purpose of the $50 figure in the DOT definition is to prescribe an amount below which items of a nonexpendable nature may be accounted for by the contractor as material (i.e., consumable) rather than as equipment. This provides for a more precise definition, which we believe to be an improvement over the DOD/NASA definition. In practice, this definition works to the advantage of the contractor in that it simplifies record keeping by reducing the number of items that have to be accounted for as equipment.

4. *Comment.* Section 12–70.503(d) provides that only the Contracting Officer is permitted to relieve a contractor of responsibility for loss, damage, destruction, etc. This section and § 12–70.505 (Responsibilities of the Property Administrator) and S1–502 (Reporting Results of Annual Inventories) do not give the Property Administrator any authority to approve "losses." Physical inventories of materials consisting of any significant number of line items and/or units will very likely require record adjustments to shortages as well as overages disclosed by the inventory. Inventory shortages do not necessarily represent a true "loss" of property. In most cases it is only a variance between the record and the count at a point in time by reason of a cause such as a clerical error or a missing document.

Recommendation. Give the Property Administrator authority to relieve the contractor of responsibility for normal inventory shortages and for other losses which are not due to any negligence.

Response. Not adopted. The Property Administrator is responsible for determining whether an inventory shortage represents a true "loss" of property. However, once a true loss has been established, it is our judgment that only the Contracting Officer should have the authority formally to relieve the contractor of responsibility for such a loss. We believe that determinations of contractor liability are of sufficient importance and complexity as to require action by the Contracting Officer. It should also be pointed out that this is an internal procedural matter which poses no additional burden on the contractor.

5. *Comment.* Definitions in Supplement S–101 include the following property categories which are peculiar to DOT and not compatible with agencies such as DOD and NASA:

(c) Capital property.

(d) Capitalized equipment—Nonexpendable items with a unit acquisition cost of $200 or more.

(k) Noncapitalized equipment—Nonexpendable items with a unit acquisition cost of $50 to $199.

(j) Material—Includes noncapitalized equipment with a unit cost of less than $50.

These differences in categorization cause contractors engaged in work with various Government agencies to establish multiple categories and so add to administrative costs.

Recommendation. Establish definitions and categories which are consistent with the Armed Services Procurement Regulation (ASPR) and that the terms "capital" and "capitalized" be changed to some other designation.

Response. Not adopted. While these DOT property categories are titled differently from comparable DOD/NASA categories, they are not incompatible and do not constitute additional or different categories. The basic difference is that we have included dollar limitations within each definition, which provides for a more precise definition and which we feel is an improvement over DOD/NASA.

6. *Comment.* Supplement S1–202 requires the transmittal of receipted Government transfer documents to the Property Administrator.

Recommendation. This should not be a requirement except only in those instances when needed by the Property Administrator since records maintained by the contractor are utilized as the official contract records.

Response. Not adopted. Existing Federal regulations require that the value of contractor-held property be reflected in the Government's financial property accounts. While the records maintained by the contractor are considered to be the official contract property records, these records do not satisfy the requirement for Government-maintained financial accounts. In order to maintain these accounts on a current basis, it is essential that pertinent transaction documents be provided to the DOT accounting offices. Since these documents are already available to the contractor, it does not impose an unreasonable burden on the contractor to furnish them to the Government.

7. *Comment.* The requirement in Supplement S1–203 to submit itemized reports of purchases or fabrications of capital property is impractical and burdensome to a contractor. Since records established and maintained by a contractor are designated and utilized as the official contract records, it should not be necessary to itemize along with application for payment. An approved system would support acquisitions with appropriate records and files of acquisition documents.

Recommendation. The paragraph should be changed to read that the contractor shall maintain records and documents which support his application for payment.

Response. Not adopted. Response made to preceding comment applies.

8. *Comment.* Supplement S1–501 requires an annual inventory of capital property and of noncapitalized equipment.

Recommendation. This part should be revised to require a periodic inventory of these classes in accordance with the frequency determined necessary by the Property Administrator. That frequency should be the same as that approved by other Government agencies having prime cognizance over the contractor's property control system.

Response. Not adopted. We feel that annual physical inventories are necessary to maintain proper control and accounting of contractor-held Government property, and are not an unreasonable requirement. Establishment of a uniform policy assures consistent treatment of all DOT contracts and contractors, and relieves Property Administrators of the burden of making judgmental decisions on a case-by-case basis.

9. *Comment.* Supplement S1–503 requires a final inventory submission within 30 days after completion or termination. This is unrealistic.

Recommendation. Change the requirement to 90 days after completion or termination.

Response. Not adopted. If a contractor has consistently complied with the property administration requirements of the contract, then submission of final inventory reports within 30 days is generally realistic. However, if unusual circumstances exist, the DOTPR specifically provides for an extension of this time upon request.

There is one change from the proposal, prompted not by any comments but by the general DOTPR revision also being accomplished by this document. Section 12–70.901 references various sections of the DOTPR which concern specific contract clauses. The DOTPR revision has changed the section numbers to be referenced and eliminated one of the referenced sections. Section 12–70.901 has been changed accordingly.

In the interest of consistency (since the rest of the DOTPR is being made effective September 8, 1977) and for the additional reason that this material also relates to public property and contracts, although notice and opportunity for public comment were provided, this coverage is also effective September 8, 1977.

Authorship. The persons principally responsible for this document are:

PROGRAM

H. E. Tetirick, Chief, Procurement Management Division, Office of Installations and Logistics.

LEGAL

W. Lawrence Hollar, Office of the General Counsel.

In consideration of the foregoing, Chapter 12 of Title 41, Code of Federal Regulations, is revised to read as set forth below. Issued in Washington, D.C., on August 15, 1977.

EDWARD W. SCOTT, Jr.,
Assistant Secretary for Administration.

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AUTHORITY: Sec. 205(c), 63 Stat. 389; 40 U.S.C. 486(c), 10 U.S.C. 2301-2314.

Subpart 12-1.0—Regulation System

§ 12-1.001 Scope of subpart.

This subpart describes the Department of Transportation Procurement Regulations in terms of establishment, authority, applicability, issuance, arrangement, implementation and supplementation of the Federal Procurement Regulations, Office of the Federal Procurement Policy Regulations, exclusions, and deviation procedure.

§ 12-1.002 Purpose.

(a) This subpart establishes Chapter 12, Department of Transportation Procurement Regulations (DOTPR), implementing and supplementing the Federal Procurement Regulations (FPR), and states its relationship to the FPR.

(b) The FPR, as implemented and supplemented by Chapter 12 (DOTPR), are the authorized regulations governing the procurement of supplies and services (including construction and concessions) and the procurement of real property by lease by the Department of Transportation.

§ 12-1.003 Authority.

The DOTPRs are prescribed pursuant to the authority of section 205(c) of the Federal Property and Administrative Services Act of 1949.

§ 12-1.004 Applicability.

These regulations apply to all Department of Transportation procurements, unless otherwise specified.

§ 12-1.005 Exclusions.

(a) Certain Department of Transportation procurement policies and procedures which come within the scope of this Chapter 12 nevertheless may be excluded when there is appropriate justification, such as:

(1) Subject matter which bears a security classification.

(2) Policies or procedures which are expected to be effective for a period of less than six months.

(3) Policies and procedures which are effective on an experimental basis for a reasonable period.

§ 12-1.006-1 Code arrangement.

DOTPR which implement, supplement or deviate from the FPR (Chapter 1 of Title 41 of the Code of Federal Regulations) and have an impact upon the public will be published as Chapter 12 of Title 41, Code of Federal Regulations.

§ 12-1.006-2 Publication.

Chapter 12 of Title 41, Code of Federal Regulations will be published in the FEDERAL REGISTER, in cumulative form in the Code of Federal Regulations, and in separate looseleaf form on blue paper. The looseleaf form is designed to permit interleaf into the FPR.

§ 12-1.006-3 Copies.

Copies of the DOTPR in the FEDERAL REGISTER and in the Code of Federal Regulations may be purchased by Federal agencies and the public, at nominal cost, from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. Looseleaf copies of Chapter 12 will be distributed to the Department of Transportation activities as authorized by the Director of Installations and Logistics, Office of the Secretary of Transportation.

§ 12-1.006-4 Coordination.

In the development of the DOTPR, the views of the Operating Administrations of the Department of Transportation will be solicited. Public notice of changes or additions to the DOTPR will be published in the FEDERAL REGISTER before issuance, when appropriate.

§ 12-1.007-1 General plan.

The DOTPR employ the same numbering system and nomenclature used in the FPR, and conform with FEDERAL REGISTER standards approved for the FPR, except that material published in looseleaf form which is not published in Title 41, Code of Federal Regulations will be indicated by the letters "DOT" preceding and following the material.

§ 12-1.007-2 Numbering.

(a) Where the DOTPR implement a part, subpart, section or subsection of the FPR, the implementing part, subpart, section or subsection of DOTPR will be numbered (and captioned) to correspond to the part, subpart, section, or subsection of the FPR.

(b) Where the DOTPR supplement the FPR, the number 50 and up will be assigned to the parts, subparts, or sections involved.

(c) Where the subject matter contained in a part, subpart, section, or subsection of FPR requires no implementation, the DOTPR will contain no corresponding parts, subpart, section, or subsection number and the subject matter as published in the FPR governs.

§ 12-1.007-3 Citation.

DOTPR will be cited in accordance with FEDERAL REGISTER standards approved for the FPR. For example, this section, when referred to in the DOTPR, may be cited as "12-1.007-3". Any section of these regulations may be informally identified for purposes of brevity, as DOTPR, followed by section number; i.e., "DOTPR, 12-1.007-3".

§ 12-1.008 Implementation.

(a) The DOTPR implement and supplement the FPR. Implementing material is that which expands upon related FPR material. Supplementing material is that for which there is no counterpart in the FPR.

(b) The DOTPR may in turn be implemented and supplemented by regulations issued by the following, using the letter suffix indicated:

Issuing organization:	Letter suffix
Federal Aviation Administration	12A [1]
Coast Guard	12B
Federal Highway Administration	12C
Federal Railroad Administration	12D
St. Lawrence Seaway Development Corp	12E
Office of Administrative Operations, OST	12F
Urban Mass Transportation Administration	12H
National Highway Traffic Safety Administration	12I
Transportation Systems Center	12J

[1] i.e., 12A-1.008(b).

(c) The Administrations and their subordinate organizations shall not issue instructions, including directives, regulations, contract forms, contract clauses, policies, or procedures implementing the DOTPR or covering the procurement of supplies or services or the administration of contracts for such supplies or services, unless permitted by one of the following and consistent with paragraph (d) of this section:

(1) Internal procurement management instructions such as designations and delegations of authority, assignments of responsibilities, work flow procedures, and internal reporting requirements;

(2) Any special contract clause of a non-repetitive nature designed specifically to accomplish the peculiar requirements of an individual procurement, provided a clause relating to the subject is not set forth in this regulation;

(3) A variation of any contract clause which is set forth in this regulation but not for use verbatim, provided that such variation is not inconsistent with the intent, principle and substance of the DOTPR clause or related coverage of the subject matter;

(4) Procurement procedures specifically identified as being essential for carrying out the peculiar needs of an Administration when authorized by the head of the agency, or his designee, and notification is given to OST/TAD-60 prior to such authorization for the purpose of determining whether such procedures should be included in this regulation;

(5) Procurement instructions specifically identified as being essential for carrying out the peculiar needs of overseas commands of the Coast Guard, authorized by the Commandant of the Coast Guard (or his designee) and notification is given to OST/TAD-60

prior to such authorization for the purpose of determining whether such instructions should be included in this regulation;

(6) Material determined by OST/TAD–60 to be inappropriate for DOTPR coverage, but appropriate for inclusion in Administration publications.

(d) Instructions issued in accordance with paragraph (c) of this section shall not contain material which duplicates, is inconsistent with, or increases or restricts the use of, any authority contained in this regulation.

(e) Each Administration shall screen all existing instructions as well as those subsequently issued pursuant to paragraph (c) of this section and (d) above to assure strict compliance with this paragraph, and for the purpose of determining if the subject matter is appropriate for inclusion in this regulation.

(f) Each Administration shall furnish to OST/TAD–60 one copy of each Administration procurement instruction issued in accordance with paragraph (c) of this section.

(g) Regulation implementing and supplementing the DOTPR will not be published in the FEDERAL REGISTER. Any such regulations which are deemed to have an impact on the general public, and any regulations which establish procurement policy, will be reserved for OST publication as DOTPR, Chapter 12.

(h) Those FAA Procurement Regulations which supplement the DOTPR, and which are basically instructional in nature, may be retained until they are superseded by comparable material published by the Office of the Secretary.

§ 12–1.009 Deviations.

§ 12–1.009–2 Procedure.

(a) In the interest of establishing and maintaining uniformity to the greatest extent feasible, deviations from the FPR and DOTPR will be authorized only when essential to effect necessary procurement or where special circumstances make such deviations clearly in the best interest of the Government.

(b) Requests for authority to deviate from the provisions of the FPR or the DOTPR shall be submitted as far in advance as the exigencies of the situation will permit. Each request for deviation shall contain the following:

(1) A clear statement of the deviation desired, including identification of the specific paragraph number(s) of the FPR or DOTPR.

(2) The reason why the deviation is considered necessary or would be in the best interests of the Government.

(3) If applicable, the name of the contractor and identification of the contract affected.

(4) A statement as to whether the deviation has been requested previously and, if so, circumstances of the previous request.

(5) A description of the intended effect of the deviation.

(6) A statement of the period of time for which the deviation is needed, and

(7) Any pertinent background information which will contribute to a full understanding of the desired deviation.

(c) Deviations from the FPR and DOTPR involving a single contract or procurement may be authorized by the Administrators of the Federal Aviation Administration, Federal Highway Administration, Federal Railroad Administration, St. Lawrence Seaway Development Corp., Urban Mass Transportation Administration, National Highway Traffic Safety Administration, and the Commandant of the Coast Guard, and each with the power of redelegation. For procurements processed by the Transportation Systems Center and Office of Administrative Operations (OST), deviations may be authorized by the Assistant Secretary for Administration, with the power of redelegation. A copy of each authorized deviation shall be sent to the Director of Installations and Logistics.

(d) Request for deviations from the FPR or DOTPR affecting more than one contract or contractor shall be forwarded to the Director of Installations and Logistics. Requests involving deviations from the FPR will be considered jointly by the Department and the General Services Administration, unless, in the judgment of the Assistant Secretary for Administration, after due consideration of the objective of uniformity and program responsibility of the Department, circumstances preclude such joint effort. In such cases, the Assistant Secretary for Administration will approve such class deviations as he determines necessary and will appropriately notify the General Services Administration.

§ 12–1.010 Interagency Procurement Policy Committee.

The Director of Installations and Logistics, OST has been designated the representative for the Department of Transportation on the Interagency Procurement Policy Committee.

Subpart 12–1.2—Definition of Terms

§ 12–1.204 Head of the agency.

"Head of the agency" means the Secretary and the following assistant chief officials: the Deputy Secretary, the Assistant Secretary for Administration; and for procurements within their Administrations, the Administrators of the Federal Aviation Administration, Federal Highway Administration, Federal Railroad Administration, Urban Mass Transportation Administration, National Highway Traffic Safety Administration, St. Lawrence Seaway Development Corp., and the Commandant, U.S. Coast Guard and the Director, Transportation Systems Center.

§ 12–1.206 Head of the procuring activity.

The following officials have been designated as "head of the procuring activity":

(a) In the Office of the Secretary—

(1) The Chief, Procurement & Supply Division, Transportation Systems Center, Cambridge, Mass.

(2) The Chief, Procurement Operations Division, Washington, D.C.

(b) In the Federal Aviation Administration—

(1) The Director, Logistics Service, Washington, D.C.

(2) The Director, Metropolitan Washington Airport Service, Gravelly Point, Va.

(3) The Director, Alaskan Region, Anchorage, Alaska.

(4) The Director, Western Region, Los Angeles, Calif.

(5) The Director, Southern Region, Atlanta, Ga.

(6) The Director, Pacific Region, Honolulu, Hawaii.

(7) The Director, Central Region, Kansas City, Mo.

(8) The Director, Eastern Region, New York, N.Y.

(9) The Director, Southwest Region, Fort Worth, Tex.

(10) The Director, Aeronautical Center, Oklahoma City, Okla.

(11) The Director, National Aviation Facilities Experimental Center, Atlantic City, N.J.

(12) The Director, New England Region, Burlington, Mass.

(13) The Director, Great Lakes Region, Des Plaines, Ill.

(14) The Director, Rocky Mountain Region, Denver, Colo:

(15) The Director, Northwest Region, Seattle, Wash.

(c) For the Coast Guard, the Comptroller of the Coast Guard, Washington, D.C.

(d) For the Federal Highway Administration, the Associate Administrator for Administration, Washington, D.C.

(e) For the National Highway Traffic Safety Administration, the Associate Administrator for Administration, Washington, D.C.

(f) For the Federal Railroad Administration, the Associate Administrator for Administration, Washington, D.C.

(g) For the St. Lawrence Seaway Development Corporation, the Director, Office of Procurement and Supply, Massena, N.Y.

(h) For the Urban Mass Transportation, the Director, Office of Procurement and Third Party Contract Review, Washington, D.C.

§ 12–1.250 Administration.

"Administration" means the Federal Aviation Administration, the Federal Highway Administration, the Federal Railroad Administration, the Urban Mass Transportation Administration, the Coast Guard, the St. Lawrence Seaway Development Corp., and the National Highway Traffic Safety Administration. The term "Administration" also includes the Transportation Systems Center, and the Office of Administrative Operations of the Office of the Secretary. The term "Administration" as used, for example, in the phrase "in accordance with Administration procedures" would include the foregoing organizations, unless the paragraph states otherwise.

§ 12–1.251 Procurement office.

"Procurement office" means an office with a designated contracting officer with authority to enter into contracts over $10,000 in value.

§ 12–1.252 Change order.

"Change order" means a unilateral written order signed by the contracting officer, and issued to a contractor pursuant to the Changes clause of the contract.

§ 12–1.253 Supplemental agreement.

"Supplemental agreement" means any contract modification or contract amendment which is accomplished by mutual action of the parties.

§ 12–1.254 Shall.

"*Shall*" is imperative.

§ 12–1.255 May.

"*May*" is permissive. However, the words "no person may * * *" mean that no person is required, authorized, or permitted to do the act proscribed.

Subpart 12–1.3—General Policies

§ 12–1.302–3 Contracts between the Government and Government employees or business concerns substantially owned or controlled by Government employees.

Unless a higher authority is specified within an Administration, heads of procuring activities are authorized to except individual contracts from the policy against awarding contracts to Government employees or business concerns substantially owned or controlled by Government employees. Each such exception shall be evidenced by a written determination signed by the head of the procuring activity, setting forth the facts in sufficient detail to demonstrate that the exception is being granted for the most compelling reasons, and attaching any supporting documentation. A copy of each such determination, with attachments, shall be forwarded to the Director of Installations and Logistics, OST.

§ 12–1.305–3 Deviations from Federal specifications.

(a) Each Administration shall designate an official to carry out the responsibilities set forth in FPR 1–1.305–3. One copy of each such designation shall be forwarded to the Director of Installations and Logistics, OST.

(b) Whenever a notification or recommendation for a change in a Federal Specification is submitted to the General Services Administration, as provided in FPR 1–1.305–3(b)(5), an information copy shall be forwarded to the Director of Installations and Logistics, OST. Similarly, the Director of Installations and Logistics shall be advised any time the General Services Administration disapproves a deviation from a Federal Specification.

§ 12–1.305–50 Index to Federal and Department of Defense Specifications and Standards.

The "Index of Federal Specifications and Standards" and the "Department of Defense Index of Specifications and Standards" are issued annually with periodic supplements. These indexes contain general information pertaining to their use and the availability of other Government specifications.

§ 12–1.306–1 Mandatory use and application of Federal Standards.

Whenever a request for an exception to the use of a Federal Standard is submitted to the General Services Administration, an information copy of the submission and GSA's response shall be forwarded to the Director of Installations and Logistics, OST.

§ 12–1.307–5 Limitations on use of "brand name or equal" purchase description.

Purchase descriptions containing the phrase "or equal" shall not be used as a device to grant an advantage to particular manufacturers by favoring one product over other products, or to substantiate a determination that no other manufacturer's products are equal in quality and performance to the products specifically named. Where a proper determination has been made that only one supplier can furnish the required item or items, the procurement will be accomplished by negotiation in accordance with FPR Part 1–3.

§ 12–1.311 Priorities, allocations and allotments.

The programs of the Coast Guard and certain programs of the Federal Aviation Administration are defense-related programs to which the priorities and allocations regulations apply. Rateable contracts and purchase orders shall contain the clause set forth in DOTPR 12–7.150–3 and the appropriate DO or DX rating (and the appropriate allotment number if the order calls for authorized controlled materials) in accordance with the provisions of DMS [Defense Materials System] Regulation 1 and BDSA Regulation 2. These regulations are available from the Business and Defense Services Administration of the Department of Commerce.

§ 12–1.313 Records of contract actions.

(a) In compliance with the requirements of FPR 1–1.313, each procurement office shall maintain for each procurement exceeding $10,000 a contract file containing a comprehensive record of all pre-award and post-award actions and other data. Adherence to this policy will require the assembly of either the original or a copy of all documents pertaining to the procurement in a file consisting of one or more folders. It will also require documentation for the record of all understandings, oral agreements, and any other facts or information pertinent to the transaction. It is left to the discretion of the procurement official to determine the manner in which unwritten matters are documented. However, it would be expected, for example, that those of a complex nature would be carefully documented by typewritten "memorandum for the record", while routine data might be recorded by a handwritten notation in the file. Photographs should be employed wherever they will serve to effectively document pertinent contract matters.

(b) Complete documentation will permit ready reconstruction of all stages of the transaction in order to:

(1) Support actions taken by various personnel in the procurement cycle.

(2) Provide information for internal management review and for reviews by the General Accounting Office.

(3) Supply data for use in preparing replies to legitimate inquiries.

(4) Furnish essential facts in the event of litigation.

(c) Small purchase records shall be maintained in accordance with FPR subpart 1–3.6 and DOTPR subpart 12–3.6.

§ 12–1.315 Use of liquidated damages provisions in procurement contracts.

§ 12–1.315–2 Policy.

(a) *Criteria for use.* (1) In proposed contracts involving an item where only a portion of the quantity ordered is for immediate programs, and liquidated damages provisions are considered to be necessary, care shall be taken to have the liquidated damages provisions apply only to the urgent quantity.

(2) The use of liquidated damages provisions should never be construed as relieving procurement officials of the obligation of establishing realistic delivery or performance schedules. Realistic delivery or performance schedules should be a prerequisite to the use of liquidated damages.

(3) Liquidated damages provisions generally should not be used:

(i) In contracts for supplies or services required for routine administrative purposes.

(ii) In contracts for standard commercial or "shelf items".

(iii) In any contract where time would permit the needs of the Department to be met by termination and reprocurement if the initial contractor defaults.

(iv) In small purchases.

(v) In study, experimental, development, or research contracts, including equipment contracts requiring developmental work.

(b) *Rate of assessment.* (1) Contracting officers must assure that the rate of liquidated damages stipulated for a given contract is a reasonable forecast of the Government's anticipated damages. A fixed formula, based on percentage of value, shall not be used to establish the rate of damages. The minimum amount of liquidated damages should be based on the estimated cost of inspection and

superintendence of each day of delay in completion. In addition, the following factors are examples of matters to be considered in establishing the rate of damages:

(i) The importance of the item in relation to the facility or project for which it is intended.

(ii) The relative importance of the item to the facility or project in the overall program of the Department.

(iii) Any rental of facilities necessitated by the delay in a construction completion date.

(iv) Cost of additional maintenance required on structures being replaced by contract items.

(v) Any unusual damages that can be anticipated.

(2) Unless it is clear that partial delivery will proportionately reduce the extent of probable damages, rates shall not be specified to be applicable to individual units of an item, but rather to quantities of an item or to groups of items which are required for delivery or completion at the same time. Rates should generally be expressed in terms of even dollars per day of delay.

(c) *Enforcement.* Where liquidated damages provisions are used, they shall be strictly enforced. In making partial or progress payments, deductions for damages should be made on the basis of the actual number of days of delay multiplied by the rate.

(d) *Termination.* If the contract is terminated, the contractor remains liable for liquidated damages that have accrued. Moreover, on a default termination, liquidated damages continue to accrue even after default, until the Department can reasonably obtain delivery of the supplies or performance of the service. This is in addition to any other rights of the Government to damages under default provisions for the excess costs of reprocuring the supplies or services of the terminated contract.

(e) *Remission.* An information copy of each submission to the Comptroller General of a recommendation for the remission of liquidated damages shall be forwarded to the Director of Installations and Logistics, OST.

§ 12–1.318 Disputes clause.

When a dispute cannot be settled by agreement and a decision under the Disputes clause is necessary, the contracting officer shall review the available facts pertinent to the dispute before making his final decision. When there is any doubt as to whether the issue in dispute is subject to the disputes procedure, a decision will be made pursuant to the Disputes clause. The disputes procedure shall not be invoked in cases when a dispute is clearly not subject to the procedure. The contracting officer shall obtain, from assigned legal and other advisors, such advice and assistance as is required to render a decision. However, the decision must be that of the contracting officer.

§ 12–1.318–50 Contracting officer's decision under the Disputes clause.

When a final decision of the contracting officer concerns a dispute that is or may be subject to the Disputes clause, the following paragraph shall be added to the paragraph contained in FPR 1–1.318–1:

The Department of Transportation Contract Appeals Board is the authorized representative of the Secretary in hearing, considering, and deciding such appeals. The rules of the Department of Transportation Contract Appeals Board are set forth in the Code of Federal Regulations (41 CFR 12–60 et seq.).

§ 12–1.318–51 Agreement after appeal is filed.

After an appeal has been filed, contracting agencies are encouraged to seek agreement as to disposition of the controversy. However, such efforts to dispose of a controversy shall not be conducted in lieu of formal board actions or hearings and shall not result in suspension of processing of an appeal, except as ordered or authorized by the Department of Transportation Contract Appeals Board.

§ 12–1.318–52 Payment after appeal is filed.

In the event of an appeal, the amount determined to be payable in the decision of the contracting officer, less any portion previously paid, normally should be paid in advance of any decision by the Board without prejudice to the rights of either party or the appeal.

§ 12–1.318–53 Implementation of decisions of the Contract Appeals Board.

(a) It is the policy of the Department of Transportation to take prompt action to effect payment in accordance with any decision of the Contract Appeals Board wholly or partially favorable to the appellant. If, however, an Administration believes such decision is "appropriate for review in court under prevailing statutory and judicial standards", it may recommend that action be taken to seek judicial review of the Board's decision. The recommendation shall be made to the DOT General Counsel who shall determine whether or not judicial review of the Board's decision will be sought. In the event that the DOT General Counsel determines that judicial review will be sought, the matter shall be referred to the Department of Justice and the appellant shall be promptly advised that payment in accordance with the Board's decision will not be made.

(b) In cases where the question of entitlement only has been decided by the Board and the matter of amount has been remanded to the parties for negotiation, if agreement is not reached the appellant will be afforded a prompt decision and an opportunity to appeal on the matter of amount.

§ 12–1.320 Subcontractor gifts and kickbacks.

Reports of suspected violations and action being taken shall be furnished to the Director of Installations and Logistics, OST.

§ 12–1.351 Contract number prefixes.

All contracts, exclusive of purchase orders, issued by the Department will be identified by a number of combination of letters and numbers, in accordance with Department Order 4220.1A (set forth in DOTPR Part 12–99).

§ 12–1.352 Industrial security.

(a) Pursuant to Executive Order 10865 (3 CFR, 1959–1963 Comp.) an agreement between the Department of Defense and the Department of Transportation was entered into on June 1, 1967, extending regulations prescribed by the Secretary of Defense under the Executive Order to apply to protect releases of classified information relating to DOT contracts and releases of other classified information which DOT has the responsibility for safeguarding. The Office of Investigations and Security, OST, has been designated as the Department of Transportation liaison for industrial security matters. The Defense Logistics Agency will perform all cognizant security office functions specified in, and will have the authority and responsibilities prescribed by, Deparment of Defense Industrial Security Regulations (ISR) (DOD 5220.22R) and Department of Defense Industrial Security Manual (DOD 5220.22M).

(b) Any DOT contract or prospective contract which would require access to classified information by the contractor or any of his employees in the bid, negotiation, award, performance, or termination of the contract, including clearances required for visit purposes, is considered to be a "classified contract" subject to the procedures of this section, even though the contract doument itself is unlassified.

(c) All proposed procurements shall be reviewed specifically to determine if access to classified information will be required by prospective contractors during the solicitation period or by a contractor at any time in the performance of the contract. If access to classified information will be required during the solicitation period, the security staff of the headquarters of the Administration, as designated in DOT Order 1640.4, dated 12/12/72 shall be advised immediately and furnished the list of firms to be solicited. Invitations for bid or requests for proposals shall not be issued until notification has been received from the appropriate security staff that the firms to be solicited have a valid facility security clearance. If access to classified information will not be required during the solicitation period but will be required during the performance of the contract, the invitation for bids or requests for proposals shall so state, and award shall only be made after the facility security clearance of the proposed contractor has been verified and approved by the appropriate security staff.

(d) Immediately upon the award of a classified contract, or in connection

with precontract negotiations, if appropriate, the contracting officer shall furnish a copy of DD Form 254, Contract Security Classification Specification, to the prime contractor.

(e) Any DOT contract, the performance of which will require access to classified information by the contractor or any of his employees, shall contain a security requirements clause. For classified contracts of the type cited in this regulation, the appropriate Military Security Requirements clause as set forth in this regulation shall be used. Other types of classified contracts shall contain the appropriate Military Security Requirements clause of Section VII of ASPR.

(f) The Industrial Security Program encompassed by the publications cited in (a) applies only to contracts involving access to classified information which are performed within the United States, its territories, Puerto Rico and Canada. Offices which may wish to let classified contracts for performance outside the United States, its territories, Puerto Rico or Canada shall consult with their appropriate security staff.

§ 12–1.353 Variation in quantity.

(a) To the extent that a variation in quantity is caused by any of the conditions specified in the Variation in Quantity clause in FPR 1–7.102–4, the varied quantity may be accepted only to the extent specified in the contract. The Extent of Quantity Variation clause in DOTPR 12–7.102–450, or a substantially similar clause, shall be used for this purpose. The acceptable variation stated in the Extent of Quantity Variation clause shall be stated as a percentage of the required quantity, and may be an increase, a decrease, or combination of both. There should be no standard or usual percentage or variation. The variation in quantity permitted in any procurement should be based upon the normal commercial practices of the particular industry for the particular items, and the permitted percentage should be no larger than is necessary to afford a contractor reasonable protection against the conditions specified in the Variation in Quantity clause. In no event may the acceptable variation exceed plus or minus 10 percent. The clause set forth in DOTPR 12–7.102–450 may be included in the contract only when one or more of the conditions specified in the Variation in Quantity clause is foreseeable at the time of solicitation in the case of an advertised procurement, or at the time of award in the case of a negotiated procurement.

(b) Consideration shall be given to the quantity to which the percentage variation applies. For example, when it is contemplated that delivery will be made to multiple destinations and it is desired that the quantity variation extend to the item quantity for each destination, this requirement must be set forth with particularity. Similarly, when it is desired that the quantity variation extend to the total quantity of each item and not to the quanity for each destination, it may be desirable to express a percentage limitation for each destination to prevent unrealistic distribution of any increase or decrease.

§ 12–1.354 Standards of conduct.

All government personnel engaged in procurement and related activities shall conduct business dealings with industry in a manner above reproach in every respect. Transactions relating to expenditure of public funds require the highest degree of public trust to protect the interests of the Government. While many Federal laws and regulations place restrictions on the action of government personnel, the latter's official conduct must, in addition, be such that the individual would not be reluctant to make a full public disclosure thereof. DOT reglations on Employee Responsibilities and Conduct are set forth in the Department of Transportation regulations (49 CFR Part 99).

§ 12–1.355 Breakout of component items.

(a) Consideration shall be given to the breakout of component items (including services) of an end product for separate procurement whenever the possibility exists that such breakout would be both economical and practicable.

(b) Breakout decisions will be based largely on the degree and significance of the probable risks to quality, performance, reliability, timely delivery of the end item, and on the estimated overall cost savings. The following factors should be considered in determining whether to procure component items of an end product separately;

(1) In the case of sole source procurement of the end product, whether there is another source capable of supplying the component.

(2) Whether breakout will result in significant net cost savings.

(3) Whether breakout would cause over-fragmentation of the end item, and thereby materially impede administration and performance of the end item contract and identification of the cause of any end item failure.

(4) Whether the design of the component (and the design of the end item insofar as it will affect the component) is sufficiently stable that further design or engineering effort by the end item contractor in respect to the component is unlikely to be required.

(5) Whether any problems of quality control and reliability of the component can be resolved without requiring effort by the end item contractor.

(6) Whether breakout can be accomplished without jeopardizing delivery requirements of the end item.

(c) Support parts which are to be stocked as separate items should be considered for separate procurement, as should such required services as installation services or contractor-conducted instruction courses. Component items of an equipment system (such as common test equipment) which are to be physically separate from the basic equipment and which will require no modification or installation as an integral part of a more complex system or component, shall be procured separately unless separate procurement is found to be not economical or practicable.

§ 12–1.356 General procurement policy—Departmental orders.

DOT policy on selected subjects related to procurement matters is set forth in the Departmental orders contained in DOTPR Part 12–99.

Subpart 12–1.4—Procurement Responsibility and Authority

§ 12–1.402–50 Contracting officer's representatives.

(a) A contracting officer may designate Government personnel to act as his authorized representatives for such functions as inspection, approval of shop drawings, testing, approval of samples and other functions of a technical nature not involving a change in the scope, price, terms or conditions of the contract or order. Such designation shall be in writing and shall contain specific instructions as to the extent to which the representative may take action for the contracting officer, but will not contain authority to sign contractual documents. The responsibilities and limitations of the contracting officer's representatives may be set forth in the contract or in a separate letter, a copy of which shall be furnished to the contractor.

(b) A person assigned to and performing his primary duty within a procurement office, and who is under the supervision of a contracting officer, does not require designation as a representative to perform his assigned duties. Such a person is considered to be an employee of the contracting officer, acting in his behalf and as such has the authority to perform acts as assigned by the contracting officer. The contracting officer cannot, without delegating contracting officer authority, authorize his employees to sign any contract document or letter where the signature of a contracting officer is required.

§ 12–1.450 Responsibility of procurement personnel to question requirements and reaffirm their validity.

(a) Procurement personnel have a responsibility to question any contemplated procurement action which appears inconsistent with their knowledge of commodities, markets, prices and normal processes of doing business, or inconsistent with the authority of the requisitioner.

(b) When the award of a proposed procurement has been prolonged over an extended period of time or when during the processing of the procurement, matters are disclosed which give rise to questioning the magnitude of or necessity for the requirement, procurement personnel should reaffirm the validity of the requirement before award of contract.

Subpart 12–1.5—Contingent Fees

§ 12–1.508–3 Misrepresentation or violations of the covenant against contingent fees.

The views of the Office of the General Counsel, OST, shall be obtained prior to the referral of a case to the Department of Justice.

Subpart 12–1.6—Debarred, Suspended, and Ineligible Bidders

§ 12–1.602 Establishment and maintenance of a list of concerns or individuals debarred, suspended, or declared ineligible.

The Federal Aviation Administration is delegated authority to compile, print, and distribute on a Department-wide basis, the Department of Transportation Consolidated List of Debarred, Ineligible, and Suspended Contractors. Refer to Departmental Order DOT 4200.5 dated January 15, 1968, contained in DOTPR 12–99.

§ 12–1.604–1 Procedural requirements relating to the imposition of debarment.

(a) Administrative debarment by the Department shall be initiated within each Administration or OST in accordance with the procedures set forth in FPR 1–1.604–1. The written notice required by FPR 1–1.604–1 shall be signed by the head of the agency. Where no hearing on the basis of either oral testimony or a written statement is requested by the concern or individual sought to be debarred, debarment may be imposed by the head of the agency and shall be applicable to the entire Department. Where a hearing is properly requested, the debarment, if any, shall be imposed by the Secretary upon recommendation of the Chairman of the Department of Transportation Contract Appeals Board (DOTCAB), and shall be similarly applicable to the entire Department.

(b) The written notice of proposed debarment to be furnished in accordance with FPR 1–1.604–1 shall, in addition to the requirements specified therein, apprise the concern or individual that if such party desires to present information, either in person or in writing, in opposition to such action, at a hearing, (1) a request therefor is to be made to the Chairman of the DOTCAB by that party within 20 days following receipt of the notice of the proposed debarment, and (2) the request for a hearing is to be accompanied by a statement setting forth the grounds upon which the proposed debarment will be contested. In addition, the notice shall be include a notification that debarment, if imposed, shall be applicable throughout the Department. The notice shall be sent by registered or certified mail, return receipt requested, to the last known address of the concern or individual, but where actual or personal delivery is not effected by the Postal Service, a debarment may be imposed by the head of the agency; but any such debarment shall, upon the submission of an appropriate application, be subject to reopening and in such event a hearing shall be accorded with respect to the debarment. A copy of each such notice shall be sent to TAD–60.

(c) Hearings requested in connection with debarment proceedings as provided in FPR 1–1.604–1(b) shall be conducted before the DOTCAB. An opportunity shall be afforded the concern or individual to appear with witnesses and counsel to show cause why such concern or individual should not be debarred. Where a concern or individual requests a hearing and fails to appear, the DOTCAB shall consider the case on the basis of the records and information made available to it. In any instance where a party has requested a hearing, he may elect to forego the submission of oral testimony and may submit a written statement (together with any information relating thereto) in opposition to the proposed action. Hearings shall be held by the DOTCAB within 30 days after receipt of the request for a hearing, unless the Chairman of the DOTCAB grants additional time. The Chairman shall include in his recommendation to the Secretary whether or not debarment is warranted under the particular circumstances and, where debarment is warranted, a recommended period thereof.

(d) When debarment is imposed by the head of the agency, or by the Secretary, the concern or individual shall be notified of the decision and of the period during which such debarment shall be effective. If a proposed debarment is not upheld by the Secretary, the concern or individual shall be so notified. Notice as to the imposition of a debarment shall be furnished to the concern or individual in the same manner as provided in DOTPR 12–1.604–1(b) for a notice of proposed debarment.

§ 12–1.605 Suspension of bidders.

Where a suspension is effected by the Department, it shall be invoked by the Secretary upon recommendation of the General Counsel, OST.

§ 12–1.606 Agency procedure.

(a) Each Administration and OST, as applicable, shall furnish the notifications to GSA required by FPR 1–1.606(c), for debarments initiated by it, and shall concurrently forward a like copy to (1) Federal Aviation Administration, Logistics Service, Contracts Division, Procurement Management and Services Branch, ALG–380 for inclusion on or removal from the Department list, and (2) the Director of Installations and Logistics, OST, for information.

(b) Requests for standard distribution and for individual copies of the Department Consolidated List shall be made to the Federal Aviation Administration, Logistics Service, Contracts Division, Procurement Management and Services Branch, ALG–380, Washington, D.C. 20591.

Subpart 12–1.7—Small Business Concerns

§ 12–1.701–1 Small Business concern (for Government procurement).

(a) When the solicitation is for a manufactured product classified within an industry set forth in FPR 1–1.701–1 (h), and small business set-aside procedures are utilized, a size standard reading substantially as follows shall be included in the solicitation:

> The small business employment size standard prescribed for this procurement is not more than _____[1] employees, except when the concern is a small business non-manufacturer in which case the employment size standard is not more than 500 employees.

(b) When the soliciation is for a manufactured product that is not classified within an industry set forth in FPR 1–1.701–1(h), and small business set-aside procedures are utilized, a size standard reading substantially as follows shall be included in the solicitation:

> The small business employment size standard prescribed for this procurement is not more than 500 employees.

(c) Similar language shall be used to prescribe other size standard criteria.

§ 12–1.704 Agency program direction and operation.

Each Administration of the Department will establish and maintain a strong and viable small business program, designed to further the small business policies as set forth in FPR 1–1.702.

§ 12–1.704–50 Small business assistance officer.

Each Administration will designate an individual as the Administration's small business assistance officer. The small business assistance officer will be responsible, either on a full time basis or as a collateral duty, for the establishment, implementation and execution of the small business program of his Administration. He will be the central point of contact within his Administration for inquiries concerning the small business program such as from industry, the Small Business Administration (SBA), the Congress or the Office of the Secretary of Transportation. His duties shall include developing a plan of operation to increase the share of contracts awarded to small business by his Administration.

§ 12–1.704–51 Small business specialists.

(a) A small business specialist shall be appointed by name, in writing, for each procurement office, to operate on either a full time or collateral duty basis. Only those individuals possessing the necessary business acumen, knowledge of the Department's procurement policies and procedures, training and background to accomplish effectively the objectives of the small business program shall be considered for appointment. In any instance

[1] (Insert "750", "1000", or "1500", as appropriate)

where the duty of a small business specialist is on a part-time basis, the appointment shall clearly indicate that the part-time nature of the assignment shall in no way relieve the individual from full responsibility for effectively accomplishing the activity's small business program requirements.

(b) In larger offices, where practical, the small business specialist shall not be the contracting officer nor an individual under the supervision of the contracting officer. He shall be given the authority to exercise independent judgment in his areas of responsibility. In small offices the assignment of the small business specialist should promote maximum effectiveness within the capabilities of the office.

(c) The small business specialist appointed pursuant to paragraph (a) of this section shall perform such of the following duties as are determined by the Administration to be appropriate for his procurement office:

(1) Maintain a program designed to locate capable small business sources for current and future procurements;

(2) Coordinate inquiries and requests for advice from small business concerns on procurement matters;

(3) Review proposed solicitations for supplies and services, assuring that small business concerns will be afforded an equitable opportunity to compete, and as appropriate initiating recommendations for small business set-asides;

(4) Take action to assure the availability of adequate specifications and drawings, when necessary, to obtain small business participation in a procurement;

(5) Review proposed procurements for possible breakout of items suitable for procurement from small business concerns;

(6) Advise small business concerns with respect to the financial assistance available under existing laws and regulations and assist such concerns in applying for financial assistance;

(7) Participate in determinations concerning the responsibility of a prospective small business contractor;

(8) Participate in the evaluation of a prime contractor's small business subcontracting programs;

(9) Assure that adequate records are maintained, and accurate reports prepared, concerning small business participation in the procurement program;

(10) Make available to SBA copies of solicitations when so requested; and

(11) Act as liaison between the contracting officer and the appropriate SBA office in connection with set-asides, certificates of competency, size classification and any other matter in which the small business program may be involved.

§ 12–1.708 Certificate of competency program.

§ 12–1.708–2 Applicability and procedure.

No referrals shall be made to the SBA unless the contracting officer has determined that the bid or proposal of the small business concern is responsive. All referrals shall be in writing.

§ 12–1.750 Procurement set-asides for small business when an SBA representative is not available.

§ 12–1.750–1 General.

If no SBA representative is available, the small business specialist shall initiate recommendations to the contracting officer for a small business set-aside for an individual procurement or class of procurements or portion thereof.

§ 12–1.750–2 Review of set-aside recommendations initiated by small business specialists.

When a small business specialist has recommended that all, or a portion, of an individual procurement or class of procurements be set aside for small business, the contracting officer shall promptly either (a) concur in the recommendation or (b) disapprove the recommendation, stating in writing his reasons for disapproval. If the contracting officer disapproves the recommendation of a small business specialist, the small business specialist shall be afforded an opportunity to appeal to an official above the level of the contracting officer. The decision of this official shall be final.

§ 12–1.750–3 Withdrawal or modification of set-asides.

Withdrawal or modification of an individual or class set-aside which was originally established upon the recommendation of the small business specialist may be initiated by the contracting officer by giving notice containing the reason therefor, to the small business specialist. If the small business specialist does not agree to a withdrawal or modification, the action may be appealed to an official above the level of the contracting officer, whose decision shall be final.

§ 12–1.750–4 Contracting authority.

For purposes of determining the appropriate contract authority, set-asides initiated by the small business specialist and concurred in by the contracting officer shall be considered to be unilateral small business set-asides, and shall cite 41 U.S.C. 252(c)(1) or 10 U.S.C. 2304 (a)(1), as applicable.

§ 12–1.751 Small business set-aside for proposed construction procurements.

(a) Each proposed procurement for construction services (excluding ship construction) estimated to cost between $2,500 and $500,000, shall be set aside for exclusive small business participation. Such set-asides shall be considered to be unilateral small business set-asides, and shall be withdrawn, in accordance with the procedures of FPR 1–1.706–3 and DOTPR 12–1.750–3, only if found not to serve the best interest of the Government.

(b) Small business set-aside preferences should be considered for construction procurements in excess of $500,000 on a case-by-case basis.

Subpart 12–1.8—Labor Surplus Area Concerns

§ 12–1.807 Report on preference procurement in labor surplus areas.

Reports required by FPR 1–1.807 will be forwarded to the Director of Installations and Logistics, OST, no later than November 1 (annual) and May 1 (semiannual) of each year. The Director of Installations and Logistics will prepare and submit to GSA the consolidated Departmental report.

Subpart 12–1.9—Reporting Possible Antitrust Violations

§ 12–1.901 General.

The reports required by FPR Subpart 1–1.9 shall be prepared for the signature of the Secretary, and forwarded to the Director of Installations and Logistics, OST.

Subpart 12–1.11—Qualified Products

§ 12–1.1150 General.

(a) It is sometimes necessary to test products in advance of any procurement action to determine if a product is available that will meet specification requirements. In such cases, the specification may require qualification of the product. Qualification is the entire process by which products are obtained from manufacturers or distributors, examined and tested for compliance with specification requirements, and then identified on a list of qualified products. Qualification is performed in advance and independent of any specific procurement action.

(b) A Qualified Products List (QPL) identifies the specification, manufacturer or distributor, item by part or model number or trade name, place of manufacture, and the test report involved. Suppliers whose products have successfully passed qualification and who furnish evidence thereof are eligible for award even though the product is not yet included in the QPL.

(c) Chapter IV of the Federal Standardization handbook (Federal Property Management Regulations 101–29) is the basic instruction concerning qualified products and qualifications procedures. Copies of this handbook may be purchased by the public from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

(d) A specification is the only medium for establishing a requirement for qualification. The preparing activity identified in the specification is responsible for qualification.

§ 12–1.1151 Justification for inclusion of qualification requirements.

Subject to approval by the office as designated in Administration procedures, a qualification requirement may be included in a specification only when one or more of the following conditions exist:

(a) The time required for testing after award would unduly delay delivery of the supplies being purchased.

(b) The cost of repetitive testing would be excessive.

(c) The tests would require expensive or complicated testing apparatus not commonly available.

(d) The interest of the Government requires assurance, prior to award, that the product is satisfactory for its intended use.

(e) The determination of acceptability would require performance data to supplement technical requirements contained in the specification.

§ 12–1.1152 Prior determinations.

Prior to inclusion of qualification in a specification, the preparing activity shall determine that:

(a) There is no other practicable way to obtain evidence of availability of products meeting the requirements of the specification.

(b) Sources, sufficient in number to provide an adequate base of supply, insofar as practicable, are available and willing to submit their products for qualification.

(c) Test facilities and resources are available to establish and maintain the QPL adequately and without delay.

§ 12–1.1153 Availability of lists.

Qualified Products Lists are intended for the use of the Government and its contractors, subcontractors, prospective bidders, and suppliers. Lists may be obtained by prospective bidders or suppliers who require these Lists in furnishing supplies or services to the Government or its contractors. Lists are also available to the public upon request. When a person is provided with, or given access to, a QPL he should be advised as follows:

(a) The QPL has been prepared for use by or for the Government in the procurement of products covered by the specification and such listing of a product is not intended to and does not connote endorsement of the product by the Department of Transportation;

(b) All products listed have been qualified under the requirements for the prod as specified in the latest effective issue of the applicable specification;

(c) The QPL may be revised or amended as necessary, and subject to change without notice;

(d) The listing of a product does not release the supplier from compliance with the specification requirements; and

(e) Use of the information for advertising or publicity purposes is permitted, provided that such publicity or advertising does not state or imply that the product is the only product of that type so qualified or that the Department of Transportation in any way recommends or endorses the manufacturer's product.

§ 12–1.1154 Opportunity for qualification.

(a) Upon determination that a product is to be covered by a QPL, manufacturers shall be urged to submit their products for qualification and where possible shall be given sufficient time to arrange for qualification testing prior to issuance of the initial invitation for bids or request for proposals for the item as a qualified product. Appropriate notice of such determination shall be furnished to the U.S. Department of Commerce, Commerce Business Daily, Room 1304, 433 West Van Buren Street, Chicago, Ill. 60607, requesting publication in five consecutive issues of the daily "Synopsis of U.S. Government Proposed Procurement, Sales and Contract Awards". The publicity given to the requirement for qualification testing shall include the following:

(1) An intention to establish a QPL for a product;

(2) The specification number and nomenclature of the product, and the name and address of the office to which the request for qualification should be submitted; and

(3) Notice that in making future awards consideration shall be given only to such products as have been accepted for inclusion in a QPL.

(b) Lists shall always be kept open for inclusion of products from additional suppliers.

§ 12–1.1155 Clarification of qualification requirements.

When there is any question concerning qualification requirements in a specification, the activity that prepared the specification will furnish clarification when requested by the contracting activity.

§ 12–1.1156 Procurement of qualified products.

§ 12–1.1156–1 General.

(a) Whenever qualified products are to be procured by the Government as end items, only bids or proposals offering products which are qualified for listing on the applicable QPL at the time set for opening of bids or award of negotiated contracts shall be considered in making awards.

(b) Whenever a qualified product is to be procured by a prime contractor as a component of an end item, the prime contractor shall be required to furnish a component which has been tested and qualified for inclusion in the applicable QPL by the time of award of the subcontract. Delay resulting from the prime contractor's awaiting qualification approval by the Government of a component shall not constitute excusable delay when a previously qualified component could have been procured in time to meet the end item delivery schedule.

(c) Procurements involving qualified products shall be governed by paragraph (c)(1) through (4) of this section.

(1) Synopses of proposed procurements shall be published by purchasing activities, in accordance with FPR 1–1.1003, promptly upon receipt of procurement requests.

(2) The maximum time consistent with delivery requirements shall be allowed between issuance of the solicitation and the opening of bids or the award of a negotiated contract. As a minimum, however, contracting officers shall allow 30 calendar days between the dates of issuance and opening (award, in the case of negotiated contracts): *Provided*, That periods of less than 30 days may be set in cases of urgency when the justification for a shorter period is set forth in writing and made a part of the procurement file. In appropriate cases, advance notice of procurement involving qualified products may be given suppliers through the use of preinvitation notices. Such notices shall identify the specification requiring qualification.

(3) In procuring qualified products by formal advertising, invitations for bids will be distributed to suppliers in the same manner as if a qualified product were not involved, and will not be restricted to suppliers whose products have been qualified.

(4) Contracting officers shall forward requests from suppliers concerning qualification of products to the specification preparing activity.

§ 12–1.1157 Contract provisions.

(a) When qualified end products are to be procured, the provision in FPR 1–1.1101(b) shall be inserted in the solicitation, supplemented by the following:

The offeror shall insert the item name and the text number (if known) of each qualified product in the blank spaces below.

Item name _____

Test No. _____

Any change in location or ownership of the plant at which a previously approved product is, or was, manufactured requires re-evaluation of the qualification. Such re-evaluation must be accomplished prior to the bid opening date in the case of advertised procurements and prior to the date of award in the case of negotiated procurements. Failure of offerors to arrange for such re-evaluation shall preclude consideration of their offers.

If the procurement is formally advertised, the following statement shall also be included:

Any bid which does not identify the qualified product being offered, either above or elsewhere in the bid, will be rejected.

(b) When qualified products are to be procured as components of end items, insert the following provision in the solicitation:

QUALIFIED PRODUCTS—COMPONENTS

When any of the end items which are to be supplied to the Government by the Contractor will contain one or more components which are required by the applicable specification to be qualified products, such components shall have been tested and shall be qualified for inclusion in the Qualified Products List (whether or not actually included in the List) at the time of award of any subcontract by the Contractor for such components, or, in the event the Contractor plans to manufacture such components himself, shall have been so tested and have so qualified before the Contractor begins to manufacture such components for performance of this contract (not before manufacture of the prototype, preproduction model, or first article, for qualification testing). Unless required for interchangeability or compatibility, the Contractor shall not cite brand names from any Qualified Products List in any subcontract solicitation, but shall refer to the pertinent specification so that optimum competition may be obtained. Delay resulting from the Contractor's awaiting qualification approval by the Government of a component shall not constitute excusable delay when a

previously qualified component could have been procured in time to meet the end item delivery schedule. Any change in location or ownership of the plant at which a previously approved product is, or was, manufactured requires re-evaluation of the qualification. Such re-evaluation must be accomplished prior to the award of any subcontract by the Contractor for such components or prior to the beginning of manufacture if the Contractor manufactures such components himself.

§ 12–1.1158 Effect of debarment or suspension.

The inclusion of a product on the QPL's may be denied, and the qualification of a listed product may be withdrawn, by the Administration concerned, without notification to the manufacturer, if the name of the manufacturer appears on the lists of debarred or ineligible bidders which are maintained pursuant to FPR Subpart 1–1.6.

§ 12–1.1159 Waiver of qualification requirement.

When procuring a product under a specification which includes qualification requirements either for the end item or for components of the end item, such qualification requirements can be waived only by the activity that prepared the specification. In appropriate cases, when requested by the contracting officer, the preparing activity may waive qualification requirements. A notice, issued by the preparing activity, directing a waiver of the qualification requirement, constitutes adequate authorization for waiver of product qualification requirements. Where waivers have been granted, solicitations shall specifically indicate that the qualification requirement is inapplicable. Such information shall also be included in any Synopsis of the procurement.

§ 12–1.1160 Inadequate competition.

(a) *Pre-solicitation.* In connection with procurement of a qualified product as an end item, the contracting officer shall review the applicable QPL prior to solicitation to ascertain whether the number of sources is adequate for competition. If, in the opinion of the contracting officer, the number of sources is inadequate, action shall be taken as prescribed below unless he already has the necessary information.

(1) The contracting officer shall request the activity that prepared the specification to provide information concerning the status of tests on additional products, including the anticipated dates when such tests will be completed so that opening of bids or submission of proposals may be so scheduled as to allow completion of the tests.

(2) If no tests are being conducted or contemplated, the contracting officer shall further request the preparing activity to advise whether a means of quality assurance other than qualification approval may be substituted in the procurement.

(b) *Post-solicitation.* The contracting officer shall advise the specification preparing activity of the name and address of any concern which requested copies of the solicitation but was not included on the QPL. The specification preparing activity may then attempt to interest such concerns in becoming qualified.

§ 12–1.1161 Reporting nonconformance with specification requirements.

If a supplier on the QPL repeatedly submits products not meeting specification requirements for inspection, resubmits products previously rejected without correcting the defects, or is otherwise unsatisfactory in the performance of contracts, he shall be reported to the activity that prepared the specification for a determination as to whether the supplier's product shall be removed from the list.

§ 12–1.1162 Misuse of QPL information.

Misuse of QPL information, such as for advertising or publicity purposes contrary to that permitted in DOTPR 12–1.1153(e), shall be reported promptly to the preparing activity.

Subpart 12–1.12—Responsible Prospective Contractors

§ 12–1.1204 Determination of responsibility or nonresponsibility.

§ 12–1.1204–1 Requirement.

(a) Except as provided in paragraph (c) of this section, the contracting officer shall, prior to award, prepare, sign, and place in the contract file, DOT Form F 4220.1 titled "Determination of Prospective Contractor Responsibility." Where a prospective contractor is determined to be nonresponsible, the form shall also be completed before notice of the rejection is furnished and the contract awarded to another.

(b) For each factor applicable to the procurement, the type of evaluation and the rating shall be checked. A completed form may include any combination of checks in the A, B, and C columns. Where the determination of responsibility is based on an SBA certificate of competency, a copy of the certificate shall be attached to the form and Block 6 of the form should not be completed except to reference the attachment.

(c) The form need not be completed in the case of:

(1) Procurements of the types listed in FPR 1–1.1201(b);

(2) Contracts of $10,000 or less, except that the form shall be prepared prior to the award of all contracts the primary purpose of which is research; or

(3) Contracts for perishable subsistance supplies available for immediate shipment.

(d) Pending a revision of DOT Form F 4220.1, the reference in Block 7 to "FPR 1–1.310–6" shall be changed to read "FPR 1–1.1202."

Subpart 12–1.16—Report of Identical Bids

§ 12–1.1603 Reporting requirements.

§ 12–1.1603–3 Submission of reports.

The report required by FPR 1–1.1603–3 (b) shall be sent by each Administration directly to the Attorney General. An information copy shall be sent to the Director of Installations and Logistics, OST.

Subpart 12–1.50—Options

§ 12–1.5000 Scope of subpart.

This subpart applies to contracts for supplies and services other than for construction and research and development. It does not preclude the use of appropriate option provisions in such construction and research and development contracts.

§ 12–1.5001 Definition.

As used in this subpart, an option clause is a provision in a contract under which, for a specified time, the Government may elect to purchase additional quantities of the supplies or services called for by the contract, or may elect to extend the period of performance of the contract.

§ 12–1.5002 Applicability.

(a) Option clauses may be included in contracts where increased requirements within the period of contract performance are foreseeable, or where continuing performance beyond the original period of contract performance may be in the best interest of the Government. Since options require offerors to guarantee prices for definite periods of time with no guarantee that orders will be placed, their improper use could result in prices which are unfair to either the Government or the contractor. When additional requirements are foreseeable and subsequent competition would be impracticable because of such factors as production lead time and delivery requirements, the use of options may be preferable to later negotiating a price with the contractor at a time when it is the only practical source.

(b) An option normally should not be used where it can reasonable be foreseen that (1) minimum economic production quantities will be procured at some future date, and (2) start-up costs, production lead time, and probable delivery requirements would not preclude adequate future competition.

(c) Option provisions and clauses shall not be included in contracts when:

(1) The supplies or services being purchased are readily available on the open market.

(2) The contractor would be required to incur undue risks: e.g., the price or availability of necessary materials or labor is not reasonably foreseeable.

(3) An indefinite quantity contract or requirements contract is appropriate except that options for continuing performance may be used in such contracts.

(4) Market prices for the supplies or services involved are likely to change substantially.

(5) The option quantities represent known firm requirements for which procurement funds are available.

§ 12–1.5003 Procedures.

(a) When a contract is to contain an option quantity, the solicitation must contain an appropriate option provision and the contract file shall be documented with a justification for the inclusion of

the option. If the contract is to be negotiated, the determination and findings shall set forth the approximate quantity to be awarded and the extent of the increase to be permitted by the option. The contract shall limit the additional quantities of supplies or services which may be procured, or the duration of the period for which performance of the contract may be extended, under the option and will fix the period within which the option may be exercised. In fixing the period within which the option may be exercised, consideration shall be given to (1) necessary lead time in order to assure continuous production and (2) the time required for additional funding and other necessary approval action. The period specified for exercising the option shall in all cases be kept to a minimum.

(b) Solicitations containing option provisions should cover five basic points:

(1) *Quantity of additional supplies or services which may be procured.* Where the exercise of the option would result in increased quantities of supplies, the option quantity should be expressed in terms of a specified number of additional units rather than as a percentage of the base quantity. Where exercise of the option would result in an increase in the performance of services, the option may be similarly expressed in terms of the units of work contained in the contract (e.g., man hours). Where exercise of the option would result in an extension of the duration of the contract, the option may be expressed in terms of a specific date or dates or of an additional time period such as days, weeks, or months. Generally the quantity subject to the option should not exceed the basic quantity by more than 25%.

(2) *The period within which the option may be exercised.* The contract shall fix the period within which the option may be exercised. The period specified shall in all cases be kept to a minimum (generally no longer than 6 months).

(3) *Delivery terms for the option quantities.*

(4) *Prices for the option quantities.* The clause shall provide for firm unit prices for any additional quantity that may be ordered up to the maximum quantity of the option, or for any increase in the performance of services or extension of the duration of the contract.

(5) *A statement on the evaluation of bids or proposals.* Solicitations shall state that evaluation will be on the basis of the firm quantity set forth in the schedule and the option quantity, if any, exercised at time of award.

The option clause should not contain a price control feature on the option quantities, such as a requirement that the option quantities be offered at prices no higher than those of the basic quantity. The use of price controls to avoid unreasonable offers on option quantities can be disadvantageous to the Government because the contractor may spread the cost of bona fide risks of option quantities to the basic quantity.

§ 12–1.5004 Exercise of options.

(a) The exercise of an option by the Government requires the contracting officer's written notification to the contractor within the time period specified in the contract.

(b) Where the contract provides for price escalation and the contractor requests revision of price pursuant to such provision, or the provision applies only to the option quantity, the effect of escalation on prices under the option must be ascertained before the option is exercised.

(c) Options should be exercised only if it is determined that:

(1) Funds are available,

(2) The requirement covered by the option fulfills an existing need of the Government, and

(3) The exercise of the option is most advantageous to the Government, price and other factors considered.

(d) Insofar as price is concerned, the determination under paragraph (c)(3) of this section shall be made on the basis of one of the following:

(1) A new solicitation fails to produce a better price than that offered by the option. When the contracting officer anticipates that the option price will be the best price available, he should not use this method of testing the market but should use one of the methods in paragraph (d) (2), (3), or (4) of this section.

(2) An informal investigation of prices, or other examination of the market, indicates clearly that a better price than that offered by the option cannot be obtained.

(3) The time between the award of the contract containing the option and the exercise of the option is so short that it indicates the option price is the lowest price obtainable, considering such factors as market stability and a comparison of the time since award with the usual duration of contracts for such supplies and services.

(4) Established prices are readily ascertainable and clearly indicate that formal advertising or informal solicitation can obviously serve no useful purpose.

(e) Insofar as the "other factors" mentioned in paragraph (c)(3) of this section are concerned, the determination should, among other things, take into account the Government's need for continuity of operations and potential costs to the Government of disrupting operations, including the cost of relocating necessary Government-furnished property (as, for example, in certain repair and overhaul contracts for aircraft or other complex equipment).

(f) When it has been determined that an option may properly be exercised, such determination shall be set forth in writing and included in the contract file. Written notification to the contractor of the exercise of the option and any contract modification resulting therefrom shall cite the option clause contained in the contract as authority for the procurement of the option quantity, and no citation under 41 U.S.C. 252(c) or 10 U.S.C. 2304(a) is required.

§ 12–1.5005 Examples of option provisions.

Clauses substantially as set forth in 12–7.151–17 may be used in accordance with the provisions of this subpart.

Subpart 12–1.51—[Reserved]

Subpart 12–1.52—Value Engineering

§ 12–1.5201 Policy.

(a) Value engineering (VE) is concerned with the elimination or modification of anything that contributes to the cost of a contract item or task but is not necessary for needed performance, quality, maintainability, reliability, or interchangeability. Specifically, VE as contemplated by this Subpart constitutes a systematic and creative effort, not required by any other provision of the contract, directed toward analyzing each contract item or task to ensure that its essential function is provided at the lowest overall cost. Overall cost may include, but need not be limited to, the costs of acquiring, operating, and logistically supporting an item or system. VE provisions may be incorporated into a contract by using the VE incentive clause which sets forth the methods by which a contractor may propose ways to perform the contract more economically and share in any resulting cost saving, or by using the VE program requirement clause which requires the contractor to establish a VE program aimed at identifying more economical ways to perform the contract and which may include incentive sharing.

(b) In order to realize fully the cost saving potential of VE, it is DOT policy to:

(1) Incorporate provisions which encourage or require VE into all contracts for supplies, services and construction of sufficient size and duration which offer reasonable likelihood for cost savings.

(2) Assure contractors a substantive share in cost savings, i.e., a fair proportion of the savings applied to a substantial base.

(3) Objectively and expeditiously process value engineering change proposals (VECPs) submitted by contractors.

(4) Encourage subcontractor participation through extension of VE incentives, by prime contractors, to appropriate subcontractors.

§ 12–1.5202 Value engineering incentives.

§ 12–1.5202–1 Description.

(a) The objective of a VE incentive provision is to encourage the contractor to submit VECPs by permitting the contractor to share in cost savings. To be acceptable, a VECP must involve some change in the contract specifications, purchase description, or statement of work; this may include the elimination or modification of any requirement found to be in excess of actual needs in the areas of, for example, design, components, materials, material processes, tolerances, packaging requirements, technical data requirements, or testing procedures and requirements, and consequent reduction in the contract cost. Furthermore, even when the contract

cost may be increased, the incentive provisions encourage contractors to submit VECPs that are likely to lead to overall savings resulting from significant net reductions in collateral costs of Government-furnished property, operational requirements or logistic support requirements.

(b) VE proposals which satisfy the above requirements shall not be rejected on the ground that they also involve a termination, in whole or in part, of contract line items; moreover, the cost savings resulting from such quantitative reductions shall be shared with the contractor. On the other hand, contractor proposals which concern the quantitative requirements of the Government but do not satisfy the above criteria are not within the intent of the VE provisions, and the contractor will not share, under the VE Incentive clause, in savings resulting solely from such quantitative proposals.

(c) In all cases, the contractor's share in overall cost savings resulting from the Government's acceptance of a VECP shall be determined as provided in the VE Incentive clause.

§ 12–1.5202–2 Use of value engineering incentive clause.

(a) Except as provided in paragraph (b) of this section, a VE incentive clause shall be included in all advertised and negotiated supply and service contracts, and construction contracts of $100,000 or more, unless it is determined by the contracting officer that VE offers no potential for cost reduction, as for example, where a particular contract or class of contracts is of insufficient duration to allow VECPs to be processed, or where the item or class of items being procured is a commercial product whose design and cost are primarily controlled by the commercial market. A VE clause should be included in contracts under $100,000 if the contracting officer foresees a potential for significant savings.

(b) Normally, a VE incentive clause shall not be included in the following type contracts unless the contracting officer affirmatively determines that the contract has a clear potential for VE cost savings and that a VE incentive clause will provide the effective stimulus to the contractor:

(1) Contracts for research or exploratory development;

(2) Contracts for engineering services from "not-for-profit" organizations;

(3) Cost reimbursement type contracts other than cost plus incentive fee or cost plus award fee type contracts;

(4) Contracts for architect-engineer services;

(5) Contracts containing a VE Program Requirement clause except as provided by 12–1.5206 below;

(6) Contracts providing for product or component improvement unless the VE incentive clause application is restricted to areas not covered by provisions for product or component improvement;

(7) Contracts for commercial items (See FPR 1–3.807–1(b)(2)) being procured without invoking special requirements and specifications (such as packaging specifications); and

(8) Contracts for personal services.

§ 12–1.5202–3 Value engineering clauses.

In accordance with this subpart 12–1.5202 and 12–1.5206, the VE clauses set forth in §§ 12–7.151–13, 12–7.251–9 and 12–7.651–16 are to be used as applicable.

§ 12–1.5202–4 Types of savings to be shared with the contractor.

(a) There are two types of savings to be shared between the Government and the contractor. These are acquisition savings and collateral savings.

(b) Acquisition savings are those which accrue from the net reduction in the contract price for supplies, service and construction. Acquisition savings may include instant, concurrent and future savings.

(1) "Instant contract savings" are those net measurable reductions in the price of the contract under which a VECP has been submitted by the contractor and accepted by the Government. In the case of requirements or other indefinite delivery type contracts, basic ordering agreements, multi-year contracts, fixed-price contracts providing for prospective price redetermination, or contracts in which supplemental agreements or other modifications increase the quantity of items or add items to the contract, see paragraph (j) of the clause in § 12–7.151–13(a) for the appropriate definition of "instant contract."

(2) "Concurrent contract savings" are those net measurable reductions in the price of a concurrent contract let by the same procuring activity.

(3) "Future contract savings" are either those measurable net reductions in the price of a future contract (other than the contract under which the VECP was accepted) or a lump sum payment paid to the contractor at the time the VECP is accepted and based upon estimated future applications.

(c) Collateral savings are those ascertainable net reductions in the Government's overall documented projected costs including but not limited to costs of operations, maintenance, logistics support, and Government furnished property where such collateral savings result from a VECP submitted by the contractor. A contractor may share in collateral savings in addition to sharing in instant contract savings. However, when a contracting officer determines that there is no reasonable potential for significant collateral savings, the collateral savings provision may be omitted from the VE incentive clause.

§ 12–1.5203 Sharing arrangements.

§ 12–1.5203–1 Sharing rates.

(a) The sharing rates used in the various VE clauses for acquisition savings are shown below. These rates are common for all acquisition savings, i.e., instant concurrent and future contract savings.

Type of contract	Incentive clause (Government/contractor)	Program clause (Government/contractor)
Fixed price (other than incentive)	50/50	75/25
Fixed price (construction)	45/55	(1)
Fixed-Price-Incentive (FPI) or cost - plus - incentive - fee (CPIF)	65/35	80/20
Cost-plus-award-fee (CPAF)	75/25	85/15
Cost reimbursement (other than CPIF and CPAF)	(1)	85/15

[1] Not applicable.

(b) The contractor's share of collateral savings is 20 percent of the estimated savings to be realized during an average or typical year of use, as determined by the Procuring Activity except that such share shall not exceed the price of the contract on which the VECP is submitted or $100,000, whichever is greater.

(c) The clauses in 12–7.151–13 and 12–7.251–9 (specifically the sharing provisions of paragraph (e)), may be modified when used in incentive contracts to provide no adjustment to targets or ceilings when a VECP is approved. This permits instant VE savings to be rewarded under the overall contract cost incentive. Appropriate substitute clause language is in 12–7.151–13(e), and 12–7.251–9. Concurrent and future contract rates shall be the same as specified in (a) above, unless modified in accordance with 12–1.5203–4(c).

(d) The method of computing a contractor's share of acquisition and collateral savings is provided in the VE clauses in DOTPR Part 7.

§ 12–1.5203–2 Sharing base.

The sharing base is defined to be the affected end items on contracts of the procurement office or its successor approving the VECP. This base may be expanded to include contracts of other procurement offices. Such expansion of the base shall be specified in the contract.

§ 12–1.5203–3 Sharing period.

(a) The contractor shall share in the savings on all affected end items scheduled for delivery not later than 3 years after acceptance of the first item incorporating the VECP, or until the originally scheduled delivery date of the last affected end item under the instant contract, whichever is later. The contractor shall be responsible for maintaining adequate records to identify the first unit delivered which incorporates the applicable VECP. These records must be maintained for a period of three years after final payment on the contract under which the VECP was accepted. For the purpose of establishing the starting date of the sharing period, the contractor shall identify the first unit incorporating the VECP on the applicable invoice or inspection and receiving report.

(b) When the contract is for items which require an extended period of time for production (e.g., ship construction), it may be desirable to provide for future sharing on items accepted under all contracts awarded within the sharing pe-

riod, even if the scheduled delivery date is outside the sharing period.

§ 12–1.5203–4 Methods of sharing for future acquisitions.

(a) *Methods.* There are two methods of sharing future acquisition savings. The clause in § 12–7.151–13(a)(1) provides for contractor sharing in savings by the procurement office, or its successor, on future purchases of essentially the same end item utilizing the VECP. Payments are not made until such future contracts are actually awarded. The lump sum method, which is optional, provides for a single payment at the time of VECP approval by a contract modification, based upon estimated application of the VECP to other projected procurements by the procurement office or its successor (i.e., five-year plan, or other suitable projection). To use the lump sum method, substitute § 12–7.151–13(a)(4) for paragraph (e)(3) of the clause in § 12–7.151–13(a)(1). In deciding whether to use the lump sum method, the contracting officer shall consider:

(1) The accuracy with which the number of items to be procured during the sharing period can be estimated and the probability of actual production of the projected procurement;

(2) The availability of funds for a lump sum payment;

(3) Whether disclosure of estimated future requirements would compromise national security; and

(4) The administrative expense of using the future payment method.

(b) *Calculations.* The contractor's share of future acquisition savings is based upon the sharing percentage (specified in the clause), the unit cost reduction, and the number of units involved. The calculations are in the clauses in § 12–7.151–13. However, the contracting officer should carefully select the definition of the future contracts unit cost reduction to be used. Normally this is the unit cost reduction in the instant contract without considering any cost of contractor development and implementation (see paragraph (e)(3)(i) of the clauses in § 12–7.151–13(a)(1)(2)(3) or (4)). However, if significant future contract unit cost changes (e.g., item still in design or early production, or significant changes in the rate of production) are expected, it may be desirable to reflect this in the clause by substituting the definition in § 12–7.151–13(a)(5).

(c) *Modifications for design to cost.* For design and development contracts with design to cost features (e.g., future unit production cost targets or thresholds are specified), the future acquisition sharing portion of the clause should be modified appropriately. If the contract has a production unit cost target requirement, but no incentive in this regard, it may be desirable to share future VECP savings only on the amount that the achieved unit production cost is lower than the target unit production cost. If the design to cost requirement is incentivized, care should be taken to insure that no duplication in incentive awards exists, before sharing any future VECP savings.

§ 12–1.5204 Submission and processing.

(a) Instructions for submission and processing of VECPs are provided in the clauses.

(b) The contracting officer, with the necessary technical and other support, shall be responsible for expeditiously evaluating and determining the acceptability of all VECPs submitted under a contract. The contracting officer's decision shall be final and shall not be subject to the Disputes clause of the contract.

(c) If a VECP is not accepted, the contracting officer shall notify the contractor in writing giving reason why the VECP was rejected.

(d) Before accepting a VECP which involves sharing collateral savings, the contracting officer must make sure that sufficient funds are available under the instant contract or from other sources to cover any increase in the contract price.

§ 12–1.5205 Future payment funding and notice for future acquisition contracts.

The future payments will be made pursuant to the contract under which the VECP was accepted; however, they shall be funded from the appropriation supporting any succeeding contract which utilizes the VECP. In order to provide guidance on the proper citation of appropriations, insert the following notice in each contract for additional purchase of items on which future payments will be made. The notice should be inserted directly following the citation of appropriation and accounting data or, if space does not permit such insertion, the notice should be referred to there.

Notice of Value Engineering Payments. Award of this contract obligates the Government to make payments to the contractor under Contract No. _____[1] in accordance with the Value Engineering provisions of that contract. These payments are to be made from appropriations currently available for the procurement of items under this contract. To the extent that the Government does not, in fact, receive delivery of and accept all items on which payment is made, the Government is entitled to reimbursement of a proportionate share of the payment from the contractor to whom it was paid.

§ 12–1.5206 Value engineering program requirement.

(a) The purpose of the VE program requirement clause is to apply VE methods early in the project life (i.e., in the initial stages of design development or production), so that specifications, drawings, and production methods will reflect the full benefit of VE. The clause requires the contractor to establish a VE program and engage in a sustained VE effort, as specified in the contract. The VE program requirement shall be shown as a separately priced line item in the contract and may apply to all or to selected phases of contract performance. This clause is designed primarily for contracts covering conceptual, validation and full-scale development phases of a program. It may also be used in production or service contracts.

(b) If this clause is restricted to well defined areas of performance under the contract, a VE incentive clause consistent with § 12–1.5202 should be included for the remaining requirements of the contract.

§ 12–1.5207 Contracting Officer Decision Check List.

Application of the clauses in § 12–7.151–13 to a specific contract requires at least two decisions by the contracting officer. Additional decisions may be made to vary the clause to fit the individual contract at hand.

(a) Mandatory decisions: Should a VE clause be used? If so, what kind? (See paragraph 12–1.5202).

(b) Additional decisions to modify coverage:

(1) If this is an incentive type contract, should the modified instant sharing be used? See § 12–1.5203–1(c)

(2) Should the sharing base be expanded? See § 12–1.5203–2

(3) Should the sharing period be modified? See § 12–1.5203–3

(4) Should the lump sum method of payment be used for future acquisition sharing? See § 12–1.5203–4(a)

(5) Should the clause for future acquisition sharing be modified to reflect major differences in instant contract unit cost reduction and future contract unit cost reduction? See § 12–1.5203–4(b)

(6) (Development Contracts Only) Should the future acquisition sharing be modified to accommodate design to cost requirements or incentives? See § 12–1.5203–4(c)

(7) Should collateral savings be omitted? See § 12–1.5202–4(c)

(c) In addition, should the contractor be requested to submit notification of a potention VECP prior to risking significant expenditures? (Note this can be invoked at any time during the contract). See paragraph (j)(7) of the clause in § 12–7.151–13(a)(1).

§ 12–1.5301 General.

Subpart 12–1.53—Voluntary Refunds

A voluntary refund is a payment or credit, not required by any contractual or other legal obligation, made to the Government by a contractor or subcontractor either as a payment or as an adjustment under one or more contracts or subcontracts. It may be unsolicited or it may be made in response to a request by the Government. Where it is desired to solicit a voluntary refund from a subcontractor, the prime contractor should be encouraged to facilitate the making of such refund. In deciding whether to solicit a voluntary refund or to accept an unsolicited refund, the contracting officer shall ask legal counsel to review the contract or contracts and all data relevant thereto to determine whether the Government's rights would be jeopardized or impaired by the contracting officer's proposed action.

[1] Insert the number of the contract under which the pertinent VE change proposal was accepted.

§ 12–1.5302 Solicited refunds.

Voluntary refunds may be requested during or after contract performance. They shall be requested only when it is considered that the Government was overcharged under a contract or was inadequately compensated for the use of Government-owned property, or in the disposition of contractor inventory, retention by the contractor or subcontractor of the amount in question would be contrary to good conscience and equity. Generally, retention by the contractor or subcontractor shall not be considered contrary to good conscience and equity, and thus a voluntary refund shall not be requested unless the overcharged or inadequate compensation was due, at least in part, to the fault of the contractor or subcontractor. The decision to solicit a voluntary refund shall be made by the head of the procuring activity.

§ 12–1.5303 Disposition of voluntary refunds.

(a) If a refund is offered prior to final payment, it is preferable that the contract price be appropriately modified to reflect the refund. In such a case, the amount of the refund shall be credited to the applicable appropriation cited in the contract.

(b) In cases where the refund is to be made by check rather than by an adjustment in the contract price, the check shall be made payable to the Treasurer of the United States, and shall be forwarded in accordance with the procedures of each Administration.

Subpart 12–1.54—Acquisition of Equipment by Lease, Purchase, or Lease With Option To Purchase

§ 12–1.5401 General.

This subpart prescribes DOT policy and procedures with respect to determination of whether to lease, purchase, or lease with option to purchase, when acquiring equipment for Department use, where these options are available.

§ 12–1.5402 Telewriting equipment and office copying machines.

Guidelines for making lease/purchase determinations in the acquisition of telewriting equipment and office copying machines are specified in the Federal Property Management Regulations (FPMR), Subpart 101–25.5.

§ 12–1.5403 Automatic data processing equipment.

See FPMR Part 101–32 (referred to in FPR subpart 1–4.1).

§ 12–1.5404 Lease/purchase determinations.

(a) Whenever procurement is to be made of items of equipment normally available for both lease and purchase, a determination shall be made as to whether acquisition by lease, purchase, or lease with option to purchase is most advantageous to the Government. The determination shall be supported by comparisons of costs of the various acquisition alternatives. The extent of the cost comparison required to support the determination will be a matter of judgment, depending primarily on the estimated cost of the equipment.

(b) For equipments of relatively high dollar values, considerations shall be given to including the following cost elements in the cost comparison:

(1) Purchase price delivered to the point of installation.

(2) Leasing cost including delivery charges to the Department and cost of return to the vendor.

(3) Present value of money to be used in the acquisition of the equipment. The present value computation is applicable to all costs over the life of the equipment.

(4) Maintenance costs to the Government under lease and under purchase. When maintenance is to be performed by the Government, these costs would include:

(i) Cost of direct labor.

(ii) Cost of parts and supplies, including investment costs and warehousing and distribution costs.

(iii) Cost of additional tools and repair equipment needed for maintenance of the equipment.

(iv) Cost of training maintenance personnel.

(v) Cost of repair manuals.

(vi) Cost of any applicable overhead.

(5) Installation and dismantling costs.

(6) Residual value of equipment after expected use period, including possible continued use by the Government in another application or program.

(7) Operating costs (exclusive of maintenance costs) in those instances where, under the lease method, the vendor would perform part or all of the labor incident to the operation of the equipment.

(c) For equipments of small dollar value, the cost comparison can be limited to the cost of purchase and an estimate of installation and maintenance cost versus the cost of lease, as described in FPMR Subpart 101–25.5.

§ 12–1.5405 Selecting the method of acquisition.

§ 12–1.5405–1 Purchase method.

(a) The purchase method is preferred when all of the following conditions exist:

(1) There is little or no doubt that the equipment to be procured can be efficiently and effectively utilized, cost and other factors considered.

(2) A comparative cost analysis of the alternative methods of acquisition indicates that a cost advantage will accrue over the anticipated useful life of the equipment by using the purchase method.

(3) The capabilities of the equipment will continue to be needed and will be sufficient to satisfy the requirements of the Government, current and projected, for a period beyond the point in time at which the purchase method begins to provide a cost advantage. The possibility that future technological advances would make the selected equipment comparatively less desirable before the cost advantage point is reached should not rule out purchase if the selected equipment is expected to be able to satisfy the Government's requirements economically.

§ 12–1.5405–2 Lease-with-option-to-purchase method.

The lease-with-option-to-purchase method is preferred when it is reasonably anticipated that purchase may be justified, but it is desirable to defer this decision temporarily because the conditions necessary to indicate purchase are not fully satisfied. This situation might arise when it is determined that a short period of operational experience is desirable to prove the effectiveness of an equipment for which there is no previous experience, or where technical changes might substantially alter the requirement for the equipment.

§ 12–1.5405–3 Lease method.

The lease method, without option to purchase, is indicated when it has been established that neither the conditions in § 12–1.5405–1 nor § 12–1.5405–2 prevail.

§ 12–1.5406 Periodic cost comparisons on leased equipment.

For equipment under lease, the contracting officer shall compute cost comparisons periodically (at least once a year) to revalidate the original determination that the lease method is most advantageous to the Government.

Subpart 12–1.55—Multi-Year Procurement

§ 12–1.5500 Scope of subpart.

This subpart contains the multi-year method of procurement for supplies.

§ 12–1.5501 Description of multi-year procedure.

Multi-year procurement is a method for competitive contracting for known requirements for supplies, in quantities and total cost not in excess of planned requirements for five years set forth in approved programs, even though the total funds ultimately to be obligated by the contract are not available to the contracting officer at the time of entering into the contract. Under this method, contract quantities are budgeted for and financed in accordance with the program year for which each quantity is authorized. The procedure provides for solicitation of prices based either on award of the current one-year program quantity only, or, in the alternative, on the total multi-year quantities. Award is made on whichever of these two alternative bases reflects the lowest unit prices to the Government. If award is made on the multi-year basis, funds are obligated only for the first year's quantity, with succeeding years' contract quantities funded annually thereafter. In the event funds are not made available to support one or more succeeding year's quantities, cancellation is effected. The contractor is protected against loss resulting from cancellation by contract provisions allowing reimbursement of unrecovered nonrecurring costs included in prices for canceled items.

§ 12–1.5502 Policy.

§ 12–1.5502–1 Principal advantages.

Multi-year procurement shall be used to the maximum extent consistent with §§ 12–1.5502–4, 12–1.5503, and 12–1.5511. Advantages of this method include, for example:

(a) Lower costs;

(b) Enhancement of standardization;

(c) Reduction of administrative burden in the placement and administration of contracts;

(d) Substantial continuity of production;

(e) Stabilization of work forces; and

(f) Broadening the competitive base with opportunity for participation by firms not otherwise willing or able to compete for lesser quantities, particularly in cases involving high startup costs.

§ 12–1.5502–2 Principal objective.

The principal objective of the multi-year procedure is to generate realistic competition by minimizing competitive disadvantage and by increasing contractor interest in participating in procurements which involve high startup costs and makeready expense and which also may require substantial capital investment by contractors for expansion of their facilities. Under this procedure:

(a) Nonrecurring costs are distributed over a larger number of units, thus narrowing any price advantage of a firm already in production;

(b) There is greater assurance of depreciation recovery for capital investment; and

(c) The competitive base is broadened with better prospects for lower prices, where firms otherwise might be unwilling or unable to compete.

§ 12–1.5502–3 Cost savings factors to consider.

Another major objective is to obtain lower prices in those procurements which do not necessarily involve high startup cost but which do provide opportunity for substantial cost savings and other advantages through assurance of continuity of production over longer periods of time. In determining whether substantial cost savings and related advantages can be realized, consideration may be given to whether:

(a) Production or performance closeout or shut-down costs, including employee severance pay, represent a substantial cost contingency in prices quoted on only one year's program;

(b) Stabilization of work forces will provide greater assurance of sustaining and improving production efficiency and quality;

(c) Substantial cost and quality advantage will accrue through avoidance of the possible need for establishing and "proving out" quality control techniques and procedures for a new contract each year;

(d) Costly preproduction or pilot testing will be avoided;

(e) The ability to recruit and retain highly skilled personnel will be enhanced through assurance to employees of longer periods of employment than would be the case in single-year procurement, thereby avoiding costs of repeated training of new personnel;

(f) The ability to vary production rates during peak and off-peak periods in each program year will result in economies; and

(g) Substantial in-house savings in maintenance and supply operations will accrue from standardization of supplies accomplished by procurement from a single source throughout the multi-year period.

§ 12–1.5502–4 Set-asides.

Total small business set-asides are compatible with the multi-year method of procurement and may be used when both procedures are appropriate. Partial set-aside procedures (both small business and labor surplus area) generally are not compatible with the multi-year procedure when high startup costs are involved because of the potential duplication of such costs by the set-aside contractor and the non-set-aside contractor. However, when the multi-year procedure is based not on high startup costs but on the opportunity for cost savings through assurance of continuity of production over longer periods of time, partial set-aside procedures are compatible with the multi-year procedure. Furthermore, even where high startup costs are involved, use of partial set-aside procedures together with the multi-year procedure may be appropriate in exceptional circumstances, such as where criteria for partial set-asides are met under FPR 1–1.7 or 1–1.8, and it is likely that broader or more realistic competition will result from a combination of both procedures, and this broader competition is likely to more than offset any duplication of startup costs. When reviewing a proposed procurement involving possible use of this procedure, in addition to consideration of the criteria established in this subpart, the contracting officer shall invite the advice and counsel of the activity's small business specialist and the SBA representative, if one is assigned to that activity, permitting either or both to review all pertinent facts and make recommendations thereon.

§ 12–1.5502–5 Multi-year subcontracts.

The same benefits and advantages that are derived from multi-year prime contracts may frequently be increased by multi-year subcontracts thereunder. The prime contractor in the exercise of his management responsibilities must freely choose the subcontract types that best satisfy his needs. However, multi-year prime contractors should be encouraged to employ multi-year subcontracts selectively and only when:

(a) The subcontract item is of stable design and specification;

(b) The quantity required is known and firm;

(c) Effective competition is assured; and

(d) The use of multi-year subcontracts can reasonably be expected to result in reduced prices.

In such cases, the prime contractor is adequately protected against cancellation since appropriate cancellation charges for such multi-year subcontractors are included within the cancellation charge of the multi-year prime contract. Multi-year subcontracts may be particularly desirable under a sole source multi-year prime contract since effective competition at the subcontract level may thereby be enhanced and the attendant cost reductions realized by the prime contractor and the Government.

§ 12–1.5503 Application—criteria.

Except as provided in DOTPR 12–1.5511 below, the multi-year procurement method should be used when all of the following criteria are present:

(a) Reduced unit prices can reasonably be anticipated over annual buys by reason of continuity of production or elimination of repetitive substantial startup costs, including such costs as preproduction engineering, special tooling, plant rearrangement, initial rework, initial spoilage, and pilot runs;

(b) There is reasonable expectation that effective competition can be obtained;

(c) There are known requirements for the quantities to be purchased under the multi-year contract;

(d) The design and specifications of the item are not expected to change to an extent that would involve a major impact on contract price; and

(e) The items being procured are not regularly manufactured and offered for sale in substantial quantities in the commercial market, except that (1) when quantities to be procured by the Government represent a substantial portion of the total market and would require special manufacturing runs for all or substantially all of the Government's requirements and (2) significant cost savings would result from multi-year procurement, this procedure may be authorized by the head of the procuring activity or his designee with the procurement file fully documented as to reasons why the expected substantial savings are not obtainable under annual procurements.

§ 12–1.5504 Method of solicitation.

Formal advertising, including two-step formal advertising, is the preferred method for use in multi-year procurement. In cases where the period of production is such that a contingency for labor and material costs is likely otherwise to be included in the multi-year contract price, the contracting officer should normally use a provision for price escalation.

§12–1.5505 Procedures.

Solicitations shall include the information described in §§ 12–1.5505–1 through 12–1.5505–9, as appropriate.

§ 12–1.5505–1 Requirements.

State the requirements, separately identified by bid or proposal item in the schedule, for (a) the first program year;

and (b) the multi-year procurement including the quantities for each program year thereunder.

§ 12–1.5505–2 Previous competition.

When previous production procurements of the item have been made with competition:

(a) Include a provision that a price may be submitted for the total requirements of the first program year, or for the total multi-year requirements, or both, or

(b) When competition in future procurements of the items would be impracticable after award of a contract covering the first program year quantity alone and the head of the procuring activity determines that, in order to eliminate the possibility of a first program year "buy-in," these provisions will be in the best interests of the Government—include provisions that a price may be submitted only for the total multi-year quantity and that prices on a single-year basis will not be considered for any purpose.

§ 12–1.5505–3 No previous competition.

When there has been no previous competition for the production of the item:

(a) Include provisions that a price must be submitted for the total requirements of the first program year, that a price may be submitted for the total multi-year quantity, and that a bid or offer on the multi-year quantity only will be considered nonresponsive; and a provision that if only one responsive bid or offer on the multi-year requirements is received from a responsible bidder or offeror, the Government reserves the right to disregard the bid or offer on the multi-year quantity and to make an award only for the first program year requirements; or

(b) When competition in future procurements of the items would be impractical after award of a contract covering the first program year quantity alone and the head of the procuring activity determines that, in order to eliminate the possibility of a first program year "buy-in," these provisions will be in the best interest of the Government—

(1) Include provisions that a price may be submitted only for the total multi-year quantity and that prices on a single-year basis will not be considered for any purpose, and

(2) A provision that if only one responsive bid or offer on the multi-year requirements is received from a responsible bidder or offeror, the Government reserves the right to cancel the solicitation and resolicit on a single-year basis by whatever procedures are then appropriate.

§ 12–1.5505–4 Pricing—unit price.

Include a provision that the unit price of each item in the multi-year requirement shall be the same for all program years included therein.

§ 12–1.5505–5 Comparison criteria.

Provide criteria for comparing the lowest evaluated submission on the first program year's requirement against the lowest evaluated submission on the multi-year requirements.

§ 12–1.5505–6 Single year and/or multi-year award.

When the solicitation permits bids or offers on either the first program year requirements or the multi-year requirements or both, include a provision that in the event the Government determines prior to award that only the first program year quantities are actually required, the Government may evaluate bids or offers and make award solely on the basis of prices bid or offered on the first program year requirements.

§ 12–1.5505–7 Cancellation ceiling.

Include a provision setting forth a separate cancellation ceiling (on a percentage basis) applicable to each program year subject to cancellation (see § 12–1.5506).

§ 12–1.5505–8 Schedule provision.

Include a prominently placed provision directing attention to the multi-year features of the soliciation, and to—

(a) The Limitation of Price and Contractor Obligations clause (see § 12–7.151–14) which limits the payment obligation of the Government to the requirements of the first program year and to those of such succeeding program years as may be funded by the Government;

(b) The Cancellation of Items clause Government to cancel, by a specified date (see § 12–7.151–14) which allows the Government to cancel, by a specified date or within a specified period, all remaining program years; and

(c) The cancellation ceiling set forth in the schedule.

§ 12–1.5505–9 Quantity obligation.

Include a statement that award will not be made on less than the quantity stated as the first program year requirements.

§ 12–1.5506 Establishment and revision of cancellation ceilings.

(a) The term "cancellation" as used in multi-year procurement refers only to the cancellation of the total requirements of all remaining program years. Such cancellation results from (1) notification from the contracting officer to the contractor of nonavailability of funds for contract performance for any subsequent program year, or (2) failure of the contracting officer to notify the contractor that funds have been made available for performance of the succeeding program year requirement. For each program year except the last, the contracting officer shall establish a cancellation ceiling applicable to the remaining program years which are subject to cancellation. Cancellation ceilings will be lower for each succeeding program year in that such ceilings must exclude all amounts allocable to items included in prior program years. Such ceilings shall be expressed in the schedule and shall apply to all bidders alike. The reduction in the cancellation ceilings percentage for each program year shall be in direct proportion to the reduction in the quantity remaining subject to cancellation. For example, if the total nonrecurring costs are estimated at 10 percent of the total multiyear price and program year quantities for 5 years are 30, 30, 20, 10, and 10; the cancellation percentage after deducting 3 percent for the first program year would be 7 percent, 4 percent, 2 percent, and 1 percent of the total multiyear price applicable to the 2nd, 3rd, 4th, and 5th program years respectively. In determining cancellation ceilings, the contracting officer must estimate reasonable preproduction, labor learning and other nonrecurring costs, to be incurred by an "average" prime or subcontractor which would be applicable to and which normally would be amortized in all items to be furnished under the multi-year requirements. They include such costs as plant rearrangement, special tooling, preproduction engineering, initial rework, initial spoilage, pilot runs, and unrealized labor learning. They shall not include any costs of labor or materials, or other expenses (except as indicated above) which might be incurred for production of the items subject to cancellation for each program year. The total estimate must then be compared with the best estimate of the procurement cost to arrive at a reasonable percentage figure. To perform this calculation, it is essential that the contracting officer obtain in-house engineering cost estimates which will identify the detailed recurring and nonrecurring costs, and indicate labor learning implications. Cancellation dates for each program year's requirements shall be established with due regard for production lead time and the date by which funding therefor can reasonably be accomplished.

(b) Original cancellation ceilings may be revised from information developed after issuance of a solicitation discloses that such ceilings are not realistic. In the case of formal advertising, such changes shall be by amendment of the invitation for bids prior to bid opening. In two-step formal advertising, discussion conducted during the first step may indicate the need for revised ceilings in step two. Negotiations with offerors in a negotiated procurement may provide information requiring a change in cancellation ceilings for all offerors, prior to final negotiation and contract award. In order to assure that all interested sources of supply are thoroughly aware plished, use of pre-solicitation or pre-bid conferences may be advisable. During such conferences the contracting officer should ascertain whether escalation provisions are appropriate (see FPR 1–2.104–3) and whether the proposed cancellation ceiling is adequate.

§ 12–1.5507 Funds obligation—contingent liabilities.

For each program year requirement, funds shall be obligated to cover the quantities to be delivered thereunder. In addition, contingent liabilities for cancellation charges shall be carried as outstanding commitments.

§ 12–1.5508 Payment for cancellation.

In the event of a cancellation the contractor is entitled to payment as consideration therefor in accordance with the terms of the Cancellation of Items clause in § 12–7.151–14 in an amount not to exceed the cancellation ceiling.

§ 12–1.5509 Schedule provision limiting payment obligation.

The schedule shall contain a provision limiting the payment obligation of the Government to a monetary amount there described as being available for contract performance. Such amount for the first program year requirements shall be inserted by the contracting officer upon award of the contract and shall be modified for successive program years upon availability of funds for such years.

§ 12–1.5510 Termination for convenience.

In the event of a total termination for the convenience of the Government, including items subject to cancellation, the Government's obligation shall not exceed the amount set forth in the schedule as available for contract performance, plus the applicable amount established as the cancellation ceiling.

§ 12–1.5511 Limitations.

Multi-year procurement shall not be used:

(a) When funds covering the procurement are limited by statute for obligation during the fiscal year in which the contract is executed;

(b) For quantities or total costs in excess of the planned requirements for five years set forth in approved programs; or

(c) When any one of the criteria set forth in § 12–1.5503 is not present.

§ 12–1.5512 Evaluation.

(a) Evaluation of offers in a multi-year procurement involves not only the determination of the lowest overall evaluated cost to the Government for both alternatives, the multi-year procurement and the first program year procurement; it also involves the comparison of the cost of buying the total requirement under a multi-year procurement with cost of buying the total requirement in successive independent procurements. All the factors to be considered for the various evaluations involved shall be set forth in the solicitation.

(b) In the event the Government determines prior to award that only the first program year quantities are actually required, the procurement will no longer be evaluated on a multi-year basis:

(1) When the solicitation permits bids or offers on either the first program year requirements or the multi-year requirements or both, only bids or offers on the first program year requirements will be evaluated; and

(2) When the solicitation does not permit the submission of prices on a single-year basis, the single year requirement will be resolicited.

(c) The cancellation ceiling shall not be a factor for evaluation. Unless Government administrative costs incident to annual procurement methods and contract administration can be reasonably established and supported, they shall not be used as a factor for evaluation. When administrative costs are to be used in evaluation, the dollar amount to be used shall be stated in the solicitation.

(d) Delivery destinations may be unknown for certain quantities due to the extended duration of contract performance. In such cases, destinations shall be developed on the basis of best estimates; a definite place or places shall be designated in the solicitation as the point to which transportation costs will be computed (but only for the purpose of evaluating bids or proposals); and the solicitation shall contain the notice required by FPR 1–19.202–7.

(e) When Government production and research property is provided, the use of such property may be on a rent-free basis. In this event, the solicitation shall set forth a detailed description of the procedure to be followed and the factors to be considered for the elimination of competitive advantage. The amount added for evaluation to each offeror's unit price for the first program year requirement shall also be added to his unit price for the multi-year requirements.

(f) When the solicitation requires the submission of prices on the first program year requirements in accordance with § 12–1.5505–3(a), bids or offers which submit prices on the multi-year requirements only shall be rejected as nonresponsive.

(g) When the solicitation provides for submission of prices only for the total multi-year quantity, submission of prices for the single-year quantity will be disregarded for any purpose but will not render the bid or offer nonresponsive as to any alternate multi-year submission by the same bidder or offeror.

(h) To determine the lowest evaluated unit price, compare the lowest evaluated bid or offer on the first program year alternative against the lowest evaluated bid or offer on the multi-year alternative as follows:

(1) Multiply the evaluated unit price for each item of the lowest evaluated bid or offer on the first program year alternative times the total number of units of that item required by the multi-year alternative, and then

(2) Take the sum of these products for all the items, plus the dollar amount of any administrative costs of the Government which are to be used in the evaluation, and finally

(3) Compare this result against the total evaluated price of the lowest bid or offer on the multi-year alternative.

§ 12–1.5513 Award.

(a) Except as provided in paragraphs (b) and (c) of this section, award shall be made on the basis of the lowest evaluated unit price determined in accordance with § 12–1.5512, whether that price is on a single-year basis or a multi-year basis.

(b) If only one responsive bid or offer is received on the multi-year requirements from a responsible bidder or offeror, then award shall be made as follows:

(1) If the solicitation gave the bidder or offeror the choice of submitting prices on a single-year basis or multi-year basis or both, then award shall be made in accordance with § 12–1.5512(a) above;

(2) If the solicitation required the submission of prices on the first program year requirements in accordance with § 12–1.5505–3(a) award shall be made to the lowest evaluated bidder or offeror on the single-year basis, even though the multi-year price submission may represent the lowest evaluated price submission, except that if the multi-year price offers distinct advantages to the Government a multi-year award may be made with the advance approval of the head of the procuring activity;

(3) If the solicitation restricted the submission of prices to the multi-year basis only, the solicitation shall be cancelled and a new solicitation issued by whatever procedures are then appropriate except that if the multi-year price offers a distinct advantage to the Government a multi-year award may be made with the advance approval of the head of the procuring activity.

(c) In no event shall award be made at an unreasonable price.

§ 12–1.5514 Contract clauses.

The clauses in § 12–7.151–14 shall be included in all contracts under the multi-year procurement method.

Subpart 12–1.56—Preaward Survey Procedures

§ 12–1.5600 Scope of subpart.

This subpart prescribes the procedures for conducting preaward on-site evaluations (preaward surveys) of prospective contractors. While the procedures are primarily applicable to supply contracts, they shall be applied, to the extent appropriate, to other contracts.

§ 12–1.5601 General.

§ 12–1.5601–1 Need for survey.

(a) Before requesting or performing an on-site survey, the contracting officer shall review the data available in the procurement office files or information available from other sources (e.g., other Government procurement offices, contractor's performance under current or prior contracts, and such commercial sources as banks and credit rating and reporting firms). Prior preaward evaluation reports, if any, should be reviewed.

(b) When available information is not sufficient for the contracting officer to determine the prospective contractor's responsibility, the contracting officer shall perform or have performed a preaward survey to determine if the prospective contractor meets the standards set forth in FPR subpart 1–1.12 and any additional requirements set forth in the solicitation. A survey is not ordinarily performed on contracts of less than $10,000, or when there is sufficient data available to make a positive determination of responsibility.

§ 12–1.5601–2 Type of survey.

A complete survey encompasses investigation of all standards concerning responsibility and any other requirements of special inquiry as deemed necessary by the contracting officer. A partial survey is limited to certain standards: for example, it might cover only technical qualifications, production backlog, or financial resources.

§ 12–1.5601–3 Conducting the survey.

When a preaward survey is necessary, it shall be conducted by the contracting officer or his designated representative, or by a survey team consisting of the contracting officer or his designated representative and such other qualified specialists as are deemed necessary to evaluate all appropriate phases of the prospective contractor's capability. The type of survey needed (complete or partial) and the areas of consideration shall be identified by the contracting officer. Personnel of the field contract inspection staffs within the Department may be employed, through cross-servicing, as provided in DOT Order 4200.6c.

§ 12–1.5601–4 Release of survey information.

No indication shall be made to the prospective contractor that an award will or will not be made. This prohibition does not preclude discussion with the prospective contractor of questionable areas which require clarification. Information obtained during the survey shall be treated in strict confidence and divulged only to Government personnel having a need to know. The survey report is confidential business information and shall not be released outside the Government. The completed report, however, or the facts it contains can be discussed with the concern involved.

§ 12–1.5601–5 Preparation for the survey.

The contracting officer or the individual designated by him as responsible for the conduct of the survey shall:

(a) Review all requirements set forth in the solicitation or proposal.

(b) Determine composition of the team if more than one specialist is required.

(c) Make arrangements for plant visits. On-site preaward evaluations must be completed in timely fashion. Therefore it is necessary to make prompt contact and arrangements with the prospective contractor for the survey. At the time contact is made, the prospective contractor should be advised of the documentation that may be needed, such as financial statement, resumes of company personnel, descriptions of existing plant workload, and production loading charts.

(d) Advise team members what information is required from their respective organizational elements, the date needed, and any particular portion of the survey for which they are responsible.

(e) Brief team members on their responsibilities and conduct relative to interviews and discussions with officials of the concern.

(f) Arrange for discussion among members during and after the on-site survey to assure that evaluations by individual specialists are coordinated and complete.

§ 12–1.5601–6 On-site survey procedures.

(a) Discussions should be held with the prospective contractor's management officials. These discussions should be in sufficient detail to obtain as much information as can be supplied by the officials concerning the prospective contractor's ability to perform satisfactorily, and to assure that the solicitation requirements and its technical aspects (such as specifications, prototype, data, inspection and testing, packaging, delivery, instruction books and reports), are understoood. If a cost-reimbursable contract is contemplated, the prospective contractor's accounting system will be reviewed to determine that it is adequate for the determination of costs applicable to the contract.

(b) The facilities and procedures the prospective contractor proposes to use, and his overall plans for performing the contract, shall be reviewed and analyzed for adequacy.

(c) The contracting officer or the individual designated by him as responsible for the conduct of the survey shall:

(1) Review with other team members the findings developed during the survey. Points of disagreement should be reviewed in depth.

(2) Obtain clarification from the contracting officer when questions of interpretation arise during the course of the evaluation.

(3) Write a narrative report of the team's findings.

(4) Otherwise direct the efforts of the team.

(d) Each team member shall analyze and evaluate the prospective contractor's capability to perform with respect to that part of the survey for which he is responsible. His report shall be promptly furnished to the team leader, and be in sufficient detail to substantiate his findings.

§ 12–1.5602 Survey report.

§ 12–1.5602–1 Format.

The report shall be in narrative form. The format set forth in DOTPR 12-1.5604 shall be used to the maximum extent practicable. All pertinent documentation should be forwarded with the report.

§ 12–1.5602–2 Standards.

The report shall discuss the standards set forth in FPR 1–1.12 and the requirements of the solicitation sufficiently to substantiate the conclusion. I shall include a discussion of all pertinent topics of the "Guide for On-Site Evaluation of Prospective Contractor" (see DOTPR 12-1.5603). In any case where there is conflict of opinion between team members as to whether the prospective contractor meets a standard, this fact shall be discussed in detail, and the team leader shall determine the survey team's position on that standard. Copies of team members' reports, including those which dissent from the position recommended by the team, shall be included as enclosures to the survey report. The survey report shall unequivocally state that the prospective contractor does or does not meet each standard.

§ 12–1.5603 Guide for on-site evaluation of prospective contractor.

This guide is intended to assist in developing the facts to be used for preparing the survey report. It should be used only as a guide, not as a question/answer sheet.

GENERAL INFORMATION

(a) Solicitation or proposal number or other identification.

(b) Date(s) of evaluation.

(c) Firm name, address, telephone number.

(d) Name(s) and title(s) of the person(s) contacted in making evaluation.

(e) Name(s) and routing symbol(s) of evaluation team members.

ORGANIZATION

(a) List the names, titles, and citizenship of the principal company officials. Also list experience and background if resumes not available.

(b) Form of company: Corporation (parent/subsidiary affiliations), partnership, sole proprietorship? Date company was founded. If incorporated, in which State?

(c) Name and relationship of parent company, if any.

(d) Location of parent company. (Complete only if applicable to the solicitation.)

(e) Evaluate organization against the requirements of the solicitation; i.e., are there any conflicts of duties within or between organizational segments which may endanger contract performance; is the organization such that all facets of the contract will be controlled?

(f) Does the prospective contractor have the necessary organization to satisfactorily perform the proposed work?

FINANCIAL RESOURCES

(a) Obtain a copy of the prospective contractor's financial statements for the prior two fiscal years and a copy of his most recent financial statement.

(b) Does the prospective contractor intend to obtain bank or other lines of credit financing to perform on the proposed contract?

1. If so, in what amount? _____ with whom? _____

(c) Obtain data on credit available from local financial institutions. Differentiate between credit available on an open basis and that available as a result of an award of the proposed contract. Identify the financial institution, its address and telephone number, and personnel who may be contacted for verification of information. Also identify the prospective contractor's banking facilities.

(d) Is the prospective contractor receiving any Government financing? If so, indicate:

1. Amount of unliquidated progress payments outstanding _____

2. Amount of Government guaranteed loans with dollar amount being used at present _____

3. Identify Government agencies and contract numbers involved in (a) and (b) above.

(NOTE.—If requested by the contracting officer, send the financial information to him immediately upon receipt. Include complete address and name of person(s) who may be contacted regarding financial matters.)

EXPERIENCE

(a) Is the item to be procured a standard item for the prospective contractor? If so, for how many years has the item been produced, and what is the quantity produced?

(b) Has the prospective contractor ever produced identical or similar items to those required on the solicitation for either Government or commercial purposes? If so, describe in detail giving dates produced, Government contract numbers, and quantities delivered.

(c) Has the prospective contractor performed previous contracts such that he is familiar with Government specifications in general or applicable specifications in particular?

(d) Do the prospective contractor's responsible officials question any of the contract requirements or allege any misunderstanding of the contract requirements?

(e) List the firm's present product, or obtain brochures listing same, and years of production experience with such products.

(f) Are the prospective contractor's purchasing personnel experienced in procuring materials, components, services, and subcontracting to Government specifications?

(g) Does the prospective contractor have the necessary experience to satisfactorily perform the proposed contract?

TECHNICAL QUALIFICATIONS

List the names and positions of the prospective contractor's key engineering, quality control, and all other technical personnel who will be involved with an award. Also list experience and educational background if resumes are not available.

(a) *Engineering competence.* (1) Do the prospective contractor's engineers fully understand all equipment specification requirements of the solicitation?

(2) What experience do the prospective contractor's engineers have with design, development and manufacturing of the products required by the solicitation?

(3) Do the prospective contractor's engineers have the specialized engineering experience considered necessary to build the product required by the solicitation?

(4) How many engineers will be assigned to the proposed contract?

(5) Will the engineers who will be assigned to the proposed contract also be assigned to other projects?

(6) If the engineers will be assigned to other projects, at what time during the proposed contract will they actually commence work on the proposed contract?

(7) What percentage of each engineer's time will be devoted to the proposed contract?

(8) Does the prospective contractor propose to employ consultants to assist in any of the engineering or technical areas? If so, are the consultants available? (Give name, address, experience, and confirm that arrangements have been made for these services.)

(9) Does the prospective contractor have qualified technical writers and do they intend to write their own instruction books or other manuals required by the contract? Explain, equating the technical writer's experience with the specific requirements.

(10) If the prospective contractor intends to obtain outside technical writing services, are such services immediately available? (Give name, address, experience, and confirm that arrangements have been made for these services.)

(b) *Quality and reliability assurance.* (1) Does the prospective contractor have a Quality Control or Quality Assurance Department?

(2) Does the prospective contractor have written Quality Control or Quality Assurance procedures? If so, obtain a copy.

(3) Are the prospective contractor's quality procedures now implemented in all respects?

(4) Do the prospective contractor's responsible quality control personnel fully understand all quality control inspection, testing, source inspection and certification of compliance requirements of the solicitation?

(5) Do the prospective contractor's quality control personnel have the specialized inspection experience considered necessary to test the product required by the solicitation? Explain.

(6) Does the prospective contractor have the necessary facilities and equipment, including peculiar or special test equipment for performing all tests required and will it be available for the proposed work? (Obtain list of required test equipment.)

(7) Are the prospective contractor's quality assurance procedures and controls adequate in all respects to meet the requirements of the solicitation?

(c) *Summary of technical qualification.* (1) Do you find the prospective contractor's engineering, quality control and other technical staff competent to satisfactorily complete the proposed contract? Explain, equating the technical competency, and experience to the specific item(s) required.

FACILITIES

(a) *Land, buildings, production, and test equipment.* (1) What is the area of land on which building(s) is located?

(2) Describe buildings.

(3) Describe floor area: (1) Administrative, (2) Engineering, (3) Production, (4) Storage, (5) Maintenance, etc.

(4) Obtain list of type, quantity, and condition of prospective contractor-owned production equipment and test equipment.

(5) Does the prospective contractor employ preventive maintenance and are maintenance facilities available and adequate?

(6) What percentage of equipment and facilities (including land and buildings) are:

(*1*) Being purchased ----------?
(2) Owned ----------?
(3) Leased ----------?

(7) Are any facilities or equipment Government-owned? If so, from whom and under what terms and conditions are they leased?

(8) Will any conversion of existing facilities and equipment be required to produce the solicitation item(s)?

(9) Does the prospective contractor have the necessary facilities for domestic and/or overseas packing of the items required? If subcontracted, identify by name and location the proposed subcontractor.

(10) Are present facilities, including production and test equipment, adequate to fulfill the requirements of the solicitation?

(11) If any part is leased, what portion and under what terms and conditions?

(b) *Production capacity.* (1) Is the item to be procured a stock item with the prospective contractor? If so, are stock quantities sufficient to supply initial or all quantities on the schedule?

(2) What is the current condition of the prospective contractor's Government Order Board?

(*1*) Indicate backlog in man-hours and dollars.

(2) Indicate monthly production rate (in dollars and man-hours or percent of company's overall capacity).

(3) What is the current condition of the prospective contractor's Commercial Order Board?

(*1*) Indicate backlog in manhours and dollars.

(2) Indicate monthly production rate (in dollars and manhours or percent of company's overall capacity).

(4) Does the prospective contractor use records and charts, i.e., production flow charts, operation sheets, and machine-loading charts, to schedule and control production? Obtain from the prospective contractor a copy of his projected master production schedule; and, if possible, a man hour breakdown related to the schedule. Ascertain if the schedule is feasible and compatible with the proposed contract schedule. If the situation does not warrant obtaining proposed schedules from the prospective contractor, prepare one from the information (data) developed during the survey.

(5) List the names and addresses of important potential subcontractors and the functions which such subcontractors will perform; e.g., shop testing, packaging, annealing, anodizing, etc. Quoted delivery time for these services should also be obtained. Are the delivery times realistic and compatible with the solicitation schedule?

(6) List the names and addresses of suppliers who are to provide critical and components, and/or materials for the contract; e.g., major components, materials in short supply, items which would normally be expected to have long delivery periods, and items needed relatively early in the production process. List such items, the quantities required, and the required delivery dates. Vendor's quoted delivery dates shall also be listed.

(*1*) Are vendor deliveries in line with lead time required to meet the production schedule? Are vendor-quoted deliveries realistic?

(7) Equating the prospective contractor's present production schedule commitments for Government and commercial orders and schedule requirements of the solicitation with his overall capacity, is there now sufficient production capacity to produce the required items within the required delivery schedule?

(c) *Transportation.* (1) Will the end items of the proposed contract require special transportation handling or facilities?

(2) Are the transportation facilities (rail, motor, truck, etc.) available to the prospective contractor adequate for the delivery of end items of the proposed contract?

(d) *Power and fuel.* (1) Does the proposed contract require any special power or fuel requirements?

(2) Is the prospective contractor's power and fuel supply sufficient to enable the prospective contractor to meet all performance requirements of the proposed contract?

(e) *Government propetry.* (1) Does the prospective contractor have written procedures for control of Government property?

(2) Is there a particular employee designated as a Government property representative?

(3) What facilities does the prospective contractor have for protecting and safeguarding of GFP?

(4) Does the solicitation provide for the furnishing of GFP? Does the prospective contractor plan to ask for any GFP? If so, identify type of property and reason for request.

(5) Will the prospective contractor acquire any property for the Government other than that to be incorporated into the end item(s)? If so, identify the type of property. Does the prospective contractor's control system provide for control of contractor-acquired property as well as GFP?

(f) *Security.* (1) Does the proposed contract require plant security clearance?

(2) What Government agency has plant security cognizance of the contractor's facility?

(3) What is the level of security clearance that has been granted the contractor's facility by a Government agency?

(g) *Summary of facilities.* Are the facilities of the prospective contractor adequate in all respects to satisfactorily perform the proposed contract?

SKILLS

(a) Present number of employees by skills.
(1) Professional (Scientific)_____.
(2) Engineers_____.
(3) Quality Control_____.
(4) Production_____.
(5) Managerial or Administrative_____.
(6) Others_____.

(b) What is the present work schedule (number of work shifts, hours per shift, number of employees per shift, and work days per week)?

(c) Is present work schedule and personnel complement adequate to satisfactorily perform the proposed contract concurrently with present commitments? If additional personnel are required, are the necessary skills available? In particular evaluate the need for, and availability of, any unusual or scarce skills.

(d) What, if any, is (are) the prospective contractor's present labor affiliation(s)? Give dates of expiration of any existing collective bargaining agreements.

(e) Does anything indicate any current or anticipated problems with the labor force? Does the prospective contractor have the necessary skills to satisfactorily perform the proposed contract?

OFFEROR'S RECORD OF INTEGRITY, JUDGMENT, AND PERFORMANCE

(a) Has the prospective contractor previously completed a contract with the Department? Yes____ No____. Identify the contracts by commodity and total value.

(1) Were delivery schedules met? If not, why?

(2) What problems, if any, were encountered?

(b) Has the prospective contractor previously completed contracts for other Government agencies? Yes____ No____.

(1) Were delivery schedules met? If not, why?

(2) What problems, if any, were encountered?

(c) Does the prospective contractor presently have Department contracts? Identify contracts by number, commodity, and value.

(1) Is contract(s) on schedule? If not, why?

(2) What problems are being encountered?

(3) What percentage of current contracts are delinquent in performance?

(4) Did the Government cause or contribute to the problems or were they within the control of the contractor?

(d) Does the prospective contractor presently have contracts with other Government agencies? Identify by agency, number, commodity and value.

(1) Is contract on schedule? If not, why?

(2) What problems are being encountered?

(3) What percentage of current contracts are delinquent in performance?

(4) Did the Government cause or contribute to the problems or were they within the control of the contractor?

(e) Has the prospective contractor required unusual and burdensome (to the Government) assistance (e.g., inspection, testing) on above contracts?

(f) Does the prospective contractor have a satisfactory record of integrity, judgment, and performance?

ABILITY TO COMPLY WITH TIME OR DELIVERY OR PERFORMANCE SCHEDULE

Does the prospective contractor have the ability and all things necessary to comply with the delivery or performance schedule of the solicitation?

§ 12–1.5604 Format for on-site survey report.

Subj: Preaward survey report of _____ (prospective contractor)

_____ under Solicitation No. _____

_____

To: _____

(In the first paragraph, give date(s) of the on-site evaluation; name, address and telephone number of the prospective contractor; names and titles or positions of personnel contacted and names and routing symbols of DOT personnel who participated in the onsite evaluation.)

(Subsequent paragraph headings should generally be used as shown below, and the findings, discussions and conclusions under each heading will be based on the information developed with the guide in DOTPR 12–1.5603 and other relevant facts deemed pertinent by the representative responsible for performing the survey.)

Organization:
Financial:
Experience:
Technical qualifications:

(a) Engineering competence. (b) Quality and reliability assurance.

Facilities:

(a) Land, buildings, and production and test equipment.
(b) Production capacity.
(c) Transportation.
(d) Power and fuel.
(e) Government property.
(f) Security.

Skills:

Prospective Contractor's Record of Integrity, Judgment, Performance and Ability To Comply With Time of Delivery or Performance Schedule:

Conclusion: This conclusion must specifically state the standards which the prospective contractor does meet, and the standards which the prospective contractor does not meet. As an example of a prospective contractor who meets all standards, the conclusion should be written similar to the following:

"Based on the facts developed during this on-site evaluation, it is concluded that (prospective contractor) has the necessary organization, experience, technical qualifications, skills, facilities, satisfactory record of integrity, judgment and performance, and has the ability to comply with the required delivery (or performance) schedule."

Signature: _____

PART 12–2—PROCUREMENT BY FORMAL ADVERTISING

Subpart 12–2.1—Use of Formal Advertising

Sec.
12–2.102 Policy.

Subpart 12–2.2—Solicitation of Bids

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AUTHORITY: Sec. 205(c), 63 Stat. 389; 40 U.S.C. 486(c), 10 U.S.C. 2301–2314.

Subpart 12–2.1—Use of Formal Advertising

§ 12–2.102 Policy.

Chapter 137 of Title 10 of the United States Code (see 10 U.S.C. 2304(a)), is applicable to procurements by Coast Guard. Negotiation of contracts is authorized under certain circumstances enumerated therein. The circumstances are set forth in DOTPR Subpart 12–3.2.

Subpart 12–2.2—Solicitation of Bids

§ 12–2.201 Preparation of invitations for bids.

In addition to the applicable information contained in FPR 1–2.201, the following shall be included in the invitation for bid if applicable to the procurement:

(a) *For supply and service contracts including construction.*

(50) In all cases where multiple awards are to be considered, the following provision:

EVALUATION OF BIDS FOR MULTIPLE AWARDS

In addition to other factors, bids will be evaluated on the basis of advantages or disadvantages to the Government that might result from making more than one award (multiple awards). For the purpose of making this evaluation, it will be assumed that the amount of $100 would be the administrative cost to the Government for issuing and administering each contract awarded under this invitation, and individual awards will be for the items and combinations of items which result in the lowest aggregate price to the Government, including such administrative costs.

§ 12–2.202–1 Bidding time.

The minimum bidding times set forth in FPR 1–2.202–1 and 1–1.307–4(a) should not be construed to be maximum or automatic bidding times. The bidding time permitted under each procurement should reflect the considered judgment of the contracting officer taking into account all of the facts surrounding the procurement, and recognizing that doubts should be resolved in favor of a longer rather than a shorter bidding time. If the bidding time for any procurement is reduced below the minimum, the reduction shall be fully justified and documented in the contract file by the contracting officer.

§ 12–2.202–2 Telegraphic bids.

When telegraphic bids are authorized, include the following provision in the Schedule of the invitation:

TELEGRAPHIC BIDS

Telegraphic bids may be submitted in response to this invitation for bids. Telegraphic bids must be received in this office prior to the time specified for opening of bids. Such bids must specifically refer to this invitation for bids, include the item or sub-items, quantities and unit prices for which the bid is submitted and the time and place of delivery; and contain all the representations and other information required by the invitation for bids together with a statement that the bidder agrees to all the terms, conditions and provisions of the invitation. Failure to furnish, in the telegraphic bid, the representations and information required by the invitation for bids may necessitate rejection of the bid. Signed copies of the invitation for bids must be furnished in confirmation of the telegraphic bids.

§ 12–2.202–5 Descriptive literature.

(a) Descriptive literature shall not be required of the bidder unless all requirements of FPR 1–2.202–5 and this § 12–2.202–5 have been met.

(b) The justification required by FPR 1–2.202–5(c) must state, in sufficient detail, the reasons why acceptable products cannot be procured without the submission of descriptive literature. A justification that states little more than the conclusion that descriptive literature is required is not acceptable. Bidders shall not, except in the most unusual circumstances which can be clearly justified, be required to furnish descriptive literature when the specifications are stated in such detail that they leave nothing for the bidder to describe.

(c) Among other things, FPR 1–2.202–5(d) requires "* * * the invitation for bids shall clearly state *what* descriptive literature is to be furnished, the *purpose* for which it is required, the *extent* to which it will be considered in the evaluation of bids, *and* the *rules* which will apply if a bidder fails to furnish it before bid opening * * *." The asterisked note in FPR 1–2.202–5(d)(1) lists categories of general subjects which may be appropriate for inclusion in the Requirement for Descriptive Literature clause. A mere repetition of these subjects in the clause is not sufficient to establish a common basis for evaluation of bids.

(d) An invitation for bids must contain sufficient particularity to put bidders on notice (1) as to why the descriptive data is necessary, and (2) as to how much detail the bidder must furnish in his descriptive data for his bid to be considered responsive.

§ 12–2.203–1 Mailing or delivery to prospective bidders.

(a) Copies of invitations may be furnished for informational purposes to non-governmental organizations such as trade associations and bidding informational services, provided they lend some assistance in advertising the requirements. The extent to which supporting papers (drawings, specifications and general provisions) are furnished will depend on how the organizations intend to use the material. If they merely prepare a synopsis of bid solicitations for distribution to their members or subscribers, the invitation itself should suffice. If, however, they provide a reading room service (such as various trade associations do for construction projects), a complete set of all papers should be furnished without cost.

(b) In connection with invitations for construction, where the cost of reproduction and distribution of plans or drawings is a substantial cost item, the extent of distribution of bidding papers may be controlled by charging prospective contractors and subcontractors a flat, non-refundable deposit fee. This method is preferred over the use of a refundable deposit system. When the plan fee method is used, arrangements should be made for plans and other bidding papers to be readily available for free inspection at the originating procurement office and other appropriate procurement offices, trade association reading rooms, and similar locations. The nonrefundable plan fee should be $5.00, $10.00, or $15.00 per set, or more as may be appropriate. The value of the project and the cost of reproduction and distribution of the plan should be considered in determining the fee to be charged. No additional charge should be made for plans which are revised or added after the invitation is issued, or for additional plans required by the successful bidder. Plan fees collected are for deposit in the "Miscellaneous Receipts" account.

§ 12–2.203–3 Publicity in newspapers and trade journals.

(a) Section 3703 of Title 44 of the U.S. Code provides that "All advertisements, notices, proposals for contracts, and all forms of advertising required by law for the several departments of the Government may be paid for at a price not to exceed the commercial rates charged to private individuals, with the usual discounts." Section 3701 of the same title prohibits advertising in any newspaper published and printed in the District of Columbia unless the supplies or labor to be secured are to be furnished or performed in the District of Columbia or in the adjoining counties in Maryland and Virginia.

(b) The head of the agency may authorize the publication of advertisements, notices, or proposals relating to the procurement and disposal of real and personal property and services. This authority may be delegated, but without power to further delegate, to subordinate officials.

(c) Standard Forms 1143 and 1143a shall be used to place orders for paid advertising.

§ 12–2.205–5 Release of bidders mailing lists.

When it is necessary to dispatch identical information by means of electrical transmission to prospective bidders or offerors, the electrically transmitted message, when released for communications handling, shall be marked "Book Message—Transmit a Single Address Message" to preclude prospective bidders or offerors from knowing the names of others solicited.

Subpart 12–2.4—Opening of Bids and Award of Contract

§ 12–2.402–50 Classified bids.

The opening of classified bids shall not be accessible to the general public. Such opening may be witnessed and the results recorded by those bidder representatives who have been previously cleared from a security standpoint and who represent bidders which were invited to bid on the procurement. Bids shall be made available only to those persons authorized to attend the opening of bids. The procedures set forth in FPR1–2.402 for safeguarding unclassified bids are also applicable to classified bids. Classified bids shall be stored in GSA-approved security containers. No public record shall be made of bids or bid prices received on classified invitations for bids.

§ 12–2.407–8 Protests against award.

When a protest is received after award of contract, the contracting officer shall obtain the views and advice of legal counsel and the head of the procuring activity.

§ 12–2.408 Information to bidders.

Unsuccessful bidders shall be given a written notification of award. It shall contain the name of the successful contractor(s), and the unit price(s) or the total amount of the contract, whichever is appropriate. However, when numerous unit prices apply, thereby creating an extensive workload in furnishing this information, or where the total amount of the contract would not be meaningful, price information may be omitted. In the latter instance, the location where the abstract of bids is available for inspection shall be stated.

Subpart 12–2.5—Two-Step Formal Advertising

§ 12–2.503–1 Step one.

Although the Government's delivery or performance requirements are not evaluation factors under Step One, information about those requirements may be of assistance to potential bidders in determining whether or not to submit a technical proposal. Accordingly, a request for technical proposals may contain a statement indicating what the Government's probable contract delivery or performance requirements will be. The statement shall also advise that such information is not binding on the Government and that the Government's actual delivery or performance requirements will be contained in the invitation for bid issued under Step Two.

§ 12–2.503–50 Determination of size status.

Where a two-step procurement is set aside for small business firms, the controlling point in time for determining the size status of a concern is, as prescribed in FPR 1–1.703–1(b), the date of award of contract. The fact that the size status of an offeror submitting a proposal in good faith changed from a "small" to a "large" business during the interval between Step One and Step Two is not

sufficient to justify an exception to the rule that size status is for determination at time of award.

PART 12–3—PROCUREMENT BY NEGOTIATION

Subpart 12–3.2—Circumstances Permitting Negotiation

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AUTHORITY: Sec. 205(c), 63 Stat. 389; 40 U.S.C. 486(c), 10 U.S.C. 2301–2314.

Subpart 12–3.2—Circumstances Permitting Negotiation

§ 12–3.200 Scope of subpart.

(a) This subpart is applicable only to the Coast Guard.

(b) Procurements by the Coast Guard may be effected by negotiation under any one of the seventeen exceptions contained in 10 U.S.C. 2304(a). Except as modified in this subpart 12–3.2, the regulations set out in FPR Subpart 1–3.2 shall apply to Coast Guard negotiated procurement.

§ 12–3.201 National emergency.

Section 2304(a)(1) of 10 U.S.C. shall be cited as the authority for Coast Guard procurement under this section.

§ 12–3.202 Public exigency.

Section 2304(a)(2) of 10 U.S.C. shall be cited as the authority for Coast Guard procurement under this section.

§ 12–3.203 Purchases not in excess of $10,000.

Section 2304(a)(3) of 10 U.S.C. shall be cited as the authority for Coast Guard procurement under this section.

§ 12–3.204 Personal and professional services.

Section 2304(a)(4) of 10 U.S.C. shall be cited as the authority for Coast Guard procurement under this section.

§ 12–3.205 Services of educational institutions.

Section 2304(a)(5) of 10 U.S.C. shall be cited as the authority for Coast Guard procurement under this section.

§ 12–3.206 Purchases outside the United States.

(a) *Authority.* Section 2304(a)(6) of 10 U.S.C. shall be cited as the authority for Coast Guard procurement under this section "for property or services to be procured and used outside the United States, and its territories, possessions and Puerto Rico."

(b) *Application.* This authority shall be used only for the procurement of—

(1) Supplies to be (i) shipped from, (ii) delivered, and (iii) used, or

(2) Services to be performed

outside of the United States, its possessions and Puerto Rico, irrespective of the place of negotiation or execution of the contract.

§ 12–3.207 Medicines or medical supplies.

Section 2304(a)(7) of 10 U.S.C. shall be cited as the authority for Coast Guard procurement under this section.

§ 12–3.208 Property purchased for authorized resale.

Section 2304(a)(8) of 10 U.S.C. shall be cited as authority for Coast Guard procurement under this section.

§ 12–3.209 Subsistence supplies.

Section 2304(a)(9) of 10 U.S.C. shall be cited as authority for Coast Guard procurement under this section.

§ 12–3.210 Impracticable to secure competition by formal advertising.

Section 2304(a)(10) of 10 U.S.C. shall be cited as authority for Coast Guard procurement under this section.

§ 12–3.211 Experimental, development, or research work.

(a) *Authority.* Section 2304(a)(11) of 10 U.S.C. shall be cited as authority for Coast Guard procurement under this section.

(b) *Limitations.* In addition to the limitations set forth in FPR 1–3.211(b), determinations and findings for contracts negotiated under this section requiring expenditures of not more than $100,000, shall be made by the Comptroller, Coast Guard Headquarters (Commandant (G–F)); those in excess of $100,000 shall be made by the Commandant of the Coast Guard.

(c) *Reporting requirement.* (1) Reports required by Section 2304(e), of 10 U.S.C. to be made to the Congress on May 19 and November 19 of each year shall be made by Chief, Procurement Division (Commandant (G–FCP)), to the Department of Transportation, Office of Installations and Logistics, TAD–60, by

May 1 and November 1 of each year of the purchases and contracts made under this § 12-3.211 since the date of last report.

(2) Reports shall contain the following information:

(i) Name of contractor;

(ii) Dollar amount of contract (including amendments); and

(iii) Brief description of the work required to be performed under the contract (when necessary, because of the national security, the word "Classified" may be used in lieu of the description).

§ 12-3.212 Purchases not to be publicly disclosed.

(a) *Authority.* Section 2304(a)(12) of 10 U.S.C. shall be cited as the authority for Coast Guard procurement under this section.

(b) *Limitations.* Determinations and findings for negotiation under this section shall be made by the Commandant.

§ 12-3.213 Technical equipment requiring standardization and interchangeability of parts.

(a) *Authority.* Section 2304(a)(13) of 10 U.S.C. shall be cited as authority for Coast Guard procurement under this section.

(b) *Limitations.* Determinations and findings for negotiation under this section shall be made by the Commandant.

§ 12-3.214 Negotiation after advertising.

(a) *Authority.* Section 2304(a)(15) of 10 U.S.C. shall be cited as authority for Coast Guard procurement under this section. Determinations and findings for negotiation under this section shall be made by the Commandant.

(b) *Limitations.* (1) In addition to the limitations imposed in FPR 1-3.214(b), the negotiated price must be less than the lowest rejected bid of any responsible bidder, as determined by the Commandant.

(2) Determinations and findings for negotiation under this section shall be made by the Commandant.

§ 12-3.215 Otherwise authorized by law.

(a) *Authority.* Section 2304(a)(17) of 10 U.S.C. shall be cited as authority for Coast Guard procurement under this section.

(b) *Application.* The contract shall cite as authority to negotiate, in addition to 10 U.S.C. 2304(a)(17), the applicable statute or United States Code reference.

§ 12-3.250 Technical or specialized supplies requiring substantial initial investment or extended period of preparation for manufacture.

(a) *Authority.* Pursuant to 10 U.S.C. 2304(a)(14), purchases and contracts may be negotiated if "for technical or special property that he [the Commandant] determines to require a substantial initial investment or an extended period of preparation for manufacture and for which he determines that formal advertising would be likely to result in additional cost to the Government by reason of duplication of investment or would result in duplication of necessary preparation which would unduly delay the procurement of the property."

(b) *Application.* The authority of this section may be used for the procurement of technical or specialized supplies; for example, aircraft, radar, guided missiles, rockets, and similar items of equipment; major components of any of the foregoing, and any supplies of a technical or specialized nature which may be necessary for the use or operation of any of the foregoing. Such procurement generally involves:

(1) High starting costs which have already been paid for by the Government or by the supplier;

(2) Preliminary engineering and development work that would not be useful to or useable by any other supplier;

(3) Elaborate special tooling already acquired;

(4) Substantial time and effort already expended in developing a prototype or initial production model; and

(5) Important design changes which will continue to be developed by the supplier.

The authority cited in this section will, in general, be used in situations where it is preferable to place a production contract with the supplier who had developed the equipment, and thereby either assure to the Government the benefit of the techniques, tooling, and equipment already acquired by that supplier or avoid undue delay arising from a new supplier having to acquire such techniques, tooling, and equipment. This exception should not be used to avoid duplication of private investment unless this duplication would be likely to result in additional cost to the Government.

(c) *Limitations.* The authority of this section requires a determination and findings by the Commandant which states:

(1) The supplies are of a technical or special nature requiring a substantial investment or an extended period of preparation for manufacture; and

(2) Procurement by formal advertising either—

(i) Would be likely to result in additional cost to the Government by reason of duplication of investment; or

(ii) Would result in duplication of necessary preparation which would unduly delay the procurement.

§ 12-3.251 Purchases in the interest of national defense or industrial mobilization.

(a) *Authority.* Pursuant to 10 U.S.C. 2304(a)(16), purchases and contracts may be negotiated if "he [the Commandant] determines that (i) it is in the interest of national defense to have a plant, mine, or other facility, or a producer, manufacturer or other supplier, available for furnishing property or services in case of a national emergency; or (ii) the interests of industrial mobilization, in the case of such an emergency, or the interests of national defense in maintaining active engineering, research, and development, would otherwise be subserved."

(b) *Application.* The authority cited in this section may be used to effectuate such plans and programs as may be evolved under the direction of the Commandant to provide incentives to manufacturers to maintain and keep active, engineering and design staffs and manufacturing facilities available for maximum production. The following are illustrative of circumstances with respect to which this authority may be used:

(1) When procurement by negotiation is necessary to keep vital facilities or suppliers in business or to make them available in the event of national emergency.

(2) When procurement by negotiation with selected suppliers is necessary in order to train them in the furnishing of critical supplies to prevent the loss of their ability and employee skills, or to maintain active engineering, research, and development work.

(3) When procurement by negotiation is necessary to maintain properly balanced sources of supply for meeting the requirements of procurement programs in the interest of industrial mobilization. (When the quantity required is substantially larger than the quantity which must be awarded in order to meet the objectives of this authority, that portion not required to meet such objectives will ordinarily be procured by formal advertising or by negotiation under another appropriate negotiation exception.)

(c) *Limitations.* The authority cited in this section shall not be used unless and until the Commandant has determined that—

(1) It is in the interest of national defense to have a particular plant, mine, or other facility or a particular producer, manufacturer, or other supplier available for furnishing supplies or services in case of national emergency and negotiation is necessary to that end; or

(2) The interests of industrial mobilization in the case of a national emergency would be subserved by negotiation with a particular supplier; or

(3) The interest of national defense in maintaining active engineering, research and development would be subserved by negotiation with a particular supplier.

(d) *Reporting requirements.* Reports required by section 2304(e) of 10 U.S.C. to be made to the Congress on May 19 and November 19 of each year will be made by the Chief, Procurement Division (Commandant (G-FCP)), by May 1 and November 1 of each year to the Department of Transportation, Director of Installations and Logistics, TAD-60, of the purchases and contracts made under 10 U.S.C. 2304(a)(16) since the date of last reporting.

(1) Reports shall contain the following information:

(i) Name of contractor.

(ii) Dollar amount of contract (including amendments).

(iii) Brief description of the work required to be performed under the contract. (When necessary, because of the national security, the word "classified" may be used in lieu of description.)

(2) Negative reports are not required.

§ 12–3.252 Negotiation of construction contracts for work to be performed in the United States, its possessions and Puerto Rico.

(a) *Authority.* Section 2304(a) (1), (2), (3), (10), (11), (12), or (15) of 10 U.S.C. shall be cited as authority for Coast Guard procurement under this section. The appropriate code provision shall be cited in the contract as authority for the negotiation.

(b) *Limitation.* Coast Guard contracts to be performed under this section may not be negotiated pursuant to 10 U.S.C. 2304(a)(6).

Subpart 12–3.3—Determinations, Findings, and Authorities

§ 12–3.301 General.

The determinations and findings required to be made under FPR Part 1–3 by the Coast Guard shall cite the appropriate section of Chapter 137 of Title 10 of United States Code. Determinations and findings of all other Administrations shall cite the appropriate section of Title 41 of United States Code.

§ 12–3.305–50 Format for D & F for authority to negotiate a contract.

DEPARTMENT OF TRANSPORTATION

(Name of Administration)

DETERMINATION AND FINDINGS

Authority to negotiate a contract under _____.

(insert authority)

FINDINGS

(1) The proposed contract provides for the procurement of (describe here the nature and scope of the work to be performed, including estimated cost).

(2) (In this and any subsequent paragraphs, set forth the facts and circumstances that clearly and convincingly establish that formal advertising would not be feasible and practicable for the procurement.)

DETERMINATION

Upon the basis of these findings, I hereby determine that the proposed contract may be negotiated without formal advertising pursuant to _____.

(insert authority)

Dated: _____

_____

§ 12–3.305–51 Format for D & F for use of cost reimbursable or fixed price incentive type contracts.

DEPARTMENT OF TRANSPORTATION

DETERMINATION AND FINDINGS

(Name of Administration)

DETERMINATION AND FINDINGS

Authority to use a _____ contract.

(insert type)

FINDINGS

(1) The proposed contract provides for the procurement of _____ at an esti-
(brief description of supplies or services)
mated cost of $_____.

(2) (In this and any subsequent paragraphs set forth the facts that show why it is impracticable to secure supplies or services of the kind or quality required without the use of such type of contract, or that such method of contracting is likely to be less costly than other methods.)

DETERMINATION

Upon the basis of these findings, I hereby determine that it is impracticable to secure supplies or services of the kind or quality required without the use of (insert type of contract). [Alternate: * * * I hereby determine that the use of (insert type of contract) is likely to be less costly than other methods.]

(When a cost-plus-a-fixed-fee is involved, the following finding is also to be made:)

Pursuant to (insert "41 U.S.C. 254(b)" or "10 U.S.C. 2306(d)", as applicable), I hereby determine that the estimated cost of the contract, exclusive of the fee, is $_____, that the fee in the amount of $_____ is _____ percent of the estimated cost, exclusive of fee, and that the fee is within statutory and administrative limitations.

Dated: _____

_____

Subpart 12–3.4—Types of Contracts

§ 12–3.408 Letter contract.

(a) *Request for approval.* The use of letter contracts must be approved in advance on a case-by-case basis by the head of the procuring activity, and variations from the limitations set forth in (b) below must be approved by the head of the procuring activity. The request for approval must state: the necessity and advantage to the Government in issuing the letter contract; why no other type of contract is suitable; name and address of the proposed contractor; duration of proposed letter contract in number of days from date of execution; amount of letter contract and estimated amount of definitive contract showing source and citation of funds with statement that funds are available; the estimated delivery date or dates and the proposed type of definitive contract.

(b) *Limitations.* In addition to the limitations prescribed in FPR 1-3.408(c), the following apply to, and shall be expressly stated in, each letter contract:

(1) The period of effectiveness for the letter contract, including a specific date when definitization will be completed. This date shall not be later than the first to occur of the following:

(i) The expiration of 120 days from the date of the letter contract; or

(ii) The date by which 40 percent of the performance of the work will be completed.

(2) The maximum liability of the Government stated in the letter contract shall not exceed fifty percent of the total estimated cost of the procurement.

Amendments to letter contracts to accomplish new procurement are subject to the same limitations as new letter contracts.

(c) *Content.* In addition to the requirements in FPR 1-3.408(d), the letter contract shall also:

(1) Incorporate, by reference or otherwise, all clauses required by statute, FPR, DOTPR, and optional standard and special clauses determined to be applicable.

(2) State that the definitive contract shall contain all provisions under paragraph (c)(1) of this paragraph.

(3) Contain an overall price ceiling or a maximum ceiling on fee, where a quoted price has been received and it is considered appropriate to limit the Government's ultimate liability.

§ 12–3.450 Delivery orders.

(a) Except as to specialized procurements for which other instructions have been issued, delivery orders shall be used without monetary limitation for ordering supplies and services (1) under an established contract: *Provided*, The order is issued in accordance with the terms and conditions of the contract and the order refers to the particular contract involved, (2) from another Government agency whether or not a contract number has been assigned.

(b) When the delivery order is issued to another Government agency and the precise extent of the work to be done is not known at time of issuance, an estimated delivery order may be issued. Each estimated delivery order shall contain a provision reading substantially as follows:

NOTICE.—Funds are available in the estimated amount stated below. If at any time the amount to be vouchered under this order is expected to exceed the estimated amount, withhold performance and immediately notify the Contracting Officer.

§ 12–3.451 Letters of intent.

Letters of intent shall not be used.

Subpart 12–3.6—Small Purchases

§ 12–3.603–2 Data to support small purchases.

DOT Form F 4230.1 titled "Small Purchase Summary" may be used to satisfy the documentation requirements of FPR 1–3.603–2.

§ 12–3.650 Purchase orders.

§ 12–3.650–1 "Minimum billing" quotations.

Occasionally an item can be obtained only from a supplier who quotes a minimum order price or a minimum order quantity, which either unreasonably exceeds the agency's needs or results in an unreasonable price for the quantity required. If practicable before placing the order the requiring activity should be informed in such cases of all facts regarding the quotation and consideration should be given to increasing the quantity, consolidation of orders, or other appropriate action. The file shall be documented to show the final action taken in such cases.

§ 12–3.650–2 Unpriced purchase orders.

(a) *General.* An unpriced purchase order is an order for supplies or services the price of which is not firmly established at the time of issuance of the order. Such orders shall contain a "Not To Exceed" provision. The contracting officer shall assure that suppliers receiving unpriced purchase orders are carefully selected.

(b) *Conditions for use.* An unpriced purchase order may be used only when all of the following conditions are present:

(1) The purchase will not exceed $10,000, and,

(2) It is impractical to obtain pricing in advance of issuance of the purchase order, and

(3) The procurement is for (i) repairs to equipment requiring disassembly to determine the nature and extent of such repairs, (ii) sole source material for which cost cannot be readily established, or (iii) supplies or services where prices are known to be competitive but exact prices are not known.

(c) *Procedures.* A realistic "Not To Exceed" limitation shall be placed on the order which shall be stated in the Notice to Supplier provision in the blank space provided. This amount shall be obligated subject to adjustment when the firm price is established. Each unpriced purchase order shall contain the following provision:

NOTICE TO SUPPLIER.—This is a firm order if the total price does not exceed the amount of $_____. If the amount to be invoiced will exceed the amount stated below, or if you cannot furnish the work described in exact accordance with the description and delivery schedule set forth herein, withhold performance and immediately notify the Contracting Officer giving your quotation or proposed substitution or changes. In no event will the total amount paid under this order exceed the amount stated unless and until the order has been amended in writing and signed by the Contracting Officer.

The contracting officer or his designated representative shall certify that the invoiced price is fair and reasonable and process the invoice for payment. Suitable local records and controls of outstanding unpriced purchase orders shall be maintained to assure regular follow-up with suppliers until the order is firmly priced. These records should include any information available to support the fairness and reasonableness of the proposed monetary limitation. If the firm price exceeds the "not to exceed" price and the contracting officer determines, nevertheless, that such purchase be made from the supplier, the order shall be amended accordingly: *Provided,* That in no event may the amount of the order exceed $10,000. If the firm price does not exceed the "not to exceed" price, the order should not be amended for the sole purpose of changing the estimated price to a firm price.

§ 12–3.650–3 Estimated purchase orders.

(a) *General.* An estimated purchase order is an order of $2,000 or less for supplies or services the price of which is not firmly established at the time of issuance of the order but which, unlike the unpriced purchase order, provides for approval and payment of billed prices without referral to the contracting officer. Such orders may be issued when it is not practical to obtain a firm price as when, for example, the need is urgent or the vendor is other than a local source and the administrative cost to secure a firm offer would be disproportionate to the value of the order.

(b) *Preparation of order.* The word "estimated," the total price, and a provision reading substantially as follows shall be included on the order:

NOTICE TO SUPPLIER.—This is a firm order if the amount to be invoiced does not exceed the estimated amount stated by 10%. In such cases, submit your invoice to the Paying Office. If the amount to be invoiced will exceed the stated limitations, withhold performance and immediately notify the Contracting Officer. In no event will the total amount paid under this order exceed the stated amount by 10 percent unless and until the order has been amended in writing and signed by the Contracting Officer.

§ 12–3.650–4 List of vendors.

Each procurement office shall establish such lists of vendors as are necessary for recurring requirements to assure access to adequate sources of supply. Where the number of firms on a list is considered excessive, the list may be reduced by any method which will promote competition commensurate with the dollar value of the purchase to be made. If a rotation method is used, the vendors known to regularly submit the lowest price shall be solicited.

§ 12–3.650–5 Follow-up.

Each procurement office shall establish and maintain a simple and effective follow-up system. It should permit maximum latitude for the exercise of initiative and judgment in the administration process and be designed to assure that, to the maximum practicable extent, purchase orders are completed in accordance with their terms. The system may use copies of purchase orders, one or more cards, or the like.

§ 12–3.650–6 Inspection and acceptance.

When inspection and acceptance are to be performed at destination, advance copies of the purchase order shall be furnished to consignee(s) for material receipt purposes. Receiving reports shall be accomplished immediately upon receipt and acceptance of material to assure expeditious payment of orders and to obtain prompt payment discounts.

§ 12–3.651 Service Contract Act of 1965.

§ 12–3.651–1 General.

The Service Contract Act of 1965 applies, with certain exceptions, to Federal contracts whose principal purpose is to furnish services through the use of service employees. The Act applies without dollar limitation, but different contract clauses are required depending upon whether the contract price exceeds $2500 in accordance with FPR Subpart 1–12.9.

§ 12–3.651–2 Purchase order transactions.

The Act applies to contracts made through use of purchase order forms if such contracts have as their principal purpose the furnishing of services through the use of service employees and if such contracts are not otherwise exempt. The clause prescribed in FPR 1–12.904–2 shall be included in purchase orders subject to the Act's coverage.

§ 12–3.652 Fast payment procedures.

§ 12–3.652–1 General.

The procedure is designed to simplify the handling and payment of small purchases. It provides for payment for supplies based on the vendor's submission of an invoice which constitutes a representation that ordered supplies have been delivered in accordance with the provisions of the purchase order. The vendor agrees, by acceptance of the order, to replace, repair, or correct supplies not received by the consignee at destination, damaged in transit, or not conforming to the order.

§ 12–3.652–2 Conditions for use.

(a) Except as set forth in paragraph (b) of this section, the fast payment procedure should be used to the maximum extent practicable, provided its use is consistent with the other conditions of the procurement, when all of the conditions set forth below are present:

(1) Each order does not exceed $10,000;

(2) Title to the supplies will vest in the Government (i) upon delivery to a post office or common carrier for mailing or shipment to destination, or (ii) upon receipt by the Government when the shipment is by means other than post office or common carrier;

(3) The vendor agrees to replace, repair, or correct supplies not received at destination, damaged in transit, or not conforming to the order; and

(4) The supplies will be shipped transportation or postage prepaid. Therefore, no Government Bill of Lading (GBL) will ever be issued.

(b) Use of the fast payment procedure would not be indicated, for example, in small purchases by offices, vessels, air stations, bases, and other locations when material being purchased is destined for use at such activities and contract administration will be performed by the procurement office of such activities.

§ 12–3.652–3 Preparation of orders.

(a) Orders shall be issued on the appropriate purchase order form except that calls against blanket purchase agreements shall be issued in accordance with Administration procedures. Orders may be either priced or unpriced.

(b) Special data to be included in purchase orders or in blanket purchase agreements using fast payment procedures are:

(1) A requirement for the supplies to be shipped transportation or postage prepaid; and

(2) A requirement that invoices be submitted directly to the paying office designated in the order, or in the case of unpriced purchased orders, to the contracting officer.

§ 12–3.652–4 Fast payment clause.

The clause set forth in § 12–7.104–50 shall be included in all fast payment orders.

§ 12–3.652–5 Consignee notification of nonreceipt, damage, or nonconformance.

The consignee shall be instructed to notify the procurement office within 30 days after the specified date of delivery in the purchase order, of supplies not received or damaged in transit, or not conforming to purchase description.

§ 12–3.652–6 Responsibility for collection of debts.

The Contracting Officer shall be primarily responsible for collecting debts resulting from failures of contractors to properly replace, repair, or correct supplies lost, damaged, or not conforming to purchase requirements.

Subpart 12–3.7—Negotiated Overhead Rates

§ 12–3.700 Scope of subpart.

This subpart sets forth policy and procedures governing the negotiation of overhead rates for use in cost-reimbursement type contracts.

§ 12–3.703 Applicability.

Negotiated final overhead rates are authorized for use primarily in cost-reimbursement type contracts for research and development with commercial organizations and nonprofit or educational institutions. They may also be used in other cost-reimbursement type contracts, after a determination is made by the contracting officer that their use is advantageous to the Government. Where it is not apparent that any one of the major purposes enumerated in FPR 1–3.702 results or will result by the use of negotiated final overhead rates, the contracting officer will provide for settlement of overhead by audit determination.

§ 12–3.704 Contract clauses.

§ 12–3.704–1 Contracts with concerns other than educational institutions.

When the "Negotiated Overhead Rates" clause set forth in FPR1–3.704–1 is included in the contract, the appropriate "Indirect Cost" clause cited in DOTPR 12–3.704–50 shall also be included in the contract. When the contract is a cost-plus-incentive-fee type, delete "Allowable Cost, Fixed Fee, and Payment" from paragraph (a) of the clause in FPR 1–3.704–1 and substitute "Allocable Cost, Incentive Fee, and Payment."

§ 12–3.704–2 Contracts with educational institutions.

When either the "Postdetermined" or "Predetermined" negotiated overhead rates clauses in FPR 1–3.704–2 is included in the contract, the appropriate "Indirect Costs" clause cited in DOTPR 12–3.704–50 shall also be included in the contract.

§ 12–3.704–50 Interim payment of indirect costs.

(a) When the contract includes a "Negotiated Overhead Rate" clause as set forth in FPR 1–3.704–1 or 1–3.704–2, one of the clauses set forth in DOTPR 12–7.23–950 (whichever is consistent with the contractor's normal method of interim and final overhead reimbursement) shall be inserted in the contract schedule.

(b) Prior to establishing or revising the negotiated provisional rates, the contracting officer should request the contractor to submit for review his proposed overhead rates with supporting cost data, with a copy to the cognizant audit activity.

(c) Provisional overhead rates may be revised after the contracting officer has received advice that the Department of Defense or other Government office sponsoring overhead negotiations with the contractor has negotiated acceptable overhead rates.

§ 12–3.704–51 Audit determination (actual).

Where it is not apparent that any of the major purposes enumerated in FPR 1–3.702 results or will result by the use of negotiated final overhead rates, the contracting officer will provide for settlement of overhead by audit determination. In these cases the clause set forth in 12–7.203–951 shall be used in lieu of the "Negotiated Overhead Rate" clause prescribed in FPR 1–3.704–1 or 1–3.704–2.

Subpart 12–3.8—Price Negotiation Policies and Techniques

§ 12–3.801–2 Responsibility of contracting officers.

In the event a contractor insists on a price or demands a profit or fee which the contracting officer considers unreasonable, and if the contracting officer is unable to obtain a satisfactory solution after exhausting the courses of action set forth in FPR 1–3.801–2(c), the matter shall be referred for resolution to the head of the procuring activity with a statement of facts and the contracting officer's recommendations.

§ 12–3.807–6 Refusal to provide cost or pricing data.

In addition to the data required by FPR 1–3.807–6, a referral to higher authority should indicate the impact on the affected procurement program if an award is not made to the refusing offeror, and include a recommended course of action.

§ 12–3.808–2 Factors for determining fee or profit.

In determining the fee or profit, consideration must be given to the tax posture of the organization. A fair and reasonable fee to a non-profit or not-for-profit organization, with tax exemptions would be considerably lower than a fee to a commercial enterprise with no tax exempt status.

§ 12–3.809 Contract audit as a pricing aid.

(a) In establishing the due date for receipt of the auditor's report, the minimum time which will be allowed by DOT contracting officers shall normally be 30 days. Exceptions to this 30 day minimum period may be made only when program considerations require a shorter time. Urgency caused by end of year funding considerations will not be a justification for requiring a shorter period for advisory audit review.

(b) When DCAA is assigned post-award audit responsibility under cost reimbursable contracts, the contractor shall be instructed to forward the first and final vouchers to the cognizant auditor for audit review. The cognizant DCAA auditor shall also be furnished a paid copy of each voucher furnished under the contract by the paying office.

§ 12–3.811 Record of negotiations.

The requirement in FPR 1–3.811(a) shall be satisfied by the preparation of a memorandum which summarizes the key procurement decisions and the principal elements of the negotiations. The format below shall be followed to the extent appropriate:

(a) *Introduction.* (1) Describe the products or services to be purchased.

(2) Specify the type and amount of proposed contract.

(b) *Background.* (1) Identify the requisitioning office and the individual responsible for requirement.

(2) Show the procurement request number and its total estimated cost.

(c) *Solicitation of proposals.* (1) Identify the RFP by number and date.

(2) Show number of sources solicited, including requests received resulting from the synopsis.

(3) Reference any pre-bid conference held.

(4) Indicate date proposals were due.

(5) Furnish explanation for opening date of less than 30 days.

(d) *Proposals.* (1) Indicate the number of proposals received.

(2) Identify offerors and the amounts of their price proposals.

(e) *Technical evaluation of proposals.* (1) Identify the memorandum received from the technical evaluation team.

(2) List the firms whose proposals were considered technically acceptable and their ratings.

(3) Identify those firms considered to be within a competitive range.

(f) *Negotiations.* (1) In addition to the applicable information described in FPR 1–3.811, this section of the memorandum should also:

(i) Summarize any pre-negotiation conference, including the primary objectives in the areas of price and technical and legal considerations.

(ii) Describe any special contract provisions negotiated. Provide an explanation if the delivery schedule or period for performance negotiated differs from that in the RFP. State the reasons for any substantive differences between the RFP and the contract proposed for award.

(iii) Describe any consideration given to the use of an incentive type contract and, when used, the details of the incentive provisions.

(iv) Explain why the final negotiated price is fair and reasonable. Include a statement of receipt of the certificate of current cost or pricing data. Reference the prospective contractor's confirmation of the negotiated price, terms, and conditions of the contract.

(g) *Other information.* Provide details, if the procurement involves procedural or contractual innovations, protests by unsuccessful proponents, GAO or Congressional inquiries, or any other special circumstances which would be of interest to approving authority.

(h) *Recommendations.* Include a positive recommendation for award.

Subpart 12–3.50—Solicitation of Proposals

§ 12–3.5000 Scope of subpart.

This subpart applies to all negotiated procurement except small purchases.

§ 12–3.5001 Competition.

Competitive proposals shall be solicited from the maximum practicable number of qualified and eligible suppliers.

§ 12–3.5002 Preparation of request for proposals.

(a) Generally, requests for proposals shall be in writing. However, in appropriate cases, such as the procurement of perishable subsistence, proposals may be solicited orally. When the request is to be in writing, the following forms shall be used:

(1) For negotiated construction contracts, the standard forms in FPR 1–16.401.

(2) For other than construction, Standard Form 33 (Solicitation, Offer, and Award) and Standard Form 33A (Solicitation Instructions and Conditions).

(b) Requests for proposals shall indicate the type of contract contemplated by the Government. When technical proposals are required, requests for proposals shall indicate the factors on which the Government will evaluate the proposals and list them in their relative order of importance. Any other factors, excluding price, which will be given paramount consideration in making an award shall also be indicated.

(c) The guidelines established in DOTPR 12–2.202–1 for minimum bidding times are applicable to requests for proposals.

§ 12–3.5003 Receipt and safeguarding of offers.

The instructions for the receipt and safeguarding of bids in FPR 1–2.401 shall also apply to the receipt and safeguarding of proposals.

§ 12–3.5004 Solicitation for informational or planning purposes.

See FPR 1–1.314.

§ 12–3.5005 Bidders mailing lists.

Bidders mailing lists for negotiated procurements shall be established, maintained, and utilized in accordance with FPR 1–2.205 and DOTPR 12–2.205–5.

§ 12–3.5006 Pre-proposal conferences.

§ 12–3.5006–1 General.

(a) The pre-proposal conference is a procedure which may be used, generally in complex negotiated procurement, as a means of briefing prospective offerors after a solicitation has been issued but before offers or proposals are prepared.

(b) Such a conference permits the Government to explain or clarify complicated specifications and requirements to interested firms. It may also be used to provide an opportunity for interested firms to examine a model of the equipment being procured, where for reasons such as security or limited quantities, such model can only be shown at a specific time and location.

§ 12–3.5006–2 Procedure.

(a) Where it is determined to be in the best interests of the Government to hold a pre-proposal conference, the contracting officer shall make the necessary arrangements and notify all those to whom solicitations have been issued as to the time, place, and general nature of the proposed conference. If time permits, prospective offerors should be asked to submit, in advance, any questions they may have.

(b) The pre-proposal conference shall be conducted by the contracting officer or his representative, with participation by technical and legal personnel as appropriate.

(c) All prospective offerors shall be furnished identical information in connection with the proposed procurement. All conferees shall be advised that remarks and explanations at the conference shall not qualify the terms of the solicitation and specifications unless the solicitation is amended in writing. A summary shall be made of the conference and copies furnished prospective offerors.

§ 12–3.5007 Amendment of request for proposals—prior to closing date.

(a) If after issuance of a request for proposals, but before the closing date of its receipt, it becomes necessary to make changes in quantity, specifications, delivery schedules, or closing dates, or to correct a defect or ambiguity, such change shall be accomplished by issuance of an amendment to the request, whether or not a preproposal conference is held. SF–30 shall be used for amending requests for proposals.

(b) When it is considered necessary to issue an amendment to a request for proposals, 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, consideration should be given to notifying offerors of an extension of time by telegram or telephone. Such notification should be confirmed in the amendment.

(c) Any information given to a prospective offeror concerning a request for proposals shall be furnished promptly to all other prospective offerors as an amendment to the request if the lack of such information would be prejudicial to uninformed offerors. No award shall be made on request for proposals unless such amendment thereto has been issued in sufficient time to permit prospective offerors to consider such information in submitting or modifying their proposals.

§ 12–3.5008 Treatment of procurement information.

§ 12–3.5008–1 Restrictions on disclosure and use of data in proposals.

(a) Requests for proposals may require the offeror to submit data with his proposal which may include a design or plan for accomplishing the objectives of the procurement. Such data may include information which the offeror does not want disclosed to the public or used by the Government for any purpose other than evaluation of the proposals.

(b) Contracting officers and other Government personnel shall not refuse to consider any proposal merely because it or the data submitted with it is so marked with a restrictive legend. Those portions of the proposal and data which are so marked (except for information which is also obtained from another source without restriction) shall be used only to evaluate the proposal and shall not be disclosed outside the Government without the written permission of the offeror. If it is desired to duplicate, use, or disclose the data of the offeror to whom the contract is to be awarded, for purposes other than to evaluate the proposal, the contract should so provide.

§ 12–3.5008–2 Disclosure of information during the pre-award or pre-acceptance period.

(a) *General.* See FPR 1–3.805–1(b) for restrictions regarding the disclosure of information.

(b) *Equal consideration and information to all prospective contractors.* During the interval between mailing of requests for proposals and the making of awards, discussion of the procurement with prospective contractors and the transmission of technical or other information shall be conducted only by or with the knowledge of the contracting officer; except that necessary technical or other information during such period may be transmitted to prospective contractors by other personnel via contracting personnel, at meetings arranged by contracting personnel, or by official correspondence from the contracting officer to the originating activity or technical office seeking clarification of the matter in question. In the conduct of necessary discussion of a request for proposals with suppliers, no personnel shall furnish any information to a supplier which may afford him any advantage over others. However, general information which would not be prejudicial to others may be furnished upon request, e.g., explanations of a particular contract clause or a particular condition of the schedule. When necessary to clarify ambiguities, or correct mistakes or omissions an appropriate amendment to the solicitation shall be issued.

§ 12–3.5008–3 Pre-award notice of unacceptable offers.

In any procurement in excess of $10,000 in which it appears that the period of evaluation of proposals is likely to exceed 60 days or in which a limited number of suppliers have been selected for additional negotiation, the contract-

ing officer, upon determination that a proposal is unacceptable shall provide prompt notice of that fact to the source submitting the proposal. Such notice need not be given where the proposed contract is to be awarded within a few days and notice pursuant to FPR 1-3.103 would suffice. In addition to stating that the proposal has been determined to be unacceptable, notice to the offeror shall advise that, since further negotiation with him concerning this procurement is not contemplated, a revision of his proposal will not be considered. If the firm requests a debriefing, this shall be provided at the earliest feasible time after the request, but not prior to award of the contract.

§ 12-3.5009 Notice of award technique.

When time is of the essence, the notice of award technique may be used as an acceptance of a proposal. To assure that the notice of award will constitute a valid acceptance of the offeror's proposal, the contracting officer will insure that the proposal fully embodies the terms of the agreement between the parties. If the proposal is changed, for any reason, the contractor must set forth his understanding of any modifications or additions in a letter to the contracting officer. The notice of award shall reference the contractor's proposal and any other document modifying the proposal. The following is a sample notice of award:

NOTICE OF AWARD

Gentlemen: The United States of America, acting through the undersigned contracting officer, hereby accepts your proposal No. ____, dated _____, as modified by your letter(s) of _____, to furnish (supplies, services, work) in accordance with RFP No. ____ dated _____, for a total price of $_____. This notice of award constitutes a binding contract obligation from time of mailing. All delivery dates will be computed from the date of this notice unless otherwise provided.

A document formalizing this contract will be sent to you for signature as soon as possible. This formal contract will be dated and numbered as above.

You are directed to proceed with the performance of this contract in accordance with the terms of your proposal and this acceptance.

Sincerely,

(Written Signature)
(Typed Name)
Contracting Officer _____
(on copies only) (Date)

Funds Citation: _____

Negotiation Authority: _____

§ 12-3.5010 Protests against award.

Protests against awards of negotiated procurements shall be processed in the same manner as prescribed in FPR 1-2.407.8.

§ 12-3.5011 Unsolicited contract proposals.

Department Order 4200.4 (set forth in DOTPR Part 99) establishes the policies and procedures for processing unsolicited contract proposals.

PART 12-4—SPECIAL TYPES AND METHODS OF PROCUREMENT

Subpart 12-4.10—Architect-Engineer Services

Sec.

12-4.1002 Definitions.
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12-4.1005 Negotiation procedures.
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Subpart 12-4.50—Utilization and Disposal of Personal Property Pursuant to Exchange/Sale Authority

12-4.5001 General.

Subpart 12-4.51—Procurement of Tax-Free Spirits

12-4.5100 Scope of subpart.
12-4.5101 Delegation of authority.
12-4.5102 Procedure.

AUTHORITY: Sec. 205(c), 63 Stat. 389; 40 U.S.C. 486(c), 10 U.S.C. 2301-2314.

Subpart 12-4.10—Architect-Engineer Services

§ 12-4.1002 Definitions.

(a) [Reserved]

(b) "Agency Head" refers to those DOT officials designated in DOTPR 12-1.204.

(c) [Reserved]

(d) "head of the Procuring Activity" refers to those DOT officials designated in DOPR 12-1.206.

(e) "Fee"—The compensation (contract price) for professional services paid to the A-E.

§ 12-4.1003 Public announcements.

The time allowed for A-E firms to respond to an advertisement of a project notice shall generally follow the requirements for bidding time in FPR 1-2.202-1 and DOTPR 12-2.202-1. If practical the time allowed for firms to respond to a project notice shall be 30 days from the date the notice is published; however, the minimum time shall be 15 days. If the time allowed for response is reduced below 15 days the contracting officer shall document in the contract file the full justification for the reduction.

§ 12-4.1004 Selection.

§ 12-4.1004-1 Establishment of Architect-Engineer Evaluation Boards.

(a) Each agency head (or his authorized representative) shall establish an ad hoc Architect-Engineer Evaluation Board for each procurement of Architect-Engineer services. The Board shall perform the functions set forth in § 12-4.1004-2 unless procedures for contracts estimated to be $10,000 and under are used as provided for in § 12-4.1004-5. The A-E Evaluation Board shall be composed of the following members, one of whom shall be appointed as Chairman and one of whom may be appointed recording secretary:

(1) One member with experience in procurement of A-E services. This member will normally be the cognizant contracting officer or the contract negotiator for the project.

(2) Two members with technical experience in the fields of architecture, engineering or construction. These members will normally be from the organization responsible for the work.

(3) One member with technical knowledge of the functional (user) requirements of the project.

(4) For A-E procurements estimated at $60,000 or more, a member appointed by the Director, Installations and Logistics, OST (TAD-60), unless he declines to appoint a member.

(5) Other special members as are deemed necessary.

(6) A-E Board members may be appointed from among highly qualified professional employees of other Government agencies or the private sector, engaged in the practice of architecture, engineering, construction or related professions. When a proposed Architect-Engineer Evaluation Board includes a member from the private sector, the Office of Installations and Logistics, OST (TAD-60) shall be notified before the Board is established. No firm or organization shall be eligible for consideration for a contract with a procuring activity during the period in which any of its principals or associates are participating as members of an A-E Evaluation Board on behalf of that procuring activity.

(7) Operating elements and secretarial offices that do not have personnel experienced in Architect-Engineer selection procedures or personnel with the necessary technical disciplines to evaluate Architect-Engineer firms for a particular project may request the assistance of the Office of Installations and Logistics, OST (TAD-60) in establishing the A-E Evaluation Board.

§ 12-4.1004-2 Functions of the Evaluation Board.

(a) (1) Because of the Department policy to establish ad hoc evaluation boards instead of permanent boards to select Architect-Engineers, the cognizant procurement office or facilities design and construction activity shall be responsible for collecting the Standard Forms 254 and maintaining the qualification data on file. Although A-E firms should submit a new Form 254 each year, forms up to three years old shall be considered current. Forms more than three years old may be discarded.

(2) Organizations may choose not to maintain A-E qualification data files and arrange to use existing data files of other DOT organizations including the files available in the Office of Installations and Logistics, OST (TAD-60). If an organization chooses this option it should forward all A-E qualification data it receives from interested firms to the organization maintaining the data file.

(b) The following outlines the functions of the Architect-Engineer Evaluation Board in more detail and the sequence in which the functions are to be performed:

(1) Analyze the nature and scope of the project work requirements.

(2) Develop the criteria and evaluation systems to be used in screening firms for the Pre-selection List and in the final selection.

(3) Prepare the public announcement for the project (§ 12–4.1003) and provide it to the procurement office for publication.

(4) Screen the Standard Form 254s and Standard Form 255s and any other qualification data received in response to the public announcement of the project and prepare a Pre-selection List of the best qualified firms for further consideration. The Pre-selection List must consist of at least three firms.

(5) Obtain additional, detailed qualification and past performance information for each of the firms on the Pre-selection List. This information shall include the following:

(i) *Past record of performance.* How well firms have performed on previous projects including quality of work, ability to meet schedules, accuracy of cost estimates and any other pertinent factors. This information should be obtained by contacting former clients in Government and private industry.

(ii) *Project proposal.* The A–E firm shall submit a project proposal to the A–E Evaluation Board, in writing, prior to the interviews required by § 12–4.1004–2(b)(6). The project proposal should normally include the type of information outlined below. However, the proposal may vary in content and level of detail depending on the scope, complexity and nature of the particular project under consideration. The firm shall be provided with a description of the nature and scope of work to be accomplished to assist the firm in preparing the proposal. In addition, firms selected to submit proposals shall be advised of the evaluation criteria that will be used to select the firm for negotiations.

(A) *Technical approach.* A brief discussion of: the tasks or steps that the firm will undertake to accomplish the work described in the scope of work, overall planning and design approach/philosophy, possible conceptual approaches (narrative) and unusual aspects or potential problems the firm envisions that may be encountered during project execution, and which may require special consideration (including environmental considerations and provisions for the handicapped).

(B) *Energy conservation approach.* Brief narrative of the technical approach that the A–E firm would use to maximize energy conservation for the project under consideration. The approach should discuss those systems that could have significant impact on energy conservation, and the criteria and engineering considerations that would be used to design these systems for maximum energy conservation. The A–E should also give examples of energy conservation design techniques and measures that the firm has used in previous design projects including the results obtained. If possible the results should be expressed quantitatively in terms of operating costs, resource consumption or BTU's per square foot.

(C) Proposed project schedule and man-loading plan (manpower in each technical discipline over contract period).

(D) Visual examples of previous work such as photographs of completed construction projects designed by the firm and copies of completed plans and specifications. (These may be provided at the interviews required by 12–4.1004–2(b)(6).)

(E) *Management approach.* A brief discussion of the project team organization, project management procedures, methods to be used in controlling construction cost estimates, quality control procedures, and the anticipated A–E/client relationship.

(F) *Firm's current workload.* For example, a list of on-going projects including their construction value (or A–E fee if construction value is not applicable) and percentage of completion.

(G) Percentage and number of minority and women employees in all job classifications and pay scales. Minorities are specified as being American Indian, Negro, Spanish Surnamed Americans, Orientals, Aleuts and Eskimos.

The project proposal should also include any changes to the information provided in the Standard Forms 254 and 255 that the firms may wish to make, particularly on proposed key personnel and consultants and relevant past work. The A–E firm should be advised not to submit price proposals at this time, or design sketches, drawings, and design data in connection with the proposed project. If an Administration or element of OST desires conceptual designs from A–E firms written approval shall be obtained from the Assistant Secretary for Administration prior to soliciting such proposals.

(6) Conduct interviews with the firms on the Pre-selection List. As part of the interview the Architect-Engineer firms shall be given an opportunity to make an oral presentation of their qualification and experience data, proposed project approach and any other relevant data. The project manager and other key project personnel and consultants proposed by a firm should participate in the interview.

(7) Whenever it is practical and advantageous, the A–E Evaluation Board should visit the offices of the A–E firms on the Pre-selection List to inspect their facilities and work environment, to meet members of the proposed project team, to see work in progress and additional examples of completed projects. These visits should be made in conjunction with the interviews referred to in § 12–4.1004–2(b)(6).

(8) Review the Standard Forms 254 and 255, the project proposals, and other experience and qualification data for each firm on the Pre-selection List and perform a systematic numerical evaluation rating and ranking of the firms using the applicable evaluation criteria in § 12–4.1004–3.

(9) Develop, in rank order, a listing of not less than three firms considered most highly qualified to perform the required services, based on the evaluation rating and ranking of the firms on the Pre-selection List, and prepare a report to the agency head (or his authorized representative) recommending these firms for negotiations. The report shall include in sufficient detail the extent of the evaluation and the considerations upon which the recommendations were based, and any other data and material developed by the A–E Evaluation Board which might be useful in the negotiations.

§ 12–4.1004–3 Evaluation criteria.

The following expands the evaluation criteria provided in the FPR. Each criteria factor should be weighted according to its order of importance with respect to the project under consideration.

(a) *Specialized experience.* Relevant recent experience of the firm (including joint venture or association) in projects comparable to the proposed project.

(b) *Capacity/capability.* (1) Relevant experience and capability of key project personnel, and key individual and outside consultants.

(2) Diversity of skills the firm proposes to apply to the project in order to perform all aspects of the work, such as planning, architectural design and civil, mechanical and electrical engineering.

(3) Total number of personnel the A–E firm employs in the technical disciplines required for the proposed project.

(4) Firm's current workload.

(c) *Technical ability and understanding of requirements.* (1) Technical approach.

(2) Understanding and experience in energy conservation design.

(3) Project schedule.

(4) Man-loading plan.

(5) Quality of examples of previous work.

(d) *Project organization and management.* (1) Project team organization.

(2) Project management procedures.

(3) Methods to be used in controlling construction cost estimates.

(4) Quality control procedures.

(5) Anticipated A–E/client relationship.

(e) *Past record of performance.* Past record of performance on contracts with DOT and other former clients in Government and private industry with respect to such factors as quality of work, ability to meet schedules, accuracy of cost estimates compared to actual bids and quotes, number and dollar amount of construction change orders, and A–E/Client relationship. The following evaluation criteria factors do not necessarily relate to the ability of an A–E firm to do the required work. However, they do reflect Department policy and therefore they should be used in the A–E evaluation process. They may be used separately from the other criteria in terms of bonus or penalty points to the basic numerical evaluation rating.

(f) *Volume of department-wide work previously awarded to the firm during the past 3 years.* The object of this factor is to promote the distribution of Department Architect-Engineering contracts to the maximum extent possible among all qualified Architect-Engineer firms. A list of A–E firms that have been awarded DOT contracts during the most recent past three year period will be distributed to all procurement offices by the Office of Installations and Logistics, OST, TAD–60.

(g) *Familiarity with and proximity to the site location of the project.*

(h) *Minority/Women Employment.* Percentage of minority employees in all job classifications and pay scales, noting the percentage of minorities in the immediate locality and general surrounding area. Minorities are specified as being American Indian, Negro, Spanish surnamed Americans, Orientals, Aleuts and Eskimos. In addition, the percentage of women in all job classifications and pay scales shall also be considered.

§ 12–4.1004–4 Action by the agency head or his authorized representative.

(a) The agency head (or his authorized representative) shall review the recommendations of the Architect-Engineer Evaluation Board. The recommendations of the Architect Engineer Evaluation Board will normally be accepted, unless the report does not adequately support the recommendations. If the recommendations are not accepted the Architect-Engineer Evaluation Board shall be required to reconvene until an acceptable set of recommendations is agreed upon.

(b) The accepted report shall serve as authorization for the contracting officer to commence negotiations with the A–E firm ranked number one by the A–E Evaluation Board.

§ 12–4.1004–5 Procedures for procurements estimated not to exceed $10,000.

When authorized by the agency head (or his authorized representative) the following procedure may be used in lieu of the procedures prescribed in §§ 12–4.1004–1, 12–4.1004–2, and 12–4.1004–4.

(a) The selection shall be accomplished by an informal evaluation board consisting of at least two members from the organization responsible for the work who are knowledgeable in the technical fields most significantly related to the proposed project. The Board shall follow the procedures prescribed in § 12–4.1002 (b). However, the Board shall use its judgment in determining the extent of detailed qualification and past performance data needed to fully evaluate the A–E firms. The Board should at least obtain the Standard Forms 254, the firms' past record of performance and visual examples of previous projects.

(b) The Board's report, recommending at least three firms, in rank order, considered best qualified to perform the required services, shall be submitted to the contracting officer for review. If the report is acceptable it shall serve as authorization for the contracting officer to begin negotiations with the firm ranked number one.

§ 12–4.1005 Negotiation procedures.

§ 12–4.1005–1 General.

The limitation on Architect-Engineer fees of 6 percent of the estimated construction cost applies to all services that are an integral part of the production and delivery of plans, designs, drawings and specifications of a construction project. The limitation, however, does not apply to the cost of investigative and other services including but not limited to the following:

Development of program requirements (scope of work).
Determination of project feasibility.
Preparation of drawings of an existing facility, where current drawings are not available.
Subsurface investigations (soil borings).
Structural, electrical, and mechanical investigations of an existing building, where current information is not available.
Surveys: Topographic, boundary, utility.
Preparation of models, color renderings, photographs, or other presentation materials.
Travel and per diem for special presentations.
Supervision and inspection of construction.
Preparation of operating and maintenance manuals.
Master planning.

§ 12–4.1050 Release of information.

The rank order list of firms selected by the A–E Evaluation Board as most highly qualified is for the internal use of the Department, and such information shall at no time be made known to the firms under consideration or to any other non-governmental source. Information may be released by the contracting officer, unless precluded by security considerations, identifying the A–E selected for negotiation and describing the work in general terms. If negotiations are terminated without consummating a contract, the contracting officer may release such information and the name of the firm with which the Government will start new negotiations. When an award has been made, the contracting officer may release this information, giving special notice of the award to any firms interviewed by the A–E Evaluation Board.

§ 12–4.1051 Clauses for architect-engineer contracts.

The clauses for A–E contracts are set forth in FPR Subpart 1–16.7 and DOTPR Subpart 12–7.51.

§ 12–4.1052 Debriefing unsuccessful interviewed firms.

(a) After a contract is awarded unsuccessful firms that participated in the interviews shall be debriefed upon request of the firm. The purpose of the debriefing is to give firms information which may assist them in improving future presentations, and to provide assurance that the selection was made fairly and in accordance with regulations and the provisions of the solicitation.

(b) The debriefing shall inform the unsuccessful firms where they were weak or deficient. However point by point comparisons with other firms shall not be made nor shall the merits, technical standing or evaluation scoring of other firms be discussed.

Subpart 12–4.50—Utilization and Disposal of Personal Property Pursuant to Exchange/Sale Authority

§ 12–4.5001 General.

The procedures governing the exchange or sale of personal property are set forth in the Federal Property Management Regulations (FPMR) Part 101–46. Prior to any disposal action, Federal agencies shall be solicited to the extent required by FPMR 101–46.301. See also FPMR 101–46.202 for restrictions and limitations, and FPMR 101–46.402 for cash and exchange (trade-in) bids.

Subpart 12–4.51—Procurement of Tax-Free Spirits

§ 12–4.5100 Scope of subpart.

This subpart covers the procurement of tax-free spirits and specially denatured spirits.

§ 12–4.5101 Delegation of authority.

The Assistant Secretary for Administration and the Administrators of the Federal Aviation Administration, Federal Highway Administration, Federal Railroad Administration, Urban Mass Transportation Administration and the Commandant, U.S. Coast Guard have been delegated authority to execute Internal Revenue Service (IRS) application forms 1486 and 1444 to procure specially denatured spirits and tax-free spirits in accordance with sections 211.231 and 213.142 respectively, of Title 26 of the Code of Federal Regulations. The foregoing officials may redelegate this authority to one or more officials within their organizations but without power to further redelegate. Any redelegation of this authority shall be in the form of a letter addressed to the Director, Alcohol and Tobacco Tax Division, Internal Revenue Service, Washington, D.C. 20224.

§ 12–4.5102 Procedure.

(a) See § 211.233 of Title 26 for procurement of specially denatured spirits, and § 213.143 of Title 26 for procurement of tax-free spirits.

(b) If the application is to cover more than one geographical location, insert in Item 2, Form 1486 or 1444: "Various locations of the (insert name of Administration) as indicated by purchase order." IRS processes the application and, on the same form, issues the permit to procure. The application form may be signed only by an official named in 12–4.5101 or his designee. The permit remains valid until surrendered by the Administration or cancelled by IRS.

(c) The permit issued on Form 1444 authorizes procurement from any qualified distilled spirits plant. A listing of such plants is provided on IRS Document No. 5237. The list and revision

service may be obtained upon request to IRS, Alcohol and Tobacco Tax Division, 1111 Constitution Avenue NW., Washington, D.C. 20224.

PART 12–5—SPECIAL AND DIRECTED SOURCES OF SUPPLY

Subpart 12.50—Procurement Under the Economy Act From or Through Another Federal Agency

Sec.
12–5.5000 Scope of subpart.
12–5.5001 Authorization and policy relating to placing and filling orders.
12–5.5002 Execution of agreements with agency heads.

Subpart 12–5.51—Procurement of Printing and Related Supplies

12–5.5100 Printing and related supplies.

AUTHORITY: Sec. 205(c), 63 Stat. 389; 40 U.S.C. 486(c), 10 U.S.C. 2301–2314.

Subpart 12–5.50—Procurement Under the Economy Act From or Through Another Federal Agency

§ 12–5.5000 Scope of subpart.

This subpart deals with orders for supplies or services placed with another Government department or agency pursuant to the authority of the Economy Act of June 30, 1932, as amended (31 U.S.C. 686), except that it does not apply to any procurement covered by other subparts of this Part 12–5.

§ 12–5.5001 Authorization and policy relating to placing and filling orders.

(a) It is the policy of the Department of Transportation not to place Government agencies in direct competition with commercial sources. Accordingly, prior to soliciting bids or proposals from commercial sources, it shall be decided whether to obtain supplies or services from Government agencies. Invitations for bids and requests for proposals shall not be sent to Government agencies. Current market prices, recent procurement prices, or prices obtained by informational bids as provided in FPR 1–1.314 may be used to ascertain whether procurement can be effected more cheaply from commercial sources.

(b) Each procuring activity, when it is in the interest of the Government to do so, may place orders with any other Government department or agency for supplies or services that any such requisitioned department or agency may be in a position to furnish or perform or to obtain by contract.

(c) Where the Department procures commercial or industrial products or services from another Government agency, any authorization required for the furnishing of such products or services, in accordance with BOB Circular No. A–76, dated August 30, 1967, as revised by OMB Transmittal Memorandum No. 2 of October 18, 1976, shall be accomplished by the furnishing Government agency.

§ 12–5.5002 Execution of agreements with agency heads.

Execution of any written interdepartmental or interagency agreement which is to be signed by *the head* of the other department or agency is reserved to the Secretary, as provided in section 1.44(i) of the DOT Organization Manual (DOT 1100.23(A)).

Subpart 12–5.51—Procurement of Printing and Related Supplies

§ 12–5.5100 Printing and related supplies.

The Government Printing and Binding Regulations of the Congressional Joint Committee on Printing set forth specific prohibitions and regulations for the acquisition of printing, binding, blankwork, envelopes, paper, and related supplies.

PART 12–6—FOREIGN PURCHASES

Sec.
12–6.000 Scope.

Subpart 12–6.1—Buy American Act—Supply and Service Contracts

12–6.103 Exceptions.
12–6.103–2 Nonavailability in the United States.
12–6.104 Procedures.
12–6.104–4 Evaluation of bids and proposals.
12–6.105 Excepted articles, materials, and supplies.

Subpart 12–6.8—Balance of Payments Program

12–6.801 General.
12–6.801–50 Use of excess and near-excess foreign currencies.
12–6.806 Procedures.
12–6.806–2 Method of purchase.

Subpart 12–6.10—Omission of the Examination of Records Clause From Contracts With Foreign Contractors

12–6.1004 Determinations and findings.

Subpart 12–6.50—Purchases From Certain Communist Areas

12–6.5001 Restrictions.
12–6.5002 Contract provision.
12–6.5003 Exceptions.

AUTHORITY: Sec. 205(c), 63 Stat. 389; 40 U.S.C. 486(c), 10 U.S.C. 2301–2314.

§ 12–6.000 Scope.

This part includes restrictions and procedures affecting procurements of foreign-made items; and restrictions on purchases from communist countries or areas.

Subpart 12–6.1—Buy American Act—Supply and Service Contracts

§ 12–6.103 Exceptions.

§ 12–6.103–2 Nonavailability in the United States.

(a) Certain items determined to be exempt under the exception in FPR 1–6.103–2 are set forth in DOTPR 12–6.105. Supplies not listed may be excepted only after a written determination has been made by the contracting officer. Each determination shall include the following information:

(1) Description of the item(s) to be procured with specific information pertaining to special features, performance, versatility, etc.

(2) Unit, quantity, estimated cost (including duty, if any, separately shown).

(3) Country of origin, and name and address of prospective contractor, if available.

(4) Brief statement as to the necessity for the procurement.

(5) Statement of effort made to procure a similar item of domestic origin or statement that there is no domestic item which can be used as a reasonable substitute.

When a determination has been made that the restrictions of the Buy American Act are inapplicable for the end products being purchased, notification to this effect shall be included in this solicitation and contract.

(b) Notwithstanding the foregoing, procurement of foreign end products on the basis of "nonavailability," whether or not listed in DOTPR 12–6.105, shall be made only after a written determination has been made by the contracting officer and approved at a higher level in accordance with Administration procedures. Before granting such approval, or making such determination, the feasibility of foregoing the requirement or providing a United States substitute shall be considered.

(c) Notwithstanding paragraph (b) of this section, approvals and determinations may be made by the contracting officer covering individual procurements of spare and replacement parts for foreign manufactured items, if the procurement must be restricted to the original manufacturer or his supplier in accordance with FPR 1–3.213.

(d) Notwithstanding paragraph (b) of this section, approval is not required for:

(1) Purchases for resale in domestic commissaries of brand name subsistence items of foreign origin for which there are no substitutes of U.S. origin. All purchases of such brand name subsistence items of foreign origin shall be made from domestic concerns.

(2) Procurement of swords and scabbards.

(3) Procurement of books, pamphlets, newspapers, magazines, periodicals, and printed briefs and films not printed in the United States and for which domestic editions are not available.

(4) Procurement of bananas, tea, coffee, spices, herbs, sugar, cocoa, cream of tarter, tapioca, and coconut.

(e) The following is a format for the determination and findings of nonavailability:

DEPARTMENT OF TRANSPORTATION

Determination and findings of nonavailability under the Buy American Act regarding purchase of (item description).

FINDINGS

(Set forth the information required by DOTPR 12–6.103–2(a).)

DETERMINATION

Upon the basis of these findings, I hereby determine that the above supplies are not mined, produced, or manufactured at the present time in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality; and that the provisions of the Buy American Act (41 U.S.C. 10a–d) are inapplicable.

(Add appropriate approval when required by Administration procedures.)

Contracting Officer

Date

§ 12–6.104 Procedures.

§ 12–6.104–4 Evaluation of bids and proposals.

When a proposed award is required to be submitted to the head of the agency for decision pursuant to FPR 1–6.104–4 (b) or FPR 1–6.104–4 (c)(1) or (c)(2), the submission shall include a copy of each bid or offer being considered for award, the date the bids or offers expire, a copy of the abstract of bids or offers, and a statement justifying the proposed award.

§ 12–6.105 Excepted articles, materials, and supplies.

Pursuant to the Buy American Act, the Government has determined that the articles, materials, and supplies listed below are not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities of a satisfactory quality, or that it would be inconsistent with the public interest to apply the restrictions of the Act to such articles, materials, and supplies. When required to be incorporated into an end product or construction material manufactured in the United States, these items may be regarded as components of domestic origin for the purpose of determining the origin of such manufactured end product or construction material. However, the procurement of any of these items other than as components of domestic source end products or construction materials must be approved by the appropriate authority designated by the Administrations pursuant to DOTPTR 12–6.103–2 (b).

Acetylene black.
Asbestos, amosite.
Bananas.
Beef extract.
Bismuth.
Brazil nuts, unroasted.
Cadmium, ores and flue dust.
Calcium cyanamide.
Capers.
Cashew nuts.
Chestnuts.
Chicle.
Chrome ore or chromite.
Cinchona bark.
Cobalt, in cathodes, rondelles, or other primary forms.
Cocoa beans.
Coconut and coconut meat, unsweetened, in shredded, desiccated, or similarly prepared form.
Coffee, raw or green bean.
Cork, wood or bark and waste.
Diamonds, industrial, stones.
Emetine, bulk.
Ergot, crude.
Fair linen, altar.
Fibers of the following types: Abac, agave, coir, flax, jute, and palmyra.
Goat and kid skins.
Graphite, natural.
Hand Sewing Needles.
Hog bristles for brushes.
Hyoscine, bulk.
Ipecac, root.
Leather, Sheepskin, Hair Type.
Menthol, natural bulk.
Mica.
Nickel, primary, in ingots, pigs, shot, cathodes, or similar forms; nickel oxide and nickel salts.
Nitroguanidine (also known as picrite).
Olive oil.
Olives (green), pitted or stuffed in bulk.
Opium, crude.
*Petroleum, crude oil, unfinished oils and finished products.
Platinum and platinum group metals refined, as sponge, powder, ingots, or cast bars.
Pyrethrum flowers.
Quartz crystals.
Quebracho.
Radium salts.
Rosettes.
Rubber, crude and latex.
Rutile.
Silk, raw.
Sperm oil.
Spices and herbs in bulk.
Sugars, raw.
Talc, block, steatite.
Tapioca flour and cassava.
Tartar, crude, tartaric acid and cream of tartar in bulk.
Tea in bulk.
Thread, metallic (gold).
Tin.
Vanilla beans.
Venom, cobra.
Wax, carnauba.
Woods of the following species: Angelique, balsa, ekki, greenheart, lignum vitae, mahogany and teak.

Petroleum definitions, as used in this subpart:

(a) "Crude oil" means crude petroleum as it is produced at the wellhead and liquids (under atmospheric conditions) that have been recovered from mixtures of hydrocarbons which existed in a vaporous phase in a reservoir and that are not natural gas products.

(b) "Finished products" means any one or more of the following petroleum oils, or a mixture or combination of such oils, which are to be used without further processing except blending by mechanical means:

(1) Liquefied gases—hydrocarbon gases recovered from natural gas or produced from petroleum refining and kept under pressure to maintain a liquid state at ambient temperatures;

(2) Gasoline—a refined petroleum distillate which by its composition, is suitable for use as a carburant in internal combustion engines;

(3) Jet fuel—a refined petroleum distillate used to fuel jet propulsion engines;

(4) Naphtha—a refined petroleum distillate falling within a distillation range overlapping the higher gasoline and the lower kerosenes;

(5) Fuel oil—a liquid or liquefiable petroleum product burned for lighting or for the generation of heat or power and derived directly or indirectly from crude oil, such as kerosene, range oil, distillate fuel oils, gas oil, diesel fuel, topped crude oil, residues;

(6) Lubricating oil—a refined petroleum distillate or specially treated petroluem residue used to lessen friction between surfaces;

(7) Residual fuel oil—a topped crude oil or viscous residuum which, as obtained in refining or after blending with other fuel oil, meets or is the equivalent of Military Specification Mil-F-859 for Navy Special Fuel Oil and any other more viscous fuel oil, such as No. 5 or Bunker C;

(8) Asphalt—a solid or semi-solid cementitious material which gradually liquefies when heated, in which the predominating constituents are bitumins, and which is obtained in refining crude oil;

(9) Natural gas products—liquids (under atmospheric conditions), including natural gasoline, which are recovered by a process of absorption, adsorption, compression, refrigeration, cycling, or a combination of such processes, from mixtures of hydrocarbons that existed in a vaporous phase in a reservoir and which, when recovered and without processing in a refinery, otherwise fall within any of the definitions of products contained in (b) (2) through (5), inclusive, of this section.

(c) "Unfinished oils" means one or more of the petroleum oils listed in (b) above, or a mixture or combination of such oils, which are to be further processed other than by blending by mechanical means.

Subpart 12–6.8—Balance-of-Payments Program

§ 12–6.801 General.

§ 12–6.801–50 Use of excess and near-excess foreign currencies.

Where practicable, contracts and other obligations incurred in excess and near-excess currency countries should provide for payment in foreign currencies rather than U.S. dollars notwithstanding the appropriation or fund that will be used for payment. This should include contracts with U.S. contractors to the extent that the contractor may be expected to require such currencies for necessary expenses in the country involved.

§ 12–6.806 Procedures.

§ 12–6.806–2 Method of purchase.

In lieu of the authority cited in FPR 1–6.806–2, the following is applicable to Coast Guard procurement: Contracts entered into pursuant to conventional negotiation shall cite exceptions (2) through (17) of 10 U.S.C. 2304(a), as appropriate. Where such negotiation authority is not applicable or where contracts are entered into pursuant to the Balance of Payments Restricted Advertising method of procurement, 10 U.S.C. 2304(a)(1) shall be cited as negotiation authority.

Subpart 12–6.10—Omission of the Examination of Records Clause From Contracts With Foreign Contractors

§ 12–6.1004 Determinations and findings.

A determination and finding made by the Coast Guard shall cite 10 U.S.C. 2313(c) as authority for omission of the Examination of Records clause. Determinations and findings made by other Administrations shall cite 41 U.S.C. 254(c).

Subpart 12–6.50—Purchases From Certain Communist Areas

§ 12–6.5001 Restrictions.

Supplies originating from the following countries shall not be acquired for public use except as authorized by the

Secretary of the Treasury or his designee:

(a) *From China (except Formosa), North Korea, Cambodia, and Vietnam,* the items set forth in § 500.204 of Part 500 of Title 31 of the Code of Federal Regulations.

(b) *From Cuba,* any merchandise that is of Cuban origin, or is or has been located in or transported from or through Cuba, or is made or derived in whole or in part of any article, which is the growth, produce, or manufacture of Cuba (§ 515.204 of Part 515 of Title 31 of the Code of Federal Regulations).

§ 12–6.5002 Contact provision.

Instructions. The clause in § 12–7.151–18 shall be included in all contracts for supplies, services, or construction, where acceptance is to take place outside the United States, its possessions, or Puerto Rico. The clause need not be included in purchase orders for small purchases where there is reasonable assurance of compliance with § 12–6.5001.

§ 12–6.5003 Exceptions.

Requests for exceptions to this subpart shall be forwarded through Administration channels to the Director of Installations and Logistics, OST/TAD–60.

PART 12–7—CONTRACT CLAUSES

Sec.
12–7.000 Scope of part.

Subpart 12–7.1—Clauses for Fixed-Price Supply Contracts

12–7.100 Scope of subpart.
12–7.101 Applicability.
12–7.102 Required clauses.
12–7.102–1 Definitions.
12–7.102–2 Changes.
12–7.102–3 Extras.
12–7.102–4 Variation in quantity.
12–7.102–5 Inspection.
12–7.102–6 Responsibility for supplies.
12–7.102–7 Payments.
12–7.102–8 Assignment of claims.
12–7.102–9 [Reserved]
12–7.102–10 Federal, state, and local taxes.
12–7.102–11 Default.
12–7.102–12 Disputes.
12–7.102–13 [Reserved]
12–7.102–14 Buy American Act.
12–7.102–15 Contract Work Hours and Safety Standards Act—overtime compensation.
12–7.102–16 Equal opportunity.
12–7.102–17 Officials not to benefit.
12–7.102–18 Covenant against contingent fees.
12–7.102–19 Termination for convenience of the Government.
12–7.102–20 Pricing of adjustments.
12–7.102–21 Employment of the handicapped.
12–7.102–22 Payment of interest on contractor's claim.
12–7.102–23 Clean air and water.
12–7.103 Clauses to be used when applicable.
12–7.103–1 Clauses for fixed-price supply contracts involving construction.
12–7.103–2 Additional bond security.
12–7.103–3 Examination of records by the Comptroller General.
12–7.103–4 Notice and assistance regarding patent and copyright infringement.
12–7.103–5 Convict labor.
12–7.103–6 Walsh-Healey Public Contracts Act.
12–7.103–7 Utilization of small business concerns.
12–7.103–8 Small business subcontracting program.
12–7.103–9 Utilization of labor surplus area concerns.
12–7.103–10 Labor surplus area subcontracting program.
12–7.103–11 Utilization of minority business enterprises.
12–7.103–12 Minority business enterprises subcontracting program.
12–7.103–13 Humane slaughter of livestock.
12–7.103–14 Required source for jewel bearings.
12–7.103–15 [Reserved]
12–7.103–16 Disabled Veterans and veterans of the Vietnam era.
12–7.103–17 Price reduction for defective cost or pricing data.
12–7.103–18 Audit and records.
12–7.103–19 Subcontractor cost and pricing data.
12–7.103–20 Advance payments.
12–7.103–21 Progress payments.
12–7.103–22 Workmen's compensation insurance (Defense Base Act).
12–7.103–23 Late offers and modifications or withdrawals.
12–7.103–24 Contracts with the Small Business Administration.
12–7.103–25 Supplementary tax clauses.
12–7.103–26 Preference for U.S. flag air carriers.
12–7.103–27 Cost accounting standards.
12–7.103–28 Subcontracts.
12–7.103–29 Privacy Act.
12–7.103–30 Clauses for solicitations and contracts for automatic data processing (ADP) equipment, software, maintenance services, and supplies.
12–7.103–31 Use of U.S. flag commercial vessels.
12–7.104 Additional clauses.
12–7.104–1 Liquidated damages provisions.
12–7.104–2 Changes to "make-or-buy" program.
12–7.104–50 Fast payment procedures.
12–7.150 Required DOTPR clauses.
12–7.150–1 Gratuities.
12–7.150–2 New materials.
12–7.150–3 Priorities, allocations, and allotments.
12–7.150–4 Interpretation or modification.
12–7.150–5 Notice of readiness for inspection.
12–7.150–6 Definition of delivery terms.
12–7.150–7 Evidence of delivery.
12–7.150–8 Withholding payment for nondelivery of data.
12–7.150–9 Notice of delays.
12–7.150–10 Dissemination of contract information.
12–7.150–11 Authorization and consent.
12–7.150–12 Background patents (license).
12–7.151 DOTPR clauses to be used when applicable.
12–7.151–1 Patent indemnity.
12–7.151–2 Filing of patent applications.
12–7.151–3 Reporting of royalties (foreign).
12–7.151–4 Refund of royalties.
12–7.151–5 Rights in data—unlimited contract clause.
12–7.151–6 Rights in data—title contract clause.
12–7.151–7 Recovery of developmental costs.
12–7.151–8 Government furnished property.
12–7.151–9 Military security requirements.
12–7.151–10 Price redetermination (prospective).
12–7.151–11 Price redetermination (retroactive).
12–7.151–12 Stop work order.
12–7.151–13 Value engineering.
12–7.151–14 Multi-year procurement clauses.
12–7.151–15 Renegotiation.
12–7.151–16 Lease of aircraft.
12–7.151–17 Options.
12–7.151–18 Procurement from certain Communist areas.

Subpart 12–7.2—Clauses for Cost-Reimbursement Type Supply Contracts

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12–7.202 Required clauses.
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12–7.202–2 Changes.
12–7.202–3 Limitation of cost or funds.
12–7.202–4 Allowable cost, fee, and payment.
12–7.202–5 Inspection of supplies and correction of defects.
12–7.202–6 Assignment of claims.
12–7.202–7 Examination of records by Comptroller General.
12–7.202–8 Subcontracts.
12–7.202–9 [Reserved]
12–7.202–10 Termination for default or convenience of the Government.
12–7.202–11 Excusable delays.
12–7.202–12 Disputes.
12–7.202–13 [Reserved]
12–7.202–14 Buy American Act.
12–7.202–15 Convict labor.
12–7.202–16 Contract Work Hours and Safety Standards Act—overtime compensation.
12–7.202–17 Walsh-Healey Public Contracts Act.
12–7.202–18 Equal opportunity.
12–7.202–19 Officials not to benefit.
12–7.202–20 Covenant against contingent fees.
12–7.202–21 [Reserved]
12–7.202–22 [Reserved]
12–7.202–23 [Reserved]
12–7.202–24 Notice and assistance regarding patent and copyright infringement.
12–7.202–25 [Reserved]
12–7.202–26 Utilization of small business concerns.
12–7.202–27 Utilization of labor surplus area concerns.
12–7.202–28 Utilization of minority business enterprises.
12–7.202–29 Payment for overtime premiums.
12–7.202–30 Competition in subcontracting.
12–7.202–31 Price reduction for defective cost or pricing data.
12–7.202–32 Audit and records.
12–7.202–33 Subcontractor cost and pricing data.
12–7.202–34 Payment of interest on contractors' claims.
12–7.202–35 Disabled veterans and veterans of the Vietnam era.
12–7.202–36 Late offers and modifications or withdrawals.
12–7.202–37 Employment of the handicapped.
12–7.202–38 Clean air and water.
12–7.203 Clauses to be used when applicable.
12–7.203–1 Clauses for cost-reimbursement type supply contracts involving construction.
12–7.203–2 [Reserved]

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12-7.203-3 Notice to the Government of labor disputes.
12-7.203-4 [Reserved]
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12-7.203-15 Interest.
12-7.203-16 [Reserved]
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12-7.203-18 Small business subcontracting program.
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12-7.203-23 Cost accounting standards.
12-7.203-24 Privacy Act.
12-7.203-25 Use of U.S. flag commercial vessels.
12-7.204 Additional clauses.
12-7.204-1 Alterations in contract.
12-7.204-2 Approval of contract.
12-7.204-3 Date of incurrence of cost.
12-7.204-4 Notice regarding late delivery.
12-7.204-5 Insurance—Liability to third persons.
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12-7.250-3 Priorities, allocations, and allotments.
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12-7.250-5 Dissemination of contract information.
12-7.250-6 Authorization and consent.
12-7.251 DOTPR clauses to be used when applicable.
12-7.251-1 Patent indemnity.
12-7.251-2 Filing of patent applications.
12-7.251-3 Reporting of royalties (foreign).
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12-7.251-5 Patent rights.
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12-7.251-9 Value engineering.
12-7.251-10 Multi-year procurement.
12-7.251-11 Renegotiation.
12-7.251-12 Background patents (license).

Subpart 12-7.3—Fixed-Price Research and Development Clauses

12-7.300 Scope of subpart.
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12-7.302 Required clauses.
12-7.302-1 Definitions.
12-7.302-2 Payments.
12-7.302-3 Standards of work.
12-7.302-4 Inspection.
12-7.302-5 Assignment of claims.
12-7.302-6 Examination of records by Comptroller General.
12-7.302-7 Federal, state, and local taxes.
12-7.302-8 Utilization of small business concerns.
12-7.302-9 Default.
12-7.302-10 Termination for convenience of the Government.
12-7.302-11 Disputes.

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12-7.302-12 [Reserved]
12-7.302-13 Buy American Act.
12-7.302-14 Convict labor.
12-7.302-15 Walsh-Healey Public Contracts Act.
12-7.302-16 Contract Work Hours and Safety Standards Act—overtime compensation.
12-7.302-17 Equal opportunity.
12-7.302-18 Officials not to benefit.
12-7.302-19 Covenant against contingent fees.
12-7.302-20 [Reserved]
12-7.302-21 [Reserved]
12-7.302-22 Notice and assistance regarding patent and copyright infringement.
12-7.302-23 Patents.
12-7.302-24 [Reserved]
12-7.302-25 [Reserved]
12-7.302-26 Utilization of labor surplus area concerns.
12-7.302-27 [Reserved]
12-7.302-28 [Reserved]
12-7.302-29 Pricing of adjustments.
12-7.302-30 Disabled veterans and veterans of the Vietnam era.
12-7.302-31 Utilization of minority business enterprises.
12-7.302-32 Payment of interest on contractor's claims.
12-7.302-33 Employment of the handicapped.
12-7.302-34 Clean air and water.
12-7.303 Clauses to be used when applicable.
12-7.303-1 Clauses for fixed-price research and development contracts involving construction.
12-7.303-2 [Reserved]
12-7.303-3 [Reserved]
12-7.303-4 [Reserved]
12-7.303-5 [Reserved]
12-7.303-6 [Reserved]
12-7.303-7 Government property.
12-7.303-8 [Reserved]
12-7.303-9 Notice to the Government of labor disputes.
12-7.303-10 [Reserved]
12-7.303-11 [Reserved]
12-7.303-12 Subcontracts.
12-7.303-13 [Reserved]
12-7.303-14 [Reserved]
12-7.303-15 [Reserved]
12-7.303-16 Price reduction for defective cost of pricing data.
12-7.303-17 [Reserved]
12-7.303-18 [Reserved]
12-7.303-19 [Reserved]
12-7.303-20 [Reserved]
12-7.303-21 Advance payments.
12-7.303-22 Workmen's compensation insurance (Defense Base Act).
12-7.303-23 Progress payments.
12-7.303-24 Required source for jewel bearings.
12-7.303-25 [Reserved]
12-7.303-26 Interest.
12-7.303-27 Competition in subcontracting.
12-7.303-28 Audit and records.
12-7.303-29 Subcontractor cost and pricing data.
12-7.303-30 [Reserved]
12-7.303-31 [Reserved]
12-7.303-32 [Reserved]
12-7.303-33 [Reserved]
12-7.303-34 [Reserved]
23-7.303-35 [Reserved]
12-7.303-36 [Reserved]
12-7.303-37 [Reserved]
12-7.303-38 [Reserved]
12-7.303-39 [Reserved]
12-7.303-40 [Reserved]
12-7.303-41 United States products and services (balance of payments program).

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12-7.303-42 [Reserved]
12-7.303-43 [Reserved]
12-7.303-44 Care of laboratory animals.
12-7.303-45 [Reserved]
12-7.303-46 Insurance.
12-7.303-47 [Reserved]
12-7.303-48 [Reserved]
12-7.303-49 [Reserved]
12-7.303-50 [Reserved]
12-7.303-51 Minority business enterprises subcontracting program.
12-7.303-52 [Reserved]
12-7.303-53 [Reserved]
12-7.303-54 [Reserved]
12-7.303-55 Cost accounting standards.
12-7.303-56 [Reserved]
12-7.303-57 [Reserved]
12-7.303-58 Labor surplus area subcontracting program.
12-7.303-59 Small business subcontracting program.
12-7.303-60 [Reserved]
12-7.303-61 [Reserved]
12-7.303-62 [Reserved]
12-7.303-63 Preference for U.S. flag air carriers.
12-7.303-64 Contracts with the Small Business Administration.
12-7.303-65 Privacy Act.
12-7.303-66 Use of U.S. flag commercial vessels.
12-7.304 Additional clauses.
12-7.304-1 Changes.
12-7.304-2 Alterations in contract.
12-7.304-3 Approval of contract.
12-7.304-4 [Reserved]
12-7.304-5 Notice regarding late delivery.
12-7.304-6 Key personnel.
12-7.304-7 Liquidated damages.
12-7.304-8 Disposition of material.
12-7.304-9 Reports of work.
12-7.350 Required DOTPR clauses.
12-7.350-1 Gratuities.
12-7.350-2 Authorization and consent.
12-7.350-3 Withholding payment for nondelivery of data.
12-7.350-4 Dissemination of contract information.
12-7.350-5 Priorities, allocations, and allotments.
12-7.350-6 Notice of delays.
12-7.350-7 New material.
12-7.350-8 Interpretation or modification.
12-7.350-9 Rights in data.
12-7.351 DOTPR clauses to be used when applicable.
12-7.351-1 Military security requirements.
12-7.351-2 Stop work orders.
12-7.351-3 Renegotiation.
12-7.351-4 Background patents (license).
12-7.351-5 Filing of patent applications.
12-7.351-6 Reporting of royalties.
12-7.351-7 Refund of royalties.
12-7.351-8 Recovery of developmental costs.
12-7.351-9 Value engineering.

Subpart 12-7.4—Clauses for Cost-Reimbursement Type Research and Development Contracts

12-7.400 Scope of subpart.
12-7.401 Applicability.
12-7.402 Required clauses.
12-7.402-1 Definitions.
12-7.402-2 Limitation of cost or funds.
12-7.402-3 Allowable cost, fee, and payment.
12-7.402-4 Standards of work.
12-7.402-5 Inspection and correction of data.
12-7.402-6 Assignment of claims.
12-7.402-7 Examination of records by Comptroller General.
12-7.402-8 Subcontracts.
12-7.402-9 Utilization of small business concerns.

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12-7.402-10 Termination for default or convenience of the Government.
12-7.402-11 Disputes.
12-7.402-12 [Reserved]
12-7.402-13 Buy American Act.
12-7.402-14 Convict labor.
12-7.402-15 Walsh-Healey Public Contracts Act.
12-7.402-16 Contract Work Hours and Safety Standards Act—overtime compensation.
12-7.402-17 Equal opportunity.
12-7.402-18 Officials not to benefit.
12-7.402-19 Covenant against contingent fees.
12-7.402-20 [Reserved]
12-7.402-21 Notice and assistance regarding patent and copyright infringement.
12-7.402-22 Patents.
12-7.402-23 [Reserved]
12-7.402-24 [Reserved]
12-7.402-25 Government property.
12-7.402-26 [Reserved]
12-7.402-27 Utilization of labor surplus area concerns.
12-7.402-28 Payment for overtime premiums.
12-7.402-29 Competition in subcontracting.
12-7.402-30 Price reduction for defective cost or pricing data.
12-7.402-31 Price reduction for defective cost or pricing data.
12-7.402-32 Subcontractor cost and pricing data.
12-7.402-33 Utilization of minority business enterprises.
12-7.402-34 Disabled veterans and veterans of the Vietnam era.
12-7.402-35 Payment of interest on contractor's claims.
12-7.402-36 Employment of the handicapped.
12-7.402-37 Clean air and water.
12-7.403 Clauses to be used when applicable.
12-7.403-1 Clauses for cost-reimbursement type research and development contracts involving construction.
12-7.403-2 [Reserved]
12-7.403-3 [Reserved]
12-7.403-4 [Reserved]
12-7.403-5 Excusable delays.
12-7.403-6 [Reserved]
12-7.403-7 [Reserved]
12-7.403-8 [Reserved]
12-7.403-9 Negotiated overhead rate.
12-7.403-10 Notice to the Government of labor disputes.
12-7.403-11 [Reserved]
12-7.403-12 [Reserved]
12-7.403-13 [Reserved]
12-7.403-14 Make-or-buy program.
12-7.403-15 [Reserved]
12-7.403-16 [Reserved]
12-7.403-17 [Reserved]
12-7.403-18 [Reserved]
12-7.403-19 [Reserved]
12-7.403-20 Advance payments.
12-7.403-21 Workmen's compensation insurance (Defense Base Act).
12-7.403-22 Required source for jewel bearings.
12-7.403-23 General Services Administration supply sources.
12-7.403-24 Use of interagency motor pool vehicles.
12-7.403-25 Interest.
12-7.403-26 [Reserved]
12-7.403-27 [Reserved]
12-7.403-28 [Reserved]
12-7.403-29 [Reserved]
12-7.403-30 [Reserved]
12-7.403-31 [Reserved]

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12-7.403-32 [Reserved]
12-7.403-33 [Reserved]
12-7.403-34 [Reserved]
12-7.403-35 [Reserved]
12-7.403-36 United States products and services (balance of payments program).
12-7.403-37 [Reserved]
12-7.403-38 [Reserved]
12-7.403-39 Care of laboratory animals.
12-7.403-40 [Reserved]
12-7.403-41 [Reserved]
12-7.403-42 [Reserved]
12-7.403-43 [Reserved]
12-7.403-44 [Reserved]
12-7.403-45 [Reserved]
12-7.403-46 [Reserved]
12-7.403-47 [Reserved]
12-7.403-48 [Reserved]
12-7.403-49 [Reserved]
12-7.403-50 Cost accounting standards.
12-7.403-51 [Reserved]
12-7.403-52 [Reserved]
12-7.403-53 Small business subcontracting program.
12-7.403-54 Labor surplus area subcontracting program.
12-7.403-55 Minority business enterprises subcontracting program.
12-7.403-56 [Reserved]
12-7.403-57 [Reserved]
12-7.403-58 Preference for U.S. flag air carriers.
12-7.403-59 [Reserved]
12-7.403-60 Privacy Act.
12-7.403-61 Use of U.S. flag commercial vessels.
12-7.404 Additional clauses.
12-7.404-1 Alterations in contract.
12-7.404-2 Approval of contract.
12-7.404-3 Date of incurrence of costs.
12-7.404-4 Notice regarding late delivery.
12-7.404-5 Changes.
12-7.404-6 Key personnel.
12-7.404-7 Disposition of material.
12-7.404-8 Reports of work.
12-7.404-9 Insurance—liability to third persons.
12-7.450 Required DOTPR clauses.
12-7.450-1 Gratuities.
12-7.450-2 New material.
12-7.450-3 Priorities, allocations, and allotments.
12-7.450-4 Interpretation or modification.
12-7.450-5 Dissemination of contract information.
12-7.450-6 Authorization and consent.
12-7.450-7 Notice of delays.
12-7.450-8 Rights in data.
12-7.451 DOTPR clauses to be used when applicable.
12-7.451-1 Recovery of developmental costs.
12-7.451-2 Filing of patent applications.
12-7.451-3 Reporting of royalties (foreign).
12-7.451-4 Refund of royalties.
12-7.451-5 Military security requirements.
12-7.451-6 Stop work orders.
12-7.451-7 Value engineering.
12-7.451-8 Renegotiation.
12-7.451-9 Background patents (license).

Subpart 12-7.6—Clauses for Fixed-Price Construction Contracts

12-7.600 Scope of subpart.
12-7.601 General.
12-7.602 Required clauses.
12-7.602-1 Specifications and drawings.
12-7.602-1 Definitions.
12-7.602-2 Specifications and drawings.
12-7.602-3 Changes.
12-7.602-4 Differing site conditions.
12-7.602-5 Termination for default—damages for delay—time extensions.
12-7.602-6 Disputes.
12-7.602-7 Payments to contractor.

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12-7.602-8 Assignment of claims.
12-7.602-9 Material and workmanship.
12-7.602-10 [Reserved]
12-7.602-11 Inspection and acceptance.
12-7.602-12 Superintendence by contractor.
12-7.602-13 Permits and responsibilities.
12-7.602-14 Conditions affecting the work.
12-7.602-15 Other contracts.
12-7.602-16 Patent indemnity.
12-7.602-17 Additional bond security.
12-7.602-18 Covenant against contingent fees.
12-7.602-19 Officials not to benefit.
12-7.602-20 Buy American Act.
12-7.602-21 Convict labor.
12-7.602-22 Equal opportunity.
12-7.602-23 Labor standards provisions.
12-7.602-24 [Reserved]
12-7.602-25 [Reserved]
12-7.602-26 Utilization of small business concerns.
12-7.602-27 Federal, State, and local taxes.
12-7.602-28 [Reserved]
12-7.602-29 Termination for convenience of the Government.
12-7.602-30 Pricing of adjustments.
12-7.602-31 Use and possession prior to completion.
12-7.602-32 Suspension of work
12-7.602-33 Utilization of minority business enterprises.
12-7.602-34 Disabled veterans and veterans of the Vietnam era.
12-7.602-35 Payment of interest on contractor's claims.
12-7.602-36 Shop drawings.
12-7.602-37 Employment of the handicapped.
12-7.602-38 Clean air and water.
12-7.603 Clauses to be used when applicable.
12-7.603-1 [Reserved]
12-7.603-2 [Reserved]
12-7.603-3 [Reserved]
12-7.603-4 [Reserved]
12-7.603-5 [Reserved]
12-7.603-6 [Reserved]
12-7.603-7 Examination of records by Comptroller General.
12-7.603-8 [Reserved]
12-7.603-9 [Reserved]
12-7.603-10 [Reserved]
12-7.603-11 Price reduction for defective cost or pricing data.
12-7.603-12 Workmen's compensation insurance (Defense Base Act).
12-7.603-13 [Reserved]
12-7.603-14 Advance payments.
12-7.603-15 Performance of work by contractor.
12-7.603-16 [Reserved]
12-7.603-17 [Reserved]
12-7.603-18 [Reserved]
12-7.603-19 Use of U.S. Flag Commercial Vessels.
12-7.603-20 Audit and records.
12-7.603-21 Subcontractor cost and pricing data.
12-7.603-22 Contracts with the Small Business Administration (Special 8(a) Contract).
12-7.603-23 Small business subcontracting program.
12-7.603-24 Minority business enterprises subcontracting program.
12-7.603-25 Late bids and modifications or withdrawals.
12-7.603-26 Preference for U.S. flag air carriers.
12-7.603-27 Cost accounting standards.
12-7.603-28 Subcontracts.
12-7.604 Additional clauses.
12-7.604-1 Liquidated damages.
12-7.650 Required DOTPR clauses.
12-7.650-1 Gratuities.
12-7.650-2 Protection of existing vegetation, structures, utilities, and improvements.

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12-7.650-3 Operations and storage areas (use with SF-23A).
12-7.650-4 Modification proposals—price breakdown (use with SF-23A).
12-7.650-5 Work schedule (use with SF-19).
12-7.650-6 Cleaning up (use with SF-23A).
12-7.650-7 Additional definitions (use with SF-23A).
12-7.650-8 Safety requirements (use with SF-23A).
12-7.650-9 Contracting officer's representative (use with SF-23A).
12-7.650-10 Contract time—notice to proceed (use with SF-23A).
12-7.650-11 Rights in shop drawings (use with SF-23A).
12-7.650-12 Notice of delays (use with SF-23A).
12-7.650-13 Priorities, allocations, and allotments (use with SF-23A).
12-7.650-14 Dissemination of contract information (use with SF-23A).
12-7.650-15 Guarantee (use with SF-23A).
12-7.650-16 General conduct of work (use with SF-19).
12-7.650-17 Contractor inspection system (use with SF-23A).
12-7.650-18 Information regarding Buy American Act (use with SF-23A).
12-7.651 Clauses to be used when applicable.
12-7.651-1 Notice and assistance regarding patent and copyright infringement.
12-7.651-2 Authorization and consent.
12-7.651-3 Military security requirements.
12-7.651-4 Performance of work by contractor.
12-7.651-5 Government-furnished property.
12-7.651-6 Physical data.
12-7.651-7 Variations in estimated quantities contracts.
12-7.651-8 Availability and use of utility services.
12-7.651-9 Misplaced material.
12-7.651-10 Signal lights.
12-7.651-11 Time extensions for delays to elements of the work.
12-7.651-12 Progress charts and requirements for overtime work.
12-7.651-13 Special precautions for work at operating airports.
12-7.651-14 Quantity surveys.
12-7.651-15 Layout of work.
12-7.651-16 Value engineering incentive.

Subpart 12-7.50—Procurement of Mortuary Services

12-7.5000 Scope.
12-7.5001 Required clauses.
12-7.5001-1 Definitions.
12-7.5001-2 Payments.
12-7.5001-3 Assignment of claims.
12-7.5001-4 Federal, State, and local taxes.
12-7.5001-5 Termination for convenience of the Government.
12-7.5001-6 Default.
12-7.5001-7 Disputes.
12-7.5001-8 Convict labor.
12-7.5001-9 Contract Work Hours Standards Act—overtime compensation.
12-7.5001-10 Officials not to benefit.
12-7.5001-11 Covenant against contingent fees.
12-7.5001-12 Gratuities.
12-7.5001-13 Equal opportunity.
12-7.5001-14 Examination of records by Comptroller General.
12-7.5001-15 Requirements.
12-7.5001-16 Contract period.
12-7.5001-17 Area of performance.
12-7.5001-18 Specifications.
12-7.5001-19 Using activities.
12-7.5001-20 Delivery orders and invoices.
12-7.5001-21 Delivery and performance.
12-7.5001-22 Subcontracting.
12-7.5001-23 Additional default provision.
12-7.5001-24 Inspection.
12-7.5001-25 Group interment.
12-7.5001-26 Professional requirements.
12-7.5001-27 Facility requirements.
12-7.5001-28 Preparation history.
12-7.5001-29 Changes.
12-7.5001-30 Inconsistent provisions.
12-7.5001-31 Coordination.
12-7.5001-32 Preparation of remains at other than contractor's establishment.
12-7.5001-33 Major restorative art.
12-7.5001-34 Passenger car.

Subpart 12-7.51—Clauses for Architect-Engineer Contracts

12-7.5100 Scope.
12-7.5100-1 Amendment of Standard Form 253.
12-7.5101 Required clauses.
12-7.5101-1 Composition of contractor.
12-7.5101-2 Interpretation of modification.
12-7.5101-3 Dissemination of contract information.
12-7.5101-4 Inspection.
12-7.5101-5 Notice of delays.
12-7.5101-6 Certification of drawings and other documents.
12-7.5101-7 Gratuities.
12-7.5102 Clauses to be used when applicable.
12-7.5102-1 Military security requirements.
12-7.5102-2 Audit and records.
12-7.5102-3 Price reduction for defective cost or pricing data.
12-7.5102-4 Subcontractor cost or pricing data.
12-7.5102-5 Architectural designs and data—Government rights (sole property).
12-7.5102-6 Renegotiation.
12-7.5103 Additional clauses.
12-7.5101-1 Method of payment.
12-7.5103-2 Preparation of specifications.
12-7.5103-3 Construction cost limitations.
12-7.5103-4 Building codes.

Subpart 12-7.52—Clauses for Fixed-Price Vessel Repair, Alteration, or Conversion Contracts

12-7.5200 Scope of subpart.
12-7.5201 Required clauses.
12-7.5201-1 Delivery and shifting of vessel.
12-7.5201-2 Performance.
12-7.5201-3 Inspection and manner of doing work.
12-7.5201-4 Subcontracts.
12-7.5201-5 Lay days.
12-7.5201-6 Changes.
12-7.5201-7 Extras.
12-7.5201-8 Payments.
12-7.5201-9 Government-furnished property.
12-7.5201-10 Liability and insurance.
12-7.5201-11 Title.
12-7.5201-12 Discharge of liens.
12-7.5201-13 Federal, State, and local taxes.
12-7.5201-14 Default.
12-7.5201-15 Delays.
12-7.5201-16 Termination for convenience of the Government.
12-7.5201-17 Disputes.
12-7.5201-18 Patent indemnity.
12-7.5201-19 Authorization and consent.
12-7.5201-20 Notice and assistance regarding patent and copyright infringement.
12-7.5201-21 Buy American Act.
12-7.5201-22 Convict labor.
12-7.5201-23 Contract Work Hours and Safety Standards Act—overtime compensation.
12-7.5201-24 Walsh-Healey Public Contracts Act.
12-7.5201-25 Department of Labor safety and health regulations for ship repairing.
12-7.5201-26 Equal opportunity.
12-7.5201-27 Officials not to benefit.
12-7.5201-28 Covenant against contingent fees.
12-7.5201-29 Additional bond security.
12-7.5201-30 Interpretation or modification.
12-7.5201-31 Notice of delays.
12-7.5201-32 Gratuities.
12-7.5201-33 Examination of records by Comptroller General.
12-7.5201-34 Utilization of small business concerns.
12-7.5201-35 Utilization of labor surplus area concerns.
12-7.5201-36 Assignment of claims.
12-7.5201-37 Definitions.
12-7.5202 Clauses to be used when applicable.
12-7.5201-1 Price reduction for defective cost of pricing data.
12-7.5202-2 Audit and records.
12-7.5202-3 Subcontractor cost and pricing data.
12-7.5202-4 Military security requirements.
12-7.5202-5 Guaranty.
12-7.5202-6 Priorities, allocations, and allotments.
12-7.5202-7 Index for specifications.

AUTHORITY: Sec. 205(c), 63 Stat. 389; 40 U.S.C. 486(c), 10 U.S.C. 2301-2314.

§ 12-7.000 Scope of part.

This part sets forth all contract clauses for use in connection with the procurement of supplies and services.

Subpart 12-7.1—Clauses for Fixed Price Supply Contracts

§ 12-7.100 Scope of subpart.

This subpart sets forth uniform clauses for use in fixed price supply contracts.

§ 12-7.101 Applicability.

The clauses set forth or cited in this subpart shall be used when required, or as applicable or additional clauses in all fixed-price supply contracts cited in FPR 1-7.101.

§ 12-7.102-1 Definitions.

Insert the clauses set forth in FPR forth in FPR Subpart 1-7.102.

§ 12-7.102 Definitions.

Insert the clause set forth in FPR 1-7.102-1.

§ 12-7.102-2 Changes.

Insert the clause set forth in FPR 1-7.102-2.

12-7.102-3 Extras.

Insert the clause set forth in FPR 1-7.102-3.

§ 12-7.102-4 Variation in quantity.

Insert the clause set forth in FPR 1-7.102-4.

§ 12-7.102-450 Extent of quantity variation.

The following clause is prescribed for use in accordance with DOTPR 12-1.353.

EXTENT OF QUANTITY VARIATION

The permissible variation under the clause of the General Provisions entitled "Variation in Quantity" shall be limited to:

Increase (insert: ------ percent or none)
Decrease (insert: ------ percent or none)

This increase or decrease shall apply to ------. (Insert in the blank the designation(s) to which the percentages apply, such as (1) the total contract quantity; (2) Item 1 only; (3) each quantity specified in the delivery schedule of the "Time or Delivery" clause; (4) the total item quantity for each destination; (5) the total quantity of each item without regard to destination.)

(End of clause)

§ 12–7.102–5 Inspection.

Insert the clause set forth in FPR 1–7.102–5.

§ 12–7.102–6 Responsibility for supplies.

Insert the clause set forth in FPR 1–7.102–6.

§ 12–7.102–7 Payments.

Insert the clause set forth in FPR 1–7.102–7.

§ 12–7.102–8 Assignment of claims.

Insert the clause set forth in FPR1–30.703 under the conditions contained therein.

Subpart 12–7.1—Clauses for Fixed Price Supply Contracts

§ 12–7.102–9 [Reserved]

§ 12–7.102–10 Federal, State, and local taxes.

Insert the clauses cited in FPR 1–7.102–10 as prescribed therein.

§ 12–7.102–11 Default.

Insert the clause set forth in FPR 1–8.707 as prescribed in FPR 8–700–2(b)(1).

§ 12–7.102–12 Disputes.

Insert the clause set forth in FPR 1–7.102–12.

§ 12–7.102–13 [Reserved]

§ 12–7.102–14 Buy American Act.

Insert the clause set forth in FPR 1–6.104–5 as prescribed therein.

§ 12–7.102–15 Contract work hours and Safety Standards Act—overtime compensation

Insert the clause set forth in FPR 1–12.303 as prescribed in FPR 1–12.302.

§ 12–7.102–16 Equal opportunity.

Insert the clause set forth in FPR 1–12.803–2 as prescribed in FPR 1–12.803–1.

§ 12–7.102–17 Officials not to benefit.

Insert the clause set forth in FPR 1–7.102–17.

§ 12–7.102–18 Covenant against contingent fees.

Insert the clause set forth in FPR 1–1.503 as prescribed in FPR 1–1.501.

§ 12–7.102–19 Termination for convenience of the Government.

Insert the clause cited in FPR 1–7.102–19 as prescribed therein.

§ 12–7.102–20 Pricing of adjustments.

Insert the clause set forth in FPR 1–7.102–20.

§ 12–7.102–21 Employment of the handicapped.

Insert the clause set forth in FPR Temporary Regulation No. 38, May 1976.

§ 12–7.102–22 Payment of interest on contractor's claim.

Insert the clause set forth in FPR 1–1.322 as prescribed therein.

§ 12–7.102–23 Clean air and water.

Insert the clause set forth in FPR 1–1.2302–2 as prescribed therein.

§ 12–7.103 Clauses to be used when applicable.

§ 12–7.103–1 Clauses for fixed-price supply contracts involving construction.

Insert the clauses cited in FPR 1–7.103–1 under the conditions prescribed therein.

§ 12–7.103–2 Additional bond security.

Insert the clause set forth in FPR 1–7.103–2.

§ 12–7.103–3 Examination of records by the Comptroller General.

Insert the clause set forth in FPR 1–7.103–3 under the conditions prescribed therein.

§ 12–7.103–4 Notice and assistance regarding patent and copyright infringement.

Insert the clause set forth in FPR 1–7.103–4 under the conditions prescribed therein.

§ 12–7.103–5 Convict labor.

Insert the clause set forth in FPR 1–12.204 under the conditions prescribed in FPR 1–12.203.

§ 12–7.103–6 Walsh-Healey Public Contracts Act.

Insert the clause set forth in FPR 1–12.605 under the conditions prescribed in FPR 1–12.602.

§ 12–7.103–7 Utilization of small business concerns.

Insert the clause set forth in FPR 1–1.710–3(a) under the conditions prescribed therein.

§ 12–7.103–8 Small business subcontracting program.

Insert the clause set forth in FPR 1–1.710–3(b) under the conditions prescribed therein.

§ 12–7.103–9 Utilizaton of labor surplus area concerns.

Insert the clause set forth in FPR 1–1.805–3(a) under the conditions prescribed therein.

§ 12–7.103–10 Labor surplus area subcontracting program.

Insert the clause set forth in FPR 1–1.805–3(b) under the conditions prescribed therein.

§ 12–7.103–11 Utilization of minority business enterprises.

Insert the clause set forth in FPR 1–1.1310–2(a) under the conditions prescribed therein.

§ 12–7.103–12 Minority business enterprises subcontracting program.

Insert the clause set forth in FPR 1–1.1310–2(b) under the conditions prescribed therein.

§ 12–7.103–13 Humane slaughter of livestock.

Insert the appropriate clause set forth in FPR 1–4.605 or 1–4.606 under the conditions prescribed in FPR 1–4.604.

§ 12–7.103–14 Required source for jewel bearings.

Insert the clause set forth in FPR 1–1.319 under the conditions prescribed therein.

§ 12–7.103–15 [Reserved]

§ 12–7.103–16 Disabled veterans and veterans of the Vietnam era.

Insert the clause set forth in FPR Temporary Regulations No. 39 in all contracts which exceed $10,000.

§ 12–7.103–17 Price reduction for defective cost or pricing data.

Insert the appropriate clause set forth in FPR 1–3.814–1 under the conditions prescribed therein.

§ 12–7.103–18 Audit and records.

Insert the appropriate clause(s) set forth in FPR 1–3.814–2 under the conditions prescribed therein.

§ 12–7.103–19 Subcontractor cost and pricing data.

Insert the clause set forth in FPR 1–3.814–3 under the conditions prescribed therein.

§ 12–7.103–20 Advance payments.

Insert the provisions cited in FPR 1–7.103–20 under the conditions prescribed therein.

§ 12–7.103–21 Progress payments.

Insert the clause cited in FPR 1–7.103–21 under the conditions prescribed therein.

§ 12–7.103–22 Workmen's compensation insurance (Defense Base Act).

Insert the clause set forth in FPR 1–10.402 under the conditions prescribed therein.

§ 12–7.103–23 Late offers and modifications or withdrawals.

Insert the provisions cited in FPR 1–7.103–23 under the conditions prescribed therein.

§ 12–7.103–24 Contracts with the Small Business Administration.

Insert the clause(s) cited in FPR 1–7.103–24 under the conditions prescribed therein.

§ 12–7.103–25 Supplementary tax clauses.

Insert the clause(s) cited in FPR 1–7.103–25 under the conditions prescribed therein.

§ 12–7.103–26 Preference for U.S. flag air carriers.

Insert the clause set forth in FPR 1–1.323–2 under the conditions prescribed therein.

§ 12–7.103–27 Cost accounting standards.

Insert the notices and clauses cited in FPR 1–7.103–27 under the conditions prescribed therein.

§ 12–7.103–28 Subcontracts.

Insert the clause set forth in FPR 1–7.103–27 under the conditions prescribed therein.

§ 12–7.103–29 Privacy Act.

Insert the clause set forth in FPR 1–1.327–5 as amended below under the conditions prescribed therein.

Substitute the following for FPR 1.327–5 (b):

(b) The following notification shall be included in every solicitation and in every contract when performance of work under the contract may involve the design, development, and/or operation of a system of records on individuals for an agency function.

PRIVACY ACT NOTIFICATION

Performance of work by the contractor under this procurement action may involve the design, development and/or operation of a system of records on individuals that is to be operated by the contractor to accomplish an agency function. When such work is to be performed, the contractor shall comply with the Privacy Act of 1974, Pub. L. 93–579, December 31, 1974 (5 U.S.C. 552a) and applicable agency regulations. Violations of the Act may involve the imposition of criminal penalties.

Substitute the following for FPR 1.327–5 (c):

(c) The following clause shall be included in every solicitation and in every contract when the performance of work thereunder may involve the design, development, or operation of a system of records on individuals that is to be operated by the contractor to accomplish an agency function, regardless of whether the system is the primary purpose of the contract.

PRIVACY ACT

(a) The contractor agrees: (1) To comply with the Privacy Act of 1974 (the Act) and the rules and regulations issued pursuant to the Act when performance under the contract involves the design, development, or operation of any system of records on individuals to be operated by the contractor in order to accomplish an agency function;

(2) To notify the Government when he anticipates operating a system of records in order to accomplish the requirements of this contract, if such system contains information about individuals which will be retrieved by the individual's name or other identifier assigned to the individual. A system of records subject to the Act may not be employed in the performance of this contract until the necessary approval and publication requirements applicable to the system have been carried out. The contractor agrees to correct, maintain, disseminate, and use such records in accordance with the requirements of the Act, and to comply with all applicable requirements of the Act;

(3) To include the Privacy Act Notification contained in this contract in every subcontract solicitation and in every subcontract when the performance of work under the proposed subcontract may involve the design, development, or operation of a system of records on individuals that is to be operated under the contract to accomplish an agency function; and

(4) To include this clause, including this paragraph, in all subcontracts under which work for this contract is performed or which is awarded pursuant to this contract when the performance of work under the subcontract may involve the design, development, or operation of such a system of records.

(b) For the purposes of the Act, when the contract involves the operation of a system of records on individuals to accomplish an agency function, the contractor and any employee of the contractor is considered to be an employee of the agency, and the requirements of the Act, including the civil and criminal penalties for violation of the Act, are applicable except that the criminal penalties shall not apply with regard to contracts effective prior to September 27, 1975. In addition, failure to comply with the provisions of the Act or of this clause will make this contract subject to termination for default as provided for in the general provisions of this contract.

(c) The terms used in this clause have the following meanings: (1) "Operation of a system of records" means performance of any of the activities associated with maintaining the system of records including the collection, use, and dissemination of records.

(2) "Record" means any item, collection, or grouping of information about an individual that is maintained by an agency, including, but not limited to, his education, financial transactions, medical history, and criminal or employment history and that contains his name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as a finger or voice print, or a photograph.

(3) "System of records" on individuals means a group of any records under the control of any agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual.

(End of clause)

§ 12–7.103–30 Clauses for solicitations and contracts for automatic data processing (ADP) equipment, software, maintenance services, and supplies.

Insert the clauses cited in FPR 1–7.103–30 as prescribed therein.

§ 12–7.103–31 Use of U.S. flag commercial vessels.

Insert the clause prescribed by FPR 1–19.108–2 under the conditions set forth therein.

§ 12–7.104 Additional clauses.

Insert the clauses cited in FPR Subpart 1–7.104 if it is desired to cover the subject matter.

§ 12–7.104–1 Liquidated damages provisions.

Insert the provisions set forth in FPR 1–1.315–3 under the conditions prescribed in FPR 1–1.315.

§ 12–7.104–2 Changes to "make-or-buy" program.

Insert the clause set forth in FPR 1–3.902–3 in all contracts containing a "make or buy" program.

§ 12–7.104–50 Fast payment provisions.

In accordance with DOTPR 12–3.653 insert the following clause in all fast payment orders:

FAST PAYMENT PROCEDURE

(a) *General.* This is a fast payment order. Invoices will be paid on the basis of the Contractor's delivery to a post office, common carrier, or, in shipment by other means, to the point of first receipt by the Government.

(b) *Responsibility for supplies.* Title to the supplies shall vest in the Government upon delivery to a post office or common carrier for shipment to the specific destination. If shipment is by means other than post office or common carrier, title to the supplies shall vest in the Government upon delivery to the point of first receipt by the Government. Notwithstanding any other provision of the purchase order, the contractor shall assume all responsibility and risk of loss for supplies (i) not received at destination, (ii) damaged in transit, or (iii) not conforming to purchase requirements. The Contractor shall either replace, repair, or correct such supplies promptly at his expense, *Provided*, Instructions to do so are furnished by the Contracting Officer within ninety (90) days from the date title to the supplies vests in the Government.

(c) *Preparation of invoice.* (1) Upon delivery of supplies to a post office, common carrier, or in shipments by other means, the point of first receipt by the Government, the Contractor shall prepare an invoice in accordance with the instructions in this order, except that invoices under a blanket purchase agreement shall be prepared in accordance with the provisions of the agreement. In shipments by either post office or common carriers, the Contractor shall either (A) cite on his invoice the date of shipment, name and address of carrier, bill of lading number or other shipment document number, or (B) attach copies of such documents to his invoice as evidence of shipment. In addition the invoice shall be prominently marked "Fast Pay." In case of delivery by other than post office of common carrier, a receipted copy of the Contractor's delivery document shall be attached to the invoice as evidence of delivery.

(2) If the purchase price excludes the cost of transportation, the contractor shall enter the prepaid shipping cost on the invoice as a separate item. The cost of parcel post insurance will not be paid by the Government. If transportation charges are separately stated on the invoice, the contractor agrees to retain related paid freight bills or other transportation billings paid separately for a period of three years and to furnish such bills to the Government when requested for audit purposes.

(d) *Certification of invoice.* The contractor agrees that the submission of an invoice to the Government for payment is a certification that the supplies for which the Government is being billed have been shipped or delivered in accordance with shipping instructions issued by the ordering officer, in the quantities shown on the invoice, and that such supplies are in the quantity and of the quality designated by the cited purchase order.

(End of provisions)

§ 12–7.150 Required DOTPR clauses.

The following clauses shall be inserted in all fixed price supply contracts exceeding $10,000, except where they are clearly inappropriate for use (e.g., contracts for subsistence supplies). Additionnl clauses may be used which are considered by each Administration to be essential to its operations.

§ 12–7.150–1 Gratuities.

GRATUITIES

(a) The Government may, by written notice to the Contractor, terminate the right of the Contractor to proceed under this contract if it is found, after notice and hearings, by the agency head or his duly authorized representative, that gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by the Contractor, or any agent or representative of the Contractor, to any officer or employee of the Government with a view toward securing a contract or securing favorable treatment with respect to the awarding or amending, or the making of any determinations with respect to the performing of such contract; *Provided*, That the existence of the facts upon which the agency head or his duly authorized representative makes such findings shall be in issue and may be reviewed in any competent court.

(b) In the event this contract is terminated as provided in paragraph (a) hereof, the Government shall be entitled (i) to pursue the same remedies against the Contractor as it could pursue in the event of a breach of the contract by the Contractor (ii) as a penalty in addition to any other damages to which it may be entitled by law, to exemplary damages in an amount (as determined by the agency head or his duly authorized representative) which shall be not less than three or more than ten times the cost incurred by the Contractor in providing any such gratuities to any such officer or employee.

(c) The rights and remedies of the Government provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

(End of clause)

§ 12–7.150–2 New materials.

NEW MATERIALS

Except as to any supplies or components which the contract specifically provides need not be new, all supplies and components to be provided under this contract shall be new (not used or reconditioned, and not of such age or so deteriorated as to impair their usefulness or safety), of current production, and of the most suitable grade for the purpose intended. If at any time during the performance of this contract the Contractor believes that the furnishing of supplies or components which are not new is necessary or desirable, he shall notify the Contracting Officer immediately, in writing, including the reasons therefor and proposing any consideration which will flow to the Government if authorization to use such supplies is granted.

(End of clause)

§ 12–7.150–3 Priorities, allocations, and allotments.

PRIORITIES, ALLOCATIONS, AND ALLOTMENTS

The Contractor shall follow the provisions of DMS Reg. 1 and all other applicable regulations and orders of the Business and Defense Services Administration in obtaining controlled materials and other products and materials required for the performance of this contract.

(End of clause)

§ 12–7.150–4 Interpretation or modification.

INTERPRETATION OR MODIFICATION

No oral statement of any person, and no written statement of anyone other than the Contracting Officer, or his authorized representative designated in accordance with section 12–1.402–50 of the DOT Procurement Regulations (41 CFR 12–1.402–50), acting within the limits of his authority specified in such designation, shall modify or otherwise affect any provision of the contract.

(End of clause)

§ 12–7.150–5 Notice of readiness for inspection.

NOTICE OF READINESS FOR INSPECTION

(a) If the contract provides for inspection at the Contractor's plant, the Contractor shall give the Contracting Officer at least 5 days' (unless a longer period is specified in the Schedule) written or telegraphic notice of readiness for inspection in cases where no security clearance is required for the Government Inspector. In cases where security clearance is required for the Government Inspector to obtain access to the Contractor's plant, the Contractor shall so advise the Contracting Officer and give at least 8 days' notice of readiness for inspection.

(b) In those cases where a Government Inspector is assigned to the plant for the purpose of conducting continuous inspections of production on the contract, and he is otherwise kept informed of the progress of production, the written notices specified in (a) above need not be given.

(End of clause)

§ 12–7.150–6 Definition of delivery terms.

DEFINITION OF DELIVERY ITEMS

The meaning of delivery terms used in this contract such as "f.o.b. origin", "f.o.b. destination", "f.a.s. vessel, port of shipment", and other delivery terms shall be as those terms are defined in subpart 1–19.3 of the Federal Procurement Regulations (41 CFR 1–19.3).

(End of clause)

12–7.150–7 Evidence of delivery.

EVIDENCE OF DELIVERY

When the contract delivery point is "f.o.b. origin", evidence of delivery shall be submitted with invoices. In the case of freight or express shipment, this evidence shall be in the form of memorandum copies of Bills of Lading duly receipted by the carrier. In the case of parcel post shipments this evidence shall be by Post Office Certificate of Mailing, Form 3817. If the invoice submitted for payment is not accompanied by evidence of delivery, discounts for prompt payment will be computed from date of receipt of such evidence of delivery, when the contract delivery point is other than "f.o.b. origin", evidence of delivery will be obtained from the consignee.

(End of clause)

12–7.150–8 Withholding payment for nondelivery of data.

When the contract requires data to be furnished, its timely delivery is important. The clause set forth below is designed to insure timely delivery of complete and current data. The clause provides for a withholding of a certain percentage of the contract price, but the contracting officer may specify a lesser amount in the schedule if circumstances warrant.

WITHOLDING PAYMENT FOR NONDELIVERY OF DATA

(a) If technical data such as plans, drawings, reports, spare parts lists, repair parts lists, or the like, or instruction books (including manuscript or printer's copy), or any part thereof, are not delivered within the time specified by this contract or are deficient upon delivery, the Contracting Officer shall, at his discretion, withhold from each invoice a percentage of the contract price in accordance with the following table:

When total contract price is:	*Percentage to be withheld is—*
Less than $250,000	10
$250,000 to $1,000,000	5
Over $1,000,00	3

(b) The withholding of any sums pursuant to this clause shall not be construed as, or constitute in any manner, a waiver by the Government of the Contractor's obligation to furnish the data required under this contract. In the event the Contractor fails to furnish these items, the Government shall have those rights and remedies provided by law and pursuant to this contract in addition to, and not in lieu of, the sums withheld in accordance with this clause.

(End of clause)

§ 12–7.150–9 Notice of delays.

NOTICE OF DELAYS

(a) Whenever the Contractor encounters any difficulty which is delaying or threatens to delay the timely performance of this contract (including actual or potential labor disputes), the Contractor shall immediately give notice thereof in writing to the Contracting Officer, stating all relevant information with respect thereto. Such notice shall not in any way constitute a basis for an extension of the delivery schedule or be construed as a waiver by the Government of any rights or remedies to which it is entitled by law or pursuant to provisions of this contract. Failure to give such notice, however, may be grounds for denial of any request for an extension of the delivery schedule because of such delay.

(b) The Contractor agrees to insert the substance of this clause, including this paragraph (b), in any subcontract hereunder; except that each such subcontract shall provide that in the event its timely performance is delayed or threatened by delay, the subcontractor shall immediately notify his next higher tier subcontractor, or the prime contractor, as the case may be, of all relevant information with respect thereto.

(End of clause)

12–7.150–10 Dissemination of contract information.

DISSEMINATION OF CONTRACT INFORMATION

The Contractor shall not publish, permit to be published, or distribute for public consumption, any information, oral or written, concerning the results or conclusions made pursuant to performance of this contract, without prior written consent of the Contracting Officer. (Two copies of any material proposed to be published or distributed shall be submitted to the Contracting Officer.)

(End of clause)

12–7.150–11 Authorization and consent.

Insert the following clause under the conditions prescribed in DOTPR 12–9.-151–1.

AUTHORIZATION AND CONSENT

The Government hereby gives its authorization and consent (without prejudice to any rights of indemnification) for all use and manufacture, in the performance of this contract or any part hereof or any amendment hereto or any subcontract hereunder (including any lower tier subcontract, of any invention described in and covered by a patent of the United States (i) embodied in the structure or composition of any article the delivery of which is accepted by the Government under this contract, or (ii) utilized in the machinery, tools, or methods the use of which necessarily results from compliance by the Contractor or the using subcontractor with (a) specifications or written provisions now or hereafter forming a part of this contract, or (b) specific written instructions given by the Contracting Officer directing the manner of performance. The entire liability to the Government for infringement of a patent of the United States shall be determined solely by the provisions of the indemnity clauses, if any, included in this contract or any subcontract hereunder (including any lower tier subcontract), and the Government assumes liability for all other infringement to the extent of the authorization and consent hereinabove granted.

(End of clause)

§ 12–7.150–12 Background patents (license).

Insert the following clause under the conditions prescribed in DOTPR 12–9.150.

BACKGROUND PATENTS (LICENSE)

(a) "Product" as used herein means a process, machine article of manufacture, or composition of matter the same as, or substantially the same as, that worked on under the contract.

(b) "Background patent" as used herein means any United States patent, under which the Contractor has the right to license others, and which covers the manufacture, use or sale of any product.

(c) When the Secretary determines:

(1) That a product is required by members of the public in the interest of the public health, safety, or welfare; and,

(2) That neither the Contractor, nor any other person deriving rights from his patents, has produced the product at a reasonable price, in sufficient, quantity, and at a level of quality to meet public needs;

the Contractor shall, on written application, issue appropriate licenses to others under any Background Patent on reasonable terms, such licenses to be restricted to the production, sale, and use of the product.

(d) when the Secretary has made the determination set forth in (c) above, the Contractor (or those deriving rights from the Contractor) shall not seek injunctive relief to enforce a Background Patent without:

(1) Previously advising the General Counsel, Office of the Secretary, Department of Transportation;

(2) Granting the Government the right to intervene in the injunction proceeding; and

(3) Disclosing the commitment set out in this clause to the court from which the injunction is sought.

(End of clause)

§ 12–7.151 DOTPR clauses to be used when applicable.

The following clauses shall be included in the contract when their use is appropriate.

§ 12–7.151–1 Patent indemnity.

In accordance with DOTPR 12–9.152–1 and DOTPR 12–9.152–3, insert the following clause or clauses under the conditions prescribed therein.

(a) *Patent indemnity.* If the amount of this contract is in excess of $10,000, the Contractor shall indemnify the Government and its officers, agents, and employees against liability, including costs, for infringement of any United States letters patent (except letters patent issued upon an application which is now or may hereafter be kept secret or otherwise withheld for issue by order of the Government) arising out of the manufacture or delivery of supplies or out of construction, alteration, modification, or repair of real property (hereinafter referred to as "construction work") under this contract, or out of the use or disposal by or for the account of the Government of such supplies or construction work. The foregoing indemnity shall not apply unless the Contractor shall have been informed as soon as practicable by the Government of the suit or action alleging such infringement, and shall have been given such opportunity as is afforded by applicable laws, rules, or regulations to participate in the defense thereof; and further, such indemnity shall not apply to : (i) an infringement resulting from compliance wtih specific written instructions of the Contracting Officer directing a change in the supplies to be delivered or in the materials or equipment to be used, or directing a manner of performance of the contract not normally used by the Contractor; (ii) an infringement resulting from addition to, or change in, such supplies or components furnished or construction work performed which addition or change was made subsequent to delivery or performance by the Contractor; or (iii) a claimed infringement which is settled without the consent of the Contractor, unless required by final decree of a court of competent jurisdiction.

(End of clause)

(b) *Waiver of indemnity.* Any provision of this contract to the contrary notwithstanding, the Government hereby authorizes and consents to use and manufacture, solely in the performance of this contract, of any invention covered by the United States patents identified and listed below, and waives indemnificaion by the Contractor with respect to such patents: (Identify the patents by number or by other means if more appropriate).

(End of clause)

§ 12–7.151–2 Filing of patent applications.

Insert the following clause under the conditions prescribed in DOTPR 12–9.154.

FILING OF PATENT APPLICATIONS

(a) Before filing or causing to be filed a patent application in the United States disclosing any subject matter of this contract, which subject matter is classified "Secret" or higher, the Contractor shall, citing the thirty (30) day provision below, transmit the proposed application to the Contracting Officer for determination whether, for reasons of national security, such application should be placed under an order of secrecy or sealed in accordance with the provisions of 35 U.S.C. 181–188 or the issuance of a patent should be otherwise delayed under pertinent United States statutes or regulations; and the Contractor shall observe any instructions of the Contracting Officer with respect to the manner of delivery of the patent application to the United States Patent Office for filing, but the Contractor shall not be denied the right to file such patent application. If the contracting Officer shall not have given any such instructions within thirty (30) days from the date of mailing or other transmittal of the proposed application, the Contractor may file the application.

(b) The Contractor shall furnish to the Contracting Officer, at the time of or prior to the time when the Contractor files or causes to be filed a patent application in the United States disclosing any subject matter of this contract, which subject matter is classified "Confidential", a copy of such application for determination whether, for reasons of national security, such application should be placed under an order of secrecy or the issuance of a patent should be otherwise delayed under pertinent United States statutes or regulations.

(c) Where the subject matter of this contract is classified for reasons of security, the Contractor shall not file, or cause to be filed in any country, other than in the United States as provided in (a) and (b) of this clause, an application or registration for a patent containing any of said subject matter without first obtaining written approval of the Contracting Officer.

(d) When filing any patent application coming within the scope of this clause, the Contractor shall observe all applicable security regulations covering the transmission of classified subject matter, and shall also promptly furnish to the Contracting Officer the serial number, filing date, and name of country of any such patent application. When transmitting the application to the United States Patent Office, the Contractor shall by separate letter identify by agency and number the contract or contracts which require security classification markings to be placed on the application.

(e) The substance of this clause shall be included in all subcontracts which cover or are likely to cover classified subject matter.

(End of clause)

§ 12–7.151–3 Reporting of royalties (foreign).

Insert the following clause under the conditions prescribed in DOTPR 12–9.156 (d) (1).

REPORTING OF ROYALTIES (FOREIGN)

(a) If this contract is in an amount which exceeds fifty thousand United States dollars ($50,000), the Contractor shall report in writing to the Contracting Officer during the performance of this contract the amount of royalties paid or to be paid by the Contractor directly to others in the performance of this contract. The Contractor shall also (i) furnish in writing any additional information relating to such royalties as may be requested by the Contracting Officer, and (ii) insert a provision similar to this clause in any

subcontract hereunder which involves an amount in excess of the equivalent of fifty thousand United States dollars ($50,000).

(b) The term "royalties" as used herein refers to any costs or charges in the nature of royalties, license fees, patent or license amortization costs, or the like for the use of or for rights in patents or patent applications.

(End of clause)

§ 12–7.151–4 Refund of royalties.

Insert the following clause under the conditions prescribed in DOTPR 12–9.157.

REFUND OF ROYALTIES

(a) The contract price includes certain amounts for royalties payable by the Contractor or subcontractors or both, which amounts have been reported to the Contracting Officer.

(b) The term "royalties" as used in this clause refers to any costs or charges in the nature of royalties, license fees, patent or license amortization costs, or the like, for the use or for rights in patents and patent applications in connection with the performance of this contract or any subcontracts hereunder.

(c) The Contractor shall furnish to the Contracting Officer, before final payment under this contract, a statement of royalties paid or required to be paid in connection with the performance of this contract and subcontracts hereunder together with the reasons therefor.

(d) The Contractor will be compensated for royalties reported under (c) above only to the extent that such royalties were included in the contract price and are determined by the Contracting Officer to be properly chargeable to the Government and allocable to the contract. Therefore, to the extent that any royalties which are included in the contract price are not in fact paid by the Contractor or are determined by the Contracting Officer not to be properly chargeable to the Government and allocable to the contract, the contract price shall be reduced. Repayment or credit to the Government shall be made as the Contracting Officer directs.

(e) If, at any time within three (3) years subsequent to final payment under this contract, the Contractor for any reason is relieved in whole or in part from the payment of the royalties included in the final contract price as adjusted pursuant to paragraph (d) above, the Contractor shall promptly notify the Contracting Officer of that fact and shall reimburse the Government in a corresponding amount.

(f) The substance of this clause, including this paragraph (f), shall be included in any subcontract in which the amount of royalties reported during negotiation of the subcontract exceeds $250.

(End of clause)

§ 12–7.151–5 Rights in data—unlimited.

Insert the following clause under the conditions prescribed in DOTPR 12–9.201–1(a). Alterations in the clause may be made under the conditions prescribed in DOTPR 12–9.201–2.

RIGHTS IN DATA—UNLIMITED

(a) The term "subject data" as used herein means recorded information, whether or not copyrighted, that is delivered or specified to be delivered under this contract. The term includes graphic or pictorial delineations in media such as drawings or photographs; text in specifications or related performance or photographs; design-type documents; machine forms such as punched cards, magnetic tape, or computer memory printouts; and information retained in computer memory. Examples include, but are not limited to, engineering drawings and associated lists, specifications, standards, process sheets, manual, technical reports, catalog item identifications, and related information. The term does not include financial reports, cost analyses, and similar information incidental to contract administration.

(b) (1) The Government may duplicate, use, and disclose, in any manner and for any purpose whatsoever, and have others to so do, all subject data delivered under this contract.

(2) The Contractor agrees to and does hereby grant to the Government, and to its officers, agents and employees acting within the scope of their official duties, a royalty-free, non-exclusive, irrevocable license throughout the world, to publish, translate, deliver, perform, dispose of, and to authorize others to so do, all subject data now or hereafter covered by copyright.

(3) The Contractor shall report to the Contracting Officer promptly and in reasonably written detail, each notice or claim of copyright infringement with respect to all subject data delivered under this contract.

(c) Nothing contained in this clause shall imply a license to the Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Government under any patent.

(d) The Contractor shall not affix any restrictive markings upon any subject data, and if such markings are affixed, the Government shall have the right at any time to modify, remove, obliterate or ignore any such markings.

(End of clause)

§ 12–7.151–6 Rights in data—title.

Insert the following clause under the conditions prescribed in DOTPR 12–9.201–1(b). Alterations in the clause may be made under the conditions prescribed in DOTPR 12–9.201–2.

RIGHTS IN DATA—TITLE

(a) The term "subject data" as used herein means recorded information, whether or not copyrighted, that is delivered or specified to be delivered under this contract. The term includes graphic or pictorial delineations in media such as drawings or photographs; text in specifications or related performance or design-type documents; machine forms such as punched cards, magnetic tape, or computer memory printouts; and information retained in computer memory. Examples include, but are not limited to, engineering drawings and associated lists, specifications, standards, process sheets, manuals, technical reports, catalog item identifications, and related information. The term does not include financial reports, cost analyses, and similar information incidental to contract administration.

(b) All "subject data" first produced in the performance of this contract shall be the sole property of the Government. The Contractor agrees not to assert any rights at common law or equity and not to establish any claim to statutory copyright in such data. Except for his own internal use, the Contractor shall not publish or reproduce such data in whole or in part, or in any manner or form, nor authorize others so to do, without the written consent of the Government until such time as the Government may have released such data to the Public.

(c) The Contractor agrees to grant and does hereby grant to the Government and to its officers, agents, and employees acting within the scope of their official duties, a royalty-free, nonexclusive, and irrevocable license throughout the world (1) to publish, translate, reproduce, deliver, perform, use, and dispose of, in any manner, any and all data not first produced or composed in the performance of this contract but which is incorporated in the work furnished under this contract; and (2) to authorize others so to do.

(d) The Contractor shall indemnify and save and hold harmless the Government, its officers, agents and employees acting within the scope of their official duties against any liability, including costs and expenses, resulting from any willful or intentional violation by the Contractor of proprietary rights, copyrights, or right of privacy, arising out of the publication, translation, reproduction, delivery, performance, use, or disposition of any data furnished under this contract.

(e) Nothing contained in this clause shall imply a license to the Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Government under any patent.

(f) Paragraphs (c) and (d) above are not applicable to material furnished to the Contractor by the Government and incorporated in the work furnished under the contract; *Provided*, Such incorporated material is identified by the Contractor at the time of delivery of such work.

(End of clause)

§ 12–7.151–7 Recovery of developmental costs.

Insert the following clause under the conditions prescribed in DOTPR 12–9.702.

RECOVERY OF DEVELOPMENTAL COSTS

(a) As may be determined by the contracting officer to be fair, reasonable and equitable, the contractor shall pay to the Government up to 5% of sums hereafter received by or credited to the Contractor or its privies (including subcontractors) on sales or leases (exclusive of sales or leases to the U.S. Government, either directly or indirectly through Government prime contractors or subcontractors) of any product which is substantially the same in design as, or which is directly derived from, that developed by the Contractor or any of its subcontractors in the performance of this contract.

(b) In selling or leasing the product identified in paragraph (a) above to the Government, either directly or indirectly through Government prime Contractors or subcontractors, the Contractor or its privies (including subcontractors) shall notify the purchaser or lessee in writing that the product was developed under a Department of Transportation contract containing a Recovery of Development Costs clause and that the purchase or lease price of such product is less than the price of such product when sold or leased to other than the Government by an amount no less than the Government's share under the Recovery of Developmental Costs clause. A copy of each such notice shall be sent to the Contracting Officer. In the event the product is sold or leased to the Government, the amount by which the sales or lease price was reduced by virtue of this clause shall be credited to the amount recoverable under this clause.

(c) As may be determined by the Contracting Officer to be fair, reasonable and equitable, the Contractor shall also pay to the Government up to 33⅓% of all sums hereafter received by, or credited to, the Contractor or its privies (including subcontractors) as payments under technical agreements permitting others (1) to sell, lease, or manufacture the product identified in paragraph (a) above, or (2) to use any proc-

ess which is substantially the same as, or which is directly derived from, that developed by the Contractor or any of its subcontractors in the performance of this contract.

(d) Recovery by the Government under this clause shll be limited to amounts paid and credited to the Contractor under this contract. Payments to the Government under this clause shall not be so high as to destroy the Contractor's competitive position for the product involved, provided that the product is otherwise reasonably priced and efficiently and economically produced.

(e) The Contractor shall report to the Government all sales, leases, licensing agreements, royalties and receipts, which might reasonably be considered to be subject to this clause, and the Contractor shall promptly render accurate, certified accounts thereon to the Government at reasonable intervals.

(End of clause)

§ 12-7.151-8 Government - furnished property.

(a) Except as provided in (b) and (c) below, insert the following clause in the contract when property will be furnished by the Government in the performance of this contract:

GOVERNMENT-FURNISHED PROPERTY

(a) *Property administration.* The Contractor shall establish and administer a system to control, protect, preserve and maintain Government property in his possession or under his control or that of his subcontractors. Such a system must be satisfactory to the Contracting Officer and in accordance with this clause and any other requirements of the contract.

(b) *Government-furnished property.* (1) The Government shall deliver to the Contractor for use in connection with and under the terms of this contract, the property described as Government-furnished property in the Schedule or specifications, together with such related data and information as the Contractor may request and as may reasonably be required for the intended use of such property (hereinafter referred to as "Government-furnished property").

(2) The delivery or performance dates for the supplies or services to be furnished by the Contractor under this contract are based upon the expectation that Government-furnished property suitable for use will be delivered to the Contractor at the time stated in the Schedule or, if not so stated, in sufficient time to enable the Contractor to meet such delivery or performance dates.

(3) If the Schedule does not state a date when Government-furnished property will be delivered, the Contractor shall notify the Contracting Officer in writing of the date by which he requires such property to meet the contract delivery or performance dates. The Contractor shall allow a minimum of 30 days for delivery of Government-furnished property unless a different time is specified in the Schedule. If not received five days before the date it is required by the Contractor, the Contracting Officer shall be so notified.

(4) If Government-furnished property is not delivered to the Contractor by the date specified in the Schedule, or by the date specified by the Contractor pursuant to (3) above, the Contracting Officer shall, upon timely request made by the Contractor, make a determination of the delay, if any, occasioned the Contractor and shall equitably adjust the delivery or performance dates or the contract price, or both, and any other contractual provision affected by any such delay, in accordance with the procedures of the "Changes" clause of this contract.

(5) In the event that Government-furnished property is received by the Contractor in a condition not suitable for intended use (except for such property furnished "as is" or otherwise specified), the Contractor shall, upon receipt thereof, notify the Contracting Officer of such fact and, as directed by the Contracting Officer, either (i) return such property at the Government's expense or otherwise dispose of the property, or (ii) effect repairs or modifications. Upon completion of (i) or (ii) above, the Contracting Officer upon request of the Contractor shall equitably adjust the delivery or performance dates or the contract price or both, and any other contractual provisions affected by the return or disposition, or the repair or modification, in accordance with the procedures of the "Changes" clause of this contract.

(6) The foregoing provisions for adjustment are exclusive and the Government shall not be liable to suit for breach of contract by reason of any delay in delivery of Government-furnished property or delivery of such property in a condition not suitable for its intended use.

(c) *Changes in Government-furnished property.* (1) By notice in writing, the Contracting Officer may (i) decrease the property provided or to be provided by the Government under this contract, or (ii) substitute other Government-owned property for property to be provided by the Government or to be acquired by the Contractor for the Government under this contract. The Contractor shall promptly take such action as the Contracting Officer may direct with respect to the removal and shipping of property covered by such notice.

(2) In the event of any decrease in or substitution of property pursuant to subparagraph (1) above, or any withdrawal of authority to use property provided under any other contract or lease, which property the Government had agreed in the Schedule to make available for the performance of this contract, the Contracting Officer, upon the written request of the Contractor or on his own initiative (if the substitution of property causes a decrease in the cost of performance), shall equitably adjust such contractual provisions as may be affected by the decrease substitution, or withdrawal, in accordance with the procedures provided for in the "Changes" clause of this contract.

(d) *Title to property.* Title to all property furnished by the Government shall remain in the Government. Title to Government property shall not be affected by the incorporation or attachment thereof to any property not owned by the Government, nor shall such Government property, or any part thereof, be or become a fixture or lose its identity as personalty by reason of affixation to any realty.

(e) *Use of Government-furnished property.* The Government-furnished property shall, unless otherwise provided herein or approved by the Contracting Officer, be used only for the performance of this contract.

(f) *Maintenance and repair of Government property.* The Contractor shall maintain and administer, in accordance with sound industrial practice, a program for the maintenance, repair, protection, and preservation of Government property, while in custody of the Contractor. In the event that any damage occurs to Government property the risk of which has been assumed by the Government under this contract, the Government shall replace such items or the Contractor shall make such repair of the property as the Government directs: *Provided, however,* That if the Contractor cannot effect such repair within the time required, the Contractor shall dispose of such property in the manner directed by the Contracting Officer. The contract price includes no compensation to the Contractor for the performance of any repair or replacement for which the Government is responsible, and an equitable adjustment will be made in any contractual provisions affected by such repair or replacement of Government property made at the direction of the Government in accordance with the procedures provided for in the "Changes" clause of this contract. Where replacement parts are provided at the expense of the Government, the parts which are displaced remain the property of the Government. Any repair or replacement for which the Contractor is responsible under the provisions of this contract shall be accomplished by the Contractor at his own expense.

(g) *Risk of loss.* Unless otherwise provided in this contract, the Contractor assumes the risk of, and shall be responsible for, any loss or damage to Government property provided under this contract upon its delivery to him or any of his subcontractors or upon passage of title thereto to the Government as provided in paragraph (d) hereof, except for reasonable wear and tear and except to the extent that such property is justifiably consumed in the performance of this contract. The Contractor shall not be liable for loss or destruction of or damage to Government property if such loss, destruction or damage is due to causes beyond the control and without the fault or negligence of the Contractor or any of his subcontractors.

(h) *Access.* The Government, and any persons designated by it, shall at all reasonable times have access to the premises wherein any Government property is located, for the purpose of inspecting the Government property, or inventorying the same, or removing any part or all of the same, or for determining compliance with terms of the contract.

(i) *Final accounting and disposition of Government property.* Upon the completion of this contract, or at such earlier dates as may be fixed by the Contracting Officer, the Contractor shall submit, in a form acceptable to the Contracting Officer, inventory schedules covering all items of Government property not justifiably consumed in the performance of this contract (including any resulting scrap) or not theretofore delivered to the Government, and shall prepare for shipment, deliver f.o.b. origin (unless otherwise provided in the contract), or dispose of the Government property, as may be directed or authorized by the Contracting Officer. The net proceeds of any such disposal shall be credited to the contract price or shall be paid in such other manner as the Contracting Officer may direct.

(j) *Notification.* The Contractor shall notify the Contracting Officer as soon as Government-furnished property is no longer required for performance of the contract. All shipments of Government-furnished property not delivered as an end item of the contract shall be effected only upon receipt of shipping instructions signed by the Contracting Officer or his duly authorized representative.

(k) *Restoration of Contractor's premises.* Unless otherwise provided herein, the Government: (1) May abandon any Government property in place, and thereupon all obligations of the Government regarding such abandoned property shall cease; (2) shall not be under any duty or obligation to restore or rehabilitate, or to pay the costs of the restoration or rehabilitation of, the Contractor's plant or any portion thereof which is affected by the abandonment or removal of any Government property; (3) shall be indemnified against all suits or claims arising out of the Government's failure to restore or rehabilitate the Contractor's property or the property of subcontractors, except for such damage

as may be occasioned by the negligence of the Government, its agents, its employees, or independent contractors.

(l) *Communications.* All communications issued pursuant to this clause shall be in writing.

NOTE.—If this contract is with other than a United States firm or individual, the terms "Government" or "Government-furnished", wherever they appear in the text, are defined as meaning "United States Government."

(End of clause)

(b) In negotiated fixed-price contracts, when the Contracting Officer determines it inappropriate to place liability on the contractor for loss, destruction, or damage to Government-furnished property (e.g., where the cost of insurance against the potential liability is so high as to be unjustified when the value of the property is compared to the contract price), paragraph (g) of the clause shall be deleted and the paragraph (g) set forth in ASPR 7-104.24(c) substituted therefor.

§ 12-7.151-9 Military security requirements.

Insert the following Military Security Requirements clause (ASPR 7-104.12) in the contract in accordance with instructions for its use in DOTPR 12-1.352:

MILITARY SECURITY REQUIREMENTS (1971 APR)

(a) The provisions of this clause shall apply to the extent that this contract involves access to information classified "Confidential," "Secret" or "Top Secret."

(b) The Contractor shall comply with (i) the Security Agreement (DD Form 441), including the attached Department of Defense Industrial Security Manual for Safeguarding Classified Information (DOD 5220.22-M); and (ii) any revisions thereto, notice of which has been furnished to the Contractor.

(c) If, subsequent to the date of this contract, the security classification or security requirements under this contract are changed by the Government as provided in this clause and the security costs or time required for delivery under this contract are thereby increased or decreased, the contract price, delivery schedule, or both and any other provision of the contract that may be affected shall be subject to an equitable adjustment by reason of such increased or decreased costs. Any equitable adjustment shall be accomplished in the same manner as if such changes were directed under the "Changes" clause of this contract.

(d) The Contractor agrees to insert in all subcontracts hereunder which involve access to classified information provisions which shall conform substantially to the language of this clause, including this paragraph (d) but excluding the last sentence of paragraph (c) of this clause.

(End of clause)

§ 12-7.151-10 Price redetermination (prospective).

When it is determined, in accordance with FPR 1-3.404-5, to use a fixed-price contract providing for prospective redetermination of price, insert the clause set forth in ASPR 7-109.2.

§ 12-7.151-11 Price redetermination (retroactive).

When it is determined, in accordance with FPR 1-3.404-7, to use a fixed-price contract providing for retroactive redetermination of price, insert the clause set forth in ASPR 7-109.3.

§ 12-7.151-12 Stop work order.

The following clause may be included in negotiated contracts when the contracting officer determines its use appropriate. Examples might include contracts under which work stoppage may be required for reasons such as advancements in the state of the art, production or engineering breakthroughs, or realignment of programs. In no event shall the clause be used routinely.

STOP WORK ORDER

(a) The Contracting Officer may, at any time, by written order to the Contractor, require the Contractor to stop all, or any part, of the work called for by this contract for a period of no longer than ninety (90) days after the order is delivered to the Contractor, and for any further period to which the parties may agree. Any such order shall be specifically identified as a Stop Work Order issued pursuant to this clause. Upon receipt of such an order, the Contractor shall forthwith comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage. Prior to the expiration of the period of the stop work order, or within any extension of that period to which the parties shall have agreed, the Contracting Officer shall either—

(1) Cancel the stop work order, or

(2) Terminate the work covered by such order as provided in the "Termination for Convenience" clause of this contract.

(b) If a stop work order issued under this clause is cancelled, or the period of the order or any extension thereof expires, the Contractor shall resume work. An equitable adjustment shall be made in the delivery schedule or contract price, or both, and the contract shall be modified in writing accordingly, if—

(1) The stop work order results in an increase in the time required for, or in the Contractor's cost properly allocable to, the performance of any part of this contract, and

(2) The Contractor asserts a claim for such adjustment within thirty (30) days after the end of the period of work stoppage: *Provided*, That, without prejudicing the right to reject any claim asserted after this time, if the Contracting Officer decides the facts justify such action, he may receive and act upon any such claim asserted at any time prior to final payment under this contract.

(c) Failure to agree to any adjustment under paragraph (b) of this clause shall be a dispute concerning a question of fact within the meaning of the "Disputes" clause of this contract.

(d) If a stop work order is not canceled and the work covered by such order is terminated for the convenience of the Government, the reasonable costs resulting from the stop work order shall be allowed in arriving at the termination settlement.

(End of clause)

§ 12-7.151-13 Value engineering clauses.

A value engineering incentive clause and/or a value engineering program requirement clause shall be included in the contract in accordance with the instructions for its use in DOTPR 12-1.5202-2 and DOTPR 12-1.5206.

(a) *Value engineering incentive clause.* (1) In accordance with DOTPR 12-1.5202 the following clauses are to be used in fixed price or fixed price with prospective price redetermination supply and service contracts:

VALUE ENGINEERING INCENTIVE

(a) *Application.* This clause applies to a contractor developed and documented Value Engineering Change Proposal (VECP) which:

(i) Requires a change to this contract to implement the VECP, and

(ii) Reduces the overall costs to the agency without impairing essential functions or characteristics: *Provided*, That it is not based:

(A) Solely on a change in deliverable end item quantities; or

(B) A change in R&D end item or test quantities due solely to results of previous testing under this contract; or

(C) Solely on a change to the contract type.

(b) *Documentation.* As a minimum, the following information shall be submitted by the Contractor with each VECP:

(i) A description of the difference between the existing contract requirement and the proposed change, and the comparative advantages and disadvantages of each, justification when a function or characteristic of an item is being altered, and the effect of the change on the performance of the end item;

(ii) An analysis and itemization of the requirements of the contract which must be changed if the VECP is accepted and a recommendation as to how to make each such change (e.g., a suggested specification revision);

(iii) A separate detailed cost estimate for both the existing contract requirement and the proposed change to provide an estimate of the reduction in costs, if any, that will result from acceptance of the VECP, taking into account the costs of development and implementation by the Contractor (including any amount attributable to subcontracts in accordance with paragraph (h) below);

(iv) A prediction of any effects the proposed change would have on collateral costs to the agency such as Government furnished property costs, costs of related items, and costs of maintenance and operation;

(v) A statement of the time by which a contract modification accepting the VECP must be issued so as to obtain the maximum cost reduction, noting any effect on the contract completion time or delivery schedule; and

(vi) Identification of any previous submission of the VECP, including the dates submitted, the agencies involved, the numbers of the Government contracts involved, and the previous actions by the Government, if known.

(c) *Submission.* VECPs shall be submitted to the Contracting Officer (CO). VECPs shall be processed expeditiously; however, the Government shall not be liable for any delay in acting upon any VECP submitted pursuant to this clause. The Contractor has the right to withdraw, in whole or in part, any VECP not accepted by the Government within the period specified in the VECP.

(d) *Acceptance.* The Contracting Officer may accept, in whole or in part, by contract modification either before or within a reasonable time after performance has been completed under this contract, any VECP submitted pursuant to this clause. Until a contract modification applies a VECP to this contract, the Contractor shall remain obligated to perform in accordance with the terms of the existing contract. Contract modifications made pursuant to this clause will so state. The decision of the Contracting Officer as to the acceptance of any VECP under this contract (including the decision as to which clause is applicable to the proposal if this contract contains both a "Value

Engineering Incentive" and a "Value Engineering Program Requirement" clause) shall be final and shall not be subject to the "Disputes" clause of this contract.

(e) *Sharing.* If a VECP submitted by the Contractor pursuant to this clause is accepted, the Contractor shall share in savings realized by the Government in accordance with the following provisions:

1. *Instant contract.* (i) *Definitions.* (A) Instant contract savings to the Contractor (ICS) is the unit cost reduction times the number of units affected in the instant contract. The proposed unit cost reduction includes estimated allowable contractor development and implementation costs (CC). The Contractor's development and implementation costs include any subcontractor development and implementation costs and any subcontractor incentive payments (see (h) below). For purposes of this clause, contractor development costs are those costs incurred after the Contractor has identified a specific VE project and prior to acceptance by the Government.

(B) Government Costs (GC) are those costs which directly result from development and implementation of the VECP, such as test and evaluation of the VECP, and any increased costs in DOT operations, maintenance, and logistics support.

(ii) *Calculations and actions.* (A) Calculate GC and ICS.

(B) If ICS exceeds GC, calculate fifty percent (50%) (Government share) of the sum of ICS and GC, i.e. (0.5 (ICS plus GC)), unless this is a VE Program Requirement Change (VEPRC), in which case calculate (0.75 ICS plus 0.25 GC). In either case, subtract the result from the contract price.

(C) If GC exceeds ICS, but acceptance of the VECP is still desirable due to concurrent or future savings, reduce the instant contract price by the amount of ICS and offset the amount by which GC exceeds ICS against concurrent or future savings.

(D) If the Contractor's cost of developing and implementing the VECP would result in an increase in the instant contract price, but the VECP is still desirable due to concurrent or future savings, equitably adjust the instant contract price in accordance with the "Changes" clause. In addition, offset the increase in the instant contract price and any GC against concurrent or future contract savings.

(E) See (e)(3)(ii) for those actions to be taken when a future contract is expected.

2. *Concurrent contracts.* (i) If the VECP accepted under this contract is also used on concurrent contracts of the purchasing office for essentially the same items, the Contractor shall be paid a share of any savings as calculated in (ii) below.

(ii) Calculations: (A) Determine the reduction in the price of each concurrent contract(s) as a result of incorporating the VECP.

(B) Subtract from the total amount in (A) any government costs (GC) not yet offset (if GC was greater than ICS) in (e)(1)(ii) (C) or (D) above, and any increase in the instant contract price, i.e., if ICS was negative in (e)(1)(ii)(D). If the resulting number is positive, multiply it by fifty percent (50%) (25% if this is a VEPRC). Add this amount to the instant contract price.

3. *Future contracts.* Definition. The term unit cost reduction for future contract sharing shall be the unit cost reduction under this instant contract without deducting any cost of development or implementation.

(ii) If the VECP accepted under this contract is used on future purchases of essentially the same item by the purchasing office, or its successor, the Contractor shall share in the savings on all affected end items scheduled for delivery not later than three (3) years after acceptance of the first item incorporating the VECP, or until the originally scheduled delivery date of the last affected end item under the instant contract, whichever is later. When sharing on future contracts is expected, the Contractor shall be responsible for the following:

(A) Maintaining records adequate to support identification of the first delivered unit to which the VECP applies. These records are considered an intergral part of contract documentation and shall be maintained for a period of three years after final payment on the contract under which the VECP was accepted.

(B) Annotating the receiving report or invoice, which applies to the initial unit covered by the VECP with the following statement:

"This is the initial unit delivered which incorporates VECP No. _____ Contract Modification No. _____ dated _____."

(iii) Calculations. At the time each eligible future contract is awarded:

(A) Determine the number of units scheduled to be delivered prior to expiration of the contractor sharing period determined in (ii) above. Multiply this by the unit cost reduction as defined in (e)(3)(i).

(B) Subtract from the total amount in (A) any Government costs or instant contract increases not yet offset in (e)(1)(ii)(C) or (D) or in (e)(2)(ii)(B), or in other contracts awarded since acceptance of the VECP. If the resulting number is positive, multiply it by fifty percent (50%) (25% if this is a VEPRC) and add the result to the instant contract price.

4. *Collateral savings.* If an accepted VECP results in a measurable net reduction in the agency's overall documentable projected costs of maintenance, operation, logistic support or Government-furnished property, which exceeds any increase in costs attributable to incorporation of such VECP, including acquisition costs, the contract shall be increased by twenty percent (20%) of the projected net reduction in ascertainable collateral costs (i.e., savings determined to be realized during an average year of use of the item in which the change is incorporated) and, if applicable, of the actual savings accruing from a change or reduction of Government-furnished property under the instant contract. However, such increase representing the Contractor's share of collateral savings shall, in no event exceed the price of this contract or $100,000 whichever is greater. The determination of the amount of collateral savings, if any, will be made solely by the Government and shall not be subject to the "Disputes" clause of this contract. In all cases, degradation of performance, service life, or capability shall be a consideration in the determination of actual savings to the agency.

(f) Payment. The Contractor's concurrent and future contract shares should be paid upon modification of concurrent contracts or future contract award, or within six (6) months thereafter. However, any such payments are subject to the condition that to the extent the Government does not receive delivery of and accept all items on which the share is paid, the contractor shall reimburse the Government the proportionate share of the payments. If this clause is modified to provide for lump sum payments, such payments shall be made upon modification of the instant contract.

(g) Operation and maintenance contracts. If this is a contract for overhaul or maintenance (including repair, alteration, modification or modernization), the Contractor will be paid a share of future contract savings realized by the Government only on overhaul and maintenance of the designated items accomplished by purchase, under contract, by the designated purchasing office. Only collateral savings will be paid on application of accepted VECPs to overhaul and maintenance of items within Government resources.

(h) Subcontracts. The Contractor shall include appropriate VE arangements in any subcontract of $100,000 or greater, and may include such arrangements in contracts of lesser value. To compute any adjustment in the contract price under paragraph (e)(1) above, the Contractor's cost of development and implementation of a VECP which is accepted under this contract shall include any development and implementation costs of a subcontractor and any VE incentive payments to a subcontractor, which clearly pertain to such VECP. However, no such payment or accrual to a subcontractor will be permitted, either as a part of the contractor's development or implementation costs or otherwise, to reduce the Government's share on collateral savings or additional purchases as contemplated by paragraph (e) (2), (3), or (4) of this clause.

(i) Data. The Contractor may restrict the Government's right to use any sheet of a VECP or of the supporting data, submitted pursuant to this clause, in accordance with the terms of following legend if it is marked on such sheet:

"This data furnished pursuant to the Value Engineering clause of contract _____ shall not be disclosed outside the Government, or duplicated, used, or disclosed, in whole or in part, for any purpose other than to evaluate a VECP submitted under said clause. This restriction does not limit the Government's right to use information contained in this data if it is or has been obtained, or is otherwise available, from the Contractor or from another source, without limitations. If such a VECP is accepted by the Government under said contract after the use of this data in such an evaluation, the Government shall have the right to duplicate, use, and disclose any data reasonably necessary to the full utilization of such VECP as accepted, in any manner and for any purpose whatsoever, and have others so do."

In the event of acceptance of a VECP, the Contractor hereby grants to the Government all rights to use, duplicate or disclose, in whole or in part, in any manner and for any purpose whatsoever, and to have or permit others to do so, any data reasonably necessary to fully utilize such VECP.

(j) Miscellaneous Provisions. (1) For purposes of sharing under paragraph (e)(1) above, the term "instant contract" shall not include any modifications of the instant contract, executed after acceptance of the particular VECP, by which the Government increases the quantity of any item, or adds any item, nor shall it include any extension of the instant contract through exercise of an option provided under this contract after acceptance of the VECP. Such modifications and extensions shall be considered "future contracts" within the provisions of paragraph (e)(3) of this clause.

(2) If this is an indefinite delivery type contract, the term "instant contract" for purposes of sharing under paragraph (e)(1) above shall include only those orders actually placed by the Government up to the time the particular VECP is accepted. All orders placed subsequent to the acceptance of the particular VECP shall be considered "future contracts" within the provisions of paragraph (e)(3) of this clause.

(3) If this clause is included in a basic ordering agreement, the term "instant contract", for purposes of sharing under paragraph (e)(1) above, shall be the order under which the particular VECP is approved. Other orders under the same agreement shall be considered either "concurrent contracts" (if awarded prior to acceptance of the VECP) or

"future contracts" (if awarded after acceptance of the VECP), within the provisions of paragraph (e)(2) or (e)(3) of this clause respectively.

(4) If this clause is included in a multi-year contract, "instant contract" for the purpose of sharing under paragraph (e)(1) above, shall be the funded contract at the time the VECP is approved, and items purchased under subsequent funding under this contract shall be treated under the future contract VE sharing provisions in paragraph (e)(3) of this clause. The sharing period shall be the entire life of the multi-year contract, or three (3) years after delivery of the first item incorporating the VECP, whichever, is longer.

(5) If this clause is included in a fixed price contract providing for prospective price redetermination, the term "instant contract" for purposes of sharing under paragraph (e)(1) above shall be that period for which firm prices have been established. The remaining periods under this contract shall be treated under the future contract VE sharing provisions in paragraph (e)(3) of this clause.

(6) Those portions of an accepted VECP which are rewardable under other performance incentive provisions of this contract shall be rewarded under the provisions of this clause to the extent that they are not rewarded under the other performance incentive provisions.

(7) The Contracting Officer may require the Contractor to provide written notification prior to risking significant expenditures for VECP effort.

(End of clause)

(2) *Fixed-price incentive (firm target) contracts.* Substitute the following "sharing" provisions for paragraph (e) of the clause in paragraph (a)(1) of this section:

(e) Sharing. If a VECP submitted by the Contractor pursuant to this clause and affecting any of the items described in paragraph (a) of the "Incentive Price Revision (Firm Target)" clause of this contract is accepted, the Contractor shall share in savings realized by the Government in accordance with the following provisions:

(1) Instant contract.

(i) Definitions.

(A) Instant contract savings to the Contractor (ICS) is the unit cost reduction times the number of units affected in the instant contract. The proposed unit cost reduction includes estimated allowable Contractor development and implementation costs (CC). The Contractor's development and implementation costs include any subcontractor development and implementation costs and any subcontractor incentive payments (see (h) below). For purposes of this clause, Contractor development costs are those costs incurred after the Contractor has identified a specific VE project and prior to acceptance by the Government.

(B) Government Costs (GC) are those which directly result from development and implementation of the VECP, such as test and evaluation of the VECP, and any increased costs in DOT operations, maintenance, and logistic support.

(ii) Calculations and actions.

(A) If there is a reduction in costs, reduce the total target cost of items affected by the VECP by ICS. If there is an increase in cost, see (E) below.

(B) If ICS exceeds GC, add 35% (20% if this is a VE Program Requirement Change (VEPRC)) of the excess to total target profit relating to such items.

(C) If GC exceeds ICS, but acceptance of the VECP is still desirable due to concurrent or future savings, do not adjust total target profit relating to such items, and offset the amount by which GC exceeds ICS against concurrent or future contract savings.

(D) Subtract 65% (80% if this is a VEPRC) of ICS from the maximum dollar limit on the total final price of such items.

(E) If the Contractor cost of developing and implementing the VECP would result in an increase in the instant contract target cost, but the VECP is still desirable due to concurrent or future savings, equitably adjust the total target cost, total target profit and maximum dollar limit on the total final price of the items affected by the VECP in accordance with the "Changes" clause. Offset this increase and any GC against concurrent or future savings.

(F) See (e)(3)(ii) for those actions to be taken when a future contract is expected.

(2) Concurrent contracts.

(i) If the VECP accepted under this contract is also used on concurrent contracts of the purchasing office for essentially the same items the Contractor shall be paid a share of any savings as calculated in (ii) below.

(ii) Calculations.

(A) Determine the reduction in the price of each concurrent contract(s) as a result of incorporating the VECP.

(B) Subtract from the total amount in (A) any government costs not yet offset (if GC was greater than ICS) in (e)(1)(ii) (C) or (E) above, and any increase in the instant contract price, i.e., if ICS was negative in (e)(1)(ii)(E). If the resulting number is positive, multiply it by 35% (20% if VEPRC). Add this amount to the instant contract as a separate line item independent of the incentive sharing arrangement and without adjustment to any of the contract incentive parameters.

(3) Future contracts.

(i) Definition. The term unit cost reduction for future contract sharing shall be the unit cost reduction under this instant contract without deducting any cost of development or implementation.

(ii) If the VECP accepted under this contract is used on future purchases of essentially the same item by the purchasing office, or its successor, the Contractor shall share in the savings on all affected end items scheduled for delivery not later than 3 years after acceptance of the first item incorporating the VECP, or until the originally scheduled delivery date of the last affected end item under the instant contract, whichever is later. When sharing on future contracts is expected, the Contractor shall be responsible for the following:

(A) Maintaining records adequate to support identification of the first delivered unit to which the VECP applies. These records are considered an integral part of contract documentation and shall be maintained for a period of three years after final payment on the contract under which the VECP was accepted.

(B) Annotating the receiving report or invoice, which applies to the initial unit covered by the VECP with the following statement:

"This is the initial unit delivered which incorporates VECPP No. ____, Contract Modification No. ____, dated _____."

(iii) Calculations. At the time each eligible future contract is awarded:

(A) Determine the number of units scheduled to be delivered prior to expiration of the Contractor sharing period determined in (ii) above. Multiply this by the unit cost reduction as defined in (e)(3)(i).

(B) Subtract from the total amount in (A) any government costs or instant contract increases not yet offset in (e)(1)(ii) (C) or (E) or in (e)(2)(ii)(B), or in other contracts awarded since acceptance of the VECP. If the resulting number is positive, multiply it by 35% (20% if VEPRC). Add this amount to the instant contract as a separate line item independent of the incentive sharing arrangement and without adjustment to any of the contract incentive parameters.

(4) Collateral savings. If an accepted VECP results in a measurable net reduction in the agency's overall documentable projected costs of maintenance, operation, logistics support or Government-furnished property, which exceeds any increase in costs attributable to incorporation of such VECP, including acquisition costs, the contract shall be increased by twenty percent (20%) of the projected net reduction in ascertainable collateral costs (i.e., savings determined to be realized during an average year of use of the item in which the change is incorporated), and, if applicable, of the actual savings accruing from a change or reduction of Government-furnished property under the instant contract. Add this amount to the instant contract as a separate line item independent of the incentive sharing arrangement and without adjustment to any of the contract incentive parameters. However, such increase representing the Contractor's share of collateral savings shall, in no event, exceed the price of this contract or $100,000, whichever is greater. The determination of the amount of collateral savings, if any, will be made solely by the Government and shall not be subject to the "Disputes" clause of this contract. In all cases, degradation of performance, service life, or capability shall be a consideration in the determination of actual savings to the agency.

(End of clause paragraph)

(3) *Fixed-price incentive (successive target) contracts.* Substitute the following "sharing" provision for paragraph (e) of the clause in paragraph (a)(1) of this section:

(e) Sharing. If a VECP submitted by the Contractor pursuant to this clause and affecting any of the items described in paragraph (a) of the "Incentive Price Revision (Successive Target)" clause of this contract is accepted, the Contractor shall share in savings realized by the Government in accordance with the following provisions:

(1) Instant contract.

(i) Definitions.

(A) Instant contract savings to the Contractor (ICS) is the unit cost reduction times the number of units affected in the instant contract. The proposed unit cost reduction includes estimated allowable Contractor development and implementation costs (CC). The Contractor's development and implementation costs include any subcontractor development and implementation costs and any subcontractor incentive payments (see (h) below). For purposes of this clause, Contractor development costs are those costs incurred after the Contractor has identified a specific VE project and prior to acceptance by the Government.

(B) Government Costs (GC) are those costs which directly result from development and implementation of the VECP, such as test and evaluation of the VECP, and any increased costs in DOT operations, maintenance and logistics support.

(ii) Calculations and actions.

(A) If the VECP is accepted and applied to this contract before the establishment of a firm fixed price in accordance with paragraph (c) of the "Incentive Price Revision (Successive Targets)" clause of this contract:

(I) If there is a reduction in cost, reduce the then total target cost of items affected by the VECP by ICS. If there is an increase in cost see (V) below.

(II) If ICS exceeds GC, add 35% (20% if this is a VE Program Requirements change (VEPRC)) of the excess to the then target profit relating to such items (if a firm profit adjustment formula is established in accord-

ance with paragraph (a) of the "Incentive Price Revision (Successive Targets)" clause of this contract, the above percentage may be modified for application to VE cost reduction proposals, submitted pursuant to this clause, which are accepted under this contract after the establishment of said formula).

(III) If GC exceeds ICS, but acceptance of the VECP is still desirable due to concurrent or future savings, do not adjust the then target profit, and offset the amount GC exceeds ICS against concurrent or future contract savings.

(IV) Subtract 65% (80% if this is a VEPRC) of ICS from the maximum dollar limit on the total final price of such items.

(V) If the Contractor cost of developing and implementing the VECP would result in an increase in the then instant contract target cost, but the VECP is still desirable due to concurrent or future savings, equitably adjust the then total target cost, the then target profit, and the then maximum dollar limit on the total final price of the items affected by the VECP in accordance with the "Changes" clause. Offset this increase and any GC against concurrent or future savings. (If a firm profit adjustment formula is established in accordance with paragraph (a) of the "Incentive Price Revision (Successive Targets)" clause of this contract, and the VECP significantly increases the target cost, the above percentage may be modified for application to the VECPs, submitted pursuant to this clause, which are accepted under this contract after the establishment of said formula.)

(B) If the VECP is accepted after the establishment of a firm fixed price in accordance with paragraph (c) of the "Incentive Price Revision (Successive Targets)" clause of this contract.

(I) Calculate GC and ICS.

(II) If ICS exceeds GC, calculate 50% (Government share) of the sum of ICS and GC, i.e., (.5 (ICS plus GC)), unless this is a VE Program Requirement change (VEPRC), in which case calculate (.75 ICS plus .25 GC). In either case, subtract the result from the contract price.

(III) If GC exceeds ICS, but acceptance of the VECP is still desirable due to concurrent or future savings, reduce the instant contract price by the amount of ICS and offset the amount by which GC exceeds ICS against concurrent or future savings.

(IV) If the Contractor's cost of developing and implementing the VECP would result in an increase in the instant contract price, but the VECP is still desirable due to concurrent or future savings, equitably adjust the instant contract price in accordance with the "Changes" clause. In addition, offset the increase in the instant contract price and any GC against concurrent or future contract savings.

(C) See (e)(3)(ii) for those actions to be take when a future contract is expected.

(2) Concurrent contracts.

(i) If the VECP accepted under this contract is also used on concurrent contracts of the purchasing office for essentially the same items, the Contractor shall be paid a share of any savings as calculated in (ii) below.

(ii) Calculations.

(A) Determine the reduction in the price of each concurrent contract(s) as a result of incorporating the VECP.

(B) Subtract from the total amount in (A) any Government costs (GC) not yet offset (if GC was greater than ICS) in (e)(1)(ii)(A)(III) or (V) or (e)(1)(ii)(B)(III) or (IV) above, and any increase in the then instant contract target cost, i.e., if ICS was negative in either (e)(1)(ii)(A)(V) or (e)(1)(ii)(B)(IV). If the resulting number is positive, and the VECP was accepted under paragraph (e)(1)(ii)(A) multiply it by 35% (20% if this is a VEPRC). Add this amount to the instant contract as a separate line item independent of the incentive sharing arrangement and without adjustment to any of the contract incentive parameters. If the resulting number is positive, but the VECP was accepted under paragraph (e)(1)(ii)(B), multiply it by 50% (25% if this is a VEPRC), and add this amount to the instant contract price.

(3) Future contracts.

(i) Definition. The term unit cost reduction for future contract sharing shall be the unit cost reduction under this instant contract without deducting any cost of development or implementation.

(ii) If the VECP accepted under this contract is used on future purchases of essentially the same item by the purchasing office, or its successor, the Contractor shall share in the savings on all affected end items scheduled for delivery not later than three years after acceptance of the first item incorporating the VECP, or until the originally scheduled delivery date of the last affected end item under the instant contract, whichever is later. When sharing on future contracts is expected, the Contractor shall be responsible for the following:

(A) Maintaining records adequate to support identification of the first delivered unit to which the VECP applies. These records are considered an integral part of contract documentation and shall be maintained for a period of three years after final payment on the contract under which the VECP was accepted.

(B) Annotating the receiving report or invoice, which applies to the initial unit covered by the VECP with the following statement:

"This is the initial unit delivered which incorporates VECP No. ____, Contract Modification No. ____, dated ____."

(iii) Calculations, at the time each eligible future contract is awarded:

(A) Determine the number of units scheduled to be delivered prior to expiration of the Contractor sharing period determined in (ii) above. Multiply this by the unit cost reduction as defined in (e)(3)(i).

(B) Subtract from the total amount in (A) any Government costs or instant contract increases not yet offset in (e)(1)(ii)(A)(III) or (V), or (e)(1)(ii)(B)(III) or (IV), or in (e)(2)(ii)(B), or in contracts awarded since acceptance of the VECP. If the resulting number is positive, and the VECP was accepted under paragraph (e)(1)(ii)(A), multiply it by 35% (20% if this was a VEPRC). If the resulting number was positive, but the VECP was accepted under paragraph (e)(1)(ii)(B), multiply it by 50% (25% if this was a VEPRC. In either case, add the amount to the instant contract as a separate line item independent of the incentive sharing arrangement and without adjustment to any of the contracts incentive parameters.

(4) Collateral Savings. If an accepted VECP results in a measurable net reduction in the agency's overall documentable projected costs of maintenance, operation, logistic support or Government-furnished property, which exceeds any increase in costs attributable to incorporation of such VECP, including acquisition costs, the contract shall be increased by twenty percent (20%) of the projected net reduction in ascertainable collateral costs (i.e., savings determined to be realized during an average year of use of the item in which the change is incorporated), and, if applicable, of the actual savings accruing from a change or reduction of Government-furnished property under the instant contract. Add this amount to the instant contract as a separate line item independent of the incentive sharing arrangement and without adjustment to any of the contract incentive parameters. However, such increase representing the Contractor's share of collateral savings shall, in no event, exceed the price of this contract or $100,000, whichever is greater. The determination of the amount of collateral savings, if any, will be made solely by the Government and shall not be subject to the "Disputes" clause of this contract. In all cases, degradation of performance, service life, or capability shall be a consideration in the determination of actual savings to the agency.

(End of clause)

(4) *Lump sum method of payment for future contract sharing.* In accordance with § 12–1.5203–4 substitute the following provisions for paragraph (e)(3) "Future Contracts" of the clause in paragraph (a)(1) of this section for use of the Lump Sum Method of payment for future contract sharing:

(3) Future contracts (lump sum). (i) Definition. The term unit cost reduction for lump sum sharing purposes shall be the unit cost reduction under this instant contract without deducting any cost of development or implementation.

(ii) If a VECP accepted under this contract is expected to be used on future purchases of essentially the same item by the purchasing office, or its successor, the Contractor shall share in the savings on the purchases which the purchasing office estimates will be delivered not later than three years after acceptance of the first item incorporating the VECP, or until the originally scheduled delivery date of the last affected end item under the instant contract, whichever is later.

(iii) Lump sum base. The number of items the Government estimates will be delivered during the period specified in (ii) above is ____(insert the number of units).

(iv) Calculations and actions.

(A) Multiply the unit cost reduction in (i) by the number of units specified in (iii) above.

(B) Subtract from the total amount in (A) any Government costs (GC) not yet offset (if GC was greater than ICS) and any increase in the increase in the instant contract price, i.e., if ICS was negative. If the resulting number is positive, multiply it by the Contractor percentage share. Add this amount to the instant contract.

(End of clause paragraph)

(5) *Future contract sharing provisions.* With respect to the future contract sharing provisions paragraph (e)(3) of the clause in paragraph (a)(1) of this section, or as those provisions may be modified by the lump sum provisions in paragraph (a)(4) of this section, when, in the judgment of the Contracting Office, the unit costs under the instant contract will not be fairly representative of the unit costs to be expected under future contracts due for example to learning curve application (as will generally be the case with developmental or design contracts and may be the case with early production contracts), the definition in paragraph (e)(3)(i) shall be changed as follows:

(i) Definition. The term "unit cost reduction" for future contract purposes shall be the average amount of the decrease in unit cost of performance (without deducting any Contractor costs of development or implementation) which the Contracting Officer

estimates will result from utilization of the VECP on future purchases of the item The item for design contracts will be the item to be produced as a result of the design process.

(End of clause paragraph)

(6) *Modification of sharing provisions applicable to incentive contracts.* When the sharing provisions applicable to incentive contracts are to be modified in accordance with 12-1.5203-1(c), clause paragraph (e) in paragraph (a)(2) or (a)(3) of this section, whichever is applicable, shall be further modified as follows:

(i) Modifications to clause paragraph (e) of paragraph (a)(2) of this section:

(A) Change clause paragraph (e)(1)(ii) to provide substantially as follows:

(ii) If the cost reduction proposal submitted pursuant to this clause involves an anticipated decrease in the cost of performance of this contract and is accepted by the Government, the parties agree that neither the target cost, target profit, nor ceiling price of the instant contract shall be adjusted by reason of the acceptance of such proposal. The new requirement will be incorporated into the contract by a contract modification which will state that it is made pursuant to this Value Engineering clause. When the cost of performance of this contract is increased as a result of the changes, the equitable adjustment increasing the contract price shall be in accordance with the "Changes" clause rather than under this clause, but the resulting contract modification will state that it is made pursuant to this clause.

(End of clause paragraph)

(B) Change clause paragraph (e)(2)(ii)(B) to provide substantially as follows:

(B) Subtract from the total amount in (A) any government costs not yet offset and any increase in the instant contract price. If the resulting number is positive, multiply it by 35% (20% if VEPRC). Add this amount to the instant contract as a separate line item independent of the incentive sharing arrangement and without adjustment to any of the contract incentive parameters.

(End of clause paragraph)

(C) Substitute the definition in paragraph (a)(5) of this section for the definition in clause paragraph (e)(3)(i).

(D) Change clause paragraph (e)(3)(iii)(B) to provide substantially as follows:

(B) Subtract from the total amount in (A) any government costs or instant contract increases not yet offset. If the resulting number is positive, multiply it by 35% (20% if VEPRC). Add this amount to the instant contract as a separate line item independent of the incentive sharing arrangement and without adjustment to any of the contract incentive parameters.

(End of clause paragraph)

(ii) Modifications to clause paragraph (e) of paragraph (a)(3) of this section.

(A) Change clause paragraph (e)(1)(ii)(A) to provide substantially as follows:

(A) If the cost reduction proposal submitted pursuant to this clause involves an anticipated decrease in the cost of performance of this contract and is accepted by the Government, the parties agree that neither the target cost, target profit, nor ceiling price of the instant contract shall be adjusted by reason of the acceptance of such proposal. The new requirement will be incorporated into the contract by a modification which will state that it is made pursuant to this Value Engineering clause. When the cost of performance of this contract is increased as a result of the changes, the equitable adjustment increasing the contract price shall be in accordance with the "Changes" clause rather than under this clause, but the resulting contract modification will state that it is made pursuant to this clause.

(End of clause paragraph)

(B) Change clause paragraph (e)(2)(ii)(B) to provide substantially as follows:

(B) Subtract from the total amount in (A) any government costs not yet offset and any increase in the then instant contract target cost. If the resulting number is positive, and the VECP was accepted before establishment of a firm fixed price under the instant contract, multiply it by 35 percent (20 percent if this is a VEPRC). Add this amount to the instant contract as a separate line item independent of the incentive sharing arrangement and without adjustment to any of the contract incentive parameters. If the resulting number is positive, but the VECP was accepted after establishment of the firm fixed price under the instant contract, multiply it by 50 percent (25 percent if this is a VEPRC), and add this amount to the instant contract price.

(End of clause paragraph)

(C) Substitute the definition in paragraph (a)(5) of this section for the definition in clause paragraph (e)(3)(i).

(D) Change clause paragraph (e)(3)(iii)(B) to provide substantially as follows:

(B) Subtract from the total amount in (A) any government costs or instant contract increases not yet offset. If the resulting number is positive, and the VECP was accepted before establishment of the firm fixed price under the instant contract, multiply it by 35 percent (20 percent if this was a VEPRC). If the resulting number is positive, but the VECP was accepted after establishment of the firm fixed price under the instant contract, multiply it by 50 percent (25 percent if this was a VEPRC). In either case, add the amount to the instant contract as a separate line item independent of the incentive sharing arrangement and without adjustment to any of the contract incentive parameters.

(End of clause paragraph)

(b) *Value engineering program requirement.* In accordance with § 12-1.5206 insert the following revised contract clause title and paragraph (a) of the clause in paragraph (a)(1) of this section:

VALUE ENGINEERING PROGRAM REQUIREMENT

(a) The Contractor shall engage in a value engineering program in accordance with requirements specified by the Contracting Officer, shall submit progress reports thereon as specified in the contract and shall submit to the Contracting Officer any value engineering change proposals (VECPs) resulting from the required program. This clause applies to all VECPs developed by the Contractor unless the Contracting Officer determines the proposal to be rewardable under the "Value Engineering Incentive" clause (if any) of this contract, which:

(i) Require a change to this contract to implement the VECP, and

(ii) Reduce the overall costs to the cognizant agency, without impairing essential functions or characteristics, *Provided*, That they are not based:

(A) Solely on a change in deliverable end item quantities; or

(B) A change in R&D end item or test quantities due solely to results of previous testing under this contract; or

(C) Solely on a change to the contract type.

(End of clause paragraph)

Paragraphs (b) through (j) of the clause set forth in paragraph (a)(1) of this section above shall be included as part of the VE Program Requirements clause except that, the guidelines in paragraph (a)(2) through (a)(5) of this section shall also be applicable.

§ 12-7.151-14 Multi-year procurement.

In accordance with DOTPR 12-1.55 insert the following clauses:

LIMITATIONS OF PRICE AND CONTRACTOR OBLIGATIONS

(a) This clause applies only in the event this contract is awarded on the alternative basis for award described in the Schedule as "Multi-Year Procurement."

(b) Funds are available for performance of this contract in the amount specifically described in the Schedule, as available for contract performance. The amount of funds so described at the time of award is not considered sufficient for the contract performance required by and described in the Schedule for any Program Year other than the Frst Program Year. Upon availability to the Contracting Officer of additional funds sufficient for performance of the full requirements for the next succeeding Program Year, the Contracting Officer shall, not later than the date specified in the Schedule, unless a later date is agreed to by the parties, so notify the Contractor in writing and the amount of funds described in the Schedule as available for contract performance shall be modified accordingly. This procedure shall apply for each successive Program Year.

(c) The Government is not obligated to the Contractor for contract performance in any monetary amount in excess of that described in the Schedule or modifications thereto, as available for contract performance.

(d) The Contractor is not obligated to incur costs for the performance required for any Program Year after the first and until he has been notified in writing by the Contracting Officer of an increase in availability of funds in accordance with paragraph (b) of this clause. If so notified, the Contractor's obligation shall be increased only to the extent contract performance is required for the additional Program Year for which funds have been made available.

(e) In the event of termination pursuant to the "Termination for Convenience of the Government" clause of this contract, the term "total contract price" as used in that clause refers to the amount available for performance of this contract, as provided for in this clause, plus the applicable amount established as the cancellation ceiling, and the term "work under the contract" as used in that clause refers to the work under Program Year requirements for which funds have been made available. In the event of termination for default, the Government's rights under this contract shall apply to the entire multi-year requirements.

(f) Notification to the Contractor of an increase or decrease in the funds available for performance of this contract as a result of a clause other than this clause (e.g., exercise

of an option for increased quantities or the "Changes" clause) shall not constitute the notification contemplated by paragraph (b) of this clause.

(End of clause)

CANCELLATION OF ITEMS

(a) This clause applies only in the event this contract is awarded on the alternative basis for award described in the Schedule as "Multi-Year Procurement."

(b) As used herein, the term "cancellation" means that the Government is cancelling, pursuant to this clause, its Program Year requirements for items set forth in the Schedule for all Program Years subsequent to that in which notice of cancellation is provided. Such cancellation shall occur only if, by the date or within the time period specified in the Schedule, or such further time as may be agreed to, the Contracting Officer (i) notifies the Contractor that funds will not be available for contract performance for any subsequent Program Year; or (ii) fails to notify the Contractor that funds have been made available for performance of the Program Year requirement for the succeeding Program Year.

(c) Except for cancellation pursuant to this clause or for termination pursuant to the "Default" clause, any reduction by the Contracting Officer in the quantities called for under this contract shall be considered a termination in accordance with the "Termination for Convenience of the Government" clause of this contract.

(d) In the event of cancellation pursuant to this clause, the Contractor will be paid, as consideration therefor, a cancellation charge not to exceed the cancellation ceiling described and separately set forth in the Schedule as being applicable at the time of cancellation.

(e) The cancellation charge is intended to cover (i) only costs reasonably necessary for production which would have been equitably amortized in the unit prices for the entire multiyear contract period, but which, because of the cancellation, are not so amortized and (ii) a reasonable profit on such costs. The cancellation charge shall be computed and claim therefor made as would be applicable under the "Termination for Convenience of the Government" clause of this contract. The Contractor shall submit the claim promptly but in no event later than one year (1) from the date of notification of the nonavailability of funds, if issued pursuant to paragraph (b)(i), or (ii) from the date specfied in the Schedule by which notification of the availability of additional funds for the next succeeding program year is required to be issued, whichever is earlier, unless one or more extensions in writing are granted by the Contracting Officer, upon request of the Contractor made in writing within such one year period or authorized extension thereof. The claim may include reasonable preproduction and other nonrecurring costs, incurred by the prime contractor or his subcontractor, applicable to and which normally would be amortized in all items to be furnished under the multi-year requirements, such as plant rearrangement, special tooling, preproduction engineering, initial rework, initial spoilage and pilot runs, as well as costs not amortized by the level contract unit price solely because the cancellation had precluded anticipated benefits of Contractor or subcontractor learning. The claim shall not include any amount for:

(1) Labor, materials, or other expenses incurred by the Contractor or its subcontractors for production of canceled items;

(2) Any item or cost for which payment has already been made to the Contractor; or

(3) Anticipated profit on the cancelled items.

(End of clause)

Where options are otherwise authorized, multiyear contracts may include an appropriate "Option to Increase Quantities" clause in which the period for exercise of the option is limited to the date set forth in the contract Schedule for notifying the contractor that funds are available for the requirements of the next succeeding program year. If such an option is included, the following paragraph (f) should be added to the clause set forth above.

(f) The Contractor agrees not to include in the price for option quantities any costs of a startup or nonrecurring nature, which costs have been fully provided for in the unit prices of the firm quantities of the Program Years, and further agrees that the prices offered for option quantities will reflect only those recurring costs, and a reasonable profit thereon, which are necessary to further the additional option quantities. Therefore, any quantities added to the original contract quantities through exercise of the Government option in the "Option to Increase Quantities" clause of this contract shall not be substracted from what would otherwise be considered the quantity cancelled for the purpose of computing allowable cancellation charges.

(End of clause paragraph)

§ 12–7.151–15 Renegotiation.

Except where it has been determined that the contract is exempt from the Renegotiation Act of 1951, as amended, insert the following clause in contracts awarded by the Federal Aviation Administration:

RENEGOTIATION

(A) To the extent required by law, this contract is subject to the Renegotiation Act of 1951 (50 U.S.C. App. 1211, et seq.), as amended, and to any subsequent act of Congress providing for the renegotiation of contracts. Nothing contained in this clause shall impose any renegotiation obligation with respect to this contract or any subcontract hereunder which is not imposed by an act of Congress heretofore or hereafter enacted. Subject to the foregoing, this contract shall be deemed to contain all the provisions required by Section 104 of the Renegotiation Act of 1951, and by any such other act, without subsequent contract amendment specifically incorporating such provisions.

(B) The Contractor agrees to insert the provisions of this clause, including this paragraph, in all subcontracts, as that term is defined in Section 103g of the Renegotiation Act of 1951, as amended.

(End of clause)

§ 12–7.151–16 Lease of aircraft.

(a) In accordance with the conditions prescribed in DOTPR 12–10.450–1 insert the following clause:

LOSS OR DAMAGE TO LEASED AIRCRAFT

(a) The Government assumes all risk of loss of or damage (except normal wear and tear) to the leased aircraft during the term of this lease while the aircraft is in the possession of the Government.

(b) In the event of damage to the aircraft, the Government, at its option, shall make the necessary repairs with its own facilities or by contract, or pay the Contractor the reasonable cost of repair of the aircraft.

(c) In the event the aircraft is lost or damaged beyond repair, the Government shall pay to the Contractor a sum equal to the fair market value of the aircraft at the time of such loss or damage, which value may be specifically agreed to in the clause "Fair Market Value of Aircraft" less the salvage value of the aircraft. However, the Government may retain the damaged aircraft or dispose of it as it wishes. In that event, the Contractor will be paid the fair market value of the aircraft as stated in the clause.

(d) The Contractor certifies that the contract price does not include any cost attributable to hull insurance or to any reserve fund it has established to protect its interest in the aircraft. If, in the event of loss or damage to the leased aircraft, the Contractor receives compensation for such loss or damage in any form from any source, the amount of such compensation shall be credited to the Government in determining the amount of the Government's liability under this clause; except that this shall not apply to proceeds of insurance received (1) solely as advances on insurance pending determination of Government liability, or (2) for an increment of value of the aircraft beyond the value for which the Government is responsible.

(e) In the event of loss of or damage to the aircraft, the Government shall be subrogated to all rights of recovery by the Contractor against third parties for such loss or damage and the Contractor shall promptly assign such rights in writing to the Government. Except as the Contracting Officer may permit in writing, the Contractor shall neither release nor discharge any third party from liability for such loss or damage nor otherwise compromise or adversely affect the Government's subrogation rights hereunder. The Contractor shall cooperate with the Government in any suit or action undertaken by the Government against any such third party.

(f) Any failure to agree as to the responsibility of the Government under this clause shall, after a final finding and determination by the Contracting Officer, be considered a dispute within the meaning of the "Disputes" clause of this contract.

(g) The Contractor's rights under this clause are in addition to, and not in lieu of, any rights it may have under the Federal Tort Claims Act as amended (28 U.S.C. 2671, et seq.). However, any sum for which the Government may be liable under this clause shall be reduced by the amount of any award, compromise, or settlement for loss of, or damage to, the leased aircraft, obtained by or on behalf of the Contractor under said Act as amended.

(End of clause)

(b) In accordance with the conditions prescribed in DOTPR 12–10.450–2 insert the following clause:

FAIR MARKET VALUE OF AIRCRAFT

For purposes of the clause "Loss or Damage to Leased Aircraft," it is agreed that the fair market value of the aircraft to be used in the performance of this contract shall be the lesser of the two values set out in paragraphs (a) and (b) below:

(a) $_____ or

(b) If the contractor has insured the same aircraft against loss or destruction in connection with other operations, the amount of such insurance coverage on the date of the loss or damage for which the Government may be responsible under this contract.

(End of clause)

(c) In accordance with the conditions set forth in DOTPR 12–450–3 insert the following clause:

RISK AND INDEMNITIES

The Contractor hereby agrees to indemnify and hold harmless the Government, its officers and employees from and against all claims, demands, damages, liabilities, losses, suits and judgments (including all costs and expenses incident thereto) which may be suffered by, accrue against, be charged to or recoverable from the Government, its officers and employees by reason of injury to or death of any person other than officers, agents, or employees of the Government or by reason of damage to property of others of whatsoever kind (other than the property of the Government, its officers, agents or employees) arising out of the operation of the aircraft. In the event the Contractor holds or obtains insurance in support of this covenant, a Certificate of Insurance shall be delivered to the Contracting Officer.

(End of clause)

§ 12–7.151–17 Options.

(a) In accordance with DOTPR 12–1.50, insert a clause reading substantially as follows where the contract expresses the option quantity as an additional quantity of a specific line item:

OPTION FOR INCREASED QUANTITY

The Government may increase the quantity of supplies called for herein by the amount stated in the Schedule and at the unit price specified therein. The Contracting Officer may exercise this option, at any time within the period specified in the Schedule, by giving written notice to the Contractor. Delivery of the items added by the exercise of this option shall continue immediately after, and at the same rate as, delivery of like items called for under this contract unless the parties othewise agree.

(End of clause)

(b) A clause substantially as follows may be used where it is intended to extend the services described in the schedule.

OPTION TO EXTEND SERVICES

The Government may require the Contractor to continue to perform any or all items of services under this contract within the limits stated in the Schedule. The Contracting Officer may exercise this option, at any time within the period specified in the Schedule, by giving written notice to the Contractor. The rates set forth in the Schedule shall apply to any extension made pursuant to this option provision.

(End of clause)

(c) A clause substantially as follows may be used to provide for continuing performance of the contract beyond its original term.

OPTION TO EXTEND THE TERM OF THE CONTRACT

This contract is renewable, at the option of the Government, by the Contracting Officer giving written notice of renewal to the Contractor within the period specified in the schedule: *Provided*, That the Contracting Officer shall have given preliminary notice of the Government's intention to renew at least 60 days before this contract is to expire. (Such preliminary notice will not be deemed to commit the Government to renewals). If the Government exercises this option for renewal, the contract as renewed shall be deemed to include this option provision. However, the total duration of this contract, including the exercise of any options under this clause, shall not exceed ----------

(End of clause)

§ 12–7.151–18 Procurement from certain Communist areas.

Insert the clause set forth below under the conditions described in DOTPR 12–6.5002.

PROCUREMENT FROM CERTAIN COMMUNIST AREAS

Unless he first obtains the written approval of the Contracting Officer, the Contractor shall not acquire for use in the performance of this contract any supplies, however processed, which are or were located in or transported from or through China (excluding Formosa), North Korea, North Vietnam, or Cuba, or any services originating from sources within such countries. The Contractor agrees to insert the substance of this clause in all subcontracts hereunder.

(End of clause)

Subpart 12–7.2—Clauses for Cost-Reimbursement Type Supply Contracts

§ 12–7.200 Scope of subpart.

This subpart sets forth uniform contract clauses for use in cost reimbursement type supply contracts.

§ 12–7.201 Applicability.

The causes set forth in this subpart shall be used when required, or as applicable or additional clauses, in all cost reimbursement type supply contracts.

§ 12–7.202 Required clauses.

Insert the required clauses cited or set forth in FPR Subpart 1–7.202 in all cost reimbursement type supply contracts.

§ 12–7.202–1 Definitions.

Insert the clause set forth in FPR 1–7.–102–1. Additional definitions may be inserted provided they are not inconsistent with the clause or the provisions of the FPR and these regulations.

§ 12–7.202–2 Changes.

Insert the clause in FPR 1–7.202–2. In the clause, the period of "thirty (30) days" within which any claim must be asserted may be varied in accordance with Administration procedures.

§ 12–7.202–3 Limitation of cost or funds.

Insert the appropriate clause set forth in FPR 1–7.202–3.

§ 12–7.202–4 Allowable cost, fee, and payment.

Except as provided in § 12–7.202–450, insert the clause set forth in FPR 1–7.–202–4.

§ 12–7.202–450 Allowable cost, incentive fee, and payment.

(a) When, in accordance with FPR 1–3.405–4, incentive revision of the fee in a cost-reimbursement type supply contract is to be provided, insert the following clause. Additional instructions for use of the clause are provided after the clause.

ALLOWANCE COST, INCENTIVE FEE, AND PAYMENT

(a) (1) For the performance of this contract, the Government shall pay to the Contractor—(i) The cost thereof (hereinafter referred to as "allowable cost") determined by the Contracting Officer to be allowable in accordance with—

(A) Subpart 1–15.2 of Part 1–15 of the Federal Procurement Regulations as in effect on the date of this contract; and

(B) The terms of this contract; and

(ii) A fee determined as provided in this contract.

(2) The target cost and target fee of this contract are set forth in the Schedule and shall be subject to adjustment in accordance with (h) and (i) below. As used throughout this contract the term—

(i) "Target cost" means the estimated cost of this contract initially negotiated, adjusted in accordance with (h) below; and

(ii) "Target fee" means the fee which was initially negotiated on the assumption that this contract would be performed for a cost equal to the estimated cost of this contract initially negotiated, adjusted in accordance with (h) below.

(b) Once each month (or at more frequent intervals, if approved by the Contracting Officer), the Contractor may submit to an authorized representative of the Contracting Officer, in such form and reasonable detail as such representative may require, an invoice or vouncher supported by a statement of cost incurred by the Contractor in the performance of this contract and claimed to constitute allowable cost.

(c) Promptly after receipt of each invoice or voucher and statement of cost, the Government shall except as otherwise provided in this contract, subject to the provisions of (d) below, make payment thereon as approved by the Contracting Officer. Normally, payment of fee shall be made to the Contractor as specified in the Schedule. However, when in the opinion of the Contracting Officer, the Contractor's performance or cost indicates that target will not be achieved, the Government shall pay on the basis of such lesser fee as is appropriate. Further, when the Contractor demonstrates that his performance or cost clearly indicates that he will earn a fee significantly in excess of target fee, the Government may, in the sole discretion of the Contracting Officer, pay on the basis of such higher fee as is appropriate. After payment of eighty-five percent (85%) of the applicable fee, the Contracting Officer may withhold further payment of fee until a reserve shall have been set aside in an amount which he considers necessary to protect the interests of the Government, but such reserve shall not exceed fifteen percent (15%) of the total applicable fee or one hundred thousand dollars ($100,000) whichever is less.

(d) At any time or times prior to final payment under this contract, the Contracting Officer may have the invoices or vouchers and statements of cost audited. Each payment theretofore made shall be subject to reduction for amounts included in the related invoice or voucher which are found by the Contracting Officer, on the basis of such audit, not to constitute allowable cost. Any payment may be reduced for overpayments, or increased for underpayments, on preceding invoices or vouchers.

(e) On receipt and approval of the invoice or voucher designated by the Contractor as the "completion invoice" or "completion voucher" and upon compliance by the Contractor with all the provisions of this contract (including without limitation, the provisions relating to patents and the provisions of (f) below), the Government shall promptly pay to the Contractor any balance of allowable cost, and any part of the fee, which has been withheld pursuant to (c) above or otherwise not paid to the Contractor. The completion invoice or voucher shall be submitted by the Contractor promptly following completion of the work under this contract but in no event later than one (1) year (or

such longer period as the Contracting Officer may in his discretion approve in writing) from the date of such completion.

(f) The Contractor agrees that any refunds, rebates, credits, or other amounts (including any interest thereon) accruing to or received by the Contractor or any assignee under this contract shall be paid by the Contractor to the Government to the extent that they are properly allocable to costs for which the Contractor has been reimbursed by the Government under this contract. Reasonable expenses incurred by the Contractor for the purpose of securing such refunds, rebates, credits, or other amounts shall be allowable costs hereunder when approved by the Contracting Officer. Prior to final payment under this contract, the Contractor and each assignee under this contract whose assignment is in effect at the time of final payment under this contract shall execute and deliver—

(i) An assignment to the Government, in form and substance satisfactory to the Contracting Officer, of refunds, rebates, credits, or other amounts (including any interest thereon) properly allocable to costs for which the Contractor has been reimbursed by the Government under this contract; and

(ii) A release discharging the Government, its officers, agents, and employees from all liabilities, obligations, and claims arising out of or under this contract, subject only to the following exceptions—

(A) Specified claims in stated amounts or in estimated amounts where the amounts are not susceptible of exact statement by the Contractor;

(B) Claims, together with reasonable expenses incidental thereto, based upon liabilities of the Contractor to third parties arising out of the performance of this contract; provided, that such claims are not known to the Contractor on the date of the execution of the release; and provided further, that the Contractor gives notice of such claims in writing to the Contracting Officer not more than six (6) years after the date of the release or the date of any notice to the Contractor that the Government is prepared to make final payment, whichever is earlier; and

(C) Claims for reimbursement of costs (other than expenses of the Contractor by reason of his indemnification of the Government against patent liability), including reasonable expenses incidental thereto, incurred by the Contractor under the provisions of this contract relating to patents.

Except as provided in (j) below, payments under the assignment and claims excepted from the release shall be subject to adjustment by reason of the adjustment of fee in accordance with (i) below.

(g) Any cost incurred by the Contractor under the terms of this contract which would constitute allowable cost under the provisions of this clause shall be included in determining the amount payable under this contract, notwithstanding any provisions contained in the specifications or other documents incorporated in this contract by reference, designating services to be performed or materials to be furnished by the Contractor at his expense or without cost to the Government.

(h) When the work under this contract (including any supplies or services which are ordered separately under, or otherwise added to, this contract) is increased or decreased by contract modification or when any equitable adjustment in the target cost is authorized under any other clause of this contract, equitable adjustments in the target cost, target fee, minimum fee, maximum fee or any or all of them, as appropriate shall be set forth in an amendment or supplemental agreement to this contract.

(i) The fee payable hereunder shall be the target fee increased by (insert Contractor's participation) cents for every dollar by which the total allowable cost is less than the target cost or decreased by (insert Contractor's participation) cents for every dollar by which the total allowable cost exceeds the target cost. In no event shall the fee be greater than ____ percent, nor less than ____ percent, of the target cost; and, except as provided in (j) below, within these limits such fee shall be subject to adjustment, by reason of increase or decrease of total allowable cost, on account of payments under the assignment required by (f) (i) above, and claims excepted from the release required by (f) (ii) above. If this contract is terminated in its entirety, the portion of the target fee payble shall not be subject to an increase or decrease as provided in this paragraph. The terminations shall be otherwise accomplished pursuant to other applicable provisions of this contract.

(j) For the purpose of the adjustment of the fee in accordance with (i) above, the term "total allowable cost" shall not include allowable costs arising out of:

(i) Any of the causes covered by the clause hereof entitled "Excusable Delays" to the extent they are beyond the control and without the fault or negligence of the Contractor or any subcontractor;

(ii) The taking effect, after the negotiation of the target cost of this contract, of a statute court decision, written ruling or regulation which results in the Contractor being required to pay or bear the burden of any tax or duty, or increase in the rate thereof;

(iii) Any direct cost attributed to the Contractor's assistance or participation in litigation as required by the Contracting Officer pursuant to a provision of this contract, including the furnishing of evidence and information requested pursuant to the clause hereof entitled "Notice and Assistance Regarding Patent and Copyright Infringement";

(iv) The procurement and maintenance of additional insurance not included in the target cost and required by the Contracting Officer or claims for reimbursement for liabilities to third persons pursuant to the clause hereof entitled "Insurance-Liability to Third Persons";

(v) Any claim, loss or damage resulting from a risk for which the Contractor has been relieved of liability pursuant to the clause hereof entitled "Government Property".

Except as otherwise specifically provided in this contract, all other allowable costs shall be included in the term "total allowable cost" for the purpose of the adjustment of the fee in accordance with (i) above.

(In the event the contract calls for spare parts or other supplies and services which are to be ordered under a provisioning document or Government option, the following provision (k) shall be included.)

(k) Compensation for supplies (including spare parts) and services which are to be furnished under this contract pursuant to a provisioning document or Government option shall be determined in accordance with the provisions of this clause notwithstanding any inconsistent provision in such provisioning document or Government option.

(End of clause)

(b) (1) In paragraph (f) (ii) (B) of the clause in FPR 1–7.202–4 and the foregoing clause the period of years may be increased to correspond with any statutory period of limitation applicable to claims of third parties against the contractor: *Provided*, That a corresponding increase is made in the period of retention of records required in paragraph (d) of the clause set forth in FPR 1–7.103–3.

(2) With respect to paragraph (c) of the clause set forth above, generally, the payment of fee provisions in the Schedule should be based on target fee.

(3) In the case of cost-sharing contracts and cost-reimbursement type supply contracts without fee—

(i) Insert the following sentence in lieu of the second sentence of paragraph (c) of the clause set forth above, except that, if the contract does not provide for cost-sharing, delete the parenthetical references to the Government's share:

After payment of an amount equal to eighty percent (80%) of (the Government's share of) the total estimated cost of performance of this contract set forth in the Schedule, the Contracting Officer may withhold further payment on account of allowable cost until a reserve shall have been set aside in an amount which he considers necessary to protect the interests of the Government, but such reserve shall not exceed one percent (1%) of (the Government's share of) such total estimated cost or one hundred thousand dollars ($100,000), whichever is less.

(ii) delete the words "and any part of the fixed fee" from paragraph (e) of the clause set forth in FPR 1–7.202–4.

(iii) in contracts which provide for cost-sharing, change paragraph (a) of the clause set forth in FPR 1–7.204–4 as follows:

(A) the allowability of costs incurred in the performance of this contract shall be determined by the Contracting Officer in accordance with—

(*1*) Subpart 1–15.2 of Part 1–15 of the Federal Procurement Regulations as in effect on the date of this contract; and

(2) the terms of this contract; and

(iv) Change the title of the clause set forth in FPR 1–7.202–4 to "Allowable Cost and Payment".

(4) The Contracting Officer shall determine to his satisfaction that the estimated cost of the contract initially negotiated does not include amounts for the contingencies identified in paragraph (j) of the clause set forth above.

(5) The amount to be withheld under paragraph (c) of the foregoing clause and the clause set forth in FPR 1–7.202–4 shall normally be the maximum authorized by the clause except that the Contracting Officer may, if he believes that such amount exceeds the amount necessary to protect the interests of the Government, review the status of all funds being withheld from the contractor under the particular contract concerned and under any other contracts with the Contractor. The Contracting Officer shall decide whether to reduce the rate of withholding or whether to release a portion of the amount already reserved under the contract, as appropriate.

§ 12–7.202–5 Inspection of supplies and correction of defects.

Insert the clause set forth in FPR 1–7.202–5.

§ 12–7.202–6 Assignment of claims.

Insert the clause set forth in FPR 1–30.703 under the conditions prescribed therein.

§ 12–7.202–7 Examination of records by Comptroller General.

Insert the clause set forth in FPR 1–7.103–3.

§ 12–7.202–8 Subcontracts.

Insert the clause set forth in FPR 1–7.-202–8.

§ 12–7.202–9 [Reserved]

§ 12–7.202–10 Termination for default or convenience of the Government.

Insert the clause set forth in FPR 1–8.-702 in accordance with conditions prescribed in FPR 1–8.700–2(a)(3) FPR 1–8.-700–2(b)(2).

§ 12–7.202–11 Excusable delays.

Insert the clause set forth in FPR 1–8.-708 under the conditions prescribed in FPR 1–8.700–2(c).

§ 12–7.202–12 Disputes.

Insert the clause set forth in FPR 1–7.-102–12.

§ 12–7.202–13 [Reserved]

§ 12–7.202–14 Buy American Act.

Insert the clause set forth in FPR 1–6.-104–5 under the conditions prescribed therein.

§ 12–7.202–15 Convict labor.

Insert the clause set forth in FPR 1–12.204 under the conditions prescribed in FPR 1–12.203.

§ 12–7.202–16 Contract Work Hours and Safety Standards Act—overtime compensation.

Insert the clause set forth in FPR 1–12.303 under the conditions prescribed in FPR 1–12.302.

§ 12–7.202–17 Walsh-Healey Public Contracts Act.

Insert the clause set forth in FPR 1–12.605 under the conditions prescribed in FPR 1–12.602.

§ 12–7.202–18 Equal opportunity.

Insert the clause set forth in FPR 1–12.803–2 under the conditions prescribed in FPR 1–12.803–1.

§ 12–7.202–19 Officials not to benefit.

Insert the clause set forth in FPR 1–7.-102–17.

§ 12–7.202–20 Convenant against contingent fees.

Insert the clause set forth in FPR 1–1.-503 under the conditions prescribed in FPR 1–1.501.

§ 12–7.202–21 [Reserved]

§ 12–7.202–22 [Reserved]

§ 12–7.202–23 [Reserved]

§ 12–7.202–24 Notice and assistance regarding patent and copyright infringement.

In accordance with DOTPR 12–9.153, insert the clause set forth in FPR 1–7.-103–4.

§ 12–7.202–25 [Reserved]

§ 12–7.202–26 Utilization of small business concerns.

Insert the clause set forth in FPR 1–1.-710–3(a) under the conditions prescribed therein.

§ 12–7.202–27 Utilization of labor surplus area concerns.

Insert the clause set forth in FPR 1–1.805–3(a) under the conditions prescribed therein.

§ 12–7.202–28 Utilization of minority business enterprises.

Insert the clause set forth in FPR 1–1.-1310–2(a) under the conditions prescribed therein.

§ 12–7.202–29 Payment for overtime premiums.

Insert the clause set forth in FPR 1–7.-202–29 when payment of overtime premiums is to be made in accordance with FPR 1–12.102.

§ 12–7.202–30 Competition in subcontracting.

Insert the clause set forth in FPR 1–7.202–30.

§ 12–7.202–31 Price reduction for defective cost or pricing data.

Insert the clause set forth in FPR 1–3.814–1 under the conditions prescribed therein.

§ 12–7.202–32 Audit and records.

Insert the clause cited in FPR 1–7.202–32 as prescribed therein.

§ 12–7.202–33 Subcontractor cost and pricing data.

Insert the appropriate clause set forth in FPR 1–3.814–3 under the conditions prescribed therein.

§ 12–7.202–34 Payment of interest on contractors' claims.

Insert the clause set forth in FPR 1–1.322 under the conditions prescribed therein.

§ 12–7.202–35 Disabled veterans and veterans of the Vietnam era.

Insert the clause set forth in FPR Temporary Regulation 39 of July 1976 in all contracts which exceed $10,000.

§ 12–7.202–36 Late offers and modifications or withdrawals.

Insert the provision(s) cited in FPR 1–7.202–36 as prescribed therein.

§ 12–7.202–37 Employment of the handicapped.

Insert the clause set forth in FPR Temporary Regulation 38 of May 1976.

§ 12–7.202–38 Clean air and water.

Insert the clause prescribed by FPR 1–1.2302–2 under the conditions prescribed therein.

§ 12–7.203 Clauses to be used when applicable.

§ 12–7.203–1 Clauses for cost-reimbursement type supply contracts involving construction.

Insert the clauses cited in FPR 1–7.-203–1 as prescribed therein.

§ 12–7.203–2 [Reserved]

§ 12–7.203–3 Notice to the Government of labor disputes.

Insert the clause set forth in FPR 1–7.203–3 wherever a work stoppage would result in delay in an urgent program.

§ 12–7.203–4 [Reserved]

§ 12–7.203–5 [Reserved]

§ 12–7.203–6 [Reserved]

§ 12–7.203–7 [Reserved]

§ 12–7.203–8 [Reserved]

§ 12–7.203–9 Negotiated overhead rates.

Insert the clause set forth in FPR 1–3.704 under the conditions prescribed therein.

§ 12–7.203–950 Negotiated overhead rates—indirect costs.

(a) In accordance with DOTPR 12–3.704–50, the following clause shall be used when the contractor's normal method of interim overhead reimbursement is based on billing rates approved by the Contracting Officer (normally through an exchange of correspondence) rather than on formally negotiated provisional rates:

INDIRECT COSTS (BILLING RATES)

Pending the establishment of final overhead rates as provided for in the clause entitled "Negotiated Overhead Rates", the Contractor shall be reimbursed for indirect costs on the basis of billing rates mutually agreed upon by the Contracting Officer and the Contractor.

(End of clause)

Prior to establishing or changing the billing rates, the Contracting Officer should seek the advice of the cognizant audit activity as to the acceptability of the billing rates proposed by the contractor.

(b) The following clause shall be used when the contractor's normal method of interim overhead reimbursement is based on negotiated provisional rates. The provisional rates will remain in effect until such time as the contract is amended. The rates shall be listed immediately below the clause along with the base of applications for each rate listed:

INDIRECT COSTS (PROVISIONAL RATES)

Pending establishment of final overhead rates as provided for in the clause entitled "Negotiated Overhead Rates", the Contractor shall be reimbursed for indirect costs on the basis of the negotiated provisional rates set forth below, which rates shall remain in effect until the contract is amended to incorporate either (a) final overhead rates for a specific period or periods or (b) revised negotiated provisional overhead rates as provided for in paragraph (e) of the clause of this contract entitled "Negotiated Overhead Rates".

(End of clause)

§ 12–7.203–951 Audit—indirect costs (actual).

Insert the following clause in accordance with DOTPR 12–3.704–51.

INDIRECT COSTS (ACTUAL)

In accordance with the "Allowable Cost, Fixed Fee, and Payment" clause of the contract, the contractor shall be paid his actual overhead cost. Allowable overhead cost will be determined in accordance with the principles set forth in Subpart 1-15.2 of the Federal Procurement Regulations. Any failure of the parties hereto to agree as to what constitutes actual overhead costs shall be considered a dispute covering a question of fact within the meaning of the clause of this contract entitled "Disputes".

(End of clause)

§ 12–7.203–10 Make-or-buy program.

Insert the clause set forth in FPR 1–3.902–3 under the conditions prescribed therein.

§ 12–7.203–11 Advance payments.

When advance payments are to be made in accordance with FPR Subpart 1–30.4, insert the appropriate provisions as prescribed in FPR 1–30.414–2.

§ 12–7.203–12 Required source for jewel bearings.

Insert the clause set forth in FPR 1–1.319 under the conditions prescribed therein.

§ 12–7.203–13 General Services Administration supply sources.

Insert the clause set forth in FPR 1–7.203–13 under the conditions set forth in FPR Subpart 1–5.9.

§ 12–7.203–14 Use of interagency motor pool vehicles and related services.

Insert the clause set forth in FPR 1–7.203–14 as prescribed therein.

§ 12–7.203–15 Interest.

Insert the clause set forth in FPR 1–7.203–15 as prescribed therein.

§ 12–7.203–16 [Reserved]

§ 12–7.203–17 [Reserved]

§ 12–7.203–18 Small business subcontracting program.

Insert the clause set forth in FPR 1–1.710–3(b) under the conditions prescribed therein.

§ 12–7.203–19 Labor surplus area subcontracting program.

Insert the clause set forth in FPR 1–1.805–3(b) under the conditions prescribed therein.

§ 12–7.203–20 Minority business enterprises subcontracting program.

Insert the clause set forth in FPR 1–1.1310–2(b) under the conditions prescribed therein.

§ 12–7.203–21 Government property.

Insert the clause set forth in FPR 1–7.203–21 when the Government is to furnish or the contractor is to acquire, Government property.

§ 12–7.203–22 Preference for U.S. flag air carriers.

Insert the clause set forth in FPR 1–1.323–2 under the conditions prescribed therein.

§ 12–7.203–23 Cost accounting standards.

Insert the notices and clauses cited in FPR 1–7.203–23 as prescribed therein.

§ 12–7.203–24 Privacy Act.

Insert the clause prescribed in FPR 1–1.327–5 as amended by DOTPR 12–7.103–29 under the conditions prescribed therein.

§ 12–7.203–25 Use of U.S. flag commercial vessels.

Insert the clause prescribed by FPR 1–19–108.2 under the conditions set forth therein.

§ 12–7.204 Additional clauses.

The following clauses may be inserted in cost-reimbursement type supply contracts when it is desired to cover the subject matter thereof:

§ 12–7.204–1 Alterations in contract.

Insert the clause set forth in FPR 1–7.204–1.

§ 12–7.204–2 Approval of contract.

Insert the clause set forth in FPR 1–7.204–2.

§ 12–7.204–3 Date of incurrence of costs.

Insert the clause set forth in FPR 1–7.204–3.

§ 12–7.204–4 Notice regarding late delivery.

Insert the clause set forth in FPR 1–7.204–4.

§ 12–7.204–5 Insurance—Liability to Third Persons.

Insert the clause set forth in 12–7.204–50 below in lieu of the clause set forth in FPR 1–7.204–5.

§ 12–7.204–50 Insurance—Liability to Third Persons.

Insert the following clause in cost-reimbursement type supply contracts pursuant to the general policies set forth in FPR Subpart 1–10.5.

INSURANCE—LIABILITY TO THIRD PERSONS

(a) The Contractor shall procure and thereafter maintain workmen's compensation, employer's liability, comprehensive general liability (bodily injury) and comprehensive automobile liability (bodily injury and property damage) insurance, with respect to performance under this contract, and such other insurance as the Contracting Officer may from time to time require with respect to performance under this contract: *provided*, That the Contractor may with the approval of the Contracting Officer, maintain a self-insurance program: And *provided further*, That with respect to workmen's compensation the Contractor is qualified pursuant to statutory authority. All insurance required pursuant to the provisions of this paragraph shall be in such form, in such amount, and for such periods of time, as the Contracting Officer may from time to time require or approve, and with insurers approved by the Contracting Officer.

(b) The Contractor agrees, to the extent and in the manner required by the Contracting Officer, to submit for the approval of the Contracting Officer any other insurance maintained by the Contractor in connection with the performance of this contract and for which the Contractor seeks reimbursement hereunder.

(c) The Contractor shall be reimbursed: (1) For the portion allocable to this contract of the reasonable cost of insurance as required or approved pursuant to the provisions of this clause, and (2) for liabilities to third persons for loss of or damage to property (other than property (i) owned, occupied or used by the Contractor or rented to the Contractor or (ii) in the care, custody, or control of the Contractor), or for death or bodily injury, not compensated by insurance or otherwise, arising out of the performance of this contract, whether or not caused by the negligence of the Contractor, his agents, servants or employees: *Provided*, Such liabilities are represented by final judgments or by settlements approved in writing by the Government and expenses incidental to such liabilities, except liabilities (a) for which the Contractor is otherwise responsible under the express terms of the clause or clauses, if any, specified in the Schedule, or (b) with respect to which the Contractor has failed to insure as required or maintain insurance as approved by the Contracting Officer or (c) which results from willful misconduct or lack of good faith on the part of any of the Contractor's directors or officers, or on the part of any of its managers, superintendents, or other equivalent representatives, who has supervision or direction of (1) all or substantially all of the Contractor's business, or (2) all or substantially all of the Contractor's operations at any one plant or separate location in which this contract is being performed, or (3) a separate and complete major industrial operation in connection with the performance of this contract. The foregoing shall not restrict the right of the Contractor to be reimbursed for the cost of insurance maintained by the Contractor in connection with the performance of this contract, other than insurance required to be submitted for approval or required to be procured and maintained pursuant to the provisions of this clause: Provided, Such cost would constitute allowable cost under the clause of this contract entitled "Allowable Cost, Fixed Fee and Payment."

(d) The Contractor shall give the Government or its representatives immediate notice of any suit or action filed, and prompt notice of any claim made, against the Contractor arising out of the performance of this contract, the cost and expense of which may be reimbursable to the Contractor under the provisions of this contract, and the risk of which is then uninsured or in which the amount claimed exceeds the amount of coverage. The Contractor shall furnish immediately to the Government copies of all pertinent papers received by the Contractor. If the amount of the liability claimed exceeds the amount of coverage, the Contractor shall authorize representatives of the Government to collaborate with counsel for the insurance carrier, if any, in settling or defending such claim. If the liability is not insured or covered by bond, the Contractor shall, if required by the Government, authorize representatives of the Government to settle or defend any such claim and to represent the Contractor in or take charge of any litigation in connection therewith: *Provided*, That the Contractor may, at his own expense, be as-

sociated with the representatives of the Government in the settlement or defense of any such claim or litigation.

(End of clause)

§ 12–7.250 Required DOTPR clauses.

Insert the following DOTPR clauses in cost-reimbursement type supply contracts.

§ 12–7.250–1 Gratuities.

Insert the clause set forth in DOTPR 12–7.150–1.

§ 12–7.250–2 New material.

Insert the clause set forth in DOTPR 12–7.150–2.

§ 12–7.250–3 Priorities, allocations, and allotments.

Insert the clause set forth in DOTPR 12–7.150–3.

§ 12–7.250–4 Interpretation or modification.

Insert the clause set forth in DOTPR 12–7.150–4.

§ 12–7.250–5 Dissemination of contract information.

Insert the clause set forth in DOTPR 12–7.150–10.

§ 12–7.250–6 Authorization and consent.

Insert the clause set forth in DOTPR 12–7.150–11 in accordance with DOTPR 12–9.151–1.

§ 12–7.251 DOTPR clauses to be used when applicable.

The following DOTPR clauses shall be included in cost-reimbursement type supply contracts when applicable.

§ 12–7.251–1 Patent indemnity.

Insert the clause set forth in DOTPR 12–7.151–1 in accordance with instructions in DOTPR 12–9.152.

§ 12–7.251–2 Filing of patent applications.

Insert the clause set forth in DOTPR 12–7.151–2 in accordance with instructions in DOTPR 12–9.154.

§ 12–7.251–3 Reporting of royalties (foreign).

Insert the clause set forth in DOTPR 12–7.151–3 in accordance with instructions in DOTPR 12–9.156.

§ 12–7.251–4 Refund of royalties.

Insert the clause set forth in DOTPR 12–7.151–4 in accordance with instruction in DOTPR 12–9.157.

§ 12–7.251–5 Patent Rights.

When experimental, developmental, or research work may be performed under the contract, insert the appropriate patent rights clause set forth in FPR 1–9.1.

§ 12–7.251–6 Rights in data.

Insert the clause set forth in DOTPR 12–7.151–5 or DOTPR 12–7.151–6 in accordance with instructions in DOTPR 12–9.201–1.

§ 12–7.251–7 Military security requirements.

When required by DOTPR 12–1.352, insert the Military Security Requirements clause in DOTPR 12–7.151–9, modified by deleting paragraphs (c) and (d) and substituting the following:

(c) If, subsequent to the date of this contract, the security classifications or security requirements under this contract are changed by the Government as provided in this clause, and if such changes cause an increase or decrease in the estimated cost or time required for performance of this contract, the estimated cost, fee, delivery schedule, or any other provision of the contract that may be affected, shall be subject to an equitable adjustment. Any such equitable adjustment shall be accomplished in the manner set forth in the "Changes" clause of this contract.

(d) The Contractor agrees to insert, in all subcontracts hereunder which involve access to classified information, provisions which shall conform substantially to the language of this clause, including this paragraph (d) but excluding the last sentence of paragraph (c) of this clause. (1971 APR.)

(End of clause paragraphs)

§ 12–7.251–8 Stop work orders.

The clause set forth in DOTPR 12–7.151–12 may be included in any cost-reimbursement type contract under the conditions described therein: *Provided,* The clause is modified as follows:

(a) The words "the 'Termination for Convenience' clause of this contract" shall be changed to read "the 'Termination' clause of the contract"; and

(d) The words "an equitable adjustment shall be made in the delivery schedule or contract price, or both" shall be changed to read "an equitable adjustment shall be made in the delivery schedule, the estimated cost, the fee, or a combination thereof, and in any other provisions of the contract that may be affected."

(End of clause paragraphs)

§ 12–7.251–9 Value engineering.

(a) Use of a value engineering incentive clause: In accordance with DOTPR 12–1.5202–2 insert the value engineering incentive clause set forth in DOTPR 12–7.151–13(a) as modified in paragraph (b) or (c) of this section.

(b) Cost - Plus - Incentive - Fee Contracts: Substitute the following "Sharing" provision for paragraph (e) of the applicable clause in DOTPR 12–7.151–13 (a):

(e) Sharing. If a VECP submitted by the Contractor pursuant to this clause is accepted, the Contractor shall share in the savings realized by the Government in accordance with the following provision:

(1) Instant Contract. (i) Definitions: (A) Instant contract savings to the Contractor (ICS) is the unit cost reduction times the number of units affected in the instant contract. The proposed unit cost reduction includes estimated allowable Contractor development and implementation costs (CC). The Contractor's development and implementation costs include any subcontractor development and implementation costs and any subcontractor incentive payments (see (h) below). For purposes of this clause, Contractor development costs are those costs incurred after the Contractor has identified a specific value engineering project and prior to acceptance by the Government.

(B) Government costs (GC) are those costs which directly result from development and implementation of the VECP, such as test and evaluation of the VECP, and any increased costs in operations, maintenance, and logistic support.

(ii) Calculations and actions: (A) Reduce the target cost of items affected by the VECP by ICS. The estimated cost for "limitation of cost" or "limitation of funds" purposes (12–7.202–3), if different or separately stated, should also be reduced by the same amount.

(B) If ICS exceeds GC, add 35% (20% if this is a VE Program Requirement Change (VEPRC)) of the excess to minimum, target, and maximum fees relating to such items.

(C) If GC exceeds ICS, but acceptance of the VECP is still desirable due to concurrent or future savings, do not adjust minimum, target, or maximum fees, but offset the amount GC exceeds ICS against concurrent or future contract savings.

(D) If the Contractor cost of developing and implementing the VECP would result in an increase in the instant contract target cost, but the VECP is still desirable due to concurrent or future savings, equitably adjust the total target cost and fee in accordance with the "Changes" clause. Offset this increase and any GC against concurrent or future savings.

(2) Concurrent contracts. (i) If the VECP accepted under this contract is also used on concurrent contracts of the purchasing office for essentially the same items the Contractor shall be paid a share of any savings as calculated in (ii) below.

(ii) Calculations: (A) Determine the reduction in the price of each concurrent contract(s) as a result of incorporating the VECP.

(B) Subtract from the total amount in (A) any Government costs (GC) not yet offset (if GC was greater than ICS) in (e)(1)(ii) (C) or (D) above, and any increase in the instant contract target cost, i.e., if ICS was negative in (e)(1)(ii)(D). If the resulting number is positive, multiply it by 35% (20% if this is a VEPRC). Add this amount to the instant contract as a separate line item independent of the incentive sharing arrangement and without adjustment to any of the contract incentive parameters.

(3) Future contracts. (i) Definition. The term unit cost reduction for future contract sharing shall be the unit cost reduction under this instant contract without deducting any cost of development or implementation.

(ii) If the VECP accepted under this contract is used on future purchases of essentially the same item by the purchasing office, or its successor, the Contractor shall share in the savings on all affected end items scheduled for delivery not later than three years after acceptance of the first item incorporating the VECP, or until the originally scheduled delivery date of the last affected end item under the instant contract, whichever is later. When sharing on future contracts is expected, the Contractor shall be responsible for the following:

(A) Maintaining records adequate to support identification of the first delivered unit to which the VECP applies. These records are considered an integral part of contract documentation and shall be maintained for a period of three years after final payment on the contract under which the VECP was accepted.

(B) Annotating the receiving report or invoice, which applies to the initial unit covered by the VECP with the following statement: "This is the initial unit delivered

which incorporates VECP No. _____, Contract Modification No. _____, dated _____."

(iii) Calculations. At the time each eligible future contract is awarded:

(A) Determine the number of units scheduled to be delivered prior to expiration of the Contractor sharing period determined in (ii) above. Multiply this by the unit cost reduction as defined in (e)(3)(i).

(B) Subtract from the total amount in (A) any Government costs or instant contract increases not yet offset in (e)(1)(ii) (C) or (D), or in (e)(2)(ii)(B), or in other contracts awarded since acceptance of the VECP. If the resulting number is positive, multiply it by 35% (20% if this is a VEPRC). Add this amount to the instant contract as a separate line item independent of the incentive sharing arrangement and without adjustment to any of the contract incentive parameters.

(4) Collateral savings. If an accepted VECP results in a measurable net reduction in the agency's overall documentable projected costs of maintenance, operation, logistic support or Government-furnished property, which exceeds any increase in costs attributable to incorporation of such VECP, including acquisition costs, the contract shall be increased by twenty percent (20%) of the projected net reduction in ascertainable collateral costs (i.e., savings determined to be realized during an average year of use of the item in which the change is incorporated) and, if applicable, of the actual savings accruing from a change or reduction of Government-furnished property under the instant contract. Add this amount to the instant contract as a separate item independent of the incentive sharing arrangement and without adjustment to any of the contract incentive parameters. However, such increase representing the Contractor's share of collateral savings shall, in no event, exceed the price of this contract or $100,000, whichever is greater. The determination of the amount of collateral savings, if any, will be made solely by the Government and shall not be subject to the "Disputes" clause of this contract. In all cases, degradation of performance, service life, or capability shall be a consideration in the determination of actual savings to the agency.

(End of clause paragraph)

(c) Cost-plus-fixed fee and cost-plus-award-fee contracts: Substitute the following "Sharing" provision for paragraph (e) of the applicable clause in § 12–7.151–13(a):

(e) Sharing. If a VECP submitted by the Contractor pursuant to this clause is accepted the Contractor shall share in savings realized by the Government in accordance with the following provisions:

(1) Instant contract. (i) Definitions: (A) Instant contract savings to the Contractor (ICS) is the unit cost reduction times the number of units affected in the instant contract. The proposed unit cost reduction includes estimated allowable Contractor development and implementation costs (CC). The Contractor's development and implementation costs include any subcontractor development and implementation costs and any subcontractor incentive payments (see (h) below). For purposes of this clause, Contractor development costs are those costs incurred after the Contractor has identified a specific value engineering project and prior to acceptance by the Government.

(B) Government Costs (GC) are those costs which directly result from development and implementation of the VECP, such as test and evaluation of the VECP, and any increased costs in operations, maintenance, and logistic support.

(ii) Calculations and actions: (A) If ICS exceeds GC, add 25% (15% if this a VE Program Requirements Change (VEPRC) of the excess to the contract fee), and reduce the estimated cost of the items affected by the VECP, for "limitation of cost" or "limitation of funds" purposes (12–7.202–3) by ICS.

(B) If GC exceeds ICS, but acceptance of the VECP is still desirable due to concurrent or future savings, do not adjust contract fee, but offset the amount GC exceeds ICS against concurrent or future savings.

(C) If the Contractor cost of developing and implementing the VECP would result in an increase in instant contract cost, but the VECP is still desirable due to concurrent or future savings, equitably adjust the estimated cost and fee in accordance with the "Changes" clause. Offset the increase and any GC against concurrent or future savings.

(2) Concurrent contracts. (i) If the VECP accepted under this contract is also used on concurrent contracts of the purchasing office for essentially the same items the Contractor shall be paid a share of any savings as calculated in (ii) below.

(ii) Calculations: (A) Determine the reduction in the price of each concurrent contract(s) as a result of incorporating the VECP.

(B) Subtract from the total amount in (A) any Government Costs (GC) not yet offset (if GC was greater than ICS) in (e)(1)(ii) (B) or (C) above, and any increase in the instant contract price, i.e., if ICS was negative in (e)(1)(ii)(C) If the resulting number is positive, multiply it by 25% (15% if this is a VEPRC). Add this amount to the contract fee.

(3) Future contracts. (i) Definition. The term unit cost reduction for future contract sharing shall be the unit cost reduction under this instant contract without deducting any cost of development or implementation.

(ii) If the VECP accepted under this contract is used on future purchases of essentially the same item by the purchasing office, or its successor, the Contractor shall share in the savings on all affected end items scheduled for delivery not later than three years after acceptance of the first item incorporating the VECP, or until the originally scheduled delivery date of the last affected end item under the instant contract, whichever is later. When sharing on future contracts is expected, the Contractor shall be responsible for the following:

(A) Maintaining records adequate to support identification of the first delivered unit to which the VECP applies. These records are considered an integral part of contract documentation and shall be maintained for a period of three years after final payment on the contract under which the VECP was accepted.

(B) Annotating the receiving report or invoice, which applies to the initial unit covered by the VECP with the following statement: "This is the initial unit delivered which incorporates VECP No. _____, Contract Modification _____, Dated_____."

(iii) Calculations. At the time each eligible future contract is awarded:

(A) Determine the number of units scheduled to be delivered prior to expiration of the Contractor sharing period determined in (ii) above. Multiply this by the unit cost reduction as defined in (e)(3)(i).

(B) Subtract from the total amount in (A) any Government costs or instant contract increases not yet offset in (e)(1)(ii) (B) or (C), or in (e)(2)(ii)(B), or in other contracts awarded since acceptance of the VECP. If the resulting number is positive, multiply it by 25% (15% if this is a VEPRC).

(4) Collateral savings. If an accepted VECP results in a measurable net reduction in the cognizant agency's overall documentable projected costs of maintenance, operation, logistic support or Government-furnished property, which exceeds any increase in costs attributable to incorporation of such VECP, including acquisition costs, the contract shall be increased by twenty percent (20%) of the projected net reduction in ascertainable collateral costs (i.e., savings determined to be realized during an average year of use of the item in which the change is incorporated) and, if applicable, of the actual savings accruing from a change or reduction of Government-furnished property under the instant contract. However, such increase representing the Contractor's share of collateral savings shall, in no event, exceed the price of this contract or $100,000, whichever is greater. The determination of the amount of collateral savings, if any, will be made solely by the Government and shall not be subject to the "Disputes" clause of this contract. In all cases, degradation of performance, service life, or capability shall be a consideration in the determination of actual savings to the agency.

(End of clause paragraph)

(d) When the sharing provisions applicable to incentive contracts are to be modified in accordance with § 12–1.5203–1(c), clause paragraph (e) in paragraph (b) of this section shall be further modified as follows:

(1) Change clause paragraph (e)(1)(ii) to provide substantially as follows:

(ii) If the cost reduction proposal submitted pursuant to this clause involves anticipated decrease in the cost of performance of this contract and is accepted by the Government, the parties agree that neither the target cost, target profit, nor ceiling price of the instant contract shall be adjusted by reason of the acceptance of such proposal. The new requirement will be incorporated into the contract by a contract modification which will state that it is made pursuant to this Value Engineering clause. When the cost of performance of this contract is increased as a result of the changes, the equitable adjustment increasing the contract price shall be in accordance with the Changes clause rather than under this clause, but the resulting contract modification will state that it is made pursuant to this clause.

(End of clause paragraph)

(2) Change clause paragraph (e)(2)(ii)(B) to provide substantially as follows:

(B) Subtract from the total amount in (A) any government costs not yet offset and any increase in the instant contract target cost. If the resulting number is positive, multiply it by 35% (20% if VEPRC). Add this amount to the instant contract as a separate line item independent of the incentive sharing arrangement and without adjustment to any of the contract incentive parameters.

(End of clause paragraph)

(3) Substitute the definition in 12–7.151–13(a)(5) for the definition in clause paragraph (e)(3)(i).

(4) Change the clause paragraph (e)(3)(iii)(B) to provide substantially as follows:

(B) Subtract from the total amount in (A) any government costs or instant contract increases not yet offset. If the resulting number is positive, multiply it by 35% (20% if VEPRC). Add this amount to the instant contract as a separate line item independent

of the incentive sharing arrangement and without adjustment to any of the contract incentive parameters.

(End of clause paragraph)

§ 12–7.251–10 Multi-year procurement.

The clauses set forth in DOTPR 12–7.151–14 shall be included in all contracts under the multi-year procurement method in accordance with instructions contained in DOTPR 12–1.55.

§ 12–7.251–11 Renegotiation.

Insert the clause set forth in DOTPR 12–7.151–15 in accordance with instructions contained therein.

§ 12–7.251–12 Background patents (license).

Insert the clause set forth in DOTPR 12–7.150–12 in accordance with the instructions contained in DOTPR 12–9.150.

Subpart 12–7.3—Fixed Price Research and Development Contracts

§ 12–7.300 Scope of Subpart.

This subpart sets forth uniform contract clauses for use in fixed-price research and development contracts. The clauses are also appropriate for use in fixed-price contracts for studies, tests, and reports.

§ 12–7.301 Applicability.

The clauses set forth in this subpart shall be used when required, or as applicable or additional clauses in all fixed-priced research and development contracts and as otherwise stipulated in FPR 1–7.301.

§ 12–7.302 Required clauses.

The clauses set forth or cited in this subpart 12–7.3 shall be inserted, as required, in all fixed-price research and development contracts.

§ 12–7.302–1 Definitions.

Insert the clause set forth in FPR 1–7.102–1. Additional definitions may be included provided they are not inconsistent with the clauses or the provisions of the FPR and these regulations.

§ 12–7.302–2 Payments.

Insert the clause set forth in FPR 1–7.302–2.

§ 12–7.302–3 Standards of work.

Insert the clause set forth in FPR 1–7.302–3.

§ 12–7.302–4 Inspection.

Insert the appropriate clause set forth in FPR 1–7.302–4 under the conditions prescribed therein.

§ 12–7.302–5 Assignment of claims.

Insert the clause set forth in FPR 1–30.703 under the conditions prescribed therein.

§ 12–7.302–6 Examination of records by Comptroller General.

Insert the clause set forth in FPR 1–7.103–3.

§ 12–7.302–7 Federal, State, and local taxes.

Insert the appropriate clause cited in FPR 1–7.302–7 as prescribed therein.

§ 12–7.302–8 Utilization of small business concerns.

Insert the clause set forth in FPR 1–1.710–3(a) under the conditions and in the manner prescribed therein.

§ 12–7.302–9 Default.

Insert the clause set forth in FPR 1–8.710 under the conditions prescribed in FPR 1–8.700–2(b)(3).

§ 12–7.302–10 Termination for convenience of the Government.

Insert the clause set forth in FPR 1–8.701 or FPR 1–8.704–1, as appropriate.

§ 12–7.302–11 Disputes.

Insert the clause set forth in FPR 1–7.102–12.

§ 12–7.302–12 [Reserved]

§ 12–7.302–13 Buy American Act.

Insert the clause set forth in FPR 1–6.104–5 under the conditions prescribed therein.

§ 12–7.302–14 Convict labor.

Insert the clause set forth in FPR 1–12.204 under the conditions prescribed in FPR 1–12.203.

§ 12–7.302–15 Walsh-Healey Public Contracts Act.

Insert the clause set forth in FPR 1–12.605 under the conditions prescribed in FPR 1–12.602.

§ 12–7.302–16 Contract Work Hours and Safety Standards Act—overtime compensation.

Insert the clause set forth in FPR 1–12.303 under the conditions prescribed in FPR 1–12.302.

§ 12–7.302–17 Equal Opportunity.

Insert the clause set forth in FPR 1–12.803–2 under the conditions prescribed in FPR 1–12.803–1.

§ 12–7.302–18 Officials not to benefit.

Insert the clause set forth in FPR 1–7.102–17.

§ 12–7.302–19 Covenant against contingent fees.

Insert the clause set forth in FPR 1–1.503 under the conditions prescribed in FPR 1–1.501.

§ 12–7.302–20 [Reserved]

§ 12–7.302–21 [Reserved]

§ 12–7.302–22 Notice and assistance regarding patent and copyright infringement.

Insert the clause set forth in FPR 1–7.103–4.

§ 12–7.302–23 Patents.

Insert the appropriate clause set forth in FPR 1–9.107 under the conditions contained in FPR Subpart 1–9.1.

§ 12–7.302–24 [Reserved]

§ 12–7.302–25 [Reserved]

§ 12–7.302–26 Utilization of labor surplus area concerns.

Insert the clause set forth in FPR 1–1.805–3(a) under the conditions prescribed therein.

§ 12–7.302–27 [Reserved]

§ 12–7.302–28 [Reserved]

§ 12–7.302–29 Pricing of adjustments.

Insert the clause set forth in FPR 1–7.102–20 under the conditions prescribed therein.

§ 12–7.302–30 Disabled veterans and veterans of the Vietnam era.

Insert the clause set forth in FPR Temporary Regulation 39 of July 1976 in all contracts which exceed $10,000.

§ 12–7.302–31 Utilization of minority business enterprises.

Insert the clause set forth in FPR 1–1.1310–2(a) under the conditions prescribed therein.

§ 12–7.302–32 Payment of interest on contractors' claims.

Insert the clause set forth in FPR 1–1.322(b) under the conditions prescribed therein.

§ 12–7.302–33 Employment of the handicapped.

Insert the clause set forth in FPR Temporary Regulation 38 of May 1976.

§ 12–7.302–34 Clean air and water.

Insert the clause prescribed by FPR 1–1.2302 under the conditions set forth therein.

§ 12–7.303 Clauses to be used when applicable.

§ 12–7.303–1 Clauses for fixed-price research and development contracts involving construction.

Insert the clauses cited in FPR 1–7.303–1 as prescribed therein.

§ 12–7.303–2 [Reserved]

§ 12–7.303–3 [Reserved]

§ 12–7.303–4 [Reserved]

§ 12–7.303–5 [Reserved]

§ 12–7.303–6 [Reserved]

§ 12–7.303–7 Government property.

Insert the appropriate clause set forth in FPR 1–7.303–7 under the conditions for its use prescribed therein.

§ 12–7.303–8 [Reserved]

§ 12–7.303–9 Notice to the Government of labor disputes.

Insert the clause set forth in FPR 1–7.203–3 under the conditions prescribed therein.

§ 12–7.303–10 [Reserved]

§ 12–7.303–11 [Reserved]

§ 12–7.303–12 Subcontracts.

Insert the clause set forth in FPR 1–7.303–12 under the conditions for its use prescribed therein.

§ 12–7.303–13 [Reserved]

§ 12–7.303–14 [Reserved]

§ 12–7.303–15 [Reserved]

§ 12–7.303–16 Price reduction for defective cost or pricing data.

Insert the appropriate clause set forth in FPR 1–3.814–1 under the conditions prescribed therein.

§ 12–7.303–17 [Reserved]

§ 12–7.303–18 [Reserved]

§ 12–7.303–19 [Reserved]

§ 12–7.303–20 [Reserved]

§ 12–7.303–21 Advance payments.

When advance payments are to be made in accordance with FPR Subpart 1–30.4, insert the appropriate provisions as prescribed in FPR 1–30.414–2.

§ 12–7.303–22 Workmen's compensation insurance (Defense Base Act).

Insert the clause set forth in FPR–1–10.402 under the conditions prescribed therein.

§ 12–7.303–23 Progress payments.

When progress payments are to be made in accordance with FPR 1–30.5, insert the appropriate provisions as prescribed in FPR 1–30.510.

§ 12–7.303–24 Required source for jewel bearings.

Insert the clause set forth in FPR 1–1.319 under the conditions prescribed therein.

§ 12–7.303–25 [Reserved]

§ 12–7.303–26 Interest.

Insert the clause set forth in FPR 1–7.203–15 under the conditions prescribed therein.

§ 12–7.303–27 Competition in subcontracting.

Insert the clause set forth in FPR 1–7.202–30 in accordance with conditions prescribed in FPR 1–7.303–27.

§ 12–7.303–28 Audit and records.

Insert the appropriate clause(s) set forth in FPR 1–3.814–2 under the conditions prescribed therein.

§ 12–7.303–29 Subcontractor cost and pricing data.

Insert the appropriate clause set forth in FPR 1–3.814–3 under the conditions prescribed therein.

§ 12–7.303–30 [Reserved]

§ 12–7.303–31 [Reserved]

§ 12–7.303–32 [Reserved]

§ 12–7.303–33 [Reserved]

§ 12–7.303–34 [Reserved]

§ 12–7.303–35 [Reserved]

§ 12–7.303–36 [Reserved]

§ 12–7.303–37 [Reserved]

§ 12–7.303–38 [Reserved]

§ 12–7.303–39 [Reserved]

§ 12–7.303–40 [Reserved]

§ 12–7.303–41 United States products and services (Balance of Payments Program).

Insert the clause set forth in FPR 1–6.806–4 under the conditions prescribed in FPR Subpart 1–6.8.

§ 12–7.303–42 [Reserved]

§ 12–7.303–43 [Reserved]

§ 12–7.303–44 Care of laboratory animals.

Insert the clause set forth in FPR 1–7.303–44 under the conditions prescribed therein.

§ 12–7.303–45 [Reserved]

§ 12–7.303–46 Insurance.

Insert the clause set forth in FPR 1–7.303–46 under the conditions prescribed therein.

§ 12–7.303–47 [Reserved]

§ 12–7.303–48 [Reserved]

§ 12–7.303–49 [Reserved]

§ 12–7.303–50 [Reserved]

§ 12–7.303–51 Minority business enterprises subcontracting program.

Insert the clause set forth in FPR 1–1.1310–2(b) under the conditions and in the manner prescribed therein.

§ 12–7.303–52 [Reserved]

§ 12–7.303–53 [Reserved]

§ 12–7.303–54 [Reserved]

§ 12–7.303–55 Cost accounting standards.

Insert the notices for solicitations and the clauses cited in FPR 12–7.303–55 as prescribed therein.

§ 12–7.303–56 [Reserved]

§ 12–7.303–57 [Reserved]

§ 12–7.303–58 Labor surplus area subcontracting program.

Insert the clause set forth in FPR 1–1.805–3(b) under the conditions and in the manner prescribed therein.

§ 12–7.303–59 Small business subcontracting program.

Insert the clause set forth in FPR 1–1.710–3(b) under the conditions and in the manner prescribed therein.

§ 12–7.303–60 [Reserved]

§ 12–7.303–61 [Reserved]

§ 12–7.303–62 [Reserved]

§ 12–7.303–63 Preference for U.S. flag air carriers.

Insert the clause set forth in FPR 1–1.323–2 under the conditions prescribed therein.

§ 12–7.303–64 Contracts with the Small Business Administration.

Insert the clauses cited in FPR 1–7.303–64 in accordance with conditions prescribed therein.

§ 12–7.303–65 Privacy Act.

Insert the clause prescribed by FPR 1–1.327–5 as amended by DOTPR 12–7.103–29 as set forth therein.

§ 12–7.303–66 Use of U.S. flag commercial vessels.

Insert the clause prescribed by FPR 1–19.108–2 under the conditions set forth therein.

§ 12–7.304 Additional clauses.

The following clauses may be inserted in fixed-price research and development contracts when it is desired to cover the subject matter.

§ 12–7.304–1 Changes.

Insert the clause set forth in FPR 1–7.304–1.

§ 12–7.304–2 Alterations in contract.

Insert the clause set forth in FPR 1–7.204–1.

§ 12–7.304–3 Approval of contract.

Insert the clause set forth in FPR 1–7.204–2.

§ 12–7.304–4 [Reserved]

§ 12–7.304–5 Notice regarding late delivery.

Insert the clause set forth in FPR 1–7.204–4.

§ 12–7.304–6 Key personnel.

Insert the clause set forth in FPR 1–7.304–6.

§ 12–7.304–7 Liquidated damages.

Insert the provisions cited in FPR 1–7.304–7 in accordance with conditions prescribed therein.

§ 12–7.304–8 Disposition of material.

Insert the provisions cited in FPR 1–7.304–8.

§ 12–7.304–9 Reports of work.

Insert the clause set forth in FPR 1–7.304–9.

§ 12–7.350 Required DOTPR Clauses.

Insert the following DOTPR clauses in all fixed-price research and development contracts except where they are clearly inappropriate for use (e.g., certain clauses with educational institutions). The clauses are also appropriate for use in fixed-price contracts for studies, tests, and reports.

§ 12–7.350–1 Gratuities.

Insert the clause set forth in DOTPR 12–7.150–1.

§ 12–7.350–2 Authorization and consent.

Insert the following clause in accordance with conditions prescribed in DOTPR 12–9.151–2.

AUTHORIZATION AND CONSENT

The Government hereby gives its authorization and consent for all use and manufacture of any invention described in and covered by a patent of the United States in the performance of this contract or any part

hereof or any amendment hereto or any subcontract hereunder (including any lower-tier subcontract).

(End of clause)

§ 12–7.350–3 Withholding payment for nondelivery of data.

Insert the clause set forth in DOTPR 12–7.150–8.

§ 12–7.350–4 Dissemination of contract information.

Insert the clause set forth in DOTPR 12–7.150–10.

§ 12–7.350–5 Priorities, allocations, and allotments.

Insert the clause set forth in DOTPR 12–7.150–3.

§ 12–7.350–6 Notice of delays.

Insert the clause set forth in DOTPR 12–7.150–9.

§ 12–7.350–7 New material.

Insert the clause set forth in DOTPR 12–7.150–2.

§ 12–7.350–8 Interpretation or modification.

Insert the clause set forth in DOTPR 12–7.150–4.

§ 12–7.350–9 Rights in data.

In accordance with DOTPR 12–9.201–1, insert the clause set forth in DOTPR 12–7.151–5 or DOTPR 12–7.151–6. Alterations in either clause may be made under the conditions prescribed in DOTPR 12–9.201–2.

§ 12–7.351 DOTPR clauses to be used when applicable.

The following clauses shall be included in the contract when their use is appropriate.

§ 12–7.351–1 Military security requirements.

Insert the Military Security Requirements clause set forth in DOTPR 12–7.151–9 in accordance with instructions for its use in DOTPR 12–1.352.

§ 12–7.351–2 Stop work orders.

Insert the clause set forth in DOTPR 12–7.151–12 in accordance with instructions contained therein.

§ 12–7.351–3 Renegotiation.

Insert the clause set forth in DOTPR 12–7.151–1 in accordance with instructions contained therein.

§ 12–7.351–4 Background patents (license).

Insert the clause set forth in DOTPR 12–7.150–12 in accordance with instructions contained in DOTPR 12–9.150.

§ 12–7.351–5 Filing of patent applications.

Insert the clause set forth in DOTPR 12–7.151–2 under the conditions prescribed in DOTPR 12–9.154.

§ 12–7.351–6 Reporting of royalties.

In accordance with DOTPR 12–9.156, insert the clause set forth in DOTPR 12–7.151–3.

§ 12–7.351–7 Refund of royalties.

In accordance with DOTPR 12–9.157, insert the clause set forth in DOTPR 12–7.151–4.

§ 12–7.351–8 Recovery of developmental costs.

Insert the clause set forth in DOTPR 12–7.151–7 in accordance with conditions contained in DOTPR 12–9.702.

§ 12–7.351–9 Value engineering.

A value engineering incentive clause substantially as set forth in DOTPR 12–7.151–13 shall be included in the contract in accordance with instructions for its use in DOTPR 12–1.5202–2.

Subpart 12–7.4—Clauses for Cost-Reimbursement Type Research and Development Contracts

§ 12–7.400 Scope of subpart.

This subpart sets forth uniform contract clauses for use in cost-reimbursement type research and development contracts.

§ 12–7.401 Applicability.

Applicability shall be in accordance with instructions set forth in FPR 1–7.–401.

§ 12–7.402 Required clauses.

The clauses set forth or cited in this subpart 12–7.402 shall be inserted, as required, in all cost-reimbursement type research and development contracts.

§ 12–7.402–1 Definitions.

Insert the clause set forth in FPR 1–7.102–1. Additional definitions may be included provided they are not inconsistent with the clauses or the provisions in the FPR and these regulations.

§ 12–7.402–2 Limitation of cost or funds.

Insert the appropriate clause set forth in FPR 1–7.202–3(a) or FPR 1–7.402–2 in accordance with conditions prescribed in FPR 1–7.402–2. In the clause used, the period of "sixty (60) days" may be varied from 30 to 90 days and the percentage of "seventy-five percent (75%)" may be varied from 75 percent to 85 percent. Where a contract is of the installment type, the clauses may be appropriately modified.

§ 12–7.402–3 Allowable cost, fee, and payment.

Insert the clause set forth in FPR 1–7.202–4 in accordance with the conditions prescribed in FPR 1–7.402–3.

§ 12–7.402–4 Standards of work.

Insert the clause set forth in FPR 1–7.302–3.

§ 12–7.402–5 Inspection and correction of defects.

Insert the appropriate clause set forth in FPR 1–7.402–5 in accordance with instructions provided therein.

§ 12–7.402–6 Assignment of claims.

Insert the clause set forth in FPR 1–30.703 under the conditions prescribed therein.

§ 12–7.402–7 Examination of records by Comptroller General.

Insert the clause set forth in FPR 1–7.103–3. In the case of research and development contracts with nonprofit institutions and subcontracts thereunder, and pursuant to procedures approved by the Comptroller General, original documentary evidence in support of costs of the transportation of things will not be required pursuant to said clause.

§ 12–7.402–8 Subcontracts.

Insert the clause set forth in FPR 1–7.402–8.

§ 12–7.402–9 Utilization of small business concerns.

Insert the clause set forth in FPR 1–1.710–3(a) under the conditions prescribed therein.

§ 12–7.402–10 Termination for default or convenience of the Government.

Insert the clause set forth in FPR 1–8.702 in accordance with conditions prescribed in FPR 1–8.700–2(a)(3) and FPR 1–8.700–2(b)(2); or, insert the clause set forth in FPR 1–8.704–1 in accordance with conditions prescribed in FPR 1–8.700–2(a)(4).

§ 12–7.402–11 Disputes.

Insert the clause set forth in FPR 1–7.102–12.

§ 12–7.402–12 [Reserved]

§ 12–7.402–13 Buy American Act.

Insert the clause set forth in FPR 1–6.104–5 under the conditions prescribed therein.

§ 12–7.402–14 Convict labor.

Insert the clause set forth in FPR 1–12.204 under the conditions prescribed in FPR 1–12.203.

§ 12–7.402–15 Walsh-Healey Public Contracts Act.

Insert the clause set forth in FPR 1–12.605 under the conditions prescribed in FPR 1–12.602.

§ 12–7.402–16 Contract Work Hours and Safety Standards Act—overtime compensation.

Insert the clause set forth in FPR 1–12.303 under the conditions prescribed in FPR 1–12.302.

§ 12–7.402–17 Equal opportunity.

Insert the clause set forth in FPR 12.803–2 under the conditions prescribed in FPR 1–12.803–1.

§ 12–7.402–18 Officials not to benefit.

Insert the clause set forth in FPR 1–7.102–17.

§ 12–7.402–19 Covenant against contingent fees.

Insert the clause set forth in FPR 1–1.503 under the conditions prescribed in FPR 1–1.501.

§ 12–7.402–20 [Reserved]

§ 12–7.402–21 Notice and assistance regarding patent and copyright infringement.

Insert the clause set forth in FPR 1–7.103–4.

§ 12–7.402–22 Patents.

Insert the appropriate clause set forth in FPR 1–9.107 under the conditions prescribed in FPR Subpart 1–9.1.

§ 12–7.402–23 [Reserved]

§ 12–7.402–24 [Reserved]

§ 12–7.402–25 Government property.

Insert the clause set forth in FPR 1–7.203–21(a) or FPR 1–7.402–25(b) under the conditions prescribed in FPR 1–7.402–25.

§ 12–7.402–26 [Reserved]

§ 12–7.402–27 Utilization of labor surplus area concerns.

Insert the clause set forth in FPR 1–1.805–3(a) under the conditions prescribed therein.

§ 12–7.402–28 Payment for overtime premiums.

Insert the clause set forth in FPR 1–7.202–29 when payment for overtime premiums is to be made in accordance with FPR 1–12.102.

§ 12–7.402–29 Competition in subcontracting.

Insert the clause set forth in FPR 1–7.202–30.

§ 12–7.402–30 Audit and records.

Insert the clause cited in FPR 1–7.402–30 as prescribed therein.

§ 12–7.402–31 Price reduction for defective cost or pricing data.

Insert the clause set forth in FPR 1–3.814–1(a) under the conditions prescribed therein.

§ 12–7.402–32 Subcontractor cost and pricing data.

Insert the appropriate clause set forth in FPR 1–3.814–3 under the conditions prescribed therein.

§ 12–7.402–33 Utilization of minority business enterprises.

Insert the clause set forth in FPR 1–1.1310–2(a) under the conditions prescribed therein.

§ 12–7.402–34 Disabled veterans and veterans of the Vietnam Era.

Insert the clause set forth in FPR Temporary Regulation 39 of July 1976 in all contracts which exceed $10,000.

§ 12–7.402–35 Payment of interest on contractors' claims.

Insert the clause set forth in FPR 1–1.322(b) under the conditions prescribed therein.

§ 12–7.402–36 Employment of the handicapped.

Insert the clause set forth in FPR Temporary Regulation 38 of May 1976.

§ 12–7.402–37 Clean air and water.

Insert the clause prescribed by FPR 1–1.2302–2 under the conditions set forth therein.

§ 12–7.403 Clauses to be used when applicable.

§ 12–7.403–1 Clauses for cost-reimbursement type research and development contracts involving construction.

Insert the clauses cited in FPR 1–7.403–1 as prescribed therein.

§ 12–7.403–2 [Reserved]

§ 12–7.403–3 [Reserved]

§ 12–7.403–4 [Reserved]

§ 12–7.403–5 Excusable delays.

Insert the clause set forth in FPR 1–8.708 under the conditions prescribed in FPR 1–8.700–2(c).

§ 12–7.403–6 [Reserved]

§ 12–7.403–7 [Reserved]

§ 12–7.403–8 [Reserved]

§ 12–7.403–9 Negotiated overhead rates.

Insert the appropriate clause set forth in FPR 1–3.704 under the conditions prescribed therein.

§ 12–7.403–10 Notice to the Government of labor disputes.

Insert the clause set forth in FPR 1–7.203–3 under the conditions prescribed in the section.

§ 12–7.403–11 [Reserved]

§ 12–7.403–12 [Reserved]

§ 12–7.403–13 [Reserved]

§ 12–7.403–14 Make-or-buy-program.

Insert the clause set forth in FPR 1–3.902–3 under the conditions prescribed therein.

§ 12–7.403–15 [Reserved]

§ 12–7.403–16 [Reserved]

§ 12–7.403–17 [Reserved]

§ 12–7.403–18 [Reserved]

§ 12–7.403–19 [Reserved]

§ 12–7.403–20 Advance payments.

When advance payments are to be made in accordance with FPR Subpart 1–30.4, insert the appropriate provisions as prescribed in FPR 1–30.414–2.

§ 12–7.403–21 Workmen's compensation insurance (Defense Base Act).

Insert the clause set forth in FPR 1–10.402 under the conditions prescribed therein.

§ 12–7.403–22 Required source for jewel bearings.

Insert the clause set forth in FPR 1–1.319 under the conditions prescribed therein.

§ 12–7.403–23 General Services Administration supply sources.

Insert the clause set forth in FPR 1–7.203–13 under the conditions prescribed in FPR Subpart 1–5.9.

§ 12–7.403–24 Use of interagency motor pool vehicles and related services.

Insert the clause set forth in FPR 1–7.203–14 under the conditions prescribed in FPR Subpart 1–5.5.

§ 12–7.403–25 Interest.

Insert the clause set forth in FPR 1–7.203–15 under the conditions prescribed therein.

§ 12–7.403–26 [Reserved]

§ 12–7.403–27 [Reserved]

§ 12–7.403–28 [Reserved]

§ 12–7.403–29 [Reserved]

§ 12–7.403–30 [Reserved]

§ 12–7.403–31 [Reserved]

§ 12–7.403–32 [Reserved]

§ 12–7.403–33 [Reserved]

§ 12–7.403–34 [Reserved]

§ 12–7.403–35 [Reserved]

§ 12–7.403–36 United States products and services (Balance of Payments Program).

Insert the clause set forth in FPR 1–6.806–4 under the conditions prescribed in FPR Subpart 1–6.8.

§ 12–7.403–37 [Reserved]

§ 12–7.403–38 [Reserved]

§ 12–7.403–39 Care of laboratory animals.

Insert the clause set forth in FPR 1–7.303–44 under the conditions prescribed therein.

§ 12–7.403–40 [Reserved]

§ 12–7.403–41 [Reserved]

§ 12–7.403–42 [Reserved]

§ 12–7.403–43 [Reserved]

§ 12–7.403–44 [Reserved]

§ 12–7.403–45 [Reserved]

§ 12–7.403–46 [Reserved]

§ 12–7.403–47 [Reserved]

§ 12–7.403–48 [Reserved]

§ 12–7.403–49 [Reserved]

§ 12–7.403–50 Cost accounting standards.

Insert the notices and clauses cited in FPR 1–7.403–50 as prescribed therein.

§ 12–7.403–51 [Reserved]

§ 12–7.403–52 [Reserved]

§ 12–7.403–53 Small business subcontracting program.

Insert the clause set forth in FPR 1–1.710–3(b) under the conditions prescribed therein.

§ 12–7.403–54 Labor surplus area subcontracting program.

Insert the clause set forth in FPR 1–1.1310–2(b) under the conditions prescribed therein.

§ 12–7.403–55 Minority business enterprises subcontracting program.

Insert the clause set forth in FPR 1–1.1310–2(b) under these conditions prescribed therein.

§ 12–7.403–56 [Reserved]

§ 12–7.403–57 [Reserved]

§ 12–7.403–58 Preference for U.S. flag air carriers.

Insert the clause set forth in FPR 1–1.323–2 under the conditions prescribed therein.

§ 12–7.403–59 [Reserved]

§ 12–7.403–60 Privacy Act.

Insert the clause prescribed in FPR 1–1.327–5 as amended by DOTPR 12–7.103–29 under the conditions contained therein.

§ 12–7.403–61 Use of U.S. flag commercial vessels.

Insert the clause prescribed by FPR 1–19.108–2 under the conditions set forth therein.

§ 12–7.404 Additional clauses.

The following clauses may be inserted in cost-reimbursement type research and development contracts when it is desired to cover the subject matter thereof.

§ 12–7.404–1 Alterations in contract.

Insert the clause set forth in FPR 1–7.204–1.

§ 12–7.404–2 Approval of contract.

Insert the clause set forth in FPR 1–7.204–2.

§ 12–7.404–3 Date of incurrence of costs.

Insert the clause set forth in FPR 1–7.204–3.

§ 12–7.404–4 Notice regarding late delivery.

Insert the clause set forth in FPR 1–7.204–4.

§ 12–7.404–5 Changes.

Insert the clause set forth in FPR 1–7.404–5. In the clause, the period of "thirty (30) days" within which any claim for adjustment must be asserted may be varied in accordance with Administration procedures.

§ 12–7.404–6 Key personnel.

Insert the clause set forth in FPR 1–7.304–6.

§ 12–7.404–7 Disposition of material.

Insert the clause set forth in FPR 1–7.304–8.

§ 12–7.404–8 Reports of work.

Insert the clause set forth in FPR 1–7.304–9.

§ 12–7.404–9 Insurance—liability to third persons.

Insert the clause set forth in DOTPR 12–7.204–50 in lieu of FPR clause 1–7.204–5 prescribed in FPR 1–7.404–9. However, when the conditions contained in FPR 1–7.404–9 exist, the clauses set forth in the section shall be inserted with or in lieu of DOTPR 12–7.204–50.

§ 12–7.450 Required DOTPR clauses.

Insert the following DOTPR clauses in all cost-reimbursement type research and development contracts, except where their use is clearly inappropriate (e.g., certain clauses with educational institutions).

§ 12–7.450–1 Gratuities.

Insert the clause set forth in DOTPR 12–7.150–1.

§ 12–7.450–2 New material.

Insert the clause set forth in DOTPR 12–7.150–2.

§ 12–7.450–3 Priorities, allocations, and allotments.

Insert the clause set forth in DOTPR 12–7.150–3.

§ 12–7.450–4 Interpretation or modification.

Insert the clause set forth in DOTPR 12–7.150–4.

§ 12–7.450–5 Dissemination of contract information.

Insert the clause set forth in DOTPR 12–7.150–10.

§ 12–7.450–6 Authorization and consent.

Insert the clause set forth in DOTPR 12–7.150–11 in accordance with DOTPR 12–9.151–1

§ 12–7.450–7 Notice of delays.

Insert the clause set forth in DOTPR 12–7.150–9.

§ 12–7.450–8 Rights in data.

Insert the clause set forth in DOTPR 12–7.151–5 or DOTPR 12–7.151–6 in accordance with instructions in DOTPR 12–9.201–1.

§ 12–7.451 DOTPR clauses to be used when applicable.

The following DOTPR clauses shall be included in the contract when their use is appropriate.

§ 12–7.451–1 Recovery of developmental costs.

Insert the clause set forth in DOTPR 12–7.151–7 in accordance with conditions contained in DOTPR 12–9.702.

§ 12–7.451–2 Filing of patent applications.

Insert the clause set forth in DOTPR 12–7.151–2 in accordance with instructions in DOTPR 12–9.154.

§ 12–7.451–3 Reporting of royalties (foreign).

Insert the clause set forth in DOTPR 12–7.151–3 in accordance with instructions in DOTPR 12–9.156.

§ 12–7.451–4 Refund of royalties.

Insert the clause set forth in DOTPR 12–7.151–4 in accordance with instructions in DOTPR 12–9.157.

§ 12–7.451–5 Military security requirements.

When required by DOTPR 12–1.352, insert the clause set forth in DOTPR 12–7.151–9 and modifications thereto set forth in DOTPR 12–7.251–7.

§ 12–7.451–6 Stop work orders.

The clause set forth in DOTPR 12–7.–151–12 may be included under the conditions described therein, provided the clause is modified as prescribed in DOTPR 12–7.251–8.

§ 12–7.451–7 Value engineering.

A value engineering incentive clause substantially as set forth in DOTPR 12–7.151–13, substituting the "Sharing" paragraph (e) in DOTPR 12–7.251–9 (b) or (c) for paragraph (e) of the clause in DOTPR 12–7.151–13, as applicable, shall be included in the contract in accordance with instructions for its use in DOTPR 12–1.5202–2.

§ 12–7.451–8 Renegotiation.

Insert the clause set forth in DOTPR 12–7.151–15 in accordance with instructions contained therein.

§ 12–7.451–9 Background patents (license).

Insert the clause set forth in DOTPR 12–7.150–12 in accordance with instructions contained in DOTPR 12–9.150.

Subpart 12–7.6—Clauses for Fixed-Price Construction Contracts

§ 12–7.600 Scope of subpart.

This subpart sets forth or cites contract clauses and notices for solicitations for use in fixed-price construction contracts.

§ 12–7.601 General.

The clauses and notices prescribed in FPR Subpart 1–7.6 shall be used in accordance with instructions set forth in FPR 1–7.601.

§ 12–7.602 Required clauses.

Subject to the exceptions in FPR 1–7.601, the following clauses shall be inserted in all advertised and negotiated fixed-price construction contracts. For convenience many of the required clauses have been included on standard forms which are prescribed for use in construction contracts by FPR Subpart 1–16.4.

§ 12–7.602–1 Definitions.

Insert the clause set forth in FPR 1–7.602–1. Additional definitions may be included provided they are not inconsistent with the clause or provisions of the FPR and these regulations.

§ 12–7.602–2 Specifications and drawings.

Insert the clause set forth in FPR 1–7.602–2.

§ 12–7.602–3 Changes.

Insert the clause set forth in FPR 1–7.602–3.

§ 12–7.602–4 Differing site conditions.

Insert the clause set forth in FPR 1–7.602–4, and incorporate physically or by reference the provisions of FPR 1–18.117 in contracts which include this clause until such time as an amendment of the clause has been effected.

§ 12–7.602–5 Termination for default—damages for delay—time extensions.

In accordance with FPR 1–8.700–2(b)(4) and (5), insert the clause set forth in either FPR 1–8.709–1 or FPR 1–8.709–2 as appropriate.

§ 12–7.602–6 Disputes.

Insert the clause set forth in FPR 1–7.602–6.

§ 12–7.602–7 Payments to contractor.

Insert the clause set forth in FPR 1–7.602–7.

§ 12–7.602–8 Assignment of claims.

Insert the clause set forth in FPR 1–30.703 under the conditions prescribed therein.

§ 12–7.602–9 Material and workmanship.

Insert the clause set forth in FPR 1–7.602–9.

§ 12–7.602–10 [Reserved]

§ 12–7.602–11 Inspection and acceptance.

Insert the clause set forth in FPR 1–7.602–11.

§ 12–7.602–12 Superintendance by contractor.

Insert the clause set forth in FPR 1–7.602–12.

§ 12–7.602–13 Permits and responsibilities.

Insert the clause set forth in FPR 1–7.602–13.

§ 12–7.602–14 Conditions affecting the work.

Insert the clause set forth in FPR 1–7.602–14.

§ 12–7.601–15 Other contracts.

Insert the clause set forth in FPR 1–7.602–15.

§ 12–7.602–16 Patent indemnity.

Insert the clause set forth in FPR 1–7.602–16.

§ 12–7.602–17 Additional bond security.

Insert the clause set forth in FPR 1–7.602–17.

§ 12–7.602–18 Covenant against contingent fees.

Insert the clause set forth in FPR 1–1.503 under the conditions prescribed in FPR 1–1.501.

§ 12–7.602–19 Officials not to benefit.

Insert the clause set forth in FPR 1–7.102–17.

§ 12–7.602–20 Buy American Act.

Insert the clause set forth in FPR 1–18.605.

§ 12–7.602–21 Convict labor.

Insert the clause set forth in FPR 1–12.204 under the conditions prescribed in FPR 1–12.203.

§ 12–7.602–22 Equal opportunity.

Insert the clause set forth in FPR 1–12.803–2, except as provided in FPR 1–12.804–1.

§ 12–7.602–23 Labor standards provisions.

Insert the clauses set forth in FPR 1–18.703 as provided in FPR 1–18.701–1. The clauses are listed in FPR 1–7.602–23.

§ 12–7.602–24 [Reserved]

§ 12–7.602–25 [Reserved]

§ 12–7.602–26 Utilization of small business concerns.

Insert the clause set forth in FPR 1–1.710–3(a) under the conditions described therein.

§ 12–7.602–27 Federal, State, and local taxes.

Insert the clause in FPR 1–11.401–1 or FPR 1–11.401–2 and, when appropriate, insert the supplementary clause in FPR 1–11.401–3(a), in accordance with the conditions prescribed in those sections.

§ 12–7.602–28 [Reserved]

§ 12–7.602–29 Termination for convenience of the Government.

In accordance with the requirements of FPR 1–8.700–2, insert the appropriate clause set forth in FPR 1–8.703 or FPR 1–8.705–2.

§ 12–7.602–30 Pricing of adjustments.

Insert the clause set forth in FPR 1–7.102–20 under the conditions described therein.

§ 12–7.602–31 Use and possession prior to completion.

Insert the clause set forth in FPR 1–7.602–31.

§ 12–7.602–32 Suspension of work.

Insert the clause set forth in FPR 1–7.602–32.

§ 12–7.602–33 Utilization of minority business enterprises.

Insert the clause set forth in FPR 1–1.1310–2(a) under the conditions described therein.

§ 12–7.602–34 Disabled veterans and veterans of the Vietnam era.

Insert the clause set forth in FPR Temporary Regulation 39 of July 1976 in all contracts which exceed $10,000.

§ 12–7.602–35 Payment of interest on contractors' claims.

Insert the clause set forth in FPR 1–1.322(b) under the conditions described therein.

§ 12–7.602–36 Shop drawings.

Insert the clause set forth in FPR 1–7.602–36.

§ 12–7.602–37 Employment of the handicapped.

Insert the clause set forth in FPR Temporary Regulation 38 of May 1976.

§ 12–7.602–38 Clean air and water.

Insert the clause set forth in FPR 1–1.2302–2 under the conditions described therein.

§ 12–7.603 Clauses to be used when applicable.

§ 12–7.603–1 [Reserved]

§ 12–7.603–2 [Reserved]

§ 12–7.603–3 [Reserved]

§ 12–7.603–4 [Reserved]

§ 12–7.603–5 [Reserved]

§ 12–7.603–6 [Reserved]

§ 12–7.603–7 Examination of records by Comptroller General.

The clause set forth in FPR 1–7.103–3 shall be included in all negotiated contracts in excess of $10,000, under the conditions described therein.

§ 12–7.603–8 [Reserved]

§ 12–7.603–9 [Reserved]

§ 12–7.603–10 [Reserved]

§ 12–7.603–11 Price reduction for defective cost or pricing data.

Insert the appropriate clause set forth in FPR 1–3.814–1 under the conditions described therein.

§ 12–7.603–12 Workmen's compensation insurance (Defense Base Act).

In accordance with the requirements of FPR 1–10.402 insert the clause set forth therein.

§ 12–7.603–13 [Reserved]

§ 12–7.603–14 Advance payments.

When advance payments are to be made in accordance with FPR Subpart 1–30.4, insert the appropriate provisions as prescribed in FPR 1–30.414–2.

§ 12–7.603–15 Performance of work by contractor.

The clause set forth in FPR 1–18.104 is prescribed for use under the conditions described therein.

§ 12–7.603–16 [Reserved]

§ 12–7.603–17 [Reserved]

§ 12–7.603–18 [Reserved]

§ 12–7.603–19 Use of U.S. Flag Commercial Vessels.

Insert the clause prescribed by FPR 1–19.108–2 under the conditions set forth therein.

§ 12–7.603–20 Audit and records.

Insert the clause set forth in FPR 1–3.814–2 under the conditions described therein.

§ 12–7.603–21 Subcontractor cost and pricing data.

Insert the appropriate clause set forth in FPR 1–3.814–3 under the conditions described therein.

§ 12–7.603–22 Contracts with the Small Business Administration (Special 8 (a) Contract).

(a) Insert the clause set forth in FPR 1–1.713–4(g)(1) in contracts with the Small Business Administration awarded pursuant to section 8(a) of the Small Business Act (15 U.S.C. 637(a)).

(b) Insert the clause set forth in FPR 1–1.713–4(h) in subcontracts which will be executed by the Small Business Administration with its subcontractors.

§ 12–7.603–23 Small business subcontracting program.

Insert the clause set forth in FPR 1–1.710–3(b) under the conditions described therein.

§ 12–7.603–24 Minority business enterprises subcontracting program.

Insert the clause set forth in FPR 1–1.1310–2(b) under the conditions described therein.

§ 12–7.603–25 Late bids and modifications or withdrawals.

Insert the provisions cited in FPR 1–7.603–25 in solicitations under the conditions prescribed therein.

§ 12–7.603–26 Preference for U.S. flag air carriers.

Insert the clause set forth in FPR 1–1.323–2 under the conditions described therein.

§ 12–7.603–27 Cost accounting standards.

Insert the notices for solicitations set forth in FPR 1–3.1203(a)(3), (h)(2), and (i)(2) and the clauses set forth in FPR 1–3.1204–1 and FPR 1–3.1204–2 under the conditions contained in FPR Subpart 1–3.12.

§ 12–7.603–28 Subcontracts.

Insert the clause set forth in FPR 1–7.103–28 under the conditions contained in the section.

§ 12–7.604 Additional clauses.

§ 12–7.604–1 Liquidated damages.

Insert the clause set forth in FPR 1–18.110 under the conditions prescribed therein.

§ 12–7.650 Required DOTPR clauses.

§ 12–7.650–1 Gratuities.

Insert the clause set forth in DOTPR 12–7.150–1.

§ 12–7.650–2 Protection of existing vegetation, structures, utilities, and improvements.

Use with Standard Form 19 or 23A.

PROTECTION OF EXISTING VEGETATION, STRUCTURES, UTILITIES, AND IMPROVEMENTS

(a) The Contractor will preserve and protect all existing vegetation (such as trees, shrubs, and grass) on or adjacent to the site of work which is not to be removed and which does not unreasonably interfere with the construction work. Care will be taken in removing trees authorized for removal to avoid damage to vegetation to remain in place. Any limbs or branches of trees broken during such operations or by the careless operation of equipment or by workmen, shall be trimmed with a clean cut and painted with an approved tree pruning compound, as directed by the Contracting Officer.

(b) All existing utilities, communications facilities, and other improvements, including but not limited to conduit, pipe, wiring, or cable (hereinafter referred to as "improvements"), whether above or below ground, shall be protected by the Contractor from damage or destruction. The Contractor shall ascertain from the drawings and specifications the location of any concealed improvements, at or near the site of the work. Any destruction of or damage to existing improvements, above or below ground, shall be promptly repaired, restored, or replaced at the direction of the Contracting Officer. The directions of the Contracting Officer may require complete replacement of conduits, pipes, wiring, cables, or similar improvements where original installation was made under a requirement for continuous, unspliced lengths. The Contracting Officer has the right to have the necessary corrective work performed by the Contractor at his expense, or by others and charge the cost thereof to the Contractor. If concealed improvements are encountered and they are not shown on the drawings or specifications, the provisions of the "Differing Site Conditions" clause of this contract shall apply.

(End of clause)

§ 12–7.650–3 Operations and storage areas (use with SF–23A).

OPERATIONS AND STORAGE AREAS

(a) All operations of the Contractor (including storage of materials) upon Government premises shall be confined to areas authorized or approved by the Contracting Officer. The Contractor shall hold and save the Government, its officers and agents, free and harmless from liability of any nature occasioned by his operations.

(b) Temporary buildings (storage sheds, shops, offices, etc.) may be erected by the Contractor only with the approval of the Contracting Officer, and shall be built with labor and materials furnished by the Contractor without expense to the Government. Such temporary buildings and utilities shall remain the property of the Contractor and shall be removed by him at his expense upon the completion of the work. With the written consent of the Contracting Officer, such buildings and utilities may be abandoned and need not be removed.

(c) The Contractor shall, under regulations prescribed by the Contracting Officer, use only established roadways or construct and use such temporary roadways as may be authorized by the Contracting Officer. Where materials are transported in the prosecution of the work, vehicles shall not be loaded beyond the loading capacity recommended by the manufacturer of the vehicle or prescribed by any Federal, State or local law or regulation. When it is necessary to cross curbing or sidewalks, protection against damage shall be provided by the Contractor and any damaged roads, curbings, or sidewalks shall be repaired by, or at the expense of the Contractor.

(End of clause)

§ 12–7.650–4 Modification proposals—price breakdown (use with SF–23A).

MODIFICATION PROPOSALS—PRICE BREAKDOWN

The Contractor, in connection with any proposal he makes for contract modification, shall furnish a price breakdown, itemized as required by the Contracting Officer. Unless otherwise directed, the breakdown shall be in sufficient detail to permit an analysis of all material, labor, equipment, subcontract, and overhead costs, as well as profit, and shall cover all work involved in the modification, whether such work was deleted, added or changed. Any amount claimed for subcontracts shall be supported by a similar price breakdown. In addition, if the proposal includes a time extension, a justification therefor shall also be furnished. The proposal together with the price breakdown and time extension justification, shall be furnished by the date specified by the Contracting Officer.

(End of clause)

§ 12–7.650–5 Work schedule (use with SF–19).

WORK SCHEDULE

The Contractor shall, within 10 days from date of award of contract (unless a different time is specified in the contract), furnish to the Contracting Officer, in triplicate, a schedule showing the proposed dates on which the major phases of the work will be started and completed. Acceptance of the schedule by the Contracting Officer shall not excuse the Contractor for any delay in completing the work.

(End of clause)

§ 12–7.650–6 Cleaning up (use with SF–23A).

CLEANING UP

The contractor shall at all times keep the construction area, including storage areas used by him, free from accumulations of waste material or rubbish and prior to completion of the work remove from the premises any rubbish and all tools, scaffolding, equipment, and material not the property of the Government. Upon completion of the construction the Contractor shall leave the work and premises in a clean, neat and workmanlike condition satisfactory to the Contracting Officer.

(End of clause)

§ 12–7.650–7 Additional definitions (use with SF–23A).

ADDITIONAL DEFINITIONS

(a) Wherever in the specifications or upon the drawings the words "directed", "required", "ordered", "designated", "prescribed", or words of like import are used, it shall be understood that the "direction", "requirement", "order", "designation", or "prescription", of the Contracting Officer is intended and similarly the words "approved", "acceptable", "satisfactory" or words of like import shall mean "approved by" or "acceptable to", or "satisfactory to" the Contracting Officer, unless otherwise expressly stated.

(b) Where "as shown", "as indicated", "as detailed", or words of similar import are used, it shall be understood that the reference is made to the drawings accompanying this contract unless stated otherwise. The word "provided" as used herein shall be understood to mean "provided complete in place", that is "furnished and installed".

(End of clause)

§ 12–7.650–8 Safety requirements (use with SF–23A).

SAFETY REQUIREMENTS

(a) The Contractor shall provide safety controls for protection to the life and health of employees and other persons; for prevention of damage to property, materials, supplies, and equipment; and for avoidance of work interruptions in the performance of this contract; and the Contractor shall comply with any accident prevention or safety requirements included or referenced in this contract.

(b) The Contractor will maintain an accurate record of, and will report to the Contracting Officer in the manner and on the forms prescribed by the Contracting Officer, exposure data and all accidents resulting in

death, traumatic injury, occupational disease, and damage to property, materials, supplies and equipment incident to work performed under this contract.

(c) The Contracting Officer will notify the Contractor of any noncompliance with the foregoing provisions and the action to be taken. The Contractor shall, after receipt of such notice, immediately take corrective action. Such notice, when delivered to the Contractor or his representative at the site of the work, shall be deemed sufficient for the purpose. If the Contractor fails or refuses to comply promptly, the Contracting Officer may issue an order stopping all or part of the work until satisfactory corrective action has been taken. No part of the time lost due to any such stop orders shall be made the subject of claim for extension of time or for excess costs or damages by the Contractor.

(d) Compliance with the provisions of this clause by subcontractors will be the responsibility of the Contractor.

(End of clause)

§ 12–7.650–9 Contracting officer's representative (use with SF–23A).

CONTRACTING OFFICERS REPRESENTATIVE

The Contracting Officer may designate Government personnel to act as his authorized representatives for one or more contract administration functions not involving a change in the scope, price, terms, or conditions of the contract. Such designation will be in writing, set forth elsewhere in the contract or by separate letter signed by the Contracting Officer, and will contain specific instructions as to the extent to which the representative may take action for the Contracting Officer. Such designation will not contain authority to sign contractual documents, nor will it authorize the designee to order contract changes, modify contract terms, or create any liability on the part of the Government different from that set forth in the contract.

(End of clause)

§ 12–7.650–10 Contract time—notice to proceed (use with SF–23A).

CONTRACT TIME—NOTICE TO PROCEED

(a) Provided the contract is not terminated pursuant to paragraph 4, Standard Form 22, "Instructions to Bidders", if in the opinion of the Contracting Officer, the Contractor's delay in executing formal contract documents or furnishing performance or payment bonds causes a delay in the issuance of the notice to proceed, the time to complete the work as specified in the contract, may be reduced to reflect such delay.

(b) The Contractor shall perform no work under this contract until the required contract documents and bonds have been furnished. Thereafter, work at other than the contract site may be undertaken. The Contractor shall perform no work at the contract site except pursuant to a notice to proceed given by the Contracting Officer.

(c) Notice to proceed may be issued by the Government at its convenience. Any right of the Contractor to price adjustment because of unreasonable delay on the part of the Government in issuing notice to proceed shall be determined in accordance with the clause titled "Suspension of Work".

(End of clause)

§ 12–7.650–11 Rights in shop drawings use with SF–23A).

RIGHTS IN SHOP DRAWINGS

(a) Shop drawings for construction means drawings, submitted to the Government by the Construction Contractor, subcontractor or any lower tier subcontractor pursuant to a construction contract, showing in detail (i) the proposed fabrication and assembly of structural elements and (ii) the installation (i.e., form, fit, and attachment details) of materials or equipment. The Government may duplicate, use, and discuose in any manner and for any purpose shop drawings delivered under this contract.

(b) This clause, including this paragraph (b), shall be included in all subcontracts hereunder at any tier.

(End of clause)

§ 12–7.650–12 Notice of delays (use with SF–23A).

Insert the clause set forth in DOTPR 12–7.150–9.

§ 12–7.650–13. Priorities, allocations, and allotments (use with SF–23A).

Insert the clause set forth in DOTPR 12–7.150–3.

§ 12–7.650–14 Dissemination of contract information (use with SF–23A).

Insert the clause set forth in DOTPR 12–7.150–10.

§ 12–7.650–15 Guarantee (use with SF–23A).

GUARANTEE

(a) Unless otherwise provided in the contract, the Contractor guarantees all work performed and materials and equipment delivered to be in accordance with contract requirements and free from defective or inferior materials, equipment and workmanship for one year from the date of final acceptance of the contract work by the Government. The guarantee provided for in this clause shall not extend to or apply to Government-furnished material or equipment except as to such work as may be performed thereon by the Contractor.

(b) Upon receipt of notice from the Contracting Officer that work, material, or equipment furnished under this contract has failed to meet the contract guarantee, the contractor shall promptly return to the site of the work and at his expense (1) place in satisfactory condition in every particular all such guaranteed work, correcting all defects therein, (2) restore to a satisfactory condition the building or site or any equipment or contents thereof which, in the opinion of the Contracting Officer, are affected or damaged as a result of the use of material, equipment or workmanship which are inferior, defective or not in accordance with the terms of the contract, and (3) restore to a satisfactory condition any work, materials and equipment disturbed in fulfilling the guarantee.

(c) In any case where in fulfilling the requirements of the contract or of any guarantee, embraced in or required thereby, the Contractor disturbs any work guaranteed under another contract, he shall restore such disturbed work to a condition satisfactory to the Contracting Officer and guarantee such restored work to the same extent as it was guaranteed under such other contract.

(d) Should the Contractor fail to proceed promptly to comply with the terms of a guarantee under this contract, the Contracting Officer may cause corrective action to be taken by others and the Contractor shall promptly reimburse the Government its cost incurred thereby, or in lieu of taking corrective action, the Contracting Officer may cause the Contractor to pay to the Government an amount of money commensurate with what the corrective action would cost.

(End of clause)

§ 12–7.650–16 General conduct of work (use with SF–19).

GENERAL CONDUCT OF WORK

(a) The Contractor shall comply with any accident prevention or safety requirements included or referenced in this contract, and shall take any additional protective measures deemed necessary by the Contracting Officer.

(b) All operations of the Contractor (including storage of materials) shall be confined to areas authorized by the Contracting Officer. If the use of temporary buildings is authorized by the Contracting Officer, such buildings shall be removed by the Contractor at his expense upon completion of the work.

(c) The Contractor shall keep the construction area free from waste material or rubbish. Upon completion of the work, he shall remove his equipment, tools, and material, and leave the premises in a clean, neat, and orderly condition.

(d) The Contractor shall, under regulations prescribed by the Contracting Officer, use only established roadways or construct and use such temporary roadways as may be authorized by the Contracting Officer.

(End of clause)

§ 12–7.650–17 Contractor inspection system (use with SF–23A).

CONTRACTOR INSPECTION SYSTEM

The Contractor shall (i) maintain an adequate inspection system and perform such inspections as will assure that the work performed under the contract conforms to contract requirements, and (ii) maintain and make available to the Government adequate records of such inspection.

(End of clause)

§ 12–7.650–18 Information regarding Buy American Act (use with SF–23A).

INFORMATION REGARDING BUY AMERICAN ACT

(a) The Buy American Act (41 U.S.C. 10a–10d) generally requires that only domestic construction material be used in the performance of this contract. (See the clause entitled "Buy American" in Standard Form 23A, General Provisions, Construction Contract.) This requirement does not apply to the following construction material or components:

Acetylene black
Asbestos, amosite
Bismuth
Cadmium, ores and flue dust
Chrome ore or chromite
Cork, wood or bark and waste
Graphite, natural
Mica
Rubber, crude and latex
Wax, carnauba
Woods of the following species: angelique, balsa, ekki, greenheart, lignum vitae, mahogany and teak

(b)(1) Furthermore, bids or proposals offering use of additional nondomestic construction material may be acceptable for award if the Government determines that use of comparable domestic construction material is impracticable or would unreasonably increase the cost or that domestic construction material (in sufficient and reasonably available commercial quantities and of a satisfactory quality) is unavailable. Reliable evidence shall be furnished justifying such use of additional nondomestic construction material.

(2) Where it is alleged that use of domestic construction material would unreasonably increase the cost:

(i) Data shall be included, based on a reasonable canvass of suppliers, demonstrating

that the cost of each such domestic construction material would exceed by more than 6 percent the cost of comparable nondomestic construction material (All costs of delivery to the construction site shall be included as well as any applicable duty)

(ii) For evaluation purposes, 6 percent of the cost of all additional, nondomestic construction material which qualifies under paragraph (i) above, will be added to the bid or proposal

(3) When offering additional nondomestic construction material bids or proposals may also offer at stated prices any available comparable domestic construction material, so as to avoid the possibility that failure of a nondomestic construction material to be acceptable under (1) above, will cause rejection of the entire bid

(End of clause)

§ 12–7.651 Clauses to be used when applicable.

§ 12–7.651–1 Notice and assistance regarding patent and copyright infringement.

In accordance with DOTPR 12–9.153, insert the clause set forth in FPR 1–7.-103–4.

§ 12–7.651–2 Authorization and consent.

Insert the clause set forth in DOTPR 12–7 150–11 in accordance with the instructions for its use in DOTPR 12–9.-151–1.

§ 12–7.651–3 Military security requirements.

Insert the Military Security Requirements clause set forth in DOTPR 12–7.-151–9 in accordance with the instructions for its use in DOTPR 12–1.352.

§ 12–7.651–4 Performance of work by contractor.

Insert the clause set forth in FPR 1–18 104 in accordance with the instructions for its use.

§ 12–7.651–5 Government-furnished property.

When property will be furnished by the Government, insert the following clause in the contract:

GOVERNMENT-FURNISHED PROPERTY

(a) *Title, use, and quantities.* Any property to be furnished by the Government (as listed elsewhere in this contract under the heading "Government-Furnished Property List" hereafter referred to as "GFPL") is for use only in connection with the performance of the work hereunder Title to all such property shall remain vested in the Government The property shall be furnished in the quantities shown, with the exception of items marked "as required" which will be furnished in whatever quantities are required to complete the work. All additional quantities of the items on this list and any other property required to complete the work will be furnished by the Contractor.

(b) *Point of delivery* The Government shall deliver this property to the Contractor at the point(s) specified in the GFPL. The Contractor shall at no expense to the Government inspect unload, load and make further delivery of the property at the job site The Contractor shall be responsible for payment of any demurrage and storage charges accruing more than 5 days after his receipt of notice to proceed.

(c) *Time of delivery* Any property to be furnished by the Government shall be delivered to the Contractor in sufficient time to enable him to perform the work without delay The Contractor will be given advance notice of expected delivery dates if they are not already shown on the GFPL If the property is not delivered to the Contractor by the 5th day subsequent to the expected delivery date, he shall notify the Contracting Officer within 3 days thereafter The Contractor shall acknowledge receipt thereof in writing to the Contracting Officer and if there are shortages or defective property in any shipment, the contractor shall notify the Contracting Officer within 24 hours after delivery of shipment, or in the case of concealed defects and shortages, within 3 days after they are discovered In either event, the Contracting Officer will take appropriate action to rectify the matter In the absence of information from the Contractor to the contrary within the periods specified above, the Government will consider that all property has been delivered to the Contractor on time and in good condition and he will be held responsible thereafter for any shortages and defective property that may later be discovered, or for any damages incurred through inadequate protection No claim for adjustments in the time and price for performance of the contract ("Suspension of Work" and the "Termination For Default-Damages For Delay-Time Extensions" clause) shall be allowed for failure of the Government to furnish property unless the Contractor reports the delinquent deliveries within the periods specified above Notifications to the Contracting Officer are in addition to the requirements under the above-cited clauses for making timely notifications to the Contracting Officer if time and price adjustments are desired

(d) *Surplus* In accordance with instructions furnished by the Contracting Officer, upon completion of the work, any unused property shall be prepared for shipment and be delivered by the Contractor to the nearest appropriate common carrier or Government storage point in the locality of the work.

(End of clause)

§ 12–7.651–6 Physical data.

All the information concerning local conditions pertaining to the performance of the contract work, which has been made available to the contractor should be referenced into the contract by completing the clause set forth below. Wherever test borings, analyses, or hydrographic data are to be made available to the contractor, the wording of this special clause should be such as only to inform the contractor as to the source of the data and where it may be examined.

PHYSICAL DATA

Information and data furnished or referred to below are furnished for the Contractor's information. However, it is expressly understood that the Government will not be responsible for any interpretation or conclusion drawn therefrom by the Contractor.

(a) The physical conditions indicated on the drawings and in the specifications are the result of site investigations by (insert investigational methods used, such as surveys, auger borings, core borings, test pits, probings, test tunnels, etc.).

(b) *Weather conditions.* (Insert summary of weather records and warnings.)

(c) *Transportation facilities.* (Insert the summary of transportation facilities accessible to project, availability, and limitations.)

(d) _____ (Insert other pertinent information)

(End of clause)

§ 12–7.651–7 Variations in estimated quantities contracts.

Insert the following clause in contracts containing estimated quantity items in accordance with DOTPR 12–18.201–50.

VARIATION IN ESTIMATED QUANTITIES CONTRACTS

Where the quantity of a pay item in this contract is an estimated quantity and where the actual quantity of such pay item varies more than fifteen percent (15%) above or below the estimated quantity stated in this contract, an equitable adjustment in the contract price shall be made upon demand of either party The equitable adjustment shall be based upon any increase or decrease in costs due solely to the variation above one hundred fifteen percent (115%) or below eighty-five percent (85%) of the estimated quantity If the quantity variation is such as to cause an increase in the time necessary for completion, the Contracting Officer shall, upon receipt of a written request for an extension of time within ten (10) days from the beginning of such delay, or within such further period of time which may be granted by the Contracting Officer prior to the data of final payment of the contract, ascertain the facts and make such adjustment for extending the completion date as in his judgment the findings justify.

(End of clause)

§ 12–7.651–8 Availability and use of utility services.

Insert the following clause in contracts for performance at Government installations when it is determined that one or more utility systems and supplies are adequate for the needs and use of both the Government and the contractor and it is advantageous to the Government to furnish such utility services.

AVAILABILITY AND USE OF UTILITY SERVICES

(a) The Government will make available to the Contractor, from existing outlets and supplies, all reasonably required amounts of utilities as specified in the Schedule or specifications. Except as otherwise provided in the schedule or specifications, each utility shall be charged to or paid for by the Contractor at prevailing rates charged to the Government or, where the utility is produced by the Government, at reasonable rates as determined by the Contracting Officer.

(b) Utilities furnished the Contractor without charge shall be carefully conserved. The Contractor, at his own expense and in a workmanlike manner satisfactory to the Contracting Officer, shall install and maintain all necessary temporary connections and distribution lines and, if necessary to determine charges, all meters required to measure the amount of each utility used; and he shall remove the same prior to final acceptance of the construction.

(End of clause)

§ 12–7.651–9 Misplaced material.

Insert the following clause in all contracts involving work near or on navigable waterways.

MISPLACED MATERIAL

Should the Contractor, during the progress of the work, lose, dump, throw overboard, sink, or misplace any material, plant, machinery, or appliance, which in the opinion

of the Contracting Officer may be dangerous to or obstruct navigation, the Contractor shall recover and remove the same with the utmost dispatch. The Contractor shall give immediate notice, with description and location of such obstructions, to the Contracting Officer or inspector, and when required shall mark or buoy such obstructions until the same are removed. Should he refuse, neglect, or delay compliance with the above requirements, such obstructions may be removed by the Contracting Officer, and the cost of such removal may be deducted from any money due or to become due the Contractor, or may be recovered under his bond. The liability of the Contractor for the removal of a vessel wrecked or sunk without fault or negligence shall be limited to that provided in Sections 15, 19, and 20 of the River and Harbor Act of March 3, 1899. (33 U.S.C. 410 et seq.)

(End of clause)

§ 12–7.651–10 Signal lights.

Insert the following clause in all contracts requiring the use of marine equipment.

SIGNAL LIGHTS

The Contractor shall display signal lights and conduct his operations in accordance with the General Regulations of the Department of the Army and of the Coast Guard government lights and day signals to be displayed by towing vessels with tows on which no signals can be displayed, vessels working on wrecks, dredges, and vessels engaged in laying cables or pipe or in submarine or bank protection operations, lights to be displayed on dredge pipe lines, and day signals to be displayed by vessels of more than 65 feet in length moored or anchored in a fairway or channel, and the passing by other vessels of floating plant working in navigable channels, as approved by the Secretary of the Army (33 C.F.R. 201.1–201.16) and the Commandant, U.S. Coast Guard (33 C.F.R. 80.18–80.31a and 33 C.F.R. 95.51–95.70).

(End of clause)

§ 12–7.651–11 Time extensions for delays to elements of the work.

The following clause shall be inserted in contracts in which there are separate completion dates for various items of work and liquidated damages are provided for:

TIME EXTENSIONS

Notwithstanding any other provisions of this contract, any time extensions for changes in the work depend upon the extent, if any, by which the changes cause delay in the completion of the various elements of construction. The contract modification making such time extension will provide for an extension of contract completion date only for those specific elements so delayed and will not alter the contract completion dates for other portions of the work. This contract modification may further provide for an equitable readjustment of liquidated damages pursuant to the new completion schedule.

(End of clause)

§ 12–7.651–12 Progress charts and requirements for overtime work.

Insert the following clause in contracts having a performance time of four weeks or more.

PROGRESS CHARTS AND REQUIREMENTS FOR OVERTIME WORK

(a) The Contractor shall, within 10 days from date of award of contract (unless a different time is specified in the contract), submit to the Contracting Officer for approval a practicable schedule, showing the order in which the Contractor proposes to carry on the work, the date on which he will start the several salient features (including procurement of materials, plant and equipment) and the contemplated dates for completing the same. The schedule shall be in the form of a progress chart of suitable scale to indicate appropriately the percentage of work scheduled for completion at any time. The Contractor shall enter on the chart the actual progress at such intervals as directed by the Contracting Officer, and shall immediately deliver to the Contracting Officer three copies thereof. If the Contractor fails to submit a progress schedule within the time herein prescribed, the Contracting Officer may withhold approval of progress payment estimates until such time as the Contractor submits the required progress schedule.

(b) If, in the opinion of the Contracting Officer, the Contractor falls behind the progress schedule, the Contractor shall take such steps as may be necessary to improve his progress and the Contracting Officer may require him to increase the number of shifts, or overtime operations, days of work, or the amount of construction plant, or all of them, and to submit for approval such supplementary schedule or schedules in chart form as may be deemed necessary to demonstrate the manner in which the agreed rate of progress will be regained, all without additional cost to the Government.

(c) Failure of the Contractor to comply with the requirements of the Contracting Officer under this provision shall be grounds for determination by the Contracting Officer that the Contractor is not prosecuting the work with such diligence as will insure completion within the time specified. Upon such determination the Contracting Officer may terminate the Contractor's right to proceed with the work, or any separable part thereof, in accordance with the clause of the contract entitled "Termination for Default-Damages for Delay-Time Extensions."

(End of clause)

§ 12–7.651–13 Special precautions for work at operating airports.

Insert the following clause in contracts when work is to be performed at an operating airport:

SPECIAL PRECAUTIONS FOR WORK AT OPERATING AIRPORTS

(a) When work is to be performed at an operating airport the Contractor must arrange his work schedule so as not to interfere with flight operations. Such operations will take precedence over construction convenience. Any operations of the Contractor which would otherwise interfere with or endanger the operations of aircraft shall be performed only at times and in the manner directed by the Contracting Officer. The Government will make every effort to reduce the disruption of the Contractor's operation.

(b) Unless otherwise specified by local regulations, all areas in which construction operations are underway shall be marked by yellow flags during daylight hours and by red lights at other times. The red lights along the edge of the construction areas within the existing aprons shall be the electric type of not less than 100 watts intensity placed and supported as required. All other construction markings on roads and adjacent parking lots may be either electric or battery type lights. These lights and flags shall be placed so as to outline the construction areas and the distance between any two flags or lights shall not be greater than 25 feet. The Contractor shall provide adequate watch to maintain the lights in working condition at all times other than daylight hours. The hour of beginning and the hour of ending of daylight will be determined by the Contracting Officer.

(c) All equipment and materials in the construction areas or when moved outside the construction area shall be marked with airport safety flags during the day, and when directed by the Contracting Officer, with red obstruction lights at night. All equipment operating on the apron, taxiway, runway and intermediate areas after darkness hours shall have clearance lights in conformance with instructions from the Contracting Officer. No construction equipment shall operate within 50 feet of aircraft undergoing fuel operations. Open flames are not allowed on the ramp except at times authorized by the Contracting Officer.

(d) Trucks and other motorized equipment entering the airport or construction area shall do so only over routes determined by the Contracting Officer. Use of runaways, aprons, taxiways or parking areas as truck or equipment routes will not be permittted unless specifically authorized for such use. Flagmen shall be furnished by the Contractor at points on apron and taxiway for safe guidance of his equipment over these areas to assure right of way to aircraft. Areas and routes used during the contract must be returned to their original condition by the Contractor. The maximum speed allowed on the Airport shall be as established by the airport management. Vehicles shall be operated so as to be under safe control at all times, weather and traffic conditions considered. Vehicles must be equipped with head and tail lights during the hours of darkness.

(End of clause)

§ 12–7.651–14 Quantity surveys.

(a) Except as provided in paragraph (b) of this section, insert the following clause in contracts containing unit price items where the specifications provide for payment based on surveys.

QUANTITY SURVEYS

(a) The Government shall make original and final surveys and make computations to determine the quantities of work performed or finally in place.

(b) The Contractor shall make such surveys and computations as are necessary to determine the quantities of work performed or placed during each period for which a progress payment is to be made. All original field notes, computations and other records for the purpose of layout and progress surveys shall be recorded in duplicating field books, the original pages of which shall be furnished promptly in ring binders to the representatives of the Contracting Officer at the site of the work and shall be used by the Contracting Officer to the extent necessary in determining the proper amount of progress payments due the Contractor. Unless waived by the Contracting Officer in each specific case, quantity surveys made by the Contractor shall be made under the direction of a representative of the Contracting Officer.

(End of clause)

(b) When Government personnel may not be available, it may be advisable to require the contractor to make original and final quantity surveys as well as progress surveys. In this case, the following clause may be used in place of the clause in paragraph (a) of this section, with the approval of the head of the procuring activity or his designee.

QUANTITY SURVEYS

(a) The Contractor shall make such surveys and computations as are necessary to

determine the quantities of work performed or placed during each period for which a progress payment is to be made. The Contractor shall also make original and final surveys. The Government will make such computations as are necessary to determine the quantities of work performed or finally in place. Unless waived by the Contracting Officer in each specific case, quantity surveys made by the Contractor shall be made under the direction of a representative of the Contracting Officer.

(b) All original field notes, computations and other records of the Contractor for the purposes of layout, original, progress and final surveys shall be recorded in duplicating field books, the original pages of which shall be furnished promptly in ring binders to the representative of the Contracting Officer at the site of the work and shall be used by the Contracting Officer to the extent necessary in determining the proper amounts of progress and final payments.

(End of clause)

§ 12–7.651–15 Layout of work.

The following clause is authorized for use in construction contracts where appropriate.

LAYOUT OF WORK

The Contractor shall lay out his work from Government established base lines and bench marks indicated on the drawings and shall be responsible for all measurements in connection therewith. The Contractor shall furnish, at his own expense, all stakes, templates, platforms, equipment, tools, and materials and labor as may be required in laying out any part of the work from the base lines and bench marks established by the Government. The Contractor will be held responsible for the execution of work to such lines and grades as may be established or indicated by the Contracting Officer. It shall be the responsibility of the Contractor to maintain and preserve all stakes and other marks established by the Contracting Officer until authorized to remove them. If such marks are destroyed, by the Contractor or through his negligence, prior to their authorized removal, they may be replaced by the Contracting Officer at his discretion. The expense of replacement will be deducted from any amounts due or to become due the Contractor.

(End of clause)

§ 12–7.651–16 Value engineering incentive.

When required by the instructions for its use in DOTPR 12–1.5202–2, insert the value engineering incentive clause set forth below:

VALUE ENGINEERING INCENTIVE

(a) Application. This clause applies to a Contractor developed and documented Value Engineering Change Proposal (VECP) which:

(i) Requires a change to this contract to implement the VECP; and

(ii) Reduces the contract price without impairing essential function or characteristics, provided that it is not based solely on a change in deliverable end item quantities.

(b) Documentation. As a minimum, the following information shall be submitted by the Contractor with each VECP:

(i) A description of the difference between the existing contract requirement and the proposed change, and the comparative advantages and disadvantages of each; justification where function or characteristics of a work item is being altered; and the effect of the change on the performance of the end item;

(ii) An analysis and itemization of the requirements of the contract which must be changed if the VECP is accepted and a recommendation as to how to make each such change (e.g., a suggested specification revision);

(iii) A separate detailed cost estimate for both the existing contract requirement and the proposed change to provide an estimate of the reduction in costs, if any, that will result from acceptance of the VECP, taking into account the costs of development and implementation by the Contractor (including any amount attributable to subcontracts in accordance with paragraph (f) below);

(iv) A prediction of any effects the proposed change would have on related costs to the agency such as Government furnished property costs, and costs of maintenance and operation;

(v) A statement of the time by which a change order adopting the VECP must be issued so as to obtain the maximum cost reduction during the remainder of this contract, noting any effect on the contract completion time or delivery schedule; and

(vi) Identification of any previous submission of the VECP, including the dates submitted, the agencies involved, the numbers of the Government contracts involved, and the previous actions by the Government, if known.

(c) Submission. To expedite a determination, VECPs shall be submitted to the Resident Engineer at the worksite with a copy to the Contracting Officer. Proposals shall be processed expeditiously; however, the Government shall not be liable for any delay in acting upon any proposal submitted pursuant to this clause. The Contractor has the right to withdraw, in whole or in part, any VECP at any time prior to acceptance by the Government.

(d) Acceptance. The Contracting Officer may accept, in whole or in part, by contract modification any VECP submitted pursuant to this clause. The Contracting Officer may accept the VECP even though an agreement on price reduction has not been reached, by issuing the Contractor a notice to proceed with the change. Until a notice to proceed is issued or a contract modification applies a VECP to this contract, the Contractor shall remain obligated to perform in accordance with this contract. Contract modifications made pursuant to this clause will so state. The decision of the Contracting Officer as to the acceptance of any VECP under this contract shall be final and shall not be subject to the "Disputes" clause of this contract.

(e) Sharing. If a VECP submitted by the Contractor pursuant to this clause is accepted, the contract price shall be adjusted without regard to profit in accordance with the following provisions:

(i) Definition:

(A) Instant contract savings to the Contractor (ICS) are the estimated reduction in the Contractor's cost of performance resulting from the acceptance of the VECP. The proposed cost reduction includes estimated allowable Contractor development and implementation costs (CC). The Contractor's development and implementation costs include any subcontractor development and implementation costs (see (f) below). For purposes of this clause, Contractor development costs are those costs incurred after the Contractor has identified a specific VE project and prior to acceptance and implementation by the Government.

(B) Government Costs (GC) are those DOD costs which directly result from development and implementation of the VECP, such as test and evaluation of the VECP.

(ii) Calculations and Actions. Multiply ICS by 45% and GC by 55%. Add these two results, e.g., (.45 ICS plus .55 GC) and subtract from the contract price.

(f) Subcontracts. The Contractor shall include appropriate VE arrangements in any subcontract of $50,000 or greater, and may include such arrangements in contracts of lesser value. To compute any adjustment in the contract price under paragraph (e) above, the Contractor's cost of development and implementation of a VECP which is accepted under this contract shall include any development and implementation costs of a subcontractor, and any VE incentive payments to a subcontractor, which clearly pertain to such VECP. However, no such payment or accrual to a subcontractor will be permitted, either as part of the Contractor's development or implementation costs or otherwise, to reduce the Government's share.

(g) Data. The Contractor may restrict the Government's right to use any sheet of a VECP or of the supporting data, submitted pursuant to this clause, in accordance with the terms of the following legend if it is marked on such sheet:

"This data furnished pursuant to the Value Engineering Incentive clause of contract _____ shall not be disclosed outside the Government, or dpulicated, used, or disclosed, in whole or in part, for any purpose other than to evaluate a VECP submitted under said clause. This restriction does not limit the Government's right to use information contained in this data if it is or has been obtained, or is otherwise available, from the Contractor or from another source, without limitations. If such a VECP is accepted by the Government under said contract after the use of this data in such an evaluation, the Government shall have the right to duplicate, use, and disclose any data reasonably necessary to the full utilization of such VECP as accepted, in any manner and for any purpose whatsoever, and have others so do."

In the event of acceptance of a VECP, the Contractor hereby grants to the Government all rights to use, duplicate or disclose, in whole or in part, in any manner and for any purpose whatsoever, and to have or permit others to do so, any data reasonably necessary to fully utilize such VECP.

(End of clause)

Subpart 12–7.50—Clauses for Procurement of Mortuary Services

§ 12–7.5000 Scope.

This subpart sets forth uniform contract clauses for use in mortuary services contracts.

§ 12–7.5001 Required clauses.

The following clauses shall be included in procurement of mortuary services contracts, except where clearly inappropriate.

§ 12–7.5001–1 Definitions.

Insert the clause set forth in FPR 1–7.102–1.

§ 12–7.5001–2 Payments.

Insert the clause set forth in FPR 1–7.102–7.

§ 12–7.5001–3 Assignment of claims.

Insert the clause set forth in FPR 1–30.703.

§ 12–7.5001–4 Federal, State and local taxes.

Insert the clause set forth in FPR 1–11.401–1.

§ 12–7.5001–5 Termination for convenience of the Government.

Insert the clause set forth in FPR 1–8.705.1.

§ 12–7.5001–6 Default.

Insert the clause set forth in FPR 1–8.707.

§ 12–7.5001–7 Disputes.

Insert the clause set forth in FPR 1–7.102–12.

§ 12–7.5001–8 Convict labor.

Insert the clause set forth in FPR 1–12.203.

§ 12–7.5001–9 Contract Work Hours Standards Act—overtime compensation.

Insert the clause set forth in FPR 1–12.203.

§ 12–7.5001–10 Officials not to benefit.

Insert the clause set forth in FPR 1–7.102–17.

§ 12–7.5001–11 Covenant against contingent fees.

Insert the clause set forth in FPR 1–1.503.

§ 12–7.5001–12 Gratuities.

Insert the clause set forth in DOTPR 12–7.150–1.

§ 12–7.5001–13 Equal opportunity.

Insert the clause set forth in FPR 1–12.803–2 under the conditions and in the manner prescribed therein.

§ 12–7.5001–14 Examination of records by Comptroller General.

Insert the clause set forth in FPR 1–7.103–3 in negotiated contracts.

§ 12–7.5001–15 Requirements.

REQUIREMENTS

(a) This is a requirements contract for the supplies or services specified in the Schedule, and for the period set forth in this contract. Delivery of supplies or performance of services shall be made only as authorized by orders issued in accordance with the clause entitled "Delivery Orders and Invoices". The quantities of supplies or services specified herein are estimates only and are not purchased hereby. Except as may be otherwise provided herein, in the event the Government's requirements for supplies or services set forth in the Schedule do not result in orders in the amounts or quantities described as "estimated" or "maximum" in the Schedule, such event shall not constitute the basis for an equitable price adjustment under this contract.

(b) The Government shall order from the Contractor all the supplies, services, and transportation set forth in the Schedule which are required to be purchased by the Government activity named herein, and the Contractor shall furnish to the Government such supplies, services, and transportation as may be ordered by the Contracting Officer. The Government, however, reserves the right not to order supplies and services under this contract in instances where the body is removed from the area for medical, scientific, or other cogent reason. In the event of an epidemic or other emergency, the Contractor shall not be required to provide services in excess of the capacity of his facilities.

(End of clause)

§ 12–7.5001–16 Contract period.

CONTRACT PERIOD

Any contract awarded as a result of bids submitted under this Invitation for Bids shall extend from _____ through _____.

(End of clause)

§ 12–7.5001–17 Area of performance.

AREA OF PERFORMANCE

(a) The area of performance is specified elsewhere in this contract. This contract includes taking possession of the remains at the place where they are located, transporting them to the Contractor's place of preparation and transporting them thereafter to a place designated by the Contracting Officer. The Contractor shall not be entitled to reimbursement for transportation when both the place where the remains were located and the delivery point are within the area of performance.

(b) If remains are located outside the area of performance, the Government may call on the Contractor or obtain the services elsewhere. If the Government calls on the Contractor, the Contractor shall be paid the amount per mile indicated in the Schedule for the number of miles required to transport the remains by a reasonable route from the point where located to the boundary of the area of performance. If the Government elects to have the remains brought into the area of performance by some other means, it may require the Contractor to perform after the remains are within the area of performance.

(c) The Government may require the Contractor to deliver remains to any point within one hundred (100) miles of the area of performance. In this case the Contractor shall be paid the amount per mile indicated in the Schedule for the number of miles required to transport the remains by a reasonable route from the boundary of the area of performance to the delivery point.

(End of clause)

§ 12–7.5001–18 Specifications.

SPECIFICATIONS

Armed Services Specifications, Care of Deceased Personnel, hereinafter referred to as "Specification" are attached hereto and made a part of this contract.

(End of clause)

§ 12–7.5001–19 Using activities.

USING ACTIVITIES

Contracting Officers of the following activities may order services and supplies under this contract:

_____

_____

_____

(End of clause)

§ 12–7.5001–20 Delivery orders and invoices.

DELIVERY ORDERS AND INVOICES

Delivery orders for supplies or services shall be issued by the Contracting Officer and shall set forth (i) the supplies or services being ordered, (ii) the quantities to be furnished, (iii) delivery or performance dates, (iv) place of delivery or performance, (v) packing and shipping instructions, and (vi) the address to which invoices for services rendered under this contract shall be sent. Amendments to delivery orders may be made by the Contracting Officer issuing the order. Each delivery order or change order shall cite the funds from which payment for the supplies or services ordered shall be made.

(End of clause)

§ 12–7.5001–21 Delivery and performance.

DELIVERY AND PERFORMANCE

(a) Except as otherwise herein provided, the Contractor shall furnish the material ordered and perform the services specified in each case as promptly as possible but in no event later than thirty six (36) hours after the Contractor has received notification to remove the remains, exclusive of the time necessary for the Government to inspect and check results of preparation. The Government may, at no additional charge, require the Contractor to hold the remains for an additional period not to exceed seventy-two (72) hours from the time the remains are casketed and final inspection completed.

(b) In no case will shipment be made until the Contractor certifies that the remains will be in an acceptable state of preservation upon final delivery. The Contractor shall not be responsible for notifying the consignee of time of arrival of shipped remains.

(End of clause)

§ 12–7.5001–22 Subcontracting.

SUBCONTRACTING

No contract shall be made by the Contractor with any other party for furnishing any of the work or services herein contracted for without the written approval of the Contracting Officer. This provision does not apply to contracts of employment between the Contractor and his personnel.

(End of clause)

§ 12–7.5001–23 Additional default provision.

ADDITIONAL DEFAULT PROVISION

(a) This clause supplements the "Default" clause of this contract.

(b) This contract may be terminated for default by written notice without the ten (10) day notice specified under paragraph (a)(ii) of the "Default" clause if during the performance of this contract:

(1) The Contractor, through circumstances reasonably within his control or that of persons in his employ, performs any act or acts under or in connection with this contract, or fails in the performance of any service under this contract, and such acts or failures may reasonably be considered to reflect discredit upon the Coast Guard in fulfilling its responsibility for proper care of remains;

(2) The Contractor, either by his own act or through persons in his employ, solicits relatives or friends of the deceased to purchase supplies or services not provided for under this contract (the Contractor may furnish supplies or arrange for services not provided for under this contract, only where such other supplies or services are voluntarily requested, selected and paid for by the representatives of the deceased);

(3) The services, or any part thereof, to be performed under this contract are, without the written authorization of the Contracting Officer, performed by an individual, partnership, corporation, or other person or business association whatsoever, other than the Contractor to whom this contract is awarded, his employees and members of the firm;

(4) The Contractor refuses to perform the services required for any particular remains; or

(5) The Contractor advertises in any way that he has a contract for mortuary services with the Government.

(c) All other provisions of the "Default" clause shall apply to a termination made pursuant to this "Additional Default Provision" clause.

(End of clause)

§ 12–7.5001–24 Inspection.

INSPECTION

All services, material, and workmanship shall be subject to inspection and test by representatives of the Government. For this purpose, the Contractor shall allow inspectors and other representatives of the Con-

tracting Officer free access to the plant and operations at all reasonable times and shall furnish such facilities, supplies and services, as may be required.

(End of clause)

§ 12–7.5001–25 Group interment.

GROUP INTERMENT

Payments to the Contractor for supplies and services provided for remains to be interred as a group shall be made on the basis of the number of caskets furnished rather than on the basis of the number of persons in the group.

(End of clause)

§ 12–7.5001–26 Professional requirements.

PROFESSIONAL REQUIREMENTS

The Contractor shall meet all State and local licensing requirements and shall furnish the highest quality of professional services. Preparation and transportation of remains shall be performed in accordance with all applicable Federal, State, and local health laws, statutes, and regulations. The Contractor shall obtain and furnish all necessary health department and shipping permits at no additional cost to the Government and shall insure that all necessary health department permits are in order for disposition of the remains.

(End of clause)

§ 12–7.5001–27 Facility requirements.

FACILITY REQUIREMENTS

The Contractor's building shall have complete facilities for maintaining the highest standards of solemnity, reverence, and assistance to the family, and for prescribed ceremonial services. The preparation room shall be clean, sanitary, and adequately equipped. The Contractor shall have, or be able to obtain, catafalques, church trucks and equipment for Protestant, Catholic, and Jewish services. The funeral home, furnishings, grounds and surroundings area shall be carefully maintained so as to present a clean well-kept appearance.

(End of clause)

§ 12–7.5001–28 Preparation history.

PREPARATION HISTORY

For each body prepared, or in the case of group interment for each casket handled, the Contractor shall state briefly the results of the embalming process on a certificate furnished by the Contracting Officer.

(End of clause)

§ 12–7.5001–29 Changes.

The Contracting Officer may at any time, by a written order, and without notice to the sureties, if any, make changes in or additions to specifications, issue additional instructions, require modified or additional work or services within the scope of the contract, and change the place of delivery, method of shipment, or the amount of Government-furnished property. If any such change causes an increase or decrease in the cost, or in the time required for, the performance of this contract, an equitable adjustment shall be made in the contract price, or time of performance, or both, and the contract shall be modified in writing accordingly. Any claim by the Contractor for adjustment under this clause must be asserted within thirty (30) days from the date of receipt by the Contractor of the notification of change: *provided*, however, that the Contracting Officer, if he decides that the facts justify such action, may receive and act upon any such claim asserted at any time prior to final payment under this contract. Failure to agree to any adjustment shall be a dispute concerning a question of fact within the meaning of the "Disputes" clause of this contract. However, nothing in this clause shall excuse the Contractor from proceeding with the contract as changed.

(End of clause)

§ 12–7.5001–30 Inconsistent provisions.

INCONSISTENT PROVISIONS

In the event of any inconsistency in the provisions of any of the parts of this contract, the following order shall control: the Schedule; the contract clauses; and the Specifications as in effect on the date of this contract.

(End of clause)

§ 12–7.5001–31 Coordination.

COORDINATION

Necessary coordination shall be effected with the Contractor's funeral director on all funeral arrangements, which shall include the time remains will be ready for inspection, viewing and shipment, time and place of religious services, time and place of interment and shipping schedules, and final disposition of remains.

(End of clause)

§ 12–7.5001–32 Preparation of remains at other than contractor's establishment.

PREPARATION OF REMAINS AT OTHER THAN CONTRACTOR'S ESTABLISHMENT

Preparation of remains at a place other than the Contractor's establishment shall require the concurrence of the Contracting Officer.

(End of clause)

§ 12–7.5001–33 Major restorative art.

MAJOR RESTORATIVE ART

The Contractor shall advise the Contracting Officer promptly of any need for major restorative art technique (restoration of facial contours, such as nose, ears, mouth, chin, etc.) required for any remains prepared under this contract to permit the viewing of remains at final destination, and upon the direction of the Contracting Officer, shall perform such restoration. The cost of such restoration shall be allowed as approved by the Contracting Officer.

(End of clause)

§ 12–7.5001–34 Passenger car.

PASSENGER CAR

When a passenger car is required to transport members of the immediate family to the funeral service and, if necessary, to the selected terminal and return, the cost shall be allowed as approved by the Contracting Officer.

(End of clause)

Subpart 12–7.51—Clauses for Architect-Engineer Contracts

§ 12–7.5100 Scope.

This subpart set forth contract clauses for use in fixed-price architect-engineer contracts in addition to those prescribed in the April 1975 edition of Standard Form 253 (see FPR 1–16.701).

§ 12–7.5100–1 Amendment of Standard Form 253.

The following clauses shall be used with Standard Form 253 (1975 Edition) pending the publication of a new edition of the form: (1) the clause Disabled Veterans and Veterans of the Vietnam Era set forth in FPR Temporary Regulation No. 39 effective July 26, 1976; (2) the clause Employment of the Handicapped set forth in FPR Temporary Regulation No. 38 of May 1976; and (3) the Clean Air and Water clause set forth in FPR 1–1.2302–2.

§ 12–7.5101 Required clauses.

§ 12–7.5101–1 Composition of contractor.

COMPOSITION OF CONTRACTOR

If the Contractor hereunder is comprised of more than one legal entity, each entity shall be jointly and severally liable hereunder.

(End of clause)

§ 12–7.5101–2 Interpretation or modification.

Insert the clause set forth in DOTPR 12–7.150–4.

§ 12–7.5101–3 Dissemination of contract information.

Insert the clause set forth in DOTPR 12–7.150–10, substituting "Architect-Engineer" for "Contractor."

§ 12–7.5101–4 Inspection.

INSPECTION

The Government, through any authorized representative, may at all reasonable times, inspect or otherwise evaluate the work being performed hereunder and the premises in which it is being performed. If any inspection or evaluation is made by the Government on the premises of the Architect-Engineer or subcontractor, the Architect-Engineer shall provide and shall require his subcontractors to provide all reasonable facilities and assistance for the safety and convenience of the Government representatives in the performance of their duties. All inspections and evaluations shall be performed in such a manner as will not unduly delay the work.

(End of clause)

§ 12–7.5101–5 Notice of delays.

Insert the clause set forth in DOTPR 12–7.150–9, substituting "Architect-Engineer" for "Contractor".

§ 12–7.5101–6 Certification of drawings and other documents.

CERTIFICATION OF DRAWINGS AND OTHER DOCUMENTS

The Architect-Engineer or his authorized representative shall sign the original tracings of all drawings and the first page of all specifications, estimates, or similar documents under the Architect-Engineer's printed name and over the affixed replica of his professional seal or his registration certificate number, including the State or jurisdiction of issuance.

(End of clause)

§ 12–7.5101–7 Gratuities.

Insert the clause set forth in DOTPR 12–7.150–1, substituting "Architect-Engineer" for "Contractor".

§ 12–7.5102 Clauses to be used when applicable.

The following clauses shall be included in the contract when their use is appropriate.

§ 12–7.5102–1 Military security requirements.

Insert the Military Security Requirements clause set forth in DOTPR 12–7.–151–9 in accordance with the instructions for its use in DOTPR 12–1.352.

§ 12–7.5102–2 Audit and records.

Insert the clause set forth in FPR 1–3.814–1(a) in accordance with the instructions for its use.

§ 12–7.5102–3 Price reduction for defective cost or pricing data.

Insert the clause set forth in FPR 1–3.814–1(a) in accordance with the instructions for its use.

§ 12–7.5102–4 Subcontractor cost or pricing data.

Insert the clause set forth in FPR 1–3.814–3(a) in accordance with the instructions for its use.

§ 12–7.5102–5 Architectural designs and date—Government rights (sole property).

Where the purpose of a contract for architect-engineer services is to obtain a unique architectural design of a building, a monument, or construction of a similar nature, which for artistic, esthetic or other special reasons the Government does not want duplicated by anyone else, the Government may desire to acquire exclusive control of the data pertaining to such design. The clause set forth in FPR 1–16.703(d) shall be used only in those cases where the contracting officer determines for the foregoing reasons that it is desirable to maintain exclusive control over the design and data.

§ 12–7.5102–6 Renegotiation.

Insert the clause set forth in DOTPR 12–7.151–15 in accordance with the instructions for its use.

§ 12–7.5103 Additional clauses.

The following clauses shall be included in the contract when it is deemed necessary or desirable to cover the subject matter thereof. The clauses may be modified, when necessary, to adapt to special situations.

§ 12–7.5103–1 Method of payment.

METHOD OF PAYMENT

(a) Estimates shall be made monthly of the amount and value of the work and services performed by the Architect-Engineer under this contract, such estimates to be prepared by the Architect-Engineer and accompanied by such supporting data as may be required by the Contracting Officer.

(b) Upon approval of such estimate by the Contracting Officer payment upon properly certified vouchers shall be made to the Architect-Engineer as soon as practicable of 90% of the amount as determined above, less all previous payments; *Provided, however,* That if the Contracting Officer: determines that the work is substantially complete and that the amount of retained percentages is in excess of the amount considered by him to be adequate for the protection of the Government, he may at his discretion release to the Architect-Engineer such excess amount.

(c) Upon satisfactory completion by the Architect-Engineer and acceptance by the Contracting Officer of the work required by the contract, the Architect-Engineer will be paid the unpaid balance of any money due under the contract.

(d) As a precedent to final payment under the contract, the Architect-Engineer shall execute and deliver to the Contracting Officer a release of all claims against the Government arising under or by virtue of this contract, other than such claims, if any, as may be specifically excepted by the Architect-Engineer from the operation of the release in stated amounts to be set forth therein.

(End of clause)

§ 12–7.5103–2 Preparation of specifications.

PREPARATION OF SPECIFICATIONS

The Architect-Engineer shall make reference to applicable Federal specifications, if available, for items and materials used. If Federal specifications are not available, the Architect-Engineer shall reference specifications prepared by recognized professional manufacturer or construction societies, or furnish descriptions of the items or materials containing all the fundamental properties and all the essential requirements to be met by the items or materials. When an item or material cannot be described because of its technical construction or composition or because it is a proprietary item, the name of one, and if available, several, suitable commercial products shall be included as part of the required description, followed by the words "or equal." If it is determined that one and only one brand of item or material will meet the requirement, the Architect-Engineer shall so state and shall give full justification for that determination. Specifications will not duplicate, contradict or cover the same subject matter contained in the general and special provisions to be used with the construction contract. A complete set of construction contract general and special provisions will be furnished to the Architect-Engineer by the Contracting Officer.

(End of clause)

§ 12–7.5103–3 Redesign Responsibility.

(a) Insert the following clause in all Architect-Engineer contracts except (1) those involving projects for which the Head of the Procuring Activity or his designee determines that cost limitations are secondary to performance considerations and that additional funding can be expected if necessary, and (2) those for the design of a standard structure which is not intended for a specific location site.

DESIGN WITHIN FUNDING LIMITATIONS (1971 APR)

(a) The Architect-Engineer shall accomplish the design services required under this contract so as to permit the award of a contract, pursuant to standard Department of Transportation procedures, for the construction of the facilities designed at a price that does not exceed the estimated construction contract price set forth in this contract. When bids or proposals for the construction contract are received which exceed such estimated price, the Architect-Engineer shall perform such redesign and other services as are necessary to permit contract award within such funding limitation. These additional services shall be performed at no increase in the price of this contract. However, the Architect-Engineer shall not be required to perform such additional services at no cost to the Government if the unfavorable bids or proposals are the result of conditions beyond his reasonable control.

(b) The Architect-Engineer will promptly advise the Contracting Officer if he finds that the project being designed will exceed or is likely to exceed the funding limitations and he is unable to design a usable facility within these limitations. Upon receipt of such information, the Contracting Officer will review the Architect-Engineer's revised estimate of construction cost. The Contracting Officer may, if he determines that the estimated construction contract price set forth in this contract is so low that award of a construction contract not in excess of such estimate is improbable, authorize a change in scope or materials as required to reduce the estimated construction cost to an amount within the estimated construction contract price set forth elsewhere in the contract, or he may adjust such estimated construction contract price. When bids or proposals are unreasonably delayed, the Government shall increase the estimated construction contract price by a percentage representing the increase in the level of building construction costs during the period between the estimated bid opening date and the actual bid opening date. The percentage of increase shall be determined by averaging the building construction cost indices for that period as published by the Engineering News Record Building Cost Index, the Associated General Contractors of America Construction Cost Index; and, E. H. Boeckh and Associates, and this estimate shall be used in lieu of the architect-engineer's estimate to determine compliance with the funding limitation.

(End of clause)

(b) Whenever the clause set forth in paragraph (a) of this section is included in a contract, the following statement shall be inserted in the description of the work to be performed by the Architect-Engineer.

The estimated construction contract price for the project described herein is $ _____.

The figure to be inserted in this statement is to be established at the beginning of contract negotiations by agreement between the Architect-Engineer and the Government. Such estimated construction contract price shall take into account any statutory or other limitations and exclude any allowances for Government supervision and overhead and any amounts set aside by the Government for contingencies. In negotiating the figure to be inserted, the Contracting Officer should make available to the Architect-Engineer the information upon which the Government has based its initial estimate and any subsequently acquired information which may affect the construction cost.

§ 12–7.5103–4 Building codes.

BUILDING CODES

The Architect-Engineer shall plan and design this project in accordance with the building ordinances, codes, and regulations of the county and political subdivision in which the project is to be constructed insofar as they are binding upon the United States Government. The project shall also be planned and designed in compliance with the latest edition of the American National Building Code as recommended by the Board of Fire Underwriters.

(End of clause)

Subpart 12–7.52—Clauses for Fixed-Price Vessel Repair, Alteration or Conversion Contracts

§ 12–7.5200 Scope of subpart.

This subpart is applicable only to the Coast Guard. It sets forth or cites contract clauses to be used for fixed-price vessel repair, alteration or conversion contracts and where necessary provides instructions for their use.

§ 12–7.5201 Required clauses.

The clauses set forth or cited in this section shall be included in fixed-price

vessel repair, alteration or conversion contracts which are formally advertised and to be performed within the United States, its possessions, or Puerto Rico. Unless inappropriate, the clauses should also be included in negotiated contracts and contracts to be performed outside the United States.

§ 12-7.5201-1 Delivery and shifting of vessel.

DELIVERY AND SHIFTING OF VESSEL

The Government shall deliver the vessel to the Contractor at his place of business. Upon completion of the work the Government shall accept delivery of the vessel at the Contractor's place of business. The Contractor shall provide, at no additional charge, upon 24 hours' advance notice, a tug or tugs and docking pilot, acceptable to the Contracting Officer, to assist in handling the vessel between (to and from) the Contractor's plant and the nearest point in a waterway regularly navigated by vessels of equal or greater draft and length. While the vessel is in the hands of the Contractor, any necessary towage, cartage, or other transportation between ship and shop or elsewhere, which may be incident to the work herein specified, shall be furnished by the Contractor without additional charge to the Government.

(End of clause)

§ 12-7.5201-2 Performance.

PERFORMANCE

(a) The Contractor shall make the necessary arrangements for receiving the vessel on the specified date, such arrangements to be satisfactory to the Contracting Officer or his duly authorized representative.

(b) The Contractor shall promptly commence the work required by the contract and shall diligently prosecute same to completion to the satisfaction of the Contracting Officer.

(c) Except as otherwise provided in this contract, the Contractor shall furnish all necessary material, labor, services, equipment, supplies, power, accessories, facilities and such other things and services as are necessary for accomplishing the work specified in this contract subject to the right reserved in the Government under the "Government-furnished Property" clause of the contract.

(d) The Contractor shall without charge and without specific requirement therefor:

(1) Make available at the plant to personnel of the vessel, while in drydock or on a marine railway, toilet and similar facilities acceptable to the Contracting Officer as adequate in number and sanitary standards. For cutters or boats fitted with pollution Abatement Systems, provide for disposal of shipboard waste (non-oily) by installing a portable hose between the cutter's or boat's weather deck sewage overboard discharge connection and, either a shore-side holding facility, sewage treatment plant, or a municipal sewage system. Directing of shipboard waste to waters covered by the Federal Water Pollution Control Act, as amended, will not be allowed. In freezing conditions the contractor will provide protection to the hook up system.

(2) Supply and maintain, in such condition as the Contracting Officer may reasonably require, suitable brows and gangways from the pier, drydock or marine railway to the vessel (access to vessel shall be lighted by the Contractor during all periods of darkness).

(3) Treat salvage, scrap, or other ship's material of the Government resulting from performance of work as though they were items of Government-furnished property in accordance with provisions of the "Government-furnished Property" clause of this contract.

(4) Perform, or pay the cost of, any repairs, reconditioning or replacements necessary as a result of the use by the Contractor of any of the vessel's machinery, equipment or fittings including, but not limited to, winches, pumps, rigging, or pipelines.

(e) The Contractor shall conduct dock and sea trials of the vessel as required by the specifications. During such trials the vessel shall be under the control of the vessel's commander and crew with representatives of the Contractor and the Government on board to determine whether or not the work done by the Contractor has been satisfactorily performed. Dock and sea trials not specified herein which the Contractor requires for his own benefit shall not be undertaken by the Contractor without prior notice to and approval of the Contracting Officer; any such dock trials shall be conducted at the expense of the Contractor, and any such sea trials shall be conducted at the risk and expense of the Contractor.

(End of clause)

§ 12-7.5201-3 Inspection and manner of doing work.

INSPECTION AND MANNER OF DOING WORK

(a) All work and material shall be subject to the approval of the Contracting Officer or his duly authorized representative. Work shall be performed in accordance with the plans and specifications of this contract as modified by any change order issued under the "Changes" clause in this contract.

(b) Unless otherwise specifically provided for herein, all operational practices of the Contractor and all workmanship and material, equipment and articles used in the performance of work thereunder shall be in accordance with American Bureau of Shipping Rules for Building and Classing Steel Vessels, U.S. Coast Guard Marine Engineering Regulations and Material Specifications (Subchapter J, 46 CFR), U.S. Coast Guard Electrical Engineering Regulations (Subchapter J, 46 CFR), U.S. Coast Guard Navigation and Vessel Inspection Circular No. 4-60 (Part IV—Notes on Repair), and U.S.P.H.S., Handbook on Sanitation in Vessel Construction, in effect at the time of the Contractor's submission of bid (or acceptance of the contract, if negotiated), and the best commercial maritime practices except where Navy specifications are specified, in which case such standards of material and workmanship shall be followed. Where the detailed specifications do not require a Navy standard, and the requirements are not clearly or specifically covered by one of the aforementioned standards, the Contracting Officer or his designated representative shall prescribe a Navy or industrial standard for the work wherever applicable, and the decision shall be final: *Provided*, however, that where the requirements of the representative for development of detailed drawings, selection of materials and equipment, standards of workmanship, which are not specifically required in the specifications result in a change in unit price, total contract price, quantity, quality, or delivery schedule, the Contracting Officer will be advised accordingly and the Contractor will not proceed with the work until specifically directed to do so by the Contracting Officer.

(c) All material and workmanship shall be subject to inspection and test at all times during the Contractor's performance of the work to determine their quality and suitability for the purpose intended and compliance with the contract. In case any material or workmanship furnished by the Contractor is found prior to redelivery of the vessel to be defective, or not in accordance with the requirements of the contract, the Government, in addition to its rights under any "Guaranty" clause which may be contained in this contract, shall have the right prior to redelivery of the vessel to reject such material or workmanship, and to require its correction or replacement by the Contractor at the Contractor's cost and expense. If the Contractor fails to proceed promptly with the replacement or correction of such material or workmanship, as required by the Contracting Officer, the Government may, by contract or otherwise, replace or correct such material or workmanship and charge to the Contractor the excess cost occasioned the Government thereby. The Contractor shall provide and maintain an inspection system acceptable to the Government covering the work specified in the contract. Records of all inspection work by the Contractor shall be kept complete and available to the Government during the performance of the contract and for a period of sixty days after completion of all work required by the contract.

(d) No welding, including tack welding and brazing, shall be permitted in connection with repairs, completions, alterations, or additions to hulls, machinery, or components of vessels, by a welder or procedure not qualified in accordance with MIL-STD-248C. Procedure qualifications tests shall be conducted in accordance with the requirements of MIL-STD-248C.

(e) The Contractor shall exercise reasonable care to protect the vessel from fire, and the Contractor shall maintain a reasonable system of inspection over the activities of welders, burners, riveters, painters, plumbers and similar workers, particularly where such activities are undertaken in the vicinity of the vessel's magazines, fuel oil tanks or storerooms containing flammable materials. A reasonable number of hose lines shall be maintained by the Contractor ready for immediate use on the vessel at all times while the vessel is berthed alongside the Contractor's pier or in drydock or on a marine railway. All tanks under alteration or repair shall be cleaned, washed and steamed out or otherwise made safe by the Contractor if and to the extent necessary, and the Contracting Officer shall be furnished with a "gas-free" or "safe-for-hotwork" certificate before any hotwork is done on a tank. Unless otherwise provided in this contract, the Contractor shall at all times maintain a reasonable fire watch about the vessel, including a fire watch on the vessel while work is being performed thereon.

(f) The Contractor shall place proper safeguards and/or effect such safety precautions as necessary, including suitable and sufficient lighting, for the prevention of accidents or injury to persons or property during the prosecution of work under this contract and/or from time of receipt of the vessel until acceptance of work performed by the Government.

(g) Except as otherwise provided in this contract, when the vessel is in the custody of the Contractor or in drydock or on a marine railway and the temperature becomes as low as 35 degrees Fahrenheit, the Contractor shall keep all pipelines, fixtures, traps, tanks, and other receptacles on or hooked up to the vessel drained to avoid damage from freezing, or if this is not practical, the vessels shall be kept heated to prevent such damage. It shall be the Contractor's responsibility to insure adequate circulation in the firemain water supply to prevent freezing of the water lines. The vessel's stern tube and propeller hubs shall be protected from frost damage by applied heat through the use of a salamander or other proper means.

(h) The work shall, whenever practicable, be performed in such manner as not to interfere with the berthing and messing of

civilian or military personnel attached to the vessel, and provisions shall be made so that personnel assigned shall have access to the vessel at all times, it being understood that such personnel will not interfere with the work or the Contractor's workmen. The Contractor shall provide messing and sanitary facilities for his employees, subcontractors and agents separate from the vessel.

(i) The Government does not guarantee the correctness of the dimensions, sizes and shapes given in any sketches, drawings, plans or specifications prepared or furnished by the Government. The Contractor shall be responsible for the correctness of the shape, sizes and dimensions of parts to be furnished hereunder, other than those furnished by the Government.

(j) The Contractor shall at all times keep the site of the work on the vessel free from accumulation of waste material or rubbish caused by his employees or the work, and at the completion of the work shall remove all rubbish from and about the site of the work and shall leave the work in its immediate vicinity "broom clean," unless more exactly specified in this contract.

(k) Any question regarding or rising out of the interpretations of plans and specifications of this contract or any discrepancies between the plans and specifications shall be determined by the Contracting Officer or his duly authorized representative; *provided*, however, that any interpretations or determinations by the authorized representative which affect the price or delivery time specified in this contract must be approved in writing by the Contracting Officer prior to proceeding with the requirements of such interpretations or determinations.

(l) While in drydock or on a marine railway, the commanding officer of the vessel, if then in commission, shall be responsible for the proper closings of openings to the ship's bottom upon which no work is being done by the Contractor. The Contractor shall be responsible for the closing before the end of working hours, of all valves and openings upon which work is being done by its workmen when such closing is practicable. The Contractor shall keep the commanding officer cognizant of the closure status of all valves and openings upon which the Contractor's workmen have been working.

(End of clause)

§ 12–7.5201–4 Subcontracts.

SUBCONTRACTS

(a) Nothing contained in the contract shall be construed as creating any contractual relationship between any subcontractor and the Government. The divisions or sections of the specifications are not intended to control the Contractor in dividing the work among subcontractors or to limit the work performed by any trade.

(b) The Contractor shall be responsible to the Government for acts and omissions of his own employees, and of subcontractors and their employees. He shall also be responsible for the coordination of the work of the trades, subcontractors, and material men.

(c) The Contractor shall, without additional expense to the Government, employ specialty subcontractors where required by the specifications.

(d) The Government or its representatives will not undertake to settle any differences between the Contractor and his subcontractors, or between subcontractors.

(End of clause)

§ 12–7.5201–5 Lay days.

LAY DAYS

(a) Lay day time will be paid by the Government at the Contractor's stipulated bid price for this item of the contract when the vessel remains on the dry dock or Marine Railway as a result of any change that involves work in addition to that required under the basic contract.

(b) No cost for lay day time shall be paid until all accepted items of the basic contract for which a price was established by the Contractor and for which docking of the vessel was required have been satisfactorily completed.

(c) Days of hauling out and floating, whatever the hour, shall not be paid as lay day time, and days when no work is performed by the Contractor shall not be paid as lay day time.

(d) Payment of lay day time shall constitute complete compensation for all cost except for the direct cost of performing the changed work.

(End of clause)

§ 12–7.5201–6 Changes.

Insert the clause set forth in FPR 1–7.602–3.

§ 12–7.5201–7 Extras.

Insert the clause set forth in FPR 1–7.102–3.

§ 12–7.5201–8 Payments.

PAYMENTS

Unless otherwise specified, the Contractor shall be paid, upon the submission of proper invoice or vouchers, the prices stipulated herein for supplies delivered and accepted or services rendered and accepted, less deductions, if any, as herein provided.

(End of clause)

§ 12–7.5201–9 Government - furnished property.

Insert the clause set forth in DOTPR 12–7.151–8 in accordance with conditions prescribed therein.

§ 12–7.5201–10 Liability and insurance.

LIABILITY AND INSURANCE

(a) The Contractor shall exercise reasonable care and use his best efforts to prevent accidents, injury or damage to all employees, persons and property, in and about the work, and to the vessel or part thereof upon which work is done.

(b) The Contractor shall be responsible for and make good at his own cost and expense any and all loss of or damage of whatsoever nature to the vessel (or part thereof), its equipment, moveable stores and cargo, and Government-owned material and equipment for the repair, completion, alteration of or addition to the vessel in the possession of the Contractor, whether at the plant or elsewhere, arising or growing out of the performance of the work, except where the Contractor can affirmatively show that such loss or damage was due to causes beyond the Contractor's control, was proximately caused by the fault or negligence of agents or employees of the Government acting within the scope of their authority, or which loss or damage the Contractor by exercise of reasonable care was unable to prevent; provided, that the Contractor shall not be responsible for any such loss or damage discovered after redelivery of the vessel unless (i) such loss or damage is discovered within sixty (60) days after redelivery of the vessel and (ii) such loss or damage is affirmatively shown to have been the result of the fault or negligence of the Contractor. To induce the Contractor to perform the work for the compensation provided, it is specifically agreed that the Contractor's aggregate liability on account of loss of or damage to the vessel (or part thereof), its equipment, movable stores and cargo and said Government-owned materials and equipment shall in no event exceed the sum of $300,000, and the Government assumes as to the Contractor the risk of loss or damage (including, but not limited to, loss or damage from negligence of whatsoever degree of the Contractor's servants, employees, agents or subcontractors but specifically excluding loss or damage from willful misconduct or lack of good faith on the part of any of the Contractor's directors, officers and any of his managers, superintendents or other equivalent representatives who have supervision or direction of (i) all or substantially all of the Contractor's business or (ii) all or substantially all of the Contractor's operation at any one plant) to the vessel (or part thereof), its equipment, movable stores and cargo and said Government-owned materials and equipment in excess of $300,000, *Provided*, however, that as to such risk assumed and borne by the Government, the Government shall be subrogated to any claim, demand or cause of action against third persons which exists in favor of the Contractor, and the Contractor shall, if required, execute a formal assignment or transfer of claims, demands or causes of action; *Provided, further*, that nothing contained in this paragraph shall create or give rise to any right, privilege or power in any person except that Contractor, nor shall any person (except the Contractor be or become entitled thereby to proceed directly against the Government, or join the Government as a co-defendant in any action against the Contractor brought to determine the Contractor's liability or for any other purpose.

(c) The Contractor indemnifies and holds harmless the Government, its agencies and instrumentalities, the vessel and its owners, against all suits, actions, claims, costs or demands (including, without limitation, suits, actions, claims, costs or demands resulting from death, personal injury, and property damage) to which the Government, its agencies and instrumentalities, the vessel or its owner may be subject or put by reason of damage or injury (including death) to the property or person of any one other than the Government, its agencies, instrumentalities and personnel, the vessel or its owner, arising or resulting in whole or in part from the fault, negligence, wrongful act or wrongful omission of the Contractor, or any subcontractor, his or their servants, agents or employees; *Provided*, That the Contractor's obligation to indemnify under this paragraph (c) shall not exceed the sum of $300,000 on account of any one accident or occurrence in respect of any one vessel. Such indemnity shall include, without limitation, suits, actions, claims, costs or demands of any kind whatsoever, resulting from death, personal injury or property damage occurring during the period of performance of work on the vessel or within 60 days after redelivery of the vessel; and with respect to any such suits, actions, claims, costs, or demands resulting from death, personal injury or property damage occurring after the expiration of such period, the rights and liabilities of the Government and the Contractor shall be as determined by other provisions of this contract and by law; *Provided, however*, That such indemnity shall apply to death occurring after such period which results from any personal injury received during the period covered by the Contractor's indemnity as provided herein.

(d) The Contractor shall, at his own expense, procure, and thereafter maintain such casualty, accident and liability insurance, in such forms and amounts as may be approved by the Contracting Officer, insuring the performance of his obligations under paragraph (c) of this clause. In addition,

the Contractor shall at his own expense procure and thereafter maintain such ship repairer's legal liability insurance as may be necessary to insure the Contractor against his liability as ship repairer in the amount of $300,000 or the value of the vessel as determined by the Contracting Officer, whichever is the lesser, with respect to each vessel on which work is performed; provided, that, in the discretion of the Contracting Officer, no such insurance need be procured whenever the contract requires work on parts of a vessel only and such work is to be performed at a plant other than the site of the vessel. Further, the Contractor shall procure and maintain in force Workmen's Compensation Insurance (or its equivalent) covering his employees engaged on the work and shall insure the procurement and maintenance of such insurance by all subcontractors engaged on the work. The Contractor shall provide such evidence of such insurance as may be, from time to time, required by the Contracting Officer.

(e) No allowance shall be made the Contractor in the contract price for the inclusion of any premium expense or charge for any reserve made on account of self insurance for coverage against any risk assumed by the Government under this clause.

(f) As soon as practicable after the occurrence of any loss or damage the risk of which the Government has assumed, written notice of such loss or damage shall be given by the Contractor to the Contracting Officer, which notice shall contain full particulars of such loss or damage. If claim is made or suit is brought thereafter against the Contractor as a result or because of such event, the Contractor shall immediately deliver to the Government every demand, notice, summons or other process received by him or his representatives. The Contractor shall cooperate with the Government and, upon the Government's request, shall assist in effecting settlements, securing and giving evidence, obtaining the attendance of witnesses and in the conduct of suits; and the Government shall pay to the Contractor the expense, other than the cost of maintaining the Contractor's usual organization, incurred in so doing. The Contractor shall not, except at his own cost, voluntarily make any payment, assume any obligation or incur any expense other than shall be imperative for the protection of the vessel or vessels at the time of said occurrence of such event.

(End of clause)

§ 12–7.5201–11 Title.

TITLE

Unless title to materials and equipment acquired or produced for, or allocated to, the performance of this contract shall have vested previously in the Government by virtue of other provisions of this contract, title to all materials and equipment to be incorporated in any vessel or part thereof, or to be placed upon any vessel or part thereof in accordance with the requirements of the contract, shall vest in the Government upon delivery thereof at the plant or such other location as may be specified in the Contract for the performance of the work: *Provided, however,* That the provisions of this clause or other provisions of this contract shall not be construed as relieving the Contractor from the full responsibility for all such Contractor-furnished materials and equipment or the restoration of any damaged work or as a waiver of the right of the Government to require the fulfillment of all the terms of this contract, it being expressly understood and agreed that the Contractor shall assume without limitation the risk of loss for any such materials and equipment until such time as all work is completed and accepted by the Government and the vessel is redelivered to the Government. Upon completion of the contract, or with the approval of the Contracting Officer at any time during the performance of the contract, all such Contractor-furnished materials and equipment not incorporated in any vessel or part thereof, or not placed upon any vessel or part thereof, in accordance with the requirements of the contract, shall become the property of the Contractor, except those materials and equipment the cost of which has been reimbursed by the Government to the Contractor.

(End of clause)

§ 12–7.5201–12 Discharge of liens.

DISCHARGE OF LIENS

The Contractor shall immediately discharge or cause to be discharged any lien or right in rem of any kind, other than in favor of the Government, which at any time exists or arises in connection with work done or materials furnished under this contract with respect to the machinery, fittings, equipment or materials for any vessel. If any such lien or right in rem is not immediately discharged, the Government may discharge or cause to be discharged such lien or right at the expense of the Contractor.

(End of clause)

§ 12–7.5201–13 Federal, State, and local taxes.

Insert the clause set forth in FPR 1–11.401–1(c).

§ 12–7.5201–14 Default.

Insert the clause set forth in FPR 1–8.707.

§ 12–7.5201–15 Delays.

DELAYS

When during the performance of this contract, the Contractor is required to delay work on a vessel temporarily, due to orders or actions of the Government respecting stoppage of work to permit shifting the vessel, stoppage of hot work to permit bunkering, stoppage of work due to embarking or debarking passengers, and loading or discharging cargo, and the Contractor is not given sufficient advance notice or is otherwise unable to avoid the incurring of additional costs on account thereof, an equitable adjustment shall be made in the price of the contract pursuant to the "Changes" clause.

(End of clause)

§ 12–7.5201–16 Termination for convenience of the Government.

(a) Insert the clause set forth in FPR 1–8.705–2 in contracts not exceeding $10,000.

(b) Insert the clause set forth in FPR 1–8.703 in contracts exceeding $10,000.

§ 12–7.5201–17 Disputes.

Insert the clause set forth in FPR 1–7.102–12.

§ 12–7.5201–18 Patent indemnity.

In accordance with DOTPR 12–9.152–1 and DOTPR 12–9.152–3, insert the clause or clauses set forth in DOTPR 12–7.151–1 under the conditions prescribed therein.

§ 12–7.5201–19 Authorization and consent.

Insert the clause set forth in DOTPR 12–7.150–11 in accordance with DOTPR 12–9.151–1.

§ 12–7.5201–20 Notice and assistance regarding patent and copyright infringement.

Insert the clause set forth in FPR 1–7.103–4 under the condition described therein.

§ 12–7.5201–21 Buy American Act.

Insert the clause set forth in FPR 1–6.104–5 under the conditions prescribed therein.

§ 12–7.5201–22 Convict labor.

Insert the clause set forth in FPR 1–12.204 under the conditions prescribed in FPR 1–12.203.

§ 12–7.5201–23 Contract Work Hours and Safety Standards Act—overtime compensation.

Insert the clause set forth in FPR 1–12.303 under the conditions prescribed in FPR 1–12.302.

§ 12–7.5201–24 Walsh-Healey Public Contracts Act.

Insert the clause set forth in FPR 1–12.605 under the conditions prescribed in FPR 1–12.602.

§ 12–7.5201–25 Department of Labor Safety and Health Regulations for Ship Repairing.

DEPARTMENT OF LABOR SAFETY AND HEALTH REGULATIONS FOR SHIP REPAIRING

Attention of the Contractor is directed to Pub. L. 85–742, approved August 23, 1958 (72 Stat. 835, 33 U.S.C. 941), amending section 41 of the Longshoremen's and Harbor Worker's Compensation Act and to the Safety and Health Regulations for Ship Repairing promulgated thereunder by the Secretary of Labor (29 CFR Part 1501). These regulations apply to all ship repair and related work, as defined in the regulations, performed under this contract on the navigable waters of the United States including any drydock or marine railway. Nothing contained in this contract shall be construed as relieving the Contractor from any obligations which it may have for compliance with the aforesaid regulations.

(End of clause)

§ 12–7.5201–26 Equal opportunity.

Insert the clause set forth in FPR 1–12.803–2 under the conditions prescribed in FPR 1–12.803–1.

§ 12–7.5201–27 Officials not to benefit.

Insert the clause set forth in FPR 1–7.102–17.

§ 12–7.5201–28 Covenant against contingent fees.

Insert the clause set forth in FPR 1–1.503 under the conditions prescribed in FPR 1–1.501.

§ 12–7.5201–29 Additional bond security.

Insert the clause set forth in FPR 1–7.103–2.

§ 12–7.5201–30 Interpretation or modification.

Insert the clause set forth in DOTPR 12–7.150–4.

§ 12–7.5201–31 Notice of delays.

Insert the clause set forth in DOTPR 12–7.150–9.

§ 12–7.5201–32 Gratuities.

Insert the clause set forth in DOTPR 12–7.150–1.

§ 12–7.5201–33 Examination of records by Comptroller General.

Insert the clause set forth in FPR 1–7.103–3.

§ 12–7.5201–34 Utilization of small business concerns.

Insert the clause set forth in FPR 1–1.710–3(a) under the conditions prescribed therein.

§ 12–7.5201–35 Utilization of labor surplus area concerns.

Insert the clause set forth in FPR 1–1.805–3(a) under the conditions described therein.

§ 12–7.5201–36 Assignment of claims.

Insert the clause set forth in FPR 1–30.703 under the conditions contained therein.

§ 12–7.5201–37 Definitions.

Insert the clause set forth in FPR 1–7.102–1.

§ 12–7.5202 Clauses to be used when applicable.

The following clauses shall be included in the contract when their use is appropriate. Other clauses may be used if considered essential and not inconsistent with or in limitation of clauses in this subpart.

§ 12–7.5202–1 Price reduction for defective cost or pricing data.

Insert the appropriate clause set forth in FPR 1–3.814–1 under the conditions described therein.

§ 12–7.5202–2 Audit and records.

Insert the appropriate clause set forth in FPR 1–3.814–2 under the conditions described therein.

§ 12–7.5202–3 Subcontractor cost and pricing data.

Insert the appropriate clause set forth in FPR 1–3.814–3 under the conditions described therein.

§ 12–7.5202–4 Military security requirements.

Insert the clause set forth in DOTPR 12–7.151–9 under the conditions and in the manner prescribed in DOTPR 12–1.352.

§ 12–7.5202–5 Guaranty.

(a) The clause set forth below shall be used where general guaranty provisions are deemed desirable by the contracting officer (for modifications see paragraph (b) of this section).

GUARANTY

In case any work done or materials furnished by the Contractor under this contract on or for any vessel or the equipment thereof shall, within 60 days from date of delivery of the vessel by the Contractor, prove defective or deficient, such defects or deficiencies shall, as required by the Government, be corrected and repaired by the Contractor or at his expense to the satisfaction of the Contracting Officer: *Provided, however,* That with respect to any individual work item incomplete at the delivery of the vessel the guarantee period shall run from the date of completion of such item. The Government shall, if and when practicable, afford the Contractor an opportunity to effect such corrections and repairs himself, but when, because of conditions or the location of the vessel or for any other reason, it is impracticable or undesirable to return it to the Contractor, or the Contractor fails to proceed promptly with any such repairs as directed by the Contracting Officer, such corrections and repairs shall be effected at the Contractor's expense at such other locations as the Government may determine. Where corrections and repairs are to be effected by other than the Contractor, due to nonreturn of the vessel to him, the Contractor's liability may be discharged by an equitable deduction in the price of the job. The Contractor's liability under this clause shall however, in no event extend beyond the correction of such defects or deficiencies or payment for the cost thereof: *Provided, however,* That nothing in this clause shall be deemed to limit or relieve the Contractor of his responsibilities as set forth in the clause entitled "Liability and Insurance" and the clause entitled "Inspection" of this contract. At the option of the Contracting Officer, defects and deficiencies may be left in their then condition, and an equitable deduction from the contract price, as agreed by the Contractor and Contracting Officer, shall be made therefore. If the Contractor and Contracting Officer fail to agree upon the equitable deduction from the contract price to be made, the dispute shall be determined as provided in the "Disputes" clause of this contract.

(End of clause)

(b) When inspection and acceptance tests will afford full protection to the Government in ascertaining conformance to specification and the absence of defects and deficiencies, no guaranty provision for that purpose shall be included in the contract. In certain instances, the contracting officer may desire to include a provision in a contract for a guaranty period of more than 60 days. In such instances, where after full inquiry, it has been determined that such longer guaranty period will not involve increased costs, the longer guaranty period may be substituted for the 60 days specified in the guaranty clause. Where the full inquiry discloses that such longer guaranty period will involve, or is reasonably expected to involve, increased costs, such fact, and the reason for the need of such longer period shall be set forth in letter form to the Commandant (F), requesting approval for use of a guaranty period in excess of 60 days.

§ 12–7.5202–6 Priorities, allocations, and allotments.

Insert the clause set forth in DOTPR 12–7.150–3.

§ 12–7.5202–7 Index for specifications.

Insert the following clause, when appropriate.

INDEX FOR SPECIFICATIONS

If an index or table of contents is furnished in connection with specifications, it is understood that such index or table of contents is for convenience only. Its accuracy and completeness is not guaranteed, and it is not to be considered as part of the specifications. In case of discrepancy between the index or table of contents and the specifications, the specifications shall govern.

(End of clause)

PART 12–9—PATENTS, DATA, COPYRIGHTS, AND RECOVERY OF DEVELOPMENTAL COSTS

Subpart 12–9.1—Patents

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Subpart 12–9.2—Rights in Data

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Subpart 12–9.7—Recovery of Developmental Costs

12–9.700	Scope of subpart.
12–9.701	General.
12–9.702	Recovery of developmental costs.

AUTHORITY: Sec. 205(c), 63 Stat. 389; 40 U.S.C. 486(c), 10 U.S.C. 2301–2314.

Subpart 12–9.1—Patents

§ 12–9.100 Scope of Subpart.

This part sets forth policies, instructions, and contract clauses pertaining to patents, data, copyrights, and the recovery of developmental costs, in the conduct of experimental, developmental, or research work, or in connection with the procurement of supplies and services.

§ 12–9.100–50 Description of terms.

§ 12–9.100–50–1 Patents.

Patents are rights in inventions, protected by Federal law in the case of those issued in the United States. A patent is a Government grant that lasts for seventeen years. During that time it gives the inventor, or his assignee, the right to exclude anyone else from making, using, or selling the patented invention. The patent holder thus has a property right, which is, in effect, a monopoly. He may sell or assign the patent; he may grant licenses to practice the invention; and,

if his patent is infringed, he is protected by law. He may obtain an injunction restraining the infringement, against anyone but the Government or persons acting on behalf of the Government, and he may also receive damages from anyone (including the Government under 28 U.S.C. 1498(a)) for the economic injury already sustained.

§ 12–9.100–50–2 Data.

(a) The term "data" means recorded information, whether or not copyrighted, that may be acquired with a procurement. The term includes graphic or pictorial delineations in media such as drawings or photographs; text in specifications or related performance or design-type documents; machine forms such as punched cards, magnetic tape, computer memory printouts; and information retained in computer memory. Examples of recorded information include, but are not limited to, engineering drawings and associated lists, specifications, standards, process sheets, manuals, technical reports, catalog item identifications, and related information.

(b) The owner of "data" may have an economic interest in intellectual property rights such as a copyright or trade secret. If the data is copyrighted, it is protected by law. The owner may restrain copyright infringement by obtaining an injunction against anyone but the Government or persons acting on behalf of the Government, and he may also receive damages from anyone (including the Government under 28 U.S.C. 1498 (b)) for the economic injury already sustained. In the case of trade secrets, the owner's rights are governed by the contractual relationship between him and the person to whom he discloses it (28 U.S.C. 1498 does not apply to trade secrets).

§ 12–9.107–350 DOT policy on data, rights, and recovery of developmental costs.

It is DOT policy in negotiating contracts under which the Government pays a part or all of the costs of research or development, to acquire for the benefit of the United States, rights to data and patent rights, based on the criteria set forth in the Presidential Memorandum and the Statement of Government Patent Policy, and to recover the Government's contribution toward such research and development through royalties to the Government upon commercial exploitation of the products developed.

§ 12–9.107–450 Patent Rights clauses.

Use of Patent Rights clauses in contracts is governed by FPR 1–9.107 and § 12–9.107–451. Contracting Officers shall consult Patent Counsel for advice and interpretation of these sections.

§ 12–9.107–451 Pre-award Patent Rights Documentation Checklist.

In addition to the procedures of FPR 1–9.107–4, the "Pre-award Patent Rights Documentation Checklist" set forth below shall be used in determining the appropriate Patent Rights clause to be incorporated in a request for proposals in procurements involving experimental, developmental, or research work. The Checklist shall be made a part of the contract file.

(Authorized for local reproduction)

PRE-AWARD PATENT RIGHTS DOCUMENTATION CHECKLIST

Procurement Identification: _____
Purpose of Proposed Procurement: _____

1. Is a principal purpose of the proposed contract, either by itself or as one of a series of directly related contracts to create, develop or improve an end item intended for use in the civilian economy?[2] (See FPR 1–9.107–3(a)(1)). Yes____ No____

If "Yes", identify the end item and briefly describe its intended use in the civilian economy.

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2. Is a principal purpose of the proposed contract, either by itself, or as one of a series of directly related contracts to create, develop or improve an end item which will be required for use by the general public by a Government regulation? Yes____ No____

If "Yes", identify the end item and cite applicable regulation. (See FPR 1–9.107–3(a)(1)).

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3. Is a principal purpose of the contract exploration into a field directly concerned with public health, public safety, or public welfare (as distinguished from items predominantly of military concern)?[4] (See FPR 1–9.107–3(a)(2)). Yes____ No____

If "Yes", identify such principal purpose of the contract and briefly describe its relationship to the public health, or public safety, or public welfare.

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4. Is the contract for procurement in a field of science or technology in which there has been little significant experience outside of work funded by the Government?[5] (See FPR 1–9.107–3(a)(3)). Yes____ No____

If "Yes", briefly describe such field.

---

5. Is the contract for procurement in a field of science or technology in which the Government has been the principal developer of the field?[6] (See FPR 1–9.107–3(a)(3)). Yes____ No____

If "Yes", briefly describe such field.

---

6. If the answer to either 4 or 5 is "Yes", would the contractor be likely to get a preferred or dominant commercial position in that field if he were permitted to acquire title to inventions made under the contract? (See FPR 1–9.107–3(a)(3)). Yes____ No____

Explain the answer.

---

7. Does the contract require that the contractor both (i) provide services for operation of a Government-owned research or production facility and (ii) perform experimental, developmental or research work at that facility? (See FPR 1–9.107–3(a)(4)(i)). Yes____No____

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8. Does the contract require the contractor to coordinate and direct the work of others (as distinguished from the normal contractor relationship) which might result in a potential organizational conflict of interest? (See FPR 1–9.107–3(a)(4)(ii)). Yes___No___

If "Yes", explain briefly why such a potential conflict of interest is considered to exist.

(Typed Name, Office and Signature of Person Completing This Form)

The Patents Rights Acquisition by the Government Clause, FPR 1–9.107–5(a), will ____ will not ____ be used in the solicitation. (Give reasons for determination.)

(Typed Name and Signature of Contracting Officer or Representative)

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[2] The contract or series of contracts need not necessarily require delivery of the end item. The end item may be a product, a process, or data.

[4] Examples in the public welfare category would include weather modification or control.

[5] The mere fact that the Government has been or is the principal funder or developer of a specific piece of hardware does not necessarily make the Government the principal funder or developer in a field of science or technology which encompasses the piece of hardware.

§ 12–9.150 Background patents (license).

(a) Insert the clause set forth in § 12–7.150–12 in all contracts requiring a "Patent Rights—Acquisition by the Government" or "Patent Rights—Deferred" clause (either long or short form).

(b) Insert the clause in supply contracts when the Department buys the product for test or evaluation purposes and where as a result of the Government's efforts, a commercial market for the product may be created or enhanced.

(c) The clause need not be used in supply contracts:

(1) Where the product to be tested (or evaluated) is substantially complete for the commercial purpose for which it is being tested (or evaluated), or

(2) Where the prospective contractor's monetary contribution to the program resulting in the development of the hardware is substantially greater than the Government's monetary contribution, or

(3) Where the commercial market for the product existed prior to, or will not be created primarily as a result of, the Government's test or evaluation.

(d) The Contracting Officer may alter the clause to suit a particular situation. However, any such alteration must accord with DOT policy requiring, whenever investment of public funds in a program which may create or enhance the market for a product required in the interest of public health, safety, or welfare, that the Government receive assurance that the product will be available at reasonable prices, and in sufficient quantity and quality to meet the public needs. To this end, the contractor must agree to license the manufacture and sale of any such product under any patents under which he has the right to grant such licenses, such license to be restricted to use on products to which the contract relates.

§ 12–9.151 Authorization and consent.

(a) Under 28 U.S.C. 1498, any suit for infringement of a United States patent based on the manufacture or use by or for the United States of an invention described in and covered by a patent of the United States by a contractor or by a subcontractor (including lower-tier

subcontractors) can be maintained only against the Government in the Court of Claims and not against the contractor or subcontractor, in those cases where the Government has authorized or consented to the manufacture or use of the patented invention. Accordingly, to insure that work by a contractor or subcontractor under a Government contract may not be enjoined by reason of patent infringement, authorization and consent shall be given as herein provided. The liability of the Government for damages in any such suit against it may, however, ultimately be borne by the contractor or subcontractor in accordance with the terms of any patent indemnity clause also included in the contract, and an authorization and consent clause does not detract from any patent indemnification commitment by the contractor or subcontractor. Therefore, both a patent indemnity clause and an authorization and consent clause may be included in the same contract.

(b) Contracts shall not include any provision whereby the Government expressly agrees to indemnify the contractor against liability for patent infringement.

(c) An authorization and consent clause shall not be used in contracts where both complete performance and delivery are to be used outside the United States, its possessions, or Puerto Rico.

§ 12–9.151–1 Authorization and consent in contracts for supplies or services.

The contract clause set forth in § 12–7.150–11 may be included in all contracts for supplies or services (including construction or architect-engineering work), except:

(a) When prohibited by § 12–9.151(c); or

(b) In contracts for experimental, developmental, or research work in which the clause cited in § 12–9.151–2 is required.

§ 12–9.151–2 Authorization and consent in contracts for research and development.

Greater latitude in the use of patented inventions may by necessary in a contract for experimental, developmental, or research work than in a contract for supplies. Unless prohibited by § 12–9.151(c) the clause set forth in § 12–7.350–2 of this chapter shall be included in all contracts calling exclusively for experimental, developmental, or research work and may be included in contracts calling for both supplies and experimental, developmental or research work where the latter work is a primary purpose of the contract. In all other contracts for both supplies and experimental, developmental, or research work, the Authorization and Consent clause cited in § 12–9.151–1 shall be used. If the clause set forth in § 12–7.350–2 of this chapter is included in a contract, the clause cited in § 12–9.151–1 shall not be included.

§ 12–9.152 Patent indemnification of Government by contractor.

In order that the Government may be reimbursed for liability for patent infringement arising out of or resulting from the performance of construction contracts or contracts for supplies which normally are or have been sold or offered for sale to the public in the commercial open market or which are the same as such supplies with a relatively minor modification thereof, a clause providing for indemnification of the Government is to be included in such contracts in accordance with the instructions set forth below. A patent indemnity clause shall not be used in contracts:

(a) Where the Authorization and Consent clause cited in § 12–9.151–2 applicable to research and development contracts is authorized, except that in contracts calling also for supplies of the kind described above, a patent indemnity clause may be used with respect to such supplies;

(b) Where the contract is for supplies which clearly are not or have not been sold or offered for sale to the public in the commercial open market. However, even in the foregoing instance, a patent indemnity clause may be included where (1) in the case of contracts to be awarded by formal advertising it is desired to obtain an indemnity as to specific components or spare parts so sold or offered for sale, in which case the clause shall be modified pursuant to § 12–9.152–1(b); or (2) in the case of contracts to be awarded either by formal advertising or negotiation, a patent owner contends that the prospective procurement would infringe his patent and the low bidder or offeror is willing to indemnify the Government as to such patent either (i) without increase in price on the basis that the patent is invalid or not infringed, or (ii) for other good reasons.

(c) Where both performance and delivery are to be outside the United States, its possessions, or Puerto Rico, unless the contract indicates that the supplies are ultimately to be shipped into the United States, its possessions, or Puerto Rico, in which case the instructions of § 12–9.152–1 or § 12–9.152–3 are applicable; or

(d) Where the contract is for an amount of $10,000 or less, except that, as a matter of administrative convenience, the clause need not be deleted where it is a part of a standard form being used for contracts of $10,000 or less, since it is self-deleting as to such contracts.

§ 12–9.152–1 Patent-indemnification in formally advertised contracts—commerical status predetermined.

(a) Except as prohibited by § 12–9.152, the clause set forth in 12–7.151–1(a) of this chapter is appropriate in formally advertised construction contracts and shall be included in formally advertised contracts for supplies when it has been determined in advance of issuing the invitation for bids that the supplies (or such supplies apart from relatively minor modifications to be made thereto) normally are to have been sold or offered for sale for any supplier to the public in the commercial open market.

(b) Where a supply contract calls in part for specific components or spare parts which normally are or have been sold or offered for sale by any supplier to the public in the commercial open market, or such items with relatively minor modifications, the Patent Indemnity clause cited in paragraph (a) of this section shall be modified by adding to the end of the clause either of the following sentences:

The foregoing shall apply to the following: (Specifically identify the items to be excluded from the Patent Indemnity clause).

or

The foregoing shall not apply to the following: (Specifically identify the items to which the Patent Indemnity clause applies).

§ 12–9.152–2 Patent indemnification in negotiated contracts.

(a) A patent indemnity clause is not required to be included in negotiated contracts, but may be included (1) in negotiated construction contracts, (2) as authorized in § 12–9.152(b)(2), and (3) in negotiated contracts for supplies where such supplies normally are or have been sold or offered for sale to the public in the commercial open market, or are such supplies with relatively minor modifications made thereto. Ordinarily, the Contracting Officer, in consultation with the contractor, should be able to determine whether the supplies being purchased normally are on sale or have been sold or offered for sale to the public in the commercial open market.

(b) Subject to the foregoing and to the prohibitions in § 12–9.152 the clause cited in § 12–9.152–1(a) is approved for use in negotiated contracts for construction work or supplies.

(c) Where a supply contract calls in part for specific components or spare parts which normally are or have been sold or offered for sale to the public in the commercial open market, or such items with relatively minor modifications, the patent indemnity clause cited in § 12–9.152–1(a) shall be modified by adding to the end of the clause either of the following sentences:

The foregoing shall not apply to the following: (Specifically identify the items to be excluded from the Patent Indemnity clause).

or

The foregoing shall not apply to the following: (Specifically identify the items to which the Patent Indemnity clause applies).

§ 12–9.152–3 Waiver of indemnity by the Government.

In the event that it is desired to exempt one or more specified United States patents from the patents indemnity clause cited in § 12–9.152–1, authority shall first be obtained from the head of the agency and the clause set forth in § 12–7.151–1(b) of this chapter shall be included in the contract, in addition to the patent indemnity clause.

§ 12–9.153 Notice and assistance.

The Government should be notified by the contractor of all claims of infringement in connection with the performance of a Government contract which come to the contractor's attention. The contractor should also assist the Government, to the extent of evidence and information in the possession of the contractor, in connection with any suit against the Government, or any claims against the Government made before suit has been instituted, on account of any alleged patent or copyright infringement arising out of or resulting from the performance of the contract. Accordingly, the clause set forth in FPR 1–7.103–4 shall be included in all contracts in excess of $10,000 for supplies, construction, or experimental, developmental, or research work; provided, that the clause shall not be included in contracts:

(a) Where both performance and delivery are to be outside the United States, its possessions, or Puerto Rico, unless the contract indicates that the supplies are ultimately to be shipped into the United States, its possessions, or Puerto Rico; or

(b) Of $10,000 or less, except that as a matter of administrative convenience, the clause need not be deleted when it is a part of a standard form being used for such contracts, since it is self-deleting.

§ 12–9.154 Classified contracts.

Unauthorized disclosure of classified subject matter, whether in patent applications or resulting from the issuance of a patent, may be a violation of 18 U.S.C. 791 *et seq.* (Espionage and Censorship) and related statutes and may be contrary to the interests of national security. Accordingly, the clause set forth in § 12–7.151–2 of this chapter shall be included in every classified contract and every contract which covers or is likely to cover classified subject matter.

§ 12–9.154–1 Classified contracts—contracting officer's duties.

(a) Upon receipt from the contractor of a patent application, not yet filed, which has been submitted by the contractor in compliance with paragraphs (a) or (b) of the clause cited in § 12–9.154, the contracting officer shall ascertain the proper security classification of the patent application. Upon a determination that the application contains classified material, the contracting officer shall inform the contractor of any instructions deemed necessary or advisable relating to transmittal of the application to the United States Patent Office in accordance with procedures in the Department of Defense Industrial Security Manual for Safeguarding Classified Information. If the material is classified "Secret" or higher, the contracting officer shall make every effort to notify the contractor of the determination within 30 days pursuant to paragraph (a) of the clause.

(b) In the case of all applications filed under the provisions of this paragraph, the contracting officer, upon receiving the application serial number, the filing date, and the information furnished by the contractor under paragraph (d) of the clause, shall promptly submit that information to personnel having cognizance of patent matters in order that necessary steps may be taken to ensure the security of the application.

(c) A request for the approval referred to in paragraph (c) of the clause cited in § 12–9.154 must be considered and acted upon promptly in order to avoid the loss of valuable patent rights of the Government or the contractor.

§ 12–9.155 Register of Government rights in inventions.

(a) Licenses, assignments, or other documents evidencing any rights of the Government in inventions shall be reviewed to assure that each such document fully confirms the rights to which the Government is entitled.

(b) The original and a copy of each such document shall be forwarded to the activity designated by administration regulations for receiving such documents. This latter activity shall forward the originals of all licenses, assignments, or other documents evidencing any rights of the Government in or under any patents or applications for patents to the Commissioner of Patents for recording in accordance with Executive Order No. 9424 of February 18, 1944.

§ 12–9.156 Reporting of royalties—anticipated or paid.

(a) (1) The term "royalties", as used in this section, refers to any costs or charges in the nature of royalties, license fees, patent or license amortization costs, or the like, for the use of or for rights in patents or patent applications.

(2) To determine whether royalties anticipated or actually paid under Government contracts are excessive, improper, or inconsistent with rights which the Government may possess in particular inventions, patents, or patent applications, the Department shall require royalty information and reports as prescribed below. See 12–9.158, for action to be taken to reduce or eliminate excessive or improper royalties.

(3) Royalty information should not be required in formally advertised contracts. When it is expected that work may be performed in the United States, its possessions, or Puerto Rico, any solicitation which may result in a negotiated contract for which royalty information is desired, or for which cost or pricing data are obtained, shall contain a special provision substantially as follows:

ROYALTY INFORMATION

When the response to this solicitation contains costs or charges for royalties totalling more than $1,000, the following information shall be furnished with the offer, proposal, or quotation on each separate item of royalty or license fee:

(i) Name and address of licensor;

(ii) Date of license agreement;

(iii) Patent numbers, patent application serial numbers or other basis on which the royalty is payable;

(iv) Brief description, including any part or model numbers of each contract item or component on which the royalty is payable;

(v) Percentage or dollar rate of royalty per unit;

(vi) Unit price of contract item;

(vii) Number of units; and

(viii) Total dollar amount of royalties.

DD Form 783, Royalty Report, is approved for use in furnishing the above information. In addition, if specifically requested by the Contracting Officer prior to execution of the contract, a copy of the current license agreement and identification of applicable claims of specific patents shall be furnished.

(End of provision)

(b) If the work is to be performed in the United States, its possessions or Puerto Rico, then upon receipt of an offer, proposal, or quotation which includes a charge for royalties, the contracting officer shall, prior to award of the contract, forward the information called for by paragraph (a) of this section to the office having cognizance of patent matters for the procuring activity concerned. The cognizant office shall promptly advise the contracting officer of appropriate action. The contracting officer shall then take action with respect to such royalties, with due regard to all pertinent factors relating to the proposed procurement.

(c) Where subcontract work is to be performed in the United States, its possessions, or Puerto Rico, the contracting officer, when considering approval of a subcontract, shall require the same information and take the same action with respect to such subcontracts in relation to royalties as required for prime contracts under paragraph (b) of this section. However, approval need not be withheld pending receipt of advice in regard to such royalties from the office having cognizance of patent matters.

(d) (1) In negotiated contracts to be performed outside the United States, its possessions and Puerto Rico, regardless of the place of delivery, the clause set forth in § 12–7.151–3 of this chapter shall be included.

(2) The contracting officer shall forward a copy of each positive royalty report received in accordance with the clause cited in (d) (1) of this section to the office having cognizance of patent matters for the procuring activity concerned.

§ 12–9.157 Refund of royalties.

When a fixed-price-type contract is negotiated under circumstances which make it questionable whether or not substantial amounts of royalties will have to be paid by the contractor or his subcontractors, such royalties may be included in the target or contract price, with provision made in the contract that the Government will be reimbursed the amount of such royalties if they are not paid. Such circumstances might include, for example, either a pending anti-trust action by the Government or pending or prospective litigation challenging the validity of a patent or patents or the enforceability of an agreement upon which the contractor or subcontractor bases the asserted obligation to pay the royalties to

be included in the target or contract price. In the event the contracting officer determines that a refund of royalties clause should be included, the clause set forth in § 12–7.151–4 of this chapter shall be used in firm fixed-price contracts. It shall be appropriately modified for use in incentive contracts.

§ 12–9.158 Adjustment of royalties.

If at any time the contracting officer has reason to believe that any royalties paid, or to be paid, under an existing or prospective contract or subcontract are inconsistent with Government rights, excessive, or otherwise improper, he shall promptly report the facts to the office having cognizance of patent matters for the procuring activity concerned. The cognizant office shall review the royalties thus reported and such royalties as are reported under §§ 12–9.156 and 12–9.157. In coordination with the contracting officer, the cognizant office shall:

(a) Take prompt action to protect the Government against payment of royalties on supplies or services (1) with respect to which the Government has a royalty-free license, or (2) at a rate in excess of the rate at which the Government is licensed, or (3) when the royalties in whole or in part otherwise constitute an improper charge; and

(b) In appropriate cases obtain a refund pursuant to a "Refund of Royalties" clause or enter into negotiation for a reduction of royalties.

Subpart 12–9.2—Rights in Data

§ 12–9.200 Scope of subpart.

This subpart prescribes Rights in Data clauses and sets forth instructions for their use.

§ 12–9.201 Rights in data.

Insert the contract clause set forth in § 12–7.151–5 or § 12–7.151–6 of this chapter in accordance with § 12–9.201–1.

§ 12–9.201–1 Selection of appropriate rights in data clause.

(a) *Rights in data—unlimited.* The "Rights in Data—Unlimited" clause set forth in § 12–7.151–5 of this chapter shall be used where data (other than financial reports, cost analyses, and similar information incidental to contract administration) is specified to be delivered under the contract and such data is incidental to or a byproduct of the contract.

(b) *Rights in data—title.* (1) The "Rights in Data—Title" clause set forth in § 12–7.151–6 of this chapter shall be used in contracts where data (other than that incidental to contract administration) is specified to be delivered under the contract and the preparation of such data is the principal object or end item of the contract e.g., contracts for: (i) The production of motion pictures with or without accompanying sound; (ii) the preparation of motion picture scripts, musical compositions, sound tracks, translations, and the like; (iii) work pertaining to training or career guidance; (iv) survey of Government establishments; (v) works pertaining to the instructions or guidance of Government officers and employees in the discharge of their official duties; (vi) study contracts in which the principal end item is a final report; and (vii) contracts calling for the preparation of software.

(2) When the "Rights in Data—Title" clause is used in research contracts with academic institutions, the last sentence of paragraph (b) shall be deleted from the clause.

§ 12–9.201–2 Alteration of clause.

In particular situations, (e.g., where the contractor contends that certain data is "proprietary"), the contracting officer may alter either of the Data clauses, set forth in §§ 12–7.151–5 and 12–7.151–6 of this chapter. In all cases, however, the contracting officer shall obtain the advice of cognizant patent counsel before approving any such alteration.

Subpart 12–9.7—Recovery of Developmental Costs

§ 12–9.700 Scope of subpart.

This subpart prescribes a Recovery of Developmental Costs clause and sets forth instructions for its use.

§ 12–9.701 General.

(a) It is DOT policy to recover the Department's contributions toward research and development through royalties to the Government upon commercial exploitation of the products development thereby. To carry out this policy, the contract clause cited in § 12–9.702 shall be inserted in the contract in accordance with the instructions for its use. However, royalties are not paid unless the commercial product developed under the contract is profitably sold. Also, royalties cannot be so high as to price the product out of the market, and the royalties cease when the Government gets its money back.

(b) This development cost recovery program is based, first, on the established Government policy, that, where a direct beneficiary of a Government action can be identified, that beneficiary, and not the general taxpayer, should pay the cost of providing the benefit conferred. When a product developed with Government funds is sold, there are two identifiable beneficiaries—the user and the company that makes the sale. The royalty program gets the cost back to the general taxpayer from these beneficiaries.

(c) A second justification for the program is the need to protect the developing company's competitors. When the Government provides support to the development of a commercial product, the company that gets the development contract is given an advantage over its competitors who might have to develop a competing product with their own funds. These competitors have to spread their development costs over the sales of their product. With the Government paying his development costs, the original development contractor generally has very little development costs to recover. This could put the company helped by the Government in a position to make an unconscionable high profit, to undersell his competitors, or prevent them from entering the market. None of these results seems a fair or reasonable by-product of a Government-financed development effort.

§ 12–9.702 Recovery of developmental costs.

Instructions for use of clause. The clause set forth in § 12–7.151–7 of this chapter shall be included in all contracts exceeding $50,000 for design, research, development, test, or experimental work where a product (e.g., equipment or other items of hardware) is to be furnished as an end item. It may be included in other types of contracts and in contracts of $50,000 or less if appropriate. The contracting officer may alter the clause to suit a particular situation (e.g., when the contract includes quantity production or when the hardware being developed will be placed into operative use, the amount recoverable under the clause may be reduced by the fair market value of such hardware). However, any such alterations must be in accordance with the policy set forth in DOTPR 12–9.100–51.

PART 12–10—BONDS AND INSURANCE

Subpart 12–10.1—Bonds

Sec.
12–10.109 Execution and administration of bonds.

Subpart 12–10.2—Sureties on Bonds

12–10.205 Consent of surety.

Subpart 12–10.3—Insurance—General

12–10.305 Procedures to be followed in the event of loss or damage to Government property.

Subpart 12–10.4—Insurance Under Fixed-Price Contracts

12–10.400 Scope of subpart.
12–10.450 Contracts for lease of aircraft.
12–10.450–1 Loss or damage of leased aircraft clause.
12–10.450–2 Fair market value of aircraft clause.
12–10.450–3 Risks and indemnities.

AUTHORITY: Sec. 205(c), 63 Stat. 389; 40 U.S.C. 486(c), 10 U.S.C. 2301–2314.

Subpart 12–10.1—Bonds

§ 12–10.109 Execution and administration of bonds.

(a) *Execution.* When required by Instruction Number 2 of the standard bond forms, the evidence of authority of a principal's representative shall be a duly executed power of attorney reciting that the individual executing the bond or consent of surety is authorized to do so. A corporation, in lieu of such power of attorney may submit a "Certificate as to Corporate Principal" in the format prescribed in paragraph (c) of this section.

(b) *Administration.* When a contractor is performing his contract in such a manner as to lead to default, timely notification to the surety may result in action by the surety that will avoid a default. Therefore, on all such contracts, the surety shall be promptly notified of any failure by the contractor to perform (see FPR 1–8.602–4(a)).

(c) *Certificate as to corporate principal.* When a certificate as to Corporate Principal is to be furnished, the following format shall be used:

CERTIFICATE AS TO CORPORATE PRINCIPAL

I, _____,
(Name printed)
certify that I am the _____
(Office held)
of the corporation named as principal in the (performance) (and) (payment) bond(s); that _____
who signed the said bond(s) on behalf of the said corporation
principal was then _____
(Capacity in which bond was executed)
of said corporation; that I know his signature and that his signature thereto is genuine; and that said bond(s) was (were) duly signed, sealed, and attested for and in behalf of said corporation by authority of its governing body.

_____ (Affix Corporate Seal)

(d) *Name of principal.* When a partnership is a principal on a bond, the names of all the members of the firm shall be listed in the bond following the name of the firm and the phrase "a partnership composed of." If a principal is a corporation, the state of incorporation must appear.

(e) *Date of bond.* A performance or payment bond other than an annual bond shall not antedate the contract to which it pertains.

(f) *Continuation sheet.* The Standard Form 25–B (Continuation Sheet) is prescribed for use when there are more than seven sureties on a bid, performance, or payment bond. It shall also be used when there are co-sureties on an annual bid or performance bond.

(g) *Recording and filing.* Bonds shall be filed with the related original contract or the contract file shall be cross-referenced to the file containing the applicable bonds.

Subpart 12–10.2—Sureties on Bonds

§ 12–10.205 Consent of surety.

The following form of Consent of Surety and Increase of Penalty is authorized for contract modifications to all types of contracts that provide for an increase in the penal sums of bonds previously given by the original surety or sureties.

CONSENT OF SURETY AND INCREASE OF PENALTY

Modification No. _____, dated _____, Contract No. _____

The surety (co-surety) hereby consents (consent) to the foregoing contract modification and agrees (agree) that its (their) bond or bonds shall apply and extend to the contract as thereby modified or amended. The principal and the surety (co-sureties) further agree that on and after the execution of this consent, the penalty of the aforementioned performance bond or bonds is hereby increased by _____ dollars ($_____) and the penalty of the aforementioned payment bond or bonds is hereby increased by _____ dollars ($_____), *Provided*, however, that the increase of the liability of each co-surety resulting from this consent shall not exceed the sums set forth below:

Name of surety	Increase in liability limit under performance bond	Increase in liability limit under payment bond

_____ (Signature of individual principal)[1] _____ (SEAL) (Date of execution)

_____ (Type name of individual principal)

_____ (Business address)

_____ (Corporate principal)[1] _____ (Date of execution)

_____

_____ (Business address)

By _____ (Signature of person executing) _____ (Affix corporate seal)

_____ (Type name and title of person executing)

_____ (Corporate surety)

_____

_____ (Business address)

By _____ (Signature of person executing) _____ (Affix corporate seal)

_____ (Type name and title of person executing)

(Add similar signature blocks for cosureties).

[1] This consent of surety and increase of penalty shall be executed by the principal or his authorized representative concurrent with the execution of the attached modification to which it pertains. If the individual who signs the consent is signing in a representative capacity (e.g., attorney in fact), but is not a member of the firm, partnership, or joint venture, or an officer of the corporation involved a power of attorney or certificate as to corporate principal, as appropriate, shall be submitted with the consent.

Subpart 12–10.3—Insurance—General

§ 12–10.305 Procedures to be followed in the event of loss or damage to Government property.

Upon the happening of loss of or damage to any Government property, concerning which the contractor is relieved of responsibility by contract provision, the procedure shall be as prescribed in the applicable "Government Property" clause of the contract.

Subpart 12–10.4—Insurance Under Fixed-Price Contracts

§ 12–10.400 Scope of subpart.

This subpart is applicable only to the Federal Aviation Administration.

§ 12–10.450 Contracts for lease of aircraft.

The clauses in § 12–7.151–16 of this chapter shall, unless otherwise indicated by the specific instructions for their use, be inserted in any contract for the lease of aircraft (including aircraft used in out-service flight training).

§ 12–10.450–1 Loss or damage to leased aircraft clause.

Use of clause. Insert the clause in § 12–7.151–16(a) of this chapter except that the clause need not be inserted in the contract:

/ (a) When the hourly rental rate does not exceed $250 and the total rental cost for any single transaction is not in excess of $2,500 or

(b) Where the cost of hull insurance does not exceed 10% of the contract rate, or

(c) When the lessor's insurer does not grant a credit for uninsured hours, thereby preventing the lessor from granting the same to the Government.

§ 12–10.450–2 Fair market value of aircraft clause.

When the fair market value of the aircraft can be determined, insert the clause in § 12–7.151–16(b) of this chapter.

§ 12–10.450–3 Risks and indemnities.

(a) *Background.* Section 504 of the Federal Aviation Act of 1958 provides "____ no lessor of any such aircraft * * * under a bona fide lease of thirty days or more, shall be liable * * * by reason of his interest as lessor or owner of the aircraft * * * for any injury to or death of persons, or damage to or loss of property * * * *unless such aircraft * * * is in the actual possession or control of such person* at the time of such injury, death, damage or loss." (Underscoring supplied.) On short-term or intermittent-use leases, however, the owner may be liable for damage caused by operation of the aircraft. It is usual for the aircraft owner to retain insurance covering this

liability during the term of such lease. Such insurance can, often for little or no increase in premium, be made to cover the Government's exposure to liability as well. In order to take advantage of this coverage, the Risks and Indemnities clause prescribed in paragraph (b) of this section is used.

(b) *Risks and indemnities clause.* Insert the clause in 12-7.151-16(c) of this chapter in any contract for out-service flight training, or the lease of aircraft where the Government will have exclusive use of the aircraft for a period of less than thirty days.

(c) *Contract schedule provision.* Any contract for out-service flight training shall include a provision in the Schedule stating substantially that the contractor's personnel shall, at all times during the course of the training, be in command of the aircraft, and that at no time shall other personnel be permitted to take command of the aircraft.

PART 12-16—PROCUREMENT FORMS

Sec.

12-16.000 Scope of part.

Subpart 12-16.4—Forms for Advertised Construction Contracts

12-16.401 Forms prescribed.
12-16.450 Other forms.

Subpart 12-16.8—Miscellaneous Forms

12-16.800 Scope of subpart.
12-16.804-3 Standard Form 37, Report on Procurement by Civilian Executive Agencies.
12-16.850 Small purchase summary.
12-16.851 Procurement request forms.
12-16.852 Determination of prospective contractor responsibility.
12-16.853 Contractor's request for progress payment.
12-16.854 Preconstruction conference agenda and checklist.
12-16.855 Contractor's release.
12-16.856 Labor forms.
12-16.856-1 Labor standards interviews.
12-16.856-2 Employee claim for wage restitution.
12-16.856-3 Summary of labor standards investigation report.
12-16.856-4 Summary of underpayments.
12-16.856-5 Establishment of additional wage rates.

AUTHORITY: Sec. 205(c), 63 Stat. 389; 40 U.S.C. 486(c), 10 U.S.C. 2301-2314.

§ 12-16.000 Scope of part.

This part prescribes and illustrates forms for use by all procurement offices in the Department in connection with the procurement of supplies and services, including construction.

Subpart 12-16.4—Forms for Advertised Construction Contracts

§ 12-16.401 Forms prescribed.

In addition to the standard forms prescribed for use in FPR 1-16.401, Standard Form 30 shall be used to amend a construction solicitation or modify a construction contract.

§ 12-16.450 Other forms.

DOT forms prescribed for use in connection with construction contracts are prescribed or referenced in DOTPR subpart 12-16.8.

Subpart 12-16.8—Miscellaneous Forms

§ 12-16.800 Scope of subpart.

This subpart prescribes miscellaneous forms for use in procurement. The forms are illustrated in DOTPR subpart 12-16.9.

§ 12-16.804-3 Standard Form 37, Report on Procurement by Civilian Executive Agencies.

The semiannual SF-37 required by FPR 1-16.804-3(f) shall be submitted to the Office of Installations and Logistics, TAD-60, by May 1 and November 1, for consolidation and submission to the General Services Administration.

§ 12-16.850 Small purchase summary.

DOT Form F 4230.1 titled "Small Purchase Summary" is an optional form which may be used to satisfy the small purchase documentation requirements set forth in FPR 1-3.603-2.

§ 12-16.851 Procurement request forms.

(a) *General.* The procurement request forms listed in paragraph (c) below shall be used to request the procurement of supplies, services, or construction, and may be used, if appropriate, to request items obtained through FEDSTRIP, MILSTRIP, or similar single- or multiline requisitioning methods.

(b) *Description of forms.* The forms are issued in units of "PAD". Each pad contains 100 sheets of "no carbon required" type paper.

(c) *Forms.* The procurement request forms are DOT Form F 4200.1.1 for use by the Coast Guard, DOT Form F 4200.1 for use by all other Administrations, and DOT Form F 4200.2 (Continuation Sheet) for use by the Federal Aviation Administration.

§ 12-16.852 Determination of prospective contractor responsibility.

DOT Form F 4220.1 titled "Determination of Prospective Contractor Responsibility" shall be used as prescribed in DOTPR 12-1.1204-1.

§ 12-16.853 Contractor's request for progress payment.

DOT Form F 4220.2 titled "Contractor's Request for Progress Payment" shall be used as prescribed in DOTPR 12-30.519.

§ 12-16.854 Preconstruction conference agenda and checklist.

DOT Form F 4220.3 titled "Preconstruction Conference Agenda and Checklist" shall be used as prescribed in DOTPR 12-18.151.

§ 12-16.855 Contractor's release.

DOT Form F 4220.4 titled "Contractor's Release" shall be used to obtain a release from the contractor for:

(a) All cost type contracts.

(b) Construction contracts, where a release is required by the contracting officer (see paragraph (e) of Clause 7 of Standard Form 23-A).

(c) Any other type of contract when the contracting officer determines its use appropriate.

§ 12-16.856 Labor forms.

§ 12-16.856-1 Labor standards interviews.

DOT Form F 4220.5 shall be used to record the results of interviews with contractor employees working at the construction site. (Sec. 5.6(a)(3) of the Labor Department regulations (29 C.F.R.) requires Federal agencies to make such investigations as are deemed necessary to insure compliance with the labor standards provisions contained in the contract. These investigations include interviews with employees to ascertain whether laborers and mechanics are being or have been properly classified and paid.)

§ 12-16.856-2 Employee claim for wage restitution.

DOT Form F 4220.7 shall be used by contractor employees to file claim for unpaid wages when contract funds have been transferred to the General Accounting Office to cover such underpayment. (Even though contract funds have been transferred to GAO to cover the underpayment, GAO requires that a claim be submitted before it will make payment directly to the employee. See Comptroller General Decision B-3368 of 3/19/57.)

§ 12-16.856-3 Summary of labor standards investigation report.

DOT Form F 4220.6 shall be used as the first page of reports on special labor standards investigations to summarize the findings of the investigation.

§ 12-16.856-4 Summary of underpayments.

DOT Form F 4220.8 shall be used to summarize the findings of wage underpayment and liquidated damages and shall be included in the investigation report when a special labor standards investigation is made.

§ 12-16.856-5 Establishment of additional wage rates.

(a) Except as provided in paragraph (b) of this section, DOT Form F 4220.10 shall be used by the contractor to obtain the contracting officer's approval or disapproval of the contractor's proposed classification and wage rate for any category of laborers or mechanics not listed in the contract wage determination but needed in performance of the contract work. Procedures shall be established to assure contracting officer approval of additional classifications and rates prior to their use by the contractor.

(b) FHWA Form PR-1140 may be used by the Federal Highway Administration for direct Federal contracts and Federal-aid contracts in lieu of DOT Form F 4220.10.

PART 12-17—EXTRAORDINARY CONTRACTURAL ACTIONS TO FACILITATE THE NATIONAL DEFENSE

Subpart 12-17.1—General

Sec.

12-17.101 Authority.

Subpart 12-17.2—Requests for Contractual Adjustment

12-17.208 Processing cases.

AUTHORITY: Sec. 205(c), 63 Stat. 389; 40 U.S.C. 486(c), 10 U.S.C. 2301-2314.

Subpart 12–17.1—General

§ 12–17.101 Authority.

The Department of Transportation Contract Appeals Board has been authorized by the Secretary to exercise the authority granted by the Act of August 28, 1958 (Pub. L. 85–804).

Subpart 12–17.2—Requests for Contractural Adjustment

§ 12–17.208 Processing cases.

A contractor's request for adjustment shall be coordinated with legal counsel and processed within each Administration in accordance with its procedures.

PART 12–18—PROCUREMENT OF CONSTRUCTION

Subpart 12–18.1—General Provisions

Sec.

12–18.108 Government estimate.
12–18.109 Disclosure of size of construction projects.
12–18.110 Liquidated damages.
12–18.112 Construction contracts with design-engineers (A–E).
12–18.151 Preconstruction conference.

Subpart 12–18.2—Formal Advertising

12–18.201–50 Types of contracts.
12–18.202 Preinvitation notices.
12–18.203–51 Fee for plans and specifications.
12–18.203–52 Inquiries from bidders.

Subpart 12–18.3—Negotiations

12–18.301 Limitation on authority to negotiate contracts.
12–18.301–50 Coast Guard negotiation citations.

AUTHORITY: Sec. 205(c), 63 Stat. 389; 40 U.S.C. 486(c), 10 U.S.C. 2301–2314.

Subpart 12–18.1—General Provisions

§ 12–18.108 Government estimate.

After all bids have been read and recorded, the Government estimate shall, when required to be prepared in accordance with FPR 1–18.108, be read and recorded in the same detail as the invitation for bids. If the procurement is by negotiation, cost breakdown figures in the Government estimate may be disclosed during negotiations but only to the extent deemed necessary for arriving at a fair and reasonable price: *Provided*, That the overall amount of the Government estimate is not disclosed.

§ 12–18.109 Disclosure of size of construction projects.

For purposes of disclosing the size of construction projects, the estimated cost thereof shall be stated in ranges, such as the following:

"under $25,000"
"between $25,000 and $100,000"
"between $100,000 and 250,000"
"between $250,000 and $500,000"
"between $500,000 and $1,000,000"
"between $1,000,000 and $2,500,000"
"between $2,500,000 and $5,000,000"
"between $5,000,000 and $10,000,000"
"over $10,000,000."

§ 12–18.110 Liquidated damages.

Liquidated damages provisions are generally appropriate in construction contracts in accordance with the provisions of FPR 1–1.315–2(a). However, inclusion of liquidated damages provisions may be inappropriate in situations such as a construction contract consisting of repairs, alteration or improvements, where any delay in the completion would still permit the user to continue its normal function in an uninterrupted manner without resulting in added expense to the Government.

§ 12–18.112 Construction contracts with design-engineers (A–E).

No contract for construction of a project shall be awarded to a firm or person that designed the project except with approval of the Secretary. The A–E shall be informed of this restriction prior to the commencement of negotiations for his services.

§ 12–18.151 Preconstruction conference.

(a) When the contracting officer considers such action warranted, he shall arrange a preconstruction conference with the contractor and such subcontractors as the contractor may designate to assure that there is a clear understanding of the contract requirements (including labor standards provisions) and of the rights and obligations of the parties.

(b) DOT Form F 4220.3 titled "Preconstruction Conference Agenda and Checklist", or a similar checklist, shall be used as the agenda of or checklist for the preconstruction conference.

Subpart 12–18.2—Formal Advertising

§ 12–18.201–50 Types of contracts.

When unit prices are used, the Variation in Estimated Quantities clause set forth in DOTPR 12–7.651–7 shall be included in the contract.

§ 12–18.202 Preinvitation notices.

Standard Form 20 may be used as preinvitation notice providing it is clearly identified as such.

§ 12–18.203–51 Fee for plans and specifications.

When a flat, nonrefundable fee is to be charged in accordance with DOTPR 12–2.203–1(b), a statement reading substantially as follows shall be included in the solicitation:

Nonrefundable fee for plans and specifications. A fee of $_____ is required for the plans and specifications referenced in this solicitation. Send check or money order to _____. The fee is not refundable. Plans and specifications need not be returned.

§ 12–18.203–52 Inquiries from bidders.

A statement similar to the following shall be included in each solicitation:

For information call (insert name, telephone number). Submit written requests in accordance with paragraph 1 of Standard Form 22.

Subpart 12–18.3—Negotiations

§ 12–18.301 Limitation of authority to negotiate contracts.

§ 12–18.301–50 Coast Guard negotiations.

For limitation of Coast Guard authority to negotiate construction contracts see DOTPR 12–3.252

PART 12–26—CONTRACT MANAGEMENT

Subpart 12–26.4—Novation Agreements and Change of Name Agreements

Sec.

12–26.450 Processing novation agreements and change of name agreements.

AUTHORITY: Sec. 205(c), 63 Stat. 389; 40 U.S.C. 486(c), 10 U.S.C. 2301–2314.

Subpart 12–26.4—Novation Agreements and Change of Name Agreements

§ 12–26.450 Processing novation agreements and change of name agreements.

(a) When only one Administration or the Office of the Secretary of Transportation has outstanding contracts with the contractor or contractors seeking a novation or change of name agreement, the documents pertaining thereto shall be forwarded to the appropriate addressee in (b) below. This addressee may authorize the procuring activity of its Administration (or OST) having the largest unsettled (unbilled plus billed but unpaid) dollar balance with the contractor or contractors to process and execute the agreement.

(b) When more than one Administration (including OST) has outstanding contracts with the contractor or contractors seeking a novation or change of name agreement, a single agreement covering all such contracts shall be executed by the Administration having the largest unsettled (Unbilled plus billed but unpaid) dollar balance with the contractor or contractors. Such agreements shall be executed by a duly authorized official of the appropriate office listed herein.

Federal Aviation Administration, Director, Logistics Service, 800 Independence Avenue SW., Washington, D.C. 20591.
Federal Highway Administration, Office of Associate Administrator for Administration, 400 7th Street SW., Washington, D.C. 20590.
U.S. Coast Guard, Commandant (G–F), 400 7th Street SW., Washington, D.C. 20590.
Federal Railroad Administration, Office of Associate Administrator for Administration, 400 7th Street SW., Washington, D.C. 20590.
St. Lawrence Seaway Development Corporation, Administrative Services Officer, 800 Independence Avenue SW., Washington, D.C. 20591.
Office of the Secretary of Transportation, Director of Administrative Operations, 400 7th Street SW., Washington, D.C. 20590.

Transportation Systems Center, Office of Administration, Kendall Square, Cambridge, Mass. 02142.
Urban Mass Transportation Administration, Director, Office of Procurement and Third Party Review, 400 7th Street SW., Washington, D.C. 20590.
National Highway Traffic Safety Administration, Office of Associate Administrator for Administration, 400 7th Street SW., Washington, D.C. 20590.

(c) The Administration processing a proposed novation agreement shall promptly provide notice of the proposed agreement, including the list of contracts as required by FPR 1-26.402(c)(2) to the other Administrations (and OST, if applicable) having contracts with the contractor or contractors concerned. Such notice shall be transmitted to the appropriate addressee listed in (b) above. Within 30 days after receipt of such notice, the Administration(s) may submit comments to the processing Administration, which comments shall be considered prior to execution of the proposed agreement. The absence of comment from an Administration within 30 days after its receipt of notice of a proposed novation agreement shall be construed as approval by that Administration. When only a single Administration is concerned, the procuring activity processing a proposed novation agreement shall give similar notice of it to all other interested procuring activities in that Administration.

(d) Where substantial alterations or additions to the formats set forth in FPR 1-26.402 and FPR 1-26.403 are considered appropriate by the Administration processing the proposed agreement, that Administration shall coordinate the agreement with the other Administrations prior to execution. Any objection shall be resolved before the agreement is executed.

(e) A signed copy of the executed novation agreement or change of name agreement shall be forwarded to the contractor, a signed copy shall be retained in the Administration executing the agreement, and where more than one Administration is involved, two copies of the agreement shall be distributed to the appropriate addressee listed in DOTPR 12-26.450(b).

(f) After execution and distribution of an agreement, an administative change (Standard Form 30) shall be prepared by the processing activity incorporating a summary of the agreement and attaching thereto a complete list of the contracts affected. For single Administration agreements, three copies of the Standard Form 30 shall be furnished for each contract to the procuring activities concerned, and for multi-Administration agreements, to the appropriate addressee listed in DOTPR 12-26.450(b).

PART 12-30—CONTRACT FINANCING

Subpart 12-30.5—Progress Payments Based on Costs

Sec.

12-30.519 Contractor's request.

AUTHORITY: Sec. 205(c), 63 Stat. 389; 40 U.S.C. 486(c), 10 U.S.C. 2301-2314.

Subpart 12-30.5—Progress Payments Based on Costs

§ 12-30.519 Contractor's request.

All invoices for progress payments described in FPR 1-30.519 shall be supported by DOT Form F 4220.2 titled "Contractor's Request for Progress Payment" (or, at the contractor's option, he may submit DOD Form 1195), with any other information that may be reasonably required.

PART 12-50—SERVICE CONTRACTS

Sec.

12-50.000 Scope of part.

Subpart 12-50.1—Technical Support Services

12-50.100 Scope of subpart.

Subpart 12-50.2—[Reserved]

Subpart 12-50.3—Procurement of Expert or Consultant Services

12-50.300 Scope of subpart.
12-50.301 Negotiation authority.
12-50.302 Definition of experts and consultants.
12-50.303 Policy.
12-50.304 Limitations on use of expert or consultant authority.
12-50.305 Justification to enter into contracts.
12-50.306 Contracts with individual experts or consultants.
12-50.306-1 Method and amount of payment.
12-50.306-2 Benefits.
12-50.306-3 Taxes.
12-50.306-4 Conflict of interest.
12-50.306-5 Administrative treatment.
12-50.307 Contracts with firms for expert or consultant services.
12-50.308 Contracts for stenographic reporting services.
12-50.309 Modification of contracts.

Subpart 12-50.4—Procurement of Mortuary Services

12-50.400 Scope of subpart.
12-50.401 Procurement by contract.
12-50.402 Area of performance.
12-50.403 Solicitation provision.
12-50.404 Schedule format.
12-50.405 Contract clauses.
12-50.406 Procurement by purchase order.

AUTHORITY: Sec. 205(c), 63 Stat. 389; 40 U.S.C. 486(c), 10 U.S.C. 2301-2314.

§ 12-50.000 Scope of part.

This Part deals generally with the obtaining of services by contract, and specifically with certain types of contracts which can properly be classified as service contracts. It does not cover the services of individuals obtained by direct appointment or through normal Civil Service employment procedures, nor does it cover the obtaining of services by grant.

Subpart 12-50.1—Technical Support Services

§ 12-50.100 Scope of subpart.

Guidance and instructions for the procurement of non-personal technical support services are set forth in DOT Order 4200.13 included in DOTPR 12-99.

Subpart 12-50.2—[Reserved]

Subpart 12-50.3—Procurement of Expert or Consultant Services

§ 12-50.300 Scope of subpart.

This subpart sets forth policy and procedures for the procurement by contract, pursuant to 5 U.S.C. 3109, of expert or consultant services from individuals and from firms. This subpart does not govern employment of individual experts or consultants by excepted appointment; the requirements for such employment are set forth in personnel regulations of the Civil Service Commission and of the Department.

§ 12-50.301 Negotiation authority.

Contracts with individuals or firms for expert and consultant services are usually negotiated, normally under the authority of 41 U.S.C. 252(c)(4), or 10 U.S.C. 2304(a)(4), as applicable.

§ 12-50.302 Definition of experts and consultants.

(a) The term "experts" means those persons who are exceptionally qualified in a particular field, by education or by experience, to perform some specialized service. The term "consultants" means those persons whose advice and counsel are sought on matters of Departmental interest. These terms also include firms meeting the foregoing definitions.

(b) Stenographic reporting services are included in the term "expert or consultant services" for purposes of procurement by contract under this subpart.

§ 12-50.303 Policy.

(a) The proper use of experts and consultants is a legitimate and economical way to improve Government services and operations. Activities of the Department can be strengthened by utilizing the highly specialized knowledge and skills of such individuals. Accordingly, the services of experts and consultants may be used at any organizational level to help managers achieve maximum effectiveness and economy in their operations.

(b) The following are examples of services which may be procured from experts or consultants by contract:

(1) Specialized opinion unavailable in the Department;

(2) Outside points of view, to avoid too limited judgment, on critical administrative or technical issues;

(3) Advice on developments in industrial and other research;

(4) For especially important projects, opinions of noted experts which are highly important to the success of an undertaking;

(5) The advisory participation of citizens to develop or implement Government programs that by their nature or by statute call for citizen participation;

(6) The services of specialists (experts) who are not needed full-time, who cannot serve regularly or full-time, or whose full-time employment is uneconomical to the Government.

§ 12-50.304 Limitations on use of expert or consultant authority.

(a) Authority to employ experts or consultants, whether by contract or by appointment, is limited to Secretarial officers and heads of Operating Administrations. They shall not be used to perform duties which can be performed by regular employees, to fill positions which call for full-time continuing employees,

or to circumvent competitive civil service procedures and Classification Act pay limits. The prior approval of the Deputy Secretary is required for any expert or consultant contract or series of contracts with the same individual or firm that will reimburse him for a total of more than 10 days' work in any consecutive 12-month period.

(b) The nature of the duties to be performed must be temporary (not more than one year) or intermittent (not cumulatively more than 130 working days in any consecutive 12-month period), and no contract shall be entered into for longer than one year at a time.

(c) Expert or consultant services shall not be used when existing facilities of the Department are adequate or when personnel with the necessary skills can be obtained through normal civil service appointment procedures. Procurement of expert or consultant services shall not be used as a means of circumventing manpower space ceilings or the limit on the daily rate that experts or consultants may be paid under section 9(b) of the DOT Act.

§ 12–50.305 Justification to enter into contracts.

(a) All contracts to be entered into pursuant to 5 U.S.C. 3109 or other statutory authority for expert or consultant services must be justified in writing and the justification signed by the appropriate Secretarial officer or head of Operating Administration. Ordinarily each contract shall be separately authorized. However, when the justification can appropriately be made with respect to a class of contracts, the authorizing official may execute a blanket authority for that class of contracts.

(b) Each justification shall authorize a contract or class of contracts to be entered into during a stated period not to exceed one year. A justification may be issued during one fiscal year to authorize a contract or class of contracts to be entered into during the following fiscal year, provided the determinations are reasonably expected to hold true at the time the contract or contracts are to be entered into.

(c) Each justification shall contain the following:

(1) A brief description of the services authorized to be procured, the estimated time of performance and the estimated cost;

(2) Determination with respect to the particular contract or class of contracts that:

(i) The duties to be performed are of a temporary or intermittent nature;

(ii) The existing facilities of this Department are inadequate to furnish the services; and

(iii) It is not feasible to obtain personnel with the necessary skills from other Federal agencies or through normal civil service appointment procedures.

§ 12–50.306 Contracts with individual experts or consultants.

§ 12–50.306–1 Method and amount of payment.

The contract may provide for compensation at rate for time actually worked (e.g., amount per day, per week, per month, etc.), or it may provide for performance of a specific task at a fixed price, or it may provide for nominal compensation. The amount of rate of payment will be determined on a case-by-case basis, taking into account (among any other relevant factors) the relative importance of the duties to be performed, the stature of the individual in his specialized field, comparable pay for positions under the Classification Act or other Federal pay systems, rates paid by private employers, and rates previously paid other experts or consultants for similar work. Compensation at a per diem rate will be no more than that permitted by statutory authority and normally no less than $55. In addition, the contract may provide for such expenses as would be authorized for a Government employee, including actual transportation and per diem in lieu of subsistence while the expert or consultant is traveling between his home or place of business and his official duty station. However, no more than one round-trip to the official duty station shall be provided unless the services are rendered on an intermittent basis.

§ 12–50.306–2 Benefits.

No benefits shall be accorded the contractor which are not specifically provided for in the written contract.

§ 12–50.306–3 Taxes.

Where the individual is to render services, the compensation generally is subject to FICA (Social Security), FUTA (Unemployment), and federal income withholding tax. It may also be necessary to report or withhold state income tax under 5 U.S.C. 5517. The contracting officer shall take appropriate steps in coordination with the cognizant personnel office to have deductions and reports made where required by law.

§ 12–50.306–4 Conflict of interest.

The contracting officer shall assure himself that individual experts or consultants who are to render services under contract, familiarize themselves with Executive Order 11222, May 8, 1965, Part III, "Standards of Ethical Conduct for Special Government Employees," 30 FR 6469 (1965), and that they comply with it and with Departmental regulations implementing it.

§ 12–50.306–5 Administrative treatment.

Individual experts or consultants who are to render personal services under contract are charged against personnel ceilings in the same way as experts and consultants employed by excepted appointment. Also, the cognizant personnel office must maintain certain records on individual experts and consultants who render personal services. Therefore, the contracting officer shall effect necessary coordination with the cognizant personnel office before award of a contract for expert or consultant services, and may also designate the appropriate personnel officer as his representative for the purpose of obtaining necessary data from the contractor for tax withholding purposes, for suitability investigation under Executive Order 10450 and for administering applicable conflict of interest provisions.

§ 12–50.307 Contracts with firms for expert or consultant services.

Contracts with firms for expert or consultant services ordinarily need deal only with rights and obligations as between the Government and the firm, and need not deal with the question of compensation by the firm of the individuals it assigns to the work or with any other rights or obligations as between the firm and these individuals.

§ 12–50.308 Contracts for stenographic reporting services.

Stenographic reporting services normally are provided by Federal Government employees appointed under the usual civil service procedures. However, these services may be procured by contract from individuals or firms pursuant to 5 U.S.C. 3109, or other statutory authority where there are variable requirements or insufficient qualified personnel, and necessity or economy to the Government demands procurement by contract. Such contracts normally shall be written on an end-product basis and payment made according to delivered items (e.g., number of copies of transcript, words per page, etc.), and the contractor ordinarily shall be required to furnish the necessary material (typewriter, paper, bindings, etc.). These contracts are subject to all provisions of this subpart.

§ 12–50.309 Modification of contracts.

When supplemental agreements or change orders are required which substantially change the basis upon which the justification was made, such as to revise substantially the scope of work or time limitations, or to apply additional funds, authorization shall be requested in the same way and is subject to the same limitations as authorization to procure the total services by contract would have required in the first place.

Subpart 12–50.4—Procurement of Mortuary Services

§ 12–50.400 Scope of subpart.

This subpart is applicable only to the Coast Guard. It sets forth procurement procedures peculiar to contracts for mortuary services (the care of remains) of Coast Guard personnel.

§ 12–50.401 Procurement by contract.

(a) Where an existing contract for the care of remains is not available for Coast

Guard use, procurement of such services shall be formally advertised except where negotiation is authorized, consistent with limitations and requirements set forth in Chapter 12B of the Coast Guard Personnel Manual.

(b) The contract format, terms and conditions, and clauses set forth in this subpart are appropriate for inclusion in a requirements type contract. They should be altered as deemed necessary by the contracting officer to fit a different contract type or procurement situation.

§ 12–50.402 Area of performance.

Each contract for care of remains shall clearly define the geographical area covered by the contract. The area shall be determined by the activity entering into the contract in accordance with the following general guidelines. It shall be an area using political boundaries, streets, and other features as demarcation lines. Generally, this should be a size roughly equivalent to the contiguous metropolitan or municipal area enlarged to include the activities served. In the event the area of performance best suited to the needs of a particular contract is not large enough to include a carrier terminal commonly used by people within such area, the contract area of performance shall specifically state that it includes such terminal as a pickup or delivery point.

§ 12–50.403 Solicitation provision.

Invitations for bids for mortuary services contracts shall contain the provision set forth below. This provision shall be appropriately modified for use in requests for proposals.

AWARD TO SINGLE BIDDER

Subject to the provisions contained herein, award shall be made to a single bidder. Bids must include unit prices for each item listed in order that bids may be properly evaluated. Failure to do this shall require rejection of the entire bid. Bids shall be evaluated on the basis of the estimated quantities shown and award shall be made to that responsive/responsible bidder whose total aggregate price is low.

§ 12–50.404 Schedule format.

Set forth below is an example of a Schedule format suitable for use in solicitations:

Item No.	Supplies, services, and transportation	Estimated Quantity	Unit	Unit price	Amount
1	For a type I casket, standard size, supplies and services in accordance with specifications.		Each		
2	For a type II casket, standard size, supplies and services in accordance with specifications.		do		
3	For a shipping case, standard size, in accordance with specifications. (For use with item 1 or 2 above.)		do		
4	For a type I casket, exceeding standard size, supplies and services in accordance with specifications.		do		
5	For a type II casket, exceeding standard size, supplies and services in accordance with specifications.		do		
6	For shipping case, exceeding standard size, in accordance with specifications. (To be used with item 4 or 5 above.)		do		
7	For transportation of remains, in accordance with specifications and as provided for in para. (b) and (c) of the area of performance clause of this contract.		Loaded mile		

§ 12–50.405 Contract clauses.

The clauses in DOTPR 12–7.50 shall, if appropriate, be included in contracts.

§ 12–50.406 Procurement by purchase order.

Where no contract for mortuary services exists and the use of a purchase order is appropriate, such services shall be obtained by use of DD Form 1155 and DD Form 1155r, in accordance with the following instructions:

(a) The "Changes" clause (paragraph 17 of DD Form 1155r) shall be deleted and the "Changes" clause in DOTPR 12–7.5001–29 shall be substituted therefor.

(b) The "Additional Default Provision" clause in DOTPR 12–7.5001–23 shall be included in the purchase order except it shall be amended:

(1) By changing paragraph (a) thereof to read: "(a) This clause supplements the 'Termination for Default' clause of this contract."

(2) By changing the first sentence of paragraph (b) thereof to read: "This contract may be terminated for default by written notice if during the performance of this contract:".

(c) The following clauses shall also be included in the purchase order:

(1) The "Specifications" clause in DOTPR 12–7.5001–18.

(2) The "Delivery and Performance" clause in DOTPR 12–7.5001–21.

(3) The "Subcontracting" clause in DOTPR 12–7.5001–22.

(4) The "Inspection" clause in DOTPR 12–7.5001–24.

(5) The "Professional Requirements" clause in DOTPR 12–7.5001–26.

(6) The "Facility Requirements" in DOTPR 12–7.5001–27.

(7) The "Preparation History" clause in DOTPR 12–7.5001–28.

PART 12–60—CONTRACT APPEALS

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AUTHORITY: Sec. 205(c), 63 Stat. 389; 40 U.S.C. 486(c), 10 U.S.C. 2301–2314.

§ 12–60.000 Scope of part.

This part establishes the Department of Transportation Contract Appeals Board, prescribes its functions and procedures, provides for the appointment of a chairman and members of the Board, and authorizes the members of the Board to act.

Subpart 12–60.1—Contract Appeals Board

§ 12–60.101 Establishment.

A Department of Transportation Contract Appeals Board ("Board") is established. The Secretary of Transportation ("Secretary") appoints and terminates the appointments of the members of the Board, and designates one of them as chairman. The Board is responsible directly to the Secretary.

§ 12–60.102 Qualifications of members.

Each member of the Board must be a qualified attorney who is admitted to practice before the highest court of a State or the District of Columbia, and shall be a civilian employee of a commissioned officer of the Department.

§ 12–60.103 Authority and duties of the Board and its members.

(a) The Board acts for the Secretary in hearing and deciding:

(1) Appeals by contractors from decisions made by contracting officers under contracts which provide for such an appeal to the Secretary; and

(2) Other matters as directed by the Secretary.

(b) In each case, the Board shall make a final decision which is impartial, fair, and just to the parties and is supported by the record of the case and the law. The member or members assigned to hear an appeal have authority to act for the Board in all matters with respect to such appeal, except that the final decision is made by a majority of a panel of Board members designated by the chairman for that purpose. No member may act for the Board or participate in a decision if he has participated directly in any aspect of the award or administration of the contract involved.

§ 12–60.104 Authority and duties of the chairman.

The chairman is delegated authority over and is responsible for:

(a) The internal organization and administration of the Board;

(b) The receipt and custody of all papers and material relating to contract appeals;

(c) The assignment of a member or members of the Board to act for the Board in each appeal and the assignment of the panel of Board members to decide each appeal;

(d) The designation of an acting chairman during his absence, disqualification, or disability; and

(e) The promulgation of additional or supplemental rules of procedure, not inconsistent with those established by the Secretary.

Subpart 12–60.2—Contract Appeal Procedures

§ 12–60.201 General.

(a) It is the intent of the rules in this part to provide for the just and inexpensive determination of appeals without unnecessary delay. It is the objective of the Board's preliminary procedures to encourage full disclosure of relevant and material facts, and to discourage surprise. Each specified time limitation is a maximum, and should not be fully exhausted if the action described can be accomplished in a shorter period. The Board may extend any time limitation (except the time specified in the contract for filing the notice of appeal) for good cause.

(b) For the purposes of this part—

(1) "The parties" means the appellant and the contracting officer;

(2) "Appellant" means the contractor who appeals; and

(3) "Contracting officer" means the Government contracting officer whose decision is appealed, or his successor.

(c) Ordinarily, the appellant has the burden of proof.

§ 12–60.202 Notice of appeal.

An appeal from a decision of a contracting officer is made by sending a written notice of appeal to the contracting officer addressed to the Secretary. The notice shall be mailed or filed within 30 days after the date of receipt of the contracting officer's decision, unless a different time is provided in the contract. The contractor shall sign the notice, identify the contract involved and the decision appealed from, and state that he is appealing from that decision. A general letter of complaint objecting to some action may be considered not to be a notice of appeal. The notice should be in triplicate, specify the part or parts of the decision from which the appeal is taken, and should state the reason why those parts are erroneous. The notice of election referred to in § 12–60.205, and the complaint referred to in § 12–60.208, may be filed with, or as part of, the notice of appeal.

§ 12–60.203 Forwarding of appeals.

Upon receiving a notice of appeal, the contracting officer shall endorse on the original and the copies the date of mailing, or the date of receipt if otherwise filed. He shall immediately send the notice and one copy to the Board for docketing. The Board shall promptly advise the appellant and the contracting officer of the receipt of the original notice of an appeal (whether received from the contracting officer or otherwise), and shall furnish the appellant a copy of the rules in this part and advise him of his option of procedures.

§ 12–60.204 Duties of the contracting officer.

(a) Within 30 days after the first written notice to him that an appeal has been taken, the contracting officer shall send to the Board an appeal file, consisting of the originals or true copies of the following:

(1) The findings of fact and the decision from which the appeal is taken, and the letters or other documents of claim in response to which the decision was issued;

(2) The contract and pertinent specifications, plans, drawings, modifications, change orders, and amendments;

(3) All correspondence between the parties relating to the dispute;

(4) Transcripts of any testimony taken in connection with the dispute, and any affidavits or statements of any witnesses that were considered by the contracting officer in reaching his decision; and

(5) Any additional data that the contracting officer may consider pertinent.

(b) The contracting officer shall retain a complete copy of the appeal file, except for voluminous exhibits of which the appellant has identical copies, or which the appellant has had the opportunity to inspect. At the time the file is sent to the Board he shall so notify the appellant, provide him with a listing of its contents, and advise him that he may examine it at the office of the contracting officer or the Board. As soon as possible the appellant should suggest to the Board any additional documentation he considers pertinent for inclusion in the appeal file. The Board may order the inclusion of the suggested material.

§ 12–60.205 Appellant's election as to procedure.

(a) The appellant may elect to have the appeal considered upon:

(1) The written record, without oral hearing (§ 12–60.206);

(2) A conference hearing (§ 12–60.207); or

(3) A hearing under the Board's regular procedure.

(b) The appellant shall notify the chairman of the Board of his election within 30 days after the date he receives the contracting officer's notice of transmittal of the appeal file under § 12–60.204.

(c) For good cause, at the timely request of the contracting officer or on the Board's own motion, the Board may direct that the parties follow either the conference hearing procedure or the regular procedure if the appellant has elected to have the appeal considered upon the written record; or it may direct that the parties follow the regular procedure if the appellant has elected to have the appeal considered under the conference hearing procedure.

§ 12–60.206 Procedure for submission on written record.

If the appeal is considered on the written record, the pleadings specified in § 12–60.208 are not required. The appellant may submit to the Board any additional relevant material for the record within 45 days after the date he receives the contracting officer's notice of transmittal of the appeal file under § 12–60.204. The contracting officer shall submit any answering material within 30 days after the date he receives the material submitted by the appellant. Thereafter the record shall be settled as provided in § 12–60.221 after at least 15 days notice to the parties by the Board. The Board may permit the record to be supplemented by oral argument and by briefs.

§ 12–60.207 Conference hearing procedure.

(a) *General.* This procedure provides a means for hearing and deciding appeals which is more expeditious and informal than the regular procedure set forth in the rules in this part. It may be of particular value when the appellant regards only limited additional testimony and oral argument as necessary to sustain his case on the written record.

(b) *Pleadings and issues.* Under the conference hearing procedure, pleadings are not required. The issues are those raised by the appellant's claim letter and the contracting officer's decision or those identified at a prehearing conference.

(c) *The hearing.* The hearing consists of an informal conference at which the evidence is presented and discussed by the witnesses. The presiding Board member controls the course of the hearing. He may vary the order or presentation so that all evidence on a particular issue is received at the same time and he may refuse to receive any evidence or argument on matters not directly in issue or any repetitive, irrelevant, prejudicial, or improper material. The presiding Board member may also develop facts, obtain admissions, stipulations, and concessions through questioning parties and witnesses.

(d) *Evidence and arguments—how presented.* Evidence and argument is presented by the witnesses and the parties without regard to the formal order of proof. The technical rules of evidence do not apply, but the Board may refuse to consider any statements or documents which are not of sufficient probative weight as to be considered "substantial"

evidence. Although witnesses are not separately and sequentially examined and cross-examined, questioning and cross-questioning may be permitted when needed to get relevant information on the record or to test the credibility of witnesses. Evidence and argument may be limited to matters directly in issue.

(e) *Other rules.* All of the rules in this part, except §§ 12–60.208 and 12–60.216 apply to appeals considered under the conference hearing procedure.

§ 12–60.208 Pleadings.

(a) Unless he elects to have the appeal considered on the written record or under the conference hearing procedure, the appellant shall, within 30 days after receipt of the contracting officer's notice of transmittal of the appeal file under § 12–60.204, file with the Board an original and two copies of a complaint setting forth a concise statement of each of his claims, alleging the basis, with appropriate reference to contract provisions, for each claim, and the dollar amount claimed. If the Board orders a complaint to be filed, the complaint shall be filed within the time specified in the Board's order.

(b) Within 30 days after the date of receipt of the complaint, the contracting officer shall file with the Board an original and two copies of an answer, setting forth a concise statement of his defense to each claim asserted by the appellant.

(c) Although no particular form or formality is required, the complaint and answer shall fulfill the generally recognized requirements for pleading.

§ 12–60.209 Motions.

(a) Motions are made by filing an original and two copies thereof, together with any supporting papers, with the Board. Motions may also be made upon the record, in the presence of the other party, at a prehearing conference or hearing. The Board shall consider any timely motion:

(1) For extension of time or to cure defaults;

(2) To require that a pleading be made more definite and certain, or for leave to amend a pleading;

(3) To dismiss for lack of jurisdiction; to dismiss for failure to prosecute; or to grant summary relief because a pleading does not raise a justifiable issue;

(4) For discovery, for interrogatories to a party, and for the taking of depositions;

(5) To reopen a hearing; or to reconsider a decision; or

(6) For any other appropriate order.

(b) The Board may, on its own motion, initiate any such action by notice to the parties. Unless a longer time is allowed by the Board, a party who receives a motion shall file any answering material within 20 days after the date of receipt. The Board shall make an order on each motion that is appropriate and just to the parties, and upon conditions that will promote efficiency in disposing of the appeal. The Board may permit oral hearing or argument on motions, and may require the presentation of briefs. Motions to reconsider a decision must be made within 30 days after the date of receipt of the decision.

§ 12–60.210 Prehearing conference.

(a) The Board may, upon the request of either party, or upon its own motion, require the parties to appear for a prehearing conference to consider—

(1) Simplification or clarification of the issues;

(2) Stipulations and admissions;

(3) Limitations on the evidence and the number of witnesses whose testimony is to be presented;

(4) Possibility of agreement on any of the issues in dispute; and

(5) Any other matter that may aid in the disposition of the appeal.

(b) The presiding Board member shall reduce results of the conference to writing. The results are a part of the record.

§ 12–60.211 Service of papers.

Except for the appeals file, a copy of each document and each communication to the Board shall be served upon the other party at the time it is filed with or sent to the Board. Service of papers shall be made personally or by mail.

§ 12–60.211–1 Notation: copy to other party.

Except for the appeals file, each written communication to the Board from or on behalf of the contracting officer or the appellant shall include a notation or statement that a copy has been served on or sent to the other party. The letter to the Board transmitting the appeal file shall indicate that a copy of the letter and a list of the documents have been sent to the appellant.

§ 12–60.212 Depositions and discovery.

(a) *Depositions.*

(1) After an appeal has been docketed, the Board may, for good cause, order the taking of the testimony of any person, by deposition upon oral examination or written interrogatories. A party's application for the order shall specify whether the deposition is for (i) the purpose of discovery, or (ii) use as evidence.

(2) The taking of evidentiary depositions will not ordinarily be ordered unless it appears that it is impracticable to present the witness' testimony at the hearing of the appeal, or unless a hearing has been waived and the case submitted or the written record pursuant to § 12–60.206. Testimony taken by deposition shall not be considered part of the evidence in the hearing of an appeal unless and until it is offered and received in evidence. It shall not ordinarily be received in evidence if the witness can testify personally at the hearing, except that depositions may be used to contradict or impeach the testimony of witnesses.

(b) *Inspection of documents.* For good cause, the Board may order any party to produce and permit the inspection and copying or photographing of designated documents, not privileged, regarding any matter that is relevant to the appeal.

(c) *Admission of facts.* For good cause shown, the Board may permit a party to serve upon the opposing party a request for the admission of specified facts.

(d) *Orders of the Board.* The time, place and manner of taking depositions, producing documents or making admissions under this section shall be governed by the order of the Board.

§ 12–60.213 Prehearing briefs.

Either party may file a prehearing brief, and the Board may require both parties to submit prehearing briefs. Such a brief should be filed at least 15 days before the date set for hearing.

§ 12–60.214 Notice of hearing; where and when held.

Hearings are held in Washington, D.C., except that, upon request seasonably made and upon good cause shown, the Board in its discretion may set the hearing at another location. Hearings are scheduled by the Board with due consideration to the regular order of appeals, the desires of the parties, the requirement for just and inexpensive determination of appeals without unnecessary delay, and other pertinent factors. The parties shall be given at least 15 days notice of the time and place set for hearings.

§ 12–60.215 Unexcused absence of a party.

The unexcused absence of a party at the time and place set for hearing does not delay the hearing. In such a case, the hearing proceeds and the case is considered to be submitted on the written record by the absent party, as provided in § 12.60.206.

§ 12–60.216 Nature of hearings.

Hearings shall be as informal as may be reasonable and appropriate under the circumstances. Subject to the discretion of the presiding Board member as to the extent and manner of the presentation of such evidence, the appellant and the contracting officer may offer any relevant evidence that would be admissible under the generally accepted rules of evidence applied in the courts of the United States in nonjury trials. In general, admissibility depends on relevancy and materiality. Letters or copies thereof, affidavits, or other evidence may be admitted in the discretion of the presiding Board member. The weight to be attached to evidence presented in any particular form is within the discretion of the Board, after considering the circumstances of the particular case. The Board may in any case require evidence in addition to that offered by the parties.

§ 12–60.217 Examination of witnesses.

Witnesses before the Board may be examined orally under oath or affirmation. If the testimony of a witness is not given under oath the Board shall warn the witness that his statements are subject to sections 287 and 1001 of Title 18, United States Code, and any other provisions of law imposing penalties for knowingly making false representations

in connection with claims against the United States.

§ 12–60.218 Copies of papers.

A true copy may be substituted for any book, record, paper or other document that has been received in evidence. If this is done, an identical copy shall be furnished to the other party.

§ 12–60.219 Posthearing briefs.

Posthearing briefs may be submitted upon such terms as may be agreed upon by the parties, or as may be directed by the presiding Board member.

§ 12–60.220 Transcript of proceedings.

Unless the Board otherwise orders, testimony and argument at hearings shall be reported verbatim. Any party to a hearing may buy a transcript of the proceedings at rates fixed by contract between the Board and the reporter, or equivalent rates if the proceedings are reported by an employee of the United States.

§ 12–60.221 Settling the record.

(a) A case which is heard is ready for decision upon receipt of transcript, or upon receipt of briefs when briefs are to be submitted.

(b) A case submitted on the record pursuant to § 12–60.206 is ready for decision when the parties are so notified by the Board. At any time before the date that such a case is ready for decision, either party may, upon good cause shown, supplement the record with documents and exhibits that the Board considers relevant and material.

(c) The Board may, upon its own motion, call upon either party, with appropriate notice to the other, for evidence that it considers relevant and material. The weight attached to any evidence or record is within the discretion of the Board. Either party may at any stage of the proceeding, on notice to the other party, question by objection the relevance or materiality of material in the record or offered into the record.

(d) The Board record consists of the appeal file described in § 12–60.204 and any additional material filed with or heard by the Board, except material which the Board strikes or excludes.

(e) This record is at all times available for inspection by either party, upon reasonable prior arrangement, at the office of the Board. Copies of material in the record may, if practicable, be furnished to the appellant upon payment of the established fees for reproduction.

§ 12–60.222 Representation of parties.

An individual appellant may prosecute his appeal in person; a corporation, by an officer; a partnership or joint venture, by a member; and any appellant may be represented by an attorney. The contracting officer is represented by Government counsel.

§ 12–60.223 Settlement.

A dispute may be settled at any time before the decision by the filing of a written notice by the appellant withdrawing his appeal or by written stipulation between the appellant and the contracting officer, settling the dispute. Proceedings may be suspended while the parties are considering settlement.

§ 12–60.224 Decisions.

Written decisions of the Board shall be forwarded simultaneously to both parties. The rules of the Board and all final orders and decisions are open for public inspection at the offices of the Board in Washington, D.C. Decisions of the Board are made upon the record.

PART 12–70—GOVERNMENT PROPERTY

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12–70.901 Contract clauses.

AUTHORITY: Sec. 205(c), 63 Stat. 389; 40 U.S.C. 486(c), 10 U.S.C. 2301–2314.

§ 12–70.000 Scope of Part.

This part sets forth the policies of the Department of Transportation with respect to providing property for use by contractors in connection with procurement by the components of the Department of Transportation, prescribes responsibilities and procedures pertinent thereto, and references applicable contract clauses. This part does not apply to property to which the Government has acquired a lien or title solely as a result of partial, advance, or progress payments. When lien or title is acquired solely as a result of such payments, the provisions of the partial, advance, or progress payments clauses shall apply, including any modifications to such clauses as may be contained in the contract.

Subpart 12–70.1—General

§ 12–70.101 Definitions.

As used in this part, the following terms have the meaning stated below. Additional definitions applicable to property administration are set forth in DOTPR Supplement 1—"Manual for Control of Property in Possession of Contractors."

§ 12–70.101–1 Property.

Includes all property, both real and personal. For the purpose of this part, it consists of two separate categories—material and facilities.

§ 12–70.101–2 Government property.

Means all property owned by or leased to the Government or acquired by the Government under the terms of a contract. However, the term "Government property" does not include property to which the Government has acquired a lien or title solely as a result of partial, advance, or progress payments. Government property includes both Government-furnished property and contractor-acquired property as defined below:

(a) Government-furnished property is property in the possession of, or acquired directly by, the Government and subse-

quently delivered or otherwise made available to the contractor; and

(b) Contractor-acquired property is property procured or otherwise provided by the contractor for the performance of a contract, title to which is vested in the Government.

§ 12–70.101–3 Provide.

As used in the context of such phrases as "Government property provided to the contractor" and "Government-provided property", means either to furnish, as in "Government-furnished property", or to acquire, as in "contractor-acquired property."

§ 12–70.101–4 Material.

Means property which may be incorporated into or attached to an end item to be delivered under a contract or which may be consumed or expended in the performance of a contract. It includes, but is not limited to, raw and processed material, parts, components, assemblies, and small tools and supplies which may be consumed in normal use in the performance of a contract. It also includes items of a nonexpendable nature with a unit acquisition cost of less than $50, unless the Government has designated any such items to be classified as plant equipment.

§ 12–70.101–5 Non-expendable.

Means items of Government personal property which:

(a) Have a unit acquisition cost of $50.00 or more, and

(b) Have a life expectancy of one year or more, and

(c) Retain their identity when put into use, and

(d) Are not consumed in the performance of work on the contract.

§ 12–70.101–6 Plant equipment.

Means personal property of a nonexpendable nature (consisting of equipment, machine tools, test equipment, furniture, vehicles, and accessory and auxiliary items) used or capable of use in the manufacture of supplies or in the performance of services or for any administrative or general plant purpose.

§ 12–70.101–7 Facilities.

Means property (other than material) for production, maintenance, research, development, or test, including real property and rights therein, buildings, structures, improvements, and plant equipment.

§ 12–70.101–8 Nonseverable.

When related to Government facilities, means that such property cannot be removed after erection or installation without substantial loss of value or damage thereto, or to the premises where installed.

§ 12–70.101–9 Excess and residual contract inventory.

"Excess and residual contract inventory" means:

(a) Any property acquired by and in the possession of a contractor or subcontractor (including Government-furnished property) under a contract pursuant to the terms of which title is vested in the Government, and in excess of the amounts needed to complete full performance under the entire contract; and

(b) Any property which the Government is obligated to or has an option to take over under any type of contract as a result either of any changes in the specifications or plans thereunder or of the termination of such contract (or subcontract thereunder), prior to completion of the work, for the convenience or at the option of the Government.

§ 12–70.102 Use for or by contractors of test facilities owned and operated by the Government.

(a) The on-site use for or by contractors of existing Government-owned test facilities located at installations owned and operated by the Government may be authorized in connection with the performance of Government contracts only when:

(1) there is no commercial test capability adequate for the testing needs, or

(2) substantial cost savings will result from use of the Government-owned test facilities.

(b) Whenever any such use is authorized, adequate consideration comparable to commercial charges, if any, shall be obtained under any affected contract.

§ 12–70.103 Government property contract clauses.

When Government property is provided under a contract, the contract shall contain the appropriate Government Property clause as referenced in Subpart 12–70.9 of this part.

§ 12–70.104 Control of government property.

The control of Government property shall be in accordance with DOTPR Supplement 1—Manual for Control of Property in Possession of Contractors. Each contract under which Government property is provided shall incorporate this Manual by reference.

§ 12–70.105 Disposition of excess and residual contract inventory.

Excess and residual contract inventory shall be disposed of in accordance with the procedures contained in Subpart 12–70.7 of this part.

Subpart 12–70.2—Furnishing Government Material to Contractors

§ 12–70.201 Policy.

It is the general policy of the Department of Transportation that contractors will furnish all material required for the performance of Govenment contracts. However, the Government may furnish material to a contractor when it is determined to be in the best interest of the Government by reason of economy, standardization, the expediting of production, or other appropriate circumstances.

§ 12–70.202 Procedure.

(a) Material to be furnished by the Government shall be set forth in the solicitation in sufficient detail to permit evaluation by prospective contractors.

(b) Where material is to be furnished by the Government, the contract shall state whether the requisitioning documentation is to be prepared by the contractor or the procuring activity. When the responsibility is placed upon the contractor, such documentation shall be prepared in accordance with the instructions provided by the procuring activity.

§ 12–70.203 Changing the amount of material to be furnished by the government.

(a) At any time after a contract has been entered into, whether as a result of formal advertising or negotiation, the contract may be bilaterally modified to provide for the furnishing of Government material or to increase the amount to be furnished, provided there is adequate consideration for such modification.

(b) When it is anticipated that substantial quantities of Government material will become available for the contract by transfer from another contract or otherwise, the contract may provide that a unilateral increase in the amount of material to be furnished by the Government may be ordered by the contracting officer, and that the contract shall be equitably adjusted therefor.

(c) Unilateral decreases in or substitutions for the material specified under a contract to be provided by the Government may be ordered by the contracting officer, subject to the equitable adjustment of the contract, in accordance with the provisions of the applicable Government Property clause(s) and other terms of the contract.

Subpart 12–70.3—Providing Government Facilities to Contractors

§ 12–70.301 Policy.

(a) It is the policy of the Department of Transportation that contractors will furnish all facilities required for the performance of Government contracts. Facilities will not be provided to a contractor, nor will competitive solicitations offer to provide such property, except as follows:

(1) For use in a Government-owned, contractor-operated plant operated on a cost-plus-fixed-fee basis; or

(2) When the Contracting Officer determines in writing that (i) the contract cannot be fulfilled by any other practical means, or (ii) it is in the public interest.

(b) New facilities will not be provided by the Government where an economical, practical and appropriate alternative exists. Examples include:

(1) Procuring from sources not requiring Government-owned facilities;

(2) Requiring the contractor to make full utilization of subcontractors possessing adequate and available capacity;

(3) Having the contractor rent facilities from commercial sources; and

(4) Using existing Government-owned facilities.

(c) Prospective contractors who propose to use Government facilities, including property offered for use in the solicitation as well as property already

in possession of the contractor or his subcontractors, will be required to identify such property in their bids or proposals. Unless prior written approval has been obtained by the procurement Contracting Officer, prospective contractors who propose to use Government facilities already in possession of the contractor or his subcontractors under other contracts will be required to submit written approval for the use of such property from the contracting officer cognizant of such property.

§ 12–70.302 Providing government facilities when disposal is limited.

(a) *Nonseverable property.* Government facilities, other than foundations and similar improvements necessary for the installation of plant equipment, shall not be installed or constructed on land not owned by the Government in such fashion as to be nonseverable, unless the Head of a Procuring Activity determines in writing that such location is necessary, and:

(1) The contract under which such property is provided contains a provision for reimbursing the Government for the fair value of the property at the completion or termination of the contract or within a reasonable time thereafter (for example, in appropriate cases, such a provision may require the contractor to purchase the property at a value to be determined by appraisal, or at a price equal to its acquisition cost less depreciation at a specified rate considering its estimated useful life, or may require the contractor to reimburse the Government for its scrap or salvage value if the Head of a Procuring Activity determines that its estimated useful life will not extend beyond the expiration of the contract or the completion of the work for which the property was provided);

(2) The Government has an option to acquire the underlying land; or

(3) The contract under which such property is provided contains an alternate provision that the Head of the Procuring Activity considers to be adequate to protect the interests of the Government therein. (The authority of the Head of the Procuring Activity under this paragraph may not be delegated.)

(b) *Property Subject to Patent or Other Proprietary Rights.* If patent or other proprietary rights of a contractor may restrict the disposal of Government facilities, the condition in either subparagraph (a)(1) or (a)(3) of this section shall be satisfied before such property is provided.

§ 12–70.303 Offers to furnish government facilities.

(a) Generally, where Government facilities are offered for use in a competitive procurement, the solicitation should provide that the user will assume all costs related to making the property available, to avoid the need for separate evaluation of such costs. Where this is not feasible, or it is otherwise in the Government's interest, the Government may assume such costs provided they are included in the evaluation of bids or proposals.

(b) When a solicitation contains an offer to furnish Government facilities (including an offer to use Government property already in the possession of a prospective contractor), and when the furnishing and use of such property will result in either direct and measurable costs to the Government or direct and measurable savings to the Government, then:

(1) Such costs or savings will be set forth in the solicitation;

(2) The manner in which such costs or savings will be applied in the evaluation of bids or proposals will be set forth in the solicitation; and

(3) Such costs or savings will be considered in the evaluation of bids and proposals.

(c) Government facilities may be offered on an "as is" basis in solicitations for fixed-price type contracts, whether such property is in storage or in the possession of a contractor, provided that the property can be inspected by bidders or proposers prior to the submission of their offers. In such cases, the solicitation will state:

(1) The availability and location of the property, and the conditions under which it may be inspected;

(2) That the property will be offered in its current condition, f.o.b. present location;

(3) That bidders or proposers must satisfy themselves that the property is suitable for their use;

(4) That any costs of transporting, installing, modifying, repairing, or otherwise making the property suitable for use shall be borne by the successful bidder or proposer; and

(5) The bidders or proposers to whom the property is offered, if it is not to be offered to all.

(d) If it is not feasible to make Government facilities available to all bidders or proposers, solicitations offering to furnish such property may limit the offer accordingly.

§ 12–70.304 Changing Government facilities to be provided.

The amount of Government facilities specified under a contract to be provided may be increased by a bilateral modification of the contract. Such increases will be made only when approved in accordance with the policies prescribed in this Subpart 12–70.3 and when the Government receives adequate consideration therefor. Unilateral decreases in or substitutions for the Government property specified under a contract to be provided by the Government may be ordered by the contracting officer, subject to the equitable adjustment of the contract, in accordance with the appropriate Government property clause and other terms of the contract.

Subpart 12–70.4—Use of Government Facilities in the Possession of Contractors or Subcontractors

§ 12–70.401 Policy.

It is the policy of the Department of Transportation to put Government facilities which are in the possession of a contractor or subcontractor to the greatest possible use in the performance of Government contracts or subcontracts. Facilities over which DOT has cognizance and which are in the possession of a contractor or subcontractor will not be authorized for use except for the performance of Government contracts or subcontracts, unless other use of such property is specifically authorized by law or other DOT regulation. When a contractor is authorized to use facilities over which DOT has cognizance for the performance of Government contracts or subcontracts, no charge will be made for such use. However, the Contracting Officer having cognizance of the prime contract must determine that the Government will receive adequate consideration for the use of the property through reduced costs for the supplies or services or otherwise.

§ 12–70.402 Use of facilities under the cognizance of another department or agency.

When a DOT procurement contracting officer has obtained approval for the use by a contractor or subcontractor of Government facilities over which another department or agency has cognizance, and regulations of such department or agency require that the contractor be charged for such use, then the contract will provide for the payment of such charge. It is the responsibility of the contracting officer of the department or agency having cognizance of the property to collect for such charges.

§ 12–70.403 Use by another department or agency of facilities under the cognizance of DOT.

When a contracting officer of another department or agency requests approval for the use by a contractor or subcontractor of facilities over which DOT has cognizance, it is the responsibility of the requesting contracting officer to make any evaluations or other contractual determinations required relative to the furnishing of Government property to a contractor. When the DOT contracting officer cognizant of the property has determined that the property can be made available for the requested use, approval for such use will be granted.

Subpart 12–70.5—Property Administration

§ 12–70.501 General.

This subpart sets forth responsibilities and procedures to:

(a) Assure performance of property control to protect the interests of the Government;

(b) Assure uniformity in the administration of contract provisions relating to Government property; and

(c) Meet management data requirements of the Government.

§ 12–70.502 Responsibilities of the Contracting Officer.

The Contracting Officer is responsible for:

(a) Assuring that all contracts which provide for the use of Government prop-

erty include necessary provisions relative to the use, control, and disposition of such property, including the appropriate Government Property clause and DOT PR Supplement 1—Manual for Control of Property in the Possession of Contractors;

(b) Performing, or arranging for the performance of, all actions required to effect and carry out the provisions of the contract and this part relative to Government property;

(c) Providing necessary direction to the contractor, either directly or through an authorized representative of the contracting officer, on all matters pertaining to Government property;

(d) Obtaining from the contractor all required reports and other management data; and

(e) Cooperating with and assisting the appropriate DOT accounting office in all matters pertaining to the financial accounting for Government property.

§ 12–70.503 Actions Requiring Approval of the Contracting Officer.

The actions listed below (and which are subject to other applicable provisions of this part) require the written approval of the Contracting Officer, except that the actions set forth in paragraphs (e) and (f) of this section may be approved by an authorized representative of the Contracting Officer who has been designated as such in writing. The contractor will be notified in writing when an authorized representative has been so designated. No other person will be permitted to approve these actions on behalf of the Government—

(a) Providing Government property to a contractor when providing such property has not been previously authorized in the contract.

(b) Changing the amount of Government property specified to be provided in a contract.

(c) Authorizing the use by a contractor of Government property provided under one contract for work under another contract, unless the latter contract specifically authorizes such use.

(d) Relieving a contractor of responsibility for Government property due to loss, damage, destruction, or unreasonable wear or deterioration or unjustifiable consumption in the performance of the contract.

(e) Directing the removal of Government property from the custody of a contractor, the transfer of Government property to another contract or to another contractor (but only when such transfer has been authorized pursuant to paragraph (a), (b), or (c) of this section), or the disposal of Government property.

(f) Approving a contractor's property control system.

§ 12–70.504 Assignment of responsibility for Property Administration.

The Contracting Officer may delegate to another individual the authority to administer the contract requirements and obligations relative to Government property. The individual to whom this authority is delegated will be designated in writing as the Property Administrator for the contract, and the contractor will be notified of such designation in writing. In selecting a Property Administrator, the Contracting Office will consider the qualifications of the individual in terms of training, education, and experience in property matters. When a specific individual has not been designated as Property Administrator, the Contracting Officer is the Property Administrator.

§ 12–70.505 Responsibilities of the Property Administrator.

A designated Property Administrator should be assigned the responsibilities and duties set forth below. This listing is provided for guidance and is not intended to be inclusive or exclusive. Any responsibilities of the Contracting Officer relative to Government property which are not assigned to a Property Administrator remain with the Contracting Officer—

(a) Establishing and maintaining a property control file for each contract.

(b) Evaluating and approving the contractor's property control system.

(c) Reviewing the contractor's property control system during contract performance, to the extent required by § 12–70.510.

(d) Advising the Contracting Officer as to the contractor's noncompliance with approved procedures.

(e) Resolving property administration matters with the contractor's management and with Government procurement, property, accounting, and audit personnel.

(f) Obtaining assistance in property matters from other Government personnel in such technical areas as accounting, audit, disposal, quality assurance, engineering, and pricing.

(g) Providing necessary direction to the contractor on matters pertaining to Government property, including authorization for the commingling of Government and contractor property.

(h) Assisting the servicing DOT accounting office in matters pertaining to financial accounting for Government property.

(i) Analyzing the use or consumption of Government property by the contractor to determine reasonableness of consumption and proper utilization.

(j) Preparing written determinations, for the Contracting Officer's signature, for relieving the contractor of responsibility for Government property due to loss, damage, destruction, or unreasonable wear or deterioration or unjustifiable consumption in the performance of the contract.

(k) Effecting the removal of Government property from the custody of a contractor, the transfer of Government property to another contract or to another contractor, and the disposal of Government property.

(l) Certifying to the Contracting Officer that all Government property provided under a completed or terminated contract has been properly accounted for and disposition effected.

§ 12–70.506 DOTPR Supplement 1—Manual for control of property in possession of contractors.

This manual sets forth basic requirements to be observed by contractors in establishing and maintaining control over Government property provided for performance of contracts with the Department. The manual supplements provisions of the contract that apply to Government property, but does not supersede them. The contract provisions will govern in the event of any conflict with the manual. If there is evidence that Government property will be required in performance of a contract, the Contracting Officer will reference the manual in the solicitation and make it available on request. The manual will be incorporated by reference in all contracts which provide for the use of Government property and will be issued to the contractor at time of award if not previously provided.

§ 12–70.507 Records of government property.

(a) Records of Government property established and maintained by the contractor pursuant to the terms of the contract will be designated and utilized as the official contract records. Exceptions to this policy may be authorized by the Contracting Officer for those contracts in which contract administration is retained by the procurement office involving Government property (1) furnished to a contractor for repair or servicing and return to the shipping organization or (2) furnished to a contractor for use on a Government installation. In such cases, the property will be accounted for as a suspense item within the Government property account designated by the procurement office, and the Government property clause will be appropriately modified.

(b) Maintenance of official records for DOT financial accounting purposes is the responsibility of the DOT accounting activity that provides accounting service to the procurement office responsible for the contract. The Property Administrator will ensure that the servicing accounting activity is provided copies of documents necessary to maintain financial accounting for Government property, including: (1) Government shipments, (2) notices of contractor acquisitions, (3) physical inventory reports, (4) transfers and disposals, and (5) contractors annual financial property reports as specified in DOTPR Supplement 1.

(c) Each procurement office having contracts involving Government property will maintain a consolidated and current listing of all such contracts. This listing is to be primarily used for the purpose of verifying that contractors submit the annual reports prescribed in DOTPR Supplement 1. The Property Administrator will take prompt action to obtain any delinquent reports and will assist the accounting activity as necessary in effecting reconciliation between contractor property reports and the DOT financial accounts.

(d) When contracts involving property are reported for inclusion in the DOT Contract Information System, the procurement office will ensure that input to the system includes the required property code.

§ 12–70.508 Contract property control file.

Upon award of a contract, the Property Administrator will establish a Contract Property Control File which will include as a minimum:

(a) copy of the contract or extract of provisions thereof establishing requirements for property administration (except when the Property Control File is maintained as an adjunct to the contract working file);

(b) letters designating authorized representatives of the Contracting Officer for property matters;

(c) report of initial review, evaluation, and approval of the contractors property control system;

(d) record of visits, property system examinations and analyses, and appropriate work papers;

(e) documents evidencing the furnishing of Government property;

(f) contractor's receipts for Government furnished property;

(g) contractor's notices of acquisitions of contractor purchased or fabricated Government property as prescribed in DOTPR Supplement 1;

(h) contractor's physical inventory and financial property reports as prescribed in DOTPR Supplement 1;

(i) documents evidencing the removal of Government property from the custody of the contractor, the transfer of Government property to another contract or another contractor, and the disposal of Government property;

(j) documents evidencing relief of the contractor from responsibility for Government property due to loss, damage, destruction, or unreasonable wear or deterioration or unjustifiable consumption in the performance of the contract;

(k) any other correspondence affecting the status of Government property under the contract; and

(l) statement of closure of the contract property account.

§ 12–70.509 Evaluation and approval of contractor's property control system.

(a) The choice of the methods to be used for evaluation and approval of the contractors property control system is a matter of judgment by the Property Administrator, predicated on the nature and amount of Government property involved in any particular contract. Regardless of the methods used, it is the responsibility of the Property Administrator to determine that the contractor's system will meet the requirement of DOTPR Supplement 1 and other contract requirements as appropriate.

(b) It is normal contractor practice to provide for the control of property by means of written procedures that communicate the organization's standards, techniques, and instructions to operational personnel for uniform application. However, depending on the number of contractor employees and the nature, quantity, and value of the property, a contractor may not need written procedures for effective management of Government property. In such cases, the Property Administrator, if he agrees that written procedures are not required, will evaluate the adequacy of the contractor's system on the basis of the contractor's explanation of his controls and prepare a brief description of the applicable procedures for inclusion in the Contract Property Control File.

(c) Upon completing his evaluation of the contractor's system, the Property Administrator will prepare a written summary of his findings to support approval of the system or requirement for corrective action prior to such approval. The Property Administrator will forward to the contractor a listing of any deficiencies found as a result of the evaluation. The contractor will be requested to indicate within 30 days his willingness to correct the deficiencies or to forward to the Property Administrator a statement of his position thereon.

(d) When the Property Administrator is not successful in obtaining compliance with contract requirements, he will advise the Contracting Officer. If the Contracting Officer concurs with the Property Administrator, he will advise the contractor in writing of the changes or additions required in his property control system and will establish a schedule for accomplishment of the corrective actions. The contractor will be informed that approval of his property control sysem will be withheld (or withdrawn if previously approved) unless corrective action is accomplished within the specified period. Such notice will also advise the contractor that in the event approval of his property control system is withheld (or withdrawn if previously approved) his liability for loss or damage may be increased. If the contractor fails to make satisfactory progress for correction of the deficiencies in accordance with the schedule, the Contracting Officer will advise him in writing, with a copy to the Property Administrator, that approval of his property control system is, as the case may be, withheld or withdrawn.

(e) When the contractor's property control system is acceptable, the Property Administrator will so advise the contractor in writing. When the contract involves Government property at subcontractor plants or prime contractor secondary locations, and the controls for the property at such locations have been determined to be adequate, the approval will be expanded to include the procedures governing Government property at such locations.

§ 12–70.510 Review of Contractor's Property Control System During Contract Performance.

(a) While the contractor has an incurred obligation to comply, it is incumbent upon the Government to ensure that the contractor does in fact comply with the property control requirements of the contract. The preferred method for carrying out this responsibility is the periodic conduct by the Government of system reviews at the contractor's premises. The need for and frequency of such reviews should be based on case-by-case determinations, considering the particular circumstances relative to a given contract or contractor. When the Property Administrator feels that a system review is necessary, then he must arrange for the conduct of such a review by an appropriate means.

(b) Notwithstanding the requirements of paragraph (a) of this section, it is the continuing responsibility of the Property Administrator to be alert to any indications that the contractor's property control system may be deficient. Examples of such indications are as follows:

(1) Failure of the contractor to acknowledge receipt of Government furnished property;

(2) Failure of the contractor to provide notices of contractor acquisitions of Government property when the contract provides for such acquisition;

(3) Failure of the contractor to submit the annual physical inventory and financial property reports specified in DOTPR Supplement 1;

(4) Discrepancies in contractor's records and weaknesses in control as reflected by the contractor's physical inventory reports;

(5) Contractor's financial property reports do not reconcile with DOT financial control accounts;

(6) Analysis of contractor's costs indicates consumption of material in excess of that considered reasonable;

(7) Inability of the contractor to furnish property listings when requested to do so; or

(8) Analysis of contractor's request for relief of responsibility due to loss or damage indicates inadequate control.

(c) When the Property Administrator has reason to believe that the contractor's property control system is deficient or inadequate, the Property Administrator must take prompt action to obtain correction of such problems. In some cases, discussions with the contractor may suffice. In other cases, it may be necessary to arrange for an on-site system review as discussed in paragraph (a) of this section. Another alternative is to request the conduct of an audit by the appropriate Government contract audit activity. If the situation demands, the procedures set forth in § 12–70.509(d) of this part will be applied.

(d) Records and accounts of Government property will be audited by the Government as frequently as conditions warrant or as may be specifically requested by the Contracting Officer. Audits may take place at any time during the performance of the contract, upon completion or termination of the contract, or at any time thereafter. Audits will include records maintained by the contractor and Government-maintained records for the property involved. Government personnel and the contractor are required to make all property records, including correspondence related thereto, available to the auditors.

Subpart 12–70.6—Vesting of Title to Equipment Under Research Contracts

§ 12–70.601 General.

(a) In accordance with the provisions of 42 U.S.C. 1892, DOT is authorized to transfer title to equipment acquired with research contract funds to nonprofit institutions of higher education and to other nonprofit organizations whose primary purpose is the conduct of scientific research. This statutory authority must be implemented by express provision in the Special Provisions of contracts with eligible contractors, permitting the Contracting Officer to transfer to the contractor title to equipment acquired with research contract funds at any time during the term of the contract or upon its completion or termination. The contract will reserve the right to require the contractor to transfer title to equipment costing $1,000 or more per unit to the Government or to a third party named by the Government, where the third party is eligible under existing statutes. The reservation will provide that the right may be exercised at any time prior to final payment under the contract.

(b) Title to equipment not acquired with research contract funds will not be transferred but will remain vested in the Government.

§ 12–70.602 Conditions of transfer.

In research contracts with eligible institutions and organizations, the Contracting Officer may, upon his own initiative or upon the request of the contractor, transfer title to equipment at any time during the term of the contract or upon its completion or termination. All transfers of title must be based upon a written determination by the Contracting Officer that transfer with respect to the specific items of equipment is consistent with the best interests of the Department. Until such time as title has been transferred, the property will be administered and controlled as "Government property" in accordance with this part and DOTPR Supplement 1. Upon transfer, such equipment ceases to be "Government property"; however, the transfer of title will be subject to the terms and conditions of the contract and the requirements described in DOTPR Supplement 1.

§ 12–70.603 Contracts performed at government installations.

Notwithstanding the provisions of § 12–70.602 of this part, when the contractor is performing at a Government installation and there will be a continuing need for the equipment at that location following completion of the contract, title to such equipment will not be vested in or transferred to the contractor.

Subpart 12–70.7—Disposition of Excess and Residual Contract Inventory

§ 12–70.701 General.

(a) Disposition of excess and residual contract inventory (hereinafter referred to as "contract inventory") must be accomplished in a timely manner and in accordance with statutory and regulatory requirements. Regulations governing the disposition of contract inventory are:

(1) Federal Procurement Regulations (FPR), Part 1–8;

(2) Federal Property Management Regulations (FPMR), Parts 101–43 through 101–45;

(3) DOT Procurement Regulations (DOTPR); and

(4) Other DOT regulations as referenced herein.

All actions taken by Contracting Officers with respect to disposition of contract inventory must be in strict conformance with the above cited regulations.

(b) Contracting Officers will issue disposition instructions expeditiously upon receipt of acceptable contract inventory reports. Contracts involving Government property cannot be closed out until all residual property has been accounted for and/or disposed of and the Government property file of the contract specifically noted to that effect.

(c) The disposal of nonseverable property will be governed by the provisions set forth in DOTPR § 12–70.302.

§ 12–70.702 Application of FPR, FPMR and other DOT regulations.

(a) FPR Subpart 1–8.5 sets forth policies and procedures for the disposition of termination inventory and may also be used for the disposition of contract inventory generally. Pursuant to the authority contained in FPR 1–8.000, FPR Subpart 1–8.5 will be utilized by the Department for the disposition of contract inventory generally.

(b) FPR Subpart 1–8.5 incorporates by reference various requirements and procedures of the FPMR pertaining to disposition of Government property, some of which are optional in nature insofar as contract inventory is concerned. However, it is the policy of the Department, with respect to paragraphs (e) through (h) of § 12–70.704 to effect disposition of contract inventory in accordance with the same requirements and procedures set forth in the FPMR for disposition of other Government excess or surplus property.

(c) The reporting and screening of contract inventory for possible redistribution within DOT will be accomplished in the same manner, and to the same extent, as required for other types of excess property. Procedures applicable to such reporting and screening will be prescribed in issuances published under the Department's internal management directives system.

§ 12–70.703 Reports of contract inventory.

Requirements and procedures for the submission of contract inventory reports by contractors are set forth in DOTPR Supplement 1. Procedures applicable to the processing of such reports by Contracting Officers are set forth in FPR Subpart 1–8.5.

§ 12–70.704 Disposition methods and priorities.

Subject to the Government exercising its rights to require delivery of any items of contract inventory to satisfy known Government requirements, contract inventory will be disposed of by the following methods in the priority indicated:

(a) Purchase or retention of contractor acquired property at cost by prime contractor or subcontractors (see FPR Subpart 1–8.5);

(b) Return of contractor acquired property to suppliers (see FPR Subpart 1–8.5);

(c) Reassignment within the procuring activity (see § 12–70.702(c));

(d) Redistribution within DOT (see § 12–70.702(c);

(e) Utilization by other Government agencies (see FPMR Parts 101–32 and 101–43);

(f) Donation to eligible donees (see FPMR Part 101–44);

(g) Sale—including purchase at less than cost by prime or subcontractor (see FPMR Part 101–45);

(h) Abandonment or destruction (see FPMR Part 101–45).

Subpart 12–70.8—Contract Closure

§ 12–70.801 Actions by the property administrator.

(a) Upon completion or termination of a contract, the Property Administrator must monitor the actions of the contractor and the Government with respect to the return, transfer, or other disposition of Government property. Prior to closing of the contract, the Property Administrator will determine that:

(1) All Government property provided under the contract has been properly accounted for;

(2) Disposition of Government property has been properly accomplished and documented;

(3) Adjustment documents, including request of the contractor for relief from responsibility, have been processed to completion;

(4) Proceeds from disposals or other property transactions, including adjustments, have been properly credited to the contract or paid to the Government as directed by the Contracting Officer;

(5) All questions as to title to property fabricated or acquired under the contract have been resolved and appropriately documented; and

(6) The Contract Property Control File is complete and ready for retirement.

(b) Upon completion of the above actions, the Contract Property Control File will be annotated accordingly and retired with the contract file.

Subpart 12–70.9—Contract Clauses, Government Property

§ 12–70.901 Contract clauses.

Contract clauses and guidance as to their use in specific types of contracts may be found in the following sections:

(a) 12–7.151–8 Fixed Price Supply Contracts,

(b) 12-7.203-21 Cost Reimbursement Type Supply Contracts.
(c) 12-7.303-7 Fixed Price Research and Development Contracts.
(d) 12-7.402-25 Cost Reimbursement Type Research and Development Contracts.
(e) 12-7.651-5 Fixed Price Construction Contracts.
(f) 12-7.5201-9 Fixed Price Vessel Repair, Alteration or Conversion Contracts.

PART 12-99—DEPARTMENT ORDERS

§ 12-99.000 Scope of part.

This Part contains the following Departmental orders and notices which pertain to procurement:

DOT 1210.5	DOT Public Affairs Management Manual (02/06/74) Chapter I, "Release of Information".
DOT 1340.5B	Contract Information System (01/12/73).
DOT 4000.1A	Logistics and Certain Logistics-Related Reporting Requirements (05/09/72).
DOT 4200.4	Unsolicited Contract Proposals (12/27/67).
DOT 4200.5	Debarred Bidder's List (01/15/68).
DOT 4200.6C	Field Contract Inspection Staffs (06/23/75).
DOT 4220.1A	Authority to Make Contractual Commitments (09/25/68).
DOT 4220.1A	Prefixes for Department of Transportation Contract Numbers (04/05/71).
DOT 4400.3	Establishment of Department of Transportation Procurement Regulations (06/15/68).
DOT 4200.9	Approval of Acquisition of Major Systems (09/07/72).
DOT 4200.10	Sole Source Review and Approval (09/07/72).
DOT 4200.11	Source Selection (09/07/72).
DOT 4200.12	Review of Proposed Contract Awards (09/07/72).

DEPARTMENT OF TRANSPORTATION, PROCUREMENT REGULATIONS, SUPPLEMENT 1

MANUAL FOR CONTROL OF PROPERTY IN POSSESSION OF CONTRACTORS

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Part 1—Introduction

S1-100 *General.*

(a) This Manual sets forth the basic requirements to be followed by contractors in establishing and maintaining control over Government property provided pursuant to the terms of contracts with the Department of Transportation. To to extent of any inconsistency between this Manual and the terms of the contract under which the Government property is provided the terms of the contract will govern. The contractor shall be directly responsible for and accountable for all Government property in accordance with the provisions of the contract, including property provided under such contract which may be in the possession or control of a subcontractor.

(b) Pursuant to the terms of a contract, the Government may acquire a lien or title to property upon the making of partial, advance, or progress payments to the contractor. Property to which the Government has acquired a lien or title solely as a result of such payments will not be subject to the provisions of this Manual. When lien or title is acquired solely as a result of such payments, the provisions of the partial, advance, or progress payments clauses will apply, including any modifications to such clauses as may be contained in the contract.

(c) The contractor shall establish and maintain a system (in accordance with the provisions of this Manual) to control, protect, preserve, and maintain all Government property. This system shall be reviewed and, if satisfactory, approved in writing by the assigned Property Administrator. The contractor shall maintain and make available such records as are required by Part 3 of this Manual and must account for all Government property until relieved of responsibility therefor in accordance with Part 2 of this Manual. Liability for loss, damage, or excessive use of property in a given instance will necessarily depend upon all the circumstances surrounding the particular case and must be considered and determined in accordance with the provisions of the contract. The contractor shall furnish all necessary data to substantiate any request for discharge from responsibility.

(d) The contractor shall require any of his subcontractors who are provided Government property under the prime contract to comply with the provisions of this Manual. Procedures for assuring subcontractor compliance shall be included in the contractor's approved property control system.

(e) In the event any portion of the contractor's property control system is found to be inadequate upon review by the Property Administrator, any necessary corrective action shall be accomplished by the contractor prior to approval of the system.

(f) When Government property is disclosed to be in the possession or control of the contractor but not provided in accordance with the provisions of any contract, the contractor shall, as promptly as possible, (1) record such property according to the established property control procedure, and (2) furnish the Property Administrator with all known circumstances and factual data pertaining to its receipt and a statement as to whether there is a need for retention of such property.

(g) The Contractor shall report to the Property Administrator all Government property in excess of the amounts needed to complete full performance under the contract pursuant to which it was provided, or other existing contracts which authorize the use of such property, within 30 days after disclosure of the condition.

S1-101 *Definitions.*

As used in the Manual: (a) "Accessory item" means an item which facilitates or enhances the operation of equipment but which is not essential for its operation, such as remote control devices.

(b) "Auxiliary item" means an item without which the basic unit of equipment cannot operate, such as motors for pumps and machine tools.

(c) "Capital property" means real property and capitalized equipment.

(d) "Capitalized equipment" means personal property of a nonexpendable nature having a unit acquisition cost of $200 or more.

(e) "Custodial records" means written memoranda or identifying checks of any description or type used to control items issued from tool cribs, tool rooms, stockrooms, etc., such as requisitions, issue hand receipts, tool checks, stock record books, etc.

(f) "Discrepancies incident to shipment" means all deficiencies incident to shipment of Government property to or from a contractor's facility whereby differences exist between the property purported to have been shipped and the property actually received. Such deficiencies include, but are not limited to, loss, damage, destruction, improper status and condition coding, error in identity or classification, and improper consignment.

(g) "Educational or other nonprofit organization" means any corporation, foundation, trust, or other institution operated for scientific or educational purposes, not organized for profit, not any part of the net earnings of which inures to the profit of any private shareholder or individual.

(h) "Government property" means all property, both real and personal, owned by or leased to the Government or acquired by the Government under the terms of a contract. However, the term "Government property" does not include property to which the Government has acquired a lien or title solely as a result of partial, advance, or progress payments. Government property includes both Government-furnished property and contractor-acquired property as defined below:

(1) Government-furnished property is property in the possession of, or acquired directly by, the Government and subsequently delivered or otherwise made available to the contractor.

(2) Contractor-acquired property is property procured or otherwise provided by the contractor for the performance of a contract, title to which is vested in the Government.

(i) "Individual item record" means a separate card for or document utilized to account for one item of property.

(j) "Material" means property which may be incorporated into or attached to an end item to be delivered under a contract or which may be consumed or expended in the performance of a contract. It includes, but is not limited to, raw and processed material, parts, components, assemblies, and small tools and supplies which may be consumed in normal use in the performance of a contract. It also includes items of a nonexpendable nature with a unit acquisition cost of less than $50, unless the Government has designated any such items to be classified as noncapitalized equipment.

(k) "Noncapitalized equipment" means personal property of a nonexpendable nature having a unit acquisition cost of $50 or more but less than $200, and other items of personal property regardless of cost when so designated by the Government.

(l) "Nonexpendable" means items of Government personal property which:

(1) Have a unit acquisition cost of $50.00 or more;

(2) Have a life expectancy of one year or more;

(3) Retain their identity when put into use; and

(4) Are not consumed in the performance of work on the contract.

(m) "Property account" means the official records of the Government property provided to a contractor which are established and maintained under the provisions of this Manual. Separate property accounts will be maintained on an individual contract basis.

(n) "Property Administrator" means the individual designated, in writing, by appropriate authority to administer the contract requirements and obligations relative to Government property. He is an authorized representative of the Contracting Officer. When a specific individual has not been designated as Property Administrator, the Contracting Officer is the Property Administrator.

(o) "Provide" as used in the context of such phrases as "Government property provided to the contractor" and "Government-provided property," means either to furnish, as in "Government-furnished property," or to acquire, as in "contractor-acquired property."

(p) "Real property" for purposes of accounting classification means:

(1) Land and rights therein;

(2) Ground improvements;

(3) Utility distribution systems;

(4) Buildings; and

(5) Structures.

(q) "Salvage" means property which because of its worn, damaged, deteriorated or incomplete condition, or specialized nature, has no reasonable prospect of sale or use as serviceable property without major repairs or alterations, but which has some value in excess of its scrap value.

(r) "Scrap" means property that has no reasonable prospect of being sold except for the recovery value of its basic material content.

(s) "Stock record" means a perpetual inventory form of record which shows, by nomenclature, the quantities received and issued and the balances on hand.

(t) "Utility distribution system" means a system (including distribution and transmission lines, substations, and installed equipment forming an integral part of the system), by which gas, water, steam, electricity, sewage, or other utility services are transmitted between:

(1) Outside of the building or structure in which the services are used, and

(2) The point of origin or disposal, or the connection with some other system.

S1-102 *Segregation or Commingling of Government Property and Contractor's Property.*

Ordinarily, Government property, particularly material, should be segregated and kept physically separate from contractor-owned property at all times. However, when advantageous to the Government and consistent with the contractor's authority to use such property, the property may be commingled:

(1) When the Government property is clearly identified and recorded as Government property; or

(2) When scrap of a uniform nature is produced from both Government-owned and contractor-owned materials and physical segregation is impracticable, or when scrap produced from Government-owned materials is insignificant in consideration of the cost of segregation and control; or

(3) When otherwise approved by the Property Administrator.

S1-103 *Written Property Control Procedures.*

It is normal contractor practice to provide for the control of property by means of written procedures that communicate the organization's standards, techniques, and instructions to operational personnel for uniform application. However, depending on the number of contractor employees and the nature, quantity, and value of the property, a contractor may not have a need for written procedures for effective management of Government property. Immediately after the award of an initial contract involving property, the contractor shall forward to the Property Administrator the name, title, address, and telephone number of the contractor's representative to contact for review and discussion of the proposed property control system. If the Property Administrator determines that written property control procedures are not required, the contractor will be so advised.

S1-104 *Audit of Property Control System and Accounts.*

The contractor's Government property control system and accounts will be audited by the Government as frequently as conditions warrant. Audits may take place at any time during the performance of the contract, upon completion or termination of the contract, or at any time thereafter, during the period the contractor is required to retain such records. The contractor shall make all such records, including correspondence related thereto, available to the auditors.

Part 2—Contractor's Responsibility

S1-200 *General.*

This part covers to the extent not otherwise provided in the contract: (1) The duties and responsibilities of the contractor with respect to Government property; (2) the obligations of the contractor with respect to the control of Government property, both physically and administratively; and (3) the liability of the contractor for Government property lost, damaged, or destroyed, or for which the contractor is otherwise unable to account.

S1-201 *Assumption of Responsibility.*

A contractor is responsible for all Government property in his possession or control in accordance with the terms of the contract, including property provided under such contract which may be in the possession or control of a subcontractor. Sources from which Government property may be furnished or acquired are as follows:

(a) *Shipments from Government Activities or Other Sources.* Government property may be shipped to a contractor from agencies of DOT, other Government activities, other contractors, or suppliers. For the purpose of this Manual, the contractor becomes responsible for such property upon delivery of the property into his custody or control. The Government will furnish the contractor with copies of documents necessary to permit the contractor's property records to accurately reflect the transaction.

(b) *Direct Purchase by the Contractor.* For purposes of property control within the scope of this Manual, it will be considered that property purchased by the contractor, for which reimbursement is to be requested, becomes Government property upon its receipt by the contractor. However, this provision will not be deemed to alter or modify contractual provisions relating to passage of title. Direct purchases will be subject to a determination by the contracting officer that the items are allocable to the contract involved and are reasonably necessary therefor.

(c) *Withdrawal from Contractor-Owned Stores.* For purposes of property control, within the scope of this Manual, property withdrawn from contractor-owned stores, for direct charge to the contract, will be considered Government property at the time of approval of the claim for reimbursement, or at the time of issuance for use of such property for the performance of the contract, whichever is earlier.

(d) *Contract Provisions, Termination, Contract Changes.* Pursuant to specific contractual provisions or as a result of termination of a contract, or change orders issued under a contract, the Government may acquire title to property. For purposes of property control, such property will, unless otherwise provided by the contract, be considered Government property upon acceptance of title by the Government.

S1-202 *Evidence of Receipts of Government Property.*

Immediately upon receipt of any Government-furnished property the contractor shall sign and return the Government transfer document to the Property Administrator. For contractor-acquired capital property, the contractor shall submit reports in accordance with S1-203 of this Manual.

S1-203 *Report of Property Purchased or Fabricated.*

As a condition to reimbursement of costs incurred in the purchase or fabrication of capital property, the contractor shall submit itemized reports of such purchases or fabrications. Each item shall be adequately described, including unit cost. Reports shall be provided by the contractor not later than the time he submits his application for payment (public voucher) for the property. Upon request of the Government, the contractor shall submit supporting data for any material cost or noncapitalized equipment included in the voucher.

S1-204 *Discrepancies Incident to Shipment.*

(a) *Government - Furnished Property.* When overages, shortages, or damages are discovered upon receipt of Government-fur-

nished property, the contractor shall provide a statement of the condition and the apparent causes to the Property Administrator. When the quantity or description of property received by a contractor differs from the quantity or description denoted as shipped on the Government transfer document, only that quantity, or property, actually received shall be recorded on the official records of the contractor.

(b) *Contractor - Acquired Property.* The contractor shall take all actions necessary to adjust shortages, overages, or damages in shipment of contractor-acquired property from a vendor or supplier except in those instances where the shipment has moved via Government bill of lading and carrier liability is indicated. In the latter event, the contractor shall report the instance in accordance with paragraph (a) of this section.

S1-205 *Relief from Responsibility.*

Subject to specific instructions of the Contracting Officer, and unless otherwise provided for in the contract, the contractor will be relieved of his property control responsibility for Government property by the following:

(1) *Consumption of Property in the Performance of the Contract.* To the extent that the Property Administrator determines that property has been consumed or expended for proper purpose and in reasonable amounts in the performance of the contract;

(2) *Shipment of Government Property from a Contractor's Facility.* When Government property is shipped from the contractor's facility (except when shipment is to a subcontractor or other location of the contractor) pursuant to the instructions of the Contracting Officer or the Property Administrator;

(3) *Retention by the Contractor.* When the contractor retains, with Contracting Officer approval, Government property for which the Government has received consideration;

(4) *Sale of Property.* For Government property sold pursuant to instructions of the Contracting Officer or the Property Administrator, provided that proceeds from such sale have been received by or credited to the Government;

(5) *Determination by the Contracting Officer.* For Government property which is lost, damaged, destroyed, or consumed in excess of that normally anticipated in a manufacturing, processing, or research operation, and for which the Contracting Officer has determined the extent of liability, if any, of the contractor; *Provided,* That:

(i) Such determination is furnished to the contractor in writing;

(ii) The Government has been reimbursed where required by the determination; and

(iii) Proper disposition of property rendered unserviceable by damage has been accomplished, and appropriate cross-reference is recorded on the determination as to the shipping documents or other documents evidencing disposal; and

(6) *Transfer of Title.* When title to equipment has been transferred to the contractor in accordance with 42 U.S.C. 1892 and thereby ceases to be Government property. However, certain obligations attach to contractor-owned property acquired with contract funds as set forth in Part 7 of this Manual.

S1-206 *Contractor's Liability.*

(a) *Property Discrepancies.* Subject to the terms of the contract, the contractor may be liable when shortages of Government property are disclosed or when Government property is lost, damaged, or destroyed or when there is evidence of unreasonable wear or deterioration or unjustifiable consumption in the performance of the contract.

(b) *Report Requirements.* The contractor shall report all cases of loss, damage, or destruction of Government property in his possession or control to the Property Administrator as soon as such facts become known or when requested by the Property Administrator. The report shall contain all factual data as to the circumstances surrounding such loss, damage, or destruction. A similar report shall be furnished when completed products or end items are lost, damaged, or destroyed while such property is in the possession or control of the contractor. Any loss that may be due to theft must be reported immediately to the local police and the nearest field office of the Federal Bureau of Investigation by the contractor or subcontractor.

(c) *Subcontractor's Liability.* The contractor shall require any of his subcontractors having Government property in their possession or control, which is accountable under the contract, to report to him all instances of loss, damage, or destruction of such Government property. Further procedures shall be in accordance with that prescribed in paragraphs (a) and (b) of this section.

Part 3—Records of Government Property

S1-300 *General.*

This part establishes minimum requirements for records to be established and maintained by the contractor for Government property in his possession or control.

(a) *Policy.* It is the Government's policy to rely upon contractor property control records and to designate and use such records as the official contract records unless an exception has been authorized due to special circumstances. The contractor shall establish and maintain adequate control records, either manual or mechanized, in accordance with the requirements of this Manual for all Government property provided under a contract, including property provided under such contract as may be in the possession or control of a subcontractor. When the subcontractor has a property control system approved by the Government for Government property provided under the subcontractor's own prime contracts, the contractor will utilize records created and maintained in accordance with such approved system unless otherwise directed by the Property Administrator.

(b) *Financial Control System.* The contractor's property control system shall provide financial accounts for Government property (capital and noncapital) in the contractor's possession or control, as prescribed in S1-309(a) of this Manual. The system shall be subject to internal control standards and be supported by property records in the manner described in this Part 3.

(c) *Property Records.* The official records shall be kept in such condition that at any stage of completion of the work under a contract the status of Government property can be readily ascertained.

(1) Separate property records for each contract shall be maintained. Contractors shall furnish the Property Administrator with the name and title of the individual who will have cognizance over all Government property in the contractor's possession and who will be responsible for maintenance of property records.

(2) Property records of the same type which would have been established for components if acquired separately shall be established for such usable components which are permanently removed from items of Government property, as a result of modification, or otherwise.

(3) The contractor's property control system shall contain an adequate locator system or techniques to permit the location of any item of Government property within a reasonable period of time after request therefor.

S1-301 *Pricing.*

Except as provided in paragraph (a) of this section, the contractor's property control system shall contain the unit acquisition price for each item of Government property recorded therein. It is a recognized practice of many contractors to record the unit acquisition price of property on other than the quantitative inventory record, thus requiring the use of supplementary records to ascertain unit prices. Under such circumstances, the supplementary records containing such information shall be identified and recognized as a portion of the official property records.

(a) *Contractor-Acquired and Contractor-Fabricated Property.* The unit acquisition price of contractor-acquired and contractor-fabricated property shall be determined in accordance with the system established by the contractor in conformance with generally accepted accounting principles and consistently applied. Generally, it is desired that separate unit prices be applied to work-in-process items fabricated or acquired by the contractor. However, if the contractor's accounting system is acceptable and if the maintenance of detailed cost records results in excessive accounting cost or is otherwise impracticable considering all circumstances, group pricing may be used for work-in-process inventory. Processed material, fabricated parts, components, assemblies, etc., charged to the contractor's work-in-process inventory, including items in temporary storage while awaiting processing, may be considered as work-in-process for the purpose of compliance with this requirement. Nothing in the foregoing lessens the requirement for quantitative property controls for work-in-process necessary for the proper protection of the Government's interest.

(b) *Government-Furnished Property.* The unit acquisition price of Government-furnished property will be determined by the Government and furnished to the contractor. Transportation and installation costs will not be considered as part of the unit price for this purpose. Normally, the unit price of Government-furnished property will be provided on the transfer document covering shipment of the property to the contractor. In the event the unit price is not provided on the document, action will be taken through the Property Administrator to obtain the information.

S1-302 *Records of Material.*

All Government material furnished to the contractor, as well as other material to which title has passed to the Government by reason of allocation from contractor-owned stores or purchase by the contractor for direct charge to a Government contract or otherwise, shall be recorded in accordance with the contractor's property control system, as follows:

(a) *Material Issued Directly Upon Receipt.* (1) Fixed-Price Contracts. In the case of Government-furnished material which is issued directly by the contractor upon receipt so as to be considered consumed under the contract, the documents evidencing receipt and issue maintained by the contractor will be accepted as property control records.

(2) Cost-Type Contracts. For material, whether Government-furnished or contractor-acquired, issued by the contractor directly so as to be considered consumed under the contract, the Government invoices, contractor's purchase documents, or other documentary evidence of acquisition and issue will be accepted as adequate property records.

(b) *Material Maintained in Stocks.* For material maintained by the contractor in stocks or stores, the contractor's property control system shall be such as to provide the following information:

(1) Contract number or equivalent code designation;
(2) Nomenclature or description of item (including National Stock Number when available);
(3) Quantity received;
(4) Quantity issued;
(5) Balance on hand;
(6) Posting reference;
(7) Date received or issued;
(8) Unit price; and
(9) Disposition action taken.

(c) *Consolidated Stock Record.* When a contractor has more than one Government contract under which Government material is provided, a consolidated record for material may be authorized by the Property Administrator; *Provided,* The total quantity of any item is allocated to each contract by contract number and each requisition of material from contractor-owned stores is charged to the contract on which the material is to be used. The supporting document or issue slip shall show the contract number or equivalent code designation to which the issue is charged.

(d) *Custodial Records.* Custodial records shall be maintained for sensitive items, tool crib items, guard force items, protective clothing, and other items for the use of individuals in the performance of their work under the contract.

S1–303 Records of Noncapitalized Equipment.

Except where individual item records are necessary for effective control, calibration, or maintenance, summary stock records may be maintained for noncapitalized equipment. The contractor's property control system shall be such as to provide the following minimum information:
(1) Contract number or equivalent code designation;
(2) Noun name of the item;
(3) Manufacturer and model/part number (including National Stock Number when available);
(4) Quantity received;
(5) Balance on hand;
(6) Posting reference and date of transaction;
(7) Unit price;
(8) Location; and
(9) Disposition.

In addition, where appropriate as determined by the Property Administrator, the serial number and/or Government identification number for each item shall be recorded in a permanent manner in the property records and, upon disposition, lined out or otherwise deleted from the record.

S1–304 *Records of Capitalized Equipment.*

(a) *Item Records.* The contractor shall maintain individual item records (manual or mechanized) of each item of Government-owned capitalized equipment which will provide the following minimum information:
(1) Name of the equipment manufacturer;
(2) Manufacturer's model/part number (including National Stock Number when available);
(3) Serial number and year built (when available);
(4) Government identification/tag number;
(5) Noun name of the item;
(6) Acquisition document reference and date;
(7) Location;
(8) Disposition document reference and date;
(9) Contract number or equivalent code designation; and
(10) Unit price. (Unit price will be reduced when accessory and auxiliary items are permanently separated from the basic item of capitalized equipment.)

(b) *Record of Accessory and Auxiliary Equipment.* Accessory and auxiliary equipment which is attached to or otherwise a part of an item of capitalized equipment or has been acquired for use in connection with a specific item shall be recorded on the record of the item of capitalized equipment. In the event the accessory or auxiliary item is not attached to, a part of, or acquired for use with a specific item of capitalized equipment, it shall be recorded as indicated in S1–303 or S1–304(a) of this Manual.

S1–305 *Records of Real Property.*

The contractor shall maintain a continuous itemized record of the description, location, acquisition cost, and disposition of all Government real property including unimproved real property, all alterations, and all construction, whether acquired by purchase, lease, or otherwise. The foregoing records shall be complete, show the original cost of the property and improvements and the cost of changes and additions thereto, and be appropriately classified as indicated in S1–101 (f) of this Manual.

S1–306 *Records of Scrap and Salvage.*

Unless the Property Administrator has determined that such records are not necessary, the contractor shall maintain records of all scrap and salvage generated.

(a) *Records of Scrap.* The contractor's property control system shall be such as to provide the following minimum information:
(1) Contract number, if practicable, or equivalent code designation;
(2) Scrap classification (material content);
(3) Quantity on hand;
(4) Unit of measure;
(5) Posting reference and date of transaction; and
(6) Disposition.

(b) *Records of Salvage.* The contractor's property control system shall be such as to provide the following minimum information:
(1) Contract number, if practicable, or equivalent code designation;
(2) Nomenclature or description of item (including National Stock Number, if available);
(3) Quantity on hand;
(4) Posting reference and date of transaction; and
(5) Disposition.

S1–307 *Records of Related Data and Information.*

The contractor shall maintain property control and accountability in accordance with sound business practice with respect to manufacturing or assembly drawings, installations, operation, repair, or maintenance instructions, or other similar data and information provided to the contractor by the Government. Other requirements set forth in this Manual are not applicable to such property unless specified in the contract or required by the Property Administrator.

S1–308 *Records of Completed Products.*

The contractor shall maintain a record of all completed products produced under the contract as follows:

(a) When there is not any lapse of time between Government inspection and acceptance of the completed products and shipment from the contractor's facility, the records shall, as a minimum, consist of a summary of quantities accepted or shipped. When end items are accepted by the Government and stored with the contractor awaiting shipment, the record shall identify quantities stored, location, and disposition action.

(b) On contracts which provide that completed produots are to be retained by the contractor for further use under the contract, or other contracts, such items shall be considered Government-furnished property upon acceptance and shall be recorded as prescribed in this part.

(c) When completed products are returned to a contractor under the terms of a warranty clause, the contractor shall, as a minimum, maintain a record by contract setting forth a description of the items involved, quantities received and returned to the Government, and such other pertinent data as may be required to permit determination that a proper accounting for all property has been made.

S1–309 *Financial Control Accounts and Reports.*

(a) *Control System.* The contractor's property control system shall be such as to provide at any time for each contract the dollar amount of Government property for which he is accountable in the following classifications:
(1) Real property;
(2) Capitalized equipment;
(3) Noncapitalized equipment; and
(4) Material maintained in stocks.

The contractor's accounts shall be susceptible to reconciliation in totals and subtotals as to whether contractor-acquired or Government-furnished.

(b) *Financial Property Reports.* The contractor shall prepare a report as of July 31 each year, for each contract, showing the dollar amount of Government real property and capitalized equipment in the possession of the contractor and his subcontractors. Reports shall be prepared in the format shown below and shall be furnished to the Property Administrator not later than September 15 each year. Subcontract reports shall be consolidated with prime contract reports. The contractor shall certify that the reports have been reconciled and are in balance with the contract property records. If specifically requested by the Property Administrator, the contractor shall submit similar reports for Government noncapitalized equipment and material maintained in stocks.

	Real property	Capitalized equipment	Total
Balance beginning of period			
Acquisitions during period:			
Government furnished			
Contractor acquired			
Dispositions during period:			
Government furnished			
Contractor acquired			
Balance end of period			

Part 4—Identification

S1–400 *General.*

This part establishes minimum requirements for the identification and marking of Government property in the possession or control of the contractor. The contractor shall identify and record all Government property promptly upon receipt, except as may be exempted by this part, and it shall remain so identified. Assigned Government property identification numbers shall be recorded on all applicable receiving documents, shipping documents, disposal documents, and any other documents pertaining to the property control system. Such markings shall be removed or obliterated from the property involved when Government ownership is terminated.

S1-401 *Material and Noncapitalized Equipment.*

All Government material and noncapitalized equipment shall be identified as Government property except in those cases where:

(1) Material or noncapitalized equipment of the same type at the same location is not owned by the contractor, his employees, or other contracting agencies;

(2) Adequate physical control is maintained over sensitive items, tool crib items, guard force items, protective clothing, and other items issued for use by individuals in the performance of their work under the contract;

(3) Property is of bulk type or by its size or general nature of packing or handling precludes adequate markings; or

(4) The property is segregated and kept physically separate from contractor-owned property at all times.

S1-402 *Capitalized Equipment.*

(a) *Equipment Identification.* Unless already marked in compliance with these instructions, all Government capitalized equipment shall be marked by the contractor with a Government identification number except: when the size or nature of the equipment makes it impracticable, or the equipment is accessory or auxiliary and attached to or otherwise a part of an item of capitalized equipment and is required for its normal operations, in which case such item shall be entered and described on the record of the equipment to which it is attached or of which it is otherwise a part. Identification shall be effected by affixing a numbered decal direct to the equipment, or, when practicality dictates, by using indelible ink, acid, or electric etch, steel dies, or any other legible, permanent, conspicuous, and tamper proof method which will identify the equipment with the Government number assigned.

(b) *Position of Markings or Identification.* Identification shall be affixed on the main body of the item, not on a removable part. For practical purposes, identification should be placed where it is conspicuous and readily visible without requiring the item to be moved and where it will not interfere with the functioning, especially if it is a sensitive instrument. If the manufacturer's identification plate or label is in a readily accessible position, a position immediately above or below it is preferable to any other.

S1-500 *General.*

This part establishes minimum requirements for the physical inventory of Government property in the possession or control of the contractor.

S1-501 *Annual Inventories.*

The contractor shall perform an annual physical inventory of the following categories of Government property in his possession or control and shall require such inventories of any subcontractors that are in possession of Government property provided under the contract: (1) Capital property; (2) noncapitalized equipment; and (3) material maintained in stocks. The contractor's procedures for the performance of annual physical inventories constitute a necessary part of the contractor's property control system. For the purposes of this Manual, inventory consists of sighting, tagging or marking, describing, recording, and reporting the property involved, and reconciling the inventory results with the property records.

S1-502 *Reporting Results of Annual Inventories.*

The contractor shall promptly submit to the Property Administrator information as follows:

(1) A list on both a quantitative and monetary basis of all discrepancies disclosed by the inventory in each category of Government property;

(2) A signed statement that physical inventory of Government property under the contract was completed on a specified date and that the contractor's official property records were found to be in agreement with the physical inventory except for the discrepancies noted; and

(3) If specifically requested by the Property Administrator, a list of all items of capital property.

S1-503 *Inventories Upon Termination or Completion.*

Immediately upon termination or completion of a contract, the contractor shall perform a physical inventory adequate for disposal purposes of all Government property applicable to the terminated or completed contract. Further, the contractor shall cause each subcontractor to perform a physical inventory adequate for disposal purposes of all Government property in the subcontractor's possession or control which is applicable to the terminated or completed contract. Within 30 days after the contract's completion or termination, unless the Contracting Officer specifically approves an extension of time, the prime contractor shall submit a final inventory of Government property (including subcontractor property) in the form and detail as prescribed below:

(a) *Form.* Separate reports are required for Government-furnished property and for contractor-acquired property and for each of the following property categories:

(1) Real Property;
(2) Capitalized Equipment;
(3) Noncapitalized Equipment;
(4) Materials;
(5) Salvage; and
(6) Scrap.

(b) *Details Required.* Each item of capital property must be completely identified with sufficient detail to permit verification by reference to the covering reimbursement voucher or (if furnished by the Government) shipping or other documents. To the extent to which they apply, the following particulars are required for all items:

(1) Commercial description, adequate for screening and disposal purposes;

(2) Make, model, type, serial number, and National Stock Number when available;

(3) Government identification number;

(4) Quantity;

(5) Cost;

(6) Condition (use codes listed in Exhibit A of this Manual); and

(7) Location (contractor's facility or other site).

(c) *Copies Required.* Three copies of the inventory reports shall be submitted to the Property Administrator.

(d) *Certification.* The following certification signed by the contractor or an authorized official shall accompany each copy of the inventory schedules:

I do hereby certify as (Title) of (Name of Contractor) that the attached inventory reports are complete and correctly list and describe all items of property furnished to the contractor, or for which the contractor has been or will be reimbursed by the Government, for use in the performance of Contract No. ____ which as of this date have not been consumed in performance of this contract; and that I will immediately notify the Contracting Officer of any change affecting these inventory reports at any time prior to final disposition of the inventory.

(S) _____

Dated _____

(e) *Disposal of Property.* Disposal of property will be directed by the Contracting Officer, or a designated representative of the Contracting Officer, in accordance with the terms of the contract. The contractor shall not make disposition of any property except as so directed.

Part 6—Care, Maintenance, and Utilization

S1-600 *General.*

This part establishes minimum requirements as to care, maintenance, and utilization of Government property in the possession or control of the contractor. The contractor shall be responsible for the proper care, maintenance, and utilization of Government property in his possession or control from the time of receipt of the property until properly relieved of responsibility in accordance with the contract. The removal of Government property to storage, or its contemplated transfer, shall not relieve the contractor of these responsibilities.

S1-601 *Contractor's Maintenance Program.*

(a) *Policy.* The contractor's maintenance program (which shall be approved in accordance with Part 1 of this Manual) shall be such as to provide, consistent with sound industrial practice and the terms of the contract, for:

(1) Disclosure of need for the performance of preventive maintenance;

(2) Disclosure and reporting of need for capital type rehabilitation; and

(3) Recording of work accomplished under the program.

(b) *Preventive Maintenance.* Preventive maintenance is maintenance generally performed on a regularly scheduled basis to prevent the occurrence of defects and to detect and correct minor defects before they result in serious consequences. An effective preventive maintenance program shall consist of, but not be limited to, the following actions:

(1) Inspection of buildings at such periodic intervals as will assure detection of deterioration and the need for repairs;

(2) Inspection of equipment at such periodic intervals as will assure detection of maladjustment, wear, or impending breakdown;

(3) Regularly scheduled lubrication of bearings and moving parts in accordance with a lubrication chart or equivalent plan;

(4) Protection from exposure to deteriorating agents;

(5) Adjustments for wear, repair, or replacement of worn or damaged parts and the elimination of causes of deterioration of associated parts;

(6) Removal of sludge, chips, and cutting oils from equipment which will not be used for a period of time; and

(7) Proper storage and preservation of accessories and special tools furnished with an item of capitalized equipment but not regularly used with it.

(c) *Capital Type Rehabilitation.* The contractor's maintenance program shall be such as to provide for the disclosure and reporting of the need for major repair, replacement, and other rehabilitation work for Government property in the possession or control of the contractor.

(d) *Records of Maintenance.* The contractor's maintenance program shall provide for records sufficient to disclose the maintenance actions performed and deficiencies discovered as a result of inspections.

S1-602 *Utilization of Government Property.*

The contractor's procedures shall be adequate to assure that Government property will be utilized only for those purposes authorized in the contract.

S1-603 *Property in Possession of Subcontractors.*

The contractor shall require any of his subcontractors having Government property

in their possession or control adequately to care for and maintain that property and assure that it is utilized only as authorized by the contract. Procedures necessary to assure the accomplishment of this responsibility shall be included in the contractor's approved property control system.

S1-604 *Property Excess to Contract Requirements.*

Government property which becomes excess to contract performance requirements shall be reported to the Property Administrator within 30 days. The contractor's excess declaration shall be prepared in the same manner as prescribed in S1-503 of this Manual. Disposal of excess property will be directed by the Contracting Officer, or a designated representative of the Contracting Officer, in accordance with the terms of the contract. The contractor shall not make any disposition of such property except as so directed.

Part 7—Passage of Title to Equipment Under Research Contracts

S1-700 *General.*

This part covers to the extent not otherwise provided in the contract or elsewhere in this Manual the obligations of the contractor with respect to property acquired with research contract funds, title to which has passed to him. In accordance with the provisions of 42 U.S.C. 1892, DOT is authorized to transfer title to equipment acquired with research contract funds to nonprofit institutions of higher education and to other nonprofit organizations whose primary purpose is the conduct of scientific research. This statutory authority is implemented by express provision in the Special Provisions of contracts with eligible institutions and organizations permitting the Contracting Officer to transfer to the contractor title to equipment acquired with research contract funds at any time during the term of the contract or upon its completion or termination. The contract will reserve the right to require the contractor to transfer title of equipment costing $1,000 or more per unit to the Government, or to a third party named by the Government, at any time prior to final payment under the contract.

S1-701 *Conditions of Transfer.*

In research contracts with eligible institutions and organizations, the Contracting Officer may, upon his own initiative or upon the request of the contractor, transfer title to equipment at any time during the term of the contract or upon its completion or termination. All transfers of title must be based upon a written determination by the Contracting Officer that transfer with respect to the specific items of equipment is consistent with the best interests of the Department. Until such time as title has been transferred, the property shall be administered and controlled as Government property in accordance with Parts 1 through 6 of this Manual. Upon transfer, such equipment ceases to be Government property, however, the transfer of title is subject to the terms and conditions of the contract and this Part 7.

S1-702 *Contractor's Obligations.*

Although equipment ceases to be Government property when title to it is vested in or transferred to the contractor, nonetheless the following obligations attach to the property and the contractor agrees to such obligations by accepting title thereto:

(1) *Utilization.* The contractor agrees to use the property for the benefit of research under the contract and any extensions or successor contracts thereto and to continue to use such property for the benefit of research of interest to the Government;

(2) *Charges with Respect to the Property.* The contractor is not permitted to charge for any depreciation, amortization, or use with respect to such equipment under any Government contract, any Government grant, or any subcontract under a Government contract;

(3) *Transfer of Title to Government.* With respect to each item of equipment having a unit acquisition cost of $1,000 or more, the contractor's ownership rights are qualified by the contractor's express agreement to transfer title to any such items to the Government, or to a third party designated by the Government, in accordance with any written request therefore issued by the Contracting Officer at any time prior to final payment under the contract;

(4) *Control of Property.* The contractor shall maintain a property control system which will provide for adequate identification, recording, location, utilization, maintenance, and physical inventory of equipment acquired with contract funds; and

(5) *Inventories Upon Completion or Termination.* Immediately upon completion or termination of the contract, the contractor shall perform a physical inventory of all contractor-owned equipment acquired with contract funds and having a unit acquisition cost of $1,000 or more. The inventory shall be performed, prepared, and submitted in the same manner as prescribed in S1-503 of this Manual.

DOTPR supplement 1, exhibit A—Property condition codes

[See S1-503 of this manual]

Code	Brief definition	Expanded definition
N-1	New—Excellent	New or unused property in excellent condition. Ready for use and identical or interchangeable with new items delivered by manufacturer or normal source of supply.
N-2	New—Good	New or unused property in good condition. Does not quite qualify for N-1 (because slightly shopworn, soiled, or similar), but condition does not impair utility.
N-3	New—Fair	New or unused property in fair condition. Soiled, shopworn, rusted, deteriorated, or damaged and its utility is slightly impaired.
N-4	New—Poor	New or unused property so badly soiled, rusted, mildewed, deteriorated, or damaged, that its utility is seriously impaired.
E-1	Used—Reconditioned excellent	Used property, but repaired or renovated and in excellent condition.
E-2	Used—Reconditioned good	Used property which has been repaired or renovated and, while still in good usable condition, has become worn from further use and cannot qualify for excellent condition.
E-3	Used—Reconditioned fair	Used property which has been repaired or renovated but has deteriorated since reconditioning and is only in fair condition. Further overhauling required or expected to be needed in near future.
E-4	Used—Reconditioned poor	Used property which has been repaired or renovated and is in poor condition from serious deterioration such as from major wear and tear, corrosion, exposure to weather or mildew.
O-1	Used—Usable without repairs—Excellent.	Property which has been slightly or moderately used, no repairs required, and still in excellent condition.
O-2	Used—Usable without repairs—Good.	Used property, more worn than O-1, but still in good condition with considerable use left before any important repairs would be required.
O-3	Used—Usable without repairs—Fair.	Used property which is still in fair condition and usable without repairs; however, somewhat deteriorated with some parts (or portion) worn and should be replaced.
O-4	Used—Usable without repairs—Poor.	Used property which is still usable without repairs, but in poor condition and undependable or uneconomical in use. Parts badly worn and deteriorated.
R-1	Used—Repairs required—Excellent.	Used property, still in excellent condition, but minor repairs required (repairs would not cost more than 10 pct of acquisition cost).
R-2	Used—Repairs required—Good	Used property, in good condition but considerable repairs required. Estimated cost of repairs would be from 11 to 25 pct of acquisition cost.
R-3	Used—Repairs required—Fair	Used property, in fair condition but extensive repairs required. Estimated repair costs would be from 26 to 40 pct of acquisition cost.
R-4	Used—Repairs required—Poor	Used property, in poor condition and requiring major repairs. Badly worn, and would still be in doubtful condition of dependability and uneconomical to use if repaired. Estimated repair costs from 41 to 65 pct of acquisition cost.
X	Salvage	Property which because of its worn, damaged, deteriorated or incomplete condition, or specialized nature, has no reasonable prospect of sale or use as serviceable property without major repairs or alterations, but which has some value in excess of its scrap value.
S	Scrap	Property that has no reasonable prospect of being sold except for the recovery value of its basic material content.

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federal register

THURSDAY, SEPTEMBER 8, 1977
PART V



DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

■

CHILD MEDICAL ASSISTANCE PROGRAM

Penalty for Failure to Provide Early and Periodic Screening, Diagnosis, and Treatment

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

[45 CFR Parts 205, 249]

MEDICAL ASSISTANCE PROGRAM

Penalty for Failure To Provide Early and Periodic Screening, Diagnosis, and Treatment

AGENCY: Health Care Financing Administration, HEW.

ACTION: Proposed rule.

SUMMARY: This proposal would revise current rules on the financial penalty imposed on States that fail to carry out the child health screening program required under title XIX of the Social Security Act (Medicaid program). Experience with the existing regulation indicates a need for greater clarity and for updating certain provisions. The proposal clarifies the steps States must take to avoid the penalty, provides alternative ways of meeting requirements and specifies the circumstances under which the penalty will be applied.

DATES: Closing date for receipt of comments November 7, 1977. Please refer to MSA–157–P. Agencies and organizations are requested to submit comments in duplicate.

ADDRESSES: Address comments in writing to:

Administrator, Health Care Financing Administration, Department of Health, Education, and Welfare, P.O. Box 2366, Washington, D.C. 20013.

Beginning two weeks from today, the public may review the comments Monday through Friday of each week, from 8:30 a.m. to 5 p.m.

Department of Health, Education, and Welfare, Health Care Financing Administration, Room 5225, 330 C Street S.W., Washington, D.C. 202–245–0950.

FOR FURTHUR INFORMATION CONTACT:

Beatrice D. Moore, 202–245–6575.

SUPPLEMENTARY INFORMATION: The purpose of these proposed regulations is to revise the conditions implementing section 403(g) of the Social Security Act, which provides for a one percent penalty, applied to payments to a State under title IV–A of the Social Security Act (Aid to Families with Dependent Children), for failure to provide early and periodic screening, diagnosis, and treatment (EPSDT) for children under the State's Medical Assistance program.

A previous Notice of Proposed Rule Making (NPRM) was published on August 20, 1975 (40 FR 36378). Its purposes were to (1) clarify requirements with regard to State action necessary to implement the EPSDT program; (2) to facilitate State compliance with requirements in order to avoid the penalty; and (3) to strengthen basic structural support for an effective program of health care for children under 21.

Approximately 100 comments were received in response to the NPRM. In addition, meetings were held with representatives of 45 States and with interest groups and providers at which the following issues were discussed in depth: effective informing; follow-up and support services; timely delivery of EPSDT services; screening services requirements; and documentation. Analyses of comments and suggested alternatives derived from these activities have been taken into account in the amendments now being proposed.

Due to the large volume of comments on all provisions of the NPRM that reflect significantly different and frequently opposite points of view, the Department is publishing a second NPRM rather than final regulations. It is the Department's intent to consider comments on the current proposal, which is intended to synthesize and accommodate earlier public response, before publishing final regulations.

It is Department policy to publish a Notice of Intent to issue proposed rule making in order to involve the public in the rule making process during the drafting phase. However, that step is being omitted in the publication of this NPRM, since the Department believes that the intent of the Notice of Intent to develop regulations has already been met through the publication of an NPRM in August 1975 and subsequent meetings with States and other interested parties.

The following summary of major public comments on the 1975 NPRM indicates significant areas which the Department wishes to reconsider. The Department's response, as reflected in the current proposal, is also summarized.

(1) Commenters took the position that the 1975 NPRM was overly process-oriented and did not focus sufficiently on program outcomes or goals, such as improvement in health status or assuring delivery of EPSDT services to specified numbers of children.

The current proposal relates application of the penalty to administrative and service delivery outcomes (e.g., informing of families, initiation of treatment found necessary as a result of screening, provision of support services) that should produce desired program goals, rather than to actual achievement of broad program goals. The Department believes such an approach is more in keeping with the legislative authority, which requires that families be informed, screening be provided if requested, and follow-up treatment be provided if necessary, than an approach focusing on health-related outcomes would be. Further, after in-depth consideration of comments in this area, the Department determined that identification of health-related outcomes and related measures of health status, as well as specifying numbers of children to be served, would be essentially arbitrary and involve requirements over which States would have less control than the administrative and service delivery outcomes.

(2) Commenters felt the 1975 NPRM did not allow sufficient administrative flexibility for States or recognize sufficiently variations in health care delivery patterns.

The current proposal attempts to accommodate these comments by specifying timely delivery of EPSDT services in terms of one time period from request to initiation of treatment, rather than specifying numbers of days for each of the required activities to occur. The proposal also differentiates State responsibilities for families who request State assistance in obtaining EPSDT services and those who do not, and for families who receive EPSDT services from certain comprehensive care providers, or from a health care provider from whom they may usually receive health services. Although the proposal identifies certain actions which States must carry out, under each of these circumstances, ways in which such activities are to be accomplished are left to State discretion.

(3) Many commenters felt that the previous NPRM would take eligible children out of the mainstream of health care or make State Medicaid agencies responsible for activities that are more properly the responsibility of health care providers.

The current proposal specifically recognizes that EPSDT medical and health-related support services may be provided by certain comprehensive care providers under different procedures than those used by a State agency making arrangements for each EPSDT service. Thus, provision is made for distinguishing between State responsibilities and health care provider responsibilities for eligible individuals who are, or request to be, under the care of certain comprehensive care providers.

In addition, the proposal provides for the delivery of initial and periodic EPSDT services over the course of a year, but under the frequency intervals of the State's periodicity schedule, rather than within the shorter time period otherwise applicable under the proposal, in the case of families requesting EPSDT services under the care of the health care provider whom they usually receive health care services.

(4) Most commenters emphasized the value of verbal, face-to-face contact as an effective informing method and strongly discredited written informing when used alone. In addition, almost all States reported that verbal informing of the availability of EPSDT services is occurring at AFDC eligibility intake or with notification of eligibility, though the scope and intensity varies among, and sometimes within, States.

The current proposal requires verbal informing, in addition to written, of AFDC families who become eligible for the first time or after a period of ineligibility.

(5) Most commenters indicated a need for exceptions to time requirements imposed for EPSDT service delivery.

The current proposal provides such exceptions by making it clear that States are not responsible for the inaction of eligible families and by providing different time requirements depending on the pattern of service delivery.

(6) Proposed requirements related to periodicity of notification and services were mentioned by several commenters as administratively cumbersome and possibly could result in harassment of eligible families.

The current proposal retains, but further clarifies, these requirements, since the law requires State plans to provide for periodic screening services.

(7) A large number of comments was received from States in resistance to proposed documentation requirements.

Most resistance was based on misunderstanding of the intent and possible methods of meeting the requirements. The current proposal clarifies that documentation requirements may be met with any appropriate form of written evidence, such as claims forms, reports, case records, etc., that, as a whole, include the information necessary for assessing compliance. Further, such documentation need not all be available only at the State level, but may be maintained at the State, local, or provider level, as appropriate. Similarly, each activity documented may be produced by the person responsible for the underlying activity: one person would not be required to document all required informing, assistance, follow-up, and service delivery activities for an individual child. Finally, requirements for documentation have been retained in the current proposed changes, since the Department believes that documentation is essential to State accountability, and to provision of a more equitable and objective basis for determining whether or not a penalty is applicable than would a verbal, other non-written, or other clearly subjective method. It should be noted that the current proposal, as did the 1975 NPRM, requires documentation only for the administrative or service delivery outcomes identified by the proposed requirements.

As a whole, the proposed changes are intended to achieve a balance among legal requirements for specificity, State needs for administrative flexibility, and eligibles' needs for comprehensive, preventive health care. The Department recognizes that these objectives are often mutually contradictory and invites comments on the extent to which the proposed changes achieve an appropriate and feasible balance and suggestions of alternative ways of meeting these objectives if the proposal does not seem to have met our goal.

The major provisions of the current proposal are summarized as follows:

Section 205.147(a) provides requirements related to the legislative provision that all AFDC families be informed of the availability of EPSDT services under the State's Medicaid plan. The purposes of the requirements are to assure that families can make a judgment on whether or not they want to receive EPSDT services, to provide sufficient opportunity to families to make such a choice and to obtain State assistance in getting services, and to reinforce the periodic nature of preventive health services.

Thus, the proposed changes in informing requirements specify major subjects of information, both written and face-to-face explanations, reinforming and periodic notices, and State responsibilities for follow-up with families who do not answer the first offer of services. These requirements are intended to provide a mechanism whereby States clearly know of the family's desire to receive EPSDT.

Section 205.147(b) specifies a 120 day period from date of request for services during which screening must be completed and treatment initiated. This single period replaces the separate periods specified in both the currently effective regulation (45 CFR 205.146(c)) and the 1975 NPRM. It is intended to assure that the individuals eligible for EPSDT services receive screening and beginning treatment within a reasonable period, while allowing States flexibility to work out arrangements for screening and treatment on an overall schedule that can be adjusted as necessary for the individual components. The Department believes that a period of time less than 120 days would not allow sufficient time for States to arrange for delivery of the full screening package and initiation of all necessary follow-up treatment services required under EPSDT for all eligibles who may request services. On the other hand, the Department believes that a time period longer than 120 days would not provide sufficient assurance of delivery of all necessary EPSDT services for individuals who may become ineligible after four months. (The turnover rate for EPSDT eligibles is about 17 percent annually.) Further, a longer time period would not, the Department believes, provide sufficient assurance that follow-up treatment would be initiated soon enough after screening findings indicate that they are necessary to be effective or that arrangements for delivery of screening services would be carried out soon enough after the family's request to be responsive to their interest, which is essential to the family's motivation in seeking preventive health services and keeping appointments.

Section 205.147(b) also includes a requirement that States provide a minimum screening package which in the Department's judgment will assure that the most critical elements of child health care are rendered to eligible children at appropriate periods of their development (see the discussion of 45 CFR 249.10 below).

Section 205.147(c) provides that the 120 day period specified under paragraph (b) will not apply in instances where:

(1) The individual is under the care of a "comprehensive care" provider (see § 205.147(e));

(2) The individual is already under the care of a health care provider from whom they usually receive health care services (see § 205.147(f));

(3) The individual refuses treatment, or requests EPSDT services, but is determined to have already received them;

(4) The individual missed an appointment(s) scheduled with State assistance, or the family had not requested State assistance in getting services but wished to make their own arrangements, and the necessary appointments were not scheduled or not kept, and the State has made one follow-up offer, within 150 days of the request for EPSDT, of help with appointments and transportation for the missed or unscheduled appointment(s). In no case must a State continue to offer such assistance to an individual who has missed two or more appointments for the same services for that recorded request.

These exceptions, together with the added flexibility of treating the time period as a whole, are intended to provide for a variety of arrangements among States to achieve the services goal while recognizing situations in which the State's responsibility is reasonably changed or ended for purposes of compliance with requirements which impose a financial penalty if States do not meet them.

Thus, the Department believes that States have a responsibility to provide scheduling assistance, transportation, and follow-up services to eligibles in order to remove significant obstacles that program experience clearly indicates eligibles generally have in obtaining EPSDT services. However, limiting State responsibility to one follow-up attempt after missed appointments in general and to no more than one for an appointment for the same service recognizes a certain responsibility that eligibles must take in obtaining EPSDT services once the State has provided requested, necessary support services. Similarly, providing for eligibles who want to make their own arrangements for appointments, with some assurance of fall-back State support if they have been unable to do so for whatever reason, is also an attempt to achieve a balance between State and eligible responsibility. Both provisions further recognize that more intensive State offers of assistance than would be required by the current proposal may be perceived as coercive.

By providing exceptions to the 120 day requirement and to certain State responsibilities for assistance in the case of eligibles under the care of certain comprehensive care providers and other health care providers (see summary of § 205.147 (e) and (f) for a fuller discussion of these provisions), the proposal recognizes instances where the necessity for State management and coordination of the EPSDT service delivery process may be somewhat less where there is assurance that certain health care providers may reasonably carry out those responsibilities for EPSDT service delivery.

Section 205.147(e) recognizes that arrangements have been and can be made with "comprehensive care" providers under which the Federal requirements for EPSDT services can be met in a satisfactory or improved manner without direct State action in tracking an eligible's progress through the EPSDT process. Under the proposed changes, a State has fewer direct responsibilities in relation

to eligibles for purposes of compliance with the penalty provisions, if an eligible is under care of such a provider with whom the State Medicaid agency has an agreement. These providers may be grantees under title V of the Act (e.g, Children and Youth projects, Maternity and Infant Care programs), neighborhood health centers, private physicians, HMOs, Head Start projects, or other providers equipped to deliver comprehensive health care and certain related support services.

The agreement entered into between the Medicaid agency and such provider must cover all pertinent aspects of the EPSDT program and specify the respective responsibilities of each party. Under the agreement, the Medicaid agency's responsibilities, for penalty compliance purposes, must include:

(1) Assuring that the eligible requesting to be under the care of such provider for EPSDT services in fact reaches that provider for the first appointment for initial and periodic screening;

(2) Verifying that the eligible is under the provider's care; and

(3) Assuring transportation up to the limits of the Medicaid State plan provisions.

The comprehensive care providers must agree to deliver or arrange for all screening, diagnostic, and treatment (except dental) services and certain health related support services in order to qualify under this provision.

The Department believes that this provision can be important in encouraging full use of all existing comprehensive care providers in a State who provide services identical in content and equivalent in timing to the EPSDT program. Thus, the provision should stimulate more provider participation in the EPSDT program, as well as lessen the problems of poorly coordinated services that sometimes result from use of different providers for each service to a child. The items specified for inclusion in the agreements between the State and comprehensive care providers are intended to protect the interests of both parties and assure that appropriate care is actually given.

Section 205.147(f) recognizes that some health care providers who are capable of delivering comprehensive medical services may not be equipped or willing to enter into an agreement that includes responsibilities for health related support services, as provided for under § 205.147(e) of the proposal. However, families who are already receiving health care from such a provider may also wish to assure that their children receive all of the services to which they are entitled under EPSDT and may wish to continue under that provider's care for receipt of the full range of EPSDT services. In this case, the state may arrange for such providers to review their services over the year prior to the eligible's request for EPSDT and verify screening services and relevant treatment components already rendered. If the screening services appropriate to the eligible's age under the State's EPSDT periodicity schedule have not been rendered, and necessary treatment services not initiated, the State would be responsible for arranging for the delivery of services not yet received, either with that provider, or other provider if necessary. The State would also be responsible for arranging services not usually provided by private physicians or certain other comprehensive care providers—such as dental services—and for providing transportation and scheduling assistance, if requested by the family. Services under the State's periodicity schedule could be provided in the same manner. The intent of this provision is to recognize that the child may have been receiving care appropriate to his age and consistent with good health care practices, and that it is not necessary to require duplication of any services already provided, and not necessary that, if a child is already under a provider's care, the full range of screening be provided within the specific time span otherwise required (i.e., within 120 days of request) when the State agency is managing and coordinating EPSDT service delivery. The Department does consider it to be essential to the intent of the law and goals of the program that the required screening and necessary follow-up treatment services and the frequency intervals of the State's periodicity schedule must be identical for all eligibles requesting EPSDT.

Section 205.147(g) specifies the documentation States must make available to the Department as evidence that the regulatory requirements have been met. While specificity is necessary so that there will be no uncertainty as to what the required evidence is, the Department's intention, as stated under comment No. 7 above, is that States may work out, in the way most feasible under their particular system, where and how the documentation is produced. In addition, adjustments in the documentation requirements have been made for the special arrangements made with comprehensive care providers. In the past, some of the most frequent criticism of EPSDT monitoring both inside and outside the Department has been the inability in certain cases to determine effectively whether essential program requirements are being met by States. Without full knowledge of what actions States have taken to inform AFDC families of EPSDT and the subsequent provision of services where requested, the Department believes that it cannot adequately fulfill the Congressional mandate to assure the provision or arrangement of EPSDT services in each case in which recipients indicate an interest in receiving the benefits of the program.

Section 205.147(h) specifies the bases for determining application of the penalty. The Department believes that the underlying statutory authority for the penalty (section 403(g) of the Social Security Act) clearly requires that each eligible family shall be informed of the availability of the State's EPSDT services, and that each person requesting EPSDT services shall be provided such services if a State is to avoid the imposition of the penalty. For this reason, the Department has required 100 percent compliance with all of the statutory provisions related to the penalty.

The Department also recognizes that human and/or administrative systems error may cause a temporary delay or unanticipated failure to inform or arrange for services in an otherwise efficiently operated program or may result in an occasional failure to record the documented evidence necessary for determining whether federal regulatory requirements are met. Thus penalty determinations will be based upon compliance with two distinct requirements for timely informing and service delivery. The first will be based upon a State's obligation to comply with the various timing requirements set forth in proposed § 205.147(a), (b), (c), (e), and (f) which, for example, require that certain persons requesting EPSDT services have screening provided and necessary treatment initiated within 120 days of the initial request. Compliance with these provisions will be deemed satisfied if there is documented evidence, as required under the proposed section (g), that (a) the time limits and other applicable requirements are met in 90 percent of the cases reviewed by the Department on the basis of a statistically valid sample and (b) specific evidence of noncompliance exists in any case reviewed by the State has corrected that failure within 120 days of notification by HCFA that such a failure exists. This requirement means that if the Department finds, in the course of its reviews, more than 10 percent of the case files do not have the requisite documentation specified in paragraph (g), the penalty would be assessed notwithstanding a State's subsequent effort to demonstrate that the regulation's underlying requirements have in fact been met.

Ninety percent is believed to be a reasonable rate of compliance that takes into account the sort of unforeseeable error that is apt to occur because of an unanticipated systems failure or other type of State administrative error causing temporary delays in an otherwise efficiently operated program.

The Department believes that a level of compliance documented in less than 90 percent of the cases reviewed would, however, indicate that a State's EPSDT program is not operating at a capacity sufficient to carry out its full obligation under the law for all eligibles.

Providing for 120 days to correct specific failures of which the State is notified is thought to provide the means by which the needs of eligibles may be met, while providing States ample time within which to take the steps they are otherwise required to take in informing and/or providing services to these individuals. Compliance with this provision for a grace period will be based on a State's ability to comply with respect to all such individuals who fall within this section's coverage. The Department firmly believes that while it may not reasonably expect perfect adherence by States to the first set of time limits described above (e.g., the 120 day limitations), it must require perfect adherence for rea-

sonably timely informing and service provision to all EPSDT eligibles for whom there is documented evidence that the regulatory requirements had not been met. Were the Department to adopt a requirement that all requests not responded to within the first set of time limits were to be responded to within an unspecified, and unlimited, period of time, there could be no certainty that all persons were assured of receiving requested EPSDT services because of the impossibility of monitoring such a provision. Adopting a regulation that contained such an open-ended provision would, in the Department's view, be in violation of the statute.

The two sets of time limits discussed above concerning timely service delivery are a direct response to the difficulties attending the existing penalty requirement that all services be provided "normally" within a 60 day period (45 CFR 205.146(c)). There has been frequent criticism that this current requirement is difficult to measure and subject to uneven enforcement. In its place, the Department believes that specific, readily measurable time limits would allow application of the penalty on an objective and equitable basis among all States.

In addition to determinations of compliance as discussed above, the proposal also specifies that the proposed requirement for an agreement, which meets specified conditions, between the State agency and certain comprehensive care providers must be met in 100 percent of the applicable cases reviewed.

Since the proposed requirements for such an agreement would require that such agreements be contractual and binding and the Department believes that such an agreement would be entered into in good faith by both parties, the proposal would not hold a State liable, for penalty purposes, for those activities otherwise required of the State but accepted by a comprehensive care provider under the agreement. The Department believes, however, that total adherence must be required for the existence of an agreement that meets the specified conditions in order to deem the statutory requirements for service delivery satisfied in the case of eligibles under the care of such providers. The Department also expects that State agencies will monitor such provider's adherence to the terms of such agreements just as it would any other legally binding contract that it has established.

The proposal indicates that the penalty shall be assessed upon a failure to comply with applicable requirements on a countywide basis. While this does nothing more than reflect the Department's current policy with respect to the imposition of the penalty, it is included in the proposal for purposes of clarity. The Department has always contended that one of the reasons for the statutory penalty provision was Congressional recognition that the compliance mechanism available to the Secretary to force program compliance in EPSDT under section 1904 of the Social Security Act was extremely harsh and, therefore, not a realistic approach to program enforcement. The traditional compliance mechanism has generally been viewed as addressing "substantial non-compliance", often on a State-wide basis. In light of the statute's clear reflection of the Congressional mandate that failure to inform any AFDC family or arrange for EPSDT services for any individual requesting such services results in penalty liability, the Department believes that the imposition of the penalty is supportable if there is a disclosure of any failure of a State to perform its required obligations with respect to any one individual. Accordingly, the Department, while believing it could be monitoring State's EPSDT performance and assessing penalties on the basis of findings smaller in scale than a county-wide basis, has chosen to review States' compliance with penalty requirements on a county-wide basis for purposes of administrative convenience and uniformity.

In Section 249.10, regulations on the program requirements for providing EPSDT services, changes from the previous NPRM include a new format for better comprehension; an additional requirement for State consultation with medical and dental organizations on certain program provisions; and, in the minimum screening package, addition of immunizations, developmental assessment, and rewording of "nutritional assessment." The consultation requirement has been developed in light of difficulties States have experienced in determining what constitutes an effective minimum screening package and periodicity schedule and adequate provision of vision, hearing, and dental treatment services. Advice from experienced professionals is considered essential in assuring that appropriate decisions are reached. Changes in the required screening services result from our determination that a developmental assessment is necessary to carry out the statutory requirement for screening for "mental" as well as physical health problems. "Nutritional assessment" was reworded after consultation with persons in the field. It is believed that "nutritional assessment" may have suggested a highly specialized procedure which is not appropriate to the initial screening process. The term "assessment of nutritional status" has been substituted to clarify that potential nutritional problems are an appropriate and essential area to be included in the screening services, but that a full diagnostic and treatment process would follow screening findings indicating that such services are necessary.

The addition of immunization to the screening package is a change from the previous NPRM inclusion of a "determination of immunization status." The Department strongly believes that because EPSDT is a preventive health program, in contrast to the remedial thrust of other Medicaid services, immunizations are more appropriate as an element of screening rather than treatment. In light of the potentially disabling effects of diseases that may occur in the absence of immunizations, and the concomitant costly treatment of those diseases, the Department believes it is essential that immunizations as a tool of preventive health care be provided at the screening stage of EPSDT rather than risk the uncertainties of treatment referrals that would otherwise occur.

In addition to proposing revisions as contained in this Notice of Proposed Rule Making to the current regulations implementing section 403(g) of the Social Security Act, the Department is also proposing to the Congress that certain legislative changes be made both in the statutory provision for a penalty related to the EPSDT program as well as in the legislative provision authorizing the EPSDT program under Title XIX of the Social Security Act. As a part of the Department's proposed legislative changes, the name of the program would be changed from Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) to Child Health Assessment Program (CHAP). The proposed revisions contained in this Notice are compatible with the goals and major features of the proposed legislation. These revisions would serve as a direct transition, to the extent possible under current law, between current program requirements and the CHAP proposal by: (a) Encouraging more effective informing methods; (b) facilitating the development of comprehensive, continuous care for EPSDT eligibles; (c) strengthening follow-up and support services; and (d) providing specific standards under which penalties may be assessed.

Also, the Department recognizes the limitations of process requirements in achieving the goals of the EPSDT program (as stated above) and the new legislation and prefers the use of performance standards, where possible. The new legislation proposes to make available a bonus for Medicaid administration for States which meet certain performance criteria. Thus, the Department feels that performance standards are feasible for purposes of a bonus, but not yet sufficiently developed for use in penalty assessment. Suggestions from reviewers for specific performance standards will be welcome.

(Sec. 1102, 49 Stat. 647 (42 U.S.C. 1302). Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program.)

NOTE: The Health Care Financing Administration has determined that this document does not require preparation of an Economic Impact Statement under Executive Order 11821, as amended by EO 11949, and OMB Circular A-107.

Dated July 19, 1977.

R. A. DERZON,
Administrator, Health Care Financing Administration.

Approved: August 31, 1977.

HALE CHAMPION,
Acting Secretary.

Chapter II, Title 45 of the Code of Federal Regulations is amended as set forth below.

1. Part 205 is amended by revising §205.146(c) and by redesignating it as a new §205.147 to read as follows:

§ 205.147 Penalty for failure to provide early and periodic screening, diagnosis and treatment (EPSDT) of children under Title XIX of the Act.

Pursuant to section 403(g) of the Act, notwithstanding any other provision of this chapter, total payments to a State under title IV–A of the Act for any quarter of any fiscal year beginning on or after July 1, 1974, shall be reduced by 1 percentage point if the State fails to meet any of the following requirements with respect to informing, screening, diagnosing, and treating individuals eligible for EPSDT services and with respect to documenting implementation of such requirements.

(a) *Informing families and offering to provide or arrange for the provision of EPSDT services.* (1) Notification of the EPSDT services available under the State title XIX plan shall be made to each eligible family:

(i) Through written material and through a face-to-face contact with a person knowledgeable in explaining EPSDT services and their benefits, within 60 days following the authorization of AFDC payment for families becoming eligible for AFDC for the first time or after any period of ineligibility, and

(ii) Through written material, for families who have not requested EPSDT services, within one year of the date in which they were last notified, and through written material for families who have requested EPSDT services and whose children are eligible for a periodic screening based on the periodicity schedule under the State title XIX plan, within periods of time that fall within such schedule as it applies to children in such families;

(2) Both the written and face-to-face notification shall clearly and specifically describe EPSDT services in nontechnical language and shall include at least the following information:

(i) The nature and value of preventive health services;

(ii) That screening services should be received periodically; that the family can request information specifying which screening services will be provided upon request; at what ages after an initial screening; and in the case of families notified under paragraph (a)(1)(iii) of this section, that it is time for a periodic screening for the family's children and that the family should tell the State whether they want such periodic screening services;

(iii) The elements of the screening package available under the State title XIX plan;

(iv) That treatment services covered under the State title XIX plan will be provided for problems discovered through screening, including treatment for vision, hearing and dental problems;

(v) How EPSDT services can be obtained, including an offer to schedule appointments, if requested, for EPSDT services, and to provide, if requested, necessary transportation as required under § 249.10(a)(5)(ii) of this chapter;

(vi) That the family can obtain information from a specified local office identifying public and private providers which are located nearest to the family and who provide EPSDT services;

(vii) That the family is entitled to EPSDT services covered under the State's title XIX plan at no cost;

(viii) That the State will assure that the family receives EPDST services on a timely basis (as required in paragraphs (b) and (c) of this section);

(ix) That the family should tell the State whether it does or does not request EPSDT services and State assistance with scheduling and transportation.

(3) Either written or face-to-face notification must be adjusted to the language requirements of families who are blind or illiterate, cannot read English, or are not conversant in English.

(4) In the case of any family notified under paragraph (a)(1)(i) of this section, if such family makes no written or verbal response to the notification as to whether or not it requests EPSDT services and assistance with scheduling and/or transportation, the State shall, within 60 days of the date of such notification, make one attempt to obtain such a response, either by mail, face-to-face contact, or telephone.

(b) *Providing or arranging for EPSDT services for families requesting EPSDT.* All requested initial or periodic screening services must be completed, and all necessary followup treatment services covered under the State title XIX plan must be initiated, within 120 days of the family's request for initial or periodic EPSDT services for the eligible individual. Requested assistance with transportation must be provided in accordance with provision under the State's title XIX plan for assuring necessary transportation of recipients to and from providers of services, as required under § 249.10(a)(5)(ii) of this chapter. Screening services that must be provided upon request must include at least those specified under § 249.10(a)(3)(vi) of this chapter. For purposes of this requirement, initiation of treatment means that the first encounter has occurred between the eligible individual and health care provider(s) for purposes of beginning treatment services found necessary as a result of screening (and, as appropriate, diagnostic) findings.

(c) *Exceptions to requirements for timely service delivery.* The requirements under paragraph (b) of this section do not apply when the State can show that the following condition(s) exist:

(1) The family has requested to be under the care of a comprehensive care provider as described under paragraph (e) of this section; or

(2) The family has requested to be under the care of a provider from whom they usually receive health care services as provided for under paragraph (f) of this section; or

(3) In the case of requested screening services not having been completed within the 120 day period, the eligible individual has already received, within the range of time indicated by the periodicity schedule under the State's title XIX plan, the elements of the State's screening package appropriate to his age that were not completed, as well as the necessary related treatment services; or

(4) In the case of necessary treatment services not having been initiated within the 120 day period, the eligible individual declined the treatment service(s) indicated to be necessary by screening; or

(5) The family requested EPSDT services but did not request State assistance with scheduling appointments; the appointment(s) necessary to complete screening services and/or to initiate necessary treatment services were not scheduled or not kept; and the State made one attempt (after determining that such appointment(s) were not scheduled or kept) within 150 days of the request for EPSDT services to offer scheduling and transportation assistance for the necessary appointments; or

(6) The State provided requested assistance with scheduling EPSDT appointments, but the eligible individual failed to keep an appointment arranged by the State and the State made one attempt (after determining that such appointments were not kept) within 150 days of the family's request for EPSDT to offer scheduling and transportation assistance for each of the appointments that were missed. In cases where the eligible individual misses two appointments scheduled by the State for the same service, no further assistance from the State is required for that recorded request.

(d) *Referral for treatment services not covered under the State's plan.* States must provide referral assistance for treatment services not covered under the State's plan.

(e) *Providing or arranging for EPSDT services for families requesting EPSDT under the care of certain comprehensive care providers.* (1) Except as specified in this paragraph, the requirements contained in paragraphs (b)-(c) of this section do not apply in the case of eligible individuals who are or request to be under the care of:

(i) A Children and Youth project, Crippled Children's Service program, Maternal and Infant Care project, other title V grantee, or State health agency which has entered into an agreement with the State Medicaid agency under § 251.10 of this chapter; or

(ii) Other comprehensive health care provider (including a Head Start project) which has entered into an agreement identical to that required under § 251.10 of this chapter,

for providing or arranging for screening, diagnostic, and treatment services on a periodic basis as provided for under the State's title XIX plan.

(2) Such agreements must:

(i) Meet each condition under § 251.10 of this chapter;

(ii) Identify the estimated number of eligible children who are to be maintained under the care of the comprehensive care provider;

(iii) Provide that the first appointment for delivery of screening services will be scheduled to occur within 90 days of the date of request for EPSDT services under the care of the comprehensive care provider for eligible individuals not already under the care of such provider;

(iv) Specify the respective responsibilities of the comprehensive care provider and the Medicaid agency for notifying the family that, based on the periodicity schedule provided for in the State title XIX plan, it is time for a periodic screening for the eligible individual under care;

(v) Specify that the Medicaid agency is responsible for:

(A) Assuring necessary transportation as required under § 249.10(a)(5)(ii) of this chapter;

(B) Providing scheduling assistance requested by the family, within 90 days of the request for such assistance, with regard to the first appointment with the comprehensive care provider for eligible individuals not already under such provider's care and with regard to the first appointment for periodic screening with such provider;

(C) Arranging for appointments scheduled by the State at the family's request to occur within 90 days of the family's request for EPSDT services under the care of the comprehensive care provider;

(D) Determining within 90 days of the family's request for receiving EPSDT services under the care of the comprehensive care provider, whether the eligible individual is under such provider's care and, it not, making one attempt within the 90 days (after determining that the eligible individual is not under care) to offer scheduling assistance to the family; and

(vi) Specify the comprehensive care provider's responsibility for:

(A) Delivering or arranging for delivery (through referral to other health care providers) periodically, of all screening services required under the State title XIX plan and necessary follow-up diagnostic and treatment services, except that providing or arranging for dental services may, upon mutual agreement, remain the Medicaid agency's responsibility; and

(B) For appropriate health-related support services, including, specifically, follow-up with patients and other health care providers with whom arrangements have been made by the comprehensive care provider to assure that appointments are kept or rescheduled and to assure delivery of services that the comprehensive care provider has arranged for; and

(C) Maintaining specific reports of the screening, diagnosis, and treatment and health-related support services delivered to each eligible individual under its care.

(3) Where the comprehensive care provider does not agree to provide or arrange for the dental services required under § 249.10 (a)(3)(iv) of this chapter, the State shall retain the responsibility for assuring the delivery of such services in accordance with the requests specified in paragraphs (a)–(d) of this section.

(f) *Providing or arranging for EPSDT services for families requesting EPSDT who are already under the care of a health care provider.* Except as specified in this paragraph, the requirements of paragraphs (b), (c), and (e) of this section do not apply. In the case of families who request EPSDT services under the care of a provider from whom they usually receive health care services, the State must within 120 days of such request for EPSDT services and, if applicable, within 120 days of the family's request for periodic screening services under that provider's care:

(1) Verify that all the elements of the State's screening package appropriate for the age of the eligible individual, as specified under the periodicity schedule provided in the State's title XIX plan, were completed and all necessary follow-up treatment services covered under the State title XIX plan were initiated by such provider during the year prior to such request, and

(2) If not, make one attempt after such determination to offer scheduling assistance to the family and to make arrangements with such provider or another provider, if necessary, so that within such 120 day period the screening services appropriate to the eligible individual's age under the State's periodicity schedule are completed and all necessary treatment services that had not been initated and that were discovered necessary upon completion of the screening package are initiated.

Requested assistance for transportation related to receipt of any EPSDT services from such provider must be provided, in accordance with provision under the State's title XIX plan for assuring necessary transportation, as required under § 249.10(a)(5)(ii) of this chapter. The 120 day requirement specified in this paragraph does not apply when the State can show that the conditions specified in paragraph (c)(4), (5), and (6) of this section exist.

(g) *Documentation.* States must make written documentation available at the State and/or local level, consisting of reports, claims forms, case records and/or other appropriate written evidence which must, when considered as a whole, include the following information:

(1) The screening services provided for under the State's Title XIX plan and the State's periodicity schedule for such screening services (as required under § 249.10(a)(3)(iv) of this chapter);

(2) The written material with which families are notified and material used by or available to persons notifying families through face-to-face contact in accordance with the content requirements under paragraph (a)(2) of this section;

(3) For each family, the date(s) of initial and annual or periodic notification through face-to-face contact and/or through written material, as required under paragraph (a)(1) of this section;

(4) For each family notified under paragraph (a)(1) of this section which has not requested EPSDT services, whether such family has specifically declined the services;

(5) For each applicable family, the date of the attempt to obtain a response to notification, as required in paragraph (a)(4) of this section;

(6) For each eligible individual for whom initial and periodic, as applicable, EPSDT services are requested (except for such requests described under paragraph (e) of this section related to certain comprehensive care providers):

(i) The date of the request(s) for EPSDT services, whether for initial or periodic services;

(ii) That scheduling and/or transportation assistance was requested or declined (whether in response to notification under paragraph (a)(1) of this section, to the follow-up attempt required under paragraph (a) of this section, and/or to the follow-up attempt after missed appointments specified under paragraph (c)(5) and (6) of this section), and that such assistance was provided if requested, or that no response has been made to the State's offer(s) of such assistance;

(iii) Where an appointment(s) scheduled with State assistance is missed, that an attempt was made to offer scheduling and transportation assistance for a second appointment, as required under paragraph (c)(6) and paragraph (f) of this section, and the date of such attempt;

(iv) Where State assistance with scheduling has not been requested and where it is determined that screening services have not been completed and/or necessary follow-up treatment services not initiated within 120 days of request for EPSDT services, that the attempt was made to offer scheduling and transportation services as required under paragraph (c)(5) and paragraph (f) of this section, and the date of such attempt;

(v) The initial and periodic screening services, as applicable, provided;

(vi) Screening findings (or screening and diagnostic findings if performed simultaneously) for each of the completed screening services;

(vii) The date(s) of initiation of treatment service(s) covered under the State's Title XIX plan and provided as a result of positive screening (or, as appropriate, diagnostic) findings, or the date that such services were declined; and the types of such treatment services provided; and

(viii) The source(s) of referral for treatment services not covered under the State's Title XIX plan.

(7) For each eligible individual who has requested EPSDT services under the care of a comprehensive care provider, as provided in paragraph (e) of this section:

(i) The agreement made under paragraph (e) of this section between the applicable comprehensive care provider and the Title XIX agency;

(ii) Written verification from such provider that the eligible individual is under its care and the date the individual was placed under care;

(iii) The date of request for EPSDT services under the care of such provider;

(iv) That scheduling assistance requested of the Medicaid agency was provided for an initial and, if applicable, a periodic screening appointment and the date such assistance was provided;

(v) Where it is determined that the eligible individual is not under the care of the comprehensive care provider, that the attempt was made to offer scheduling assistance as required under paragraph (e)(2)(v)(D) of this section; and

(vi) That requested transportation was provided within the scope of the agreement and the State Medicaid agency's responsibility for assuring necessary transportation under § 249.10(a)(5)(ii) of this chapter.

(h) *Application of the penalty.* (1) The penalty shall be applied on a quarterly basis where findings described in paragraph (h)(3) of this section indicate non-compliance with the requirements of this section.

(2) Determination of whether the penalty is applicable will be based on:

(i) Such reviews, including statistical sampling, as may be deemed necessary by HCFA, of documentation from States including documentation specified in paragraph (g) of this section; and

(ii) Such interviews of HCFA may deem necessary with persons responsible for face-to-face informing to determine compliance with the requirements under paragraph (a)(2) of this section.

(3) On the basis of evidence described in paragraph (h)(2) of this section, a State will be considered in compliance with the requirements of this regulation as specified in paragraphs (a)–(d), (e)(2)(vi) and (v), (e)(3) and (f)–(g) of this section if in all counties reviewed:

(i) There is evidence that requirements for informing and providing or arranging for EPSDT service delivery under paragraphs (a)–(d), (e)(2)(iv) and (v), (e)(3) and (f) are met in 90 percent of the instances reviewed; and

(ii) If the requirements of paragraph (h)(3)(i) of this section are met, and if there is specific evidence of non-compliance with applicable requirements in any of the cases reviewed, but there is evidence in all such cases that the State has corrected the failure to inform the family in accordance with paragraph (a) of this section or to provide EPSDT services in accordance with paragraphs (b)–(d), (e)(2)(iv) and (v), (e)(3) and (f) of this section within 120 days of the notification by HCFA to the State of such failure; and

(iii) An agreement as required in paragraph (e)(2) of this section is found to exist in 100 percent of the instances reviewed that are applicable to eligible individuals under the care of a comprehensive care provider as provided for under paragraph (e) of this section.

(4) On the basis of evidence described in paragraph (h)(2) of this section, the penalty shall be assessed where, in any county, any one or more of the requirements of paragraph (h)(3) of this section are not met.

(i) *Reconsideration of penalty imposition.* Whenever a penalty is imposed under section 403(g) of the Social Security Act and the provisions of this section, the State shall be entitled to, and upon request shall receive a reconsideration of the imposition of the penalty in accordance with section 1116(d) of the Social Security Act and § 201.14 of this chapter.

2. In § 249.10, paragraph (a)(3)(iv) is amended as set forth below:

§ 249.10 Amount, duration, and scope of medical assistance.

(a) *State plan requirements.* A State plan for medical assistance under title XIX of the Social Security Act must:

* * * * *

(3) With respect to the requirements of paragraphs (a)(1) and (2) of this section as they relate to the provision of early and periodic screening, diagnosis, and treatment under paragraph (b)(4)(ii) of this section, provide:

* * * * *

(iv) For making available to all eligible individuals under 21 years of age:

(A) Early and periodic screening and diagnosis to ascertain physical and mental defects; and

(B) Treatment of conditions discovered, within the State plan limits on the amount, duration, and scope of care and services; and

(C) Whether or not otherwise included under the State plan, eyeglasses, hearing aids, and other kinds of treatment for visual and hearing defects, and at least such dental care as is necessary for relief of pain and infection and for restoration of teeth and maintenance of dental health, subject, however, to such utilization controls as may be imposed by the State agency;

(v) For consultation with representatives of recognized medical and dental organizations of the State in the development of the periodicity schedule, the specific screening services applicable at each age, beginning with the neonatal period of age 21, and the amount, duration, and scope of dental, vision, and hearing treatment services to be provided under EPSDT;

(vi) For at least the following screening services, adjusted as appropriate for the age of the eligible individual (as determined by the State in accordance with paragraph (a)(3)(v) of this section) at the time of the request for screenings:

(A) Health and developmental history;

(B) Unclothed physical examination;

(C) Developmental assessment;

(D) Provision of immunizations appropriate for age and health history;

(E) Determination of nutrition status;

(F) Vision screening;

(G) Hearing testing;

(H) Laboratory procedures appropriate for age and population group; and

(I) Dental diagnostic services provided by a dentist, or dental screening based on clear and specific criteria for referral to a dentist for diagnostic and treatment services, and referral as indicated by such screening findings;

(vii) For a periodicity schedule which identifies the time periods, based on age or lapse of time between each delivery of the screening package, at which screening services under the State plan are to be provided after initial screening.

See § 205.147 of this chapter relating to reduction in Federal financial participation under Title IV-A of the Act for failure to provide early and periodic screening, diagnosis, and treatment of children.

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