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WEDNESDAY, AUGUST 2, 1978



highlights

FEDERAL GRANT PROGRAMS

Announcing a New Weekly Feature

To assist readers wishing to keep abreast of federally funded grant programs, the FEDERAL REGISTER is adding a new listing to the weekly Reminders section published every Wednesday. Beginning with today's issue the Wednesday Reminders section will include a listing of grants related documents published in the FEDERAL REGISTER during the previous week.

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR notice 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/COAST GUARD	USDA/ASCS		DOT/COAST GUARD	USDA/ASCS
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DOT/OPSO	USDA/REA		DOT/OPSO	USDA/REA
	CSC			CSC
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Documents normally scheduled for publication 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.

NOTE: As of July 3, 1978, documents from the following agencies in the Department of Health, Education, and Welfare are no longer being assigned to the Tuesday/Friday schedule: Alcohol, Drug Abuse and Mental Health Administration (ADAMHA); Center for Disease Control (CDC); Health Resources Administration (HRA); Health Services Administration (HSA); National Institutes of Health (NIH); and Public Health Service (PHS).

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List of Public Laws

This is a continuing listing of public bills that have become law, the text of which is not published in the FEDERAL REGISTER. Copies of the laws in individual pamphlet form (referred to as "slip laws") may be obtained from the U.S. Government Printing Office.

[Last Listing: Aug. 1, 1978]

H.R. 12637 ..... Pub. L. 95–326
To amend the North Pacific Fisheries Act of 1954. (July 28, 1978; 92 Stat. 399) Price: $.60

S. 1291 ..... Pub. L. 95–327
TO DECLARE THAT CERTAIN LANDS OF THE United States situated in the State of OKLAHOMA ARE HELD BY THE United States in trust for the Cheyenne-Arapaho Tribes of Oklahoma, and to authorize the Secretary of the Interior to accept conveyance from the Cheyenne-Arapaho Tribes of Oklahoma of certain other lands in Oklahoma to be held in trust by the United States for such tribes. (July 28, 1978; 92 Stat. 407) Price: $.50

S. 1582 ..... Pub. L. 95–328
Relating to the settlement between the United States and the Ak-Chin Indian community of certain water right claims of such community against the United States. (July 28, 1978; 92 Stat. 409) Price: $.50

S. 947 ..... Pub. L. 95–329
To declare certain federally owned land known as the Yardeka School land to be held in trust for the Creek Nation of Oklahoma. (July 28, 1978; 92 Stat. 412) Price: $.50

Documents Relating to Federal Grants Programs

This is a list of documents relating to Federal grants programs which were published in the FEDERAL REGISTER during the previous week.

Rules Going Into Effect:

Commerce/NOAA—Coastal energy impact program; lateral seaward boundaries for purposes of grant allotments to States; effective 7–28–78 ..... 32743; 7–28–78
HEW/HCFA—Grants to professional standards review organizations; effective 7–24–78 ..... 32084; 7–24–78
OE—Desegregation of public education; rules governing awards; for information on effective date call Mr. Elton Ridge, 202–245–8484 ..... 32372; 7–26–78
LSC—Governing bodies of recipient organizations; eligibility standards for members; effective 8–28–78 ..... 32772; 7–28–78
Procedures governing termination of financial assistance and denial of refunding; effective 8–28–78..... 32768; 7–28–78
Restrictions on legal assistance in criminal proceedings involving juveniles; effective 8–28–78 ..... 32775; 7–28–78
Restrictions on use of funds; effective 8–28–78 ..... 32774; 7–28–78

Deadlines for Comments on Proposed Rules:

DOE—Automotive propulsion research and development; review and certifications of grants, cooperative agreements, contracts, and projects; comments by 8–25–78.
31929; 7–24–78
Justice/LEAA—Discretionary grant programs, draft fiscal year 1979 guide; comments by 9–25–78 ..... 32612; 7–27–78

Applications Deadlines:

HEW/HDSO—Rehabilitation of blind and severely visually disabled; research and training centers; apply by 9–8–78.
32333; 7–26–78
HRA—General practice of dentistry, residency training; apply by 9–10–78.
32464; 7–27–78
OE—Desegregation of public education; extension of closing date; apply by 8–25–78 ..... 32388; 7–26–78
Justice/LEAA—National Institute of Law Enforcement and Criminal Justice, community based prerelease model program; extension of application deadline to 8–11–78 ..... 32196; 7–25–78

Other Items of Interest:

HEW/HDSO—Child abuse and neglect, State grants; revision of minimum base for State allotments and revised allotments for fiscal year 1978 ..... 32191; 7–25–78
OE—Emergency school aid; interpretation on use of funds; for effective date call Jesse J. Jordan, 202–245–7965.
32193; 7–25–78

●NOTE: The Office of the Federal Register is interested in suggestions from its readers about the new listing of documents relating to Federal Grants programs. If you have any comments on the usefulness or format of this new feature, please send them to Mr. Dean Smith, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C., 20408.●

rules and regulations

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

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

[1505-01]

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

[Reg. T; Docket No. R-0165]

PART 220—CREDIT BY BROKERS AND DEALERS

Subordinated Credit for Capital Purposes

Correction

In FR Doc. 78—19904, appearing on page 31002 in the issue for Wednesday, July 19, 1978, in § 220.4, paragraph "(b) *Special Miscellaneous Account.* * * *", should be designated as paragraph "(f)".

[7535-01]

CHAPTER VII—NATIONAL CREDIT UNION ADMINISTRATION

PART 701—ORGANIZATION AND OPERATION OF FEDERAL CREDIT UNIONS

Safe Deposit Box Service

AGENCY: National Credit Union Administration.

ACTION: Final rule.

SUMMARY: Section 701.30(b) of the National Credit Union Administration rules and regulations is being amended to permit Federal credit unions desirous of providing safe deposit box service to house such safe deposit boxes in safes as well as vaults. Presently, the section unnecessarily restricts the FCU's which can provide safe deposit box service primarily to those having their own building or large facility.

EFFECTIVE DATE: August 2, 1978.

ADDRESS: National Credit Union Administration, 2025 M Street NW., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT:

Joseph Bellenghi, Assistant Administrator for Examination and Insurance, at the above address, 202-254-8760.

LAWRENCE CONNELL,
Administrator.

JULY 27, 1978.

(Sec. 120, 78 Stat. 635 (12 U.S.C. 1766) and Sec. 209, 84 Stat. 1104 (12 U.S.C. 1789).)

Accordingly, 12 CFR Part 701 is amended as follows: Amend § 701.30 paragraph (b) to read as follows:

§ 701.30 Safe deposit box service.

* * * * *

(b) The safe deposit boxes will be located in a vault/safe on the premises where the credit union maintains an office for the transaction of business with its members. Space will be provided whereby the tenants or deputies, if any, can have access to the contents of their specific safe deposit boxes in private. The vault/safe and safe deposit boxes shall meet the minimum construction and safety standards specified by the insurance company writing the liability insurance mentioned in paragraph (c)(6) of this section. Where a vault is used, such vault may also be used for additional purposes: *Provided*, That the portion to be used for the safe deposit boxes is physically separated by means of a steel wall, gate, or similar partition: *And provided further*, That the door between the two sections have a two-key arrangement (one in the possession of the safe deposit box attendant and the other in possession of the credit union employee seeking access to the vault).

* * * * *

[FR Doc. 78-21388 Filed 8-1-78; 8:45 am]

[7535-01]

PART 701—ORGANIZATION AND OPERATIONS OF FEDERAL CREDIT UNIONS

Sale of 30 Year Real Estate Loans

AGENCY: National Credit Union Administration.

ACTION: Final rule.

SUMMARY: This rule permits Federal credit unions to sell their members' long-term real estate loans to specified institutions. The rule has been promulgated in accordance with section 107(13) of the Federal Credit Union Act, which authorizes the National Credit Union Administration to regulate a Federal credit union's receipt and disposition of its member obligations. Through the sale of long-term real estate loans, Federal credit unions will be able to generate funds necessary to make additional real estate loans to their members.

EFFECTIVE DATE: This regulation will be effective August 4, 1978.

ADDRESS: National Credit Union Administration, 2025 M Street NW., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT:

Edward Dobranski, Senior Attorney, Office of General Counsel, at the above address, telephone 202-632-4870.

SUPPLEMENTARY INFORMATION: With the amendment of the Federal Credit Union Act (12 U.S.C. section 1751, et seq.; hereafter "the act") by Pub. L. 95-22, Federal credit unions received the authority to "purchase, sell, pledge, or discount or otherwise receive on or dispose of, in whole or in part any eligible obligations" (12 U.S.C. section 1757(13)). This power is not self-implementing and requires that the Administrator issue rules and regulations detailing the authority and defining what are "eligible obligations" and to whom they may be sold.

The regulation defines a real estate loan made by a Federal credit union pursuant to 12 CFR 701.21-6, and in which the Federal credit union holds the entire interest, as an obligation eligible to be sold or transferred. Given the fact that such real estate loans are often large in amount, a relatively few number of these loans can quickly deplete the funds a Federal credit union has available for additional real estate loans requested by its members. Therefore, in order that Federal credit unions may actively engage in real estate lending, this regulation is promulgated to allow Federal credit unions to sell those real estate loans made pursuant to 12 CFR 701.21-6. It should be noted that the sale or trans-

fer of a partial interest in any such loan will be addressed in a soon to be published regulation concerning participation loans.

The regulation also defines those institutions to which Federal credit unions may sell such loans. Those institutions listed were chosen because of their recognized and established operations in purchasing real estate loans (or providing for the servicing of the loans).

It is necessary to state that the final rule has been published without the benefit of public comment thereon (as set forth in 5 U.S.C. 553(b)) because the National Credit Union Administration finds that such notice and public procedure is contrary to the public interest. This finding is based upon the fact that, although Federal credit unions may now engage in real estate lending, they cannot convert those loans into funds which can be used to generate additional loans. Therefore, for purposes of insuring the liquidity of those Federal credit unions making this type of loan, it is necessary that such loans can immediately be sold to the secondary mortgage market.

Further, by permitting Federal credit unions to sell these loans upon publication of this rule, Federal credit unions will not be subjected to the greater risk of fluctuating interest rates (i.e., rate at which the secondary market purchases vis a vis the rate at which the loan was made) which occurs the longer such loans are held.

The Agency believes that the above stated reasons outweigh the need for public comment upon the regulation. This conclusion is further supported by the fact that the National Credit Union Administration, in the near future, will promulgate a proposed regulation encompassing various types of Federal credit union loans (eligible obligations) which may be purchased, sold, or otherwise transferred. This soon to be published regulation will also address real estate loans made pursuant to 12 CFR 701.21-6, (by incorporating or otherwise amending the final rule now issued) and will be published for public comment.

Also, the National Credit Union Administration believes that the reasons stated above (pertaining to the decision to not provide for public comment) constitute good cause for the rule to become effective prior to 30 days from publication.

Finally, Executive Order No. 12044 (Mar. 23, 1978) has not been complied with in connection with this rule because those reasons stated above (pertaining to the decision to not provide for public comment) constitute an exception to such compliance. Note, however, that Executive Order No. 12044 will be followed in connection with the above mentioned soon to be proposed regulation on eligible obligations. In this regard, and in order to comply with the spirit and intent of Executive Order No. 12044, the National Credit Union Administration requests public comment upon this final rule. Such comments will be taken into account concerning the soon to be proposed regulation on eligible obligations, which, as stated above, will also address the transfer of loans made pursuant to 12 CFR 701.21-6.

LAWRENCE CONNELL,
Administrator.

JULY 27, 1978.

(Sec. 107, 91 Stat. 49 (12 U.S.C. 1757); sec. 120, 73 Stat. 635 (12 U.S.C. 1766); and sec. 209, 84 Stat. 1104 (12 U.S.C. 1789)).

Accordingly, 12 CFR part 701 is amended by adding a new section to read as follows:

§ 701.21-8 Sale of eligible obligations.

(a) For purposes of this section:

(1) "Eligible obligation" means a real estate loan made pursuant to § 701.21-6.

(b) Consistent with other requirements of the Federal Credit Union Act and this chapter, a Federal credit union may sell or transfer the entire interest of an eligible obligation to any one of the following:

(1) Federal National Mortgage Association;

(2) Government National Mortgage Association;

(3) Federal Home Loan Mortgage Corporation; and

(4) Federal, State, and local housing authorities.

[FR Doc. 78-21387 Filed 8-1-78; 8:45 am]

[6750-01]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket No. 9054]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Jay Norris Corp., et al.

AGENCY: Federal Trade Commission.

ACTION: Final order to cease and desist.

SUMMARY: This order, among other things, requires a Freeport, Long Island, N.Y. mail-order house to cease misrepresenting, in the advertising and sale of consumer products, that dissatisfied customers will receive prompt refunds; that exchanges and refunds are expeditiously processed; that all parcels are insured against loss or damage; and that non-delivery is caused by the U.S. Postal Service. The order requires that purchases be shipped within time periods specified, and in the event of shipping delays, customers must be offered the option of consenting to the delays or canceling their transactions. The firm is further obligated to honor such cancellations and to make proper refunds in a timely manner. The order further prohibits the company from making false or unsubstantiated claims regarding the characteristics, efficacy, performance, safety, and value of its consumer products. Additionally, the order requires the corporation and the Pan-Am Car Distributors Corp., both engaged in the advertising and sale of used motor vehicles, to cease misrepresenting that their vehicles have been inspected and repaired in preparation for delivery to purchasers; or that they are in a safe mechanical and operating condition and will render normal, adequate and satisfactory service.

Allegations of the complaint are dismissed as to Federated Nationwide Wholesalers Service, Garydean Corp., t/a Nationwide Wholesalers Service, and P-N Publishing Co., Inc.

DATES: Complaint issued September 3, 1975. Final Order issued May 2, 1978.[1]

FOR FURTHER INFORMATION CONTACT:

John F. Dugan, Acting Director, New York Regional Office, Federal Trade Commission, 2243-EB Federal Building, 26 Federal Plaza, New York, N.Y. 10007, 212-264-1207.

SUPPLEMENTARY INFORMATION: In the Matter of Jay Norris Corp., et al. The prohibited trade practices and/or corrective actions, as codified under 16 CFR part 13, are as follows:

Subpart—Advertising Falsely or Misleadingly: § 13.10 Advertising falsely or misleadingly; § 13.10-1 Availability of merchandise and/or facilities; § 13.15 Business status, advantages or connections; § 13.15-20 Business methods and policies; § 13.15-185 Mail-order house advantage; § 13.15-275 Stock, product, or service; § 13.35 Condition of goods; § 13.70 Fictitious or misleading guarantees; § 13.60 Earnings and profits; § 13.75 Free goods or services; § 13.85 Governnment approval, action, connection, or standards; § 13.85-45 Inspection; § 13.135 Nature of product or service; § 13.160 Promotional sales plans; § 13.170 Qualities or properties of product or service; § 13.170-30 Durability or permanence; § 13.170-46 Insecticidal or repellant; § 13.185 Refunds, repairs, and replacements;

[1] Copies of the Complaint, Initial Decision, Opinion, and Final Order, filed with the original document.

§ 13.190 Results; § 13.195 Safety; § 13.195-60 Product; § 13.205 Scientific or other relevant facts; § 13.275 Undertakings, in general. Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; § 13.533-20 Disclosures; § 13.533-45 Maintain records; § 13.533-45(c) Complaints; § 13.533-55 Refunds, rebates and/or credits. Subpart—Delaying or Withholding Corrections, Adjustments, or Action Owed: § 13.675 Delaying or withholding corrections, adjustments, or action owed; § 13.677 Delaying or failing to deliver goods or provide services or facilities. Subpart—Marking Improperly, Imitation Political and/or Numismatic Items: § 13.1168 Formal regulatory and/or statutory requirements; § 13.1168-5 Hobby Protection Act. Subpart—Misrepresenting Oneself and Goods—Business Status, Advantages, or Connections: § 13.1370 Business methods, policies, and practices.—Goods: § 13.1572 Availablitiy of advertised merchandise and/or facilities; § 13.1595 Condition of goods; § 13.1615 Earnings and profits; § 13.1625 Free goods or services; § 13.1635 Government inspection; § 13.1647 Guaranties; § 13.1685 Nature; § 13.1710 Qualities or properties; § 13.1725 Refunds; § 13.1730 Results; § 13.1740 Scientific or other relevant facts; § 13.1765 Undertakings, in general.—Promotional Sales Plans: § 13.1830 Promotional sales plans. Subpart—Neglecting, Unfairly or Deceptively, To Make Material Disclosure: § 13.1863 Limitations of product; § 13.1870 Nature; § 13.1885 Qualities or properties; § 13.1890 Safety; § 13.1895 Scientific or other relevant facts. Subpart-Offering Unfair, Improper and Deceptive Inducements To Purchase or Deal: § 13.1935 Earnings and profits; § 13.1955 Free goods; § 13.1980 Guarantee, in general, § 13.2063 Scientific or other relevant facts.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45.)

The final order to cease and desist, including further order requiring report of compliance therewith, is as follows:

FINAL ORDER

This matter having been heard by the Commission upon the appeal of respondents from the initial decision, and upon briefs and oral argument in support thereof and opposition thereto, and the Commission for the reasons stated in the accompanying Opinion having determined to sustain the initial decision with certain modifications:

It is ordered, That the initial decision of the administrative law judge, pages 1-73, be adopted as the Findings of Fact and Conclusions of law of the Commission, except to the extent modified or otherwise indicated in the accompanying Opinion.

Other Findings of Fact and Conclusion of Law of the Commission are contained in the accompanying Opinion.

It is further ordered, That the following Order to Cease and Desist be, and it hereby is, entered:

ORDER

I

It is ordered, That Jay Norris Corp., a corporation, its successors and assigns, and Joel Jacobs and Mortimer Williams individually and as officers, agents, representatives, and employees directly or through any corporation, subsidiary, division, trade style, or other device, in connection with the advertising, offering for sale, sale and distribution of general mail-order merchandise in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Failing to refund the amount required by paragraph 2, in connection with the return of merchandise purchased from respondents, within the time specified in respondents' advertisements. If no time is specified, such refund must be made within the time specified in paragraph 5(E)(4) of this part.

2. Failing to refund the full purchase price of merchandise including postage, insurance, handling, shipping, or any other fee or charge paid by the purchaser any time a refund is made to such purchaser, unless respondents clearly state in their advertisement the exact nature of the refund including any items of the purchaser's expense that will not be refunded.

3. (A) Soliciting any order for the sale of merchandise to be ordered by the buyer through the mails unless, at the time of the solicitation, respondents have a reasonable basis to expect that they will be able to ship any ordered merchandise to the buyer: (1) Within the time clearly and conspicuously stated in any such solicitation, or (2) if no time is clearly and conspicuously stated, within thirty (30) days after receipt of a properly completed order from the buyer; and

(B) Providing any buyer with any revised shipping date, as provided in paragraph 4 of this part unless, at the time any such revised shipping date is provided, respondents have a reasonable basis for making such representation regarding a definite revised shipping date; or

(C) Informing any buyer that they are unable to make any representation regarding the length of any delay unless (1) respondents have a reasonable basis for so informing the buyer and (2) respondents inform the buyer of the reason or reasons for the delay.

For purposes of this order, the failure of respondents to have records or other documentary proof establishing their use of systems and procedures which assure the shipment of merchandise in the ordinary course of business within any applicable time set forth in this order will create a rebuttable presumption that the respondents lacked a reasonable basis for any expectation of shipment within said applicable time.

4. (A) Where respondents are unable to ship merchandise within the applicable time set forth in paragraph 3(A) above, failing to offer to the buyer, clearly and conspicuously and without prior demand, an option either to consent to a delay in shipping or to cancel his order and receive a prompt refund. Said offer shall be made within a reasonable time after respondents first become aware of their inability to ship within the applicable time set forth in paragraph 3(A), but in no event later than said applicable time.

(1) Any offer to the buyer of such an option shall fully inform the buyer regarding his right to cancel the order and to obtain a prompt refund and shall provide a definite revised shipping date, but where respondents lack a reasonable basis for providing a definite revised shipping date the notice shall inform the buyer that respondents are unable to make any representation regarding the length of the delay.

(2) Where respondents have provided a definite revised shipping date which is thirty (30) days or less later than the applicable time set forth in paragraph 3(A), the offer of said option shall expressly inform the buyer that, unless respondents receive, prior to shipment and prior to expiration of the definite revised shipping date, a response from the buyer rejecting the delay and cancelling the order, the buyer will be deemed to have consented to a delayed shipment on or before the definite revised shipping date.

(3) Where the respondents have provided a definite revised shipping date which is more than thirty (30) days later than the applicable time set forth in paragraph 3(A), or where the respondents are unable to provide a definite revised shipping date and therefore inform the buyer that they are unable to make any representation regarding the length of the delay, the offer of said option shall also expressly inform the buyer that his order will automatically be deemed to have been cancelled unless (a) respondents have shipped the merchandise within thirty (30) days of the applicable time set forth in paragraph 3(A) above, and have received no cancellation prior to

such shipment, or (b) respondents have received from the buyer within thirty (30) days of said applicable time, a response specifically consenting to said shipping delay. Where the respondents inform the buyer that they are unable to make any representation regarding the length of the delay, the buyer shall be expressly informed that, should he consent to an indefinite delay, he will have a continuing right to cancel his order at any time after the applicable time set forth in paragraph 3(A) by so notifying respondents prior to actual shipment.

(4) Nothing in this paragraph shall prohibit respondents when they furnish a definite revised shipping date to paragraph 4(A)(1) above, from requesting, simultaneously with or at any time subsequent to the offer of an option pursuant to paragraph 4(A), the buyer's express consent to a further unanticipated delay beyond the definite revised shipping date: *Provided, however,* That where respondents solicit consent to an unanticipated indefinite delay the solicitation shall expressly inform the buyer that, should he so consent to an indefinite delay, he shall have a continuing right to cancel his order at any time after the definite revised shipping date by so notifying respondents prior to actual shipment.

(B) Where respondents are unable to ship merchandise on or before the definite revised shipping date provided under paragraph 4(A)(1), and consented to by the buyer pursuant to paragraphs 4(A)(2) and 4(A)(3), failing to offer to the buyer, clearly and conspicuously and without prior demand, a renewed option either to consent to a further delay or to cancel the order and to receive a prompt refund. Said offer shall be made within a reasonable time after respondents first become aware of their inability to ship before the said definite revised date, but in no event later than the expiration of the definite revised shipping date: *Provided, however,* That where respondents previously have obtained the buyer's express consent to an unanticipated delay until a specific date beyond the definite shipping date, pursuant to paragraph 4(A)(4) or to a further delay until a specific date beyond the definite revised shipping date pursuant to paragraph 4(B), that date to which the buyer has expressly consented shall supersede the definite revised shipping date for purposes of paragraph 4(B).

(1) Any offer to the buyer of said renewed option shall provide the buyer with a new definite revised shipping date, but where respondents lack a reasonable basis for providing a new definite revised shipping date, the notice shall inform the buyer that respondents are unable to make any representation regarding the length of the further delay.

(2) The offer of a renewed option shall expressly inform the buyer that, unless respondents receive, prior to the expiration of the old definite revised shipping date or any date superseding the old definite revised shipping date, notification from the buyer specifically consenting to the further delay, the buyer will be deemed to have rejected any further delay, and to have canceled the order if respondents are in fact unable to ship prior to the expiration of the old definite revised shipping date or any date superseding the old definite revised shipping date: *Provided, however,* That where respondents offer the buyer the option to consent to an indefinite delay the offer shall expressly inform the buyer that, should he so consent to an indefinite delay, he shall have a continuing right to cancel his order at any time after the old definite revised shipping date or any date superseding the old definite revised shipping date.

(3) Paragraph 4(B) shall not apply to any situation where respondents, pursuant to the provisions of paragraph 4(A)(4), have previously obtained consent from the buyer to an indefinite extension beyond the first revised shipping date.

(C) Whenever a buyer has the right to exercise any option under this order or to cancel an order by so notifying respondents prior to shipment, failing to furnish the buyer with adequate means, at respondents' expense, to exercise such option or to notify respondents regarding cancellation. For the purposes of this order, the failure of respondents:

(1) To provide any offer, notice, or action required by this order in writing and by first-class mail will create a rebuttable presumption that the respondents failed to offer a clear and conspicuous offer, notice or option;

(2) To provide the buyer with the means in writing (by business reply mail or with postage prepaid by respondents) to exercise any option or to notify respondents regarding a decision to cancel, will create a rebuttable presumption that the respondents did not provide the buyer with adequate means pursuant to this paragraph 4(C).

Nothing in paragraph 4 of this part shall prevent respondents where they are unable to make shipment within the time set forth in paragraph 3(A) or within a delay period consented to by the buyer, from deciding to consider the order canceled and providing the buyer with notice of said decision within a reasonable time after they become aware of said inability to ship, together with a prompt refund.

5. Failing to deem an order canceled and to make a prompt refund to the buyer whenever:

(A) Respondents receive, prior to the time of shipment, notification from the buyer canceling the order pursuant to any option, renewed option or continuing option under this Order;

(B) Respondents have pursuant to Paragraph 4(A)(3), provided the buyer with a definite revised shipping date which is more than thirty (30) days later than the applicable time set forth in Paragraph 3(A) or have notified the buyer that respondents are unable to make any representation regarding the length of the delay and respondents (1) have not shipped the merchandise within thirty (30) days of the applicable time set forth in Paragraph 3(A), and (2) have not received the buyer's express consent to said shipping delay within said thirty (30) days;

(C) Respondents are unable to ship within the applicable time set forth in Paragraph 4(B) and have not received, within the said applicable time, the buyer's consent to any further delay;

(D) Respondents have notified the buyer of their inability to make shipment and have indicated their decision not to ship the merchandise; or

(E) Respondents fail to offer the option prescribed in Paragraph 4(A) and have not shipped the merchandise within the applicable time set forth in Paragraph 3(A).

For purposes of this Part:

(1) "Shipment" shall mean the act by which the merchandise is physically placed in the possession of the carrier.

(2) "Receipt of a properly completed order" shall mean the time at which respondents receive an order from the buyer containing all the information requested by respondents and accompanied, where required, by the proper amount of money in the form of cash, check, or money order. *Provided, however,* That where respondents receive notice that the check or money order tendered by the buyer has been dishonored or that the buyer does not qualify for a credit sale, "receipt of a properly completed order" shall mean the time at which (a) respondents receive notice that a check or money order for the proper amount tendered by the buyer has been honored, (b) the buyer tenders cash in the proper amount or (c) the seller receives notice that the buyer qualifies for a credit sale.

(3) "Refund" shall mean:

(a) Where the buyer tendered full payment for the unshipped merchandise in the form of cash, check, or money order, a return of the full amount tenered in the form of cash, check, or money order;

(b) Where there is a credit sale:

(i) And the seller is a creditor, a copy of a credit memorandum or the like or an account statement reflecting the removal or absence of any remaining charge incurred as a result of the sale from the buyer's account;

(ii) And a third party is the creditor, a copy of an appropriate credit memorandum or the like to the third party creditor which will remove the charge from the buyer's account or a statement from the seller acknowledging the cancellation of the order and representing that he has not taken any action regarding the order which will result in a charge to the buyer's account with the third party;

(iii) And the buyer tendered partial payment for the unshipped merchandise in the form of cash, check, or money order, a return of the amount tendered in the form of cash, check, or money order.

(4) "Prompt refund" shall mean:

(a) Where a refund is made pursuant to definition (3)(a) or (3)(b)(iii) a refund sent to the buyer by first class mail within seven (7) working days of the date on which the buyer's right to a refund vests under the provisions of this Order.

(5) The "time of solicitation" of an order shall mean that time when respondents have:

(a) Mailed or otherwise disseminated solicitation to a prospective purchaser;

(b) Made arrangements for an advertisement containing the solicitation to appear in a newspaper, magazine or the like or on radio or television which cannot be changed or canceled without incurring substantial expense; or

(c) Made arrangements for the printing of a catalog, brochure or the like which cannot be changed without incurring substantial expense, in which the solicitation in question forms an insubstantial part.

6. Representing the safety or performance of any product unless such claims are fully and completely substantiated by a reasonable basis which shall consist of competent and objective material available in written form.

7. Misrepresenting that the nondelivery of merchandise ordered and paid for by a customer is caused by loss of the merchandise by the United States Postal Service.

8. Misrepresenting, directly or indirectly, the time or manner in which respondents' flame gun, or any other product used for the removal of snow or ice, will perform in the removal of snow or ice.

9. Misrepresenting, directly or indirectly, the time in which or the manner by which respondents' roach powder, or any other pesticide product, will kill or eliminate roaches.

10. Making any representation as to the safety of respondents' roach powder or other pesticide product without failing to clearly and conspicuously include the following statement in all advertisements and other promotional material for said products: "To use this product safely, you must follow the instructions on the label."

11. Misrepresenting, directly or indirectly, that respondents' TV antenna or any TV antenna will bring in sharp and clear reception and is superior to any other antenna.

12. Making any representation as to the life expectancy of flashlights or other battery operated product without failing to disclose, clearly and conspicuously in all advertisements and other promotional material for such products (a) the expected "on" life of the product; and (b) any limitations on the warranty of such product.

13. Representing, directly or indirectly, that the Lincoln-Kennedy penny was minted by the U.S. Treasury Department.

14. Representing, directly or indirectly, that the Lincoln-Kennedy penny is a coin of historical and numismatic significance which is likely to increase in value.

15. Representing, directly or indirectly, in connection with the sale of any product that another product is given "free" or as a gift without cost or charge in connection with:

a. Any offer which runs for an indefinite term or continuously for a period in excess of one (1) year; or

b. Any offer not covered by (a) above, excluding introductory offers, unless as to such limited offer:

(1) A regular bona fide retail price is established for the product without the "free" product;

(2) A regular bona fide retail price is established for the "free" product, or in the absence of such price a determination is made of the cost to respondents of such other product; and

(3) The price of the product is reduced at least as much as the price or cost of the "free" product.

II

It is further ordered, That Jay Norris Corp., and Pan-Am Car Distributors Corp., corporations, their successors and assigns, and Joel Jacobs, Mortimer Williams, and Kenneth Mann, individually and as officers of said corporations, and respondents' officers, agents, representatives and employees directly or through any corporation, subsidiary, division, trade style, or other device, in connection with the advertising, offering for sale, sale and distribution of used motor vehicles by mail-order in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Misrepresenting, directly or by implication, the ease or profit with which purchasers can resell respondents' motor vehicles;

2. Misrepresenting the mechanical and physical condition of said motor vehicles;

3. Misrepresenting that said motor vehicles are in safe mechanical and operating condition;

4. Misrepresenting the extent to which said motor vehicles have been inspected and repaired in preparation for sale and delivery to customers;

5. Misrepresenting that said motor vehicles are in sound condition and repair and will render normal, adequate and satisfactory service; and

6. Representing the safety or performance of said motor vehicles unless such claims are fully and completely substantiated by a reasonable basis which shall consist of competent and objective material available in written form.

III

It is further ordered, That:

1. Respondents shall maintain records of all consumer complaints for a period of 3 years after such complaint is received, including, but not limited to the following information:

a. Name and address of the consumer;

b. Date of receipt of the complaint;

c. Transaction about which complaint is received;

d. Nature of the complaint; and

e. Date and disposition of the complaint.

2. Respondents shall notify the Commission at least thirty (30) days prior to any proposed changes in the corporate respondents such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other changes in the corporation which may affect compliance obligations arising out of the Order.

3. The individual respondents named herein, shall promptly notify the Commission of the discontinuance of their present business or employment and of their affiliation with a new business or employment. Such notice shall include respondents' current business address and a statement as to the nature of the business or employment in which they are engaged as well as a description of their duties and responsibilities.

4. Respondents shall deliver a copy of this Order to cease and desist to all personnel or agents of respondents responsible for the preparation, creation, production or publication of the advertising of all products covered by this Order.

5. No provision of this Order shall be construed in any way to annul, invalidate, repeal, terminate, modify or exempt respondents from complying

with agreements, orders or directives of any kind obtained by any other agency or act as a defense to actions instituted by municipal or state regulatory agencies. No provision of this Order shall be construed to imply that any past or future conduct of respondents complies with the rules and regulations of, or the statutes administered by the Federal Trade Commission.

6. Respondents herein shall, within sixty (60) days after service of this Order, and annually for five (5) years thereafter, file with the Commission a written report setting forth in detail the manner and form of their compliance with this Order. The expiration of the obligation to file such reports shall not affect any other obligation arising under this Order.

IV

It is further ordered, That the allegations of the complaint are dismissed as to Federated Nationwide Wholesalers Service, Garydean Corp., t/a Nationwide Wholesalers Service, and P-N Publishing Co., Inc.

By the Commission.

CAROL M. THOMAS,
Secretary.

[FR Doc. 78-21384 Filed 8-1-78; 8:45 am]

[8010-01]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 33-5951, 34-15008]

Minor Amendments to Rules and Forms

AGENCY: Securities and Exchange Commission.

ACTION: Final rule and form amendments.

SUMMARY: The Commission is adopting minor rule and form amendments for the purpose of either codifying current administrative practices or clarifying existing requirements. The amendments will: (1) Permit wider use of the rule which allows prospectuses for two or more securities offerings to be combined; (2) specify the circumstances under which the registration form for employee benefit plans must be signed by an entity other than the registrant; and (3) clarify certain requirements of the annual and quarterly reporting forms required to be filed under the Securities Exchange Act of 1934.

EFFECTIVE DATE: August 7, 1978.

FOR FURTHER INFORMATION CONTACT:

Peter J. Romeo, Division of Corporation Finance, Securities and Exchange Commission, Washington, D.C. 20549, 202-755-1240.

SUPPLEMENTARY INFORMATION: The Commission today announced the adoption of various minor amendments to rule 429 [17 CFR 230.429] and form S-8 [17 CFR 239.16b] under the Securities Act of 1933 ("1933 act") [15 U.S.C. 77a et seq.] and forms 10-K [17 CFR 249.310] and 10-Q [17 CFR 249.308a] under the Securities Exchange Act of 1934 ("1934 act") [15 U.S.C. 78a et seq., as amended by Pub. L. No. 94-29 (June 4, 1975)]. As explained in more detail below, the amendments are intended to revise the rules and forms mentioned above in order either to clarify certain of their requirements or to codify current administrative practices pertaining to them.

DISCUSSION OF THE AMENDMENTS

1. RULE 429

Rule 429 under the 1933 act permits a registrant which has filed two or more registration statements with the Commission to combine the prospectuses contained in those registration statements into a single prospectus which meets the requirements of the act. Paragraph (a) of the rule, however, has until now contained an exception to the general availability of rule 429 for the combining of prospectuses. Specifically, the paragraph has stated that the rule shall not apply if the issuer's latest registration statement was filed on form S-14 [17 CFR 239.23] or form S-16 [17 CFR 239.27].

On many occasions in the past several years, the staff of the Commission has been asked on an informal basis to disregard the limiting language of rule 429 noted above and permit, for example, filings on form S-16 for secondary offerings of securities to be combined. In almost all such instances, the staff has granted such requests. In view of the staff's general practice in this area, and because it does not appear that any useful purpose would be served by continuing to exclude from the availability of rule 429 filings on form S-14 and form S-16, the Commission has determined to delete from the rule the phrase in paragraph (a) which states that the rule shall not apply where the latest registration statement was filed on form S-14 or form S-16.

2. FORM S-8

Form S-8 under the 1933 act is used for the registration of securities issued under employee benefit plans. It requires, as do all registration forms, that the issuer sign the registration statement. In addition, unlike most other registration forms, it requires entities other than the issuer to sign the form. Specifically, it provides that the employee benefit plan must sign (although the circumstances under which the plan must sign are not specified), and it states that where there is created under the plan an unincorporated association, a trust, a committee or other legal entity, such an entity must also sign the registration statement.

Although the instructions to the signature provision of form S-8 do not indicate the circumstances under which the plan must sign the registration statement, the Commission's staff generally has required the plan's signature only when interests in the plan are being registered on the form.[1] The staff has deemed it appropriate to require the plan's signature in such circumstances because, as the issuer of the interests being registered, full financial information on the plan must be provided. In view of the foregoing, and in order to codify the staff's general practice in this area, the Commission has revised instruction 1 to the signature provision of form S-8 to state that the plan need sign the S-8 only when interests in the plan are being registered.

In addition to the above change, the Commission has amended instruction 1 by deleting the parenthetical clause which stated that the registration statement must be signed by any unincorporated association, trust, committee or other legal entity created under the plan. Generally, the staff has not strictly enforced this requirement in the past, due in large part to the refusal or reluctance of such entities as bank trustees to sign the registration statement. Among other things, these entities have stated that their contract with the issuer did not contemplate their signing the S-8, and that it is unreasonable to require them to sign the registration statement (and thereby assume liability for its contents) when they had no control over its preparation and could not, due to the expense involved, perform a due diligence inquiry into its adequacy under the 1933 act. Moreover, it has been pointed out that if a registration form other than S-8 were utilized for the registration of the securities issued under the plan, the signature of these entities likely would not be required, since none of the other registration forms contain a signature requirement like that of S-8. In view of the above arguments and the staff's general practice in this

[1] Frequently, the interests in the plan are exempt from registration under section 3(a)(2) of the 1933 act, even though the securities underlying the plan (e.g., the issuer's common stock) may have to be registered.

area, the Commission has amended instruction 1 in the manner previously noted in this paragraph.

Finally, the Commission has revised instruction 1 so that it conforms in all material respects to section 6(a) of the 1933 act, which provides the basis for the signature requirement in registration statements. In this regard, instruction 1, through oversight, has failed to state that the principal financial officer must sign the S-8. The staff in the past has disregarded this omission and taken the position that the principal financial officer nevertheless must sign the S-8, in accordance with section 6(a). The revision to instruction 1 being announced today will cure the oversight mentioned above and thereby conform the signature requirement of S-8 to the requirements of section 6(a).

3. FORMS 10-K AND 10-Q—FRONT COVER PAGES

In conjunction with the adoption of rule 148 [17 CFR 230.148] under the 1933 act concerning the resale of bankruptcy-related securities,[2] the Commission amended forms 10-K and 10-Q to require issuers who had been involved in bankruptcy proceedings during the preceding 5 years to state on the front cover pages of those forms whether or not they had complied with the periodic reporting requirements of the 1934 act during the 5-year period following termination of the bankruptcy proceedings. The release announcing the adoption of this requirement[3] indicated that the requisite statement need be included on the cover pages of forms 10-K and 10-Q only during the 5-year period mentioned above, thereby implying that other issuers to whom it did not apply need not include the statement on their filings on those forms. Nevertheless, numerous issuers who have not been involved in bankruptcy proceedings have inquired whether they must include the statement on the front pages of their 10-K and 10-Q forms.

It was the Commission's intention that the statement at issue be included only on those 10-K and 10-Q forms filed by issuers who had been involved in bankruptcy proceedings during the preceding 5 years. All other issuers should omit the statement from their filings on those forms. To emphasize this position, the Commission has amended the front cover pages of forms 10-K and 10-Q to indicate that the statement is "applicable only to issuers involved in bankruptcy proceedings during the preceding 5 years."

4. FORM 10-Q—GENERAL INSTRUCTION F

It has come to the Commission's attention that general instruction F to form 10-Q, unlike the general instructions to other periodic reporting forms under the 1934 act, fails to specify how many copies of the form may be filed without exhibits. To cure this oversight, and to conform the filing requirements of form 10-Q to the staff's administrative practice in this area, the Commission has amended general instruction F to indicate that three copies shall be filed with exhibits and five other copies, which need not include exhibits, shall also be filed.

TEXT OF THE AMENDMENTS

I. Paragraph (a) of 17 CFR 230.429 is amended to read as follows:

§ 230.429 Prospectus relating to several registration statements.

(a) Where two or more registration statements have been filed by the same registrant, a prospectus which meets the requirements of the act and the rules and regulations thereunder for use in connection with the securities covered by the latest registration statement shall be deemed to meet such requirements for use in connection with the securities covered by the earlier registration statements if such prospectus includes all of the information which would currently be required in a prospectus relating to the securities covered by the earlier statements.

* * * * *

II. Instruction 1 to the "Signatures" section of form S-8 is amended to read as follows:

§ 239.16b Form S-8, for registration under the Securities Act of 1933 of securities to be offered to employees pursuant to certain plans.

* * * * *

SIGNATURES

* * * * *

INSTRUCTIONS

1. The registration statement shall be signed by the issuer (and where interests in the plan are being registered, by the plan), their respective principal executive officers, principal financial officers, controllers or principal accounting officers, and by at least the majority of the respective boards of directors or persons performing similar functions (or, in the event there is no board of directors or persons performing similar functions, by the majority of the persons having the power of management).

* * * * *

(Secs. 6, 10, 19(a), 48 Stat. 78, 81, 85; secs. 205, 209, 48 Stat. 906, 908; sec. 8, 68 Stat. 685; sec. 1, 79 Stat. 1051; sec. 308(a)(2), 90 Stat. 57; 15 U.S.C. 77f, 77j, 77s(a).)

III. The front cover page of form 10-K is revised to read as follows:

§ 249.310 Form 10-K, annual report pursuant to section 13 or 15(d) of the Securites Exchange Act of 1934.

(The following is to be inserted on the front cover page to replace the statement which reads: "If the registrant has been involved in bankruptcy proceedings during the preceding 5 years, indicate by checkmark whether it has filed all documents and reports required to be filed by section 12, 13, or 15(d) of the Securities Exchange Act of 1934 subsequent to the distribution of securities under a plan confirmed by a court. Yes ——; No ——.")

APPLICABLE ONLY TO ISSUERS INVOLVED IN BANKRUPTCY PROCEEDINGS DURING THE PRECEDING 5 YEARS

Indicate by checkmark whether the registrant has filed all documents and reports required to be filed by sections 12, 13, or 15(d) of the Securities Exchange Act of 1934 subsequent to the distribution of securities under a plan confirmed by a court. Yes ——; No ——.

IV. The front cover page of form 10-Q is revised to read as set forth below and general instruction F of form 10-Q is revised to read as set forth below:

§ 249.308a Form 10-Q, for quarterly reports under section 13 or 15(d) of the Securities Exchange Act of 1934.

(The following is to be inserted on the front cover page to replace the statement which reads: "If the registrant has been involved in bankruptcy proceedings during the preceding 5 years, indicate by checkmark whether it has filed all documents and reports required to be filed by section 12, 13, or 15(d) of the Securities Exchange Act of 1934 subsequent to the distribution of securities under a plan confirmed by a court. Yes ——; No ——.")

APPLICABLE ONLY TO ISSUERS INVOLVED IN BANKRUPTCY PROCEEDINGS DURING THE PRECEDING 5 YEARS

Indicate by checkmark whether the registrant has filed all documents and reports required to be filed by section 12, 13, or 15(d) of the Securities Exchange Act of 1934 subsequent to the distribution of securities under a plan confirmed by a court. Yes ——; No ——.

* * * * *

GENERAL INSTRUCTIONS

* * * * *

F. *Signature and filing of report.*—Three complete copies of the report, including any financial statements, exhibits or other papers or documents filed as a part thereof, and five additional copies which need not include exhibits, shall be filed with the commission. At least one complete copy of the report, including any financial statements, exhibits or other papers or documents filed

[2] See release No. 33-5918 [43 FR 14445] dated March 29, 1978.

[3] See footnote 2, infra.

as a part thereof, shall be filed with each exchange on which any class of securities of the registrant is registered. At least one complete copy of the report filed with the Commission and one such copy filed with each exchange shall be manually signed. Copies not manually signed shall bear typed or printed signatures.

* * * * *

(Secs. 13, 15(d), 23(a), 48 Stat. 894, 895, 901; sec. 203(a), 49 Stat. 704; secs. 3, 8, 49 Stat. 1377, 1379; secs. 4, 6, 78 Stat. 569, 570-574; sec. 2, 82 Stat. 454; secs. 1, 2, 84 Stat. 1479; secs. 10, 18, 89 Stat. 119, 155; sec. 308(b), 90 stat. 47; 15 U.S.C. 78m 78o(d), 78w (a).)

AUTHORITY FOR THE AMENDMENTS

The amendments to rule 429 and form S-8 have been adopted by the Commission pursuant to the Securities Act of 1933, particularly sections 6, 10, and 19(a) thereof. The amendments to forms 10-K and 10-Q have been adopted pursuant to the Securities Exchange Act of 1934, particularly sections 13, 15(d), and 23(a) thereof.

Because the amendments announced today generally represent a relaxation or clarification of provisions previously published for comment pursuant to the Administrative Procedure Act (15 U.S.C. 553), the Commission believes that none of them need to be republished for comment under the act.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

JULY 28, 1978.

[FR Doc. 78-21440 Filed 8-1-78; 8:45 am]

[8010-01]

[Release No. 34-14994]

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

Uniform Net Capital Rule

AGENCY: Securities and Exchange Commission.

ACTION: Extension of temporary rule amendments.

SUMMARY: This release extends until January 1, 1979, temporary provisions of the rule relating to the (i) inclusion in net capital of certain good faith deposits and syndicate or joint account receivables arising in connection with municipal securities underwritings; and (ii) undue concentration deductions, "haircuts," on positions in municipal securities. This action is necessary since the temporary amendments noted above will otherwise expire on August 1, 1978. The extension provides the Commission with additional time to formulate permanent amendments pertaining to municipal securities with regard to the treatment of certain receivables and undue concentration deductions.

EFFECTIVE DATE: August 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Nelson S. Kibler, Assistant Director, Division of Market Regulation, Securities and Exchange Commission, Washington, D.C. 20549, 202-376-8131.

SUPPLEMENTARY INFORMATION: Release No. 14995 is issued concurrently with this release and proposes specific amendments to the net capital rule concerning receivables and undue concentration deductions relating to transactions in municipal securities. Reference is made to that release for a more complete discussion of the issues and the Commission's reasons for extending the temporary amendments and proposing permanent amendments to the rule.

STATUTORY BASIS AND COMPETITIVE CONSIDERATION AND EFFECTIVE DATE

Pursuant to the Securities Exchange Act of 1934, and particularly sections 15(c)(3) and 23(a) thereof, 15 U.S.C. 78o(c)(3), w(a), the Commission amends § 240.15c3-1 of chapter II of title 17 of the Code of Federal Regulations in the manner set forth below, effective August 1, 1978. The Commission finds that any burden imposed upon competition by the amendments is necessary and appropriate in furtherance of the purposes of the act, and particularly to implement the Commission's mandate under section 15(c)(3) thereof, 15 U.S.C. 78o(c)(3), to establish minimum financial responsibility standards for all brokers and dealers.

TEXT OF AMENDMENTS

The text of the amendments to § 240.15c3-1 is as follows:

§ 240.15c3-1 Net capital requirements for brokers or dealers.

* * * * *

(c) * * *

(2) * * *

(iv) * * *

(C) Interest receivable, floor brokerage receivable, commissions receivable from other brokers or dealers (other than syndicate profits which shall be treated as required in paragraph (c)(2)(iv)(E) of this section), mutual fund concessions receivable and management fees receivable from registered investment companies, all of which receivables are outstanding longer than thirty (30) days from the date they arise; dividends receivable outstanding longer than thirty (30) days from the payable date; good faith deposits arising in connection with an underwriting, outstanding longer than eleven (11) business days from the settlement of the underwriting with the issuer; and, until January 1, 1979, receivables due from participation in municipal securities joint underwriting accounts which are outstanding longer than ninety (90) days from settlement of the underwriting with the issuer and good faith deposits arising in connection with an underwriting of municipal securities, outstanding longer than ninety (90) days from settlement of the underwriting with the issuer;

* * * * *

In § 240.15c3-1, the last sentence of paragraphs (c)(2)(vi)(M) and (f)(3)(iii) is amended to read as follows:

* * * *Provided further,* That until January 1, 1979, this paragraph shall not apply to municipal securities.

* * * * *

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

JULY 26, 1978.

[FR Doc. 78-21385 Filed 8-1-78; 8:45 am]

[4210-01]

Title 24—Housing and Urban Development

CHAPTER II—OFFICE OF ASSISTANT SECRETARY FOR HOUSING—FEDERAL HOUSING COMMISSIONER (FEDERAL HOUSING ADMINISTRATION)

[Docket No. R-78-461]

PART 203—MUTUAL MORTGAGE INSURANCE AND INSURED HOME IMPROVEMENT LOANS

PART 204—COINSURANCE

AGENCY: Department of Housing and Urban Development (HUD).

ACTION: Final rule.

SUMMARY: These rules will amend mutual mortgage insurance and insured home improvement loans and coinsurance regulations so as to limit that portion of an insurance benefit payment which relates to reimbursement of the mortgagee for hazard insurance payments to an amount which does not exceed a "reasonable rate".

EFFECTIVE DATE: September 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Julius Williams, Director, Single-Family Housing Division, Office of

Loan Management, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5752.

SUPPLEMENTARY INFORMATION: By proposed rule published August 24, 1977, (42 FR 42693), the Secretary amended Parts 203 and 204 to bring them in conformity with amended § 203.379 published at 41 FR 49730 dated November 26, 1976.

Comments were invited through September 22, 1977. None have been received and the proposed regulations are adopted without change.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Office of the General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

Accordingly, the Department amends Chapter II of Title 24 CFR as follows:

1. Amend § 203.402(c) to read as follows:

§ 203.402 Items included in payment-conveyed properties.

* * * * *

(c) Hazard insurance premiums on the mortgaged property not in excess of a "reasonable rate" as defined in § 203.379(b)(3);

2. Amend § 204.322(c) to read as follows:

§ 204.322 Items included in payment.

* * * * *

(c) Hazard insurance premiums on the mortgage property not in excess of a "reasonable rate" as defined in § 203.379(b)(3), prorated to the date of disposition of the property:

* * * * *

Issued at Washington, D.C., on July 21, 1978.

LAWRENCE B. SIMONS,
Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 78-21328 Filed 8-1-78; 8:45 am]

[3910-01]

Title 32—National Defense

CHAPTER VII—DEPARTMENT OF THE AIR FORCE

SUBCHAPTER B—SALES AND SERVICES

PART 811a—AUDIOVISUAL DOCUMENTATION PROGRAM

Final Rule

AGENCY: Department of the Air Force, Department of Defense.

ACTION: Final rule.

SUMMARY: The Department of the Air Force is revising its rule on the Audiovisual Documentation Program. This revision is a general update, deleting the requirement for an Air Force form, and changing office symbols.

EFFECTIVE DATE: April 30, 1975.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Hill, Headquarters USAF, Office of the Deputy Director of Operations and Training (XOOTV), Washington, D.C. 20330, 202-695-9610.

SUPPLEMENTARY INFORMATION: Part 811a of chapter VII, title 32 of the Code of Federal Regulations is revised to incorporate several administrative changes, including deletion of AF Form 1179 and updating of office symbols.

This revision is issued under authority of 10 U.S.C. 8012.

The revised part will read as follows:

Sec.
811a.1 Purpose.
811a.2 General provisions.
811a.3 Program objectives.
811a.4 Uses of audiovisual documentations.
811a.5 Personal use of official audiovisual material.

AUTHORITY: 10 U.S.C. 8012.

§ 811a.1 Purpose.

This part explains audiovisual documentation (AVDOC) and prescribes the scope and purpose of the documentation program. It tells who is responsible, and how the program is accomplished. This part applies to all members and employes of the Department of the Air Force.

§ 811a.2 General provisions.

(a) Purpose of the program. This program establishes a source of audiovisual materials depicting the prime mission, support activities, and significant functions of all USAF major commands and command-level agencies. This document defines the various categories of audiovisual material, establishes responsibilities for acquiring the material, and provides guidance for the use and disposition of the original film and tape materials.

(b) Source of material for the program. The primary sources of material for this program are audiovisual documentation, combat documentation, photojournalism and cinematography, base support photography, armament recording optical instrumentation, and other visual records, such as mapping and charting and reconnaissance photography, after they have served their principal uses.

§ 811a.3 Program objectives.

The objectives of the audiovisual documentation program are to record the growth, progress, and employment of the Air Force through the use of the motion picture, still photographic, and television media; to collect, evaluate, preserve, and use this documentation to enhance Air Force presentations.

§ 811a.4 Uses of audiovisual documentations.

Audiovisual documentation is used for many purposes at all levels in the Air Force. These are divided into immediate and future uses.

(a) *Immediate use.* Documentation is relied on heavily in analyzing and evaluating concepts and results in deployments, operations, tests, and exercises. It is used to complete motion picture film and television presentations that support Air Force objectives. Examples are the "Air Force Now" and major command "Staff Film Reports." Television, motion picture, and still photographic products are extensively used by all Government offices to enhance the presentation of subject matter. Audiovisual documentation provides subject matter for slides, silent and sound-on-film motion picture clips, video tapes and multimedia products used for training, management, informational, and briefing purposes.

(b) *Future use.* The audiovisual materials, selected from the total Air Force documentation effort, that have long-term or permanent value, are retained in USAF Central Depositories and the National Archives. These historical records of Air Force operations and accomplishments are the source of content material for future motion picture and television productions, and publications such as books and magazines.

§ 811a.5 Personal use of official audiovisual material.

All audiovisual materials produced or collected by Air Force members or employees in the course of their official duties become the property of the Department of Air Force. Personal use of such audiovisual material for sale

or any other reason not directly related to an official Air Force activity is prohibited without the specific written approval of an official so authorized by law, regulation, orders, or other competent authority.

(a) Air Force members or employees, by choice or agreement, occasionally use personally owned equipment or supplies in the course of their official duties. However, this policy on personal use of audiovisual material applies regardless of whether personally owned equipment and supplies or Government resources are used to obtain or reproduce the material.

(b) Photographs, motion picture film, negatives, transparencies, television tapes, audio recordings, and other audiovisual products are subject to the same safeguards and release requirements as any material intended for release outside the Department of Defense. (Refer to Part 806, AFRs 95-4, Audiovisual Records Disposition Program, 190-12, Release of Unclassified Information to the Public, and 190-22, Release of Unclassified Public Information to Foreign Nationals.)

FRANKIE S. ESTEP,
Air Force Federal Register Liaison Officer.

[FR Doc. 78-21383 Filed 8-1-78; 8:45 am]

[3910-01]

SUBCHAPTER O—SPECIAL INVESTIGATION

PART 952—REQUESTING AFOSI INVESTIGATIONS AND SAFEGUARDING, HANDLING, AND RELEASING INFORMATION FROM AFOSI REPORTS

AGENCY: Department of the Air Force, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Air Force is revising to update and clarify its rule on AFOSI Investigations. Requirements of the Freedom of Information and Privacy Acts necessitated certain changes and additions to this rule. The revision is to incorporate these changes.

EFFECTIVE DATE: November 14, 1975.

FOR FURTHER INFORMATION CONTACT:

Major William C. Goforth, Air Force Office of Special Investigations, Plans, Programs, and Resources, Forrestal Building, Washington, D.C. 20314, 202-693-6603.

SUPPLEMENTARY INFORMATION: Part 952 of Chapter VII, Title 32 of the Code of Federal Regulations is revised to clarify the policy concerning requesting AFOSI investigations, clarify policy concerning certain command actions which may affect pending investigations, and add restrictions on granting access to AFOSI Reports of Investigation. The revision also modifies procedures for transmitting and safeguarding AFOSI reports of investigation and more clearly delineates the policy on including material in and releasing extracts or summaries from AFOSI reports. It specifically defines those extracts or summaries from AFOSI reports requiring HQ AFOSI approval for release, and clarifies the policy on releasing AFOSI reports and extracts outside the U.S. Air Force. It provides guidance for requesting and processing requests for information from AFOSI investigative files under the Freedom of Information Act and Privacy Act of 1974.

This revision is issued under authority of 10 U.S.C. 8012.

The revised part will read as follows:

Sec.
952.1 Purpose.
952.2 Terms explained.
952.3 Who may initiate an AFOSI investigation.
952.4 Responsibilities of commanders.
952.5 Official actions which may affect an investigation.
952.6 Submitting a request for investigation.
952.7 Mandatory notification of HQ AFOSI by AFOSI districts.
952.8 Transmitting and sareguarding AFOSI reports of investigation.
952.10 Use of AFOSI reports by commanders.
952.11 Preparation of extracts or summaries.
952.12 Release of statements to individuals.
952.13 Releases requiring HQ AFOSI approval
952.14 Requests for information under the Freedom of Information Act and Privacy Act of 1974.
952.15 Release of reports prepared by non-U.S. Air Force agencies.
952.16 Releases outside the U.S. Air Force.

AUTHORITY: 10 U.S.C. 8012.

§ 952.1 Purpose.

This part identifies who may request the Air Force Office of Special Investigations (AFOSI) to initiate an investigation and explains how to request an investigation. It describes how, when, and to whom the reports and information developed during the conduct of AFOSI investigation may be released and sets forth the special procedures to follow in handling AFOSI reports and investigative information.

§ 952.2 Terms explained.

(a) *Action Commander.* The commander responsible for taking judical or administrative action as the result of the AFOSI investigation.

(b) *AFOSI Investigation.* A formal inquiry by AFOSI in any matter falling within the AFOSI investigative responsibility as set forth in AFR 23-18, Air Force Office of Special Investigations.

(C) *AFOSI Investigative Responsibility.* See AFR 23-18 for an explanation of those matters falling within the AFOSI investigative responsibility. Also see Part 953 of this chapter, AFRs 124-16, DOD-USSS Agreement Concerning Protection of the President and Other Officials, 124-17, Protective Services, AFR 205-32, USAF Personnel Security Program, and AFR 205-57, Reporting and Investigating Espionage, Sabotage, Terrorism, and Subversion, for policy addressing specific investigative support.

(d) *AFOSI Reports of Investigations.* The official written record of the results of an AFOSI investigation. As used here, it includes not only the formal report of investigation, but all other correspondence pertaining directly to the investigation, such as letters of request, transmittal documents, request for command action, evidence disposition, and so forth, as well as exhibits, statements, and attachments.

(e) *Authorized Requester.* A competent authority who may formally request that AFOSI conduct an investigation on a matter falling within the AFOSI investigative responsibility. § 952.3 identifies the authorized requesters.

(f) *Subject.* A person who is accused or suspected of having committed an offense or whose activity or background is under investigation. The listing of an individual, group, company, or entity as the subject of an AFOSI investigation should not, by itself, be interpreted as an indication of guilt or wrongdoing.

§ 952.3 Who may initiate an AFOSI investigation.

(a) An authorized requester: (1) Any Air Force commander responsible for the security, discipline, and law enforcement of a command or installation. Generally, this is the installation commander or higher authority.

(2) Any other military service commander authorized by formal interservice agreements to request AFOSI investigations.

(3) Any official authorized by regulation, directive, or law to request AFOSI investigations.

(b) The Commander, AFOSI, or any AFOSI district commander when it is obvious that obtaining a request from an authorized requester in advance might handicap the investigation or cause evidence to perish. In all such instances, the concurrence of the authorized requester is obtained as soon as practical after the investigation has begun and a written request for investigation is secured.

§ 952.4 Responsibilities of commanders.

(a) Promptly advise AFOSI of any matter which falls within the AFOSI investigative responsibility. When the commander is not an authorized requester and the matter appears to warrant an AFOSI investigation, he or she refers it to the appropriate authorized requester. Only actual request for investigation need be made in writing.

(b) Ensure that the subject of an AFOSI investigation is not informed of the investigation when such action could prejudice the successful resolution of the matter. Promptly notify the servicing AFOSI unit when there is any reason to believe an investigation has been compromised.

(c) When requested by AFOSI, report to AFOSI any action taken as the result of an AFOSI investigation, or the fact that no action was taken. When an AFOSI investigation results in a court-martial, the formulation of a board or other administrative action, promptly notify AFOSI of the results. The results include findings, sentence, or other action. Such reporting should not be delayed solely to await the results of final administrative or judicial review. Promptly furnish AFOSI with disposition instructions for any evidence seized during the investigation.

(d) Coordinate with the servicing AFOSI unit any official action concerning the subject which may affect the investigation.

§ 952.5 Official actions which may affect an investigation.

(a) *Reassignment.* Normally the subject of an AFOSI investigation is not reassigned until the investigation has been completed and command action taken and reported. When commanders find it impractical to follow this policy, they notify AFOSI before reassigning the subject.

(b) *Other personnel and administrative actions.* Exercise care in taking other administrative and personnel actions regarding the subject which might compromise or otherwise interfere with the investigation. Before taking any such action regarding a subject, the matter is coordinated with the servicing AFOSI unit.

(c) *Involuntary extension of tour.* If necessary, the tour of a subject may be involuntarily extended by the commander according to AFR 36-20, Officer Assignments, and AFR 39-11, Airman Assignments.

(d) *Retention beyond expiration of enlistment or required service.* The subject of an AFOSI investigation should not be allowed to reenlist while a matter is under active investigation, except in the most unusual circumstances and then only after approval of the servicing Staff Judge Advocate. The subject may be retained on active duty beyond enlistment or required service period only according to AFM 39-10, Separation Upon Expiration of Term of Service for Convenience of Government, and AFR 36-12, Administrative Separation of Commissioned Officers and Warrant Officers of the Air Force. The commander should coordinate his or her decision with the servicing AFOSI unit before permitting a subject to reenlist or be released from active duty.

§ 952.6 Submitting a request for investigation.

(a) Authorized requesters of AFOSI investigations submit their requests:

(1) For investigations of suspected violations of public trust in Air Force contract, procurement, and disposal matters, according to part 953 of this chapter.

(2) For investigation of espionage, sabotage, suspected terrorist activity, and subversion, in accordance with AFR 205-57, Reporting and Investigating Espionage, Sabotage, Terrorism, and Subversion.

(3) For investigation of a prospective alien spouse of an Air Force member, according to AFP 211-1-6, Requirements and Procedures for Marriage.

(4) For investigations and related support pertaining to protection of the President, other U.S. Secret Service protectees, and USAF dignitaries, according to AFR's 124-16, DOD-USSS Agreement Concerning Protection of the President and Other Officials, and 124-17, Protective Services.

(5) For all other matters and offenses falling within the AFOSI investigative responsibility, directly to the servicing AFOSI unit (see AFR 124-6, Territorial Jurisdiction of AFOSI Districts).

(b) Commanders need not request an AFOSI investigation in matters which, while falling within the investigative scope of AFOSI, are such that:

(1) No command action is indicated.

(2) Appropriate action can be taken without additional AFOSI inquiry, or

(3) An investigation is not otherwise deemed warranted. In these cases, advise AFOSI of the matter and annotate command records to reflect the reason that an AFOSI investigation was not requested. (See also § 952.7.)

(c) Any request for investigation may be made initially either orally or in writing. However, all oral requests must be promptly confirmed in writing. The initial request should be accompanied by all information on the matter to be investigated.

§ 952.7 Mandatory notification of HQ AFOSI by AFOSI districts.

AFOSI Districts will notify HQ AFOSI if:

(a) An AFOSI investigation is initiated.

(b) A formal written request for investigation is declined for any reason.

(c) A matter falling within the AFOSI investigative purview is reported or otherwise comes to the attention of AFOSI and is reported to the responsible authorized requester, but for which no request for investigation is received. Such notifications will include the specific reason given by the responsible authorized requester for not requesting an investigation.

(d) Any information reportable under AFR's 124-16, DOD-USSS Agreement Concerning Protection of the President and Other Officials, or 124-17, Protective Services, is received.

§ 952.8 Transmitting and safeguarding AFOSI reports of investigation.

(a) Mark, transmit, and safeguard all classified AFOSI reports of investigation and related correspondence, in accordance with DOD 5200.1R, part 850 of this chapter, and other pertinent security directives.

(b) Mark unclassified reports of investigation and related correspondence which contain investigative information, "FOR OFFICIAL USE ONLY" according to AFR 12-31, Use and Protection of "For Official Use Only" information. In addition to the safeguarding and transmittal requirements set forth in AFR 12-31, the following special procedures will be followed:

(1) Transmit all AFOSI reports of investigation in sealed envelopes which bear a notation similar to the following:

TO BE OPENED ONLY BY THE COMMANDER OR PERSONS DESIGNATED BY HIM OR HER TO RECEIVE AFOSI REPORTS OF INVESTIGATION.

(i) These envelopes should not serve as the outer envelope when mailing reports. However, no additional wrapping is required when transferring reports designated FOR OFFICIAL USE ONLY within the Base Information Transfer System.

(ii) These envelopes, when properly marked, may also serve as inner envelopes for classified, packaging when required.

(2) Store AFOSI reports and related material designated FOR OFFICIAL USE ONLY in locked file cabinets.

(3) When destroying AFOSI reports and related material, the process must effect complete obliteration. Destruction must be by shredding, pulping, macerating, or burning.

NOTE.—All AFOSI reports of investigation are privileged within the meaning of MCM 1969 (Rev.), paragraph 151, and retain this privilege regardless of classification or the absence thereof.

§ 952.9 Special handling required.

(a) Immediately report any unauthorized disclosure of an AFOSI report of investigation or any information contained therein to the nearest AFOSI unit.

(b) Do not release or grant access to an AFOSI report of investigation or the information contained therein to any individual based solely on grade, title, or position. Do not release or grant access to reports to individuals unless it is required in connection with their official duties and then do so only in strict compliance with § 952.10.

(c) Do not release or grant access to an AFOSI report of investigation or the information contained therein to subjects of investigations or to their counsels or representatives except for extracts and summaries prepared and approved for release according to § 952.11 and § 952.14.

§ 952.10 Use of AFOSI reports by commanders.

AFOSI furnishes two copies of all AFOSI reports of investigation dealing with matters of direct interest to each authorized requester. The requester establishes internal controls to insure that these reports are adequately safeguarded and promptly referred to the commanders having the responsibility to initiate action. Requesters insure that:

(a) Their higher headquarters and concerned tenant commanders are notified of the AFOSI investigations and furnished with copies of needed reports.

(1) All up-channel reporting is the responsibility of receiving commanders within their own chain of command, except for those investigations falling under AFR 205-57, Reporting and Investigating Espionage, Sabotage, Terrorism, and Subversion.

(2) AFOSI insures through its internal channels that appropriate USAF command levels are notified and briefed concerning investigations falling within the purview of AFR 205-57.

(b) Reproduction of AFOSI reports is properly accomplished and limited to the number of extra copies required to fulfill their responsibilities. The prior concurrence of AFOSI is not required to reproduce copies of reports unless the report:

(1) Contains specific restrictions limiting reproduction;

(2) Was prepared by another agency or contains information concerning an investigation conducted by another agency and further reproduction is not authorized by the report or transmittal document.

(c) All copies of any AFOSI report are properly safeguarded, controlled, and destroyed.

(d) AFOSI reports of investigation or the information contained therein are released to those persons designated by the commander only to:

(1) Prepare charges for court-martial or trial.

(2) Prepare extracts and summaries for use in connection with courts martial, boards, and other administrative proceedings.

(3) Prepare for an official hearing or other administrative proceeding.

(4) Make notes regarding the names and locations of witnesses and the substance of their expected testimony.

(5) Take action to correct deficiencies or irregularities.

(6) Initiate security clearance actions.

(e) AFOSI reports of investigation are not:

(1) Introduced into evidence, included, or incorporated into records, proceedings, or papers to which the subject or respondent, subject's counsel, representative, or the trial counsel has access, except by order of a military judge;

(2) Furnished or made available to an officer conducting an investigation pursuant to Article 32, U.C.M.J.;

(3) Furnished or made available to the subject, respondent, to subject's counsel or representative, to the trial counsel, or board members.

(f) Extracts and summaries are prepared and released according to § 952.11 for use in courts martial, boards, and other official proceedings.

(g) The use or distribution of an AFOSI report of investigation for any purpose not specifically covered by this part is first coordinated with the servicing AFOSI unit.

(h) Neither they nor any of their representatives reveal any information to unauthorized persons who might disclose or compromise any confidential investigative source, technique, or procedure. If there is any reason to believe that a disclosure to the subject, respondent, subject's counsel or representative, or any other person might result in a compromise of confidential sources, techniques, or procedures, the disclosure will not be made without the prior approval of the Commander, AFOSI.

§ 952.11 Preparation of extracts or summaries.

(a) The action commander or other officials designated by AFOSI prepare all extracts and summaries from AFOSI reports of investigation for which command action has not been completed when they determine a necessity exists. Summaries or extracts may be prepared for release to:

(1) An investigating officer;

(2) Trial counsel, legal, or other advisor to a board;

(3) The subject, accused, or respondent, and subject's counsel or representative.

(4) HQ USAF/DPMAO, Special Control and Records Review Group.

(b) The extract or summary may consist of copies of portions of an AFOSI report or copies of all, or part of, an attachment to an AFOSI report. However, they will not include:

(1) Any information listed in § 952.10(h);

(2) Any information that might prejudice the outcome of any other investigation, whether AFOSI or other governmental agency, such as by prematurely disclosing the nature or existence of that investigation;

(3) Any routine administrative entries made by AFOSI personnel which are common to all AFOSI reports;

(4) The names of AFOSI personnel, except those who took or witnessed statements or who made personal observations included in the report and based on personal knowledge;

(5) Any classified information, if possible. Classified extracts must be properly marked and access controlled according to DOD 5200.1R, Part 850 of this chapter, and other pertinent security directives;

(6) Any information, the disclosure of which would violate public law, policy, or the public interest (see AFR 12-31). For example, a summary or extract should not include any information derogatory to the character, reputation, efficiency, or conduct of any person whose activities are not pertinent to the proceedings.

(c) Prior concurrence of the servicing AFOSI unit is required before any extract or summary may be released except as listed in (d) of this section. Action commanders submit their requests in writing and:

(1) Transmit a copy of each extract or summary to be released;

(2) Specify the purpose for which each summary or extract will be used;

(3) Identify the individual to whom the summaries or extracts will be made available.

(d) The action commander may release extracts or summaries of the statements of individuals which are quoted in or attached to AFOSI reports without prior AFOSI concurrence only if:

(1) There is no prohibition against the release contained in the basic report;

(2) The extract, summary, or statement is not classified;

(3) The release is not prohibited by § 952.11(b), § 952.13, or § 952.15.

(e) If the AFOSI report contains a notation that the information contained in a particular paragraph(s) has been approved for release by AFOSI, care should be exercised to release only this information and not the entire report.

(f) Extracts or summaries of reports are furnished HQ USAF/DPMAO.

The Officer Personnel Records Review Board is charged with the responsibility of determining the applicability of the information for Digest File purposes. HQ USAF/DPMAO will control access to extracts as provided for in § 952.9 and other pertinent directives.

§ 952.12 Release of statements to individuals.

Normally witnesses will not be given access to AFOSI reports, extracts, or summaries of investigation. However persons (including subjects and witnesses) who have furnished written statements to AFOSI during an investigation, may be furnished copies of their own statements on request, unless the statement is classified or the AFOSI report stipulates that the statement cannot be released without the prior concurrence of AFOSI.

§ 952.13 Releases requiring HQ AFOSI approval.

(a) Forward all summaries or extracts prepared by any office within HQ USAF which require AFOSI concurrence for release to the Commander, AFOSI.

(b) When a report of investigation concerns investigations of alleged treason, sedition, espionage, subversion, sabotage, or disaffection, the Commander, AFOSI, or higher authority must approve the release of any extracts, summaries, or attached statements.

(c) The prior concurrence of the Commander, AFOSI, is required for any extract or summary that is to be released by any requesting authority to any agency outside the U.S. Air Force.

(d) Process all releases under the Freedom of Information Act (5 U.S.C. 552, as amended by Pub. L. 93-502) or the Privacy Act of 1974 (5 U.S.C. 552a) as outlined in § 952.14

§ 952.14 Requests for information under the Freedom of Information Act and Privacy Act of 1974.

As Federal records, AFOSI reports of investigation, as well as summaries and extracts therefrom, fall under the provisions of the Freedom of Information Act (5 U.S.C. 552, as amended by Pub. L. 93-502) and the Privacy Act of 1974 (5 U.S.C. 552a). (See Parts 806 and 806b of this chapter).

(a) Requests for information from AFOSI reports made under these Acts must contain:

(1) Full name, to include both first, middle, and any other given names.

(2) Any former names, to include maiden and all married names, if appropriate, for women.

(3) Date and place of birth.

(4) Social Security number.

(5) All former service numbers.

(6) When anyone other than the individual mentioned in the file or the individual's legal guardian requests information on that individual, the request must be accompanied by a signed letter form the individual or the individual's legal guardian specifically authorizing AFOSI to release this information to the requester.

(b) Process these requests in the following manner:

(1) *Case awaiting command action.* The action commander will answer directly those requests covered by § 952.10, § 952.11, and § 952.12. All other requests should be forwarded or sent by the requester to AFOSI/DADF, Forrestal Building, 1000 Independence Avenue, Washington, D.C. 20314. If Freedom of Information request is misdirected, the recipient should forward it to the proper office rather than return it to the sender (See part 806 of this chapter).

(2) *Completed cases.* Request for information from investigations in which the command action has been completed or in which there will be no action should be directed to AFOSI/DADF, Forrestal Building, 1000 Independence Avenue, Washington, D.C. 20314.

(3) Requests Sent Directly to Command:

(i) Except as provided by § 952.10, § 952.11, and § 952.12, USAF commanders promptly forward any requests by any individual for information from pending AFOSI files to AFOSI/DADF. The requester of the information should be notified by the commander in writing that this action has been taken in accordance with this part.

(ii) Any request for information from an AFOSI investigation which has been closed and for which all command action has been completed will be promptly forwarded to AFOSI/DADF. The requester of the information should be notified in writing by the commander that this action has been taken under this part.

§ 952.15 Release of reports prepared by non-U.S. Air Force agencies.

If the material used in a summary or extract was prepared by an investigative or law enforcement agency outside the U.S. Air Force and furnished to the requesting authority by AFOSI, the summary or extract must be processed according to § 952.11. The servicing AFOSI unit must obtain the concurrence of the originating agency before concurring in the release of the extract or summary.

§ 952.16 Releases outside the U.S. Air Force.

In addition to the procedures listed in § 952.12, § 952.13, § 952.14, and § 952.15, the following procedures apply when an AFOSI report of investigation or related material is to be released to an agency outside the Air Force.

(a) Classified reports and related material, including summaries and extracts, are released only in accord with DOD 5200.1R and part 850 of this chapter, and then only with the prior concurrence of AFOSI.

(b) Unclassified reports and related material including summaries and extracts designated FOR OFFICIAL USE ONLY will only be released in accordance with AFR 12-31. (See also § 952.8(b).) No person should release any such material outside the Air Force unless authorized by that regulation or approved by the Secretary of the Air Force.

(c) When a request for an AFOSI report or related material (including extracts and summaries designated FOR OFFICIAL USE ONLY) is received from agencies outside the USAF, it will be referred to HQ AFOSI. The Commander, AFOSI, may approve:

(1) The release of an AFOSI report, summary, or extract to a Federal agency within the executive branch, if the agency has a valid need for the information, and the release is not against the public interest or in violation of public law or policy. Before the release is made, it must be determined that the report, extract, or summary will be protected against unauthorized disclosure or use.

(2) A request for the release of information in, or an extract from, an AFOSI report of investigation submitted by any other Federal, State, or local investigative agency, if the requester has a bona fide need and the request is not against the public interest or in violation of the law. Normally entire reports will not be released. Also see § 952.10, § 952.11, § 952.12, and § 952.13 for special instructions concerning releases to other agencies and persons.

(d) Process requests for AFOSI reports or investigative information in the following categories in accordance with the regulations listed:

(1) *Pending or potential litigation.* Send to HQ USAF for processing in accord with AFR 110-5, Releasing Information for Litigation and Appearance of Witness Before Civilian Courts and Other Tribunals.

(2) *Congressional request.* Process in accord with AFR 11-7, Air Force Relations with Congress.

(3) *General Accounting Office request.* Process in accord with AFR 11-8, Air Force Relations with General Accounting Office (GAO).

(e) Any authorized requester is permitted to furnish copies of AFOSI reports in premarital investigations concerning prospective alien spouses of

Air Force members to the appropriate U.S. consular officials without prior AFOSI approval unless a specific prohibition is established.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison Officer.

[FR Doc. 78-21381 Filed 8-1-78; 8:45 am]

[3910-01]

PART 953—VIOLATIONS OF PUBLIC TRUST IN CONTRACT, PROCUREMENT, AND OTHER MATTERS

AGENCY: Department of the Air Force, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Air Force is revising its rule on Violations of Public Trust in Contract, Procurement, and Other Matters. This revision reflects the proper designation of the Air Force Office of Special Investigations (AFOSI) as a separate operating agency, and sets forth in more detail the procedures for reporting information within the purview of the part.

EFFECTIVE DATE: February 12, 1976.

FOR FURTHER INFORMATION CONTACT:

Capt. William Burton, Executive, Directorate of Fraud Investigations, Headquarters, Air Force Office of Special Investigations, Forrestal Building, Washington, D.C. 20314, 202-693-6540.

SUPPLEMENTARY INFORMATION: Part 953 of Chapter VII, Title 32 of the Code of Federal Regulations is revised to reflect the proper designation of the Air Force Office of Special Investigations (AFOSI) as a separate operating agency and to further detail procedures for reporting information within the purview of the part.

This revision is issued under authority of 10 U.S.C. 8012.

The revised part will read as follows:

Sec.
953.1 Purpose.
953.2 Violations of public trust.
953.3 Reporting responsibilities.
953.4 Investigative responsibilities.

AUTHORITY: 10 U.S.C. 8012.

§ 953.1 Purpose.

This part assigns responsibilities and prescribes procedures for reporting and investigating violations or suspected violations of public trust—in Air Force contract, procurement, and other matters—and of Air Force Standards of Conduct.

NOTE.—All of the personally identifiable records established under the provisions of this part are affected by the Privacy Act of 1974 (5 U.S.C. 552a). The authority for establishing and maintaining records concerning these matters is 44 U.S.C. 3101. Records established in accordance with this part are maintained in Air Force Records System F124-10 07YLNGA Criminal Records. The description of this system of records, it uses and contents have been published in the FEDERAL REGISTER in accordance with the Privacy Act. The Secretary of the Air Force has exempted this system of records from certain provision of the Privacy Act in accordance with 5 U.S.C. 552a(j)(2). (See part 8066 of this chapter.)

§ 953.2 Violations of public trust.

The public trust in the integrity of Air Force contract, procurement, disposal, and all other business transactions is of the utmost importance and must be maintained. All Air Force personnel (military and civilian), who have reason to believe that the public trust has been or is being violated, will promptly report all information within their knowledge or belief to the responsible Air Force authorities. Violations of the public trust include, but are not limited to: Fraud, collusion, favoritism, bribery, offering, soliciting, or accepting gratuities, and conflicts of interest. Violations of the standards of conduct, as defined in part 920 of this chapter also will be reported and investigated in the same manner as violations of the public trust.

§ 953.3 Reporting responsibilities.

The prompt reporting of any indications of the violations mentioned in § 953.2 is extremely important.

(a) All personnel (particularly those concerned with the placement, administration, audit, inspection, or termination of Air Force Contracts), who have information leading to the belief that any of the violations referred to above have been or may be committed, will report all such information to the nearest Air Force Office of Special Investigations (AFOSI) activity or to the commander having:

(1) Immediate jurisdiction over the Air Force personnel allegedly involved; or

(2) Administrative responsibility for the contract(s) involved.

(b) The Commander, who receives information indicating possible violations of public trust as described in § 953.2, will promptly refer the matter to the nearest AFOSI activity for investigation.

(c) All personnel are enjoined to prevent the disclosure of such information to unauthorized persons. Unauthorized or premature divulgence could compromise any subsequent investigation or could damage, without cause, the reputation of persons ultimately determined as innocent of wrongdoing.

(d) Fradulent activities involving violations of public trust often appear on the surface as administrative or managerial irregularities; therefore, an individual should never assume the responsibility for deciding the significance of the information under consideration. Any question of fault on the part of the individual will be resolved in favor of reporting the information.

§ 953.4 Investigative responsibilities.

(a) AFOSI is responsible, within the Air Force jurisdiction, for investigating all suspected violations of public trust in Air Force contract, procurement, disposal, and other matters. The AFOSI will forward initial, interim, and final reports of investigation to the commander concerned, for information and necessary action. In appropriate cases, AFOSI will coordinate investigations conducted outside the United States with host country authorities as provided for in Status of Forces or related agreements.

(b) AFOSI will refer appropriate cases in these categories to the Department of Justice (including the Federal Bureau of Investigation) and will coordinate Air Force investigations with all interested Government agencies. Air Force commanders will not refer allegations or complaints on such matters either to the local or the national office, of the Department of Justice (or the Federal Bureau of Investigation); however, they will cooperate fully with representatives of the Department of Justice when requested.

(c) The AFOSI district office serving the commander concerned (see § 953.3(a)) will notify the commander when information of the type covered by this part is furnished directly to any echelon of the AFOSI, and tell the commander the nature of the information and whether or not it is being investigated.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison Officer.

[FR Doc. 78-21382 Filed 8-1-78; 8:45 am]

[6560-01]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

[FRL 917-8]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

California Plan Revision: Humboldt County Air Pollution Control District (APCD)

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: The Environmental Protection Agency (EPA) takes final action to approve and, where appropriate, disapprove or take no action on changes to the Humboldt County APCD portion of the California State Implementation Plan (SIP) submitted by the Governor's designee. The intended effect of this action is to update rules and regulations and to correct certain deficiencies in the SIP.

EFFECTIVE DATE: September 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Allyn M. Davis, Acting Director, Air and Hazardous Materials Division, Environmental Protection Agency, 215 Fremont Street, San Francisco, Calif. 94105. Attention: Wayne A. Blackard, 415-556-0217.

SUPPLEMENTARY INFORMATION: On June 14, 1977 (42 FR 30395) and July 20, 1977 (42 FR 37213), EPA published notices of proposed rulemaking for revisions to the Humboldt County Air Pollution Control District's Rules and Regulations submitted on December 13, 1972; July 25, 1973; January 22, 1974; July 19, 1974; October 23, 1974; April 10, 1975; July 22, 1975; and November 10, 1976. Since the November 10, 1976 submittal represents the most recent complete set of rules and regulations for the District, only it will be addressed in this notice.

The rules contained in the November 10, 1976, submittal, comprise a complete revision of the Humboldt County APCD's Rules and Regulations and are identical for four of the five APCD's in the North Coast Air Basin. All rules have been renumbered, and many have been reworded or reorganized. In addition to those changes, the most significant changes to rules being acted upon by this notice are as follows:

(a) Language changes are made to conform with recodification of the State Health and Safety Code and to accommodate the Uniform Regulations of the North Coast Air Basin.

(b) Procedures are added regarding public records and trade secrets.

(c) Provisions are added regarding severability, intent of the regulations, and liberal construction.

(d) Monitoring requirements are made more specific.

(e) Exceptions to the visible emissions rule are added.

(f) Specific limits on particulates from steam generating units and Kraft recovery furnaces are established.

(g) Measures to be taken to control fugitive dust are added.

(h) Controls over incineration of animal matter are added.

(i) A requirement for submerged fill pipes for stationary gasoline tanks is added.

(j) Procedures for issuing orders for abatement are updated and detailed.

(k) Exemptions from open burning prohibitions are added.

(l) Open burning policies are specified.

(m) Uses classification under which open fires are allowed on "permissive-burn" days are specified.

(n) Procedures for notifying the public of "permissive-burn" and "no-burn" days are specified.

(o) Reporting procedures, exceptions to prohibition of burning on "no-burn" days, and agencies that may issue burning permits are specified.

(p) Conditions under which waste may be burned are specified, and an exception to the rule on drying time is provided.

(q) Penalties for violations of open burning rules are established.

Lists of the rules being considered by this action were published as part of the notices of proposed rulemaking on June 14, 1977 (42 FR 30395) and on July 20, 1977 (423 FR 37213). The notices of proposed rulemaking provided 30 days for public comment.

In response to EPA's Evaluation Reports on the Del Norte County APCD's rules (which are now identical to the Humboldt County APCD's rules), and to a letter dated July 21, 1977, from EPA to the Del Norte County APCD, the Humboldt County APCD sent two letters, dated July 27 and 28, 1977, to EPA. Both letters dealt with Regulation 2, *Open Burning Procedures*, while the July 28 letter also dealt with Rule 240(e), *Mandatory Monitoring Requirements.*

Regarding Regulation 2, and in particular the general prohibitions as set forth at page 1, the July 27 letter noted that certain exceptions would not allow the unregulated burning that EPA had questioned, because of limiting definitions, conditions normally included in the granting of exemptions, and a proposed revision of the general prohibitions. In an August 16, 1977 letter to the Humboldt County APCD, EPA responded to those comments by suggesting ways in which the regulation could be further improved, and pointing out that, until a revision is submitted to EPA by the California Air Resources Board as an official SIP revision, EPA cannot act upon it.

The July 28 letter noted that special burning practices permitted on the basis of economic considerations might "be further conditioned that they will not cause a violation of the SIP control strategy." EPA encourages such conditioning, provided also that a demonstration is made that such permitted burning practices will not prevent the attainment or maintenance of the National Ambient Air Quality Standards (NAAQS).

Regarding Rule 240(e), the July 28 letter noted that the Del Norte County APCD has adopted a revised Rule 240(e). (The Humboldt County APCD has adopted the same rule.) Although that revised rule was submitted to EPA for both APCD's by the California Air Resources Board on November 4, 1977, it has not yet been evaluated. It will be acted upon in a subsequent FEDERAL REGISTER notice. In response to EPA's Evaluation Reports on the Humboldt County APCD's rules, the Humboldt County APCD sent EPA a letter dated February 10, 1978. That letter stated (a) that detailed emergency procedures (Rule 140) are required only in Priority I regions; (b) that a provision for correlation of emission data with applicable emission limitations (now missing from Rule 150) would be proposed to be added to Rule 240(d), along with other revisions suggested by EPA; (c) that changes elsewhere would be required to clarify Rules 410(c) (2) and (7); (d) that Rule 420(e) would be deleted or modified; and (e) that Regulation 2 was being completely redrafted.

In an April 27, 1978 letter to the Humboldt County APCD, EPA responded to those comments by noting that some of the proposed revisions would improve the rules and that other revisions would be evaluated in the future. Regarding emergency procedures, rules pertaining to that subject will be acted upon in a separate FEDERAL REGISTER notice.

Under section 110 of the Clean Air Act, as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove these regulations as State Implementation Plan revisions.

Rule 150, *Public Records*, provides for the public availability of emission data. The rule does not, however, require the correlation of emission data with applicable emission limitations as required by 40 CFR 51.10(e). Rule 150 is approved since it partially satisfies the requirements of § 51.10(e). However, since the correlation requirements

is not met, paragraph (b)(4) of the federally promulgated regulation, 40 CFR 52.224 *General Requirements*, is retained as applicable to the Humboldt County APCD.

Rule 240(d), *Compliance Verification*, has been added to provide additional source surveillance requirements. Except for paragraph (3), which is not being acted upon, it is being approved. Because Rule 240(d) meets the requirements of 40 CFR 51.19(a), the Humboldt County APCD is being rescinded from the requirements of 40 CFR 52.234(d).

Rule 630, *Decisions*, is being approved as a procedure for the granting of variances. Each variance, however, must satisfy the requirements of section 110 of the Clean Air Act and 40 CFR Part 51 in order to be approved by EPA as a revision to the SIP.

It is the purpose of this notice to approve all changes contained in the November 10, 1976 submittal and to incorporate them into the California SIP, with the exceptions of the rules discussed below.

EPA is disapproving Rules 410(c)(2), 410(c)(7), and 420(e), and the following portions of Regulation 2, *Open Burning Procedures:* general prohibitions (all of page 1) (*Open Burning Procedures*), paragraphs (e) and (f) of Article I (*Scope and Policy*), paragraphs (f) and (g) of Article V (*Burning Permits and Reports*), and paragraph (f) of Article VI (*Burning Preparation and Restrictions*).

Paragraph (c)(7) of Rule 410, *Visible Emissions*, would exempt from the opacity limit of Rule 410(a) "dust and particulate matter released incident to completing and cleaning out a geothermal well and placing it in production." This paragraph is disapproved because no analysis has been submitted to show that the exemption would not interfere with the attainment/maintenance of the NAAQS.

Rule 420(e), *Waste Incineration*, would exempt from the emission limit of Rule 420(a) single chamber incinerators "used for the disposal of approved combustibles subject to permit conditions specified by the Control Officer after a finding that such use is compatible with the county solid waste management program and will not cause a violation of the control strategy." This rule is disapproved because it relaxes emission control, provides an excessive amount of discretion on the part of the Control Officer, and as such could interfere with the attainment/maintenance of the NAAQS.

Paragraph (c)(2) of Rule 410, *Visible Emissions*, would exempt from the opacity limit of Rule 410(a) "smoke from fires set pursuant to Regulation 2 [*Open Burning Procedures*] of the North Coast Air Basin." Several provisions of Regulation 2 are being disapproved for the reasons given in the four paragraphs immediately following. Rule 410(c)(2) is disapproved for the same reasons.

The general prohibitions (all of page 1) of Regulation 2 would permit the burning of specified substances under certain conditions. These general prohibitions (all of page 1) are disapproved because certain controls have been relaxed and no analysis has been submitted to show that such burning would not interfere with the attainment/maintenance of the NAAQS.

Paragraph (e) of Article I of Regulation 2 would permit open outdoor fires "* * * on those days for which satisfactory meteorological burning conditions and adequate area ventilation are predicted to occur * * *". This provision is disapproved because it is too vague to be enforceable.

Paragraph (f) of Article I, paragraph (g) of Article V, and paragraph (f) of Article VI, all of which are contained in Regulation 2, are disapproved because each would allow the granting of exceptions from open burning rules if "imminent and substantial economic loss" is threatened by denial of an exception. Economic factors are an impermissible basis upon which to grant such an exception absent a showing that all other requirements of § 110 of the Clean Air Act, as well as the NAAQS, will be met.

Paragraph (f) of Article V of Regulation 2 would allow, from January 1 until May 31, range improvement or forest management burning on "no-burn" days, provided that more than 50 percent of the land has been "brush treated." This paragraph is disapproved because no analysis has been submitted to show that the allowance would not interfere with the attainment/maintenance of the NAAQS.

No action is being taken at this time on rules concerning emergency episodes, non-criteria pollutants, new source review, mandatory monitoring, nuisance, sulfide emission standards, organic gas emissions, malfunction, and open burning (use classifications). Of these rules, Rule 140, *Emergency Conditions;* Chapter II, *Permits* (except Rule 240(d)); and Rule 540, *Equipment Breakdown*, will be or have been acted upon in separate FEDERAL REGISTER notices.

Rule 160, *Ambient Air Quality Standards* (excluding paragraph (a), which does not apply to the Humboldt County APCD), is being approved with the exceptions of the non-criteria pollutants, which are not appropriate for inclusion in the SIP.

Paragraph (3) of Rule 240(d), *Compliance Verification*, is not being acted upon because it relies upon Rule 540, *Equipment Breakdown*, which has been disapproved (43 FR 3275).

Rule 240(e), *Mandatory Monitoring Requirements*, which concerns the requirements of 40 CFR 51.19(e), has been replaced by a more recent submittal. Therefore, EPA is taking no action on this rule.

Paragraphs (a) and (c) of Rule 400, *Public Nuisance*, are not appropriate for inclusion in the SIP because they are not specifically directed at the attainment or maintenance of the NAAQS. Therefore, EPA is taking no action on these paragraphs.

Rule 450, *Sulfide Emission Standards*, is not appropriate for inclusion in the SIP because it would regulate a pollutant for which there is no NAAQS. Therefore, EPA is taking no action on this rule.

Use Classification 6 of Article III of Regulation 2, *Open Burning Procedures*, is not appropriate for inclusion in the SIP because it expired on January 1, 1977. Therefore, EPA is taking no action on this rule.

Paragraph (a) of Rule 160, *Ambient Air Quality Standards;* paragraph (b) of Rule 410, *Visible Emissions;* Rule 460, *Organic Gas Emissions;* Appendix (map) to Regulation 1; and Appendixes B and C (maps) to Regulation 2, *Open Burning Procedures*, although included in the Uniform Regulations of the North Coast Air Basin, do not apply to the Humboldt County APCD. Therefore, EPA is taking no action on these rules.

The State has submitted Rules 490 and 492, and Regulations 3 and 4, concerning New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPS). These rules and regulations implement sections 111 and 112 of the Clean Air Act, and are not appropriate for inclusion in the SIP under section 110 of the act. Therefore, these regulations will be neither approved nor disapproved by EPA as part of an applicable implementation plan. NSPS and NESHAPS regulations were, however, reviewed under the appropriate provisions of sections 111 and 112, and delegation of authority to implement and enforce the NSPS and NESHAPS standards was made to the State of California, on behalf of the Humboldt County APCD, on July 10, 1975. The FEDERAL REGISTER notice for this delegation of authority was published on September 11, 1975 (40 FR 42237).

Finally, the deletions of Rule 5, *Enforcement;* Rule 6, *Review of Standards;* Rule 80, *Failure to Comply with Rules;* Rule 87, *Preliminary Matters;* and Rule 95, *Lack of Permit*, previously approved in the February 21, 1972 and June 30, 1972 submittals, are approved because the rules are not required by 40 CFR part 51, and the deletions will not affect any control regulation.

The California Air Resources Board has certified that the public hearing requirements of 40 CFR 51.4 have been satisfied.

(Secs. 110 and 301(a) of the Clean Air Act, as amended, 42 U.S.C. 7410 and 7601(a).)

Dated: July 27, 1978.

DOUGLAS M. COSTLE,
Administrator.

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

Subpart F—California

1. Section 52.220, paragraphs (c)(35)(xiv) (C) and (D) are added as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *
(35) * * *
(xiv) * * *

(C) New or amended Rules 100, 110, 120, 130, 150, 160 (except 160(a) and non-criteria pollutants), 190, 240(d) (except paragraph (3)), 300, 310, 320, 340, 400(b), 410(a), 410(c), 420, 430, 440, 470, 480, 482, 500, 510, 520, 600, 610, 620, 630, 640, and 650; and the following portions of Regulation 2: general prohibitions (all of page 1), Articles I and II, paragraphs A1, A2, A3, A4, 5, 7, and 8 of Article III, Articles IV to VII, and Appendix A.

(D) Previously approved and now deleted (without replacement) Rules 5, 6, 80, 87, and 95.

* * * * *

2. Section 52.224, paragraph (a)(2)(iii)(B) is added as follows:

§ 52.224 General requirements.

* * * * *

(a) * * *
(2) * * *
(iii) * * *
(B) Humboldt County APCD.

* * * * *

3. Section 52.234, paragraph (a)(1)(iv) is added as follows:

§ 52.234 Source surveillance.

(a) * * *
(1) * * *
(iv) Humboldt County APCD.

* * * * *

4. In Section 52.273, paragraphs (a)(4)(ii) and (b)(3)(ii) are added as follows:

§ 52.273 Open burning.

(a) * * *
(4) * * *
(ii) Humboldt County APCD.

(A) Rule 410(c)(2) and the following portions of Regulation 2: General prohibitions (all of page 1), paragraph (f) of Article I, paragraphs (f) and (g) of Article V, and paragraph (f) of Article VI, submitted on November 10, 1976.

* * * * *

(b) * * *
(3) * * *
(ii) Humboldt County APCD.

(A) Paragraph (e) of Article I of Regulation 2, submitted on November 10, 1976.

* * * * * *

5. Section 52.275, paragraph (b)(3)(ii) is added as follows:

§ 52.275 Particulate matter control

* * * * *

(b) * * *
(3) * * *
(ii) Humboldt County APCD.

(A) Rules 410(c)(7) and 420(e), *Waste Incineration*, submitted on November 10, 1976.

* * * * *

[FR Doc. 78-21392 Filed 8-1-78; 8:45 am]

[6560-01]

[FRL 937-4]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

California Plan Revision: Malfunction Regulations

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: The Environmental Protection Agency (EPA) takes final action to disapprove the malfunction rules and regulations of 22 Air Pollution Control Districts (APCD's) in California. The disapproved rules include rules previously approved by EPA and rule revisions officially submitted to EPA by the California Air Resources Board for inclusion in the California State Implementation Plan.

EFFECTIVE DATE: September 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Allyn M. Davis, Acting Director, Air and Hazardous Materials Division, Environmental Protection Agency, 215 Fremont Street, San Francisco, Calif. 94105. Attention: Wayne Blackard, 415-556-7882.

SUPPLMENTARY INFORMATION: Under section 110 of the Clean Air Act, as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove regulations submitted for inclusion in the SIP. It is the purpose of this notice to take final disapproval action on the following APCD rules and regulations concerning malfunction:

1. Amador County APCD Rule 4F, *Exceptions*, submitted on June 30, 1972 and previously approved under 40 CFR 52.223 (37 FR 19812);

2. Bay Area APCD Regulation 2, section 3212, *Upset Conditions, Breakdown or Scheduled Maintenance*, submitted on February 21, 1972, and previously approved under 40 CFR 52.223 (37 FR 10842);

3. Calaveras County APCD Rules 110, *Equipment Shutdown, Startup and Breakdown*, and 402(f), *Exceptions*, submitted on July 25, 1973, and previously approved under 40 CFR 52.223 (42 FR 23803);

4. Colusa County APCD Rule 4.4g, *Exceptions*, submitted on July 25, 1973, and Rule 4.4g, *Exceptions*, submitted on June 30, 1972, and previously approved under 40 CFR 52.223 (37 FR 19812);

5. Del Norte County APCD Rule 45, *Report of Breakdown*, submitted on February 21, 1972, and previously approved under 40 CFR 52.223 (37 FR 10842);

6. Fresno County APCD Rule 110, *Equipment Shutdown, Startup and Breakdown*, submitted on October 23, 1974;

7. Humboldt County APCD Rule 59, *Report of Breakdown*, submitted on February 21, 1972, and previously approved under 40 CFR 52.223 (37 FR 10842);

8. Madera County APCD Rule 110, *Equipment Shutdown, Startup and Breakdown*, submitted on January 10, 1975;

9. Mendocino County APCD section 1, *Maintenance* and section 2, *Malfunction of Equipment*, of Part VI, *Maintenance, Malfunction, Evasion, Inspection*, submitted on February 21, 1972, and previously approved under 40 CFR 52.223 (37 FR 10842);

10. Merced County APCD Rule 109, *Equipment Shutdown, Startup and Breakdown*, submitted on June 30, 1972, and previously approved under 40 CFR 52.223 (37 FR 19812);

11. Nevada County APCD Rule 55(f), *Exceptions*, submitted on February 21, 1972, and previously approved under 40 CFR 52.223 (37 FR 10842);

12. Placer County ACPD Rule 55(f), *Exceptions*, submitted on February 21, 1972, and previously approved under 40 CFR 52.223 (37 FR 10842);

13. San Joaquin County APCD Rule 110, *Equipment Shutdown, Startup and Breakdown*, submitted on October

23, 1974, and Rule 110, *Equipment Shutdown, Startup and Breakdown,* submitted on June 30, 1972, and previously approved under 40 CFR 52.223 (37 FR 19812);

14. San Luis Obispo County APCD Rule 102, *Breakdown and Upset Conditions,* submitted on February 21, 1972, and previously approved under 40 CFR 52.223 (37 FR 10842);

15. Shasta County APCD Rule 3:10, *Breakdown or Upset Conditions,* submitted on June 30, 1972, and previously approved under 40 CFR 52.223 (37 FR 19812);

16. Sierra County APCD Rule 51, *Air Pollution Equipment-Scheduled Maintenance,* submitted on June 30, 1972, and previously approved under 40 CFR 52.223 (37 FR 19812) and Rule 203(j), *Exceptions,* submitted on January 10, 1975, and previously approved under 40 CFR 52.223 (42 FR 23805);

17. San Bernardino County APCD Rule 55, *Upset Conditions or Breakdowns,* submitted on February 21, 1972, and previously approved under 40 CFR 52.223 (37 FR 10842);

18. Stanislaus County APCD Rule 110, *Equipment Shutdown, Startup and Breakdown,* submitted on June 30, 1972, and previously approved under 40 CFR 52.223 (37 FR 19812), and Rule 110, *Equipment Shutdown, Startup and Breakdown,* submitted on July 19, 1974, and previously approved under 40 CFR 52.223 (42 FR 25501);

19. Tehama County APCD Rule 4:1g, *Exceptions,* submitted on June 30, 1972, and previously approved under 40 CFR 52.223 (37 FR 19812);

20. Trinity County APCD Rule 44, *Report of Breakdown,* submitted on June 30, 1972, and previously approved under 40 CFR 52.223 (37 FR 19812);

21. Ventura County APCD Rule 32, *Upset Conditions, Breakdown or Scheduled Maintenance,* submitted on June 30, 1972 and previously approved under 40 CFR 52.223 (37 FR 19812);

22. Yuba County APCD Rule 4.5, *Air Pollution Equipment—Scheduled Maintenance,* submitted on July 25, 1973 and previously approved under 40 CFR 52.223 (42 FR 23803).

On December 30, 1977 (42 FR 65207) EPA proposed to disapprove these malfunction rules and regulations. The proposed rulemaking notice provided for a 30 day comment period. During the comment period, comments were received from the District Attorney for Trinity County, Diamond Shamrock Corp., Owens-Illinois Inc., Louisiana-Pacific Corporation, Mobile Oil Corp., Allied Chemical, and the Bay Area Air Pollution Control District.

Several of the commenters stated that the proposal does not take into account their need for regulations covering malfunction, and that sources should not be penalized for excessive emissions which result from conditions beyond the control of the operator. Further, several of those commenting expressed the belief that certain existing rules adequately provide for the enforcement of applicable emission limitations.

EPA recognizes that the imposition of a penalty for sudden and unavoidable malfunctions caused by circumstances entirely beyond the control of the operator is not appropriate under certain circumstances. Many of the existing rules contain reporting provisions which the enforcing agency could appropriately use to determine whether enforcement action is needed. EPA does not take the position that all malfunction regulations are inappropriate; rather, what EPA finds unacceptable is the potential for permitting violations of the National Ambient Air Quality Standards (NAAQS) by automatically exempting malfunction episodes from applicable emission limitations. Each of the rules identified in the proposal notice has this potential for the interference with attainment of the national standards.

Several commenters stated that the proposed action is inconsistent with the Clean Air Act (section 120(a)(2)(B)). Section 120(a)(2)(B) of the Clean Air Act exempts a source from a non-compliance penalty when failure to comply with requirements is due to any of the following: (1) A conversion to coal; (2) coal burning sources granted an exemption under section 119(c)(1); (3) the use of innovative technology sanctioned by an enforcement order; (4) a source which receives a delayed compliance order under section 113(d) of the Act; or (5) a source which receives a temporary emergency suspension authorized under section 110 (f) or (g) of the Act. The provisions of section 120(a)(2)(B) do not directly address the problem of equipment malfunction. More specifically, they do not permit exemptions for violations of SIP emission limitations or NAAQS exceedances. Rather they provide procedures for possible exemption from subsequent enforcement/penalty provisions.

It was also argued that the proposed disapproval action is inconsistent with EPA's provision for malfunction under the New Source Performance Standards (NSPS) found in 40 CFR 60.11(d). While it is correct that under certain circumstances, a source may be exempted from applicable NSPS requirements during a period of malfunction, there is a critical difference between the requirements under NSPS and the requirements under the SIP. The standards promulgated under NSPS are technologically-based, and therefore technological factors including malfunction may be taken into account. However, the requirements established pursuant to section 110 of the Clean Air Act are air quality based and must assure attainment and maintenance of the NAAQS at all times. Therefore, EPA cannot permit exemptions to emission limits in the SIP even during a period of malfunction.

In spite of this critical difference between NSPS and SIP standards, the criteria used to determine whether enforcement action will be taken against a source violating a SIP limitation are the same as those resulting in an exemption from applicable NSPS requirements. The use of these criteria will assure that a source is not penalized for malfunctions resulting from circumstances wholly beyond its control.

Two commenters suggested that EPA's proposed notice of disapproval does not sufficiently identify the individual deficiencies in each of the rules being acted on. Each of the rules identified in the proposed notice of disapproval permitted automatic exemptions from violations of applicable emission limitations, and were therfore unacceptable. Rather than discuss other individual deficiencies of each rule in the proposal notice, EPA is working with the California Air Resources Board to develop a model rule which would be consistent with both EPA and State requirements. The individual APCD's could then use this model rule to develop approvable malfunction regulations.

One commenter argued that the proposed action is inconsistent with actions taken by other EPA Regions and is also inconsistent with EPA Region IX actions with respect to other States. It is EPA's policy to eliminate all malfunction regulations which have the potential for interfering with the attainment and maintenance of the national standards. This policy is being carried out throughout the country by the disapproval of unacceptable malfunction regulations and/or by having the States submit approvable revisions to existing malfunction regulations.

It was also noted that we are taking action on certain "outdated" District rules. While it may be true that certain rules are "outdated" from the viewpoint of the Districts, the rules would remain part of the approved State Implementation Plan, unless disapproved in this notice.

Lastly, comments were received expressing the opinion that existing rules have promoted cooperation between government agencies and industry. It was expressed that the proposed disapproval would tend to penalize those sources with preventative or scheduled maintenance programs, and would discourage industry from installing alternate-fuel fired boilers. The intent of the proposed disapprov-

al is not to discourage the use of alternate fuel sources or to penalize sources which practice good operating and maintenance procedures. Cooperation between Government agencies and industry should still be possible under approvable malfunction regulations which do not provide exemptions from emission limitation violations, but which instead provide for enforcement discretion.

EPA takes final action to disapprove the malfunction rules and regulations identified above because these rules do not satisfy the enforcement imperatives of section 110 of the Clean Air Act. These rules render emission limitations potentially unenforceable and, as such, could interfere with the attainment and maintenance of the national standards.

The California Air Resources Board has certified that the public hearing requirements of 40 CFR 51.4 have been satisfied.

(Secs. 110, 301(a), Clean Air Act, as amended (42 U.S.C. 7410 and 7601(a)).)

Dated: July 26, 1978.

DOUGLAS M. COSTLE,
Administrator.

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

Subpart F—California

1. Section 52.220 is amended by adding paragraphs (c)(21)(viii)(B), (c)(21)(x)(B), (c)(21)(xvii), (c)(24(iv)(B), (c)(25)(i)(B), (c)(25)(ii)(B) and (c)(26)(xiii)(C) as follows:

§ 52.220 **Identification of plan.**

* * * * *

(c) * * *
(21) * * *
(viii) * * *
(B) Rule 4.5.

* * * * *

(x) * * *
(B) Rule 4.4g.

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(xvii) Calaveras County APCD.
(A) Rules 110 and 402(f).

* * * * *

(24) * * *
(iv) * * *
(B) Rule 110.

* * * * *

(25) * * *
(i) * * *
(B) Rule 110.

* * * * *

(ii) * * *
(B) Rule 110.

* * * * *

(26) * * *
(xiii) * * *
(C) Rule 110.

* * * * *

2. Section 52.271 is amended by adding paragraphs (a)(1)(i)(B), (a)(1)(ii)(B), (a)(1)(iv)(B), (a)(1)(v)(B), (a)(2)(iii)(B), (a)(2)(iv)(B), (a)(2)(v), (a)(2)(vi), (a)(2)(vii), (a)(2)(viii), (a)(2)(ix), (a)(3)(i)(B), (a)(4)(i)(B), (a)(4)(ii)(B), (a)(4)(v)(B), (a)(4)(vii)(B), (a)(4)(x), (a)(4)(xi), (a)(4)(xii), (a)(6)(i)(B), (a)(7)(ii)(B), (a)(7)(iii) and (a)(8)(i)(B) as follows:

§ 52.271 **Malfunction regulations.**

(a) * * *
(1) * * *
(i) * * *
(B) Rule 45 submitted on February 21, 1972 and previously approved under 40 CFR 52.223 (37 FR 10842) is disapproved.
(ii) * * *
(B) Rule 59 submitted on February 21, 1972 and previously approved under 40 CFR 52.223 (37 FR 10842) is disapproved.

* * * * *

(iv) * * *
(B) Sections 1 and 2 of Part VI submitted on February 21, 1972 and previously approved under 40 CFR 52.223 (37 FR 10842) are disapproved.
(v) * * *
(B) Rule 44 submitted on June 30, 1972 and previously approved under 40 CFR 52.223 (37 FR 19812) is disapproved.

* * * * *

(2) * * *
(iii) * * *
(B) Rule 3:10 submitted on June 30, 1972 and previously approved under 40 CFR (37 FR 19812) is disapproved.
(iv) * * *
(B) Rule 4:1g submitted on June 30, 1972 and previously approved under 40 CFR 52.223 (37 FR 19812) is disapproved.
(v) Colusa County APCD.
(A) Rule 4.4g submitted on July 25, 1973 and Rule 4.4g submitted on June 30, 1972 and previously approved under 40 CFR 52.223 (37 FR 19812) are disapproved.
(vi) Nevada County APCD.
(A) Rule 55(f) submitted on February 21, 1972 and previously approved under 40 CFR 52.223 (37 FR 10842) is disapproved.
(vii) Placer County APCD.
(A) Rule 55(f) submitted on February 21, 1972 and previously approved under 40 CFR 52.223 (37 FR 10842) is disapproved.
(viii) Sierra County APCD.
(A) Rule 51 submitted on June 30, 1972 and previously approved under 40 CFR 52.223 (37 FR 19812), and Rule 203(j) submitted on January 10, 1975 and previously approved under 40 CFR 52.223 (42 FR 23805) are disapproved.
(ix) Yuba County APCD.
(A) Rule 4.5 submitted on July 25, 1973 is disapproved.

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(3) * * *
(i) * * *
(B) Regulation 2, section 3212 submitted on February 21, 1972 and previously approved under 40 CFR 52.223 (37 FR 10842) is disapproved.

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(4) * * *
(i) * * *
(B) Rule 4f submitted on June 30, 1972 and previously approved under 40 CFR 52.223 (37 FR 19812) is disapproved.
(ii) * * *
(B) Rule 110 submitted on October 23, 1974 is disapproved.

* * * * *

(v) * * *
(B) Rule 110 submitted on January 10, 1975 is disapproved.

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(vii) * * *
(B) Rule 109 submitted on June 30, 1972 and previously approved under 40 CFR 52.223 (37 FR 19812) is disapproved.

* * * * *

(x) Calaveras County APCD.
(A) Rules 110 and 402(f) submitted on July 25, 1973 are disapproved.
(xi) San Joaquin County APCD.
(A) Rule 110 submitted on October 23, 1974 and Rule 110 submitted on June 30, 1972 and previously approved under 40 CFR 52.223 (37 FR 19812) are disapproved.
(xii) Stanislaus County APCD.
(A) Rule 110 submitted on June 30, 1972 and previously approved under 40 CFR 52.223 (37 FR 19812) and Rule 110 submitted on July 19, 1974 are disapproved.

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(6) * * *
(i) * * *
(B) Rule 102 submitted on February 21, 1972 and previously approved

under 40 CFR 52.223 (37 FR 10842) is disapproved

* * * * *

(7) * * *
(ii) * * *
(B) Rule 32 submitted on June 30, 1972 and previously approved under 40 CFR 52.223 (37 FR 19812) is disapproved.
(iii) San Bernardino County APCD.
(A) Rule 55 submitted on February 21, 1972 and previously approved under 40 CFR 52.223 (37 FR 10842) is disapproved.

* * * * *

(8) * * *
(i) * * *
(B) Rule 55 submitted on February 21, 1972 and previously approved under 40 CFR 52.223 (37 FR 10842) is disapproved.

* * * * *

[FR Doc. 78-21375 Filed 8-1-78; 8:45 am]

[6560-01]

[FRL 928-1]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Vermont Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the State of Vermont to clarify the interpretation of Regulation 5-231, "Prohibition of Particulate Matter." The revised regulation specifies that the emission limitation for the woodworking industry will be a concentration standard rather than a process weight standard, thereby eliminating the option of applying either a concentration or process weight standard as was provided in the original SIP.

EFFECTIVE DATE: August 2, 1978.

FOR FURTHER INFORMATION CONTACT:

David Stonefield, Air Branch, EPA Region I, Room 2113, JFK Federal Building, Boston, Mass. 02203, 617-223-5609.

SUPPLEMENTARY INFORMATION: On February 28, 1978, a Notice of Proposed Rulemaking was published in the FEDERAL REGISTER (43 FR 8159), proposing approval of a revision to the Vermont State Implementation Plan (SIP). The revision, submitted on April 11, 1977 by the Secretary of Environmental Conservation, changes Regulation 5-231, Prohibition of Particulate Matter, to specify the emission limitation applicable to the woodworking industry.

In the original SIP, subpart (a) of section 1 of the regulation established maximum allowable discharge rates according to process weight, and subpart (b) set a concentration standard for emissions from industrial processes where process weight is not applicable. The director of the State air agency was authorized to determine the applicability of the emission limitations.

Because of uncertainties encountered in enforcing Regulation 5-231 against wood processing plants, the Vermont Agency of Environmental Conservation (Vermont AEC) revised the regulation to specify that the concentration standard in subpart (b) would apply to wood processing operations. The standard established by the SIP revision is 0.06 grains per dry standard cubic foot of undiluted exhaust gas, which, at a pressure of 760 millimeters and a temperature of 0° C, is equivalent to the original concentration standard of 0.1 pounds of particulates per 1,000 pounds of undiluted exhaust gas.

The Vermont AEC evaluated emission limitations for the woodworking industry and concluded that the concentration standard is more appropriate for woodworking plants than a process weight standard. Technical support for the revision, consisting of dispersion modeling and ambient monitoring results, was submitted by the Vermont AEC and reviewed by EPA. Approval of the revision is not predicted to cause violations of the National Ambient Air Quality Standards (NAAQS) for Total Suspended Particulates (TSP).

During the 30-day public comment period, comments were received from the Vermont AEC. The comments raised two related issues: (1) The relationship between this SIP revision and the enforcement provisions of section 113(d)(1)(D) of the Clean Air Act as amended in 1977, and (2) whether the revision constitutes a new emission limitation. However, since neither of these issues is related to a final decision on the approvability of the revision, they are not addressed in this notice.

After evaluation of the State's submittal, the Administrator has determined that the Vermont revision meets the requirements of the Clean Air Act and 40 CFR Part 51. Accordingly, this revision is approved as a revision to the Vermont Implementation Plan.

(Sec. 110(a), Clean Air Act, as amended (42 U.S.C. 7410).)

Dated: July 27, 1978.

DOUGLAS M. COSTLE,
Administrator.

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

Subpart UU—Vermont

1. A new paragraph (7) is added in § 52.2370(c) to read as follows:

§ 52.2370 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

* * * * *

(7) Revision to Regulation 5-231, Prohibition of Particulate Matter, section 1, Industrial Process Emissions, with respect to wood processing operations, submitted by the Vermont Secretary of Environmental Conservation on April 11, 1977.

[FR Doc. 78-21376 Filed 8-1-78; 8:45 am]

[6560-01]

SUBCHAPTER R—TOXIC SUBSTANCES CONTROL ACT

[FRL 937-2]

PART 761—POLYCHLORINATED BIPHENYLS (PCB'S)

Addendum to Preamble and Corrections to Final Rule

AGENCY: Environmental Protection Agency.

ACTION: Addendum to preamble and corrections to final rule.

SUMMARY: The polychlorinated biphenyl (PCB) disposal and marking rule (43 FR 7150-7164, Feb. 17, 1978) contained several ambiguities and technical errors. This notice includes (1) an addendum to the preamble, which will clarify the ambiguities, and (2) corrections to the errors in the final rule. Since this notice is nonsubstantive, notice and public comment are unnecessary and it is effective August 2, 1978.

EFFECTIVE DATE: August 2, 1978.

FOR FURTHER INFORMATION CONTACT:

David Wagner, Office of Toxic Substances (TS-794), Environmental Protection Agency, 401 M Street SW., Room 515ET, Washington, D.C. 20460, 202-426-9000.

ADDENDUM TO PREAMBLE

Section 761.10(b)(3) states: "Soil and debris which have been contaminated with PCB's as a result of a spill or as a

result of placement of PCB's in a disposal site prior to the publication date of these regulations shall be disposed of (i) in an incinerator which complies with annex I, or (ii) In a chemical waste landfill." This requirement as others, is qualified by the general Note which appears at the beginning of § 761.10. This Note specifically states that these regulations do not require the removal of any PCB's from service earlier than would otherwise be the case. However, when they are removed from service and disposed of, disposal must be in accordance with the regulation.

PCB-containing soil and debris which have been placed in a disposal site are considered to be "in service" for purposes of the applicability of the Note discussed in the last paragraph. Therefore, § 761.10(b)(3) does not require PCB-contaminated soil or debris landfilled prior to February 17, 1978 to be removed for disposal. However, if such soil or debris is removed from the disposal site, it must be disposed of in accordance with the regulation.

Section 761.20(a)(3)(ii)(B) of Subpart C—Marking of PCB's contains the requirement that if one or more PCB large high voltage capacitors are installed in a protected location, a "record or procedure identifying the PCB capacitors is to be maintained by the owner or operator at the protected location." As EPA stated on page 29 of the Support Document accompanying the final rule, it will be sufficient for those subject to this provision to simply provide a telephone number at the protected location together with a sign indicating that the exact identity of the PCB capacitors at that location can be determined by calling the telephone number during normal business hours.

The definition of "Small Capacitor" [§ 761.2(c)(1)] is "a capacitor which contains less than 1.36 kg (3 lbs.) of dielectric fluid." EPA did not intend to include in this definition dry capacitors (i.e., those capacitors which have never contained any dielectric fluid). Also, the definition of "Fluorescent Light Ballast" [§ 761.2(i)] does not apply to those ballasts which do not contain a capacitor. Accordingly, the negative labeling requirements in § 761.20(a)(6) do not apply to those small capacitors which contain no detectable amounts of dielectric fluid nor do they apply to those fluorescent light ballasts which do not contain a capacitor.

Section 761.20(a)(4) states: "As of January 1, 1979, all PCB equipment containing a small PCB capacitor at the time of manufacture shall be marked. * * *" EPA wishes to clarify that only PCB equipment manufactured on or after January 1, 1979 is subject to the labeling requirements under this provision. The Agency did not mean to require the labeling under this provision of all existing PCB equipment which contained a PCB capacitor at the time the equipment was manufactured. This interpretation has been clarified by wording which is contained in the Correction to the Final Rule.

Section 761.2(1) states that "'Manufacture' means to produce, manufacture, or import. * * *" All small capacitors normally used in alternating current circuits, as defined by § 761.2(c)(1), all large low voltage capacitors, and all fluorescent light ballasts manufactured between July 1, 1978 and July 1, 1998, must be labeled pursuant to § 761.20(a)(6). However, EPA did not intend to apply this section differently to imported as opposed to domestic items. If § 761.20(a)(6) were applicable to the above items built prior to July 1, 1978, but imported after that date, the result would cause unequal treatment for such items which are imported as opposed to those which are built domestically. For example, imported small capacitors built prior to July 1, 1978, would be subjected to labeling (if imported after July 1, 1978), while small capacitors built domestically, prior to July 1, 1978, would never be subject to such a requirement.

In order to avoid causing unequal treatment for imports as opposed to items subject to § 761.20(a)(6) built domestically, § 761.20(a)(6) is clarified to indicate that the word "manufactured" (the 20th word in the section) means "built." Other references to "manufacturer" or "manufacture" in § 761.20(a)(6) will continue to include importation. Therefore, only those small capacitors normally used in alternating current circuits, large low voltage capacitors, and fluorescent light ballasts built domestically or abroad after July 1, 1978, are subject to labeling under § 761.20(a)(6). All other references to "manufacture" in the PCB Disposal and Marking Regulation will continue to refer to both manufacture and importation.

The Agency wishes to emphasize that the labeling requirement of § 761.20(a)(6) applies to items subject to that section, regardless of whether they are included within equipment. If, for example, small capacitors are included in a microwave oven, each small capacitor should be labeled in conformance with § 761.20(a)(6) rather than the microwave oven itself.

Section 761.41(b)(2) of annex II states in part: "There shall be no hydraulic connection between the site and standing or flowing surface water." The part of the site that is referred to is the surface, sides, and bottom of the landfill. Hydraulic connection between the site and surface water would mean any visible runoff from the surface of the landfill or any seepage from the sides or bottom of the landfill to surface water.

Section 761.42(c)(1) of annex III provides for temporary storage of non-leaking PCB articles and equipment in areas which do not comply with storage requirements. EPA wishes to clarify that this provision also permits the temporary storage of: (1) Non-leaking PCB articles and equipment in containers; and (2) leaking PCB articles and equipment which have been placed in a non-leaking container. The wording concerning this section in the February 17, 1978, preamble (43 FR 7153, 2d col., 3d par.) is technically incorrect in stating that only non-leaking PCB articles, PCB equipment, and PCB containers may be placed in a temporary storage area up to 30 days. As noted, temporary storage of leaking PCB articles and equipment which have been placed in a non-leaking container is permitted. EPA wishes to emphasize that § 761.42(c)(1) only applies to PCB containers which contain PCB articles and equipment but does not permit the temporary storage of either PCB chemical substances or PCB mixtures, even in a non-leaking container. This is clarified by wording contained in the Correction to the Final Rule.

Section 761.42(c)(6) states in part: "Any PCB container used for the storage of non-liquid PCB mixtures, PCB articles, or PCB equipment shall meet the requirements of the DOT Specifications 5, 5B, or 17C with a removable head." EPA wishes to clarify that this provision was not intended to limit the size of the containers used to store non-liquid mixtures or items to either the 55 or 110 gallon drums described in Specifications 5, 5B, 17C, or 17E, but rather its purpose was (i) to require that 55 and 110 gallon drums used for storing PCBs meet DOT specifications, and (ii) to require that other containers used for storing PCBs provide protection to the environment against exposure to PCB's which is equal to that provided by the DOT specification drums. Accordingly, § 761.42(c)(6) is corrected to indicate that any PCB container used for the storage of non-liquid PCB mixtures, PCB articles, or PCB equipment shall provide as much protection against leaking and exposure to the environment and be of the same relative strength and durability as the containers specified in DOT Specifications 5, 5B, 17C, or 17E.

Section 761.43(a) of Annex IV specifies procedures for decontaminating PCB containers. It requires that the internal surfaces of the container be flushed "three times with a solvent containing less than 0.05 percent PCB chemical substance* * *." However,

the requirements of this section would appear to be contradictory since the "solvent may be reused for decontamination until it contains 0.5 percent PCB chemical substance." EPA wishes to clarify that this section requires use of a solvent for the first of three flushings which contains less than 0.05 percent PCB chemical substance. Thus, the solvent may be reused for the two subsequent flushings and may contain up to 0.5 percent PCB chemical substances. At the 0.5 percent concentration, the solvent can no longer be used for decontamination, and a new solvent (containing less than 0.05 percent PCB chemical substances) would have to be used for the next flushing.

Sections 761.45(a)(1)(i) and 761.45(a)(3)(i) of Annex VI, Records and Monitoring, state: "Total weight in kilograms of any PCB chemical substances and PCB mixtures in PCB containers, including the identification of container contents such as liquids and capacitors." EPA wishes to clarify that this provision requires that, where applicable, records be kept of the total weight of any PCB chemical substances, PCB mixtures, and/or PCB articles in containers (excluding the weight of the containers), plus an identification of the types of PCBs in containers.

The word "facility" in Annex VI (§ 761.45) refers to a physical location or locations containing PCB's. However, a facility may not be subdivided to avoid the reporting requirements of § 761.45. For example, a power pole in the field may not be designated as a "facility" for purposes of the section. EPA intends that the location where records required by Annex VI are maintained must be normally manned for 8 hours a day. This has been clarified by wording which is contained in the Correction to Final Rule.

Section 761.45(b)(3) is a listing of data of which owners or operators of PCB disposal and storage facilities must keep records. This listing is in somewhat confusing order. EPA, therefore, has reworded this section in order to clear up any confusion. The rewording is contained in the Correction to Final Rule section of this notice. No additional elements of recordkeeping have been added to § 761.45(b)(3).

Corrections to Final Rule

The following corrections to the final rule are primarily corrections to typographical errors contained in the Federal Register notice of the final rule, except that the correction to § 761.41(b)(6)(iii) on page 7161 is a correction of a technical error. In addition, six non-substantive corrections were made in order to clarify ambiguities in the regulatory language. This type of correction was made to § 761.20(a)(4) on page 7159, § 761.20(a)(6) on page 7159, § 761.42(c)(1) on page 7162, § 761.42(c)(6) on page 7163, § 761.45(a) on page 7163, and § 761.45(b)(3) on page 7164. The clarifications involved in these six corrections are discussed in the Addendum to Preamble.

Corrections are made as follows:

1. Page 7152, 2nd col., 3rd full par., the sentence beginning "A new § 761.10(b)(3) * * *" should read "A new § 761.10(b)(4) * * *."

2. Page 7157, the third line of § 761.2(d)(2)(v) should read "4181 of the Internal Revenue Code of".

3. Page 7159 the punctuation mark after "PCB containers" in § 761.20(a)(1)(i) should be changed from a colon to a semicolon.

4. Page 7159, § 761.20(a)(4) should read, "As of January 1, 1979, all PCB equipment containing a small PCB capacitor shall be marked at the time of manufacture with the statement, 'This equipment contains PCB capacitor(s)'. The mark shall be of the same size as the mark M_L."

5. Page 7159 in § 761.20(a)(6), insert "(which word, for purposes of this sentence, means built)" between "manufactured" and "between July 1, 1978".

6. Page 7161, § 761.41(b)(1)(ii) of Annex II, should read, "Permeability (cm/sec), equal to or less than 1×10^{-7}."

7. Page 7161, in the heading and the second sentence of § 761.41(b)(6)(iii) of Annex II, "suction manometers" should read "suction lysimeters."

8. Page 7161, in § 761.41(b)(6)(iii) of Annex II, "Porous 'stones'" should read "porous ceramic cups" in the first two sentences.

9. Page 7162, § 761.41(c)(3)(i) after the word "PCB's" should read "unless he finds that the landfill meets all of the requirements of paragraph (b) of this section."

10. Page 7162, the last part of § 761.42(b)(1)(ii) should read, "25 percent of the total internal volume of all PCB articles or containers * * *."

11. Page 7162, the first part of § 761.42(c)(1) should read "Non-leaking PCB articles and equipment, and leaking PCB articles and equipment if they are placed in non-leaking containers, may be stored temporarily * * *".

12. Page 7162, § 761.42(c)(3) of Annex III should read "Any storage area subject to the requirements of paragraph (b) or paragraph (c)(1) of this section shall be marked as required in Subpart C § 761.20(a)(1)."

13. Page 7163, the end of the first sentence in § 761.42(c)(6) of Annex III should read "the specifications of the Department of Transportation (DOT), 49 CFR 173.346, revised December 31, 1976."

14. Page 7163, the last sentence in § 761.42(c)(6) of Annex III should read, "Any PCB container used for the storage of non-liquid PCB mixtures, PCB articles, or PCB equipment shall provide as much protection against leaking and exposure to the environment, and shall be of the same relative strength and durability, depending on the container's size, as required by DOT Specifications 5, 5B, 17C, or 17E (49 CFR 178.80, 178.82, 178.115)."

15. Page 7163, the third sentence in § 761.45(a) should read "Owners or operators with one or more facilities which contain PCB's in the quantities described above may maintain the records and documents at one of the facilities which is normally manned for 8 hours a day, provided the identity of this facility is available at each facility containing PCB's that is normally manned for 8 hours a day."

16. Page 7164, § 761.45(b)(3) should read, "A summary of the total weight in kilograms of PCB chemical substances, PCB mixtures, and/or PCB articles which are in containers and the total weight of PCB chemical substances and/or mixtures contained in PCB transformers, which have been handled at the facility during the previous calendar year. This summary shall provide totals of the above PCB's which have been: (i) received during the year, and (ii) transferred to other facilities during the year, and (iii) retained at the facility at the end of the year. In addition, the contents of PCB containers shall be identified. When PCB containers and/or PCB chemical substances and/or PCB mixtures contained in a transformer are transferred to other storage or disposal facilities, the identification of the facility to which such PCB's were transferred shall be included in the document."

Dated: July 27, 1978.

Marilyn Bracken,
Acting Assistant Administrator for Toxic Substances.

[FR Doc. 78-21394 Filed 8-1-78; 8:45 am]

[7035-01]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

PART 1056—TRANSPORTATION OF HOUSEHOLD GOODS IN INTERSTATE OR FOREIGN COMMERCE

[Ex Parte No. MC-19 (Sub-No. 33)]

Practices of Motor Common Carriers of Household Goods (Reweighing of Shipments)

AGENCY: Interstate Commerce Commission.

ACTION: Notice of extension of effective date.

SUMMARY: The Interstate Commerce Commission has extended the effective date of the regulations adopted in this proceeding from May 31, 1978, to June 15, 1978, in order to comply with section 221(b) of the Interstate Commerce Act. Published at 43 FR May 30, 1978 at page 22982.

DATES: Effective June 15, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael Erenberg, 202-275-7292.

SUPPLEMENTARY INFORMATION: Section 221(b) of the Interstate Commerce Act (49 U.S.C. § 321(b)) specifies that orders of the Commission issued under part II of the act shall take effect within such reasonable time, not less than 30 days, as the Commission may prescribe. In order to conform the decision in this proceeding to the requirements of section 221(b), the Commission has advanced the effective date of the regulations adopted to June 15, 1978. Carriers will not be held responsible for compliance with the amended provisions of § 1056.6(d) prior to that date. However, the modified regulations, which permit a household goods shipper to demand reweighing of a shipment at any time prior to delivery, are effective as of June 15, 1978. From and after that date, carriers will be expected to perform reweighs upon request of the shipper or its representative at any time prior to delivery of the shipment.

This decision is issued under the authority of part II of the Interstate Commerce Act and 5 U.S.C. §§ 552, 553, and 559 (the Administrative Procedure Act).

By the Commission, Chairman O'Neal, Vice Chairman Christian, Commissioners Murphy, Brown, Stafford, Gresham, and Clapp.

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

[FR Doc. 78-21312 Filed 8-1-78; 8:45 am]

[4310-35]

Title 50—Wildlife and Fisheries

CHAPTER 1—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 32—HUNTING

Opening of Eufaula National Wildlife Refuge, Alabama, to Mourning Dove Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to mourning dove hunting of Eufaula National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: September 30 and October 7, 1978

FOR FURTHER INFORMATION CONTACT:

Refuge Manager, Eufaula National Wildlife Refuge, Route 2, Box 97-B, Eufaula, Alabama 36027, telephone 205-687-4065.

SUPPLEMENTARY INFORMATION:

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

Mourning dove hunting is permitted on the Eufaula National Wildlife Refuge, Alabama, only on the areas designated by signs as being open to hunting. These areas comprising 600 acres are delineated on maps available at the refuge headquarters and from the Office of the Area Manager, 200 East Pascagoula Street, Suite 490, Jackson, Mississippi 39201. Dove hunting shall be in accordance with all applicable State regulations subject to the following conditions:

1. Hunting shall be permitted from 12 noon until sunset (central time) on the Houston tract unit and Davis-Clark tract unit on September 30 and October 7, 1978.
2. No hunters will be permitted within hunting areas before 11:45 AM each day.
3. All firearms must be encased and/or unloaded when outside the designated hunting area.
4. Each hunter who successfully takes a limit of mourning doves must leave the hunting area immediately.
5. Retrievers used by hunters shall be under the control of the owner at all times.
6. All hunters must check in and out of the refuge at the designated checking station.
7. All litter (paper, empty shell boxes, etc.) must be removed by individual hunters.
8. Vehicle parking will be limited to areas designated by refuge personnel.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11949 and OMB Circular A-107.

R. D. Earnest,
Area Manager.

July 26, 1978.

[FR Doc. 78-21468 Filed 8-1-78; 8:45 am]

[4310-35]

PART 32—HUNTING

Opening of the Hillside National Wildlife Refuge, Mississippi, to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulations.

SUMMARY: The Director has determined that the opening to the public for dove hunting of Hillside National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: 2 Saturdays in September 1978.

FOR FURTHER INFORMATION CONTACT:

Herb Bell, Hillside National Wildlife Refuge, P.O. Box 107, Yazoo City, Miss. 39194, 601-746-8511.

SUPPLEMENTARY INFORMATION:

§ 32.12 Special Regulations; migratory game birds, for individual wildlife refuge areas.

Public hunting of Dove is permitted on the Hillside National Wildife Refuge, Mississippi, only on the areas designated by signs as being open to hunting. These areas comprising approximately 3,400 acres are delineated on maps available at the refuge headquarters and from the Office of the Area Manager, 200 East Pascagoula Street, Suite 490, Jackson, Miss. 39201. Hunting shall be in accordance with all applicable State and Federal regulations and subject to the following conditions:

1. Hunting is permitted two Saturday afternoons only in fields so marked for dove hunting during the State of Mississippi's September Dove Season.

2. Permits will be required and may be obtained at the refuge information station.

3. Dove hunters will be required to check out after each day's hunt.

4. A dog may be used to retrieve doves, but must be under direct control of its handler at all times.

The provisions of this special regulation supplement the regulations which govern public hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11949 and OMB Circular A-107.

Dated: July 26, 1978.

R. D. EARNEST,
Area Manager.

[FR Doc. 78-21467 Filed 8-1-78; 8:45 am]

[4310-35]

PART 32—HUNTING

Opening of Holla Bend National Wildlife Refuge, Arkansas to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulations.

SUMMARY: The Director has determined that the opening to hunting of Holla Bend National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunities to the public.

DATES: September 2 and 9, 1978.

FOR FURTHER INFORMATION CONTACT:

Paul D. Daly, Refuge Manager, P.O. Box 1043, Russellville, Ark. 72801, AC 501-968-2800.

SUPPLEMENTARY INFORMATION:

§ 32.12 Special Regulations; migratory bird game hunting for individual wildlife refuge areas.

Public hunting of mourning doves on the Holla Bend National Wildlife Refuge, Arkansas, is permitted only on the area delineated by public hunting signs. This open area, comprising approximately 500 acres, is delineated on a map available at Refuge Headquarters, P.O. Box 1043, Russellville, Ark. 72801 and from the Office of the Area Manager, 200 East Pascagoula Street, Suite 490, Jackson, Miss. 39201. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of mourning doves, subject to the following special regulations:

1. A special refuge permit is required.

2. No alcoholic beverages will be allowed in the hunting area.

3. Each hunter under 16 must be under close supervision of an adult. For safety reasons the ratio should be one adult to one juvenile, but in no case should one adult have more than two juveniles under his/her supervision.

4. All firearms must be cased or unloaded when outside the designated hunting area.

5. Hunting shall be from 12 noon until sunset each day of the hunt.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 32, and are effective through September 9, 1978. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11949 and OMB Circular A-107.

R. D. EARNEST,
Area Manager.

JULY 26, 1978.

[FR Doc. 78-21469 Filed 8-1-78; 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

[3410-02]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 989]

[Docket No. AO-198-A-10]

RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

Extension of Time for Filing Written Exceptions to Recommended Decision on Proposed Further Amendment of Marketing Agreement and Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Extension of time.

SUMMARY: This extension of time is necessary to allow interested persons additional time to review the recommended decision. The additional time was requested by the Raisin Administrative Committee which handles the local duties of administering the raisin marketing agreement and order.

DATE: The time for the filing of written exceptions will be extended to August 25, 1978.

ADDRESS: Send two copies of exceptions to the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, where they will be available for inspection during business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding:

Notice of hearing—Issued March 30, 1978; published April 4, 1978 (43 FR 14024).

Notice of recommended decision—Issued July 12, 1978; published July 17, 1978 (43 FR 30567).

Notice was given of the filing with the Hearing Clerk of a recommended decision with respect to proposed further amendment of the marketing agreement, as amended, and order No. 989, as amended (7 CFR Part 989; 42 FR 37200), regulating the handling of raisins produced from grapes grown in California, and of an opportunity to file written exceptions thereto in the July 17, 1978, issue of the FEDERAL REGISTER (43 FR 30567).

The notice was filed with the Hearing Clerk on July 12, 1978, under 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 recommended decision gave interested persons an opportunity to file written exceptions until August 4, 1978. The Raisin Administrative Committee requested additional time to review the recommendations made in the decision. Thus, the time for the filing of written exceptions is extended to August 25, 1978.

Signed at Washington, D.C., on July 27, 1978.

IRVING W. THOMAS,
Acting Deputy Administrator, Marketing Program Operations.

[FR Doc. 78-21364 Filed 8-1-78; 8:45 am]

[3410-07]

Farmers Home Administration

[7 CFR Part 1822]

[FmHA Instruction 444.5]

RURAL HOUSING LOANS AND GRANTS

Rural Rental Housing Loan Policies, Procedures, and Authorizations

AGENCY: Farmers Home Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Farmers Home Administration proposes to revise sections of its regulations which will provide the necessary guidance to field offices and loan applicants in implementing the congregate housing program. The intended effect of this action is to clarify and modify certain Farmers Home Administration policies and to make other necessary changes. This action is taken as a result of a public law.

DATES: Comments must be received on or before September 1, 1978.

ADDRESSES: Submit written comments to the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6316, Washington, D.C. 20250. All written comments made pursuant to this notice will be available for public inspection at the address given above.

FOR FURTHER INFORMATION CONTACT:

Paul R. Conn, Director, Multiple Family Housing Loan Division, telephone 202-447-7207.

SUPPLEMENTARY INFORMATION: Various sections of Subpart D of Part 1822, Chapter XVIII, Title 7, Code of Federal Regulations (40 FR 4278) are being revised to add the words "handicapped persons" and make provision for FmHA loans for congregate housing. The major changes are set forth below:

1. Throughout this instruction where the words senior citizens or elderly exist the words "or handicapped persons" have been added.

2. Anywhere the term senior citizen appears in this instruction, the words "or handicapped person" as defined in paragraph IIIB2a should be read as if they followed the words "senior citizen" has been deleted.

3. Section 1822.83(f) is amended to provide provisions for congregate housing and the sentence: "In the case of congregate housing some or all of the units may have limited kitchen facilities, such as a small oven or cooktop and a refrigerator when a central dining facility is provided that will provide wholesome and economic meals for the senior citizen or handicapped person" has been added.

4. Section 1822.83(g) is amended to include the words "such as a project for the handicapped" and "therapy room, special bathing room, and other special areas needed by physically handicapped persons."

5. Section 1822.84(a)(2)(iii) is amended to include the following: For a loan to provide congregate housing, applicants must be able to obtain assistance from other sources to operate the food services. The cost of the food services will not be considered as an operation and maintenance cost of the project. Where an applicant lacks experience in providing and operating food services facilities, an agreement must be furnished by the applicant which meets the following requirements:

(a) The dining facilities must be provided on a contractual basis with a firm or a person experienced in and capable of providing such services.

(b) The applicant must agree to provide a minimum of one wholesome cooked meal per day, at least 5 days

per week. If tentants are charged for meals, such charges must be separate from their rental charges.

(c) If the applicant is the type of entity that is eligible to accept food stamps under the regulations of the Food and Nutrition Service (FNS) of the USDA, such applicant must be authorized by the FNS to accept food stamps from the tenants for the purchase of meals.

(d) The agreement must set forth the services to be provided and the fees to be charged (if any) for those services.

(e) The agreement must contain the following statement:

This agreement shall not be effective unless and until approved by the State Director of the Farmers Home Administration, U.S. Department of Agriculture, or a delegated representative.

Dated: ———————.

FARMERS HOME ADMINISTRATION,
By ———————.

(6) Section 1822.85(e)(3) is amended to include the following: All equipment purchased with loan funds for the central cooking and dining facilities such as stoves, refrigerators, ovens, washing machines, or other equipment must become part of the real estate upon installation. For congregate housing, the availability of assistance from other State or Federal agencies (on a long-term agreement) should be considered in determining the size of the dining facilities. If needed in the community, FmHA would permit dining facilities larger than that required solely by the tenants of the project, provided other sources of funds are available to pay a pro rata share of the cost of construction.

(7) Section 1822.86(b)(6) is amended as follows: Nursing homes, special care facilities, or institutional-type homes. This limitation should not, however, preclude making loans for housing which is designed for occupancy by senior citizens and handicapped persons who are capable of caring for themselves, but will not live on a totally independent basis because of a need for some supervision and central services.

(8) Section 1822.86(b) is amended by adding a new item 7 as follows: Operating capital for a central dining facility or any items which do not become affixed to the real estate security (such as special equipment, furnishings, kitchenware, dining ware, eating utensils, moveable tables and chairs, etc.).

(9) Section 1822.86(b) is amended by adding a new item (7) and renumbering items 8 through 12 to 8 through 13.

(10) Section 1822.88(a)(2) is amended by adding the sentence: "However, in some cases, single family dwellings may be provided for handicapped persons needing congregate living arrangements in a residential setting."

(11) Section 1822.88(a)(7) is amended by adding the sentence, "Congregate housing projects must contain a minimum of a small oven or cook top and a refrigerator in each unit."

(12) Section 1822.90(e) is amended to read, *"Compliance with Federal, State, and local codes, regulations, and ordinances,"* and adding the words "including any licensing required," and "use, and occupancy."

(13) Exhibit F-6, item 2 is amended by adding the statement: "Applicants for loans to provide congregate housing must furnish a narrative statement from local, State, and Government agencies supporting the need for congregate housing in the area.

(14) Exhibit F-7, item b is amended by adding No. 6 in the same language as item 12 above.

Therefore, as proposed, various sections of part 1822, subpart D are amended to read as follows:

§ 1822.83 Definitions.

* * * * *

(b) *Senior citizens and handicapped persons.* Any senior citizen provision in this regulation will also apply to handicapped persons. The two are defined as follows:

(1) *Senior citizen.* A person who is 62 years of age or over and in the case of a married couple may be either the wife or husband. A person younger than 62 years of age may reside with a senior citizen: *Provided,* (*a*) The person is considered a member of the family of the senior citizen, or (*b*) the person's occupancy can be shown to be necessary for the well-being of the senior citizen.

(2) *Handicapped person.* A person, or in the case of a married couple either the husband or wife, who has an impairment which (*a*) is expected to be of long-continued and indefinite duration, (*b*) substantially impedes his or her ability to live independently, and (*c*) is of such a nature that such ability could be improved by more suitable housing conditions or if such person is a developmentally disabled individual. A developmentally disabled individual is a handicapped person with a disability attributable to mental retardation, cerebral palsy, epilepsy, autism, or other conditions found to be closely related to mental retardation or to require treatment and services similar to that required for mentally retarded individuals. The developmental disability must originate before such person attains age 18, must have continued or be expected to continue indefinitely, and must constitute a substantial handicap to such person's ability to function normally in society. A person who is not handicapped may reside with the handicapped person: *Provided,* (*a*) The person is considered a member of the family of the handicapped, or (*b*) the persons occupancy can be shown to be necessary for the well-being of the handicapped.

* * * * *

(e) *Eligible occupants.* (1) * * *

(i) A senior citizen or handicapped person with a low or moderate income, or

(ii) * * *

(2) * * *

(i) A senior citizen or handicapped person without regard to income.

(ii) * * *

(f) *Housing.* Structures in a rural area which are or will be suitable for and available to eligible occupants for dwelling use to provide congregate or independent living on a rental basis. They may include "related facilities" where appropriate. In the case of congregate housing, some or all of the units may have limited kitchen facilities, such as small oven or cooktop and a refrigerator when a central dining facility is provided that will provide wholesome and economic meals for senior citizens or handicapped persons.

(g) *Related facilities.* Community rooms or buildings, cafeterias, dining halls, appropriate recreation facilities, and other essential service facilities such as central heating, sewerage, light systems, ranges and refrigerators, clothes washing machines and clothes dryers, and a safe domestic water supply. Under special conditions, such as a project for the handicapped, a project may have an infirmary, therapy room, special bathing room, and other special areas needed by physically handicapped persons. When ranges, refrigerators, dish washing machines, and dryers are included they will be attached to the real estate in a manner to prevent easy removal.

* * * * *

§ 1822.84 Eligibility requirements.

(a) * * *

* * * * *

(2) Be unable to provide the housing from its own resources and with the exception of a State and local public agency, be unable to obtain the necessary credit from private or cooperative sources on terms and conditions that would enable the applicant to rent the units for amounts that are within the payment ability of eligible low- and moderate-income or senior citizen and handicapped occupants.

(i) For an individual, the assets of both the applicant and spouse will be considered.

* * * * *

(iv) For a loan to provide congregate housing, applicants must be able to obtain assistance from other sources to operate the food services. The cost of the food services will not be considered as an operation and maintenance cost of the project. Where an applicant lacks experience in providing and operating food service facilities, and agreement must be furnished by the applicant which meets the following requirements:

(A) The dining facilities must be provided on a contractual basis with a firm or person experienced in and capable of providing such services.

(B) The applicant must agree to provide a minimum of one wholesome cooked meal per day, at least 5 days per week. If tenants are charged for meals such charges must be separate from their rental charges.

(C) If the applicant is the type of entity that is eligible to accept Food Stamps under the regulations of the Food and Nutrition Service (FNS) of the USDA, such applicant must be authorized by FNS to accept Food Stamps form the tenants for the purchase of meals.

(D) The agreement must set forth the services to be provided and the fees to be charged (if any) for those services.

(E) The agreement must contain the following statement:

This agreement shall not be effective unless and until approved by the State Director of the Farmers Home Administration, U.S. Department of Agriculture, or a delegated representative.

Farmers Home Administration
By: _____

Dated: _____.

* * * * *

§ 1822.85 Loan purposes.

* * * * *

(e) * * *

* * * * *

(3) Central cooking and dining facilities when the project is large enough to justify such services to supplement the kitchen facilities in each unit or if the project is for congregate housing. All equipment purchased with loan funds for the central cooking and dining facilities, such as stove, refrigerators, ovens, dish washing machines, or other equipment must become part of the real estate upon installation. For congregate housing, the availability of assistance from other State or Federal agencies (on a long term agreement) should be considered in determing the size of the dining facilities. If needed in the community, FmHA would permit dining facilities larger than that required solely by the tenants of the project, provided other sources of funds are available to pay a pro rata share of the cost of construction.

* * * * *

§ 1822.86 Limitations.

* * * * *

(b) * * *

* * * * *

(6) Nursing homes, special care facilities, or institutional-type homes. This limitation should not, however, preclude making loans for housing which is designed for occupancy by senior citizens and handicapped persons who are capable of caring for themselves, but will not live on a totally independent basis because of a need for some supervision and central services.

(7) Operating capital for a central dining facility or any items which do not become affixed to the real estate security, (such as special equipment, furnishings, kitchen ware, dining ware, eating utensils, movable tables and chairs, etc.).

(8) Any facilities not essential to the needs of the tenants, except as provided in Section 1822.85(e)(3).

(8) [Renumbered to (9) without change]

(9) [Renumbered to (10) without change]

(10) [Renumbered to (11) without change]

(11) [Renumbered to (12) without change]

(12) [Renumbered to (13) without change]

* * * * *

§ 1822.88 Special conditions.

(a) * * *

* * * * *

(2) As a general rule, consist of multiunit type housing with two or more family units and any appropriate related facilities. However, in some cases, single family dwellings may be provided for handicapped persons needing congregate living arrangements in a residential setting. When community rooms or buildings are provided as part of the related facilities, their gross square footage area should be within the guidelines set forth in the HUD Manual of Acceptable Practices (MAP) 4930.1.

(3) Be residential in character and location and be designed to meet the needs of eligible occupants. Generally, RRH units should not be more than two-story structures. However, in some cases, especially those projects designed for occupancy by senior citizens and handicapped persons, higher structures with elevators can be considered on an individual case-by-case basis, with prior written authorization from the National Office, when the following conditions exist:

* * * * *

(iii) The number of stories proposed for the rural rental housing structure is compatible with other rental structures in the community. If there are no other rental structures in the community of comparable height, the proposed structure must be in character with surrounding structures and the applicant's market survey report, submitted in accordance with Exhibit F-7, must identify market acceptability for the number and type of low-rise rental units proposed.

* * * * *

(7) Contain bathroom and kitchen facilities in each unit. Congregate housing projects must contain a minimum of a small oven or a cooktop and a refrigerator in each unit.

* * * * *

(h) * * *

* * * * *

(3) For housing projects financed with RRH loans and limited to eligible senior citizen and handicapped applicants, the State Director is authorized to permit the borrower to rent units to other eligible low- and moderate-income families and persons, provided such units will be rented on a temporary basis and only until they can be rented to eligible senior citizens or handicapped persons.

* * * * *

§ 1822.90 Technical, legal, and other services.

* * * * *

(e) *Compliance with Federal, State and local codes, regulations, and ordinances.* Planning, construction, zoning, and operation of housing financed with the RRH loan will conform with any applicable laws, ordinances, codes, and regulations, including any licensing required, governing such matters as construction, heating, plumbing, electrical installation, fire

prevention, health, sanitation, use and occupancy.

* * * * *

EXHIBITS

EXHIBIT A

(RRH Loan to Broadly Based Nonprofit Corporation)

Loan Resolution of ————, 19——.

Resolution of the Board of Directors of —— providing for borrowing $———— to finance rental housing and related facilities in a rural area for senior citizens and handicapped persons and/or families of low or moderate income, the collection, handling, and disposition of income, the issuance of installment promissory not and real estate security instrument, and related matters.

* * * * *

EXHIBIT B

(RRH Insured Loan to Profit Type Corporation)

Loan Resolution of ————, 19——.

Resolution of the Board of Directors of —— providing for borrowing $———— to finance rental housing and related facilities in a rural area for senior citizens and handicapped persons and/or other persons and families with low or moderate incomes in rural areas, the collection, handling, and disposition of income, the issuance of installment promissory note and real estate security instrument, and related matters.

* * * * *

EXHIBIT F-6

Information to be submitted with preapplication for rural rental housing (RRH) loan.

* * * * *

2. Need and demand:

a. A realistic estimate of need and demand for the number of living units of the type proposed, based on the availability of rental housing and the number of eligible applicants living in the area willing and able to pay the proposed rental rates. Applicants for loans to provide congregate housing must furnish a narrative statement from local, State, and Government agencies supporting the need for congregate housing in the area.

EXHIBIT F-7

Information to be submitted with application for Federal assistant (short form).

* * * * *

1. A plot plan, detailed preliminary plans and specifications and any special design features for senior citizens and handicapped persons as prescribed in the construction guide.

* * * * *

b. * * *

3. Characteristics of the persons eligible for occupancy of the proposed housing, such as single or couple, male or female, size of family, number of senior citizens, nonsenior citizens and handicapped persons, and income and financial condition.

* * * * *

(6) Applicants for loans to provide congregate housing, must furnish a narrative statement from local, State and Government agencies supporting the need for congregate housing in the area.

EXHIBIT G

(RRH Loan to Profit Type Corporation Operating on a Limited Profit Basis.)

Loan Resolution of ————, 19——.

Resolution of the Board of Directors of —— providing for borrowing $———— to finance rental housing and related facilities in a rural area for senior citizens and handicapped persons and/or other persons and families with low or moderate incomes in rural areas, the collection, handling, and disposition of income, the issuance of installment promissory note and real estate security instrument, and related matters.

* * * * *

EXHIBIT J

Interest Credits on Insured RRH and RCH Loans

* * * * *

IV. *Options of Borrowers.* * * *

A. Plan I.—1. Borrowers operating under this plan must agree to limit occupancy of the housing to low-income nonsenior citizens and low- and moderate-income senior citizens and handicapped persons.

* * * * *

B. Plan II.—1. Borrowers operating under this plan must agree to limit occupancy of the housing to low- and moderate-income families and persons, and senior citizens and handicapped persons of any income.

* * * * *

(42 U.S.C. 1480, delegation of authority by the Secretary of Agriculture, 7 CFR 2.23, delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70.)

Dated: July 26, 1978.

JAMES E. THORNTON,
Associate Administrator,
Farmers Home Administration.

[FR Doc. 78-21360 Filed 8-1-78; 8:45 am]

[3410-34]

Animal and Plant Health Inspection Service

[9 CFR Part 92]

IMPORTATION OF ANIMALS

Notice of Proposed Rulemaking

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rulemaking.

SUMMARY: This document proposes to amend the regulations to permit the entry of horses, except horses from or that have transited countries where African Horsesickness exists, into the United States at any port designated by the U.S. Customs Service as an international port or airport when a quarantine facility has been provided by the importer or his agent and has been approved in advance by the Deputy Administrator. This action is taken in response to requests made by importers who prefer to have their horses entered into the United States as close to their final destination as possible in order to minimize stress and interruption in training schedules. This action would provide procedures whereby horses may be entered into the United States at additional international ports and airports where no facilities or quarantine services are currently provided.

DATE: Comments on or before August 19, 1978.

ADDRESS: Written comments to Deputy Administrator, USDA, APHIS, VS, Room 821, Federal Building, 6505 Belcrest Road, Hyattsville, Md. 20782.

FOR FURTHER INFORMATION CONTACT:

Dr. David E. Herrick, USDA, APHIS, VS, Room 815, Federal Building, Hyattsville, Md. 20782, 301-436-8170.

SUPPLEMENTARY INFORMATION: All written submissions made pursuant to this notice will be made available for public inspection at the Federal Building, 6505 Belcrest Road, Room 821, Hyattsville, Md., during regular hours of business (8 a.m. to 4:30 p.m., Monday to Friday, except holidays) in a manner convenient to the public business (7 CFR 1.27(b)).

The first event under which these proposed requirements would be used is scheduled for early September 1978. In order that public notice can be given and comments received can be considered and acted upon in time to give importers the time to make shipping arrangements, this rulemaking proceeding should be expedited. Accordingly, the Department is limiting public comment on these proposed regulations to 15 days.

Notice is hereby given in accordance with the administrative procedure provisions in 5 U.S.C. 553, that, pursuant to section 2 of the Act of February 2, 1903, as amended; and sections 2, 3, 4, and 11 of the Act of July 2, 1962 (21 U.S.C. 111, 134a, 134b, 134c, and 134f), the Animal and Plant Health Inspection Service is considering amending Part 92, Title 9, Code of Federal Regulations.

Horses offered for entry into the United States are required to enter at ports designated in 9 CFR, Part 92.3, and are held at such ports while various tests are completed to determine whether the horses are free from com-

municable diseases. Although owners or trainers are permitted to enter the premises of the quarantine facility to exercise their horses during the period of detention, certain importers maintain that detaining a horse at the port of entry and again moving the animal to its final destination following its release at the port results in loss of condition and places such an animal at a disadvantage when participating in contests or exhibitions. Other importers claim that the procedure is inconvenient, costly, and time consuming and subjects the animal to unnecessary stress. Presently, the Deputy Administrator may, upon request, in specific cases, waive the requirement that animals enter the United States at ports designated in § 92.3 when he finds that such action will not endanger the health of livestock or poultry of the United States. However, these waivers can be granted only if they are used in situations and under circumstances presenting problems that could not have been reasonably anticipated in advance. The waivers cannot be granted so as to create general exceptions from the regulations, and any rules of general applicability that are developed in the exercise of such authority must be promulgated in the FEDERAL REGISTER. Therefore, in order to accommodate the continuing requests made by persons and associations who prefer to have their horses entered into the United States at locations as close to their final destinations as possible, the Department is proposing to revise the regulations to permit horses, except horses from or that have transited countries where African horsesickness is declared to exist, to be entered into the United States at any port designated by the U.S. Customs Service as an international port or airport.

In § 92.3, paragraph (a) would be amended to include paragraph (e) and a new proposed paragraph (f) within the exceptions to the requirement that all animals enter through ports listed in paragraph (a). The addition of proposed paragraph (f) to the list of exceptions would be necessary because proposed paragraph (f) would create an additional exception to the requirement that all animals enter through the stations designated in paragraph (a). The failure to include paragraph (e) in the list of exceptions in paragraph (a) was an oversight. This proposal would correct this oversight.

In § 92.3 present paragraph (f) would be redesignated paragraph (g) and a new paragraph (f) would be added to this section. Paragraph (f) would authorize the use of any port, designated as an international port or airport by the U.S. Customs Service, as an additional port of entry for horses, except horses from or which have transited any country in which African horsesickness is declared to exist. The Department has found that horses from, or that have transited countries affected by African horsesickness, must be quarantined at the Department-operated quarantine station serving the port of New York. African horsesickness is a potentially devastating disease of horses that can be disseminated by insect vectors and for which the Department now requires a minimum quarantine period of 60 days. These factors make it impractical to quarantine such horses elsewhere. The Department does not have funds to construct facilities at these additional ports for horses. Therefore, this proposal would require that importers provide the quarantine facilities at additional ports for horses. The requests for approval and plans for the proposed facility would be submitted to the Deputy Administrator, Veterinary Services at least 15 days before the proposed date of entry of the horses into the quarantine facility. Fifteen days would be necessary to give the Deputy Administrator sufficient time to review and approve or deny such plans. This time would also be required to give a Department Veterinary Medical Officer the opportunity to inspect the facility to see that it complies with standards for such facilities proposed in new § 11(d)(3). Approval of any facility would be refused and approval of any quarantine facility would be withdrawn by the Deputy Administrator, Veterinary Services, upon his determination that any requirement of § 92.11 is not being met. Before such action is taken, the operator of the facility would be informed of the reasons for the proposed action by the Deputy Administrator and afforded an opportunity to present his views thereon. If there is a conflict as to any material fact, a hearing would be held to resolve such conflict.

The Department does not have funds to operate or maintain such facilities. Therefore, this proposal would require that importers bear all of the maintenance and operation costs of such facilities. However, fees would not be charged to the importer for veterinary inspection except for times outside the inspecting veterinary officer's scheduled tour of duty. At those times, the importer would be liable to reimburse Veterinary Services for such overtime services in accordance with 9 CFR Part 97.

To qualify as an approved quarantine facility at an additional port for horses, the facility would be required to be maintained in accordance with the minimum standards proposed in § 92.11(d)(3). These minimum standards would be promulgated to prevent the spread of disease and to insure that the horses are housed in a facility which provides them with adequate food, water, and shelter.

The facility would be under the supervision of a Veterinary Service's veterinarian to assure that the required security measures are carried out and to meet the Department's legal obligation to provide veterinary inspection during quarantine for those animals it is responsible for under provisions of the animal quarantine laws. If disease is found, it would be necessary for a veterinary inspector to be present to properly dispose of infected or exposed animals to prevent disease spread.

Inspection and quarantine services would be arranged by the importer or his agent with Veterinary Services' import animal staff, no less than 7 days before the proposed date of entry of horses into the quarantine facility. Seven days would be necessary to give the Veterinary Services' import animal staff sufficient time to arrange for personnel and equipment for such quarantine and inspection services.

Physical requirements for the facility would include the location of the facility in a place isolated from susceptible animals to reduce the risk of introducing disease, should the animals in quarantine be found to be infected. The facility would be required to be constructed so as to give protection to the horses in quarantine from adverse environmental conditions such as noise and inclement weather, and so it can be cleaned, washed and disinfected in order to reduce the risk of the facility being a source of infection. Since many equine diseases are transmitted by insect vector, it would be necessary to provide double screening on all windows, doors, and other openings of the facility to prevent the introduction of insects which could become disease vectors, should the horses in quarantine be infected. An adequate supply of water would be necessary, not only for cleaning purposes, but to assure that the horses being held would have sufficient water to meet their own physical requirements.

The importer would be required to provide for disposing of all waste, including animal carcasses, not only to prevent the possible dissemination of disease, but to comply with applicable environmental quality requirements of State, Federal, or local agencies. It would also be necessary that the horses be housed in a facility which provides adequate food, water and shelter.

Access to the facility would be limited to persons working at such facility or to persons granted access to such facility by the supervising Veterinary Services veterinarian. All persons working at the facility would be required to refrain from contact with other horses during the period they

are attending any horse quarantined in such a facility. These restrictions would be necessary because it is possible to transmit certain diseases from infected horses to susceptible horses by persons who may have had their clothing or their person contaminated with disease agents.

This proposal would authorize horses offered for importation for exhibition or show purposes to be taken outside the facility in the custody of the importer for specified time periods for exercise or training when their removal from the quarantine facility would not constitute an undue risk of introducing disease. The time periods of exercise or training would be specified in each case by the Veterinary Services veterinarian and would be conducted in a manner to assure that the quarantined animals will have no contact with susceptible animals outside the facility.

Accordingly, Part 92, Title 9, Code of Federal Regulations would be amended in the following respects:

1. In § 92.3, paragraph (a) up to the colon would be amended to read:

§ 92.3 Ports designated for the importation of animals.

(a) *Ocean ports.* The following ports are hereby designated as quarantine stations and all animals shall be entered through said stations, except as provided in paragraphs (b), (c), (d), (e), and (f) of this section and paragraph (d) of § 92.11, or § 92.24: * * *

* * * * *

2. In § 92.3, paragraph (f) would be redesignated paragraph (g) and a new paragraph (f) would be added to read:

§ 92.3 Ports designated for the importation of animals.

* * * * *

(f) *Additional ports for horses.* In addition to other ports designated for the importation of animals in this section, horses from any part of the world, except horses from or which have transited any country in which African horsesickness is declared to exist,[6] may be entered into the United States at any port designated as an international port or airport by the U.S. Customs Service provided that applicable provisions of §§ 92.8(a), 92.11(d), 92.17, and 92.2(i)(2)(iv) are met.

3. In § 92.11(d), the subparagraph following the title would be designated subparagraph (1), and new subparagraphs (2) and (3) would be added to read:

§ 92.11 Quarantine requirements.

* * * * *

(d) *Horses.* (1) * * *

(2) *Special provisions.* Horses presented for entry into the United States at any additional port for horses as provided in § 92.3(f) of this part shall be quarantined in facilities provided by the importer and approved by the Deputy Administrator, Veterinary Services. Requests for approval and plans for proposed facilities shall be submitted no less than 15 days before the proposed date of entry of horses into the quarantine facility to the Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Federal Building, Hyattsville, Md. 20782. Before the facility is approved, an inspection of the facility shall be made by a Veterinary Medical Officer of Veterinary Services, to determine whether it complies with the standards set forth in paragraph (d)(3) of this section. Approval of any facility may be refused and approval of any approved quarantine facility may be withdrawn at any time by the Deputy Administrator, Veterinary Services, upon his determination that any requirement of this section is not being met. Before such action is taken, the operator of the facility shall be informed of the reasons for the proposed action by the Deputy Administrator and afforded an opportunity to present his views thereon. If there is a conflict as to any material fact, a hearing shall be held to resolve such conflit. The cost of the facility and all maintenance and operation costs of such facility shall be borne by the importer.

(3) *Standards and handling procedures for approved quarantine facilities at additional ports for horses.* To qualify for designation as an approved quarantine facility at an additional port for horses, the facility shall be maintained and operated in accordance with the following standards:

(i) *Supervision of the facility.* The facility shall be under the supervision of a Veterinary Services veterinarian. Inspection and quarantine services shall be arranged by the importer or his agent with the Veterinary Services' Import Animal Staff, 6505 Belcrest Road, Hyattsville, Md. 20782, no less than 7 days before the proposed date of entry of the horses into the quarantine facility.

(ii) *Physical requirements for facility.*—(A) *Location.* The facility shall be sufficiently isolated to prevent quarantined horses from having direct or indirect contact with other animals.

(B) *Construction.* (1) The facility shall be so constructed that it provides protection against adverse environmental conditions and can be cleaned, washed and disinfected in a manner satisfactory to the supervising Veterinary Services veterinarian to prevent the dissemination of disease. (2) Doors, windows and other openings of the facility shall be provided with double screens to prevent insects from entering the facility.

(3) The facility shall have adequate means to feed and water the horses while in quarantine.

(iii) *Sanitation and security.* (A) The importer shall arrange for a supply of water adequate to meet all watering and cleaning needs.

(B) The importer shall arrange for the disposal of animal carcases, manure, bedding, waste, and other related materials in a manner approved by the supervising Veterinary Services veterinarian to prevent the dissemination of disease.

(C) The facility shall be maintained and operated in accordance with any additional requirements the Deputy Administrator, Veterinary Services, deems appropriate to prevent the dissemination of any communicable disease.

(D) The facility shall comply with all applicable local, State and Federal requirements for environmental quality.

(iv) *Operational procedures.*—(A) *Personnel.* (1) Access to the facility shall be granted only to persons working at the facility or to persons specifically granted such access by the supervising Veterinary Services veterinarian. (2) The importer shall provide attendants for the care and feeding of horses while in the quarantine facility. (3) Persons working in the quarantine facility shall not come in contact with any horses outside the quarantine facility during the quarantine period for any horses in such quarantine facility.

(b) *Handling of horses in quarantine.* (1) Horses offered for importation into the United States for exhibition or show purposes which are quarantined in an approved quarantine facility at an additional port for horses shall be handled in accordance with the provisions of § 92.11(d)(1) while in quarantine: *Except,* That, such horses may be temporarily released from the quarantine facility in the custody of the importer or his agent for periods of time specified by the supervising Veterinary Services veterinarian for exercise or training. Such horses shall be returned to the quarantine facility at the end of such specified time periods and while temporarily outside the quarantine facility shall be kept separate and apart from all other animals.

(2) Horses quarantined in an approved facility at an additional port for horses may not participate in any scheduled exhibition or event while temporarily released from the quarantine facility for exercise or training as provided in subdivision (iv)(B)(1) of this subparagraph.

Comments submitted should bear a reference to the date and page number of this issue in the FEDERAL REGISTER.

Done at Washington, D.C., this 27th day of July 1978.

NOTE.—The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A-107.

R. P. JONES,
Acting Deputy Administrator,
Veterinary Services.

[FR Doc. 78-21427 Filed 8-1-78; 8:45 am]

[7535-01]

NATIONAL CREDIT UNION ADMINISTRATION

[12 CFR Part 701]

ORGANIZATION AND OPERATIONS OF FEDERAL CREDIT UNIONS

Proposed Rulemaking—Loan Participations

AGENCY: National Credit Union Administration.

ACTION: Proposed rule.

SUMMARY: The purpose of this proposed rule is to implement provisions of the April 19, 1977, amendments to the Federal Credit Union Act (Pub. L. 95-22, 91 Stat. 49), which authorize Federal credit unions to participate with other lenders, under certain conditions, in loans to credit union members. The intent of the rule is to provide Federal credit unions, particularly those of small or medium asset size, the flexibility to better meet member demands and to spread the risk of those demands across a broader base. Additionally, participation arrangements should enhance a credit union's ability to react quickly and efficiently to meet liquidity needs.

DATES: Comments must be received on or before September 8, 1978.

ADDRESS: Send comments to Robert S. Monheit, Senior Attorney, Office of General Counsel, National Credit Union Administration, Room 4202, 2025 M Street NW., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT:

James L. Skiles, Deputy General Counsel, Office of General Counsel, or Thomas C. Buckman, Examination Procedures Analyst, Office of Examination and Insurance, National Credit Union Administration, 2025 M Street NW., Washington, D.C. 20456, telephone 202-632-4870 (Mr. Skiles) or 202-254-8760 (Mr. Buckman).

SUPPLEMENTARY INFORMATION:

1. BACKGROUND

Prior to the enactment of Pub. L. 95-22, Federal credit unions did not have the authority to participate in making loans, or to buy and sell partial interests in loans, with other qualified lenders. Pub. L. 95-22 grants such authority. However, as is discussed below, it creates certain limiting factors. These factors, which vary according to the time at which participation takes place, restrict Federal credit union involvement in participation lending.

2. IMMEDIATE V. DEFERRED PARTICIPATION

The sections of the Federal Credit Union Act, as amended by Pub. L. 95-22, relevant to "participation lending" are sections 107(5), 107(5)(E), 107(13), and 107(14) (12 U.S.C. 1757(5), 1757(5)(E), 1757(13), 1757(14)).

Sections 107(5) and 107(5)(E) provide authority for Federal credit unions to participate in loans through arrangements made at the time of origination. Specifically, section 107(5) allows Federal credit unions to participate "in making loans to credit union members." Section 107(5)(E) refines this authority and imposes a minimum retention requirement for Federal credit unions which "originate" (i.e., prepare the documentation for) such loans.

Sections 107(13) and 107(14), on the other hand, allow participation through the purchase or sale of a partial interest at some time subsequent to origination. Section 107(13) authorizes Federal credit unions to sell and purchase partial interests in "eligible obligations" of their own members, and section 107(14) authorizes a Federal credit union to sell a part of its "assets" to another credit union or to purchase a part of the assets of another credit union. (It is noted that sections 107(13) and 107(14) contain certain other investment authorities which will not be limited by this rule, but rather will be implemented upon issuance of separate regulations.)

Thus, the provisions of the Act distinguish between participation arrangements made in connection with the origination of a loan and participation achieved through a subsequent sale or purchase of a partial interest in an existing loan. Because of this distinction, and particularly in view of the fact that the applicable sections impose differing requirements as to the borrower's credit union membership, this proposed rule establishes two classes of participation loans: "Immediate" participation loans and "deferred" participation loans.

3. REQUIREMENTS OF CREDIT UNION MEMBERSHIP

a. *Participation loans originated by Federal credit unions.* As with any other loan, when a Federal credit union originates a participation loan, the borrower must be a member of that Federal credit union. This is a basic requisite of section 107 of the act which is, in the agency's view, unchanged by the addition of participation lending authority. Section 701.21-7(c)(1) reflects the agency's determination in this regard.

b. *Participation loans originated by other lenders.*—(i) *Immediate participation.* As discussed above, section 107(5) of the act provides the authority for immediate participations. That section authorizes Federal credit unions to participate "in making loans to credit union members." It is not specified that the borrower be a member of every participation credit union, but only that he or she be a "credit union member." In this light, it is proposed that Federal credit unions may participate (as nonoriginators) in immediate participation loans so long as the borrower is a member of a participating credit union. (See § 701.21-7(d)(2).) A more restrictive requirement would defeat the purpose of section 107(5) (i.e., by limiting interparticipation among credit unions to those few borrowers who are members of all participating Federal credit unions), while a less restrictive requirement would exceed the purpose.

(ii) *Deferred participation.* The authority for deferred participations is, as previously discussed, contained in sections 107(13) and 107(14) of the act. The membership requirements of these sections are inescapably more restrictive. Section 107(13) allows Federal credit unions to purchase partial interests in loans to their own members, and thus deferred participation, even as a nonoriginator, will require that the borrower be a member of the Federal credit union. Section 107(14), in effect, allows one exception: A Federal credit union may purchase a partial interest in loans to members of another credit union, when the selling credit union faces a bona fide liquidity need. The language of section 107(14) might on its face be read more broadly so as to allow the purchase of a partial interest in loans of another credit union under any conditions. The section's legislative history indicates, however, that it should be used only as a liquidity and solvency device. (See, H. Rept. 95-23, page 12). These determinations are reflected in § 701.21-7(d)(3) of the proposed rule.

4. DEFINITIONS

The proposed rule, at § 701.21-7(a)(1), defines "immediate participation loan" as a loan for which the

commitment to participate is made within 60 days from disbursement. Thus, a participation commitment is considered to have been made in connection with origination of the loan as long as the commitment follows within 60 days from disbursement.

This proposed "60-day rule" recognizes that it will not always be possible to secure participation commitments prior to or coinciding with disbursement of a loan. Thus, it is intended that when a loan is made with a view to participation, a Federal credit union may participate pursuant to the less restrictive standards of an "immediate participation" as long as the commitment is finalized within a reasonable time. A definite time frame—60 days—is proposed because of the difficulty of administering any less precise standard.

It is noted that line of credit loans have been excluded from the definitions of both immediate and deferred participation loans. This is proposed in view of the operational problems that would result if participation arrangements in such loans were permitted.

5. GENERAL AUTHORITY

Pursuant to § 701.21-7(b), Federal credit unions are authorized to enter into immediate and deferred participation arrangements. Those arrangements must conform to the written participation loan policies established by the board of directors. Further, subsection (b) requires that in any participation arrangement certain conditions, in addition to those discussed above, must be met.

(a) *Eligible lenders.* Federal credit unions may enter into participation arrangements only with certain specified lenders: Other credit unions, credit union organizations, and financial organizations. These terms, which are defined in § 701.21-7(a) of the proposed rule, appear in section 107(5) of the act. They do not appear in sections 107(13) or 107(14). Thus, it might be argued that this requirement should apply only to immediate and not to deferred participations. It is proposed, however, that the requirement be placed upon all participation arrangements, both for consistency and to assure fulfillment of the clear congressional intent expressed in section 107(5).

(b) *Limit on loans to one borrower.* A Federal credit union's interest in any participation loan may not exceed 10 per centum of its unimpaired capital and surplus. If the borrower has any other outstanding loans owing to the Federal credit union, the sum of the borrower's indebtedness on such loans and the Federal credit union's interest in the participation loan may not exceed the 10-percent limit. For example, if a Federal credit union has granted a loan to one of its members in the amount of $10,000, and then obtains a 10-percent interest in a $100,000 loan originated by a savings and loan association to that same member, it must add the individual loan to the participating interest in determining that the 10-percent figure is not exceeded. This proposal is consistent with the intent of section 114 of the act, which limits indebtedness to a Federal credit union by any one borrower.

(c) *Written agreement.* Participation agreements must be reduced to written contracts which cite the responsibilities and obligations of each participant. It is the Administration's intent that the contract will cover otherwise unforeseen situations that might create problems during the life of the loan. It is also the intent of the Administration that each participant be treated equitably with regard to the distribution of payments and the sharing of any losses.

(d) *Recourse or repurchase provisions.* Except for cases of breach of warranty or misrepresentation, a Federal credit union is prohibited from entering into participation agreements that contain recourse or repurchase provisions. Without this restriction it is conceivable for Federal credit unions to have very large contingent liabilities, which, if realized, might affect the solvency of the credit union.

(e) *Real estate lending limited to 25 percent of assests.* The aggregate of real estate loans with maturities in excess of 12 years, including both loans originated under § 701.21-6 and a Federal credit union's interest in any real estate loans in which it participates pursuant to this proposal, may not exceed 25 percent of the Federal credit union's assets. The Administration has placed this restriction on Federal credit unions' lending authority in order to ensure that the consumer credit needs of members are not overshadowed by real estate lending.

6. ORIGINATING LENDER

Subsection 701.21-7(c) delineates those requirements applicable to an originating lender. As previously discussed, a Federal credit union may originate loans only to its members. Obviously, in a deferred participation arrangement, the loan, at its inception, is just like any other loan and this requirement is superfluous.

Also, a Federal credit union must, if it is the originator of a loan, retain at least a 10-percent interest in the loan. Section 107(5)(E) establishes this requirement for immediate participations. For consistency, the rule would impose this requirement on all participation loans.

7. PARTICIPATION OTHER THAN AS AN ORIGINATING LENDER

Subsection 701.21-7(d) sets forth certain requirements for Federal credit union participation as a nonoriginator. Of particular import is the requirement that Federal credit unions shall participate only in those loans they are empowered to grant. For example, if a Federal credit union would not have the authority to make a particular real estate loan to its members, it cannot participate in the making of that type loan to a member of another credit union. On the other hand, if the only barrier to Federal credit union origination of a particular type of loan would be receipt of the Administrator's approval (e.g., as is the case with Federal credit unions that have less than $2 million in assests and wish to make real estate loans) the Federal credit union may likewise seek the Administrator's approval to participate in such loans.

Subsection (d)(2) also sets out the previously discussed requirements of credit union membership (by the borrower) for loans in which a Federal credit union participates as a nonoriginator and, finally, requires that the board of directors or investment committee approve such loans.

Lastly, it is the Administration's belief that participation lending will facilitate the joining of credit unions with other eligible lenders to meet the mortgage or housing loan needs of credit union members. This fact, along with other recent or pending developments which serve to elevate Federal credit union involvement in mortgage lending (such as the regulation regarding sales of 30-year real estate loans, issued concurrently with this proposal) indicates the Administration should review its regulations and enforcement policies relating to lending discrimination, with particular emphasis on "redlining"—geographically oriented mortgage discrimination.

LAWRENCE CONNELL,
Administrator.

JULY 27, 1978.

(Sec. 120, 73 Stat. 635 (12 U.S.C. 1766) and sec. 209, 84 Stat. 1104 (12 U.S.C. 1789).)

§ 701.21-7 Loan participations.

(a) For the purpose of this section: (1) "Immediate participation loan" means a loan, other than a line of credit loan, made in participation with one or more eligible organizations where the commitment to participate is made within 60 days from disbursement.

(2) "Deferred participation loan" means a loan, other than a line of credit loan, in which a Federal credit union participates with one or more eligible organizations, where the com-

mitment to participate is made after 60 days from disbursement.

(3) "Financial organization" means any federally chartered or federally insured financial institution, the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, or the Government National Mortgage Association.

(4) "Credit union organization" means any organization as determined by the Administrator, established primarily to serve the daily operational needs of its member credit unions. The terms does not include trade associations, membership organizations principally composed of credit unions, or corporations, or other businesses which principally provide services to credit union members as opposed to corporations or businesses whose business relates to the daily in-house operation of credit unions.

(5) "Eligible organizations" means a credit union, financial organization, or credit union organization.

(6) "Originating lender" means the participant which prepares the necessary documentation to make an immediate or deferred participation loan.

(7) "Custodial account" means a special payable account established for the accumulation of loan payments awaiting distribution to participants.

(8) "Credit union" means any Federal or State chartered credit union.

(b) Subject to the provisions of this section any Federal credit union may participate in immediate or deferred participation loans with eligible organizations within the limitations of the board of directors' written participation loan policies: *Provided:*

(1) No Federal credit shall obtain an interest in an immediate or deferred participation loan if the sum of that interest and any (other) indebtedness owing to the Federal credit union by the borrower exceeds 10 per centum of the Federal credit union's unimpaired capital and surplus;

(2) A written participation agreement shall be properly executed, acted upon by the Federal credit union's board of directors or the investment committee and retained in the Federal credit union's office. At a mimimum, the agreement shall include provisions which:

(i) Identify the participation loan or loans;

(ii) Provides for the collection, processing, and/or remittance of payments, late charges, service charges, escrow accounts (if required), and custodial accounts;

(iii) Disclose the responsibilities of each participant in the event the loan becomes subject to collection, loss, or foreclosure;

(iv) Provide that in the event of a loss each participant shall share in the loss equal to its interest in the participation loan;

(v) Provide for the distribution of payments to each participant proportionate to its interest in the participation loan;

(vi) Provide for loan status reports to each participant; and

(vii) State the terms and conditions under which the agreement may be terminated or modified.

(3) An immediate or deferred participation loan agreement shall not be subject to recourse or contain repurchase provisions. However, an agreement which requires the originating lender to repurchase a participating interest because of any breach of warranty or misrepresentation is permitted.

(4) A Federal credit union's acquired interest in both immediate and deferred participation real estate loans with maturities in excess of 12 years shall be included in the aggregate dollar amount of real estate loans allowed under § 701.21-6(b)(4) of this chapter.

(5) A Federal credit union may contract to service any loan in which it owns a participation interest.

(c) An originating lender which is a Federal credit union shall:

(1) Originate loans only to its members;

(2) Retain an interest of at least 10 per centum of the fact amount of each loan;

(3) Retain the original or copies of the loan documents; and

(4) Obtain the approval of the credit committee or loan officer.

(d) A participant Federal credit union that is not an originating lender shall:

(1) Participate only in loans it is empowered to grant;

(2) Participate in immediate participation loans only if made to its own members or members of another participating credit union;

(3) Participate in deferred participation loans only if made to its own members or members of a selling credit union which has a bona fide liquidity need;

(b) Retain the original or copies of the loan documents; and

(5) Obtain the approval of the board of directors or investment committee.

[FR Doc. 78-21398 Filed 8-1-78; 8:45 am]

[6750-01]

FEDERAL TRADE COMMISSION

[16 CFR Part 13]

[Docket No. 9090]

ROYAL FURNITURE CO., INC. ET AL.

Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Provisional consent agreement.

SUMMARY: In settlement of alleged violations of Federal law prohibiting unfair acts and practices and unfair methods of competition, this provisionally accepted agreement, among other things, would require a Bronx, N.Y., furniture and appliance retailer to cease failing to advise consumers that cosigners may be required in credit transactions; signed documents are not final until they have been approved; and that customers may, upon denial of credit, cancel purchases and receive refund of downpayments. The company would be required to honor valid cancellations; make proper refunds; and furnish consumers with credit disclosures required by Federal Reserve System regulations, and booklets outlining their legal and contractual rights. Additionally, the firm would be prohibited from engaging in harassing debt collection practices, including false threats of repossession and garnishment; and improper third party contact. The order also would require the firm to establish procedures for handling complaints regarding defective, damaged, or nonconforming merchandise; and maintain specified records.

DATE: Comments must be received on or before September 29, 1978.

ADDRESS: Comments should be directed to Office of the Secretary, Federal Trade Commission, Sixth Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT:

John F. Dugan, Acting Regional Director, New York Regional Office, Federal Trade Commission, 2243-EB Federal Building, 26 Federal Plaza, New York, N.Y. 10007, 212-264-1207.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 3.25(f) of the Commission's rules of practice (16 CFR 3.25(f)), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and provisionally accepted by the Commission, has

been placed on the public record, together with material submitted to the Commission that is not exempt from public disclosure under the Freedon of Information Act, for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with section 4.9(b)(14) of the Commission's rules of practice (16 CFR 4.9(b)(14)).

[Document No. 888000111]

UNITED STATES OF AMERICA BEFORE FEDERAL TRADE COMMISSION

In the matter of Royal Furniture Co., Inc., a corporation, and Milton Landes, individually and as an officer of said corporation.

Docket No. 9090, agreement containing consent order to cease and desist.

The agreement herein, by and between Royal Furniture Co., Inc., a corporation, by its duly authorized officer, and Milton Landes, individually and as officer of said corporation, hereafter sometimes referred to as respondents, hereafter sometines referred to as respondents, and their attorney, and counsel for the Federal Trade Commission, is entered into in accordance with the Commission's rule governing consent order procedures. In accordance therewith the parties hereby agree that:

1. Respondent Royal Furniture Co., Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at 2936 Third Avenue, Bronx, N.Y.

Respondent Milton Landes is an officer of said corporation. He formulates, directs, and controls the policies, acts, and practices of said corporation, and his address is the same as that of said corporate respondent.

2. Respondents have been served with a copy of the complaint issued by the Federal Trade Commission charging them with violation of the Federal Trade Commission Act, as amended, and of the Truth in Lending Act and the implementing regulation promulgated thereunder, and have filed answers to said complaint denying said charges.

3. Respondents admit all the jurisdictional facts set forth in the Commission's complaint in this proceeding.

4. Respondents waive:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

5. This agreement shall not become a part of the public record of the proceeding uness and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with related materials pursuant to rule 3.25(f), will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the respondents, in which event it will take such action as it may consider appropriate, or issue and serve its decision, in disposition of the proceeding. The Commission may, at any time pending final acceptance of this order, require hearings on the relief requirements provided by this order.

6. This agreement is for settlement purposes only and does not constitute an admission by respondents that the law has been violated as alleged in said copy of the complaint issued by the Commission.

7. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of section 3.25(f) of the Commission's rules, the Commission may without further notice to respondents, (1) issue its decision containing the following order to cease and desist in disposition of the proceeding, and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and in the same time provided by statute for other orders. The order shall become final upon service. Mailing of the decision containing the agreed-to order to respondents' address as stated in this agreement shall constitute service. Respondents waive any right they may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or in the agreement may be used to vary or to contradict the terms of the order.

8. Respondents have read the complaint and the order contemplated hereby. They understand that once the order has been issued, they will be required to file one or more compliance reports showing that they have fully complied with the order, and that they may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

ORDER I

A. *It is ordered*, That respondents, Royal Furniture Co., Inc., a corporation, its successors and assigns, and its officers, and Milton Landes, individually and as an officer of said corporation, and respondents' agents, representatives, and employees, directly or through any corporation, subsidiary, division, or any other device, in connection with the purchasing, advertising, offering for sale, sale, and distribution of furniture or other merchandise in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, as amended, do forthwith cease and desist from:

1. Representing, directly or by implication, that respondent's terms of credit are lenient, including but not limited to representations that respondents offer "easy credit" or "instant credit" or that customers can arrange their own downpayments.

2. Failing to disclose conspicuously, in close conjunction with every mention of the availability of credit and credit terms in respondents' advertising, and in a manner appropriate to the media used, that cosigners may be required of persons whose credit ratings do not meet respondents' standards for credit accounts if respondents, in the course of their business, ever require cosigners.

3. Failing to offer to refund any consumer deposit placed toward purchases at the time the consumer's credit agreement for a purchase or credit account is disapproved and failing to make such refund within seven (7) business days from the request for such refund.

4. Failing to provide any consumer whose credit account or purchase is subject to credit approval with the following information, at the time the credit agreement is signed, in at least 12 point type:

"IMPORTANT!

"PLEASE READ THIS BEFORE YOU SIGN!

"This contract will be checked by our credit department before we will deliver anything. Maybe they won't approve it. If they don't, we may ask you for a bigger downpayment. Or for bigger monthly payments. Or for one or more added signatures by relatives or friends (called cosigners) who'll promise to pay if you don't.

"If you don't agree with those changes, you can cancel your order. As soon as you do that, we'll refund your downpayment.—Royal Furniture Co."

5. Unilaterally, and without the consumer's written consent, changing the terms of any credit agreement with a consumer after the consummation of the credit agreement including but not limited to requiring a larger deposit, cosigners, or purchase of less expensive merchandise. The consumer's right to give written consent cannot be waived.

6. Using any collection or dunning letter which simulates a telegram or using any other methods or forms or types of communications which misrepresent the nature, import or urgency of any communication.

7. Representing to any consumer or cosigner against whom legal proceedings have been commenced, directly or by implication, that the account has been adjusted or such suits discontinued, unless:

(a) Within seven (7) business days of making an adjustment with such consumer or cosigner, respondents discontinue the legal proceedings by filing, or causing to be filed, with the court a notice of discontinuance or notice of settlement in the form required by the court.

(b) Within ten (10) business days from making such adjustment respondents send a copy of the papers required to be filed with the court in order I(A)(7)(a) herein to the consumer and/or cosigner involved and, where applicable, to counsel representing the consumer and/or cosigner.

8. In the course of collecting a debt communicating or threatening to communicate with the consumer's employer or any agent of the employer or any other person not liable for the debt other than the spouse or attorney of the consumer or threatening repossession, wage garnishment, or other extraordinary measures, except:

(1) Inquiry to locate a consumer whose whereabouts are genuinely unknown to the creditor; and/or

(2) Inquiry to determine the nature and extent of a consumer's wages or property;

(3) Communication with credit bureaus to the extent permitted by the Fair Credit Billing Act, 15 U.S.C. 1666, and regulations promulgated thereunder.

Provided that, in these instances, no specific mention is made of the alleged indebtedness, except as permitted by the Fair Credit Billing Act, 15 U.S.C. 1666, and regulations promulgated thereunder.

9. Misrepresenting directly or by implication that respondents or their representatives are New York City marshals, sheriffs,

attorneys, or any other State or local official.

10. Misrepresenting directly or by implication the debt collection activities that respondents or their representatives are engaging in or will engage in, including but not limited to threats of immediate repossession or wage garnishment prior to obtaining judgment.

11. Failing, at all times subsequent to the effective date of this order, to maintain complete records of all notices required by order I(A) during the immediately preceding 3-year period.

12. Failing to furnish to each customer who purchases any merchandise exceeding $50 in cost, and to each customer upon the opening of a credit or charge account, a booklet containing clear disclosures, in language which is easily understandable to such customers, describing their rights and obligations in respect to respondents': (1) Warranties and guarantees; (2) refund policies, including the procedures established by orders I(A)(3), I(B)(1) (b), (c), (d), and (e); (3) delivery terms; (4) procedures for repair or replacement of nonconforming, defective or damaged merchandise, including the procedures established by order I(B); and any other rights provided for in this order and any other material information. Such disclosures shall clearly delineate the conditions which customers must comply with in order to avail themselves of any procedure established by this order or by respondents. The booklet required herein shall be submitted for approval with the initial compliance report required by order III(F).

13. Failing to disclose, orally and in writing, to each customer who purchases merchandise exceeding $50 in cost, and to each customer upon the opening of a credit or charge account, that the booklet required by order I(A)(12) above is available and will be given to each such customer. Said written notice shall be given to such customers at the time of execution of their sales or credit agreements and shall contain the following language:

"NOTICE TO CUSTOMER

"BE SURE TO GET OUR BOOKLET!

"Be sure to get our booklet that tells you about your rights. It contains our warranty and shows you what to do if something is wrong with the items we deliver. Or if the item you bought needs fixing. How to get repairs and replacements from us. Or how to get a refund.

"Take the booklet home and study it carefully. Keep it handy for future reference."

14. Failing to display prominently and conspicuously the language required by order I(a)(13) above in signs posted at four or more locations in that portion of respondents' business premises most frequented by prospective customers, and in each location where customers normally execute sales agreements, consumer credit documents, or other binding instruments. Such language shall be considered prominently and conspicuously displayed only if so positioned as to be easily observed and read by intended individuals.

15. Failing to provide in such booklet that customers may have other legal rights concerning their contracts in addition to those set out in the contract and booklet.

16. Failing to comply with all requirements, or to fulfill all of the obligations to customers, which are set forth in paragraph B of this order I, and to comply with all of the procedures and rights set forth in this booklet.

B. *It is further ordered,* That beginning the effective date of this order respondents shall cease and desist from failing to act in accordance with the following procedures:

1. As to complaints, written or oral, or damaged, defective, or nonconforming merchandise, made within thirty (30) days of actual delivery of such merchandise:

(a) Respondents shall investigate all such complaints within fourteen (14) days from the date of such request, except that if a service person cannot gain access to the merchandise for a scheduled service call, respondents shall have seven (7) days from that missed appointement in which to investigate the complaint.

(b) Respondents shall repair to mint condition or make replacement or offer to make full refund of the purchase price of damaged, defective or nonconforming merchandise within a reasonable time not to exceed thirty-one (31) days from the date of complaint, unless: (1) Such merchandise was sold "as is", and the notice requirements of order I(B)(3) were complied with; or (2) the damage or defect in the merchandise was caused by the customer or another while the merchandise was in the customer's possession or control. Whenever respondents for either of the above reasons refuse a customer's request to repair or replace merchandise or to refund the purchase price thereof, respondents shall forthwith notify the customer in writing within the aforementioned thirty-one (31) day period of the specific reasons for the refusal and shall advise the customer of the customer's right to submit any dispute arising out of such refusal to a court of law including small claims court.

(c) If the repair or replacement of such damaged, defective or nonconforming merchandise is unsatisfactory to the consumer, respondents shall cancel all applicable contract provisions with a full refund within seven (7) business days from receipt of the customer's request for cancellation. Whenever respondents for valid reasons refuse a customer's cancellation and refund request pursuant to this section, respondents shall within seven (7) business days from receipt of said request notify the customer in writing of the specific reasons for the refusal and shall advise the customer of the customer's right to submit any dispute arising out of such refusal to a court of law including small claims court.

(d) If the investigation, repair, or replacement cannot be completed within the time specified by paragraph B, subparts 1(a) and 1(b) of this order I, respondents shall make diligent efforts to notify the customer orally and shall notify the customer in writing immediately upon ascertaining that respondents are unable to make timely performance, and shall, at the customer's option cancel all applicable contract provisions with a full refund within seven (7) business days from the date set for completion. In no event shall respondents' notice of inability to make timely performance be given to the customer after the last day set out for performance in paragraph B, subparts 1(a) and 1(b) of this order I.

(e) Respondents may refund in full the actual purchase price of the merchandise if repair is not commercially practicable and respondents are unable to provide replacement.

2. For purposes of the time limitations contained in paragraph B of this order I, customers may at any time give their written consent for an extension of respondents' time for performance. Such written consent shall set forth a date certain which shall be a date by which respondents actually expect to complete performance. No rights accruing from the provisions contained in this order I shall be affected by such extension.

3. The provisions of paragraph B of this order I shall not apply to merchandise sold "as is", *Provided, however,* that when merchandise is sold "as is" respondents shall provide the following information conspicuously on the face of the sales contract, invoice and receipt for merchandise:

WARNING—"AS IS" SALE. NO WARRANTY.

This item may need repairs or replacements. Since it is sold "as is" without any warranty, you'll have to pay for them yourself. No matter what you've been told, we won't pay or return your money.

4. For purposes of the provisions of paragraph B of this order I, nonconforming merchandise shall include, but not be limited to, merchandise which, when delivered, is worn in appearance.

5. Respondents shall not sell merchandise without the implied warranty of merchantability, or with any disclaimer or limitation of such implied warranty, except that respondents may sell merchandise which is clearly designated "as is".

6. The investigation, pick-up and delivery of repair or replacement merchandise within the provisions of paragraph B of this order I shall be at no additional cost to the consumer.

7. No rights of consumers or cosigners conferred by state or local statutory law or by the common law shall be affected by the provisions and rights contained herein.

C. *It is further ordered,* That whenever a customer has sought the relief contained in paragraph B of this order I, or has advised respondents of the discontinance of payment on the ground that respondents failed to deliver merchandise, to replace nonconforming merchandise, to repair or replace defective or damaged merchandise, or to make any refund to which a customer is entitled by reason of this order, or otherwise, that respondents desist from any action to collect the amount owed or any part thereof other than mailing a routine statement of account in regard to such merchandise and to desist from giving any adverse information to any credit reporting agency, unless respondents have conducted a thorough investigation of such complaint and made a written reply to the customer, stating whether respondents have concluded that such grievance is justified or unjustified, with reasons in support thereof and what action will be taken.

D. *It is further ordered,* That before any action is taken to collect an amount due from a customer, other than the mailing of a routine statement of account, or before any adverse information is sent to a credit reporting agency, respondents shall ascertain that they are not engaged in a dispute with said customer relating to the quality of the merchandise, or its replacement, condition or repair and, if so involved, verify that respondents have investigated and found the grievance to be unjustified and have so advised the customer, in accordance with the provisions of paragraph C of this order I.

E. Order provision C and D of order I shall be deemed modified in the event that respondents extend open end credit to the extent that order provisions C and D of order I are inconsistent with the Fair Credit Billing Act and the regulations promulgated thereunder.

F. *It is further ordered*, That respondents shall, at all times subsequent to the effective date of this order, maintain, and produce for inspection and copying on reasonable demand by the Federal Trade Commission or its representatives, complete business records relating to the manner and form of their continuing compliance with this order during the immediately preceding 3-year period, such records to include: (1) All refund, repair or replacement requests sent to respondents by customers; (2) all other grievance letters and documents received from customers; (3) adequate records to disclose the facts pertaining to the receipt, handling and disposition of each and every communication from a customer, oral or written, requesting cancellation, refund, replacement or repair; (4) all investigation reports concerning such grievances; and (5) all records pertaining to those customers to whom any collection or dunning notices have been sent.

ORDER II

It is further ordered, That respondent Royal Furniture Co., Inc., a corporation, its successors and assigns, and its officer, Milton Landes, individually and as an officer of said corporation, and respondents' representatives, agents and employees, directly or through any corporation, subsidiary, division or any other device, in connection with any extension of consumer credit, or any advertisement to aid, promote, or assist directly or indirectly any extension of consumer credit, as "consumer credit" and "advertisement" are defined in regulation Z (12 CFR 226) of the Truth in Lending Act (Pub. L. 90-321, 15 U.S.C. 1601 et seq.) do forthwith cease and desist from:

1. Failing to make the required disclosures clearly, conspicuously, and in meaningful sequence, as prescribed by section 226.6(a) of regulation Z.

2. Failing to make all the required disclosures prior to the consummation of the transaction, in accordance with section 226.8(a) of regulation Z, either on:

(a) The note or other instrument evidencing the obligation on the same side of the page and above or adjacent to the place for the consumer's signature; or

(b) On one side of a separate statement which identifies the transaction.

3. Failing to use the term "cash downpayment" to describe the downpayment in money made in connection with the credit sale as prescribed by section 226.8(c)(2) of regulation Z.

4. Failing to use the term "cash price" to describe the cash price, as defined in section 226.2(n) of regulation Z, of the property purchased, as prescribed by section 226.8(c)(1) of regulation Z.

5. Failing to use the term "unpaid balance of cash price" to describe the difference between the cash price and the total downpayment, as prescribed by section 226.8(c)(3) of regulation Z.

6. Failing to use the term "unpaid balance" to describe the sum of the unpaid balance of cash price and all other charges which are included in the amount financed, but which are not part of the finance charge, as prescribed by section 226.8(c)(5) of regulation Z.

7. Failing to use the term "amount financed" to describe the amount of credit of which the customer will have actual use determined in accordance with section (c)(7) of section 226.8 of regulation Z.

8. Failing to determine the sum of all charges incident to or as a condition of the extension of credit as required by section 226.4 of regulation Z and to disclose that sum, with a description of each amount included, using the term "finance charge", as required by section 226.8(c)(8)(i) of regulation Z and also to print this term more conspicuously than other terminology as required by section 226.6(a) of regulation Z.

9. Failing to disclose the sum of the cash price, all charges which are included in the amount financed but which are not part of the finance charge, and the finance charge, and to describe that sum as that "deferred payment price", as required by section 226.8(c)(8)(ii) of regulation Z.

10. Failing to disclose the annual percentage rate, computed in accordance with section 226.5 of regulation Z, as required by section 226.8(b)(2) of regulation Z and to print that term more conspicuously than other terminology, as required by section 226.6(a) of regulation Z.

11. Failing to disclose the number, amounts and due dates or periods of payments scheduled to repay the indebtedness, and the sum of such payments, and to describe that sum as the "total of payments", as prescribed by section 226.8(b)(3) of regulation Z.

12. Failing to identify the amount or the method of computing the amount of any default, delinquency or similar charge payable in the event of late payments, as required by section 226.8(b)(4) of regulation Z.

13. Failing to disclose the method of computing any unearned portion of the finance charge in the event of prepayment of the obligation, as required by section 226.8(b)(7) of regulation Z.

14. Failing, in any consumer credit transaction or advertisement, to make all disclosures determined in accordance with sections 226.4 and 226.5 of regulation Z, in the manner, form and amount required by sections 226.6, 226.7, 226.8, 226.9 and 226.10 of regulation Z.

ORDER III

A. *It is further ordered*, That respondents prominently display the following notice in two or more locations in that portion of respondents' business premises most frequented by prospective customers, and in each location where customers normally sign consumer credit documents or other binding instruments. Such notice shall be considered prominently displayed only if so positioned as to be easily observed and read by the intended individuals:

NOTICE TO OUR CREDIT CUSTOMERS

If you're going to pay in installments, ask for a statement that shows exactly how much you're going to pay. The law says you must be given that statement before you sign any papers. Don't sign before you've read the statement. If there's anything you don't understand, please ask us.

B. *It is further ordered*, That respondents deliver a copy of this order to cease and desist to all operating divisions and to all present and future personnel of respondents engaged in consummation of any consumer credit transaction or in any aspect of preparation, creation, or placing of advertising, and to all personnel of respondents responsible for the sale or offering for sale of all products covered by this order, and that respondents secure a signed statement acknowledging receipt of said order from each such person.

C. *It is further ordered*, That respondents shall maintain, and produce for inspection and copying on reasonable demand by the Federal Trade Commission or its representatives, for as least a one (1) year period, following the effective date of this order, copies of all advertisements, including newspapers, radio and television advertising, direct mail and instore solicitation literature, and any other such promotional material utilized in the advertising, promotion or sale of merchandise.

D. *It is further ordered*, That respondents notify the Commission at least thirty (30) days to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation which may affect compliance obligations arising out of the order.

E. *It is further ordered*, That the individual respondent named herein promptly notify the Commission of the discontinuance of his present business or employment and of his affiliation with a new business or employment. In addition, for a period of ten years from the effective date of this order, the respondent shall promptly notify the Commission of each affiliation with a new business or employment. Each such notice shall include the respondent's new business address and a statements of the nature of the business or employment in which the respondent is newly engaged as well as a description of respondent's duties and responsibilities in connection with the business or employment. The expiration of the notice provision of this paragraph shall not affect any other obligation arising under this order.

F. *It is further ordered*, That the respondents herein shall within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

ROYAL FURNITURE CO., INC.

[Docket No. 9090]

ANALYSIS OF PROPOSED CONSENT ORDER TO AID PUBLIC COMMENT

The Federal Trade Commission has accepted an agreement to a proposed consent order from Royal Furniture Co., Inc.

The proposed consent order and material submitted by Royal Furniture Co., Inc. to the Commission that is reasonably related to the merits of the order and is not exempt from disclosure under the Freedom of Information Act have been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become a part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The respondents in this matter are engaged in the retail sale of furniture and ap-

pliances. The complaint charges respondents with misleading and deceptive credit advertising and with a variety of harassing and threatening debt collection practices. The complaint also alleges that while respondents led consumers to believe that they had executed mutually binding credit sales agreements, they refused on numerous occasions to make delivery of goods under original credit terms and required customers to make additional downpayments or to provide cosigners. Respondents are also charged with refusing to cancel the obligation or refund the downpayment to consumers that have not agreed to the contractual changes. The complaint further alleges that respondents advised persons that have been sued in collection proceedings by them to continue making payments and to ignore legal summonses, but failed to file appropriate court papers indicating that an arrangement had been reached between the parties, therefore subjecting consumers to disfavorable legal consequences and adverse credit ratings.

Respondents are also charged with failure to replace or repair promptly or satisfactorily damaged, defective or nonconforming merchandise delivered to consumers. In addition, respondents are alleged to have failed to make disclosures required under the Truth in Lending Act.

The consent order in this matter prohibits respondents from misrepresenting their credit terms and from unilaterally changing any credit term after execution of a credit agreement by a consumer. It requires respondents to notify consumers that: (a) The documents signed by them are not final until approved, (b) a refund will be made if consumers elect to cancel an order if credit is disapproved, and (c) cosigners may be required. The order required respondents to offer to make a prompt refund of deposit moneys to any consumer whose credit agreement is disapproved. Respondents have also been prohibited from representing to consumers that have been sued that an agreement has been reached on their account, unless respondents promptly file appropriate court papers and send copies of such papers to all parties involved. The order further prohibits various harassing debt collection practices, including false threats of repossession and immediate garnishment and improper third party contacts.

The order establishes a procedure for the handling of consumer complaints regarding defective, damaged or nonconforming merchandise made within 30 days from delivery of such merchandise. Consumers, in addition, will receive booklets outlining the aforementioned procedure, other rights conferred by the order, and other relevant information. The order also requires respondents to provide consumers with appropriate truth in lending disclosures.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

CAROL M. THOMAS,
Secretary.

[FR Doc. 78-21429 Filed 8-1-78; 8:45 am]

[8010-01]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 240]

[Release No. 34-14995; File No. S7-748]

NET CAPITAL REQUIREMENTS FOR BROKERS AND DEALERS

Proposed Rule

AGENCY: Securities and Exchange Commission.

ACTION: Proposed amendment to rule.

SUMMARY: The Commission is proposing to amend its rule governing net capital requirements for brokers and dealers. If amended as proposed, the rule would set forth the treatment to be accorded specific receivables and undue concentration deductions relating to transactions in municipal securities.

DATE: Comments must be received on or before October 1, 1978.

ADDRESS: All comments should be directed in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT:

Nelson S. Kibler, Assistant Director, Division of Market Regulation, Securities and Exchange Commission, Washington, D.C. 20549, 202-376-8131.

SUPPLEMENTARY INFORMATION: In Securities Exchange Act Release No. 14513, February 28, 1978 (43 FR 45, March 7, 1978), the Commission extended until August 1, 1978, the temporary provisions of rule 15c3-1 (17 CFR 240.15c3-1) under the Securities Exchange Act of 1934 dealing with the items summarized above. The Commission took such action to afford itself an opportunity to formulate the amendments proposed herein.

DISCUSSION

As originally written, rule 15c3-1(c)(2)(iv)(C) required the deduction from net worth of good faith deposits arising in connection with an underwriting and outstanding longer than 11 business days. In addition, profits derived from participation in an underwriting syndicate were treated as "unsecured receivables" which pursuant to rule 15c3-1(c)(2)(iv)(E) were deducted from net worth. In Securities Exchange Act Release No. 11854 the Commission adopted temporary amendments to rule 15c3-1(c)(2)(iv)(C) permitting the inclusion in net worth, for ninety (90) days after settlement of the underwriting with the issuer, good faith deposits and receivables arising from participation in municipal securities underwritings. This release proposes to reduce the ninety (90) day period to sixty (60) days for inclusion of such receivables and good faith deposits in net worth. The reduced time period is consistent with the requirements of rule G-12 of the Municipal Securities Rulemaking Board.

Rule 15c3-1(c)(2)(vi)(M) in general provides that a deduction from net worth equal to half the appropriate haircut shall be taken against long or short positions in the securities of an issuer of a single class or series, the market value of which positions exceeds 10 percent of tentative net capital. A similar provision, rule 15c3-1(f)(3)(iii), applies to computations under the alternative net capital requirement. In release No. 11854, the Commission exempted positions in municipal securities from the undue concentration provisions of rule 15c3-1 on a temporary basis. In release No. 14513, the Commission continued that exemption until August 1, 1978. This release proposes to amend rules 15c3-1(c)(2)(iv)(M) and 15c3-1(f)(3)(iii) to require that the undue concentration haircut provisions shall apply to municipal securities only if the issue has the same security provisions, date, interest rate, day, month, and year of maturity and such securities have a market value in excess of $500,000 in bonds ($5 million in notes) or 10 percent of tentative net capital, whichever is greater, and are held in position longer than 20 business days.

The text of the proposed amendments appear later in this release.

STATUTORY BASIS AND COMPETITIVE CONSIDERATION

Pursuant to the Securities Exchange Act of 1934, and particularly sections 15(c)(3) and 23(a) thereof, 15 U.S.C. 78o(c)(3), and 78w(a), the Commission proposes to amend § 240.15c3-1 in part 240 of chapter II of title 17 of the Code of Federal Regulations in the manner set forth below. The Commission believes that any burden imposed upon competition by the proposed amendments is necessary and appropriate in furtherance of the purposes of the act, and particularly to implement the Commission's continuing mandate under section 15(c)(3) thereof, 15 U.S.C. 78o(c)(3), to provide minimum safeguards with respect to the financial responsibility of brokers and dealers.

REQUEST FOR COMMENTS

All interested persons are invited to submit, in triplicate, their written views and comments concerning the amendments to § 240.15c3-1 proposed herein. All communications should be addressed to George A. Fitzsimmons,

Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, no later than October 1, 1978, and should refer to file No. S7-748. All comments received will be available for public inspection.

TEXT OF PROPOSED AMENDMENTS

The proposed amendments to § 240.15c3-1 are as follows:

§ 240.15c3-1 Net capital requirements for brokers or dealers.

* * * * *

(c) * * *
(2) * * *
(iv) * * *

(C) Interest receivable, floor brokerage receivable, commissions receivable from other brokers or dealers (other than syndicate profits which shall be treated as required in paragraph (c)(2)(iv)(E) of this section), mutual fund concessions receivable and management fees receivable from registered investment companies, all of which receivable are outstanding longer than thirty (30) days from the date they arise; dividends receivable outstanding longer than thirty (30) days from the payable date; good faith deposits arising in connection with an underwriting, outstanding longer than eleven (11) business days from the settlement of the underwriting with the issuer; and receivables due from participation in municipal securities underwriting syndicates and municipal securities joint underwriting accounts, including secondary joint accounts, which are outstanding longer than sixty (60) days from settlement of the underwriting with the issuer and good faith deposits arising in connection with an underwriting of municipal securities, outstanding longer than sixty (60) days from settlement of the underwriting with the issuer.

* * * * *

In § 240.15c3-1, the last sentence of paragraphs (c)(2)(vi)(M) and (f)(3)(iii) would be amended to read as follows: *Provided further,* This provision will be applied to an issue of municipal securities having the same security provisions, date of issue, interest rate, day, month, and year of maturity only if such securities have a market value in excess of $500,000 in bonds ($5 million in notes) or 10 percent of tentative net capital, whichever is greater, and are held in position longer than twenty (20) business days.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

JULY 26, 1978.

[FR Doc. 78-21386 Filed 8-1-78; 8:45 am]

[4830-01]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

[LR-287-76]

INCOME TAX

Tax Treatment of Cemetery Perpetual Care Funds

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the treatment of certain distributions made by cemetery perpetual care funds for the care and maintenance of gravesites. Changes to the applicable tax law were made by the Act of October 17, 1976. The regulations would provide the public with the guidance needed to comply with that legislation and would affect most cemetery perpetual care funds making distributions for the care and maintenance of gravesites.

DATES: Written comments and requests for a public hearing must be delivered or mailed by October 2, 1978. The amendments are proposed to be effective for amounts distributed during the taxable years ending after December 31, 1963.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR-287-76), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT:

Robert Coplan of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, 202-566-3828, not a toll-free call

SUPPLEMENTARY INFORMATION:

BACKGROUND

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 642(j) of the Internal Revenue Code of 1954. These amendments are proposed to conform the regulations to Pub. L. 94-528 (90 Stat. 2483) and are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

EXPLANATION OF THE REGULATIONS

Section 642(j) provides that a portion of amounts distributed by certain cemetery perpetual care fund trusts for the care and maintenance of gravesites shall be treated as a deductible distribution under sections 651 and 661. Section 642(j) applies to a cemetery perpetual care fund only if the fund is taxable as a trust and was created pursuant to local law by a taxable cemetery corporation.

A cemetery care fund generally is allowed to deduct up to $5 per gravesite for amounts distributed for the care and maintenance of gravesites that the fund is obligated to care for and maintain. The deduction in a taxable year is allowable only for amounts distributed to a taxable cemetery corporation for the care of gravesites sold before that taxable year, and is limited to the amount of distributions actually expended by a cemetery corporation for the care and maintenance of gravesites. In addition, the proposed regulations limit the amount to be treated as paid for the care and maintenance of gravesites for which the fund is obligated to provide a disproportionately large amount of care and maintenance compared to other gravesites of the same class. Examples are provided to illustrate the proper way to compute this limitation.

The proposed regulations also provide rules for determining whether or not a cemetery care fund is established pursuant to local law.

COMMENTS AND REQUESTS FOR A PUBLIC HEARING

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the FEDERAL REGISTER.

DRAFTING INFORMATION

The principal author of these proposed regulations was Robert Coplan of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

PROPOSED AMENDMENTS TO THE REGULATIONS

The proposed amendments to 26 CFR Part 1 are as follows:

There are inserted after § 1.642(i)-1 the following new sections:

§ 1.642(j)-1 Certain distributions by cemetery perpetual care funds.

(a) *In general.* Section 642(j) provides that amounts distributed during taxable years ending after December 31, 1963 by a cemetery perpetual care fund trust for the care and maintenance of gravesites shall be treated as distributions solely for purposes of sections 651 and 661. The deduction for such a distribution is allowable only if the fund is taxable as a trust. In addition, the fund must have been created pursuant to local law by a taxable cemetery corporation expressly for the care and maintenance of cemetery property. The deduction is the amount of the distribution to the cemetery corporation for such care and maintenance that would be otherwise allowable under section 651 or 661, but in no event is to exceed the smallest of the amounts described in paragraphs (b) and (c) (1) and (2) of this section.

(b) *Limitation on amount of deduction.* The deduction in any taxable year may not exceed the product of $5 multiplied by the aggregate number of gravesites sold by the cemetery corporation before the beginning of the taxable year of the trust. The aggregate number of gravesites includes only those gravesites with respect to which the fund has an obligation of care and maintenance.

(c) *Requirements for deductibility of distributions*—(1) *Obligation for care and maintenance.* A deduction is allowed only for distributions for the care and maintenance of gravesites with respect to which the fund has an obligation of care and maintenance. Such obligation may be established either by the trust instrument or by local law.

(2) *Distribution actually used for care and maintenance*—(i) *In general.* The amount of a deduction otherwise allowable for distributions made by a fund in any taxable year shall not exceed the amount of expenses paid or incurred by the distributee cemetery corporation in the taxable year with or within which the fund's taxable year ends, for the care and maintenance of gravesites with respect to which the fund has an obligation of care and maintenance.

(ii) *Limitation.* If the fund is obligated to provide care and maintenance for any gravesite, the cost of which exceeds the greater of $7.50 or 150 percent of the average cost of care and maintenance of the same class of gravesites, then for purposes of the limitation contained in paragraph (c)(2)(i) of this section, the greater of $7.50 or 150 percent of such average cost shall be treated as paid or incurred for such gravesite. For this purpose, each type of interment (burial plot, mausoleum crypt, niche, etc.) is considered a different class of gravesite.

(iii) *Examples.* The provisions of paragraph (c)(2) of this section may be illustrated by the following examples:

Example (1). X, a calendar-year taxable cemetery corporation with a perpetual care fund meeting the requirements of section 642(j), sells 1,000 burial plots prior to 1978. The cemetery is divided into 2 sections, each containing 500 plots. Pursuant to its obligation, the fund distributes $5,000 to X for its 1978 care and maintenance expenses. During 1978, X spends $3,000 for the care and maintenance of section 1 (a cost of $6 for each of 500 gravesites) and $1,500 for section 2 (a cost of $3 for each of 500 gravesites). Thus, for purposes of paragraph (c)(2)(ii) of this section, the average cost of care and maintenance of a gravesite is $4.50 (($3,000 + $1,500) ÷ 1,000). Since the cost of care and maintenance for each section 1 gravesite ($6) does not exceed $7.50 (the greater of $7.50 or 150 percent of $4.50), the limitation imposed by paragraph (c)(2)(ii) of this section does not apply. Similarly, the limitation does not apply to section 2 gravesites since the cost of care and maintenance of a section 2 gravesite ($3) is less than $7.50. Therefore, pursuant to paragraph (c)(2)(i) of this section, the fund may deduct $4,500 for taxable year 1978 (the amount actually expended by the cemetery corporation for care and maintenance).

Example (2). Y, a calendar-year taxable cemetery corporation with a perpetual care fund meeting the requirements of section 642(j) sells 1,000 burial plots prior to 1978. The cemetery has 2 sections, section 1 containing 990 plots, and section 2 containing 10 plots. Each gravesite in section 2 is allotted more space and receives more extensive care and beautification services. Pursuant to its obligation, the fund distributes $6,000 to Y for its 1978 care and maintenance expenses. During 1978, Y spends $3,000 for the care and maintenance of section 2 (a cost of $300 for each of 10 gravesites) and $3,000 for section 1 (a cost of $3.03 for each of 990 gravesites). Thus, for purposes of paragraph (c)(2)(ii) of this section, the average cost of care and maintenance of a gravesite is $6.00 (($3,000 + $3,000) ÷ 1,000). Since the cost of care and maintenance for each section 2 gravesite ($300) exceeds $9 (the greater of $7.50 or 150 percent of $6), only $9 will be treated as paid for each such gravesite. However, the limitation will not apply to section 1 gravesites since the cost of care and maintenance for a section 1 gravesite ($3.03) is less than $9. Therefore, for purposes of paragraph (c)(2)(i) of this section, the amount treated as paid by Y for care and maintenance equals $3,090 (($3,000 + (10 x $9)) and the fund's deduction is limited to this amount.

§ 1.642(j)-2 Definitions.

(a) *Taxable cemetery corporation.* For purposes of section 642(j) and this section, the term "taxable cemetery corporation" means a corporation (within the meaning of section 7701(a)(3)) engaged in the business of owning and operating a cemetery that either (1) is not exempt from Federal tax, or (2) is subject to tax under section 511 with respect to its cemetery activities.

(b) *Pursuant to local law.* A cemetery perpetual care fund is created pursuant to local law if:

(1) The governing law of the relevant jurisdiction (State, district, county, parish, etc.) requires or expressly permits the creation of such a fund, or

(2) The legally enforceable bylaws or contracts of a taxable cemetery corporation require a perpetual care fund.

(c) *Gravesite.* A gravesite is any burial lot, grave crypt, niche, scattering ground, mausoleum space or other cemetery property in which interment rights have been sold. The aggregate number of gravesites sold shall be the aggregate number of interment rights sold by a cemetery corporation. For purposes of this section, a gravesite is sold as of the date on which the purchaser acquires interment rights enforceable under local law, whether or not the purchase price of the gravesite has been paid in full.

(d) *Care and maintenance.* For purposes of section 642(j) and this section, the term "care and maintenance of gravesites" means the upkeep, repair and preservation of those portions of cemetery property in which gravesites (as defined in this section) have been sold with a provision for perpetual or endowed care. Such care and maintenance includes gardening, road maintenance, water line and drain repair and other activities reasonably necessary to the preservation of cemetery property. The costs for care and maintenance include, but are not limited to, expenses for repair and maintenance of tools and equipment, wages paid empoyees performing such work and the costs of maintaining necessary records of lot ownership, transfers and burials. If the expenses of the cemetery corporation such as officers' salaries are for both care and maintenance and for other expenses, the expenses must be properly allocated between expenses for care and maintenance and the other expenses. Only those expenses that are properly allocable qualify as care and maintenance expenses.

JEROME KURTZ,
Commissioner of Internal Revenue.

[FR Doc. 78-21377 Filed 8-1-78; 8:45 am]

[4830-01]

[26 CFR Parts 1, 301]

[LR-150-76]

INCOME TAX

Jeopardy and Termination Assessments

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to jeopardy and termination assessments. Changes to the applicable tax law were made by the Tax Reform Act of 1976. The regulations would provide the public with guidance concerning procedures relating to jeopardy and temination assessments.

DATES: Written comments and requests for a public hearing must be delivered or mailed by October 2, 1978. The amendments are proposed to be effective where notice and demand occurs after February 28, 1977.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT:

David Jacobson of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, Attention: CC:LR:T, 202-566-3923, not a toll-free call

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) and the regulations on Procedure and Adminstration (26 CFR Part 301) under sections 6851, 6861, 6862, and 6863 of the Internal Revenue Code of 1954. These amendments are proposed to conform the regulations to section 1204 of the Tax Reform Act of 1976 (90 Stat. 1695) and are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

Explanation of Regulations

The Tax Reform Act of 1976 amended section 6851 of the Internal Revenue Code of 1954 to provide that a notice of deficiency be sent to a taxpayer who has been assessed under that section. This notice must be sent to the taxpayer within 60 days after the later of the due date of the taxpayer's return or the date the return is actually filed. The statutory notice of deficiency allows the taxpayer to contest a tax liability in the U.S. Tax Court.

The legislation also provides for an administrative review by the Internal Revenue Service of all jeopardy and termination assessments upon a timely request by the taxpayer. In addition, the U.S. District Courts have jurisdiction to review the Service's determination.

In addition, section 6863 of the code has been amended to provide for a stay on the sale of seized property during the period for review of the jeopardy and termination assessments under section 7429.

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the Federal Register.

Drafting Information

The principal author of these proposed regulations was David Jacobson of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

Proposed Amendments to the Regulations

The propsed amendments to 26 CFR Part 1 and 26 CFR Part 301 are as follows:

§ 1.443 [Deleted]

Paragraph 1. Section 1.443 is deleted.

1.443-1 [Amended]

Par. 2. Paragraph (a)(3) of § 1.443-1 is deleted.

§ 1.6091 [Deleted]

Par. 3. Section 1.6091 is deleted.

Par. 4. Section 1.6091-2 is amended by adding a new paragraph (f) to read as follows:

§ 1.6091-2 Place for filing income tax returns.

* * * * *

(f) *Returns of persons subject to a termination assessment.* Notwithstanding paragraph (c) of this section—

(1) *Persons other than corporations.* Returns of persons other than corporations with respect to whom an assessment was made under section 6851(a) with respect to the taxable year shall be filed with the district director as provided in paragraph (a) of this section.

(2) *Corporations.* Returns of corporations with respect to whom an assessment was made under section 6851(a) with respect to the taxable year shall be filed with the district director as provided in paragraph (b) of this section.

§ 1.6851 [Deleted]

Par. 5. Section 1.6851 is deleted.

Par. 6. Section 1.6851-1 is amended to read as follows:

§ 1.6851-1 Termination assessments of income tax.

(a) *Authority for making*—(1) *In general.* This section applies to assessments authorized by a district director under section 6851(a) (hereinafter referred to as termination assessments). The district director shall immediately authorize a termination assessment of the income tax for the current or preceding taxable year if the district director finds that a taxpayer designs to do an act which would tend to prejudice proceedings to collect the income tax for such year or years unless such proceedings are brought without delay. In addition, the district director shall immediately authorize such a termination assessment if the district director determines that the taxpayer designs to do any act which would tend to render such proceedings wholly or partially ineffective unless brought without delay. A termination assessment will be made if collection is determined to be in jeopardy because at least one of the following conditions exists:

(i) The taxpayer is or appears to be designing quickly to depart from the United States or to conceal himself or herself.

(ii) The taxpayer is or appears to be designing quickly to place his, her, or its property beyond the reach of the Government either by removing it from the United States, by concealing it, by dissipating it, or by transferring it to other persons.

(iii) The taxpayer's financial solvency is or appears to be imperiled.

Paragraph (a)(1)(iii) of this section does not include cases where the taxpayer becomes insolvent by virtue of the accrual of the proposed assessment of tax, and penalty, if any. A tax assessed under this section shall become immediately due and payable and the district director shall serve upon such taxpayer notice and demand for immediate payment of such tax.

(2) *Computation of tax.* If a termination assessment of the income tax for the current year is made, the income tax for such year shall be computed for the period beginning on the first day of such year and ending on the day of the assessment. A credit shall be allowed for any tax for the taxable year previously assessed under section 6851. The taxpayer is entitled to a deduction for the personal exemptions

(as limited in the case of certain nonresident aliens) without any proration for or because of the short taxable period.

(3) *Taxable year not affected by termination.* Notwithstanding any termination assessment a taxpayer shall file a return in accordance with section 6012 and the regulations thereunder for the taxpayer's full taxable year. The term "full taxable year" means the taxpayer's usual annual accounting period determined without regard to any action under section 6851 and this section. The return shall show all items of gross income, deductions, and credits for such taxable year. Any tax collected as a result of a termination assessment will be applied against the tax due for the taxpayer's full taxable year. Except as provided in § 1.6851-2 (relating to departing aliens), no return is required to be filed for a terminated period other than a full taxable year.

(4) *Evidence of compliance with income tax obligations.* Citizens of the United States or its possessions of the United States departing from the United States or its possessions will not be required to procure certificates of compliance or to present any other evidence of compliance with income tax obligations. However, for the rules relating to the furnishing of evidence of compliance with the income tax obligations by certain departing aliens, see § 1.6851-2.

(5) *Section 6851 inapplicable where section 6861 applies.* No termination assessment for the preceding taxable year shall be made after the due date of the taxpayer's return for such year (determined with regard to extensions of time to file such return).

(b) *Notice of deficiency.* Where notice and demand for payment (following a termination assessment) takes place after February 28, 1977, the district director shall, within 60 days after the later of—

(1) The date the taxpayer files a return for the full taxable year; or

(2) The due date of such return (determined with regard to extensions).

send the taxpayer a notice of deficiency under section 6212(a). The amount of the deficiency shall be computed in accordance with section 6211 and the regulations thereunder. In applying section 6211, the tax imposed and the amount shown upon the return shall be determined on the basis of the taxpayer's full taxable year. Thus, for example assume that on November 1, 1979, a termination assessment against A, a calendar year taxpayer, is made in the amount of $18,000. The termination assessment is for the period from January 1, 1979 through November 1, 1979. Further assume that on or before April 15, 1980, A files a form 1040 showing an income tax liability for the full year 1979 of $10,000. If the district director determines A's liability for tax for 1979 is $16,000, a notice of deficiency for $6,000 shall be sent to A on or before June 14, 1980. Assuming that the district director had collected the $18,000 assessed, $2,000 shall be refunded.

(c) *Immediate payment.* The district director shall make demand for immediate payment of the amount of the termination assessment, and the taxpayer shall immediately pay such amount or shall immediately file the bond provided in section 6863.

(d) *Abatement.* The provisions of §§ 301.6861-1(e) and 301.6861-1(f) relating to the abatement of jeopardy assessments, shall apply to assessments made under section 6851.

§ 1.6851-2 [Amended]

PAR. 7. The last sentence of paragraph (b)(3)(iii) of § 1.6851-2 is amended by deleting "§ 1.6851-3" and inserting in its place "§ 301.6863-1 of this chapter (regulations on procedure and administration)."

PAR. 8. Section 1.6851-3 is amended to read as follows:

§ 1.6851-3 Furnishing of bond to insure payment; cross reference.

See section 6863 and § 301.6863-1 of this chapter (regulations on procedure and administration) for rules relating to the furnishing of bond to stay collection.

§ 301.6091 [Deleted]

PAR. 9. Section 301.6091 is deleted.

PAR. 10. Paragraph (b) of § 301.6211-1 is amended by adding the following new sentence at the end thereof:

§ 301.6211-1 Deficiency defined.

* * * * *

(b) * * * Any credit resulting from the collection of amounts assessed under section 6851 as the result of a termination assessment shall not be taken into account in determining a deficiency.

* * * * *

§ 301.6861 [Deleted]

PAR. 11. Section 301.6861 is deleted.

PAR. 12. Section 301.6861-1 is amended by adding a sentence immediately after the first sentence of paragraph (a), and by revising paragraph (f)(3). The added sentence and revised paragraph to read as follows:

§ 301.6861-1 Jeopardy assessments of income, estate and gift taxes.

(a) *Authority for making.* * * * A district director will make an assessment under this section if collection is determined to be in jeopardy because at least one of the conditions described in § 1.6851-1(a)(1) (i), (ii), or (iii) (relating to termination assessments) exists. * * *

* * * * *

(f) *Abatement if jeopardy does not exist.* * * *

(3) See section 7429 with respect to requesting the district director to review the making of the jeopardy assessment.

§ 301.6862 [Deleted]

PAR. 13. Section 301.6862 is deleted.

PAR. 14. Section 301.6862-1 is amended by adding a sentence immediately after the first sentence of paragraph (a), and by adding a new paragraph (c), the added sentence and new paragraph to read as follows:

§ 301.6862-1 Jeopardy assessment of taxes other than income, estate, and gift taxes.

(a) * * * A district director will make an assessment under this section if collection is determined to be in jeopardy because at least one of the conditions described in § 1.6851-1(a)(1), (ii), or (iii) (relating to termination assessments) exists. * * *

* * * * *

(c) See section 7429 with respect to requesting the district director to review the making of the jeopardy assessment.

§ 301.6863 [Deleted]

PAR. 15. Section 301.6863 is deleted.

PAR. 16. Paragraph (a)(1) of § 301.6863-1 is amended to read as follows:

§ 301.6863-1 Stay of collection of jeopardy assessments; bond to stay collection.

(a) *General rule.* (1) The collection of an assessment under section 6851, 6861, or 6862 (referred to as a "jeopardy assessment" for purposes of this section) of any tax may be stayed by filing with the district director a bond on the form to be furnished by the district director upon request.

* * * * *

PAR. 17. Paragraph (a) of § 301.6863-2 is amended to read as follows:

§ 301.6863-2 Collection of jeopardy assessment; stay of sale of seized property pending Tax Court decision.

(a) *General rule.* In the case of an assessment under section 6851, 6861, or 6862, any property seized for the collection of such assessment shall not (except as provided in paragraph (b) of this section) be sold until the latest of the following occurs:

(1) The period provided in section 7429(a)(2) to request the district director to review the action taken expires.

(2) The period provided in section 7429(b)(1) to file an action in U.S. District Court expires if a request for a redetermination is made to the district director.

(3) The U.S. District Court judgment in such action becomes final, if a civil action is begun in accordance with section 7429(b).

(4) In addition to the occurrences described in paragraphs (a) (1), (2), and (3) of this section in the case of an assessment of income, estate, gift, chapter 41, 42, 43, or 44 excise taxes, until the latest of the following occurs:

(i) The expiration of the period provided in section 6213(a) within which the taxpayer may file a petition with the Tax Court; or

(ii) The decision of the Tax Court becomes final, if a petition for redetermination is filed with the Tax Court (whether before or after the making of the assessment).

However, notwithstanding paragraph (a)(4)(i) of this section, in the case of a termination assessment under section 6851, property seized may be sold after the due date (determined with extensions) of the taxpayer's return if the taxpayer does not file a return by such date. Furthermore, for the purposes of paragraph (a)(4)(ii) of this section, a petition will not operate as a further stay of the sale of the seized property unless the taxpayer files a bond as provided in section 7485.

* * * * *

PAR. 18. The following sections are inserted in the appropriate place.

§ 301.7429-1 Review of jeopardy and termination assessment procedures; information to taxpayer.

Not later than 5 days after the day on which an assessment is made under section 6851(a), 6861(a) or 6862, the district director shall provide the taxpayer a written statement setting forth the information upon which the district director relies in authorizing such assessment.

§ 301.7429-2 Review of jeopardy and termination assessment procedures; administrative review.

(a) *Request for administrative review.* Any request for the review of a jeopardy or termination assessment provided for by section 7429(a)(2) shall be filed with the district director within 30 days after the statement described in § 301.7429-1 is given to the taxpayer. However, if no statement is given within the 5 day period described in § 301.7429-1, any request for review of the jeopardy or termination assessment shall be filed within 35 days after the date the assessment is made. Such request shall be in writing, shall state fully the reasons for the request, and shall be supported by such evidence as will enable the district director to make the redetermination described in section 7429(a)(3).

(b) *Administrative review.* In determining whether the assessment is reasonable and the amount assessed appropriate, the district director shall take into account not only information available at the time the assessment is made but also information which subsequently becomes available.

(c) *Abatement of assessment.* For rules relating to the abatement of assessments made under sections 6851 and 6861 see §§ 301.6861-1(e), 301.6861-1(f), and 1.6851-1(d) of this chapter.

§ 301.7429-3 Review of jeopardy and termination assessment procedures; judicial action.

(a) *Time for bringing judicial action.* An action for judicial review described in section 7429(b) may be instituted by the taxpayer during the period beginning on the earlier of—

(1) The date the district director notifies the taxpayer of the determination described in section 7429(a)(3); or

(2) The 16th day after the request described in section 7429(a)(2) was made by the taxpayer;

and ending on the 30th day thereafter.

(b) *Extension of period for judicial review.* The U.S. Government may not seek an extension of the 20 day period described in section 7429(b)(2), but it may join with the taxpayer in seeking such an extension.

JEROME KURTZ,
Commissioner of Internal Revenue.

[FR Doc. 78-21378 Filed 8-1-78; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 413]

EFFLUENT GUIDELINES AND STANDARDS ELECTROPLATING POINT SOURCE CATEGORY PRETREATMENT STANDARDS FOR EXISTING SOURCES

[FRL 937-3]

Notice of Extension of Comment Period

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: On February 14, 1978 (43 FR 6560) the Environmental Protection Agency proposed regulations which establish pretreatment standards for pollutants introduced to publicly owned treatment works from existing source electroplating operations. The Agency encouraged public participation in the rulemaking and stated that it would consider all comments received not later than April 17, 1978. The comment period was subsequently extended to close on June 19, 1978 and then reextended to close on July 19, 1978 because of delays experienced in providing information regarding the economic impact study and in printing the document which delineates the technical basis for the proposed regulation. Unfortunately, additional delays have been experienced in providing material relating to the economic impact study which the Agency conducted for this regulation. Therefore, in order to insure the fullest possible opportunity for public comment, the comment period is hereby extended and all comments received not later than August 30, 1978 will be considered.

DATE: August 30, 1978.

ADDRESS: Written comments may be submitted to the Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460. Attention: Distribution Officer, WH-552.

FOR FURTHER INFORMATION CONTACT:

Harold B. Coughlin, Effluent Guidelines Division (WH-552), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460 202-426-2560.

Dated: July 25, 1978.

THOMAS C. JORLING,
Assistant Administrator for Water and Hazardous Materials.

[FR Doc. 78-21393 Filed 8-1-78; 8:45 am]

[4110-12]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

[41CFR Parts 3-1, 3-4, and 3-7]

PROCUREMENT OF DRUGS AND MEDICAL SUPPLIES AND MAXIMUM ALLOWABLE COST FOR DRUG PRODUCTS

AGENCY: Department of Health, Education, and Welfare.

ACTION: Proposed rule.

SUMMARY: The Office of the Secretary, Department of Health, Education, and Welfare, is proposing to amend its procurement regulation by adding a new regulation concerning the procurement of drugs and medical supplies which would consolidate the Department's policies pertaining to that area. The new regulation will incorporate the Department's general policy regarding the procurement of

drugs, the procurement of drug products classified by effectiveness, and the maximum allowable cost for drug products. As a result of the proposed consolidation, existing regulation for drug products-effectiveness, will be deleted.

In conjunction with the policy on the maximum allowable cost for drug products, it is proposed to amend regulations for special contract clauses by adding a clause entitled, maximum allowable cost for drugs.

DATE: Comments must be received by September 18, 1978.

ADDRESS: Any person or organization wishing to submit data, views, or comments pertaining to the proposed amendment may do so by filing them, in duplicate, at the address listed below.

FOR FURTHER INFORMATION, CONTACT:

E. S. Lanham, Division of Procurement Policy and Regulations Development, OGP-OASMB-OS, Room 539-H, Hubert H. Humphrey Building, Department of Health, Education, and Welfare, Washington, D.C. 20201, 202-245-6347.

NOTE.—The Department of Health, Education, and Welfare has determined that this document does not contain a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A-107.

It is therefore proposed to amend 41 CFR Chapter 3, Parts 3-4 and 3-7 in the manner set forth below.

Dated: July 14, 1978.

E. T. RHODES,
Deputy Assistant Secretary for Grants and Procurement.

1. Under Subpart 3-1.3, General Policies, of Part 3-1, General delete § 3-1.352, Drug products—effectiveness, in its entirety.

§ 3-1.352 [Deleted]

2. Under Part 3-4, Special Types and Methods of Procurement, Subpart 3-4.61, Procurement of Drugs and Medical Supplies, is established. In addition, the table of contents for Part 3-4 is amended to add the following:

Subpart 3-4.61—Procurement of Drugs and Medical Supplies

Sec.
3-4.6100 Scope of subpart.
3-4.6101 Procurement of drugs.
3-4.6101-1 Policy.
3-4.6103 Effectiveness of drug products.
3-4.6103-1 General.
3-4.6103-2 Policy.
3-4.6104 Maximum allowable cost for drugs.
3-4.6104-1 General.
3-4.6104-2 Applicability.

Subpart 3-4.61—Procurement of Drugs and Medical Supplies

§ 3-4.6100 Scope of subpart.

This subpart provides policies pertaining to the procurement of drug products and medical supplies by the Department or the Department's contractors.

§ 3-4.6101 Procurement of drugs.

§ 3-4.6101-1 Policy.

(a) Drugs shall be procured at the lowest possible price consistent with acceptable standards of identity, strength, quality, purity, safety and effectiveness, and with due regard for the welfare of the patient and the professional judgment of the prescriber.

(b) Procuring activities shall insure that drugs are procured by generic name on a competitive basis whenever it is possible to obtain therapeutically effective equivalent drugs of established quality. However, the professional judgment of the prescriber to request drugs by brand name or house designation must be recognized when the best interest of the patient requires it. Only the prescriber may approve "product shifting" of drugs. Similarly, scientific investigators have the prerogative to request drugs having end-product characteristics considered necessary for the conduct of research or investigations.

§ 3-4.6103 Effectiveness of drug products.

§ 3-4.6103-1 General.

(a) The National Academy of Sciences National Research Council (NAS-NRC) has established effectiveness classifications for the indication of drug products, based upon the following criteria:

(1) Factual information that is freely available in scientific literature;

(2) Factual information that is available from the Food and Drug Administration, the manufacturer, or other sources; and

(3) Experience and informed judgment of the members of NAS-NRC panels.

(b) The indications mentioned in the following categories refer to "the effect the drug purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the proposed labeling." That is, the indications are the claims noted in the labeling of a given drug product.

(1) *Category A—Effective.* For the presented indication, the drug is effective on the basis of the criteria cited in paragraph (a), above.

(2) *Category B—Probably effective.* For the indication presented, effectiveness of the drug is probable on the basis of the criteria cited in paragraph (a), but additional evidence is required before it can be assigned to category A.

(3) *Category C—Possibly effective.* In relation to the indication in question, there is little evidence of effectiveness under any of the criteria cited in paragraph (a). The possibility that additional supporting evidence might be developed should not be ruled out, however.

(4) *Category D—Ineffective.* In relation to the indication in question, there is no acceptable evidence under any of the criteria cited in paragraph (a) to support a claim of effectiveness.

§ 3-4.6103-2 Policy.

(a) It is the Department's policy to *not* procure drug products classified "ineffective" or "possibly effective" for use in its direct care programs. However, there are two exceptions to this policy:

(1) Drug products categorized as "ineffective" and "possibly effective" may be procured for use in the pursuit of approved clinical research projects.

(2) Drug products categorized as "possibly effective" may be procured when no alternate means of therapy with drug products in the "probably effective" or "effective" categories are available.

(b) This policy applies to similar drug products marketed by the same or other firms.

§ 3-4.6104 Maximum allowable cost for drugs.

§ 3-4.6104-1 General.

(a) The regulation entitled "Limitation of Payment or Reimbursement for Drugs," also known as the Maximum Allowable Cost or MAC regulation, is set forth in part 19 to subtitle A of title 45 of the Code of Federal Regulations.

(b) The MAC regulation established Departmental policies and procedures for determining allowable drug costs and, where applicable, dispensing fees to be used to establish:

(1) Reimbursement to providers and health maintenance organizations under the medicare program;

(2) Reimbursement to States under State administered health, welfare, and social service programs; and

(3) Allowable costs under projects for health services.

§ 3-4.6104-2 Applicability.

(a) This regulation implements the MAC regulation by establishing procurement procedures consistent with the purpose and the intent of the MAC regulation.

(b) This regulation applies to the direct procurement of drugs by the Department and the procurement or

supply of Drugs by the Department's contractors.

(c) This regulation does not apply to the procurement of drugs for research programs made by the Department and its contractors.

3. Under Subpart 3-7.50, Special Contract Clauses, of Part 3-7, Contract Clauses, add § 3-7.5022 as follows:

* * * * *

§ 3-7.5022 Maximum allowable cost for drugs.

The following clause, or one reading substantially as follows, shall be included in all contracts subject to the provisions of the Maximum Allowable Cost regulation and § 3-4.6104.

MAXIMUM ALLOWABLE COST FOR DRUGS

(a) Reimbursement for drugs provided or used under this contract shall be in accordance with the Maximum Allowable Cost (MAC) regulation set forth in 45 CFR Subtitle A, Part 19. In accordance with § 19.3 of the MAC regulation, the amount which is recognized for reimbursement or payment purposes for any drug purchased under the terms of the contract shall not exceed the lowest of:

(1) The maximum allowable cost of the drug, if any, established in accordance with § 19.5 of the MAC regulation plus a reasonable dispensing fee;

(2) The acquistion cost of the drug plus a reasonable dispensing fee; or

(3) The provider's usual and customary charge to the public for the drug: *Provided,* That: (i) The maximum allowable cost established for any drug shall not apply to a brand of that drug prescribed for a patient which the prescriber has certified in his own handwriting is medically necessary for that patient; and *Provided further,* That: (ii) When compensation for drug dispensing is included in some other amount payable to the provider by the reimbursing or payment program agency, a separate dispensing fee will not be recognized.

(b) The Contractor agrees:

(1) To include the following solicitation notification in all applicable solicitations issued under this contract and to insure that subcontractors include it in any subsequent applicable solicitations:

This procurement is subject to the Maximum Allowable Cost (MAC) regulation set forth in Part 19 to Subtitle A of Title 45 of the Code of Federal Regulations.

(2) To include this clause, including this paragraph (b), in all applicable subcontracts, regardless of tier, awarded pursuant to this contract.

(3) To include the furnished MAC determination or acquisition cost data in all applicable solicitations issued under this contract and in all resultant subcontracts awarded pursuant to this contract.

[FR Doc. 78-21329 Filed 8-1-78; 8:45 a.m.]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 63]

[CC Docket No. 78-218; FCC 78-515]

SPANISH INTERNATIONAL NETWORK

Request for Authorized User Status Under the Communications Satellite Act of 1962

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action would change policy to permit television transmission users to obtain authorized user status pursuant to the Communications Satellite Act of 1962 in order to encourage less costly and more efficient service.

DATES: Comments must be received on or before September 1, 1978. Replies must be filed on or before September 11, 1978.

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

FOR FURTHER INFORMATION CONTACT:

Joel S. Winnik, Common Carrier Bureau, Federal Communications Commission, Washington, D.C. 20554, 202-632-7265.

In the matter of Spanish International Network, request for authorized user status under the Communications Satellite Act of 1962. Memorandum opinion and order and notice of proposed rulemaking; CC Docket No. 78-218.

Adopted: July 13, 1978.

Released: July 31, 1978.

By the Commission: 1. Spanish International Network has filed a petition for declaratory ruling seeking status as an authorized user under the Communciations Satellite Act of 1962 in order that it can obtain satellite television services directly from the Communications Satellite Corp. (Comsat). While the petition is filed on behalf of itself, Spanish International states that the principles and arguments enunciated warrant authorized user status for all customers of satellite television program transmission services.

2. Public notice of the filing of this petition was given on February 27, 1978 and interested parties were given 30 days from this date to file comments on the petition. The date for filing comments was subsequently extended to April 28, 1978. On May 10, 1978, the Commission released an additional public notice specifying that reply comments could be filed by interested parties until May 19, 1978.

3. Comments were filed in support of the petition by Public Broadcasting System, National Public Radio, the Department of Justice, the Department of Defense, the Communications Satellite Corp. (Comsat), the three major television networks—American Broadcasting Co., Inc., CBS, Inc., and National Broadcasting Co., Inc.—filing jointly, the European Broadcasting Union (which purchases telecommunications services for its members including European broadcasting organizations), the Hughes Television Network, Home Box Office, Inc. (a supplier of pay television programing) and Telemundo, Inc. (licensee of WKAQ-TV, San Juan, P.R.). Most of these entities are existing or potential users of international television transmission services. Comments seeking denial of the petition were filed by ITT World Communications Inc. (ITT), RCA Global Communciations, Inc., Western Union International, Inc. (WUI) and American Telephone and Telegraph Co. (A.T. & T.).[1] These are the entities which currently provide international television transmission services to the public and which would compete with Comsat if direct service were permitted.[2]

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[1] The international carriers argue that this petition is barred because the authorized user decision permits only Comsat and not the user to request authorized user status. However, it is clear that this petition seeks an order to Comsat to make the appropriate requests, and therefore it is not an improper petition. They also argue that a declaratory ruling be the Commission is improper because there is no uncertainty or controversy present as required by section 1.2 of the Commission's rules. However, since we have construed this petition as a petition for waiver and for rulemaking, see para. 10 below, we do not have to address this issue.

[2] Comments in this proceeding were also filed by the National Telecommunications and Information Administration (NTIA) and TRT Telecommunications, Corp. (TRT). NTIA's and TRT's comments addressed that portion of the comments filed by the Department of Justice favoring review of all aspects of the Commission's authorized user decision, 4 FCC 2d 421 (1966) recon. 6 FCC 2d 593 (1967). The authorized user decision sets out the rationale for restricting direct public access to Comsat and was adopted in the very early days of satellite communications. The Commission will soon issue a Notice of Inquiry in which findings contained in the authorized user decision will be reevaluated in light of actual operating experience since the decision's adoption. In this proceeding, we consider only whether the rationale is applicable to international television transmission services.

4. Due to the technical characteristics of the television signal, only satellites can be used for the international transmission of television. The satellites which are used for this purpose are the same satellites which carry a substantial portion of the world's telephone, telex and leased private line services. These satellites are owned by the members of the International Telecommunications Satellite Consortium (INTELSAT). The only entity permitted by the United States to purchase the INTELSAT satellite facilities is Comsat. Under policies developed in the authorized user decision discussed above, Spanish International and other existing or potential users of international television transmission services are not permitted to purchase these services from Comsat directly. Instead, service is ordered from one of the communications common carriers who obtain the necessary channels from Comsat and offer service pursuant to a joint tariff at rates in excess of those charged by Comsat. These carriers do not compete in the provision of international television transmission; each takes turns providing the service, rotating on a weekly basis.

5. Spanish International is a domestic corporation engaged in the provision and distribution of Spanish language programs to affiliated stations in the United States. The programs offered by Spanish International are obtained on a live and recorded basis from nations around the world, principally, Mexico, Spain, Italy, Argentina, Venezuela, Brazil, Colombia, and West Germany. The Magne Verde division of Spanish International is engaged in the closed circuit and other broadcast related telecasts of important special events on a hemisphere-wide basis including such programs as the World Cup Soccer matches.

6. Spanish International asserts that it could obtain higher quality international television transmission service at lower cost if it obtained services directly from Comsat. It contends that neither the Communications Satellite Act of 1962, 47 U.S.C. §§ 701–744, nor the authorized user decision, supra fn. 1, bar such direct service. The international carriers who currently provide the service believe that the authorized user decision prohibits direct service. They argue that changes in the policy established in that decision should not be made because it has not been shown that the principles which underlie the decision are no longer applicable or that better service or less expensive service would be obtained. On the contrary, they argue that direct service is likely to be more expensive.

7. The international carriers assert that Spanish International is barred as a matter of law by the authorized user decision and the legislative history on which it is based. They argue that the legislative history compels the conclusion that Comsat must serve as a carriers' carrier except in unique or exceptional circumstances. While Spanish International asserts that television involves unique and exceptional circumstances, the international carriers argue that television does not meet that test as it is articulated by the Commission.

8. In the authorized user decision the Commission considered the extent to which, as a matter of law, noncarrier entities can be authorized under the Communications Satellite Act of 1962 to obtain telecommunications services directly from Comsat. The Commission also considered what it clearly recognized to be a separate question—the extent to which, as a matter of policy, Comsat should be authorized to serve noncarrier entites directly. Based on an analysis of its legislative history the Commission concluded that "the act clearly empowers the Commission to authorize Comsat to provide service to entities other than carriers." 4 FCC 2d at 427. The Commission found that it was the intent of Congress that entities other than communications common carriers could be afforded access to the satellite system "upon a proper finding that such access would serve the public interest and comport with the purposes and policies of the Satellite Act." 4 FCC 2d at 428. The Commission recognized that while Comsat could serve noncarrier directly, the authorization process was not to be left unregulated. To the contrary, the Commission found that "[i]n the process of issuing authorizations to Comsat as a common carrier and reviewing its tariffs, the Commission is required, under the public interest standard, to take into account and specify the conditions under which Comsat can depart from its primary role as a common carrier's carrier and provide service directly to the public." 4 FCC 2d at 429. In exercising its authority and obligation to regulate the extent to which Comsat should be permitted to provide direct service, the Commission adopted rules comprising its general finding that the public interest requires that direct service be authorized only in "unique or exceptional" circumstances. These rules are grounded in the Commission's discretion and as the authorized user decision clearly reflects, they were based on the Commissions' analysis of the situation then before it. The specific standard adopted is not required by the Communications Satellite Act of 1962. The act does not require that consumers, the industry and the Commission should be tied to an inflexible standard.

9. Spanish International believes television involves unique or exceptional circumstances because international television transmission service did not exist until the availability of satellites. Consequently, the principal underlying concern of the Commission in restricting direct service—the diversion of revenues from conventional carriers to Comsat—did not apply since the conventional carriers never before offered that service. Television also involves unique circumstances, according to Spanish International, because the manner in which it is provided does not meet the statutory objectives of the Satellite Act and other Congressional and Commision goals. There is no competition in the provision of satellite services by the international carriers, in derogration of the Satellite Act's express desire to strengthen competition. In addition, Spanish International argues that the public is denied the service and cost benefits associated with satellite technology. This, in turn, has restricted the amount and diversity of international television programing. [3]

10. The Commission cannot find that television comes within the "unique or exceptional" standard as it was intended to be applied in the authorized user decision. Television transmission is clearly a service which can be and is provided by conventional carriers within their general tariff offerings. The standard in the authorized user decision requires a different "uniqueness" from that described by Spanish International. The service must be "tailored to the particular needs of the customer." 4 FCC 2d at 431. Television is a generic service to which the unique or exceptional standard as defined in the authorized user decision does not apply. However, this does not necessarily mean that Spanish International cannot obtain the direct access it seeks. Its petition is broad enough to be considered as a request for waiver of the policy for itself, and a petition to change the policy as it applies to other similarly situated television customers. All the parties in opposition presented arguments against classifying Spanish International as an authorized user, as well as arguments against any Commission modification of the authorized user policy. Therefore, we will consider Spanish International's petition as a request for waiver and a petition for rulemaking.

11. International television transmission consists of two segments—the space segment which includes the satellite channel, and the facilities required to carry the signal from the

[3] Spanish International and other parties in this proceeding assert that they would increase the amount of their international programing if direct service is permitted.

earth station to the customer locations.[4] The international carriers' tariff covers carriage of the signal through the space segment and the earth station to their operating centers. The customer separately arranges getting the signal to its network distribution point. The space segment and the earth station capacity, in accordance with the authorized user decision, are purchased by the carriers from Comsat. The landline facilities or entrance channels between the earth station and the operating centers are shared A.T. & T. facilities. If the assigned carrier-to-the-week is A.T. & T. the signal is routed to A.T. & T.'s operating center and then to the customer's network distribution point. If the carrier-of-the-week is one of the other carriers the signal is still routed to the A.T. & T. operating center where it is re-routed to the assigned carriers' operating center. It is then routed back to the A.T. & T. operating center where it is connected with lines reaching the network distribution point. Comsat charges $1,500 per hour for the satellite and earth station capacity. The international carriers charge the customer $2,340 per hour for their service.[5] Spanish International and supporting parties believe that this margin is not justified and that the margin could be largely avoided if they obtained direct service from Comsat. They assert that there is nothing that the international carriers do in exchange for this margin that cannot be done as well, or better, by the customer itself.

12. Moreover, these parties argue that current television transmission arrangements not only involve higher costs but service problems, as well. Because so many entities are involved in the provision of the service there is a potential for service mixups and delays. The Public Broadcasting System indicates that this has been a particular problem where service must be ordered on short notice as is required for news programming or when the service order must be quickly changed as in the case of an extended sports program. The Public Broadcasting Service also asserts that routing the signal from one carrier to another and through so many switching centers leads to unnecessary technical degradation.

13. The international carriers argue that their tariff rate is not simply a markup over their cost of acquiring facilities from Comsat. They state that the tariff rate must cover the costs of the additional services they provide. The tariff includes the costs of ordering the service from Comsat, arranging for the foreign end of the service, monitoring the quality of the service at an operating center, and providing entrance channels between the earth station and the operating center. The tariff should also reflect a return on capital used and useful in providing television service. Entrance channel facilities account for approximately $410, or about half of the margin over Comsat's charge. The local loops which interconnect the operating centers account for an additional $220 per hour. On this basis, the carriers argue that their rates are not too high. This is borne out, they believe, by the fact that profits are marginal at best, and, in the case of WUI and ITT, they have suffered net losses providing the service.[6] Despite these representations, it is not clear that the joint-tariff rate for service under the current arrangements is cost-justified. Nor is it clear as to whether the current arrangements, whether cost-justified or not, are likely to assure that high quality service is provided at the lowest possible price.

14. The carriers take the position that customers will pay at least as much and possibly more if direct service is permitted. They claim that Comsat or the customer will have to provide all of the services and facilities which are currently provided by the carriers. ITT, for example, states that to supplant the international carriers Comsat would at least have to build or obtain a television operating center in New York where the major networks are located. Comsat's charges may be higher because its expense at inflated prices may be greater than that of the international carriers. The carriers also argue that costs may also be higher if the customer obtains its own entrance facilities because under A.T. & T. tariff No. 260 it is limited to 1-hour minimums while the carriers are not. In addition, the customer would not receive the cost benefits of the carriers' sharing arrangement.

15. The conclusion that direct service must cost as much or more assumes that service would be handled in the same manner as it is presently accomplished. However, the parties in this proceeding have suggested that they could use different means to provide carriage of the signal in the earth segment. The customers could establish domestic earth stations adjacent to Comsat facilities so that the signal is retransmitted directly to domestic satellites for reception at customer locations throughout the United States. The customer could construct its own private microwave system or share the facilities with other customers or it could acquire common carrier facilities for itself or share these facilities with other users. Large volume customers could be served by international earth stations which Comsat or one of the international carriers would locate on the customer's premises. Moreover, television customers could provide quality control functions themselves using equipment which, in some cases, is already available to them. PBS indicates that direct service would permit it to have international television transmissions sent over terrestrial microwave directly from its reception point at Etam, W. Va. to its television operating center in Washington, D.C. rather than switching the signal through New York as is done under present arrangements.

16. We believe that there is ample evidence to warrant issuance of a notice of proposed rulemaking looking toward permitting Comsat to serve international television transmission customers directly. With the proposed change the customer would have the flexibility to tailor its facilities and service acquisitions to its specific needs. It would be able to arrange its own means of interconnecting with the international earth stations. This flexibility may be translated into cost savings for existing and potential users. Direct service would also permit customers to be in direct contact with the entity that actually provides the satellite service so that orders and changes in orders can be confirmed immediately. The lower costs may permit customers to increase the amount of their international programing.

17. Such a policy change would appear to have additional public interest benefits. For example, television transmission customers would have a greater opportunity to influence the quality and type of service they take and from whom they take service. Direct service by Comsat also should encourage cost-based pricing by the international carriers in the provision of television service. Presumably, Comsat would charge its customers—whether television users or international carriers—the same rate for satellite service. In order to remain competitive the international carriers would have to charge for the satellite circuit in accordance with the cost of obtaining it. If an international carrier's television transmission service tariff contains unjustified profit margins, customers would in all likelihood switch to Comsat. Similarly, with respect to the acquisition of entrance channels and the provision of associated services such as operating center functions, if the same facilities and services can be

[4] We refer here to that portion of the circuit provided by United States carriers. Foreign entities provide matching facilities serving the distant end.

[5] The $2,340 covers only the facilities obtained by United States carriers. The customer must also pay for the facilities provided by foreign operating entities. In the case of European service, this is an additional expense of $2,778.

[6] ITT reports losses of $64,000 in 1976. WUI reports losses of $21,755 in 1977.

acquired by the customer at less expense than the customer would incur by acquiring them from an international carrier, then either the international carrier is not providing the facilities or services as efficiently as they otherwise can be provided, or they are charging an unjustified margin for the service. The customer would be able to choose between economic and operational alternatives. In such an environment, Comsat should obtain no meaningful competitive advantage over the international carriers unless it can provide service more efficiently or service which is more responsive to customer needs. If so, its service should not be withheld from the public absent a showing that direct service would otherwise adversely affect the public interest.

18. In the authorized user decision, supra, the Commission found that direct service would adversely affect the public interest because leased channel revenues would be diverted from the conventional carriers to Comsat, necessitating rate increases for message telephone, telex or telegram services. This "detriment to the vast majority of users for the apparent benefit of a few large users," 4 FCC 2d at 433, was found to be in derogation of the objectives of the Act because the Act requires that the benefits of lower satellite rates be made available to all users. The rationale for permitting direct service in "unique or exceptional" circumstances was that it would not adversely affect other services. This same rationale is applicable to television transmission service. The revenues from the service account for less than 1 percent of the carriers' overall revenues. The carriers report only marginal profits or they report losses in providing the service. Consequently, we do not now perceive any basis for concluding that there would be any adverse effect on other services even if all television revenues were diverted to Comsat. There is reason to believe that the current arrangements burden public services rather than prevent a burden on those services as the authorized user decision intended.

19. We therefore tentatively believe that direct television service would promote rather than hinder the specific statutory goals contained in the Satellite Act. We think that the proposed policy change to permit direct service will make the global communications network "responsive to public needs" [7] in the provision of television transmission service, and that permitting users to obtain service from either Comsat or the international carriers will "maintain and strengthen competition in the provision of communications services to the public." [8] Moreover, direct service should permit the reflection of the benefits of this new technology in both quality of services and charges for such services.[9] And finally, the availability of new and diverse international programing and increased transmission of news, public affairs and cultural programing via satellite made possible by reductions in costs and inefficiencies would "contribute to world peace and understanding." [10]

20. We believe that this evidence points to the desirability of changing our authorized user policy to permit television users to have direct access to Comsat. Therefore, notice is hereby given that the Commission proposes to change its policy to permit all international television transmission customers to obtain service directly from Comsat. Comments filed in the Spanish International proceeding shall be incorporated into this proceeding. Parties are cautioned not to file pleadings repetitive of those they have already filed concerning the Spanish International petition. Because of the comprehensiveness of the previous filings, we believe that the pleading cycle provided below will give the parties ample time to adequately address the issue.

21. Although our tentative conclusions are based on comments filed concerning Spanish International's petition, the circumstances on which it bases its waiver request do not differ from circumstances which apply to all television transmission customers. Therefore, absent any showing of public interest urgency we do not think it would be appropriate to grant Spanish International a waiver pending the completion of the rulemaking.

22. *It is ordered*, That interested parties shall submit comments concerning the proposed change in policy by September 1, 1978. Replies shall be filed by September 11, 1978.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-21428 Filed 8-1-78; 8:45 am]

[7] 47 U.S.C. 702(a).
[8] 47 U.S.C. 702(c).
[9] 47 U.S.C. 702(b).
[10] 47 U.S.C. 702(a).

[7035-01]

INTERSTATE COMMERCE COMMISSION

[49 CFR Part 1040]

[Ex Parte No. MC 118]

GRANT OF MOTOR CARRIER OPERATING AUTHORITY TO AN APPLICANT WHO INTENDS TO USE IT PRIMARILY AS AN INCIDENT TO THE CARRIAGE OF ITS OWN GOODS AND ITS OWN NONTRANSPORTATION BUSINESS

Proposed Policy Change

AGENCY: Interstate Commerce Commission.

ACTION: Proposed policy change.

SUMMARY: The purpose of this document is to institute a proceeding to determine whether the Commission should change, in accordance with its recent decision in *Toto Purchasing & Supply Co., Inc.*, 128 M.C.C. 873 (1978), its policy regarding the issuance of for-hire motor carrier operating authority to private carrier applicants.

DATES: Comments must be received on or before September 18, 1978.

ADDRESSES: Send comments to: Interstate Commerce Commission, 12th Street and Constitution Avenue NW., Washington, D.C. 20423. All written submissions will be available for public inspection during regular business hours at the same address.

FOR FURTHER INFORMATION CONTACT:

Michael Erenberg, 202-275-7292.

SUPPLEMENTARY INFORMATION: The Association of American Railroads, the American Trucking Associations, Inc., and others, have challenged the correctness of our recent decision in *Toto Purchasing & Supply Co., Inc.*, 128 M.C.C. 873 (1978), which marked a departure from our adherence to the policy of *Geraci Contract Carrier Application*, 7 M.C.C. 369 (1938).

The *Geraci* policy was this: That the Commission would not grant a motor carrier certificate or permit to an applicant who intended to use it primarly as an incident to the carriage of its own goods and its own nontransportation busniness. The *Toto* policy is markedly different: Motor carrier operating authority can be granted to such an applicant; *Provided* (1) That the standard criteria for motor common carrier applications or motor contract carrier applications, as the case may be, are met, and (2) that the applicant is agreeable to the imposition of conditions requiring it to conuct its for-hire motor carrier activities and its other activities independently and to maintain separate records for each.

The change of policy announced in the *Toto* case raises many issurs of general import that ought to be resolved in a general policy proceeding. Accordingly, we are instituting this proceeding. We have also stayed the taking effect of new *Toto* policy pending the final determination of this proceeding.

We anticipate that there will be many questions at issue in this proceeding, including but not limited to the following: (1) What impact will the *Toto* Policy have on (a) the quality and quantity of transportation services available to the shipping public, (b) the regulated for-hire motor carrier industry, (c) the rail industry, and (d) the environment and fuel con-

sumption? (2) Should the Commission adhere to the *Toto* policy, the *Geraci* policy, or some other policy, and why?

This notice is issued under the authority of sections 552, 553, and 559 of the Administrative Procedure Act (5 U.S.C. 552, 553, and 559) and sections 203, 204, 207, 208, and 209 of the Interstate Commerce Act (49 U.S.C. 303, 304, 307, 308, and 309).

Dated: July 21, 1978.

By the Commission, Chairman O'Neal, Vice Chairman Christian, Commissioners Murphy, Brown, Stafford, Gresham, and Clapp, Commissioner Gresham dissenting.

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

[FR Doc. 78-21313 Filed 8-1-78: 8:45 am]

[3510-22]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[50 CFR Part 251]

FINANCIAL AID PROGRAM PROCEDURES FISHERY FOR ATLANTIC GROUNDFISH

Conditional Fisheries

AGENCY: National Oceanic and Atmospheric Administration, National Marine Fisheries Service, U.S. Department of Commerce.

ACTION: Proposed rulemaking.

SUMMARY: The National Oceanic and Atmospheric Administration proposes to amend the financial aid program procedures to incorporate a new section to designate the "fishery for Atlantic groundfish" as a conditional fishery. The Conditional fisheries regulatory mechanism is intended to insure that the financial assistance activities of the National Marine Fisheries Service (NMFS) will be consistent with the wise use of the fisheries resources and with their development, advancement, management, conservation, and protection. When upon review and evaluation of situations and conditions in a fishery, it is determinded that certain fisheries demonstrably do not need additional harvesting capacity to meet management needs and objectives, those fisheries may be designated as conditional fisheries.

DATES: Comments must be received on or before October 31, 1978.

ADDRESS: Submit written views, data, or arguments to Assistant Administrator for Fisheries, National Marine Fisheries Service, Washington, D.C. 20235

FOR FURTHER INFORMATION CONTACT:

Mr. William G. Gordon, Regional Director, Northeast Region, National Marine Fisheries Service, Federal Building, 14 Elm Street, Gloucester, Mass. 01930, telephone 617-281-3600.

SUPPLEMENTARY INFORMATION: Subpart A of 50 CFR part 251 sets forth the general policy under which financial assistance programs for the commercial fisheries will be administered, and establish the procedure to be used in proposing and adopting a fishery as a conditional fishery. Each fishery adopted as a conditional fishery is enumerated under subpart B of 50 CFR part 251. The terms under which financial assistance related to a conditional fishery may be approved are set forth in the regulations on procedures and administration of the fishing vessel obligation guarantee program (50 CFR part 255) and the fishing vessel capital construction fund program (50 CFR part 259).

The conditional fisheries regulatory mechanism is intended to insure that the financial assistance activities of the National Marine Fisheries Service (NMFS) will be consistent with the wise use of the fisheries resources and with their development, advancement, management, conservation, and protection. When, upon review and evaluation of situations and conditions in a fishery, it is determined that certain fisheries demonstrably do not need additional harvesting capacity to meet management needs and objectives, those fisheries may be designated as conditional fisheries.

Fisheries designated as conditional fisheries are those in which application of NMFS financial assistance activities is controlled in a manner which, on balance, will be consistent with the needs and objectives of management. Consequently, NMFS financial assistance programs will not be used to worsen conditions in those fisheries adopted as conditional fisheries. To the contrary, these programs may then be used to assist established fishermen in all fisheries including conditional fisheries, under terms and conditions as set forth in the cross-referenced regulations for each financial assistance program. However, this regulatory mechanism (50 CFR part 251) is not viewed as a substitute for sound fisheries management practices at the international, national, and state levels.

The Assistant Administrator for Fisheries, NOAA (Assistant Administrator) considers it necessary to classify the "fishery for Atlantic groundfish" as a conditional fishery for regulation under part 251 of this chapter. for purposes of this regulation, the "fishery for Atlantic groundfish" is defined to include all U.S. commercial fishing vessels that are subject to regulations implementing the fishery management plan for Atlantic groundfish (FMP), developed by the new England Fishery Management Council (NEFMC) and implemented, with amendments, by the Secretary of Commerce. The situation and conditions necessitating such classification follow.

Domestic harvesting of Atlantic groundfish, specifically haddock, (*Melanogrammus aeglefinus*), cod (*Gadus morhua*), and yellowtail flounder (*Limanda ferruginea*) off the Northeastern United States was regulated under terms of the 18-member International Commission for the Northwest Atlantic Fisheries (ICNAF), as amended, until December 31, 1976, when the United States formally withdrew from ICNAF. The Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), enacted and signed into law April 13, 1976, among other things, authorizes the Secretary of Commerce to promulgate regulations which implement fishery management plans in the U.S. fishery conservation zone.

Since the implementation of Pub. L. 94-265, the harvest of cod, haddock, and yellowtail flounder has been reserved for U.S. fishermen and has been regulated under terms of the FMP. The final regulations implementing the February 1978 FMP were published in the FEDERAL REGISTER on June 30, 1978 (43 FR 28503). These regulations impose management measures such as catch quotas, size restrictions, closed areas, gear restrictions, landing restrictions, closed seasons, and licensing provisions. Moreover, to meet management needs, these regulations allow the Assistant Administrator flexibility to adjust certain landing restrictions for purposes that include spreading the fleet's fishing effort over the entire year and allowing each existing vessel class to harvest its historical percentage of the catch.

The need to impose increasingly restrictive regulations and to provide administrative flexibility to implement the FMP clearly demonstrate that any increase in fishing effort on the Atlantic groundfish species would run counter to achievement of the intent of the FMP of rebuilding the stocks of cod, haddock, and yellowtail flounder. Consequently, the Assistant Administrator is considering that the "fishery for Atlantic groundfish" in the U.S. fishery conservation zone, established under Pub. L. 94-265, should be a conditional fishery in accordance with part 251 of this chapter as it now appears that the use of the financial assistance programs to add vessels to this fishery would be inconsistent with

the needs and objectives of management.

The proposed amendment as set forth below, would incorporate in subpart B of the regulations a new § 251.26 to classify the "fishery for Atlantic ground fish" as a conditional fishery as the term is defined in § 251.1 (i).

This proposed amendment is published pursuant to the authority contained in section 4 of the Fish and Wildlife Act of 1956, as amended; title XI of the Merchant Marine Act, 1936, as amended; section 607 of the Merchant Marine Act, 1936, as amended; the National Environmental Policy Act; and Reorganization Plan No. 4 of 1970.

Dated: July 27, 1978.

WINFRED H. MAIBOHM,
Associate Director, National Marine Fisheries Service.

It is proposed to amend part 251 of this chapter, Subpart B—Conditional Fisheries to add a new § 251.26 as follows:

§ 251.26 Fishery for Atlantic groundfish.

[FR Doc. 78-21330 Filed 8-1-78; 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.

[4310-10]

ADVISORY COUNCIL ON HISTORIC PRESERVATION

PUBLIC INFORMATION MEETING

Notice is hereby given in accordance with section 800.5(c) of the Council's "Procedures for the Protection of Historic and Cultural Properties" (36 CFR part 800) that on August 22, 1978, at 7:30 p.m., a public information meeting will be held at the Allegany County Community College Theatre, Cumberland, Md. The purpose of this meeting is to provide an opportunity for representatives of national, State, and local units of government, representatives of public and private organizations, and interested citizens to receive information and express their views on the proposed construction of section I of the National Freeway, an undertaking assisted by the Federal Highway Administration, that will adversely affect the Breakneck Road Historic District, Allegany County, a property determined by the Secretary of the Interior to the eligible for inclusion in the National Register of Historic Places, and other properties included in or that may be eligible for inclusion in the National Register.

The following is a summary of the agenda of the public information meeting:

I. An explanation of the procedures and purpose of the meeting by a representative of the Executive Director of the Council.

II. A description of the undertaking, including a discussion of the alternative courses of action, and an evaluation of effects on the properties by the Federal Highway Administration.

III. A statement by the Maryland State Historic Preservation Officer.

IV. Statements from local officials, private organizations, and the public on the effects of the undertaking on the properties.

V. A general question period.

Speakers should limit their statements[1] to 5 minutes. Written statements in furtherance of oral remarks will be accepted by the Council at the time of the meeting. Additional information regarding the meeting is available from the Executive Director, Advisory Council on Historic Preservation, 1522 K Street NW., Washington, D.C. 20005, 202-254-3974.

ROBERT R. GARVEY, Jr.,
Executive Director.

[FR Doc. 78-21400 Filed 8-1-78; 8:45 am]

[6320-01]

CIVIL AERONAUTICS BOARD

[Dockets 32711 and 33017; Order 78-7-151]

DALLAS/FORT WORTH-NEW ORLEANS-FLORIDA SERVICE INVESTIGATION

Motions of Ozark Air Lines, Inc.; Order

Issued under delegated authority July 26, 1978.

Order 78-5-129, which was served June 12, 1978, instituted an investigation in docket 32711 to determine whether the public convenience and necessity require that new nonstop authority be granted in nine specified markets. Timely filed applications and motions to consolidate were filed by twelve carriers; and, to the extent that the applications conformed to the scope of the investigation in docket 32711, the motions were granted by order 78-7-68, dated July 18, 1978.

On July 12, 1978, 9 days after the date specified by the Board in order 78-5-129 for the filing of applications, Ozark Air Lines, Inc., filed a motion to file late-filed documents, namely, its application in docket 33017 and a motion to consolidate into docket 32711. Ozark's motion to file late gives no reason for failing to file by the prescribed date other than its "inadvertence."

No answers have been filed to the documents filed by Ozark.

Good cause not having been shown for Ozark's failure to file its application and motion to consolidate on time, its motion to consolidate will be dismissed pursuant to rule 12(b) of the board's rules of practice in economic proceedings.

Accordingly, pursuant to authority delegated to the presiding administrative law judge by order 78-5-129.

It is ordered, That the motion of Ozark Air Lines, Inc., in docket 33017 to file late is denied, and its motion to consolidate its application in docket 33017 into docket 32711 is dismissed.

Persons entitled to petition the board for review of this order pursuant to the board's regulations, 14 CFR 385.50, may file such petitions within 10 days after the service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period unless before that date a petition for review thereof is filed, or the board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

By Katherine A. Kent, Administrative Law Judge.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-21420 Filed 8-1-78; 8:45 am]

[6320-01]

[Docket 32152, et al; Order 78-7-140]

LAS VEGAS-TEXAS CASE

Applications of Hughes Airwest; Order

Adopted by the Civil Aeronautics Board, by its office in Washington, D.C., on the 25th day of July 1978.

In the matter of applications of Hughes Airwest (docket 29554 and 32990), Braniff Airways, Inc. (docket 32203), American Airlines, Inc. (docket 32204), Continental Air Lines, Inc. (docket 32232), Texas International Airlines, Inc. (docket 32235), Western Air Lines, Inc. (docket 32241), Eastern Air Lines, Inc. (docket 32243), North Central Airlines, Inc. (docket 32977), National Airlines, Inc. (docket 32981), Delta Air Lines, Inc. (docket 32993), Northwest Airlines, Inc. (docket 33024), and Frontier Airlines, Inc. (docket 33027).

ORDER

By order 78-5-109, adopted on May 19, 1978, and served on June 22, 1978, the Board amended the scope of the proceeding in docket 32152 and changed its title to the *Las Vegas-Texas Case*.[1] In addition to the original issue of whether the public convenience and necessity require the grant of new authority between Las Vegas, Nev., and Houston, Tex., the order added to the proceeding in docket 32152 the issue of new authority in the "Las Vegas-San Antonio/El Paso markets." The order directed that petition for reconsideration, applications and motions to consolidate be filed on or before July 12, 1978, and that answers to these on or before July 24, 1978.

In response to order 78-109 applications or amendments together with

[1]The order also consolidated various applications then pending and instituted a separate proceeding known as the *Houston-Phoenix/Tucson Case*, docket 32708.

motions to consolidate have been filed by American Airlines, Inc. (docket 32204, amendment No. 1), Braniff Airways, Inc. (docket 32203, amendment No. 1), Continental Airlines, Inc. (docket 32232, amendment No. 1), Delta Air Lines, Inc. (docket 32993), Eastern Air Lines Inc. (docket 32243, amendment), Frontier Airlines, Inc. (docket 33027), Hughes Airwest (docket 32990), National Airlines (docket 32981), North Central Airlines, Inc. (docket 32977), Northwest Airlines, Inc. (docket 33024), Texas International Airlines, Inc. (docket 32235, amendment No. 1) and Western Air Lines, Inc. (docket 32241, amendment No. 1).[2] The consolidation of such applications to the extent they are within the scope of the issues as determined herein is in the public interest, conducive to the proper dispatch of the Board's business and the ends of justice and will not delay the proceeding. They will therefore be consolidated into docket 32152.

Braniff objects to consolidation of North Central's application insofar as it requests authority between Las Vegas and Houston, on grounds that that market was put in issue by order 78-2-100 and that the time for filing applications and motions to consolidate under that order expired on March 14, 1978. It contends that a clause in order 78-5-109 limits consolidation at this point solely to applications for the new authority placed in issue by that order.[3] There is no merit to Braniff's objection. The language in order 78-5-109 upon which it relies was not intended to deprive a carrier of the right after the case was expanded to obtain consolidation of its application for all of the authority in issue.

Petitions for leave to intervene in the above-entitled proceeding have been filed by the Kern County Department of Airports (Bakersfield) and the Greater Bakersfield Chamber of Commerce; the city of El Paso, the El Paso International Airport and Mass Transit Board and the El Paso Chamber of Commerce; the city of Harlingen, Tex.; and Clark County, Nev., the Greater Las Vegas Chamber of Commerce, the city of Las Vegas, the Nevada Resort Association, and the Las Vegas Convention/Visitors Authority ("Las Vegas Parties"). It is found that these petitioners have sufficient economic interest in this proceeding to justify their participation as parties and their petitions for leave to intervene will be granted.

Petitions for reconsideration of order 78-5-109 were filed by National Airlines on July 3, 1978, and by Continental, Hughes Airwest, Western, and El Paso and Las Vegas parties on July 12, 1978. These all deal with the scope of the proceeding in regard to service and traffic rights between the three Texas points in issue. The second prehearing conference in this proceeding was held before Adminsitrative Law Judge William A. Kane, Jr., on July 6, 1978. The transcript of the conference also contains argument by various parties on this issue.[4]

There were four general views expressed at the conference and petitions for reconsideration. Continental Air Lines takes the most restrictive view of the intended and proper scope of the proceeding. It argues that orders 78-2-100 and 78-5-109 are clear beyond question and that the Board intended only to consider three nonstop routes—Las Vegas-El Paso, Las Vegal-San Antonio, and Las Vegas-Houston—with no new traffic or operating rights between the three Texas points. Continental said that order 78-5-109 contained no hint that intra-Texas markets were being placed in issue, that no party had even requested San Antonio-El Paso authority and that Senator Howard Cannon's request which was before the Board when the case was expanded sought expansion to include consideration only of Las Vegas-San Antonio and Las Vegas-El Paso service. Continental argues that when the Board has in the past intended to include issues of coterminal or one-stop authority via intermediate points it has explicitly done so.

Continental argues that intra-Texas authority was requested in Hughes Airwest's original application and has been excluded from consideration when the case was instituted in order 78-2-100; and that the proposals to consider intra-Texas authority now therefore constitute successive requests for reconsideration which are proscribed by rule 37(c) of the rules of practice. While the Board has been liberal in expanding cases. Continental argues that it has also limited the scope with a view toward manageable proceedings focussed on the primary markets at issue, the attempts to include intra-Texas markets are, it protests, merely attempts to "equalize" the route system opportunities between carriers holding intra-Texas authority and those who do not. It argues that including the intra-Texas market will complicate and delay the case.[5] At the conference BPDA endorsed Continental's interpretation of order 78-5-109. It has, however, expressed no view whether the scope should be expanded.

Braniff alone took the position at the conference that order 78-5-109 permits consideration of the issue of combining all three Texas points on a single flight but did not contemplate the grant of traffic rights between the Texas points. Braniff therefore argues in effect that the board intended to or should impose a "closed door" restriction between the Texas points. While Eastern has stated no view as to the scope, its amended application expressly excludes local traffic rights between the Texas points.

The largest number of carrier and civic parties endorsed the position taken by National Airlines. National stated in its petition for reconsideration that it interprets order 78-5-109 as limiting the issues to two discrete nonstop markets, Las Vegas-San Antonio/El Paso, and Las Vegas-Houston, with the result that authority to carry traffic between the newly added Texas points and Houston on flights to and from Las Vegas is beyond the scope of the issues in the case. National argues, however, that it is operationally illogical to limit the scope in this manner, and it asks the Board to amend or clarify the order to make clear that the San Antonio/El Paso-Houston markets are at issue in this proceeding insofar as they would be served on long-haul flights to and from Las Vegas. In effect therefor National suggests a pretrial restriction against new turnaround service in the intra-Texas markets.

Both at the prehearing conference and in petitions for reconsideration the Las Vegas parties and the El Paso civic interests supported National's position. Las Vegas contends that clarification of the order to insure that it covers authority between the Texas points involved on flights serving Las Vegas is manifestly in the public interest. Las Vegas argues that this would

[2] Delta has applied only for the Las Vegas-Houston authority. In addition to rights between Las Vegas, on the one hand, and El Paso, San Antonio, and Houston on the other, Texas International seeks to remove the following restrictions from paragraph 4 of its certificate: El Paso-Houston, one-stop; El Paso-San Antonio, one-stop; and Houston-San Antonio, "must serve a point beyond this city pair." Frontier requests only nonstop authority between Las Vegas and El Paso. Frontier's application and motion were filed on July 14, 1978 with a motion for leave to file late. Good cause having been shown the motion is granted.

[3] "Applications, motions to consolidate, and petitions to reconsider matters decided in this order for the first time shall be filed within 20 days of the service date of this order * * *"

[4] To facilitate an early Board ruling on this procedurally critically issue all parties at the conference (and Western by subsesquent advice to the administrative law judge) waived the right to file answers to petitions for reconsideration. We will therefore deal with this issue on the basis of the pleadings and the transcript now before us.

[5] If the Board nevertheless decides to include intra-Texas markets, Continental urges that they be confined to Houston-San Antonio on a long-haul basis. El Paso-Houston and El Paso-San Antontio are not high density, short-haul, entry-mileage markets, it argues, and their inclusion would substantially expand and complicate the proceeding and invite another round of applications.

greatly enhance the operating flexibility of carriers receiving awards in such markets and benefit the public by permitting the offering of greater frequencies of service. The city argues that it would also facilitate application of the Board's multiple awards approach. El Paso takes the same position and adds that the requested clarification is particularly important to that city's attempts to gain a new carrier or carriers to replace the suspended TXI and to remedy its serious access problems to the east and southeast, particularly between it and Houston.

Hughes Airwest and Western have filed petitions requesting the same clarification or amendment asked by National. American's position at the conference differed from National only in that it interpreted the Board's order as already defining the case as National requested.

The most expansive view of the intended scope was expressed by Texas International. At the conference TXI argued that the Board intended to consider full coterminal authority at the three Texas points, that it did not intend to impose any prohibition on turaround service between the three Texas cities, or, whatever its intention, it should not do so. No other carrier or civic party has expressed support for TXI's view.[6]

Order 78-5-109 was ambiguous and did not express clearly the scope of the proceeding we intend to hear. We have therefore determined to grant the petitions of National, Hughes Airwest, Western, Las Vegas, and El Paso and to prescribe that the scope of this case shall include the issue of the certification of a carrier or carriers to engage in air transportation between the terminal point Las Vegas, Nev., and the coterminal points El Paso, San Antonoio, and Houston, Tex. The right to serve all three Texas points on the same flight and to carry traffic between the Texas points will be in issue, but we will impose a pretrial restriction that all flights serving a Texas point shall also serve Las Vegas. We will thereby preclude consideration of any new turnaround authority between the Texas points.

We agree with National that Las Vegas-El Paso/San Antonio should not be considered as a discrete route separate and apart from Las Vegas-Houston. El Paso and San Antonio involve only limited circuitry from the path of a flight between Las Vegas and Houston. The opportunity to combine two or three Texas cities on a single flight could improve service between Las Vegas and Texas and at the same time provide additional service for intra-Texas passengers. There is no logical or operational reason to refuse to hear the issue of whether carriers should be granted the flexibility to exercise full traffic rights at El Paso and San Antonio on flights operating between Las Vegas and Houston. Any party will be free to attempt to show that the public convenience and necessity require the imposition of a condition prohibiting such service. Scoping the case in this manner will not make it unmanageable, impede its resolution, or divert from the Las Vegas issues we intend primarily to consider.[7]

We will not, however, include the issue of turnaround service between the Texas points. As indicated in order 78-5-109 the El Paso and San Antonio markets have been added to this proceeding on grounds that only a minimal increase in the size and complexity of the case would result. Inclusion of the issue of turnaround service between the three Texas points would substantially increase the size and complexity and add further to the delay that has already been incurred in this case.[8] The addition would also radically shift the focus of the case away from one designed to consider service to Las Vegas to one involving difficult issues of turnaround service in three intra-Texas markets. It would introduce a number of entirely new and different issues and possibly add more parties. It is unlikely that intra-Texas turnaround authority would make any significant contribution to Las Vegas-Texas service; but it would delay the resolution of the important Las Vegas issues that we have determined primarily to resolve here.

The fact that the Board included Dallas/Fort Worth-Houston turnaround issues in the *Twin Cities-Kansas City-Oklahoma-Texas Case*, order 78-5-84, cited by TXI at the prehearing conference, is not persuasive here. That market had 424,000 O. & D. plus connecting passengers in calendar 1976 and, as the Board noted, only two federally certificated carriers were serving it. Houston-San Antonio, the largest intra-Texas market in issue here, had only 111,410 O. & D. plus connecting passengers in calendar 1976, and four certificated carriers providing 15 daily round trips. Our action in considering turnaround rights between Dallas/Fort Worth and Houston in the *Twin Cities* case is therefore no precedent for considering such rights in this case.

Accordingly, *it is ordered:* 1. That the petitions of National Airlines, Hughes Airwest, Western, El Paso, and the Las Vegas parties for reconsideration of order 78-5-109 be granted;

2. That ordering clauses 3 and 4 of order 78-2-100 and ordering clause 3 of order 78-5-109 be canceled;

3. That the issues in this proceeding shall be: (a) Whether the public convenience and necessity require the certification of an air carrier or air carriers to engage in air transportation between the terminal point Las Vegas, Nev., the intermediate points El Paso and San Antonio, Tex., and the terminal point Houston, Tex.: *Provided*, That all flights serving any of the named Texas points shall also serve Las Vegas;

(b) If the answer to (a) is affirmative, which air carrier or air carriers should be authorized to perform such service and what terms, conditions, or limitations should be imposed thereon;

4. That the motions to consolidate into docket 32152, the applications filed by American Airlines, Inc. (docket 32204, amendment No. 1), Braniff Airways, Inc. (docket 32203, amendment No. 1), Continental Airlines, Inc. (docket 32232, amendment No. 1), Delta Air Lines, Inc. (docket 32993), Eastern Air lines, Inc. (docket 32243, amendment), Frontier Airlines, Inc. (docket 33027), Hughes Airwest (docket 32990), National Airlines (docket 32981), North Central Airlines, Inc. (docket 32977), Northwest Airlines, Inc. (docket 33024), Texas International Airlines, Inc. (docket 32235, amendment No. 1), and Western Air Lines, Inc. (docket 32241, amendment No. 1), be granted to the extent that they conform to the scope of the issues in this proceeding as expanded herein and that such applications shall otherwise be dismissed;

5. Notwithstanding the precise form of any application, amendment, or consolidation motion filed to date the issues in this proceeding shall include whether any or all of the air carriers named in paragraph 4 above (except Delta and Frontier) shall be authorized to engage in any or all of the air transportation in issue in this case;[9]

6. That the petitions for leave to intervene filed by the Bakersfield, Calif., parties, the El Paso parties, the city of Harlingen, Tex., and by the Las Vegas parties be granted;

7. That the city of San Antonio and the Greater San Antonio Chamber of Commerce be made parties to this proceeding; and

[6] Delta, Frontier, Northwest, North Central, and San Antonio have expressed no position on the scoping issue.

[7] We reject, as we always have, any arguments that consideration of the intra-Texas markets is desirable as a means of putting all carriers on an equal footing as applicants in this case.

[8] Hughes Airwest which indicated that it would welcome the opportunity to receive turnaround authority said it was realistic enough to realize that injecting the issue could change the focus of the proceeding and delay implementation of needed service.

[9] This provision eliminates the necessity for any further amendments to applications by the carriers who have been or are hereby made parties to this case. Delta has requested only Las Vegas-Houston authority and Frontier has requested only Las Vegas-El Paso nonstop authority.

8. That except to the extent granted all other requests in this proceeding be denied.[10]

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[11]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-21419 Filed 8-1-78; 8:45 am]

[3510-22]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

CARIBBEAN FISHERY MANAGEMENT COUNCIL

Meeting

AGENCY: National Marine Fisheries Service, NOAA.

ACTION: Notice of partially closed meeting.

SUMMARY: The Caribbean Fishery Management Council, established under section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), will meet to discuss: (1) Election of a chairman; (2) status report on the fishery management plan for shallow-water reef fish; (3) consideration of the third draft fishery management plan for spiny lobster; (4) new fishery management plan for mollusks; (5) foreign fishing permits applications; (6) personnel and administrative matters concerning membership on the advisory panel and scientific and statistical committee; (7) other business.

With the exception of the agenda item relative to membership of the advisory panel and the scientific statistical committee scheduled for the afternoon of August 22, 1978, the meeting is open to the public. For information on changes to the agenda, please contact the Executive Director.

The closed session is planned for the afternoon of August 22, 1978, for the discussion of the qualifications of current and prospective members of the advisory panel and the scientific and statistical committee. The disclosure of the information that will be discussed therein would constitute a clearly unwarranted invasion of personal privacy, if allowed to be discussed in a public or open session.

The Assistant Secretary for Administration of the Department of Commerce, with the concurrence of the General Counsel, formally determined on July 28, 1978, pursuant to section 10(d) of the Federal Advisory Committee Act, that the agenda item covered in the closed session may be exempt from the provisions of the act relating to open meetings and public participation therein because this item will be concerned with privileged or confidential information obtained from or about actual and possible members of the advisory panel and the scientific and statistical committee of the Council as a basis for discussing problems related to membership of the advisory panel and the scientific and statistical committee of the Council. This determination was made in accordance with the provisions of 5 U.S.C. 552(c)(6). (A copy of the determination is available for public inspection and copying in the Public Reading Room, Central Reference and Record Inspection Facility, Room 5317, Department of Commerce.)

DATES: The meeting will begin August 22, 1978, starting at 9 a.m. with a closed session planned for the afternoon from 2 p.m. to 5 p.m. On August 23, 1978, the Council will convene at 9 a.m. and adjourn at 5 p.m. On August 24, 1978, the meeting will begin 9 a.m. and adjourn at about noon.

ADDRESS: The meeting will be held at the Hotel Pierre located at 105 De-Diego Avenue, San Juan (Santurce), P.R.

FOR FURTHER INFORMATION CONTACT:

Mr. Omar Munoz-Roure, Executive Director, Caribbean Fishery Management Council, P.O. Box 1001, Hato Rey, P.R. 00919, telephone 809-753-4926.

Dated: July 28, 1978.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

NOTICE OF DETERMINATION FOR PARTIAL CLOSURE OF THE MEETING

The Caribbean Fishery Management Council has scheduled a meeting in San Juan, P.R., for August 22-24, 1978. The Council has requested that the meeting be partially closed with respect to agenda item concerning personnel and administrative matters concerning membership on the advisory panel and scientific and statistical committee. The Council will be considering the qualifications of current and prospective members of these two groups.

The Council was established pursuant to section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265, 16 U.S.C. 1852). There are 7 voting members of the Council, including the Regional Director of the National Marine Fisheries Service, the principal State officials with fishery management responsibility and expertise from Puerto Rico and the Virgin Islands, and four members appointed by the Secretary of Commerce. Nonvoting members include representatives of the U.S. Fish and Wildlife Service, the U.S. Coast Guard, and the Department of State.

The Council's agenda scheduled for the afternoon session of August 22, 1978, involves a discussion of membership on the advisory panel and the scientific and statistical committee of the Council as stated in paragraph 1 above. Accordingly, pursuant to the authority delegated to me by the Secretary of Commerce, I find and determine pursuant to section 10(d) of the Federal Advisory Committee Act, 5 U.S.C. App., that the afternoon session of the August 22, 1978, meeting may be closed to the public in accordance with section 552b(c)(6), because that portion of the meeting is likely to disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy.

All other portions of the meeting will be open to the public.

Dated: July 28, 1978.

GUY W. CHAMBERLIN, Jr.,
Acting Assistant Secretary for Administration.

Dated: July 26, 1978.

ALFRED MEISNER,
Assistant General Counsel.

[FR Doc. 78-21430 Filed 8-1-78; 8:45 am]

[3128-01]

DEPARTMENT OF ENERGY

Economic Regulatory Administration

LA GLORIA OIL & GAS CO.

Action Taken on Consent Order

Pursuant to 10 CFR § 205.199J, the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) as successor to the Federal Energy Administration (FEA) hereby gives notice of final action taken on a consent order. Under the terms of 10 CFR § 205.197(c), no consent order involving sums in excess of $500,000 shall become effective until ERA publishes notice of its execution and solicits and considers public comments with respect to its terms. On June 9, 1978, ERA published a notice of a consent order which was executed between La Gloria Oil & Gas Co. (La Gloria) and the ERA (43 FR 25180, June 9, 1978). With that notice, and in accordance with 10 CFR § 205.197(c), ERA invited interested persons to comment on the consent order. A press release in conformity with 10 CFR § 205.197(c) was also issued.

No public comments were received on the consent order. ERA has concluded that the consent order as executed between ERA and La Gloria is an appropriate resolution of the compliance proceedings described in the notice published June 9, 1978 and hereby gives notice that the consent order shall become effective as proposed, without modification, upon publication of this notice in the FEDERAL REGISTER.

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[10] There is delegated to the presiding administrative law judge authority to consolidate any applications which are within the scope of the case which are filed within 7 days of the date of service of this order and to dismiss nonconforming applications.

[11] All Members concurred.

Issued in Washington, D.C. on the 25th day of July, 1978.

RICHARD B. HERZOG,
Assistant Administrator for Enforcement, Economic Regulatory Administration.

[FR Doc. 78-21363 Filed 8-1-78; 8:45 am]

[3128-01]

Economic Regulatory Administration

PIEDMONT NATURAL GAS CO., INC.

Gas Utility Use of Propane

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Notice of request for comment.

SUMMARY: On July 12, 1978, The Piedmont Natural Gas Co., Inc. (Piedmont) petitioned the Economic Regulatory Administration (ERA) for a waiver of the limitations imposed by the mandatory petroleum allocation regulations on gas utility use of propane. This notice requests public comments to assist the ERA in evaluating Piedmont's pending petition under ERA's guidelines.

DATE: Written comments to be submitted by August 17, 1978.

ADDRESS: Comments should be submitted to: Box UV, Economic Regulatory Administration, Office of Public Hearing Management, Room 2313, 2000 M Street NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Bruce D. Starnes, (Economic Regulatory Administration, Office of Fuel Allocation), 2000 M Street NW., Room 6318, Washington, D.C. 20461, 202-254-6030.

Deanna Williams (DOE, Freedom of Information Reading Room), 12th and Pennsylvania Avenue NW., Room 2107, Washington, D.C. 20461, 202-566-9161.

SUPPLEMENTARY INFORMATION: Piedmont Natural Gas Co., Inc., is incorporated under the laws of the State of New York and is engaging in the business of transporting, distributing, and selling gas in the states of North Carolina and South Carolina. It is a public utility company under the laws of North Carolina and South Carolina, and its public utility operations are subject to the jurisdiction of the North Carolina Utilities Commission and the Public Service Commission of South Carolina.

Piedmont is supplied in South Carolina by the Transcontinental Pipe Line Co. (Transco) and by Carolina Pipeline Co. (Carolina). Carolina receives the majority of its gas from the Southern Natural Gas Co. (Southern). Beginning in September of 1978, Southern will be supplementing its gas supplies to Carolina and thence to Piedmont with high Btu liquefied natural gas (LNG) imported from Algeria.

Piedmont receives separate but interchangeable gas streams from Transco and Carolina for service to Piedmont's customers in Greenville and Spartanburg, S.C. The volumes of these two streams and their availability very greatly over curtailment periods. The LNG portion of Carolina's gas is expected to have a Btu content of about 1,180 Btu's per cubic foot, while the remainder of Carolina's gas and all of the Transco gas will have a normal content of 1.025 Btu's per cubic foot.

Piedmont is seeking to use 6,769,000 gallons of propane annually to stabilize the varying Btu content of its gas supplies. This is necessary because most burners, without adjustments, cannot accommodate high fluctuations in heat content; in addition, certain safety problems could also arise.

Piedmont states that it has considered a number of alternative solutions to this problem and maintains that the only practical solution is to inject propane into the natural gas it receives in order to stabilize heat content. It requested permission to use domestic surplus or imported Canadian propane to be supplied in part or in total by the Exxon Corp., Enterprise Products Co., or Petrolane, Inc. In addition, ERA is informed that a joint venture of Transco and Carolina would supply not more than 750,000 gallons.

In order to use the propane, Piedmont would construct a total of four propane injection systems. These would be situated adjacent to the Transco and Carolina pipelines outside Greenville and Spartanburg, S.C. The injection sites adjacent to Transco's pipeline would have storage capacity for 120,000 gallons at Greenville and 60,000 gallons at Spartanburg. The sites adjacent to the Carolina pipeline would have storage capacities of 60,000 gallons at Woodruff, S.C. and 30,000 gallons at Startex, S.C. Piedmont has also tentatively contracted with an affiliate of Carolina for storage of 3,000,000 gallons in its Tirzah, S.C., cavern and plans to contract with Carolina to increase its storage at Tirzah, S.C., to 5,000,000 gallons in 1979. Transportation of propane to intermediate storage at Tirzah will be by rail or tank truck, and from Tirzah to the injection sites by tank truck.

ERA's guidelines for the allocation of propane and other NGL's for gas utility use and gas transmission company use (42 FR 38553, July 29, 1977) appear at 10 CFR Part 211, appendix to subpart D.

COMMENT PROCEDURE

A file containing all information and data filed in conjunction with Piedmont's petition, other than confidential information which ERA has determined to be exempt from the disclousre requirements of 5 U.S.C. 522, is available for public inspection and copying at the DOE Freedom of Information Reading Room, Room 2107, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Written comments regarding Piedmont's petition will be accepted and considered if filed by 4:30 p.m. on August 17, 1978. Any person submitting written comments with respect to the Piedmont petition should submit ten (10) copies to ERA and should comply with the requirements of the ERA procedural regulations set forth at 10 CFR 205.9 et seq. Comments should be submitted to Box UV, Economic Regulatory Administration, Office of Public Hearings Mangement, Room 2313, 2000 M Street NW., Washington, D.C. 20461. Comments should be identified on the outside of the envelope and on documents submitted to ERA with the designation "Gas utility use of propane by Piedmont". One copy of each comment with confidential information deleted should be submitted to Piedmont Natural Gas Co., Inc., P.O. Box 1968, Charlotte, N.C. 28233, Attention: Mr. E. L. Manning.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, in one copy only, in accordance with procedures set forth in 10 CFR 205.9(f). Any material not accompanied by a statement of confidentiality will be considered to be nonconfidential. The Economic Regulatory Administration reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

Issued in Washington, D.C., July 27, 1978.

BARTON R. HOUSE,
Assistant Administrator, Fuels Regulation, Economic Regulatory Administration.

[FR Doc. 78-21425 Filed 8-1-78; 8:45 am]

[6740-02]

Federal Energy Regulatory Commission

[Docket No. ER78-489]

ARKANSAS-MISSOURI POWER CO.

Proposed Change in Rates

JULY 26, 1978.

Take notice that on July 13, 1978, Arkansas-Missouri Power Co. of Blytheville, Ark. (Ark-Mo), pursuant to section 205 of the Federal Power Act and part 35 of the Commission's regulations thereunder, tendered for filing a change in rates applicable to electric service rendered to its wholesale and wheeling customers. These changes in rates are proposed to become effective as of September 1, 1978, or at such time that existing noncancellable contracts terminate. Ark-Mo indicates that the proposed changes in rates are to compensate Ark-Mo for increases in its cost of capital, labor, materials and supplies, cost of power, and taxes.

Ark-Mo states that its current wholesale contract rates are deficient by $313,000 annually based on sales volumes set forth in the statements accompanying its notice of change in rates. Ark-Mo further states that its current charges for wheeling are deficient by some $255,000 based on the demands placed upon their transmissions as set forth in the statements accompanying its notice of change in rates.

Copies of the proposed rate schedules and their revenue effect have been served on the four Ark-Mo wholesale customers and upon the three Ark-Mo wheeling customers affected by the filing.

Any person desiring to be heard or to protest said notice should file a petition to intervene or protest with the Federal Energy Regulatory 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 August 2, 1978. 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. Ark-Mo's proposed tariff sheets and rate filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-21334 Filed 8-1-78; 8:45 am]

[6740-02]

[Docket No. ER78-495]

COMMONWEALTH EDISON CO.

Proposed Tariff Change

JULY 26, 1978.

Take notice that Commonwealth Edison Co. (Edison), on July 18, 1978, tendered for filing proposed changes in its FERC Electric Service Tariff No. 16. Edison indicates that the proposed changes amend the interconnection agreement between Commonwealth Edison Co. and Wisconsin Power & Light Co. to provide an extension from 60 days to 180 days in the period for the determination of certain costs following the removal of temporary 138,000-volt interconnection facilities.

A copy of the filing has been served upon Wisconsin Power & Light Co., according to Edison.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory 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 August 4, 1978. 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. 78-21335 Filed 8-1-78; 8:45 am]

[6740-02]

FLORIDA POWER CORP.

[Docket No. ER78-501]

Filing of Contract

JULY 26, 1978.

Take notice that on July 18, 1978, Florida Power Corp. (Florida Power) tendered for filing a contract for interchange service (contract) between Florida Power and Fort Pierce Utilities Authority. Florida Power states that the contract provides for economy energy interchange service. Florida Power requests that the contract, in accordance with its terms, be permitted to become effective on September 1, 1978.

Florida Power further states that copies of the contract were served upon the Fort Pierce Utilities Authority and the Florida Public Service Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory 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 August 4, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not 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. 78-21336, Filed 8-1-78; 8:45 am]

[6740-02]

[Docket No. ER78-491]

GULF STATE UTILITIES CO.

Filing

JULY 26, 1978.

Take notice that Gulf States Utilities Co. on July 17, 1978, tendered for filing notice that an additional metering point has been added to serve the Sam Rayburn Dam Electric Cooperative, proposed to be effective June 15, 1978.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20406, in accordance with sections 1.8 and 1.10 of the Commission's rules or practice and procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before August 2, 1978. 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. 78-21337 Filed 8-1-78; 8:45 am]

[6740-02]

[Project No. 2746]

NEBRASKA PUBLIC POWER DISTRICT

Application for Major License

JULY 26, 1978.

The public should take notice that an application was filed on February 29, 1978, and amended on May 11, 1978, under the Federal Power Act, 16 U.S.C. §§ 791a-825r, by Nebraska Public Power District (Correspondence to: Mr. Jay M. Pilant, Director of Lincensing and Quality Assurance, P.O. Box 499, Columbus, Nebr. 68601 and Mr. Gene D. Watson, General Counsel, Nebraska Public Power District, P.O. Box 499, Columbus, Nebr. 68601) for a major license for the proposed Boyd County pumped storage project, FERC No. 2746. The proposed project would be located in Boyd County, Nebr., across the river from Greenwood, S. Dak., and would affect the Missouri River, a navigable waterway of the United States.

The proposed Boyd County pumped storage project would have an installed capacity of 1,336 megawatts and would include: (1) A 900-foot long, 160-foot high, earth-fill dam impounding an upper-reservoir having a surface area of 1,200 acres at elevation 1,680 msl, a total storage capacity of 74,000 acre-feet with five feet of freeboard, and an active storage capacity of 52,000 acre-feet between elevations 1,625 and 1,680 msl; (2) a 4.3-mile long, 46-foot high, earth-fill dam between the river and adjacent bluffs impounding a lower reservoir located alongside the Missouri River, having a surface area of 1,700 acres at elevation 1.276 msl, a total storage capacity of 60,000 acre-feet with 10 feet of freeboard, and an active storage capacity of 52,000 acre-feet between elevations 1,245 and 1,276 msl; (3) an underground powerhouse housing eight 278,000 hp reversible Francis-type pump-turbines, operated under a static head ranging from 349 to 435 feet, direct-connected to eight motor/generators rated at 167 MW each; (4) an intake structure in the floor of the upper reservior connected to four horizontal tunnels which bifurcate at the powerhouse into eight penstocks; (5) a river pumping station housing three 60,000 gpm multistage turbine pumps and appurtenant equipment to handle the initial filling of the reservoirs and provide make-up water for the project; (6) transmission facilities comprising two 13,000-foot-long, 345-kV circuits strung on single-circuit lattice-type transmission towers from the powerhouse to the non-project Lynch substation, to be located at the southeast side of the upper reservoir; (7) recreation areas and facilities, including a visitors center, a boat launching ramp in the Missouri River, camping and picnic areas, and related facilities for public use; and (8) all other facilities appurtenant to operation of the project.

The power generated at the proposed project would be shared by the Nebraska Public Power District and another utility, and would be used for public utility purposes.

Any person desiring to be heard or to make any protest with reference to said application should, on or before September 25, 1978, file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., 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 (1977). All protests filed with the Commission will be considered by it in determining the appropriate action to taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any hearing therein must file a petition to intervene in accordance with the Commission rules.

The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-21338 Filed 8-1-78; 8:45 am]

[6740-02]

[Docket No. CP78-187]

NORTHERN NATURAL GAS CO.

Informal Conference

JULY 26, 1978.

Take notice that an informal conference will be held in the above-referenced proceeding on August 8, 1978 at 10 a.m. in a room at the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. At the conference, there will be a discussion of Northern Natural Gas Co.'s application and the intervention filed by Lake Superior District Power Co.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-21339 Filed 8-1-78; 8:45 am]

[6740-02]

[Docket No. RP76-52 *et al.*]

NORTHERN NATURAL GAS CO.

Technical Conference

JULY 26, 1978.

Take notice that a technical conference will be held in the above-referenced proceeding on August 9, 1978 at 9:30 a.m. in a hearing room at the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. At the conference, staff technical witnesses will be present to discuss the final environmental impact statement.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-21340 Filed 8-1-78; 8:45 am]

[6740-02]

[Docket No. ER78-496]

NORTHERN STATES POWER CO.

Filing

JULY 26, 1978.

Take notice that Northern States Power Co. (Northern States) on July 18, 1978, tendered for filing supplement No. 4, dated June 30, 1978, to the Manitoba-United States Winnipeg-Grand Forks 230 Kv interconnection coordinating agreement, dated January 16, 1969, between the Manitoba Hydro-Electric Board, Minnkota Power Cooperative, Inc., Northern States and Otter Tail Power Co.

According to Northern States supplement No. 4 provides a fourth revision of the service schedules to the agreement, modifying the rates for power and energy in service schedue II—participation power, service schedule III—peaking power, and service schedule IV—short term power.

Northern States requests an effective date of August 15, 1978, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory 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 August 4, 1978. 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. 78-21341 Filed 8-1-78; 8:45 am]

[6740-02]

[Docket No. ER78-497]

NORTHERN STATES POWER CO.

Filing

JULY 26, 1978.

Take notice that Northern States Power Co. (Northern States) on July 17, 1978, tendered for filing a letter agreement, dated June 20, 1978.

Northern States indicates that the filed letter agreement extends certain provisions of contract Nos. 14-06-600-1556 and No. 14-06-600-1940 through August 31, 1978, or until a new interconnection contract is executed, whichever is earlier.

Northern States further indicates that said contracts were terminated on June 30, 1978. Northern States proposed an effective date of July 1, 1978, and requests waiver of the Commission's notice requirements in order to allow additional time needed to conclude further negotiations of a new interconnection contract.

Any person desiring to be heard or to protest such application should file a petition to intervene or protest with the Federal Energy Regulatory 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 August 4, 1978. 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. 78-21342 Filed 8-1-78; 8:45 am]

[6740-02]

[Docket No. ER78-498]

NORTHERN STATES POWER CO.

Filing

JULY 27, 1978.

Take notice that Northern States Power Co. (Northern States) on July 17, 1978, tendered for filing supplement No. 2, dated June 26, 1978, to the municipal resale electric service agreement with the city of Hillsboro, N. Dak.

Northern States indicates that supplement No. 2 provides a second point of delivery to the city of Hillsboro. Northern States proposes an effective date of September 20, 1978.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory 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 August 21, 1978. 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. 78-21343 Filed 8-1-78; 8:45 am]

[6740-02]

[Docket No. CP75-287]

NORTHWEST PIPELINE CORP.

Petition To Amend

JULY 27, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977), and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission (FPC) ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977. The functions which are the subject of this proceeding were specifically transferred to the FERC by section 402(a)(1) of the DOE Act.

Take notice that on July 3, 1978, Northwest Pipeline Corp. (petitioner), P.O. Box 1526, Salt Lake City, Utah 84110, filed in docket No. CP75-287 a petition to amend pursuant to section 7 of the Natural Gas Act the FPC's order issued September 26, 1975 (54 FPC ——), as amended on January 16, 1976 (55 FPC ——), September 1, 1976 (56 FPC ——), October 15, 1976 (56 FPC ——), by the FPC, and October 13, 1977, by the FERC, in the instant docket so as to authorize:

(1) The increase in seasonal quantity of natural gas which Petitioner is authorized to sell and deliver pursuant to its Storage Gas Rate Schedule SGS-1 from 10,800,000 Mcf to 11,400,000 Mcf for the 1978-79 heating season; and

(2) The reallocation to certain of its distributor customers, incorporating thereby the proposed increased seasonal quantity for the 1978-79 heating season, of peak day, best efforts, and seasonal quantities.

These proposals are more fully set forth in the petition which is on file with the Commission and open to public inspection.

It is stated that the Jackson Prairie storage field (Jackson Prairie), located in the southern part of the State of Washington, near Cheholis, Wash., is owned equally by petitioner, Washington Natural Gas Co. (Washington Natural), and The Washington Water Power Co. (Water Power). Said parties have determined to increase the total storage inventory of Jackson Prairie from 26,900,000 Mcf to a total inventory of 31,800,000 Mcf over the next three storage seasons, that is May 1 to the next succeeding April 30 of each of the next 3 years, it is further stated, pursuant to the Ninth revised appendix C to their June 25, 1970, agreement. The increase from 10,800,000 Mcf of working gas to 11,400,000 Mcf proposed by this petition would be the first stage of the contemplated development.

The proposed development program would necessitate an increase in the cushion gas, it is asserted. The plan is contemplated as follows:

[Figures in thousand cubic feet]

	Cushion gas	Working gas	Total inventory
1974 and 1978 (present)	16,100,000	10,800,000	26,900,000
1978 and 1979	17,400,000	11,400,000	28,800,000
1979 and 1980	18,300,000	11,900,000	30,200,000
1980 and 1981	19,500,000	12,300,000	31,800,000

Petitioner asserts that the proposed development plan is prudent as it could be used, on occassion, to protect high-priority customers outside of a company's market area as it in fact was during the 1976-77 and 1977-78 heating seasons.

The petition states that pursuant to the parties' agreement dated June 25, 1970, each of the three owners have a call on a ⅓ of the then current storage capacity, and further provides that Washington Natural or Water Power is entitled to a pro-rata share of Petitioner's ⅓ of the then working gas capacity. Washington Natural, it is asserted, has elected to exercise its right to such proportionate part of Petitioner's ⅓ share of both the firm daily quantity and the seasonal quantity commencing with the 1978-79 heating season.

Petitioner states that it and its distributor customers have agreed on new allocations. The presently Docket No. CP75-287 Authorized allocations are as follows:

PRESENTLY AUTHORIZED ALLOCATIONS

[In therms]

	Daily quantity			Seasonal quantity
	Firm	Best efforts	Total	
CP National Corp.[1]	44,330	7,525	51,855	1,529,290
Cascade Natural Gas Co	280,864	47,405	328,269	9,675,891
Intermountain Gas Co	276,509	39,580	316,089	10,636,189
Northwest Natural Gas Co	401,342	65,765	467,107	14,268,268
Peoples Natural Gas, Division of Northern Natural Gas Co	5,387	1,254	6,641	193,914
Southwest Gas Corp	121,568	29,095	150,663	4,376,448
Washington Natural Gas Co. and Washington Water Power Co. jointly	2,104,000	561,840	2,575,840	72,504,000
Total therms	3,144,000	752,464	3,896,464	113,184,000
Total 1,000 ft³	300,000	71,800	371,800	10,800,000

[1] Formerly California-Pacific Utilities Co.

The petition states that the revised reallocation of the firm contract demand and seasonal quantities as proposed for the 1978-79 heating season and thereafter are as follows:

ALLOCATION PROPOSED FOR THE 1978-79 HEATING SEASON AND THEREAFTER

[In therms]

	Daily quantity			Seasonal quantity
	Firm	Best efforts	Total	
CP National Corp	26,749	7,525	34,274	1,070,000
Cascade Natural Gas Co	169,177	40,466	209,643	6,090,000
Intermountain Gas Co	239,204	42,187	281,391	9,375,000
Northwest Natural Gas Co	234,852	70,097	304,949	8,924,000
Peoples Natural Gas, Division of Northern Natural Gas Co	4,591	1,254	5,845	174,000
Southwest Gas Corp	121,568	29,095	150,663	4,620,000
Washington Natural Gas Co. and Washington Water Power Co. jointly	2,347,859	561,840	2,909,699	89,219,000
Total therms	3,144,000	752,464	3,896,464	119,472,000
Total 1,000 ft³	300,000	71,800	371,800	11,400,000

Petition states that petitioner does not propose the construction and any additional transmission facilities to render the increased service proposed.

The volumes of natural gas to be delivered to Jackson Prairie for storage, including the additional volumes proposed by this petition, can be made available from petitioner's presently owned and contracted gas supply, it is stated, therefore, petitoner's customers' firm requirements would not be curtailed, it is asserted.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before August 18, 1978, file with the Federal Engergy Regulatory 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. 78-21344 Filed 8-1-78; 8:45 am]

[6740-02]

[Docket No. ER78-490]

OHIO EDISON CO.

Proposed Tariff Change

JULY 26, 1978.

Take notice that Ohio Edison Co. (Ohio Edison) on July 17, 1978, tendered for filing a proposed supplement No. 5, dated June 15, 1978, to the interconnection agreement of January 1, 1952, between Ohio Power Co. and Ohio Edison (Ohio Power Co. rate schedule FPC No. 25 and Ohio Edison Co. rate schedule FPC No. 9).

Ohio Edison states that supplement No. 5 provides for a change in the charge for non-displacement energy. Ohio Edison further states that under the existing rate schedules, the charge is out-of-pocket cost plus 20 percent (including transmission losses) but not less than 7 mills per kWh and 4 mills per kWh for on-peak and off-peak energy, respectively. Ohio Edison indicates that the proposed rate is 110 percent of out-of-pocket cost with transmission losses included in the out-of-pocket cost.

Ohio Edison further indicates that the reason for the proposed change is to fix a lower rate for non-displacement energy that currently is more appropriate for the cost of providing such energy.

Ohio Edison requests an effective date of June 26, 1978, and therefore requests waiver of the Commission's notice requirements.

According to Ohio Edison copies of this filing were served on Ohio Power Co. and the Public Utilities Commission of Ohio.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Com-

mission, 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 August 4, 1978. 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. 78-21345 Filed 8-1-78; 8:45 am]

[6740-02]

[Docket No. ER78-494]

PENNSYLVANIA ELECTRIC CO.

Proposed Tariff Change

JULY 26, 1978.

Take notice that Pennsylvania Electric Co. (company), on July 18, 1978, tendered for filing proposed changes in its FPC electric service tariff, volume No. 1 and to its contract with Allegheny Electric Cooperative, Inc., for supplemental and wheeling service (FPC No. 70). Company indicates that the proposed changes would increase revenues from jurisdictional sales and service by $1,436,102 to tariff customers and by $6,151,375 to Allegheny based on the 12-month period ending June 30, 1979.

Company requests an effective date of August 16, 1978.

Copies of the filing were served upon the company's jurisdictional customers and the Pennsylvania Public Utility Commission, according to company.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory 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 August 4, 1978. 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. 78-21346 Filed 8-1-78; 8:45 am]

[6740-02]

[Docket No. ER78-507]

PUBLIC SERVICE CO. OF COLORADO

Proposed Tariff Change

JULY 27, 1978.

Take notice that Public Service Co. of Colorado (PSCo) on JUly 24, 1978, tendered for filing proposed changes in its FERC electric rate schedule Nos. 3, 6, 9, 11, 12, 13, 14, 15, and 17. PSCo indicates that the changes include increased rates for wholesale electric service reflecting a general rate increase, and a change in the base cost of fuel. PSCo states that the increased rate will increase revenues from jurisdictional sales and service by $2,052,707 based on the 12-month period ended December 31, 1978.

PSCo states that the general rate increase is necessary because of the effect on its operations of escalating prices and inadequate rate of return on its investment.

PSCo proposes an effective date of August 23, 1978, and states that copies of the filing have been mailed to each of its wholesale electric service customers and the Public Utilities Commission of the State of Colorado.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory 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 protests or petitions should be filed on or before August 11, 1978. 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 proceedings. 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. 78-21347 Filed 8-1-78; 8:45 am]

[6740-02]

Federal Energy Regulatory Commission

[Docket No. RI78-8]

RICHARD C. SLACK ET AL.

Order Granting Petition for Special Relief

JULY 24, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977), and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "savings provisions" of section 705(b) of the DOE Act provide that proceedings pending before the Federal Power Commission on the date the DOE Act takes effect shall not be affected, and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued, and further actions shall be taken by the appropriate component of DOE now responsible for the functions under the DOE Act and regulations promulgated thereunder. The functions which are the subject of these proceedings were specifically transferred to the FERC by section 402(a)(1) of the DOE Act.

The joint regulation adopted on October 1, 1977, by the Secretary of Energy and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR ——, provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above mentioned authorities.

On November 18, 1977, Richard C. Slack et al. (Slack) filed a petition for special relief in docket No. RI78-8 pursuant to section 2.76 of the Commission's general policy and interpretations, requesting permission to sell natural gas at the rate of $1.70 per Mcf at 14.65 psia from 18 wells on seven Brown & Altman leases, Emperor Deep (Yates) Field, Winkler County, Tex.

Subsequently, Slack's original petition for special relief was amended on January 6, 1978, and on March 8, 1978. In his amended petition, dated January 6, 1978, Slack requested that two additional gas wells on the Sun Halley lease, Weiner-Colby Field, Winkler County, Tex., be included in his petition for special relief. In his amended petition, dated March 27, 1978, slack sought permission to delete two wells

on the Brown & Altman lease No. 1 which were included in his original petition for special relief. Thus, Slack's petition represents 100 percent of the working interest in 18 wells, 16 on the Brown & Altman leases and 2 on the Sun Halley lease as shown in appendix A. Moreover, in his amended petition filed March 27, 1978, Slack requests a total rate of $1.3563 per Mcf at 14.65 psia for the sale of gas.

Presently, Slack sells natural gas at a base rate of 18.004 cents per Mcf to West Texas Gathering Co. (West Texas) pursuant to a small producer certificate and two contracts. Slack was issued a small producer certificate in docket No. CS76-787 on August 4, 1976. Slack executed contracts with West Texas for the sale of gas from wells included in the Brown & Altman leases and from wells included in the Sun Halley lease, on June 1, 1959, and August 7, 1961 respectively.

Further, West Texas, by letters dated November 16, 1977, and January 4, 1978, agreed to pay Slack the proposed increased rate of $1.3563 per Mcf for the purchase of gas, providing it and El Paso Natural Gas Co.[1] are able to pass through the rate increase to their customers.

In order to economically recover the estimated remaining reserves of 930,906 Mcf of gas over a period of 5¾ years from the Yates Formation, Slack proposes to clean out and deepen each of 18 wells at a cost of $13,350 per well for an outlay of capital expenses totaling $240,300.

Based upon data filed by Slack, staff determined that Slack has a remaining net book investment of $26,068 in the leases embraced by the subject petition. Additionally, after analyzing data submitted by Slack, staff determined that Slack's estimated operating expenses over the remaining 5¾ years of production of the wells will total $493,618, including an annual inflation factor of 5 percent. Slack's estimated total future operating expenses were calculated by using a first year expense of $15,076 and second year expense of $461 per well per month. Included in the operating expenses of $461 per month per well is the expense of $4,500 per well which covers the annual clean out and repair expense due to predictable sand fill-up resulting from producing gas from 100 feet of uncased formation.

Staff concludes, using the above data and the net working interest reserves of 698,962 Mcf of gas in a traditional cost study and following established Commission methodology, that the requested rate of $1.3563 per Mcf at 14.65 psia is cost supported.[2]

Slack's original petition for special relief, filed November 18, 1977, was noticed on December 2, 1977, and published in the FEDERAL REGISTER on December 12, 1977 (42 FR 62533). On April 20, 1978, notice of Slack's amended petitions for special relief, filed January 6 and March 27, 1978, respectively, was issued. Notice of these petitions was published in the FEDERAL REGISTER on April 27, 1978 (43 FR 18012). No protests or petitions to intervene were filed.

After considering the data submitted and staff analysis thereof, we conclude that it is in the public's interest to grant special relief to Slack.

The Commission orders: (A) Slack's petition for special relief, as amended, is hereby granted.

(B) Slack is authorized to collect a total rate of $1.3563 per Mcf at 14.65 psia for sales of gas from each well shown in appendix A, effective as of the date of issuance of this order or date the proposed work is completed on each well, whichever is later, subject to the conditions set forth in paragraphs (C) and (D) below.

(C) Within 30 days of the effective date for each well shown in appendix A, Slack must file a statement signed by West Texas setting forth the date the proposed work has been completed to its satisfaction.

(D) Within 30 days of the date of this order Slack must file copies of the executed contract amendments providing for the payment of the rate authorized herein and a notice of independent producer rate change filing in docket No. CS76-787 for sales under each contract.

By the Commission.

KENNETH F. PLUMB,
Secretary.

APPENDIX A.—*R. C. Slack et al., Docket No. RI78-8, Brown & Altman leases No. 2 through No. 7, Emperor Deep (Yates) field, Sun Halley lease, Weiner-Colby field, Winkler County, Tex.*

[Leases and wells covered by petition]

Lease	Well Nos.	Total wells
Brown & Altman No. 2....	12, 13, 14, 15, 16....	5
Brown & Altman No. 3....	17	1
Brown & Altman No. 4....	A-4, A-5	2
Brown & Altman No. 5....	1, B-1, B-2,* 3*.....	4
Brown & Altman No. 6....	G-1,* G-4,* G-5....	3
Brown & Altman No. 7....	18*	1
Sun Halley	3,* 5*	2
Total		18

* Wells currently not producing.

APPENDIX B.—*R. C. Slack et al., Docket No. RI78-8, Brown & Altman leases No. 2 through No. 7, Emperor Deep (Yates) field, Sun Halley lease, Weiner-Colby field, Winkler County, Tex.*

[Unit Cost of Gas]

Line No. and item (a)	Amount (b)
1. Net working interest volumes:	
2. Gas—thousand cubic feet at 14.65 psia[1]	695,962
3. Liquids—barrels[2]	0
4. Cost of production:	
5. Return on rate base at 15 pct[3]	$116,261
6. DD&A[4]	266,368
7. Production expense[5]	493,618
8. Regulatory expense[6]	699
9. Total cost of production	876,946
10. Unit cost of gas (cents per M ft)[7]	
11. Cost of production[7]	125.46
12. Production tax[8]	10.17
13. Total unit cost of gas[9]	135.63

[1] (827,472 Mcf, Brown & Altman leases + 103,434 Mcf, Sun Halley lease, × 0.7508409 average net working interest.
[2] No liquids credited back to R.C. Slack et al. leases.
[3] Line 13 of sheet 3 × 0.15 × 5.75 years future production life.
[4] From line 6 of sheet 2.
[5] Estimated based Applicant's filing.
[6] Line 2 × 0.1 cents per thousand cubic feet from Opinion No. 749.
[7] Line 9 ÷ line 2.
[8] 7.5 pct. × line 13.

APPENDIX B.—*R. C. Slack et al., Docket No. RI78-8, Brown & Altman leases No. 2 through No. 7, Emperor Deep (Yates) field, Sun Halley lease, Weiner-Colby field, Winkler County, Tex.*

[Investment]

Line No. and Item (a)	Amount (b)
1. Investment:	
2. Remaining net book investment[1]	$26,068
3. New investment[2]	240,300
4. Total investment	266,368
5. Less salvage value[3]	0
6. Depreciable investment	266,368
7. Depreciation per unit of production[4]	0.381091

[1] Includes $19,680 for the Brown & Altman leases and $6,388 for the Sun Halley lease.
[2] Represents $213,600 for the Brown & Altman leases and $26,700 for the Sun Halley lease to workover (by deepending 100 ft) a total of 18 wells at a cost of $13,350 per well.
[3] It is assumed that proceeds of salvage will offset abandonment costs.
[4] Line 6 ÷ line 2, sheet 1.

[1] El Paso purchases the gas from West Texas at the tailgate of the Cabot Corp. plant where the gas is processed by Cabot to remove hydrogen sulfide and other impurities in exchange for the liquids. No liquid revenue is credited back to Slack's leases.

[2] See appendix B.

APPENDIX B.—*R. C. Slack et al., Docket No. RI78-8, Brown & Altman leases No. 2 through No. 7, Emperor Deep (Yates) field, Sun Halley lease, Weiner-Colby field, Winkler County, Tex.*

[Average investment and average rate base]

Line No. and Year	N.W.I. production (Mcf)	Beginning of year investment	Depreciation[1]	End of year investment	Average investment[2]
(a)	(b)	(c)	(d)	(e)	(f)
1. Average investment:					
2. 1	100,458	$266,368	$38,284	$228,084	$247,226
3. 2	173,899	228,084	66,271	161,813	194,949
4. 3	143,504	161,813	54,688	107,125	134,469
5. 4	119,028	107,125	45,360	61,765	84,445
6. 5	97,917	61,765	37,315	24,450	43,108
7. 6	64,156	24,450	24,450	0	9,169[3]
8. Total	698,962		266,368		713,366
9. Average annual investment[4]					124,064
10. Annual rate base:					
11. Average annual investment					124,064
12. Average annual working capital allowance[5]					10,731
13. Total annual rate base					134,795

[1] Column (b) × line 7 of sheet 2.
[2] (Column (c) + Column (e)) ÷ 2.
[3] This has been weighted for 0.75 years.
[4] Column (f) of line 8 ÷ 5.75 years future production life.
[5] 0.125 × line 6 of sheet 1 ÷ 5.75 years future production life.

[FR Doc. 78-21189 Filed 8-1-78; 8:45 am]

[6740-02]

[Docket No. RP77-32]

SOUTH GEORGIA NATURAL GAS CO.

Refund Report

JULY 27, 1978.

Take notice that on July 21, 1978, South Georgia Natural Gas Co. (South Georgia) filed a refund report in docket No. RP77-32. South Georgia states that it made refunds totalling $741,010.65 on July 19, 1978, pursuant to the settlement agreement approved by the Commission on July 6, 1978. The refund report, it is stated, sets forth in detail all computations underlying the July 19, 1978, refunds.

Any person wishing to do so may submit comments in writing concerning South Georgia's refund report. All such comments should be filed with or mailed to the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before August 10, 1978. Copies of the report are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-21348 Filed 8-1-78; 8:45 am]

[6740-02]

[Docket No. ER78-500]

SOUTHERN INDIANA GAS & ELECTRIC CO.

Filing

JULY 26, 1978.

Take notice that Southern Indiana Gas & Electric Co. (company) on July 17, 1978, tendered for filing a letter agreement constituting a third supplement to electric power agreement dated May 28, 1971 (Alcoa Generating Corp. Rate Schedule FPC No. 2) modifying said agreement and the Letter Agreement dated April 30, 1973 (first supplement) and the second supplement dated July 10, 1975.

The instant filing proposes to increase the demand charge to $2.60 per KW per month.

Waiver of the Commission's notice requirements is requested to allow for an effective date of July 1, 1978.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory 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 and 1.10). All such petitions or protests should be filed on or before August 4, 1978. 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. 78-21349 Filed 8-1-78; 8:45 am]

[6740-02]

[Docket Nos. RP73-64 (PGA78-2) (DCA78-2) and RP78-36]

SOUTHERN NATURAL GAS CO.

Proposed Changes in FERC Gas Tariff

JULY 27, 1978.

Take notice that Southern Natural Gas Co. (Southern), on July 21, 1978, tendered for filing proposed changes to its FERC Gas Tariff, Sixth Revised Volume No. 1, to become effective on July 2, 1978 and July 7, 1978. Such filing is in compliance with the Commission's order issued June 30, 1978 in docket No. RP73-64 (PGA78-2) (DCA78-2).

Southern states that substitute 30th revised sheet No. 4A, to be effective July 2, 1978, is filed in compliance with the Commission's order of June 30, 1978, in docket No. RP73-64 (PGA78-2) (DCA78-2). Said order directed Southern to file revised rates "* * * reflecting any revisions in its pipeline supplier rates and excluding the claimed nonjurisdictional purchase from Gas System, Inc." On July 13, 1978, Southern's two pipeline suppliers filed downward revisions to their respective PGA's. The revised rates included in substitute 30th revised sheet No. 4A reflect the revised filings of the pipeline suppliers which, if accepted by the Commission, together with the elimination of the nonjurisdictional purchase from Gas Systems, Inc., will result in a reduction of .362¢ per Mcf to Southern's commodity and one-part rates as filed in its May 16 PGA filing.

Further, Southern states that substitute interim 28th revised sheet No. 4A, to be effective July 7 through July 31, 1978, is filed pursuant to the Commission's order of June 29, 1978 in docket No. RP78-36. Said order permits Southern to place interim rates into effect to recover costs of regasified LNG pending the effective date of the rates in Southern's general rate increase in docket No. RP78-36. Because these interim rates were computed by increasing Southern's May 16, 1978 PGA filing to include only the cost of delivering regasified LNG into Southern's pipeline system, Southern says it is necessary to also reduce the interim rates which became effective on July 7, 1978 by .362¢ per Mcf for the commodity and one-part rates previously accepted by the Commission.

Copies of the filing were served upon the company's jurisdictional customers, interested state commissions and the parties of record in docket No. RP78-36.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory 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 August 10, 1978. 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. 78-21350 Filed 8-1-78; 8:45 am]

[6740-02]

[Docket No. ER78-502]

TUCSON GAS & ELECTRIC CO.

Filing

JULY 26, 1978.

Take notice that Tucson Gas & Electric Co. (TGE) on July 19, 1978, tendered for filing Colorado-TGE 1979-1980 power sale agreement between TGE and Public Co. of Colorado (Colorado). TGE indicates that the primary purpose of this agreement is to establish terms and conditions between the parties relative to the delivery by TGE of firm capacity and associated energy as scheduled by Colorado during the period from June 1, 1979, through May 31, 1980. TGE states that copies of the filing were served upon Colorado.

TGE requests waiver of the Commission's notice requirements to allow for an effective date of June 1, 1979.

Any person desiring to be heard or to make any application with reference to said agreement should file a petition to intervene or protest with the Federal Energy Regulatory 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 August 4, 1978. Protests will be considered by the Commission 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 must file a petition to intervene. Copies of this agreement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-21351 Filed 8-1-78; 8:45 am]

[6740-02]

[Docket No. ER78-503]

UNION ELECTRIC CO.

Proposed Revised Service Schedules

JULY 27, 1978.

Take notice that on July 21, 1978, Union Electric Co. (Union) tendered for filing a first amendment and revised service schedules A, C, and D to the Interchange Agreement dated July 2, 1976 between Union and Kentucky Utilities Co.

Union indicates that said agreements provide for revisions in certain rates under said Interchange Agreement.

Union proposes and effective date of September 1, 1978.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with 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 August 16, 1978. 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. 78-21352 Filed 8-1-78; 8:45 am]

[6740-02]

[Docket No. RP71-29, Docket No. RP71-120 (Phase II)]

UNITED GAS PIPE LINE CO.

Order Establishing Oral Argument Procedures

JULY 25, 1978.

On July 13, 1978, the Commission issued its order establishing oral argument in this proceeding. In that order, the Commission stated that oral argument would be limited to the three areas of principle concern to the members of this Commission. The Commission stated its intent to divide the oral argument into three phases corresponding to the three areas of primary interest and indicated that each spokesman would address the Commission three separate times, each time speaking on one of the three enumerated areas.

On July 24, 1978, the parties requesting to participate in the oral argument submitted their written statements. Having evaluated these filings, the Commission has determined to modify the procedures set out in its July 13 order. The Commission has determined that the parties requesting time to address the Commission at the oral argument should be allotted a single block of time to argue on all issues. This will permit the party arguing to determine how best to divide the allotted time. The Commission does not intend to permit rebuttal.

The Commission has approved the attached order of speakers and allotment of time.

The Commission orders: The order establishing oral argument issued July 13, 1978 is modified as indicated above.

By the Commission.

KENNETH F. PLUMB,
Secretary.

SCHEDULE OF ORAL ARGUMENT

Time	Participant
9:00 a.m.	Senator J. Bennett Johnston, Jr. Congressman Joe D. Waggoner, Jr. Congressman W. Henson Moore. Congressman Robert L. Livingston.
9:15 a.m.	State of Louisiana.
10:15 a.m.	Morning Recess.
10:30 a.m.	Department of Energy.
11:00 a.m.	Commission Staff Counsel.
11:30 a.m.	United Gas Pipe Line Co.
12:30 p.m.	Lunch Recess.
1:15 p.m.	Governor Cliff Finch.
1:30 p.m.	Pipeline Intervenor.
2:30 p.m.	Gulf South Distributors.
3:30 p.m.	Afternoon Recess.
3:45 p.m.	New Orleans Public Service, Inc.
4:00 p.m.	Brooklyn Union Gas Co., et al.
4:15 p.m.	Allied Paper Inc., et al.
4:30 p.m.	Air Products & Chemicals, Inc., et al.
4:45 p.m.	General Motors.
5:15 p.m.	Laclede Gas Co.
5:25 p.m.	National Gypsum Co.
5:35 p.m.	Columbia Gas Transmission Corp.
5:45 p.m.	Mississippi Power & Light Co.
5:55 p.m.	Adjourn.

[FR Doc. 78-21353 Filed 8-1-78; 8:45 am]

[6740-02]

WISCONSIN PUBLIC SERVICE CORP.

[Docket No. ER78-493]

Filing

JULY 26, 1978.

Take notice that Wisconsin Public Service Corp. (WPS) on July 12, 1978, tendered for filing a new primary service agreement, dated June 22, 1978, with the city of Sturgeon Bay, Door County, Wis. (city).

WPS states that the new agreement will replace in its entirety the present agreement between the WPS and the city, dated December 22, 1965, which is presently on file as WPS' FERC electric tariff No. 13.

WPS further states that the agreement provides for continuance of

wholesale electric service to be supplied by WPS to the city under WPS' standard W-1 form of tariff for primary resale service, which rate was most recently revised pursuant to the Commission's order of January 10, 1977, in docket No. ER76-150.

WPS proposes an effective date of July 1, 1978, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy regulatory 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 should be filed on or before August 2, 1978. Protests will by 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. 78-21354 Filed 8-1-78; 8:45 am]

[6740-02]

WISCONSIN POWER & LIGHT CO.

[Docket No. ER78-477]

Filing of New Service Schedule A Agreements

JULY 25, 1978.

Take notice that on July 7, 1978, Wisconsin Power & Light Co. (WPL) tendered for filing a service schedule A (revision dated April 30, 1978) to the power pool agreement dated July 26, 1973, between WPL, and Wisconsin Public Service Corp. (WPS), and Madison Gas & Electric Co. (MGE). Also included in the filing was a service schedule A (revision dated April 30, 1978) to the interconnection agreement dated January 5, 1966, between WPL and WPS and a service schedule A (revision dated April 30, 1978) to the interconnection agreement dated April 1, 1976, between WPL and MGE.

The provisions of these revised service schedules are proposed to be effective as of the commercial operation date of Columbia II Unit, April 30, 1978.

The service schedules set the participation capacity rate at $2.61 per kW per month in accordance with the procedures set forth in the basic agreements on file with the Federal Energy Regulatory Commission.

WPL states that signed copies of each service schedule have been provided to the respective parties.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with paragraph 1.8 and paragraph 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 July 31, 1978. 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. 78-21355 Filed 8-1-78; 8:45 am]

[6740-02]

[Docket No. ER78-499]

UNION ELECTRIC CO.

Notice of Interchange Agreement

JULY 26, 1978.

Take notice that on July 17, 1978, Union Electric Co. (UE) tendered for filing an Interchange Agreement dated June 28, 1978, between UE and Associated Electric Cooperative, Incorporated (AEC).

UE states that the Interchange Agreement, among other things, establishes the rights and obligations of the parties, the points of interconnections, the types of power and energy to be exchanged and the rates therefore.

UE requests waiver of the Commission's notice requirements to allow for an effective date of July 1, 1978.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory 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 August 4, 1978. 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

[40 FR Doc 21641 filed 8-1-78; 11:17 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 938-4; PF-104]

PESTICIDE AND FEED ADDITIVE PETITIONS

Filing

Pursuant to the provisions of sections 408(d)(1) and 409(b)(5) of the Federal Food, Drug, and Cosmetic Act, the Environmental Protection Agency (EPA) gives notice that the following petitions have been submitted to the Agency for consideration.

PP 8F091. Mobay Chemical Corp., Chemagro Agricultural Division, P.O. Box 4913, Hawthorne Road, Kansas City, Mo. 64120. Proposes that 40 CFR 180.332 be amended by the establishment of a tolerance for the combined residues of the herbicide 4-amino-6-(1,1-dimethylethyl)-3-(methlylthio)-1,2,4-triazin-5-(4H)-one and its trazinone metabolites in or on the raw agricultural commodities barley grain at 0.75 part per million (ppm), barley straw at 1.0 ppm, wheat grain at 0.75 ppm, wheat forage at 2.0 ppm and wheat straw at 1.0 ppm. Proposed analytical method for determining residues is by gas chromatographic procedure using an electron capture detector. PM25.

FAP 8H5187. Mobay Chemical Corp. Proposes that 21 CFR 561.41 be amended by the establishment of a regulation permitting residues of the herbicide 4-amino-6-(1,1-dimethylethyl)-3-(methlylthio)-1,2,4-triazin-5-(4H)-one and its triazinone metabolites in feeds with a tolerance limitation of 3.0 ppm in barley, milled fractions (except flour) and wheat, milled fractions (except flour). PM25.

Interested persons are invited to submit written comments on these petitions to the Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, EPA, Room 401, East Tower, 401 M Street SW., Washington, D.C. 20460. Inquires concerning these petitions may be directed to Product Manager (PM) 25, Registration Division (WH-567), Office of Pesticide Programs, at the above address, or by telephone at 202-426-2632. Written comments should bear a notation indicating the petition number. Comments may be made at any time while a petition is pending before the Agency. All written comments filed pursuant to this notice will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m., Monday through Friday.

Dated: July 26, 1978.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc. 78-21435 Filed 8-1-78; 8:45 am]

[6560-01]

[FRL 938-3; PF-105]

PESTICIDE PROGRAMS

Filing of Pesticide Petition

Ciba-Geigy Corp., Agricultural Division, P.O. Box 11422, Greensboro, N.C. 27409, has submitted a petition (PP 8F2081) to the Environmental Protection Agency (EPA) which proposes that 40 CFR 180.368 be amended by establishing a tolerance for residues of the herbicide metolachlor [2-chloro-*N*-(2 - ethyl - 6 - methyl - phenyl) --*N* - (2-methoxy-1-methylethyl) acetamide] and its metabolites determined as (2-[(ethyl - 6 - methylphenyl)aminol - 1-propanol) and 4-[2-ethyl-6-methylphenyl]-2-hydroxy-5-methyl-3 morpholinone), each expressed as parent metolachlor, in or on corn forage and fodder at 1.25 part per million (ppm); fresh corn including sweet corn (kernals plus cobs, husks removed) at 0.1 ppm; popcorn (grain) at 0.1 ppm; and soybean forage and fodder at 2.0 ppm. The proposed analytical method for determining residues is by gas chromatographic procedures using a coulson electrolytic conductivity detector for the first derivative and a dorhman microcoulometric detector for the second derivative. Notice of this submission is given pursuant to the provisions of section 408(d)(1) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on this petition to the Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, EPA, Room 401, East Tower 401 M Street SW., Washington, D.C. 20460. Inquiries concerning this petition may be directed to Product Manager (PM) 24, Registration Division (TS-767), Office of Pesticide Programs, at the above address, or by telephone at 202-755-2197. Written comments should bear a notation indicating the petition number. Comments may be made at any time while a petition is pending before the Agency. All written comments filed pursuant to this notice will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. Monday through Friday.

Dated: July 26, 1978.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc. 78-21436 Filed 8-1-78; 8:45 am]

[6560-01]

[FRL 938-1; OPP-180204]

STATES OF WASHINGTON, UTAH, OREGON, MICHIGAN, NEW YORK, AND PENNSYLVANIA

Issuance of Specific Exemption To Use BAAM (Amitraz) To Control Pear Psylla

The Environmental Protection Agency (EPA) has granted specific exemptions to the New York Department of Environmental Conservation, and the Washington, Utah, Oregon, Michigan, and Pennsylvania Departments of Agriculture (hereafter referred to as "New York," "Washington," "Utah," "Oregon," "Michigan," and "Pennsylvania," respectively) to use BAAM [1] for the control of pear psylla on pears grown commercially in those six States. There were six separate specific exemptions issued; this notice will discuss all of them, pointing out similarities and differences. These exemptions were granted in accordance with, and are subject to, the provisions of 40 CFR Part 166, which prescribes requirements for exemption of Federal and State agencies for use of pesticides under emergency conditions.

This notice contains a summary of certain information required by regulation to be included in the notice. For more detailed information, interested parties are referred to the applications on file with the Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M Street SW., Room E-315, Washington, D.C. 20460.

Pear Psylla (*Psylla pyricola*) Appears to be one of the most serious and difficult to control pests on pears in the Northwest. For the 1978 summer season, applications were received from the six States mentioned for specific exemptions to use BAAM for this use pattern. Pear psylla is an aphid-like insect which causes economic damage both because of the honeydew which it secretes on the fruit and because it can act as a vector of pear decline, a serious and debilitating disease of pear. In the former instance, certain fungi grow upon the secreted honeydew causing a blackish appearance, which lowers the grade of the harvested fruit and results in a loss of profit to the growers. In the latter case, the production capability of a given orchard can be seriously impaired.

Although there are registered pesticides for controlling this pest, they are currently ineffective either because of developed resistance, phytotoxicity, or inability to control certain stages of the insect, such as the late or "Hardshell" nymphal stages. In 1976, the insecticide chlordimeform, a highly effective pesticide for psylla control, was voluntarily withdrawn from the market by its manufacturers, because of findings which indicated that it may cause formation of tumors in mice. It should also be noted that a rebuttable presumption against registration (RPAR) of pesticide products containing amitraz was issued on April 6, 1977 (42 FR 18299). Further decisions by EPA as to appropriate regulatory action in this matter are pending completion of the RPAR review.

Early in 1977, two major pear producing States, Oregon and Washington, requested and received specific exemptions for the use of BAAM; a maximum of 205,750 pounds of amitraz was allowed for use on 49,500 acres of pears. Later in 1977, specific exemptions were also granted to California and Utah to control pear psylla; these States were allowed to use a portion of the pesticide previously authorized to Oregon and Washington. Subsequently, California chose not to use BAAM while fruit was present on pear trees and amended its request to involve only post-harvest applications. Although up to 205,750 pounds of amitraz was authorized last year, the manufacturer, the Upjohn, C., formulated only 80,070 pounds of active ingredient. A total of approximately 36,323 pounds of amitraz was actually applied in the four States. The Upjohn Co. has informed EPA that it probably will not manufacture any additional quantities of BAAM in 1978. Therefore, approximately 43,748 pounds of amitraz appear to be available in 1978.

The six States of New York, Washington, Utah, Oregon, Michigan, and Pennsylvania have requested a total of 225,337 pounds active ingredient to treat about 60,186 acres. The States asserted economic losses ranging from $2,100 in Michigan to $10 million in Washington, if BAAM were not allowed. The original risk assessment by the carcinogen assessment group (CAG) relating to Oregon and Washington (42 FR 37438) was based on 200,000 pounds active ingredients amitraz. However, the total quantity applied in 1977 in these States and in California and Utah, was much less than this amount. Thus the actual risk in 1977 was much less than had been predicted. CAG has informed EPA that the risk assessment performed by them last year would be valid for this year's exemption, provided the original quantity authorized was not exceeded. It should be pointed out that the CAG risk assessment is based on ingestion of BAAM-treated fruit.

After reviewing the applications and other available information, EPA determined that: (a) Pest outbreaks of pear psylla have occurred or are likely

[1] Contains 19.8 percent N'-(2,4-dimethylphenyl)-N-[[(2,4-dimethylphenyl) imino] methyl]-N-methylmethanimidamide, which has the common name amitraz.

to occur; (b) there is no pesticide presently registered and available for use to effectively control the pear psylla in Washington, Utah, Oregon, Michigan, New York, and Pennsylvania; (c) significant economic problems may result if the pest is not controlled; and (d) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. The Administrator has weighed the risks and benefits of this use of BAAM on pears in relation to both economics and the hazard to man. Accordingly, Washington, Utah, Oregon, Michigan, New York, and Pennsylvania have been granted specific exemptions to use the pesticide noted above until October 30, 1978, to the extent and in the manner set forth in the applications. A maximum allotment of BAAM for each State has been made, based on the difference between the amount authorized and the amount actually used in 1977. Specifically, a total authorization of 169,230 pounds of amitraz has been divided among the requesting States in proportion to the amounts requested by each. Thus, each State has been awarded about 75 percent of the quantity for which it had applied. The specific exemptions are also subject to the following conditions:

1. The Upjohn product BAAM, which contains 1.5 pounds amitraz per gallon, will be used;

2. The dosage rate will be 3 to 4 quarts of product (1.0 to 1.5 pounds active ingredient) per acre;

3. Applications are to be made by ground application only (airblast sprayers or handgun);

4. Only State-certified commercial or private applicators may apply this pesticide;

5. The use of BAAM is authorized only when an emergency condition is found to exist. The criteria to be used in making this determination are as follows: (1) The judicious use of currently registered pesticides for pear psylla are not providing adequate control of this pest, and (2) in a particular orchard, a majority of the trees sampled have 10 percent or more of the shoots in the scaffolding infested with nymphs of the pear psylla. For each orchard, a minimum of ten trees are to be sampled;

6. Only State-licensed pest control consultants are authorized to determine when an emergency condition exists (using the criteria above). Determinations will be made on an orchard-by-orchard basis. Upon a determination that an emergency condition is present, as defined by fulfilling the criteria above, the consultant will sign a State-approved form which authorizes the grower to purchase BAAM. This form will include the name of the grower, number of acres to be treated, amount of BAAM authorized to be purchased, and the dosage rate to be applied (1.0 to 1.5 pounds a.i. per acre);

7. Two preharvest applications are authorized. However, if in the judgment of the State, an extreme circumstance is present which warrants an additional application, this may be made. If a third application is made, the State shall inform EPA of this along with a brief description of the circumstances thereof. The only exception to this is in the State of Oregon, which requested only two applications. Treatment acreages vary from State to State. In Washington, up to 26,000 acres of pears may be treated. In Utah, up to 704 acres may be treated. In Oregon, up to 23,500 acres may be treated. In Michigan, up to 4,500 acres may be treated. In New York, up to 4,282 acres may be treated. In Pennsylvania, up to 1,200 acres may be treated;

8. Due to the limited quantity of BAAM, specific amounts have been allocated to each State. If used at the maximal dosage rate and maximum number of applications, the amount will not be sufficient to treat all of the requested acreage. The quantities allocated are as follows: Washington—50,000 gallons (75,000 lbs. a.i.); Utah—1,589 gallons (2,384 lbs. a.i.); Oregon—35,300 gallons (53,000 lbs. a.i.); Michigan—13,550 gallons (20,300 lbs. a.i.); New York—9,325 gallons (14,000 lbs. a.i.); and Pennsylvania—2,700 gallons (4,050 lbs. a.i.);

9. Pesticide dealers will not be allowed to sell BAAM to any grower or applicator unless the signed authorization form is presented;

10. Pesticide distributors will be responsible for keeping accurate records of the amount of BAAM received from Upjohn and the amounts which are sold to dealers. Dealers will also maintain accurate records of the amounts of BAAM received and sold;

11. Agricultural workers will not reenter any orchard sprayed with BAAM until the foliage is completely dry. In any event, a minimum of 24 hours must elapse before workers reenter treated orchards;

12. Applicators must wear protective clothing and masks. Protective clothing includes long sleeve shirts, full length trousers, and nonpermeable boots. During the mixing and loading operations, gloves and an apron must also be worn. The term "masks" includes a canister-type respirator approved for pesticides by the National Institute of Occupational Safety and Health (NIOSH) and the Mining Enforcement and Safety Administration. Such a respirator must be worn during the loading, mixing, and spraying operations. If skin or clothing is contaminated with BAAM, wash skin immediately and wash contaminated clothing. Such clothing is not to be reworn until it is completely free of BAAM contamination;

13. There will be a preharvest interval of not less than 7 days;

14. A residue level of 3.0 parts per million (ppm) has been determined to be adequate to protect the public health. Pears with a residue level not exceeding 3.0 ppm may enter interstate commerce. The Food and Drug Administrator, U.S. Department of Health, Education, and Welfare, has been advised of this action;

15. A final report is to be submitted to the Special Registrations Branch, EPA, by the end of 1978; this report will outline the acreage that was treated, the total amounts of BAAM applied, the results of the program, and any adverse effects (such as phytotoxicity);

16. All label precautions will be followed;

17. All unused, unopened containers of BAAM will be returned to the manufacturer at the end of the growing season;

18. These exemptions apply only to the preharvest application of BAAM;

19. The EPA shall be immediately informed of any adverse effects resulting from the use of this pesticide in connection with this exemption; and

20. Extreme precautions must be taken to avoid contamination of lakes, streams, ponds, and rivers.

STATUTORY AUTHORITY: Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136 et seq.).

Dated: July 26, 1978.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 78-21437 Filed 8-1-78; 8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

[FCC 78-519]

1240 KHZ, LEMOORE, CALIF.

Applications Will Be Accepted for Filing for Construction Permits for a New Standard Broadcast Station

JULY 26, 1978.

1. By decision, FCC 78-508, released July 26, 1978, the Commission denied the application of Golden Broadcasting Systems, Inc. for renewal of the license of standard broadcast station KOAD (1240 kHz), Lemoore, Calif. When that decision becomes final, KOAD's frequency will become vacant and thus available for grant to another party.

2. Present FCC procedural rules prohibit our accepting an application for

a construction permit for a new broadcast station, the facilities for which are specified in an outstanding construction permit or license (47 CFR 1.516(c)). While our normal practice is thus to await the vacancy of the frequency before accepting such applications for filing, we have on occasion made exception to this rule. See, e.g., Dakota Broadcasting Co., Inc., 41 FCC 2d 281 (1973).

3. In the instant case, we are concerned that the denial of KOAD's renewal has deprived Lemoore of one of only two small aural broadcasting outlets licensed to and operating in this small community, as well as decreasing by one the already small number of black-owned stations in the country.[1] The Commission is always concerned about the loss of radio service in a small community, and particularly in cases like this where there are only two local aural outlets existing at present. Therefore, notice is hereby given that the Commission will waive § 1.516(c) of the rules, in order to clear the way for interested parties to file for authority to operate on KOAD's frequency. In order to promote the orderly conduct of the Commission's business, we have determined to fix a date certain after which no new applications for either interim or regular authority will be accepted for filing. Therefore, notice is hereby given that, to be entitled to comparative consideration, applications for construction permits for a new standard broadcast station to operate on 1240 kHz, Lemoore, Calif., and any applications for interim operating authority, must be substantially complete and tendered for filing no later than October 16, 1978.[2]

Action by the Commission July 12, 1978. Commissioners Ferris (Chairman), Lee, Quello, Washburn, Fogarty, White, and Brown.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-21357 Filed 8-1-78; 8:45 am]

[1610-01]

GENERAL ACCOUNTING OFFICE

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 July 27, 1978. 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 FCC and 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 August 21, 1978, and should be addressed to Mr. John M. Lovelady, Assistant Director, Regulatory Reports Review, U.S. General Accounting Office, Room 5106, 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

The ICC requests an extension without change clearance of Form W-1, Annual Report, Class A and B Carriers by Water. Form W-1 is required to be filed by class A and B water carriers on inland and coastal waterways, pursuant to section 313, part 3 of the Interstate Commerce Act. Data collected by form W-1 are used for economic regulatory purposes. The ICC estimates that respondents number approximately 79 and that reporting burden averages 297½ hours per report.

The ICC requests clearance of revisions to Form MP-1, Annual Report, Class I Motor Carriers of Passengers. Form MP-1 is required to be filed by Class I Motor Carriers of Passengers prescribed in 49 CFR 1245.5. The form is revised to conform with the Commission's decision June 30, 1978, in Docket No. 36767, Accounting for Certain Government Transfers by Railroads and Motor Carriers of Passengers. Schedules 101, 2998, and 4275 of form MP-1 are revised in accordance with docket No. 36767. The ICC estimates that respondents number approximately 73 and that reporting burden averages 133 hours per report.

FEDERAL COMMUNICATIONS COMMISSION

The FCC requests an extension without change clearance of Form 410, Registration of Canadian Station License and Application for Permit to Operate. Form 410 is required by sections 1.922 and 97.42 of the FCC rules and regulations. By treaty between the United States and Canada, Canadian Amateur, General, and Land Mobile Radio Services licensees are permitted under prescribed terms and conditions to operate their radio stations in the United States by filing this form with the FCC. The FCC estimates that approximately 1,800 applications are filed annually and that respondent burden averages 15 minutes per response.

The FCC requests an extension without change clearance of Form 410-B, Application for Permit to Operate a Canadian General Radio Service Station in the United States and Permit. Form 410-B is required by sections 95.135, 95.137, and 1.922 of the FCC rules and regulations. The form is used solely by licensees in the Canadian General Radio Services to request permission to operate in the United States. The FCC estimates that approximately 72,000 applications are received annually and that respondent burden averages 15 minutes per response.

The FCC requests an extension without change clearance of Form 801, Application for Ship Radio Inspection. Form 801 is required by section 83.46 of the FCC rules and regulations and section 362 of the Communications Act of 1934, as amended. Form 801 is used by licensees requesting inspection of shipboard radio stations and to provide inspecting FCC field offices required data to perform the inspection. The FCC estimates that approximately 4,500 applications are filed annually and that respondent burden averages 5 minutes per response.

The FCC requests an extension without change clearance of Form 812, Application for Periodic Inspection (Communications Act, title III, part III). Form 812 is required by section 83.46 of the FCC rules and regulations and section 382 of the Communications Act of 1934, as amended. The form is used by licensees requesting inspection of shipboard radio station and to provide the inspecting office with required information. The FCC estimates that approximately 3,400 applications are filed annually and that respondent burden averages 5 minutes per response.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc. 78-21396 Filed 8-1-78; 8:45 am]

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[1] Our concern on this latter issue is emphasized by our recent adoption of a statement of policy on minority ownership of broadcasting facilities, public notice No. 78-322, May 25, 1978, which sets forth our official policy of fostering minority ownership.

[2] In order to expedite consideration of this matter, we are also prepared to waive § 1.571(c) of the rules should the need arise.

[6820-22]

GENERAL SERVICES ADMINISTRATION

REGIONAL PUBLIC ADVISORY PANEL ON ARCHITECTURAL AND ENGINEERING SERVICES

Meeting

JULY 19, 1978.

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the Regional Public Advisory Panel on Architectural and Engineering Services, Region 4, August 14 through August 18, 1978, from 9 a.m. to 4 p.m., Room 5B1, 1776 Peachtree Street NW., Atlanta Ga. 30309. The meeting will be devoted to the initial step of the procedures for screening and evaluating the qualifications of architect-engineers under consideration for selection to furnish professional services for the proposed fifteen 1-year-term fixed-price contracts—two for each State, except the state of Mississippi which will have one. The meeting will be open to the public.

In order to meet the schedule requirements of the full committee, it will be necessary to hold the meeting on the specified dates.

WESLEY L. JOHNSON, Jr.,
Regional Administrator.

FR Doc. 78-21640 Filed 8-1-78; 10:33 am]

[4110-83]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Resources Administration

NATIONAL ADVISORY COUNCIL ON NURSE TRAINING

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory body scheduled to meet during the month of September 1978:

Name: National Advisory Council on Nurse Training.

Date and Time: September 11-13, 1978, 10:30 a.m.

Place: Conference Room 7-32, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782.

Open: September 11, 1978, 10:30 a.m.-12:15 p.m.

Closed: Remainder of meeting.

Purpose: The Council advises the Secretary and Administrator, Health Resources Administration, concerning general regulations and policy matters arising in the administration of the Nurse Training Act of 1975. The Council also performs final review of grant applications for Federal assistance, and makes recommendations to the Administrator, HRA.

Agenda: Agenda items for the open portion of the meeting include announcements; consideration of minutes of previous meeting; discussion of future meeting dates; and administrative and staff reports. The remainder of the meeting will be devoted to the review of grant applications for Federal assistance, and will therefore be closed to the public in accordance with provisions set forth in section 552b(c)(6), title 5, United States Code, and the Determination by the Administrator, Health Resources Administration, pursuant to Pub. L. 92-463.

Anyone wishing to obtain a roster of members, minutes of meeting, or other relevant information should contact Dr. Mary S. Hill, Bureau of Health Manpower, Room 3-50, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782, telephone 301-436-6681.

Agenda items are subject to change as priorities dictate.

Dated: July 25, 1978.

JAMES A. WALSH,
Associate Administrator for Operations and Management.

[FR Doc. 78-21399 Filed 8-1-78; 8:45 am]

[4110-02]

Office of Education

GUARANTEED STUDENT LOAN PROGRAM

Special Allowance for Quarter Ending June 30, 1978

The Commissioner announces that for the 3-month period ending June 30, 1978, and under the statutory formula of section 438(b) of the Higher Education Act of 1965, a special allowance at the annual rate of 3¼ percent will be paid to holders of eligible loans in the guaranteed student loan program.

Using the statutory formula, the special allowance for this 3-month period was computed by determining the average of the bond equivalent rates of the 91-day Treasury bills for this period (6.70 percent), by subtracting 3.5 percent from this average, by rounding the resultant percent (3.20) upward to the nearest one-eighth of 1 percent (3.25), and by dividing the resultant percent by 4 (0.8125 percent). Thus the special allowance to be paid for this period will be 0.8125 percent of the average unpaid balance of principal (not including unearned interest added to principal) of all eligible loans held by lenders.

(20 U.S.C. 1087-1(b).)

ERNEST L. BOYER,
U.S. Commissioner of Education.

JULY 25, 1978.

[FR Doc. 78-21405 Filed 8-1-78; 8:45 am]

[4110-85]

Public Health Service

OFFICE OF THE ASSISTANT SECRETARY FOR HEALTH

Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HA (Office of the Assistant Secretary for Health) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health, Education, and Welfare (38 FR 18571, July 12, 1973, as amended at 42 FR 61317, December 2, 1977, and most recently at 43 FR 14131, April 4, 1978) is amended to reflect the establishment of the Office of Health Technology (OHT).

Under Section HA-10 Organization, add Office of Health Technology (HA1) as item 5 and renumber items 5, 6, 7, 8, 9, 10, 11, and 12 to read 6, 7, 8, 9, 10, 11, 12, and 13, respectively.

Under Section HA-20 Functions, add the following statement after the Deputy Assistant Secretary (and Special Assistant to the Secretary) for National Health Insurance (HAY):

Office of Health Technology (HA1). The Office of Health Technology is a multidisciplinary unit under the Deputy Assistant Secretary of Health for Technology (DASHT) in the Office of the Assistant Secretary for Health. In close consultation with the National Institutes of Health, this Office functions as the Department's lead agency for health technology management. The DASHT and his staff: (1) Identify deficiencies in the Department's health technology policy and propose improvements; (2) coordinate the development of processes for DHEW collaboration with other Federal agencies regarding technology management activities; (3) manage the Department's process for selecting high priority technologies, for proposing assignment of technology analysis responsibilities, for overseeing convocation of professional judgments about selected technologies, and for preparing for the Secretary necessary decision documents relating the selected technology findings to reimbursement, regulation, and other departmental initiatives; (4) conduct or oversee the conduct of formal evaluations of components of the Department's technology management systems; (5) analyze or monitor analysis of studies to determine the feasibility and cost-effectiveness of a comprehensive system for monitoring and screening health technologies; (6) direct and/or conduct tests of the application of comprehensive technology assessments (including evaluation of ethical, economic and social consequences) to effective technology management; (7) direct and conduct pilot demonstration projects to test the application of

a technology management strategy to a limited number of high priority technologies; (8) establish liaison with extra-departmental parties and agencies with which to link our technology activities in order to develop collaborative working relationships and to facilitate joint action; (9) propose linkages between departmental agencies to promote increased coordination on technology issues and on specific technologies; and (10) in addition, the Deputy Assistant Secretary of Health for Technology serves as principal advisor to the Assistant Secretary for Health on health technology matters, and (a) reports to him on the technology activities of the offices and agencies under his direction, proposing such changes as may be considered appropriate; and (b) provides the results of technology assessments to appropriate Department organizations for use regarding reimbursable (covered) services and for transfer of health care information to health professionals, educators, and other interested parties.

Dated: July 17, 1978.

JOSEPH A. CALIFANO, Jr.,
Secretary.

[FR Doc. 78-21424 Filed 8-1-78; 8:45 am]

[4110-85]

Office of the Assistant Secretary for Health

TECHNICAL CONSULTANT PANEL ON THE COOPERATIVE HEALTH STATISTICS SYSTEM OF THE UNITED STATES NATIONAL COMMITTEE ON VITAL AND HEALTH STATISTICS

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory body scheduled to meet during the month of August 1978:

Name: Technical Consultant Panel on the Cooperative Health Statistics System of the United States National Committee on Vital and Health Statistics.

Date and Time: August 17-18, 1978, 9 a.m.

Place: Hubert H. Humphrey Building, Room 727-A, 200 Independence Avenue, SW., Washington, D.C. 20201.

Open: 9 to 4:30 p.m.

Purpose: The Technical Consultant Panel on the Cooperative Health Statistics System is to recommend to the United States National Committee on Vital and Health Statistics advice and assistance to be provided the Secretary with respect to the design of and approval of health statistical and health information systems within the Department of Health, Education, and Welfare which have as an objective the production of local, State, and national statistics; and for the adoption or implementation by local, State, or national agencies findings and proposals developed by other organizational agencies.

Agenda: There will be introduction and orientation of the Technical Consultant Panel and the charge to the panel will be presented and discussed. There will be a discussion of the following items: (1) The Cooperative Health Statistics Systems' mission and program; (2) designation of criteria; (3) Model State Legislation; and (4) Cost-sharing. There will also be discussion on organization of the panel's work program. A report on current legislation and Federal program activities relating to the Cooperative Health Statistics System will be presented. Suggestions for next meeting dates and agenda items will be discussed.

The meeting is open to the public for observation and participation. Anyone wishing to participate, obtain a roster of members, or other relevant information, should contact Mr. James A. Smith, National Center for Health Statistics, Room 2-12, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782, telephone 301-436-7122.

Agenda items are subject to change as priorities dictate.

Dated: July 26, 1978.

WAYNE RICHEY, Jr.,
Associate Director for Management, Office of Health Policy Research and Statistics.

[FR Doc. 78-21423 Filed 8-1-78; 8:45 am]

[4310-84]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[C-24735]

COLORADO

Order Providing for Opening of National Forest Lands

1. The Federal Energy Regulatory Commission (formerly the Federal Power Commission) issued an order on October 5, 1976, published in the FEDERAL REGISTER of June 22, 1978, at pages 26787-26788, vacating in their entirety withdrawals for powerdevelopment project 476 and 2053, affecting portions of the following described National Forest lands:

SIXTH PRINCIPAL MERIDIAN, COLORADO

T. 3 S., R. 73 W. (unsurveyed),
Sec. 7, S½SW¼;
Sec. 17, S½NW¼ and NE¼SW¼;
Sec. 18, N½N½ and SE¼NE¼.
T. 3 S., R. 74 W.,
Sec. 12, SE¼SE¼.

The areas described aggregate approximately 290 acres in Clear Creek County.

At 10 a.m., August 30, 1978, these lands shall be open to such forms of appropriation as may by law be made of national forest lands.

Inquiries concerning the lands should be addressed to the undersigned, Bureau of Land Management, 700 Colorado State Bank Building, 1600 Broadway, Denver, Colo. 80202.

Dated: July 25, 1978.

RODNEY A. ROBERTS,
Leader, Canon City-Grand Junction Team, Branch of Adjudication.

[FR Doc. 78-21401 Filed 8-1-78; 8:45 am]

[4310-84]

[Colorado 19889]

COLORADO

Termination of Proposed Withdrawal and Reservation of Lands

Notice of a Bureau of Land Management, U.S. Department of the Interior application, Colorado 19889, for withdrawal and reservation of lands was published as FR Doc. 74-24, on pages 832-833 of the issue of January 3, 1974. The lands were proposed for use in investigations, studies, and experiments by the Department of the Interior, or with others in the improvement, management, use, and protection of the lands and their natural resources under section 101 of the Public Land Administration Act (43 U.S.C. 1362) and pursuant to paragraph 10 of the notice of oil shale lease published in the November 30, 1973, issue of the FEDERAL REGISTER (38 FR 33187-33199). The applicant agency has canceled its application in its entirety. The lands involved are described as follows:

SIXTH PRINCIPAL MERIDIAN, COLORADO

T. 1 S., R. 101 W.,
Sec. 10, SE¼SW¼;
Sec. 15, NW¼, N½SW¼, SW¼SW¼, SE¼SE¼SW¼, and SW¼SW¼SE¼;
Sec. 16, SE¼NE¼, S½SW¼, and SE¼;
Sec. 17, SE¼SE¼;
Sec. 20, E½NE¼ and E½NE¼SE¼;
Sec. 21, lots 1, 2, 3, 4, 5, NE¼, E½NW¼, NE¼SW¼, and N½SE¼;
Sec. 22, W½NE¼, NW¼, N½SW¼, and W½SE¼;
Sec. 26, S½NW¼, SW¼, S½SE¼;
Sec. 27, lots 2, 3, 4, 5, 6, 7, NE¼, SE¼NW¼, NE¼SW¼, and N½SE¼;
Sec. 28, S½SE¼NE¼, SE¼NE¼SW¼, SE¼SW¼, and SE¼;
Sec. 33, N½NE¼, NE¼NW¼, S½SW¼SE¼, and SE¼SE¼;
Sec. 34, NE¼, E½NW¼, N½NW¼NW¼, SW¼, and N½SE¼;
Sec. 35, lots 1, 2, 3, NE¼, E½NW¼, NE¼SW¼, N½SE¼, SW¼SW¼SE¼, and N½S½SE¼;
Sec. 36, SE¼NE¼SW¼, SE¼SW¼SW¼, SE¼SW¼, and W½SE¼;
T. 2 S., R. 101 W.,
Sec. 1, lots 6, 7, 8, and S½NW¼;
Sec. 2, lots 5, 6, 7, 8, S½N½, SW¼, and W½SW¼SE¼;
Sec. 3, lots 5, 7, 8, S½NE¼, S½NW¼, SW¼, N½SE¼, SW¼SE¼, and NW¼SE¼SE¼;
Sec. 4, lots 5, 6, S½NE¼, N½N½SE¼, and SE¼SE¼;
Sec. 9, NE¼NE¼NE¼;

Sec. 10, NE¼, E½NW¼, N½NW¼NW¼, NE¼SW¼, NE¼SE¼SW¼, N½SE¼, and N½S½SE¼;

Sec. 11, W½NE¼, NW¼, N½SW¼, N½S½SW¼, and NW¼SE¼.

The above area aggregates 6,560.04 acres in Rio Blanco County. Therefore, pursuant to the regulations contained in 43 CFR part 2311, such lands, at 10 a.m., on August 30, 1978, will be relieved of the segregative effect of the above-mentioned application.

Dated: July 25, 1978.

ANDREW W. HEARD, Jr.,
Leader, Craig Team,
Branch of Adjudication.

[FR Doc. 78-21402 Filed 8-1-78; 8:45 am]

[4310-84]

[N-17514]

NEVADA

Application

JULY 19, 1978.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Southwest Gas Corp. filed an application for a right-of-way to constuct a 2⅜-inch o.d. pipeline for the purpose of transporting natural gas across the following described public lands:

MOUNT DIABLO MERIDIAN, NEV.

T. 23 S., R. 63 E.,
Sec. 2, lots 15 and 18.

The proposed pipeline will transport natural gas from a point in the E½NE¼SE¼SW¼ of section 2 to the Railroad Pass Casino in lot 15 of section 2, T. 23 S., R. 63 E., Mount Diablo Meridian, Clark County, Nev.

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 do so promptly. Persons submitting comments should include their name and address and send them to the Chief, Division of Technical Services, Bureau of Land Management, 300 Booth Street, Room 3008, Federal Building, Reno, Nev. 89509.

WM. J. MALENCIK,
Chief,
Division of Technical Services.

[FR Doc. 78-21403 Filed 8-1-78; 8:45 am]

[4310-84]

[NM 33840, 33841, 33842, 33843, 33844, 33845, 33877, 33878, 33880, 33881, 33886, 33888, 33889, 33974 and 33975]

NEW MEXICO

Applications

JULY 25, 1978.

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 fifteen 4½-inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 27 N., R. 6 W.,
Sec. 17, SW¼SW¼;
Sec. 18, SE¼SE¼.
T. 26 N., R. 7 W.,
Sec. 4, SW¼NE¼, SE¼NW¼, N½SW¼, W½SE¼, and SE¼SE¼;
Sec. 12, E½SE¼.
T. 28 N., R. 7 W.,
Sec. 19, lot 3;
Sec. 31, S½NE¼.
T. 29 N., R. 8 W.,
Sec. 23, SE¼SE¼;
Sec. 25, NE¼NW¼, NW¼SE¼, and E½SE¼;
Sec. 29, NE¼SE¼.
T. 28 N., R. 10 W.,
Sec. 17, NW¼NW¼ and S½NW¼.
T. 31 N., R. 10 W.,
Sec. 28, lot 16;
Sec. 33, lot 1;
Sec. 34, lot 7.
T. 31 N., R. 11 W.,
Sec. 3, SW¼SE¼;
Sec. 14, NE¼NW¼.

These pipelines will convey natural gas across 3.005 miles of public lands in Rio Arriba and San Juan Counties, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, N. Mex. 87107.

FRED E. PADILLA,
Chief, Branch of
Lands and Minerals Operations.

[FR Doc. 78-21404 Filed 8-1-78; 8:45 am]

[1505-01]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Colorado 255122 W,X,Y]

NORTHWEST PIPELINE CORP.

R/W Applications for Pipeline

Correction

In FR Doc. 78-16559, appearing at page 25881 in the issue for Thursday, June 15, 1978, the description for section 4 of the public lands is corrected to read "Sec. 4; S½NE¼, NE¼SE¼".

[4410-18]

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration

NATIONAL ADVISORY COMMITTEE FOR JUVENILE JUSTICE AND DELINQUENCY PREVENTION

Meeting

Notice is hereby given that the National Advisory Committee for Juvenile Justice and Delinquency Prevention (the Committee) will meet Wednesday, Thursday and Friday, August 16, 17 and 18, 1978, at the St. Anthony Hotel in San Antonio, Tex. The meeting will be open to the public.

On Wednesday, August 16, at 8 a.m. an orientation session for new members will be held. The Executive Committee will meet at 9 a.m. At 1 p.m., following the noon luncheon recess, the full Committee will convene. At this time, new members will be sworn in and the Executive Committee report will be heard.

At 1:30 p.m., presentations will be made by representatives from the State Juvenile Justice and Delinquency Prevention Advisory Groups of Texas, Louisiana, Arkansas, and New Mexico on their progress in implementing the Juvenile Justice and Delinquency Prevention Act; also a citizen representative from Oklahoma will discuss that State's plans for participation in the Juvenile Justice and Delinquency Prevention Act.

On Thursday, August 17, at 8 a.m., orientation for new members will continue. At 9:30 a.m. the full Committee will reconvene to hear a report on NAC staffing. During this session, the report of the Administrator of the Office of Juvenile Justice and Delinquency Prevention will be heard. The four subcommittees: Advisory Committee for the National Institute for Juvenile Justice and Delinquency Prevention; Advisory Committee to the Administrator of the Office on Standards for Juvenile Justice; Special Advisory Committee to the Administrator of the Office; Advisory Committee on the Concentration of Federal Effort, will meet at 11 a.m. Following a 12:30 p.m. luncheon recess, the subcommittees will reconvene at 1:30 p.m.

At 3:15 p.m., the full Committee will reconvene for a panel presentation and discussion of "The Violent Youthful Offender" to be followed by public commentary.

On Friday, August 18, the full Committee will reconvene at 9 a.m. for deliberation and recommendations for

action concerning Violent Youthful Offenders.

Following a 12 noon luncheon, the Committee will reconvene at 1 p.m. to consider the following items: report on NAC workplan; recommendation re appropriation for OJJDP; plans for upcoming meeting; Subcommittee and Ad Hoc Committee Reports. The Committee meeting is scheduled to adjourn at 5 p.m.

For further information, contact Mr. John Rector, Administrator, Office of Juvenile Justice and Delinquency Prevention, Law Enforcement Assistance Administration, Department of Justice, 633 Indiana Avenue NW., Washington, D.C. 20531.

JOHN M. RECTOR,
Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 78-21457 Filed 8-1-78; 8:45 am]

[7510-01]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 78-36]

APPLICATIONS STEERING COMMITTEE (ASC) SUPPORTING RESEARCH AND TECHNOLOGY (SR&T) AD HOC ADVISORY SUBCOMMITTEE

Meeting

The Environmental Observations Panel of the ASC, SR&T Ad Hoc Advisory Subcommittee will meet at the Goddard Space Flight Center, Greenbelt, Md. 20771, on August 21-25, 1978. The meeting will be held in the auditorium of building 8 from 8:30 a.m. to 5:30 p.m. on each day. The subcommittee will conduct a comprehensive evaluation of the proposals submitted to NASA in response to the applications notice for the supporting research and technology phase of the space and terrestrial applications program. Public discussion of the professional qualifications of the proposers and their potential scientific contributions to the SR&T program 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 Dr. Robert A. Schiffer, NASA Headquarters, Washington, D.C. 20546, area code 202-755-8617.

ARNOLD W. FRUTKIN,
Acting Associate Administrator for External Relations.

JULY 25, 1978.

[FR Doc. 78-21370 Filed 8-1-78; 8:45 am]

[7590-01]

NUCLEAR REGULATORY COMMISSION

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS SUBCOMMITTEE ON REACTOR FUEL

Meeting

The ACRS subcommittee on reactor fuel will hold an open meeting on August 17-18, 1978 at the Westbank Motel Coffee Shop, 475 River Parkway, Idaho Falls, Idaho 83401, to gather information on reactor fuel research conducted at the Idaho National Engineering Laboratory (INEL) for consideration by the ACRS in its preparation of a report to Congress on NRC research. Notice of this meeting was published at 43 FR 26162 and 30631, June 16 and July 17, 1978, respectively.

In accordance with the procedures outlined in the FEDERAL REGISTER on October 31, 1977 (42 FR 56972), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the designated Federal employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The agenda for subject meeting shall be as follows: Thursday, August 17 and Friday, August 18, 1978, 8:30 a.m. until the conclusion of business each day.

The subcommittee may meet in executive session, with any of its consultants who may be present, to explore and exchange their preliminary opinions regarding matters which should be considered during the meeting and to discuss the subcommittee's preparation of a report to the full committee on reactor fuel research.

At the conclusion of the executive session, the subcommittee will hear presentations by and hold discussions with representatives of the NRC staff, INEL, and their consultants, pertinent to the above topics. The subcommittee may then caucus to determine whether the matters identified in the initial session have been adequately covered and whether additional meetings on this topic are necessary.

Further information regarding topics to be discussed, whether the meeting has been conceled or rescheduled, the chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefore can be obtained by a prepaid telephone call to the designated Federal employee for this meeting, Dr. Thomas G. McCreless, telephone 202-634-3267, between 8:15 a.m. and 5 p.m., e.d.t.

Dated: July 27, 1978.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc. 78-21323 Filed 8-1-78; 8:45 am]

[7590-01]

[Docket Nos. 50-498 and 50-499]

HOUSTON LIGHTING & POWER CO., ET AL. (SOUTH TEXAS PROJECT, UNITS 1 AND 2)

Receipt of Application for Facility Operating Licenses, Availability of Applicant's Environmental Report, and Consideration of Issuance of Facility Operating Licenses, and Opportunity for Hearing

Notice is hereby given that the Nuclear Regulatory Commission (the Commission) has received a final safety analysis report and an environmental report in support of its application for facility operating licenses from Houston Lighting & Power Co., city of San Antonio, Tex., Central Power & Light Co. and the city of Austin, Tex. (the applicants). The information was filed by the applicants on May 10, 1978. The general information portion of the application for operating licenses was filed as amendment No. 4 on August 24, 1977, in order to allow a separate antitrust review to commence based on a waiver from the Commission of the requirement that a final safety analysis report be filed at the same time as the application for an operating license. The application covers the possession, use, and operation of the South Texas projects, units 1 and 2, two pressurized nuclear reactors (the facilities), located approximately 15 miles southwest of Bay City on the west side of the Colorado River in Matagorda County, Tex. The reactors are designed to operate at a core power level of 3,800 megawatts thermal.

As stated above, the applicants have also filed, pursuant to the National Environmental Policy Act of 1969 and the regulations of the Commission in 10 CFR part 51, an environmental report. The report, which discusses environmental considerations related to the proposed operation of the facilities is being made available at the Governor's Budget and Planning Office, Executive Office Building, 411 West 13th Street, Austin, Tex. 78701 and at the Houston-Galveston Area Council, 3701 West Alabama Avenue, P.O. Box 22777, Houston, Tex. 77027.

After the environmental report has been analyzed by the Commission's staff, a draft environmental statement will be prepared. Upon preparation of

the draft environmental statement, the Commission will, among other things, cause to be published in the FEDERAL REGISTER, a notice of availability of the draft statement, requesting comments from interested persons on the draft statement. The notice will also contain a statement to the effect that any comments of Federal agencies and State and local officials will be made available when received. The draft environmental statement will focus only on any matters which differ from those previously discussed in the final environmental statement prepared in connection with the issuance of the construction permit. Upon consideration of comments submitted with respect to the draft environmental statement, the Commission's staff will prepare a final environmental statement, the availability of which will be published in the FEDERAL REGISTER.

The Commission will consider the issuance of facility operating licenses to Houston Lighting & Power Co., city of San Antonio, Tex., Central Power & Light Co. and city of Austin, Tex. which would authorize the applicants to possess, use, and operate the South Texas project, units 1 and 2, in accordance with the provisions of the license and the technical specifications appended thereto, upon: (1) The completion of a favorable safety evaluation on the application by the Commission's staff; (2) the completion of the environmental review required by the Commission's regulations in 10 CFR part 51; (3) the receipt of a report on the applicants' application for facility operating licenses by the Advisory Committee on Reactor Safeguards; and (4) a finding by the Commission that the application for the facility licenses, as amended, complies with the requirements of the Atomic Energy Act of 1954, as amended (the act), and the Commission's regulations in 10 CFR chapter I. Construction of the facilities was authorized by construction permit Nos. CPPR-128 and CPPR-129, issued by the Commission on December 22, 1975. Construction of unit 1 is anticipated to be completed by May 31, 1980, and unit 2 by October 31, 1981.

Prior to issuance of any operating licenses, the Commission will inspect the facilities to determine whether they have been constructed in accordance with the application, as amended, and the provisions of the construction permits. In addition, the licenses will not be issued until the Commission has made the findings reflecting its review of the application under the act, which will be set forth in the proposed licenses, and has concluded that the issuance of the licenses will not be inimical to the common defense and security or to the health and safety of the public. Upon issuance of the licenses, the applicants will be required to execute an indemnity agreement as required by section 170 of the act and 10 CFR part 140 of the Commission's regulations.

By September 1, 1978, the applicants may file a request for a hearing on environmental and safety matters with respect to issuance of the facility operating licenses and any person whose interest may be affected by this proceeding may file a petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's rules of practice for domestic licensing proceedings in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary of the Commission, or designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR § 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific environmental and/or safety aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend his petition, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, the petitioner shall file a supplement to the petition to intervene which must include a list of the environmental and safety contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, or may be delivered to the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., by September 1, 1978. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555; and to Jack R. Newman, Esq., Lowenstein, Newman, Reis & Axelrad, 1025 Connecticut Avenue NW., Washington, D.C. 20036, and Melbert Schwartz, Jr., Esq., Baker & Botts, One Shell Plaza, Houston Tex. 77002, attorneys for the applicants. Any questions or requests for additional information regarding the content of this notice should be addressed to the Chief Hearing Counsel, Office of the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer, or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR § 2.714(a)(1)-(v) and § 2.714(d).

For further details pertinent to the matters under consideration, see the application for the facility operating licenses dated August 24, 1977, the final safety analysis report, dated May 10, 1978 and the applicants' environmental report dated May 10, 1978, which are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Matagorda County Courthouse, 1700 Seventh Street, Bay City, Tex. 77414. As they become available, the following documents may be inspected at the above locations: (1) The safety evaluation report prepared by the Commission's staff; (2) the draft environmental statement; (3) the final environmental statement; (4) the report of the Advisory Committee on Reactor Safeguards on the application for facility operating licenses; (5) the proposed facility operating licenses; and (6) the technical specifications, which will be attached to the proposed facility operating licenses.

Copies of the proposed operating licenses and the ACRS report, when available, may be obtained by request to the Director, Division of Project Management, Office of Nuclear Reac-

tor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Copies of the Commission's staff safety evaluation report and final environmental statement, when available, may be purchased at current rates, from the National Technical Information Service, Department of Commerce, 5285 Port Royal Road, Springfield, Va. 22161.

For the Nuclear Regulatory Commission.

Dated at Bethesda, Md., this 26th day of July 1978.

ALEXANDER W. DROMERICK,
Acting Chief, Light Water Reactors Branch No. 3, Division of Project Management.

[FR Doc. 78-21322 Filed 8-1-78; 8:45 am]

[7590-01]

[Docket Nos. 50-277 and 50-278]

PHILADELPHIA ELECTRIC CO., ET AL.

Issuance of Amendments to Facility Operating Licenses and Negative Declaration

The U.S. Nuclear Regulatory Commission (the Commission) has issued amendments Nos. 44 and 44 to facility operating licenses Nos. DPR-44 and DPR-56, respectively, issued to Philadelphia Electric Co., Public Service Electric and Gas Co., Delmarva Power and Light Co., and Atlantic City Electric Co., which revised technical specifications for operation of the Peach Bottom Atomic Power Station, units Nos. 2 and 3, located in Peach Bottom, York County, Pa. The amendments are effective as of the date of issuance.

These amendments revise the environmental technical specifications by deleting §§ 6.1.b, 6.1.c, and 6.6.1.d, which involve special study programs related to impingement, entrainment and thermal tolerance of organisms.

The apllication 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 amendments. Prior public notice of these amendments was not required since the amendments do 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 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 dated April 1973.

For further details with respect to this action, see (1) the application for amendments dated April 22, 1977, (2) amendments No. 44 and 44 to licenses DPR-44 and DPR-56, 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 Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pa. 17126. 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 July 1978.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc. 78-21325 Filed 8-1-78; 8:45 am]

[7590-01]

[Docket No. 50-344]

PORTLAND GENERAL ELECTRIC CO., ET AL.

Hearing on Order for Modification of License, and of Special Prehearing Conference

Pursuant to the Atomic Energy Act of 1954, as amended (the Act), and the regulations in Title 10, Code of Federal Regulations, Part 50, "Licensing of Production and Utilization Facilities," Part 51, "Licensing and Regulatory Policy and Procedures for Environmental Protection," and Part 2, "Rules and Practice," notice is hereby given that a hearing will be held before an Atomic Safety and Licensing Board (Board) to consider an Order For Modification Of License in connection with Facility Operating License No. NPF-1, which authorizes operation of the Trojan Nuclear Plant (the facility) located in Rainier, Oreg., by the licensee Portland General Electric Co., the city of Eugene, Oreg. and Pacific Power and Light Co.

On May 26, 1978, the Office of Nuclear Reactor Regulation issued an Order for Modification of License concerning the design of the control building walls at the Trojan facility. This Order was published in the FEDERAL REGISTER on June 1, 1978 (43 FR 23768). The Order requires that the control building walls be brought into substantial compliance with the approved seismic design criteria by June 1, 1979, and provides for interim operation of the facility under certain specified conditions. The Order also provides that any person whose interest may be affected may file a request for a hearing by June 26, 1978, on the stated issues of (1) whether interim operation prior to the required modifications should be permitted, and (2) whether the scope and timeliness of the modifications required by the Order are adequate from a safety standpoint.

The hearing, which will be scheduled to begin in the vicinity of the site of the Trojan facility, will be conducted by an Atomic Safety and Licensing Board which has been designated by the Chairman of the Atomic Safety and Licensing Board Panel. The Board consists of Marshall E. Miller, Esq., Chairman, and Dr. Kenneth A. McCollom and Dr. Hugh C. Paxton, Members.

An Atomic Safety and Licensing Board to rule on petitions and/or requests for leave to intervene in this proceeding was duly established on June 29, 1978. Following a special prehearing conference held on July 24-25, 1978, the Board issued an Order Concerning Requests For Hearing And Intervention Petitions dated July 27, 1978. The Board, pursuant to the provisions of 10 CFR 2.714, granted the requests for hearing and intervention petitions of the Columbia Environmental Council (CEC), Coalition For Safe Power (CFSP), Stephen M. Willingham, and consolidated the petitions and intervention of David M. McCoy, C. Gail Parson and Nina Bell. At the same time, the Board granted the request of the State of Oregon to participate as an interested State pursuant to the provisions of 10 CFR 2.715(c).

A special prehearing conference will be held by the Hearing Board on August 14, 1978, at 9 a.m. in Courtroom No. 362, Multnomah County Courthouse, 1021 South West 4th Avenue, Portland, Oreg. 97204 to consider all pertinent matters as set forth in 10 CFR 2.751a.

All parties are requested to commence discovery immediately on an expedited basis, and to report on the progress of discovery at the special prehearing conference on August 14, 1978. Voluntary cooperation to achieve maximum disclosure of material information and documents will benefit everyone, and will best serve the public interest.

The date and place of the evidentiary hearing or hearings will be set by the Board at or after the prehearing conference, and will be published in the FEDERAL REGISTER.

For further details with respect to this action, see (1) Operating License NPF-1, as amended, (2) the Licensee's letter dated April 28, 1978, (3) the Li-

censee's letter and attached Licensee Event Report dated May 5, 1978, and (4) Licensee's letter dated May 24, 1978. All of the above documents are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Columbia County Courthouse, Law Library, Circuit Court Room, St. Helens, Oreg.

Any person who wishes to make an oral or written statement in this proceeding but who has not filed a petition for leave to intervene as noted above may request permission to make a limited appearance pursuant to the provisions of 10 CFR 2.715 of the Commission's Rules of Practice. Limited appearances will be permitted in this proceeding at the discretion of the Board, within such limits and on such conditions as may be determined by the Board. Persons desiring to make a limited appearance are requested to inform the Secretary of the Commission, United States Regulatory Commission, Washington, D.C. 20555, not later than September 1, 1978. A person permitted to make a limited appearance does not become a party, but may state his or her position and raise questions which he or she would like to have answered to the extent that the questions are within the scope of the hearing as specified above. A member of the public does not have the right to participate unless granted the right to intervene as a party or the right of limited appearance.

An answer to this notice, pursuant to the provisions of 10 CFR 2.705 of the Commission's Rules of Practice, must be filed by the parties to this proceeding (other than the Regulatory Staff) not later than August 22, 1978.

Papers required to be filed in this proceeding may be filed by mail or telegram addressed to the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, or may be filed by delivery to the Commission's Public Document Room, 1717 H Street NW., Washington, D.C.

Pending further order of the Hearing Board designated for this proceeding, parties are required to file, pursuant to the provisions of 10 CFR 2.708 of the Commission's Rules of Practice, an original and twenty (20) conformed copies of each such paper with the Commission.

It is so ordered.

For the Atomic Safety and Licensing Board established to rule on petitions and/or requests for intervention.

MARSHALL E. MILLER,
Chairman.

Dated at Bethesda, Md., this 28th day of July, 1978.

[FR Doc. 78-21505 Filed 8-1-78; 8:45 am]

[7590-01]

[Docket Nos. STN 50-556 and STN 50-557]

PUBLIC SERVICE CO. OF OKLAHOMA, BLACK FOX STATION, UNIT NOS. 1 AND 2

Issuance of Limited Work Authorization

Pursuant to the provisions of 10 CFR 50.10(e) of the Nuclear Regulatory Commission's (Commission) regulations, the Commission has authorized the Public Service Co. of Oklahoma to conduct certain site activities in connection with the Black Fox Station, unit Nos. 1 and 2, prior to a decision regarding the issuance of construction permits.

The activities that are authorized are within the scope of those authorized by 10 CFR 50.10(e)(1) and include the following:

Site preparation, fencing, construction power, water supply, holding pond area, railroad spur construction, roads parking, and drainage, construction building and facilities, excavations, and foundations for permanent structures.

Any activities undertaken pursuant to this authorization are entirely at the risk of the Public Service Co. of Oklahoma and, except as to matters determined under sections 50.10 (e)(2) and (e)(3)(ii), the grant of the authorization has no bearing on the issuance of a construction permit with respect to the requirements of the Atomic Energy Act of 1954, as amended, and rules, regulations, or orders promulgated pursuant thereto.

A partial initial decision authorizing limited work authorization on matters relating to the National Environmental Policy Act and site suitability was issued by the Atomic Safety and Licensing Board in the above captioned proceeding on July 24, 1978.

A copy of (1) The partial initial decision authorizing limited work authorization; (2) the applicant's preliminary safety analysis report and amendments thereto; (3) the applicant's environmental report, and amendments thereto; (4) the staff's final environmental statement dated February 1977; and (5) the Commission's letter of authorization, dated July 26, 1978, are available for public inspection at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C. and at the Tulsa City County Library, 400 Civic Center, Tulsa, Okla.

Dated at Bethesda, Md., this 26th day of July 1978.

For the Nuclear Regulatory Commission,

JAN A. NORRIS,
Acting Chief, Environmental Projects Branch No. 2, Division of Site Safety and Environmental Analysis.

[FR Doc. 78-21324 Filed 8-1-78; 8:45 am]

[7590-01]

[Docket No. 40-1341]

TENNESSEE VALLEY AUTHORITY; EDGEMONT URANIUM MILL

Availability of Phase II-Type Study

Notice is hereby given that the Nuclear Regulatory Commission has received a report from the Grand Junction Office of the Department of Energy entitled, "Engineering Assessment of Inactive Uranium Mill Tailings, Edgemont Site, Edgemont, S. Dak.," dated June 1978.

The Nuclear Regulatory Commission, through an interagency agreement with the Department of Energy, contracted with Ford, Bacon & Davis Utah, Inc. (FB&DU) of Salt Lake City, Utah, to provide architect-engineering services in the assessment of the problems resulting from the existence of large quantities of radioactive uranium mill tailings at the Edgemont, S. Dak., uranium mill site. The assessment effort was based on the Phase II—Title I studies of 22 inactive uranium mill tailings sites in eight western States recently conducted by FB&DU for the Department of Energy. However, since the NRC planned to use this assessment as part of the technical basis for a future licensing decision regarding this site, the assessment of the Edgemont site included an expanded scope of work in areas such as hydrology studies and in radiological anlyses.

Although the Edgemont uranium mill was inactive, the Source Material License SUA-816 and responsibilities associated with it were transferred to the Tennessee Valley Authority (TVA) after purchase of the site by the TVA in August 1974. The TVA applied for timely renewal of SUA-816 in January 1976. The FB&DU study was contracted as part of the review of the application for renewal.

The report is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555. Copies of the report are also being made available for public inspection at the South Dakota State Clearinghouse, South Dakota Planning Bureau, State Capitol Building, Pierre, S. Dak. 57501; the

South Dakota Department of Environmental Protection (DEP), Foss Building, Pierre, S. Dak. 57501; the South Dakota DEP Regional Office, 725 North LaCrosse, Rapid City, S. Dak. 57701; the 6th Planning and Development District, 1823 St. Joe, Rapid City, S. Dak. 57701; and the City Hall, Edgemont, S. Dak. 57735. Single copies of the report may be obtained, to the extent of supply, by request addressed to the U.S. Nuclear Regulatory Commission, Attn: Director, Division of Fuel Cycle and Material Safety, Washington, D.C. 20555.

Dated at Silver Spring, Md., this 26th day of July 1978.

For the Nuclear Regulatory Commission.

LELAND C. ROUSE,
Chief, Fuel Processing and Fabrication Branch, Division of Fuel Cycle and Material Safety.

[FR Doc. 78-21326 Filed 8-1-78; 8:45 am]

[3110-01]

OFFICE OF MANAGEMENT AND BUDGET

PRIVACY ACT

Notice of New Systems

The purpose of this notice is to list reports on new systems filed with the Office of Management and Budget to give members of the public the opportunity to make inquiries about them and to comment on them.

The Privacy Act of 1974 requires the agencies to give advance notice to the Congress and the Office of Management and Budget of their intent to establish or modify systems of records subject to the Act (5 U.S.C. 552a(o)). During the period June 12, 1978 through July 21, 1978, the Office of Management and Budget received the following reports on new (or revised) systems of records.

DEPARTMENT OF ENERGY

System Name: Telephone Numbers and Addresses of DOE Officials and Support Staff.
Report Date: July 10, 1978.
Point-of-Contact: Mr. John Treanor, Privacy Act Officer, Department of Energy, Washington, D.C. 20461.
Summary: The Department of Energy proposes to expand this existing system to include all senior DOE staff. The system is maintained so that these individuals can be contacted in an emergency.

DEPARTMENT OF DEFENSE

System Name: Federal Acquisition Personnel Systems.
Report Date: July 13, 1978.
Point-of-Contact: Mr. William Cavaney, Defense Privacy Board, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20314.
Summary: This system, to be established by the Federal Acquisition Institute, will be used "to prepare reports on characteristics of the acquisition and logistics occupations and to periodically contact individual employees for personnel research projects."
System Names: (1) Carpooling Program. (2) Skills Bank Files. (3) Employee Career Development Plan File. (4) Requests for Appointment as Contracting Officer.
Report Date: June 26, 1978.
Point-of-Contact: Mr. William Cavaney, Defense Privacy Board, Forrestal Building, Washington, D.C. 20314.
Summary: These systems are all to be maintained by the Army and Air Force Exchange Service (AAFES) in Dallas, Tex. The first system is being developed in cooperation with the city of Dallas, Tex., to identify individuals who wish to use carpools; it is part of an energy conservation program. The second system is intended to identify AAFES employees who qualify for available positions. The Employee Development Plan Career File will provide a central reference of employees who have developed career development plans and a source for referrals for junior/middle management positions. The fourth system will be used to review and select individuals to be appointed as contracting officers.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

System Name: Community Development Block Grant Evaluation Files.
Report Date: June 26, 1978.
Point-of-Contact: Mr. Harold Rosenthal, Departmental Privacy Act Officer, Department of Housing and Urban Development, Washington, D.C. 20410.
Summary: This system will include records of interviews with and other demographic information about individuals living in a sample of cities which received Community Development Block Grants.

DEPARTMENT OF AGRICULTURE

System Name: Poultry Workers Job Satisfaction Study.
Report Date: July 3, 1978.
Point-of-Contact: Mr. Nicholas E. Bedessem, Privacy Act Coordinator, Department of Agriculture, Hyattsville, Md. 20782.
Summary: This system will be part of a research study to identify the causes of dissatisfaction amoung poultry workers. USDA hopes to thereby reduce job turnover and absenteeism and thus cut the proportion of labor cost in poultry processing.
System Name: Accident Notification System.
Report Date: June 8, 1978.
Point-of-Contact: Mr. Hoyt L. Abney, Room 0320 South Building, Forest Service, Washington, D.C. 20013.
Summary: This system of records will be used to provide names and phone numbers of persons to be contacted by Forest Service safety managers in the case of emergency.
System Name: Peanut Allotment and Quota File.
Report Date: June 8, 1978.
Point-of-Contact: Mr. Wayne L. Wang, Management Services Division, U.S. Department of Agriculture, 14th and Independence Avenue SW., Washington, D.C. 20013.
Summary: This system will include records on producers who participate in the peanut allotment and quota program of the Agricultural Stabilization and Conservation Service. It will provide price support and marketing data for cooperative marketing associations, and be used by ASCS county offices for reconciling records.
System Name: All computerized USDA systems.
Report Date: June 9, 1978.
Point-of-Contact: Dr. Tommye Cooper, Acting Deputy Director, Data Services, Office of Operations and Finance, Department of Agriculture, Washington, D.C. 20250.
Summary: The USDA plans to include a Value Added Network (VAN) service to its four computer centers (Washington, Fort Collins, Kansas City, and New Orleans Computer Centers). This packet switched carrier will replace dial communications for low speed interaction and transaction processing between those four centers and provide more reliable service and greater security at a lower cost to the Government, as well as making available better statistics for future planning.

DEPARTMENT OF STATE

System Name: Congressional Correspondence and Voting Records.
Report Date: June 2, 1978.
Point-of-Contact: Mr. Ben H. Read, Department of State, Washington, D.C. 20520.
Summary: The Department of State plans to alter this system, which is currently entitled "Congressional Correspondence Records," by including the voting records of Members of Congress on foreign affairs issues and by automating the system to speed responses to congressional inquiries.

NATIONAL SCIENCE FOUNDATION

System Name: NSF Applied Research Evaluators Roster.
Report Date: June 8, 1978.
Point-of-Contact: Mr. Herman Fleming, NSF Privacy Act Officer, National Science Foundation, Washington, D.C. 20550.
Summary: This system will consist of a computerized list of experts who are available to evaluate products of applied research projects.

DEPARTMENT OF COMMERCE

System Name: (1) National Fire Academy Student Registration. (2) National Fire Academy Instructor Records.
Report Date: June 6, 1978.
Point-of-Contact: Mr. Joseph O. Smiroldo, Director Office of Organization and Management Systems, Department of Commerce, Washington, D.C. 20230.
Summary: These two systems of records are being established for the administration of the National Academy for Fire Prevention and Control, "whose mission is to advance the professional development of fire service personnel and others engaged in fire prevention and control activities.".

DEPARTMENT OF JUSTICE

System Name: Drug Enforcement Administration Accounting System (DEAAS II).
Report Date: June 7, 1978.
Point-of-Contact: Ms. Bronson Clayton, Department of Justice, Washington, D.C. 20530.

Summary: This system, which includes payment vouchers, except payroll, for DEA employees, is being altered to include records on funds advanced to DEA travelers; in addition, the system, which is automated, is being enhanced by the addition of on-line input and query capability.

DEPARTMENT OF LABOR

System Name: Trade Adjustment Assistance Survey File.
Report Date: June 21, 1978.
Point-of-Contact: Carin Ann Clauss, Solicitor of Labor, Department of Labor, Washington, D.C. 20210.
Summary: This system will consist of survey data resulting from interviews with previously unemployed workers. The survey is being undertaken "to describe the characteristics and labor market experience of trade adjustment assistance recipients."

DEPARTMENT OF HEALTH, EDUCATION AND WELFARE

System Names: (1) Quality Review System. (2) Quality Review Casefile.
Report Date: June 23, 1978.
Point-of-Contact: Mr. Peter M. Wheeler, Office of Management and Administration, Department of Health, Education and Welfare, 6401 Security Boulevard, Baltimore, Md. 21235.
Summary: These two systems, already in existence, are used to monitor the effectiveness of Social Security Administration programs, including eligibility of applicants/beneficiaries and error rates. It is proposed to expand these systems by adding (1) Individuals who apply for or receive benefits under title II of the Social Security Act, and (2) adding medical information to the categories of records.
NOTE.—A waiver of the advance notice period has been requested for these two systems.

VELMA N. BALDWIN,
Assistant to the Director for Administration.

[FR Doc. 78-21486 Filed 8-1-78; 8:45 am]

[8010-01]

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 20641; 70-6042]

ALLEGHENY POWER SYSTEM INC.

Post-Effective Amendment Regarding Issuance and Sale of Short-Term Notes to Banks and to Commercial Paper Dealer

JULY 26, 1978.

In the matter of Allegheny Power System, Inc., 320 Park Avenue, New York, N.Y. 10022 (70-6042).

Notice is hereby given that Allegheny Power System, Inc. ("Allegheny"), a registered holding company, has filed with this Commission a post-effective amendment to the application in this proceeding pursuant to section 6(b) of the Public Utility Holding Company Act of 1935 ("act") regarding the following proposed transactions. All interested persons are referred to the amended application, which is summarized below, for a complete statement of the proposed transactions.

By order in this proceeding dated September 21, 1977 (HCAR No. 20185), Allegheny was authorized to borrow funds during the period ending March 31, 1979, through the issuance and sale of short-term notes to banks and commercial paper to a commercial paper dealer in an aggregate amount not to exceed $70,000,000 outstanding at any one time. The notes and commercial paper were to be issued and renewed from time to time as funds were required prior to March 31, 1979, provided that no such notes or commercial paper would mature after September 30, 1979. In accordance with the post-effective amendment, the banks from which such borrowings are to be effected remain the same, but in some instances the maximum amount of the borrowings to be outstanding from each bank at any one time has been changed. The complete list of banks and maximum amounts to be borrowed will be as follows:

Citibank, N.A., New York, N.Y	$40,000,000
The Chemical Bank, New York, N.Y	30,000,000
Mellon Bank, N.A., Pittsburgh, Pa	55,000,000
Pittsburgh National Bank, Pittsburgh, Pa	7,500,000
Manufacturers Hanover Bank, New York, N.Y	60,000,000
Irving Trust Co., New York, N.Y	5,000,000
Chase Manhattan Bank, N.A., New York, N.Y	2,500,000
Total	200,000,000

The maximum amount of such borrowings at any one time outstanding will not, when taken together with any commercial paper then outstanding, be in excess of $70,000,000, as previously authorized.

The original filing stated that no commitment or agreement had been made with respect to the proposed borrowings and that Allegheny and its subsidiaries maintain balances to meet regular operating requirements at all of the banks which vary in amount from time to time. It was stated that such balances are generally either on the basis of a percentage of the line of credit extended by such bank (for example 10 percent), or a higher percentage of notes outstanding (for example 20 percent), whichever is greater, or a percentage of the line of credit (for example 10 percent) plus a percentage (for example 10 percent) of notes outstanding, in every case on an average annual basis. If such balances were maintained by Allegheny solely to fulfill compensating balance requirements for borrowings to be made by Allegheny, the effective interest cost to Allegheny of issuing and selling the notes would be no more than 8.75 percent on the basis of a prime commercial credit rate of 7 percent and 11.25 percent with a prime rate of 9 percent.

The post-effective amendment states that certain of the banks listed above have offered to substitute fees for, or to be used in conjunction with, lower compensating balances than those set forth above. The fee arrangements vary. In some cases fees equal to a specific percentage of the prime commercial rate (for example 8½ percent of the prime commercial rate) are involved, while in another instance the arrangement provides that balances be maintained equal to 5 percent of the line of credit with an additional fee of 2½ percent of prime. Allegheny is not to utilize the fee arrangements unless the effective cost thereof is less than the compensating balance arrangement in effect at that bank at that time. It is stated that the proposed fee arrangements produce an effective interest cost of issuing and selling the notes of between 7.96 and 8.38 percent on the basis of a prime commercial rate of 7 percent and 10.23 and 10.77 percent on the basis of a prime commercial credit rate of 9 percent rather than the 8.75 percent and 11.25 percent effective cost resulting from meeting compensating balance requirements set forth above.

In all other respects the proposed transactions remain the same. No State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than August 23, 1978, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said post-effective amendment to the application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary,, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as now amended or as it may be further amended, may be granted as provided in rule 23 of the general rules and regulations promulgated under the act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the division of corporate regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-21315 Filed 8-1-78; 8:45 am]

[8010-01]

[Rel. No. 5948; 18-14]

BRYAN, CAVE, McPHEETERS, AND McROBERTS RETIREMENT PLAN

Filing of Application

JULY 26, 1978.

In the matter of the Bryan, Cabe, McPheeters & McRoberts Retirement Plan, 500 North Broadway, St. Louis, Mo. 63102 (18-14).

Notice is hereby given that Bryan, Cave, McPheeters & McRoberts, a law firm organized as a partnership under the laws of Missouri ("applicant") has, by letters dated October 12, 1977, October 21, 1977, December 27, 1977, February 28, 1978, and July 7, 1978, applied for an exemption from the registration requirements of the Securities Act of 1933 (the "act") for participations or interests issued in connection with the Bryan, Cave, McPheeters & McRoberts Retirement Plan (the "plan"). All interested persons are referred to those documents, which are on file with the Commission, for the facts and representations contained therein, which are summarized below.

I. INTRODUCTION

Applicant's plan is for the exclusive benefit of its partners and associates who have attained age 25 and complete 3 years of eligibility service. The plan provides for applicant to make non-discretionary firm contributions on behalf of participants. Participants may also make voluntary personal contributions to the Plan. The Plan is of the type commonly referred to as a "Keogh" plan, which covers perons (in this case applicant's partners) who are employees within the meaning of section 401(c)(1) of the Internal Revenue Code of 1954 (the "code"), and, therefore, is excepted from the exemption provided by section 3(a)(2) of the act for interests of participations in certain employee benefit plans of corporate employers. Section 3(a)(2) of the act provides, however, that the commission shall exempt from the provisions of section 5 of the act any interest or participation issued in connection with a pension or profit-sharing plan which covers employees some or all of whom are employees within the meaning of section 401(c)(1) of the code, if and to the extent that the Commission determines this to be necessary to appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the act.

II. DESCRIPTION AND ADMINISTRATION OF THE PLAN

The plan has been maintained since 1975 as a retirement plan qualified under section 401 of the code. In connection with certain changes which recently have been incorporated in the plan, applicant has applied to the Internal Revenue Service (the "IRS") for a determiination that the plan as modified will continue to be qualified under section 401. Applicant requests that the Commission assume that the IRS will rule favorably as to the qualification of the plan.

Applicant is a law firm which contributes to the plan on behalf of the covered persons an amount based on a percentage of their compensation. In addition, an active participant may contribute up to 10 percent of the first $100,000 of the participant's compensation received while a participant. Such voluntary contributions may be withdrawn by the participant upon notice of the Trustee, as of any annual valuation date.

Each participant may designate annually the percentage of the contributions for the upcoming year which will be invested in either of two investment funds, an equity fund and a fixed income fund, maintained by the Trustee, St. Louis Union Trust, Co. In addition, each participant may elect to transfer all or part of his account in one investment fund to the other. In the event a participant does not designate the fund into which contributions on his behalf are to be paid, they will be invested in the fixed income fund. At the direction of the applicant, all or part of the assets allocated to the fixed income fund may be used to purchase a group annuity contract. Currently, all assets are in the fixed income fund and have been applied to the purchase of a group annuity contract pursuant to the direction of a committee of members of the applicant (the "committee") which has the power to appoint and to remove investment managers with respect to plan assets. The Trustee serves as investment manager unless otherwise directed by the committee. Applicant has retained full power to amend the plan, subject to the condition that no amendment will cause any of the plan's assets to be used or diverted to any purpose other than the exclusive benefit or participants, former participants or their beneficiaries or will decrease the accrued benefit of any participant, former participant or beneficiary.

The plan is subject to the reporting and disclosure requirements of the Employees Retirement Income Security Act of 1974 ("ERISA"). A summary plan description and an ERISA notice informing participants of their rights has been delivered to each participant. Summary annual reports have been delivered to each participant and person currently receiving benefits and applicant represents it will continue this practice. Certain forms and reports to which the participants have access have been filed with the IRS and Department of Labor and applicant represents that such reports will be filed on a timely basis in the future as required.

III. DISCUSSION

Applicant contends that if applicant were a corporation, rather than a partnership, interests or participations issued in connection with the plan would be exempt from registration under section 3(a)(2) of the act. Applicant further represents that the plan assets are not commingled in collective investment media with the assets of the plans of any other employer; that the plan is subject to the fiduciary standards and reporting and disclosure requirements of ERISA; that the applicant has retained substantial administrative control of the plan, including ultimate control over investment policies; that applicant is engaged in providing legal services involving sophisticated and complex financial matters and can adequately represent its and its employees' interests; and that no solicitation of voluntary contributions has been or will be made although a notice will be given to all participants stating that they may make voluntary contributions.

Applicant concludes that, in light of the foregoing, granting the requested exemptive order would be appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the act.

Notice is further given that any interested person may, not later than August 22, 1978, at 5:30 p.m. submit to the Commission in writing a request for a hearing on the application, accompanied by a statement of the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed to: George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Bryan, Cave, McPheeters & McRoberts, 500 North Broadway, St. Louis, Mo. 63102, Attention: I. Jack Lerner, Esq. Proof of such service (by affidavit or, in the case of an attorney-

at-law, by certificate) shall be filed contemporaneously with the request.

An order disposing of the matter will be issued as of course following August 22, 1978, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notice of or order issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-21316 Filed 8-1-78; 8:45 am]

[8010-01]

[Rel. No. 20642; 70-6158]

CHERRY HILL FUELS CORP. ET AL.

Proposed Uranium Exploration and Reserve Acquisition Program by Fuel Subsidiary of Holding Company

JULY 27, 1978.

In the matter of Cherry Hill Fuels Corp., General Public Utilities Corp., 260 Cherry Hill Road, Parsippany, N.J. 07054; Jersey Central Power & Light Co., 161 Madison Avenue, Morristown, N.J. 07960; Metropolitan Edison Co., P.O. Box 542, Reading, Pa. 19603; Pennsylvania Electric Co., 1001 Broad Street, Johnstown, Pa. (15907 70-6158).

Notice is hereby given that General Public Utilities Corp. ("GPU"), a registered holding company, and its fuel and utility company subsidiaries Cherry Hill Fuels Corp. ("Cherry Hill"), Jersey Central Power & Light Co. ("Jersey Central"), Metropolitan Edison Co. ("Met-Ed"), and Pennsylvania Electric Co. ("Penelec") have filed with this Commission an application-declaration and an amendment thereto pursuant to the Public Utility Holding Company Act of 1935 ("act"), designating sections 9(a), 10, 12(b), 12(f), and 13(b) of the act and rules 43 and 80-95 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, as amended, which is summarized below, for a complete statement of the proposed transactions.

GPU proposes (1) to organize a newly created corporation, Cherry Hill; (2) to purchase 5,000 shares of the common stock of Cherry Hill for $500,000; (3) to make open account advances to Cherry Hill from time to time during the period 1978-80, of not more than $1 million in any calendar year for the purpose of exploration within the United States for additional supplies of uranium and for the acquisition of interests in lands and land rights in tracts believed to contain uranium; (4) to make open account advances from time to time during the period 1978-80, of not more than $100,000 in any calendar year for the purpose of preliminary investigations in connection with the possible acquisition of a uranium reserve; and (5) to be allowed a rate of return on its advances to Cherry Hill in accordance with the formula set forth later herein.

The proposed transactions are the initial steps of two separate programs of the GPU system to make provision for a portion of its future uranium requirements, namely (1) a limited exploration program, and (2) a reserve acquisition program. Since the ability of the GPU system to proceed with such programs will be largely dependent upon the ratemaking and accounting treatment accorded to the investments made therein, applicants-declarants do not now seek authorization for any transactions other than those set forth above.

Under the limited exploration program Cherry Hill will explore within the United States for additional supplies of uranium and for the acquisition of interests in land and land rights in tracts believed by it to contain uranium. The purpose of such activities will be to provide a resource base for possible future development projects, if such exploration activities are successful. Such exploration activities will be undertaken by Cherry Hill either separately or through participation by it in joint ventures with one or more nonaffiliated firms (such as mining or exploration companies) in which other electric utilities may also be participants.

Under the reserve acquisition program applicants-declarants propose to acquire a proven uranium reserve with the general criteria of between 1 million and 3 million pounds of uranium assured as minable and recoverable in the ground, developable to a 10-million-pound reserve to the extent that a decision to mine and mill the raw material could be made by 1978. It is presently estimated that the cost of acquisition of such a reserve may involve expenditures of up to $35 million and the cost of development of such a reserve, if so acquired, may involve expenditures of an additional $30 million.

It is stated that the GPU system's operating companies have in operation two nuclear units having an aggregate capacity of approximately 1,400 MW and have under construction two additional nuclear units with an aggregate capacity of approximately 2,000 MW. The GPU system has arrangements for the delivery of uranium through 1983, but the uncommitted requirements for the delivery four nuclear units for the balance of their remaining lives approximates 33 million pounds. In the past, the GPU system was able to secure contracts for the supply of uranium for fixed amounts of production at fixed prices (or with fixed escalation provisions). However, such contracts are not available under current market conditions and are not expected to be available in the foreseeable future.

Current regulatory practices are not clear as to whether investments in nuclear fuel reserves will be permitted to accrue an allowance for funds used during construction ("AFUDC") until the development of such reserves has been initiated, or whether such investments should be included in rate base until such development has been initiated. Because of this uncertainty, the GPU system operating companies will seek resolution by the regulatory bodies having primary jurisdiction over their rates of whether their investment in such reserves should be included in rate base or should bear AFUDC accruals during the predevelopment period and whether AFUDC should be accrued therein during the development period.

The costs of the programs (including the charges at cost of Cherry Hill in prosecuting such program) will be allocated among Jersey Central, Met-Ed, and Penelec in proportion to their respective needs for uranium during the respective periods to which the various aspects of such programs relate. Within 45 days after the end of each fiscal quarter, there will be filed quarterly reports pursuant to rule 24 setting forth the expenditures made, the allocations thereof among Jersey Central, Met-Ed, and Penelec and the bases for such allocations.

As an initial step in the limited exploration program an affiliate of GPU has entered into a contract, subject to the approval of this Commission, with Teton Exploration Drilling Co., Inc. ("Teton"), a subsidiary of United Nuclear Corp. ("UNC"), for exploration drilling on selected sites among some 6,800 acres of property in the Date Creek area of west-central Arizona. Said contract is to be assigned to Cherry Hill. Under it Cherry Hill would provide to Teton $300,000 during 1978, $600,000 during 1979, and $600,000 during 1980. Teton would match the funds provided by Cherry Hill at the rate of $1 for each $5 invested by Cherry Hill. Neither Teton nor UNC is affiliated with Cherry Hill. Arrangements have also been made for a second exploration program, involving an estimated expenditure of up to $100,000 annually. These arrangements involve a joint venture with Sierra del Rio Nuclear, Inc.

("SDR"), a privately owned and nonaffiliated corporation, to conduct drilling and other exploration activities. Under the agreement, Cherry Hill would pay SDR a purchase price of $32,800 to obtain a lease of the mineral rights on some 301 mining claims and the assignment of a State prospecting permit covering an aggregate of approximately 6,600 acres in an area located within 20 miles of the Date Creek area referred to above. In addition Cherry Hill will assume obligations for certain drilling and assessment work and for mineral royalty payments. The minmum annual costs to Cherry Hill for claim and permit maintenance activities and royalty payments are estimated at $55,000.

It is stated that as long as Cherry Hill activities are confined to the limited exploration program herein set forth, it will not (1) have any personnel of its own (but will be furnished with personnel services by GPU Service Corp., an affilate), or (2) own any drilling or similar equipment.

GPU proposes the following method for determining the cost of capital to be allowed to it for its advances to Cherry Hill:

Cherry Hill's capital costs will be computed on the basis of hypothetical capital structure corresponding, as nearly as may be, to that of GPU system consolidated. This imputed capital structure will exclude GPU's short-term debt and accumulated deferred income taxes and investment tax credits, and will be determined as of the last day of the calendar month preceding the date of the making of such investment or, if such investment is made on the last day of a calendar month, then as of that date. No cost shall be assigned to the deferred income taxes or investment tax credits of Cherry Hill.

The hypothetical composition of each investment by GPU, determined as of the date such investment is made, shall remain constant as long as such investment is outstanding. The aggregate of such investments so allocated shall be deemed to be the capitalization of Cherry Hill for purposes of (a) determining the composition of each new investment, and (b) for quarterly compilation of cost of capital at the rates specified below.

(i) The cost of any GPU funds imputed as long-term debt shall be equal to the actual cost of a bond issue of either Jersey Central, Met-Ed, or Penelec most recently preceding the respective dates of the GPU investments in Cherry Hill: *Provided, however,* If the most recent bond issue occurred more than twelve (12) month prior to the date of investment then the cost of long-term debt shall be the actual cost of the most recent bond issue until the date of the next subsequent bond issue from which date forward the cost previously determined shall be computed to equal the cost of the subsequent issue.

(ii) The cost of any GPU funds imputed as preferred stock shall be equal to the actual cost of a preferred stock issue of either Jersey Central, Met-Ed, or Penelec most recently preceding the respective dates of the GPU investments in Cherry Hill; *Provided, however,* If the most recent preferred stock issue occurred more than twelve (12) months prior to the date of invesment, then the cost of preferred stock shall be the actual cost of the most recent preferred stock issue until the date of the next subsequent preferred issue from which date forward the cost previously determinded shall be computed to equal the cost of the subsequent issue;

(iii) The cost of any GPU funds imputed as common equity shall be a reasonable rate of return not to exceed the rate of return on common equity provided under the terms of a fully adjudicated wholesale rate proceeding determination by the Federal Energy Regulatory Commission ("FERC"), involving Jersey Central, Met-Ed, or Penelec. In the absence of a recent FERC decision, GPU proposes to use a rate of 13.25 percent, which represents the return allowed in Jersey Central's most recent retail rate case.

If Cherry Hill pays or redeems any portion of the GPU investment, the investments shall be redeemed in the same order that they were made.

The fees and expenses to be incurred in connection with the proposed transactions will be supplied by amendment. It is stated that consummation of some of the transactions contemplated by the overall uranium program may require the approval of the Pennsylvania Public Utilities Commission and/or the Board of Public Utilities of the State of New Jersey, but that concerning the transactions for which authorization is initially sought, as set forth in the second paragraph herein, no State commission and no Federal commission, other than this Commission, has jurisdiction.

Notice is further given that any person may, not later than August 21, 1978, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration, as amended, which he desires to controvert; or he may request that he be notified of the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as amended or as it may be further amended, may be granted and permitted to become effective as provided in rule 23 of the general rules and regulations promulgated under the act, or the Commission may grant exemption from such rules as provided in rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-21431 Filed 8-1-78; 8:45 am]

[8010-01]

[Rel. No. 15010]

CINCINNATI STOCK EXCHANGE

Order Granting Exemption

JULY 28, 1978.

The Cincinnati Stock Exchange ("Cincinnati") has requested that the Commission grant it an exemption from the requirements of 17 CFR § 240.11Acl-1 (rule 11Acl-1 under the Securities Exchange Act of 1934, the "act"). Rule 11Acl-1 requires, as of its effective date (August 1, 1978), that every national securities exchange and national securities association establish and maintain procedures to collect, process, and make available to vendors quotations, including size, in equity securities as to which last sale information is reported ("reported securities") in the consolidated transaction reporting system ("consolidated system") contemplated by rule 17a-15 under the act. The Cincinnati's exemption request relates to those reported securities traded on Cincinnati otherwise than through its pilot program establishing an automated, multiple dealer trading system ("Cincinnati system").

Having considered Cincinnati's aggregate dollar and share trading volume in reported securities not traded in the Cincinnati system and Cincinnati's cost burdens, in proportion to the benefits which might now be obtained, as a consequence of compliance with rule 11Acl-1 as to those securities, the Commission has determined that the grant of the exemption is consistent with the public interest, the protection of investors and the re-

moval of impediments to and perfection of the mechanism of a national market system. Accordingly, the Commission has determined to grant Cincinnati an exemption from the requirements of rule 11Acl-1, pursuant to paragraph (d) thereof, conditioned upon Cincinnati submitting: (i) Quarterly reports to the Commission and to the processor of the consolidated system, no later than 30 days after each calendar quarter, consisting of aggregate share and dollar volume, number of block trades and aggregate number of transactions in each reported security traded on the Cincinnati outside of the Cincinnati system; and (ii) a report to the Commission, by November 1, 1978, specifying time and cost estimates for effecting compliance with rule 11Acl-1 as to reported securities traded on the Cincinnati outside of the Cincinnati system, together with a description of those efforts made by Cincinnati to explore alternative means of effecting such compliance. The exemption is subject to modification or revocation at any time if the Commission determines that such action is necessary or appropriate in light of progress made towards a national market system or otherwise in furtherance of the purposes of the act.

The text of the letter informing Cincinnati of the Commission's action is set forth below:

JULY 28, 1978.

Mr. K. RICHARD E. NIEHOFF,
Chairman of the Board, Cincinnati Stock Exchange, 205 Dixie Terminal Building, Cincinnati, Ohio.

DEAR MR. NIEHOFF: The Commission has reviewed the request of the Cincinnati Stock Exchange ("Cincinnati") for an exemption from the requirements of rule 11Acl-1 under the Securities Exchange Act of 1934 (the "Act"), Pursuant to paragraph (d) thereof. The Cincinnati's exemption request relates to those equity securities as to which last sale information is reported ("reported securities") in the consolidated transaction reporting system ("consolidated system") contemplated by rule 17a-15 under the act traded on Cincinnati otherwise than through its pilot program establishing an automated, multiple dealer trading system ("Cincinnati system"). In the course of its review, the Commission has considered, among other things, Cincinnati's aggregate share and dollar volume in reported securities not traded in the Cincinnati system, and Cincinnati's cost burdens, in proportion to the benefits which might now be obtained, as a consequence of compliance with rule 11Acl-1.

The Commission has authorized me to inform you that Cincinnati's request for exemption from rule 11Acl-1 has been granted, subject to the condition that Cincinnati submit (i) quarterly reports to the Director of the Division of Market Regulation and the processor of the consolidated system, no later than 30 days after each calendar quarter, consisting of aggregate share and dollar volume, number of block trades and aggregate number of transactions in each reported security traded on Cincinnati outside of the Cincinnati system and (ii) a report to the Director of the Division of Market Regulation, by November 1, 1978, specifying time and cost estimates for effecting compliance with Rule 11Acl-1 as to reported securities traded on the Cincinnati outside of the Cincinnati system, together with a description of those efforts made by Cincinnati to explore alternative means of effecting such compliance.

This exemption is subject to modification or revocation at any time if the Commission determines that such action is necessary or appropriate in light of progress made towards a national market system or otherwise in furtherance of the purposes of the act.

Sincerely,

GEORGE A. FITZSIMMONS,
Secretary.

It is therefore ordered, That Cincinnati be granted an exemption from the provisions of rule 11Acl-1 under the act, pursuant to paragraph (d) thereof, relieving Cincinnati of its obligation to collect, process, and make available quotation information for reported securities traded outside of the Cincinnati system in accordance with the Rule, provided that Cincinnati submits: (i) Quarterly reports to the Commission and to the processor of the consolidated system, no later than 30 days after each calendar quarter, consisting of aggregate share and dollar volume, number of block trades and aggregate number of transactions in each reported security traded on the Cincinnati outside of the Cincinnati system; and (ii) a report to the Commission, by November 1, 1978, Specifying time and cost estimates for effecting compliance with rule 11Acl-1 as to reported securities traded on the Cincinnati outside of the Cincinnati system, together with a description of those efforts made by Cincinnati to explore alternative means of effecting such compliance. This exemption is subject to modification or revocation at any time if the Commission determines that such action is necessary or appropriate in light of progress made towards a national market system or otherwise in furtherance of the purposes of the act.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-21407 Filed 8-1-78; 8:45 am]

[8010-01]

[Release No. 34-14997]; File No. SR-DTC-78-11]

DEPOSITORY TRUST CO.

Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on July 20, 1978, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The standard form of FAST Balance Certificate Agreement ("window" type) has been altered to reflect an interpretation of the FAST program which accommodates transfer agents outside the New York metropolitan area, who can offer full FAST services only if they employ an agent proximate to The Depository Trust Co. (DTC) to perform certain functions for them. The alterations do not go to the nature of the obligations assumed by the parties; they merely specify who shall perform those obligations. All transfer agent obligations under the standard form of Balance Certificate Agreement remain in full force and effect under the altered agreement. The text of the altered agreement is attached as exhibit 2 to DTC's filing on form 19b-4A, file No. SR-DTC-78-11.

STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change are as follows:

The purpose of the proposed rule change is to enable any transfer agent outside the New York metropolitan area to offer full FAST services despite its geographical location by agreement with DTC that certain transfer agent functions will be performed by an agent proximate to DTC.

The proposed rule change carries out the purposes of section 17A of the Securities Exchange Act of 1934 by enabling more transfer agents to participate in the FAST program, which reduces the number of certificate movements between DTC and the transfer agent.

Comments were not and are not to be solicited from participants.

DTC perceives no burden on competition by reason of the proposed rule change.

The foregoing rule change has become effective, pursuant to section 19(b)(3) of the Securities Exchange Act of 1934. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Per-

sons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

All submissions should refer to the file number referenced in the caption above and should be submitted within 21 days of the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

JULY 26, 1978.

[FR Doc. 78-21320 Filed 8-1-78; 8:45 am]

[8010-01]

[Rel. No. 15012]

INTERMOUNTAIN STOCK EXCHANGE

Order Granting Exemption

JULY 28, 1978.

The Intermountain Stock Exchange ("Intermountain") has requested that the Commission grant it an exemption from the requirements of 17 CFR § 240.11Ac1-1 (rule 11Ac1-1 under the Securities Exchange Act of 1934, the "act"). Rule 11Ac1-1 requires, as of its effective date (August 1, 1978), that every national securities exchange and national securities association establish and maintain procedures to collect process and make available to vendors quotations, including size, in equity securities as to which last sale information is reported ("reported securities") in the consolidated transaction reporting system ("consolidated system") contemplated by rule 17a-15 under the act.

Having considered Intermountain's aggregate dollar and share trading volume in reported securities, and Intermountain's cost burdens, in proportion to the benefits which might now be obtained, as a consequence of compliance with rule 11Ac1-1, the Commission has determined that the grant of the exemption is consistent with the public interest, the protection of investors and the removal of impediments to and perfection of the mechanism of a national market system. Accordingly, the Commission has determined to grant Intermountain an exemption from the requirements of rule 11Ac1-1, pursuant to paragraph (d) thereof, conditioned upon Intermountain submitting quarterly reports to the Commission and to the processor of the consolidated system, no later than 30 days after each calendar quarter, consisting of aggregate share and dollar volume, number of block trades, and aggregate number of transactions in each reported security traded on the Intermountain. The exemption is subject to modification or revocation at any time if the Commission determines that such action is necessary or appropriate in light of progress made toward a national market system or otherwise in furtherance of the purposes of the act.

The text of a letter informing Intermountain of the Commission's action is set forth below:

JULY 28, 1978.

Mr. REO B. CUTLER,
President, Intermountain Stock Exchange, Salt Lake City, Utah.

DEAR MR. CUTLER: The Commission has reviewed the request of the Intermountain Stock Exchange ("Intermountain") for an exemption from the requirements of Rule 11Ac1-1 under the Securities Exchange Act of 1934 (the "Act"), pursuant to paragraph (d) thereof. In the course of its review, the Commission has considered, among other things, Intermountain's aggregate share and dollar volume in equity securities as to which last sale information is reported ("reported securities") in the consolidated transaction reporting system ("consolidated system") contemplated by Rule 17a-15 under the Act, and Intermountain's cost burdens, in proportion to the benefits which might now be obtained, as a consequence of compliance with Rule 11Ac1-1.

The Commission has authorized me to inform you that Intermountain's request for exemption from Rule 11Ac1-1 has been granted, subject to the condition that Intermountain submit quarterly reports to the Director of the Division of Market Regulation and the processor of the consolidated system, no later than 30 days after each calendar quarter, consisting of aggregate share and dollar volume, number of block trades and aggregate number of transactions in each reported security traded on Intermountain.

This exemption is subject to modification or revocation at any time if the Commission determines that such action is necessary or appropriate in light of progress made towards a national market system or otherwise in furtherance of the purposes of the Act.

Sincerely,

GEORGE A. FITZSIMMONS,
Secretary.

It is therefore ordered, That Intermountain be granted an exemption from the provisions of rule 11Ac1-1 under the act, pursuant to paragraph (d) thereof, relieving Intermountain of its obligation to collect, process and make available quotation information for reported securities in accordance with the rule, provided that Intermountain submits quarterly reports to the Commission and to the processor of the consolidated system, no later than 30 days after each calendar quarter, consisting of aggregate share and dollar volume, number of block trades and aggregate number of transactions in each reported security traded on the Intermountain. This exemption is subject to modification or revocation at any time if the Commission determines that such action is necessary or appropriate in light of progress made toward a national market system or otherwise in furtherance of the purposes of the act.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-21406 Filed 8-1-78; 8:45 am]

[8010-01]

[Rel. No. 15004; SR-NASD-78-4]

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

Order Approving Proposed Rule Change

JULY 26, 1978.

In the matter of National Association of Securities Dealers, Inc., 1735 K Street NW., Washington, D.C. 20006 (SR-NASD-78-4).

On June 5, 1978, the National Association of Securities Dealers, Inc., filed with the Commission, pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act") and rule 19b-4 thereunder, copies of a proposed rule change which is designed to implement rule 11Ac1-1 under the Act.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission release (Securities Exchange Act Release No. 34-14914, June 30, 1978) and by publication in the FEDERAL REGISTER (43 FR 29387, July 7, 1978). All written statements with respect to the proposed rule change which were filed with the Commission and all written communications relating the proposed rule change between the Commission and any person were considered (with the exception of those statements or communications which may be withheld from the the public in accordance with the provisions of 5 U.S.C. § 552) were made available to the public at the Commission's Public Reference Room.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to exchanges, and in particular, the requirements of sections 11A and 15A and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the 30th day after the date of publication of the notice of filing thereof, in that such approval prior to August 1, 1978, will facilitate

the orderly implementation of rule 11Ac1-1, which becomes effective on that date.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change 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. 78-21432 Filed 8-1-78; 8:45 am]

[8010-01]

[Release No. 34-14998; File No. SR-NSCC-78-9]

NATIONAL SECURITIES CLEARING CORP.

Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. 94-29, 16 (June 4, 1975), notice is hereby given that on July 19, 1978, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

TEXT OF PROPOSED RULE CHANGE

The board of directors of National Securities Clearing Corp. (the corporation) has, on July 11, 1978, adopted the following interpretation of rule 12, section 1 of the rules of the SCC division of the Corporation:

INTERPRETATION OF THE BOARD OF DIRECTORS

Pursuant to SCC division rule 33, the board of directors is authorized to prescribe procedures and other regulations in respect of the business of National Securities Clearing Corp. The board of directors hereby adopts the following interpretation as a regulation of the SCC division:

REQUIREMENT TO SETTLE IN THE SCC DIVISION IN FEDERAL FUNDS

The purpose of this interpretation is to formalize the existing practice regarding next day settlement in Federal funds, in response to inquiries from members.

Pursuant to the fourth paragraph of rule 12, section 1 of the SCC division rules, the corporation may demand at any time that a settling member shall pay the corporation the whole or any part of the amount which any settling member owes to the corporation. Settling members are also required to furnish NSCC with any assurances required of the member's ability to finance its commitments and to conform to any conditions which the corporation deems necessary for its protection and the protection of other members. "In addition, notwithstanding any other provision of these rules, the corporation may require any member or nonmember bank to pay for any securities deliverable to such member or nonmember bank prior to the delivery thereof * * *"

Because members, pursuant to the above provisions, may be required to not only furnish assurances of their ability to meet their commitments, but to also pay for securities deliveries prior to receipt thereof, the board of directors has deemed it on occasion necessary and appropriate that the corporation may demand, at any time, that any member be required to make any settlement of amounts due the corporation pursuant to rule 12 in Federal funds.

With the publication of this interpretation, all members are placed on notice that they are obligated to settle any differences, between amounts settled with the corporation by a member on the basis of the preliminary settlement statement produced by the corporation or, when directed by the corporation, on the basis of the member's own records, and the amount reflected by the final settlement statement, which cannot be settled by a check or draft on settlement day, on the next business day in Federal funds, to the extent that such amounts exceed $500,000 or such other standard as the board shall adopt and publish, and in certified funds for such other amounts when required by the rules.

The requirement appearing in this interpretation to settle amounts in Federal funds has been the practice for the past several years in the SCC division where members have been requested to settle in Federal funds on numerous occasions when settlement based upon the preliminary settlement statement or upon the member's own records has required subsequent adjustment based upon the final settlement statement, and where such adjustment has not been possible on settlement day. The purpose of this interpretation is to formalize this existing practice and to indicate the level at which Federal funds are currently required.

STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

The proposed rule change formalizes, by interpretation of the board of directors, the existing practice of the corporation's SCC division regarding settlement in Federal funds by SCC division members of certain obligations pursuant to SCC division rule 12.

The proposed rule change relates to enforcing compliance by the corporation's participants with its rule by formalizing the circumstances under which the corporation will require its SCC division members to effect settlement with the SCC division pursuant to SCC division rule 12, in Federal funds.

No comments on proposed rule change have been solicited or received.

NSCC does not perceive that the proposed rule change would constitute a burden on competition.

The foregoing rule change has become effective, pursuant to section 19(b)(3) of the Securities Exchange Act of 1934. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

All submissions should refer to the file number referenced in the caption above and should be submitted within 21 days of the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

JULY 26, 1978.

[FR Doc. 78-21318 Filed 8-1-78; 8:45 am]

[8010-01]

[Release No. 34-14999; File No. SR-OCC-78-4]

OPTIONS CLEARING CORP.

Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. 94-29, 16 (June 4, 1975), notice is hereby given that on July 19, 1978, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

Pursuant to article III, section 8 of the bylaws of the Options Clearing Corp. ("OCC"), and in accordance with the principles set forth in article IX, section 9 of said bylaws, the board of directors of OCC has determined to revise OCC's clearing fees by reducing the fee for transactions executed at prices of $1 or more from $0.11 per contract to $0.095 per contract. The reduction is to become effective with the August, 1978 billing (covering the month of July, 1978).

STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

The purpose of the fee reduction is to adjust OCC's clearing fees to a level more closely approximately OCC's operating costs, while at the same time enabling OCC to maintain capital, surplus and reserves sufficient for its needs and consistent with the principles set forth in article IX, section 9 of its bylaws.

OCC believes that the reduction of clearing fees for transactions executed at prices of $1 or more is reasonable in light of OCC's anticipated revenues from clearing fees and its anticipated operating costs and other needs. The fee reduction results in fees for all transactions other than market-maker scratch transactions being $0.095 which approximates the cost to OCC of handling such contracts. Accordingly, OCC believes that the proposed fee reduction allocates reasonable fees in an equitable manner among OCC's clearing members.

Comments were not and are not intended to be solicited with respect to the proposed fee reduction.

OCC does not believe that the proposed fee reduction would impose any burden on competition.

The foregoing rule change has become effective, pursuant to section 19b-3 of the Securities Exchange Act of 1934. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

All submissions should refer to the file number referenced in the caption above and should be submitted within 21 days of the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

JULY 26, 1978.

[FR Doc. 78-21319 Filed 8-1-78; 8:45 am]

[8010-01]

[Rel. No. 15002; SR-PSE-78-7]

PACIFIC STOCK EXCHANGE INC.

Order Approving Proposed Rule Change

JULY 26, 1978

In the matter of Pacific Stock Exchange Inc., 618 South Spring Street, Los Angeles, Calif. 90014 (SR-PSE-78-7).

On May 11, 1978, the Pacific Stock Exchange Inc. ("PSE") filed with the Commission, pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act") and rule 19b-4 thereunder, copies of a proposed rule change which amends PSE rule VI, section 79, paragraphs (c) and (d) to impose identical affirmative obligations upon options market makers whether they are trading in assigned or unassigned options classes.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission release (Securities Exchange Act release No. 14762, May 15, 1978) and by publication in the FEDERAL REGISTER (43 FR 26654, June 21, 1978). All written statements with respect to the proposed rule change which were filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person were considered and (with the exception of those statements or communications which may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552) were made available to the public at the Commission's Public Reference Room.[1]

The principal purpose of SR-PSE-78-7 is to qualify market makers' trading in nonassigned options classes for the exemption to section 11(a)(1)[2] of the Act set forth in paragraph (A) thereunder. That paragraph exempts from the trading prohibition of section 11(a)(1) "any transaction by a dealer acting in the capacity of a market maker." Section 3(a)(38) of the Act defines "market maker" as "any specialist permitted to act as a dealer, any dealer acting in the capacity of block positioner, and any dealer who, with respect to a security, holds himself out (by entering quotations in an inter-dealer communications system or otherwise) as being willing to buy and sell such security for his own account on a regular or continuous basis."

In an earlier release on section 11(a) of the Act, the Commission addressed, among other things, the ability of floor members on options exchanges to qualify their proprietary options transactions for the exemption in section 11(a)(1)(A).[3] The Commission observed that such floor members (a category which includes members identified as market makers, specialists, and registered options traders ("ROT's")) generally are subject to both affirmative and negative obligations while effecting principal transactions on the respective exchange options floors in any class of listed options. To the extent that options floor members assumed those obligations when trading in any options class, the Commission viewed that activity as specialist trading, consistent with the first part of the definition of a market maker under section 3(a)(38), and therefore qualified under the exemption provided in section 11(a)(1)(A).[4] The Commission noted, however, that options market makers on the PSE were not subject to affirmative obligations, imposed by rule, in connection with trading outside their assigned classes and accordingly, such trading would not fall within the market maker exemption to section 11(a)(1).[5] The amendatory material in SR-PSE-78-7 is intended to remedy this situation.

To the extent that SR-PSE-78-7 imposes affirmative obligations upon market maker's trading in non-assigned options classes and such members fulfill those obligtions and applicable negative obligations, the Com-

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[1] No comments were received in response to the notice of filing published for SR-PSE-78-7.

[2] Section 11(a)(1) of the Act provides that it shall be unlawful for any member of a national securities exchange to effect any transaction on such exchange for its own account, the account of an associated person, or an account with respect to which it or an associated person thereof exercises investment discretion. Paragraphs (A) thru (G) under section 11(a)(1) specify certain exemptions to the foregoing prohibitions.

[3] See Securities Exchange Act Release No. 14563 (Mar. 14, 1978), 43 FR 11542 (Mar. 17, 1978), 11551.

[4] Id., footnote 69. Exchange Act rule 11b-1 [17 CFR 240.11b-1] regulates the conduct of specialists and requires that exchange members who register as specialists be subject to affirmative and negative obligations in connection with their trading in that capacity.

[5] See note 4 supra.

mission believes that such trading by PSE market makers would appear to qualify for the market maker exemption specified in section 11(a)(1)(A) of the Act. The Commission finds, moreover, that the proposed rule change is consistent with the requirements of the Act including section 11(a). [6]

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change 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. 78-21321 Filed 8-1-78; 8:45 am]

[8010-01]

[Rel. No. 15003; SR-PSE-78-14]

PACIFIC STOCK EXCHANGE INC.

Order Approving Proposed Rule Change

In the matter of Pacific Stock Exchange Inc., 618 South Spring Street, Los Angeles, Calif. 90014 (SR-PSE-78-14).

On June 30, 1978, the Pacific Stock Exchange Inc. filed with the Commission, pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act") and rule 19b-4 thereunder, copies of a proposed rule change which is designed to implement rule 11Ac1-1 under the Act.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission release (Securities Exchange Act Release No. 34-14913, June 30, 1978) and by publication in the FEDERAL REGISTER (43 FR 39390, July 7, 1978). All written statements with respect to the proposed rule change which were filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person were considered and (with the exception of those statements or communications which may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552) were made available to the public at the Commission's Public Reference Room.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to exchanges, and in particular, the requirements of sections 6 and 11A and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the 30th day after the date of publication of the notice of filing thereof, in that such approval prior to August 1, 1978, will facilitate the orderly implementation of rule 11Ac1-1, which becomes effective on that date.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change 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. 78-21433 Filed 8-1-78; 8:45 am]

[8010-01]

[Rel. No. 15013]

PHILADELPHIA STOCK EXCHANGE

Order Granting Exemption

JULY 28, 1978.

The Philadelphia Stock Exchange ("Philadelphia") has requested that the Commission grant it an exemption from the requirements of 17 CFR $240.11Acl-1 (rule 11Acl-1 under the Securities Exchange Act of 1934, the "Act") Rule 11Acl-1 requires, as of its effective date (August 1, 1978), that every national securities exchange and national securities association establish and maintain procedures to collect, process and make available to vendors quotations, including size, in equity securities as to which last sale information is reported ("reported securities") in the consolidated transaction reporting system contemplated by rule 17a-15 under the Act. The Philadelphia's exemption request relates to those provisions of rule 11Acl-1 which require that every bid and offer made available to quotation vendors be accompanied by its associated size. The automated quotation system used by Philadelphia is capable, at this time, of disseminating 16 categories of quotation sizes ("Centramart size limitation").

Having considered the effect of the Centramart size limitation on Philadelphia's ability to make available quotation information in substantial compliance with rule 11Acl-1, and the relative costs to Philadelphia of providing, at this time, an unlimited range of quotation sizes, the Commission has determined that the grant of the exemption is consistent with the public interest, the protection of investors and the removal of impediments to and perfection of the mechanism of a national market system. Accordingly, the Commission has determined to grant Philadelphia an exemption from the requirements of rule 11Acl-1, pursuant to paragraph (d) thereof, with respect to the Centramart size limitation, conditioned upon Philadelphia's submitting a report to the Commission, by November 1, 1978, specifying time and cost estimates for effecting full compliance with rule 11Acl-1 by elimination of the Centramart size limitation, together with a description of those efforts made by Philadelphia to explore alternative means of effecting such compliance and of the effects on communication of quotation sizes by Philadelphia members resulting from such limitation. The exemption is subject to modification or revocation at any time if the Commission determines that such action is necessary or appropriate in light of progress made towards a national market system or otherwise in furtherance of the purposes of the Act.

The text of the letter informing Philadelphia of the Commission's action is set forth below:

JULY 28, 1978.

MR. MICHAEL A. FINNEGAN,
Senior Vice President, Philadelphia Stock Exchange, 17th Street and Stock Exchange Place, Philadelphia, Pa. 19103.

DEAR MR. FINNEGAN: The Commission has reviewed the request of the Philadelphia Stock Exchange ("Philadelphia") for an exemption from the requirements of rule 11Acl-1 under the Securities Exchange Act of 1934 (the "Act"), pursuant to paragraph (d) thereof. The Philadelphia's exemption request relates to the automated quotation system used by the Philadelphia which is capable, at this time, of disseminating sixteen categories of quotation size ("Centramart size limitation"). In the course of its review, the Commission has considered, among other things, the effect of the Centramart size limitation on Philadelphia's ability to make available quotation information in substantial compliance with rule 11Acl-1, and the relative costs to Philadelphia of providing, at this time, an unlimited range of quotation sizes.

The Commission has authorized me to inform you that Philadelphia's request for exemption from rule 11Acl-1 has been granted with respect to the Centramart size limitation, conditioned upon Philadelphia's submitting a report to the Director of the Division of Market Regulation, by November 1, 1978, specifying time and cost estimates for effecting full compliance with rule 11Acl-1 by elimination of the Centramart size limitation, together with a description of those efforts made by Philadelphia to explore alternative means of effecting such compliance and of the effects on communication of quotation sizes by Philadelphia members resulting from such limitation. This exemption is subject to modification or revocation at any time if the Commission determines that such action is necessary or appropriate in light of progress made towards a national market system or otherwise in furtherance of the purposes of the Act.

Sincerely,

GEORGE A. FITZSIMMONS,
Secretary.

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[6] Legislation was recently enacted to delay full effectiveness of section 11(a) from May 1, 1978 to Feb. 1, 1979. See Pub. L. 95-283, 95th Cong. 2d Sess. (1978).

It is therefore ordered, That Philadelphia be granted an exemption from the provisions of rule 11Acl-1 under the Act, pursuant to paragraph (d) thereof, permitting Philadelphia to collect, process and make available quotation information for reported securities in accordance with the rule, subject to the Centramart size limitation, conditioned upon Philadelphia's submitting a report to the Commission, by November 1, 1978, specifying time and cost estimates for effecting full compliance with rule 11Acl-1 by elimination of the Centramart size limitation, together with a description of those efforts made by Philadelphia to explore alternative means of effecting such compliance and of the effects on communication of quotation sizes by Philadelphia members resulting from such limitation. This exemption is subject to modification or revocation at any time if the Commission determines that such action is necessary or appropriate in light of progress made towards a national market system or otherwise in furtherance of the purposes of the Act.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-21408 Filed 8-1-78; 8:45 am]

[8010-01]

[Rel. No. 5947; 18-8]

RETIREMENT PLAN OF SULLIVAN & CROMWELL

Filing of Application

JULY 26, 1978.

In the matter of retirement plan of Sullivan & Cromwell, 125 Broad Street, New York N.Y. 10017 (18-8).

Notice is hereby given that the law firm of Sullivan & Cromwell ("applicant" or the "firm"), a New York partnership, by letters dated February 10, and July 13, 1978, and enclosures submitted therewith, has applied for an exemption from the registration requirements of the Securities Act of 1933 (the "Act"), for participations or interests issued in connection with its retirement plan (the "plan"), provided the plan meets the requirements for qualification under section 401 of the Internal Revenue Code of 1954, as amended (the "code"). All interested persons are referred to the letters and enclosures which are on file with the Commission for the facts and representations contained therein, which are summarized below.

I. INTRODUCTION

The plan covers the firm's legal staff, associates as well as partners. Heretofore, all contributions made under the plan for associates have been made by the firm on a non-contributory basis. However, under certain changes which have been made in the plan, participants will be permitted to make optional personal contributions if the Commission grants applicant's requested order. Since the plans are of a type, commonly referred to as "Keogh" plans, which cover persons (in this case the firm's partners) who are "employees" within the meaning of section 401(c)(1) of the code, the exemption provided by section 3(a)(2) of the Act is inapplicable to interests in the plans, absent an order of exemption issued under section 3(a)(2).

In relevant part, section 3(a)(2) provides that the Commission shall exempt from the provisions of section 5 any interest or participation issued in connection with a pension or profit-sharing plan which covers employees, some or all of whom are employees within the meaning of section 401(c)(1) of the code, if and to the extent that the Commission determines this to be necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

II. DESCRIPTION AND ADMINISTRATION OF THE PLAN

Applicant anticipates that the plan will be qualified under section 401 of the code, and it has submitted the plan to the Internal Revenue Service for a determination to this effect. Applicant also represents that the plan is an "employee pension benefit plan" subject to the Employees Retirement Income Security Act of 1974 ("ERISA").

All partners and associates of the firm who have attained age 25 and completed 3 years of credited service (as determined in the plan) are entitled to become participants in the plan. For each plan year the firm contributes to a trust fund an amount equal to 5 percent of the participant's compensation not in excess of the applicable social security wage base plus 9 percent of the participant's compensation in excess of the applicable social security wage base, subject to the limitations contained in the code. All amounts contributed to the trust fund are fully vested immediately. The plan is administered by an administrative committee, consisting of three partners, and an investment committee, consisting of four partners and one former partner. All contributions are held by a trustee and invested, in accordance with a funding policy and method established by the administrative committee, by one or more investment managers appointed by the investment committee. At present, the trustee is Citibank N.A. and the investment manager is Brown Bros. Harriman & Co. Plan assets may not be invested in any common collective or commingled trust fund maintained by the trustee. Upon termination of service, a participant's interest is, at his or her election, distributed in a lump sum, used to purchase a single life or joint and survivor annuity or paid in such other manner as the administrative committee may approve.

The firm proposes to amend the plan to permit participants to make voluntary contributions by payroll deduction or on an ad hoc basis up to an amount which may not exceed 10 percent of his or her total eligible compensation under the plan or the annual addition limit imposed by ERISA. While such voluntary contributions may be invested in the same manner as other contributions, it is presently contemplated that they will be separately invested in insurance contracts having a guaranteed return to the extent guaranteed returns are available. Participants will be permitted, not more than once quarterly, to withdraw an amount not exceeding their voluntary contributions and, upon 13 months' notice or with the consent of the administrative committee, to withdraw their entire account resulting from their voluntary contributions and any earnings thereon.

III. REPORTING AND DISCLOSURE TO PLAN PARTICIPANTS

The firm is subject to the reporting and disclosure requirements of ERISA with respect to the plan. The firm has filed with the Department of Labor a form EBS-1 describing provisions of the plan and will amend such form within 60 days after any material change in the plan. The firm files with the Department of Labor and the Internal Revenue Service detailed annual reports relating to the plan, including schedules of investments and financial statements certified by an independent accountant. the firm has distributed to participants a "summary plan description" describing the plan in "a manner calculated to be understood by the average plan participant" and an "ERISA notice" describing the participants' rights to information about the plan. The firm distributes to participants and beneficiaries receiving benefits under the plan a summary annual report relating to the plan and makes available to such participants and beneficiaries, on request and at no charge, copies of the abovementioned reports submitted to the Department of Labor and Internal Revenue Service, other basic documents relating to the plan and a statement of such participant's or beneficiary's accrued and vested benefits under the plan.

Finally, applicant does not request (and the exempting authority vested in the Commission by section 3(a)(2) does not authorize) any exemption from the provisions of section 17 of the Act, any other applicable antifraud provisions contained in the securities law, or any rules adopted pursuant thereto.

IV. DISCUSSION

Applicant contends that were the firm a corporation, rather than a partnership, interests or participations issued in connection with the plan would be exempt from registration under section 3(a)(2) of the Act, because no person who would be an "employee" within the meaning of section 401(c)(1) of the code would participate in the plan. Applicant argues that the mere fact that it conducts its business as a partnership rather than as a corporation should not result in a requirement that interests in the plan be registered under the Act.

Applicant also maintains that were the firm's partners not permitted to participate in the plan, the interests or participations issued in connection with the plans would be exempt under section 3(a)(2) since no other persons covered by the plan would be "employees" within the meaning of section 401(c) of the code. Applicant argues that there is no valid basis for a contrary result merely because the plan also cover partners in the firm.

Finally, applicant argues that the characteristics of the plan are essentially typical of those maintained by many single corporate employers and that the legislative history of the relevant language in section 3(a)(2) of the Act does not suggest any intent on the part of Congress that interests issued in connection with single-employer Keogh plans necessarily should be registered under the Act. Rather, Congress excluded interests issued in connection with Keogh plans from the section 3(a)(2) exemption primarily out of concern over interests or participations in commingled or collective Keogh funds which might be marketed by sponsoring financial institutions to self-employed persons unsophisticated in the securities field. Applicant argues that its plan is distinguishable from such funds, and that under the circumstances, granting the requested exemption would be appropriate in the public interest, consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Accordingly, applicant has requested an order of the Commission pursuant to section 3(a)(2) of the Act, exempting from the provisions of section 5 of the Act any interest or participation issued in connection with the plan.

Notice is further given that any interested person may, not later than August 22, 1978, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement of the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon applicant at the address stated above. Proof of such service (by affadivit or, in the case of an attorney-at-law, by certificate) should be filed contemporaneously with the request. An order disposing of the matter will be issued as of course following August 22, 1978, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notice or order issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-21317 Filed 8-1-78; 8:45 am]

[8010-01]

[Rel. No. 15011]

SPOKANE STOCK EXCHANGE

Order Granting Exemption

JULY 28, 1978.

The Spokane Stock Exchange ("Spokane") has requested that the Commission grant it an exemption from the requirements of 17 CFR § 240.11Ac1-1 (rule 11Ac1-1 under the Securities Exchange Act of 1934, the "Act"). Rule 11Ac1-1 requires, as of its effective date (August 1, 1978), that every national securities exchange and national securities association establish and maintain procedures to collect, process and make available to vendors quotations, including size, in equity securities as to which last sale information is reported ("reported securities") in the consolidated transaction reporting system ("consolidated system") contemplated by rule 17a-15 under the Act.

Having considered Spokane's aggregate dollar and share trading volume in reported securities, and Spokane's cost burdens, in proportion to the benefits which might now be obtained, as a consequence of compliance with rule 11Ac1-1, the Commission has determined that the grant of the exemption is consistent with the public interest, the protection of investors and the removal of impediments to the perfection of the mechanism of a national market system. Accordingly, the Commission has determined to grant Spokane an exemption from the requirements of rule 11Ac1-1, pursuant to paragraph (d) thereof, conditioned upon Spokane submitting quarterly reports to the Commission and to the processor of the consolidated system, no later than 30 days after each calendar quarter, consisting of aggregate share and dollar volume, number of block trades and aggregate number of transactions in each reported security traded on the Spokane. The exemption is subject to modification or revocation at any time if the Commission determines that such action is necessary or appropriate in light of progress made towards a national market system or otherwise in furtherance of the purposes of the Act.

The text of a letter informing Spokane of the Commission's action is set forth below:

JULY 28, 1978.

MR. RICHARD FUDGE,
President, Spokane Stock Exchange, Spokane, Wash. 99201.

DEAR MR. FUDGE: The Commission has reviewed the request of the Spokane Stock Exchange ("Spokane") for an exemption from the requirements of rule 11Ac1-1 under the Securities Exchange Act of 1934 (the "Act"), pursuant to paragraph (d) thereof. In the course of its review, the Commission has considered, among other things, Spokane's aggregate share and dollar volume in equity securities as to which last sale information is reported ("reported securities") in the consolidated transaction reporting system ("consolidated system") contemplated by rule 17a-15 under the Act, and Spokane's cost burdens, in proportion to the benefits which might now be obtained, as a consequence of compliance with rule 11Ac1-1.

The Commission has authorized me to inform you that Spokane's request for exemption from rule 11Ac1-1 has been granted, subject to the condition that Spokane submit quarterly reports to the Director of the Division of Market Regulation and the processor of the consolidated system, no later than 30 days after each calendar quarter, consisting of aggregate share and dollar volume, number of block trades and aggregate number of transactions in each reported security traded on Spokane.

This exemption is subject to modification or revocation at any time if the Commission determines that such action is necessary or appropriate in light of progress made towards a national market system or otherwise in furtherance of the purposes of the Act.

Sincerely,

GEORGE A. FITZSIMMONS,
Secretary.

It is therefore ordered, that Spokane be granted an exemption from the

provisions of rule 11Ac1-1 under the Act, pursuant to paragraph (d) thereof, relieving Spokane of its obligation to collect, process and make available quotation information for reported securities in accordance with the rule, provided that Spokane submits quarterly reports to the Commission and to the processor of the consolidated system, no later than 30 days after each calendar quarter, consisting of aggregate share and dollar volume, number of block trades and aggregate number of transactions in each reported security traded on the Spokane. This exemption is subject to modification or revocation at any time if the Commission determines that such action is necessary or appropriate in light of progress made towards a national market system or otherwise in furtherance of the purposes of the Act.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-21417 Filed 8-1-78; 8:45 am]

[8025-01]

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 1498]

MINNESOTA

Declaration of Disaster Loan Area

As a result of the President's major disaster declaration, I find that the following counties and adjacent counties within the State of Minnesota constitute a disaster area because of damage caused by severe storms, floodings, hail and tornadoes beginning on or about June 25, 1978:

Benton, Dakota, Dodge, Fillmore, Goodhue, Hennepin, Houston, Mahnomen, Mower, Norman, Olmsted, Polk, Ramsey, Wabasha, Washington, and Winona.

Eligible persons, firms and organizations may file applications for loans for physical damage caused by severe storms, flooding, hail and tornadoes, until the close of business on September 7, 1978, and for economic injury until the close of business on April 6, 1979 at: Small Business Administration, District Office, Plymouth Building, Room 530, 12 South Sixth Street, Minneapolis, Minn. 55402, or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: July 26, 1978.

A. VERNON WEAVER,
Administrator.

[FR Doc. 78-21372 Filed 8-1-78; 8:45 am]

[8025-01]

[Declaration of Disaster Loan Area No. 1501]

NORTH DAKOTA

Declaration of Disaster Loan Area

Grant County and adjacent counties within the State of North Dakota constitute a disaster area as a result of damage caused by wind and a tornado which occurred on July 4, 1978. Eligible persons, firms, and organizations may file applications for loans for physical damage until the close of business on September 25, 1978 and for economic injury until the close of business on April 26, 1979 at: Small Business Administration, District Office, Federal Office Building, Room 218, 653 Second Avenue North, Fargo, N. Dak. 58102, or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: July 26, 1978.

A. VERNON WEAVER,
Administrator.

[FR Doc. 78-21372 Filed 8-1-78; 8:45 am]

[8025-01]

[License No. 04/04-0136]

SUWANNEE CAPITAL CORP.

Issuance of License To Operate as a Small Business Investment Company

On June 7, 1978, a notice was published in the FEDERAL REGISTER (43 FR 24761) stating that an application had been filed by Suwannee Capital Corp. (formerly Great Eastern Financial Corp.), 1010 East Adams Street, Jacksonville, Fla. 32202, with the Small Business Administration (SBA) pursuant to section 107.102 of the SBA regulations governing small business investment companies (SBIC's) (13 CFR 107.102 (1977)), for a license as an SBIC.

Interested parties were given until the close of business June 22, 1978, to submit their written comments to SBA. No comments were received.

Notice is hereby given that, pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, the SBA issued license No. 04/04-0136 to Suwannee Capital Corp. on July 11, 1978.

Dated: July 26, 1978.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 78-21374 Filed 8-1-78; 8:45 am]

[8025-01]

[Declaration of Disaster Loan Area No. 1457; Amendment No. 6]

TEXAS

Declaration of Disaster Loan Area

The above number declaration (see 43 FR 16584), amendment No. 1 (see 43 FR 20070), amendment No. 2 (see 43 FR 24641), amendment No. 3 (see 43 FR 26511), amendment No. 4 (see 43 FR 29205), and amendment No. 5 (see 43 FR 30634) are amended by adding the following county:

County, natural disaster, date
Upton, drought, January 1-May 8, 1978.

and adjacent counties within the State of Texas as a result of natural disaster as indicated. All other information remains the same; i.e., the termination date for filing applications for physical damage is close of business October 11, 1978, and for economic injury until the close of business on December 11, 1978.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: July 26, 1978.

A. VERNON WEAVER,
Administrator.

[FR Doc. 78-21371 Filed 8-1-78; 8:45 am]

[4710-02]

DEPARTMENT OF STATE

Agency for International Development

[Public Notice No. 1, Rev.]

STATEMENT OF ORGANIZATION, FUNCTIONS, AND PROCEDURES

Information Guidance

In compliance with 5 U.S.C. 552, this notice provides information for the guidance of the public regarding: The basic authorities and programs of the Agency for International Development; the organization and functions of the Agency's central and field organizations; the Agency's methods of operation; statements of policy, rules, and procedures; and the methods whereby the public, may obtain information, make submittals or requests, or obtain decisions.

This notice is a revision of "AID Public Notice No. 1," published in the FEDERAL REGISTER for April 23, 1973 (38 FR 10017-10020). It reflects the organization, basic functions, and methods of operations of AID as of July 14, 1978. Subsequent revisions of this statement will also be published in the FEDERAL REGISTER.

(I). *Creation and authority of the Agency.*—The Agency for International Development (AID) carries out assistance programs designed to help the

people of certain less developed countries develop their human and economic resources, increase productive capacities, and improve the quality of human life, as well as to promote economic or political stability in friendly countries.

The Foreign Assistance Act of 1961 (75 Stat. 424; 22 U.S.C. 2381), as amended, authorizes the President to exercise his functions under that act through such agency or officer of the U.S. Government as he may direct. Executive Order 10973 of November 3, 1961, as amended, delegates to the Secretary of State the authorities set forth in the Foreign Assistance Act of 1961, as amended, and in certain other acts with certain limited exceptions. The Executive order also directs that the Secretary of State establish an agency in the Department of State to be known as the Agency for International Development.

State Department Delegation of Authority No. 104 of November 3, 1961 (26 FR 10608), as amended, establishes the Agency for International Development (AID) as an agency within the Department of State, and delegates to the Administrator of the Agency the functions conferred upon the Secretary of State by Executive Order 10973 and certain related Executive orders, unless otherwise reserved by the Secretary of State or delegated to others by him.

II. *Programs of the Agency.*—A. The Foreign Assistance Act (FAA) of 1961, as amended, authorizes the Agency to administer two kinds of foreign economic assistance—development assistance and security supporting assistance.

In addition, the Agency, in cooperation with the Department of Agriculture implements Pub. L. 480, the Agricultural Trade Development Assistance Act of 1954, as amended (68 Stat. 454; 7 U.S.C. 1691 et seq.), specifically the sale on concessional terms (title I), the donation (title II) of agricultural commodities, and the provision of food under the food for development program (title III).

To implement its economic assistance programs, the Agency utilizes the following tools authorized by the Foreign Assistance Act:

Loans, on concessional terms repayable in dollars, to developing countries, emphasizing assistance in long-range plans and programs designed to meet the basic human needs of poor people in developing countries and achieve self-sustaining growth with equity;

Technical cooperation and development grants to promote economic development, with the same emphasis as above; including specific authorities for grants for:

U.S. research and educational insititutions;

American schools and hospitals abroad;

Reimbursement for international transportation costs of private registered U.S. voluntary agency shipments of humanitarian relief and rehabilitation supplies;

Housing and other credit guaranty programs including agricultural and productive credit and self-help community development programs;

Development research into, and evaluation of, the process of economic development; and

Reimbursable assistance to help developing countries that can afford to pay for their own development in obtaining U.S. technology.

Loan and grant assistance for programs relating to population growth are provided to foreign governments, the United Nations and its specialized agencies, other international organizations and programs, U.S. and foreign nonprofit organizations, universities, hospitals, accredited health institutions, and voluntary health or other qualified organizations.

To prevent famine and promote freedom from hunger, the Agency provided assistance under title XII of the FAA (1975) to support institution building programs for the development of national and regional agricultural research, education and extension capacities in developing countries; to build and strengthen human resource skills for agricultural and rural development; to support international agricultural research; and to strengthen the capacities of land and sea grant and other eligible universities to participate more extensively in AID programs overseas.

In carrying out all assistance programs, emphasis is placed on optimum participation in the task of economic development by the people of the developing countries through the encouragement of democratic private and local government institutions. Among recipient countries, emphasis is given to the poorest and to those committed to helping their poor people participate in development.

Special emphasis is given to programs which tend to integrate women into the national economies of developing countries. Assistance may not be provided to any country engaging in a consistent pattern of human rights violation unless such assistance will directly benefit the needy people in that country.

B. Specifically, the Agency administers programs under the FAA within the following major categories of assistance:

1. *Development assistance programs.*—AID focuses its development assistance programs on critical problem areas in those functional sectors which affect the lives of the majority of the people in the developing countries. The areas of concentration are:

a. *Food, nutrition and rural development.*—To alleviate starvation, hunger, and malnutrition in the developing countries by increasing the food supply in order to achieve improvements in diets and by expanding employment opportunities for low income families in both the rural and urban economies so as to enable them to purchase the food they need. Broadly based participatory programs promoted by AID include those that:

Create or strengthen institutions which provide small farmers access to improved seeds, fertilizer, tools and the necessary credit to obtain such materials;

Support economic policies including land tenure reforms which provide small farmers with adequate incentives to grow more food;

Focus on agricultural research and extension programs which develop and adapt new technology to local conditions and promote its use by small farmers;

Involve small scale irrigation systems, farm-to-market roads, rural electrification and marketing and storage facilities—all required for the small farmer's access to adequate water, power and markets; and

Foster institutions and policies to increase the access of farmers and small scale rural industry to credit and technical assistance.

b. *Population planning and health.*—To address problems of rapid population growth and to extend safe and effective family planning services down to the village level through programs that provide or promote:

Safe, effective, affordable, acceptable family planning services, particularly at the village level and, where appropriate, in conjunction with other basic health services;

Information and education in order to increase receptivity toward family planning;

Expanded research in understanding the determinants of fertility;

Increase the availablity of the means of contraception;

Accelerated development which will increase the desire for smaller families, with an emphasis on wider primary education, expanded low-cost health facilities with broad rural outreach strengthened community organizations, and increased status of women (socially, economically and politically).

To combat chronic disease, malnutrition and high fertility, AID programs are based on integrating village-based health care, nutrition and family planning services that support:

Low-cost local health services which emphasize preventive care, often integrated with nutrition and family planning services, and which rely on vil-

lage organization, leadership and staffing;

Clean water and rudimentary sanitation systems;

The development of improved methods for control of malaria and major parasitic diseases; and

National health planning.

c. *Education and human resource development.*—To expand access to basic education for the poor through AID-supported programs designed to improve access to functional skills in health, nutrition, family planning, and agriculture. Specifically, AID supports:

Low-cost primary education, particularly for the rural poor;

The use of mass media and communications technology, such as radio, in formal and nonformal eduation;

Curricula revision and teacher training to increase the relevancy of formal education to meeting basic human needs; and

The development of nonformal education and training approaches for rural families and workers in agriculture, nutrition, health and family planning.

d. *Technical assistance, energy, research, reconstruction, and selected development problems.*—To promote activities in these areas, AID supports the following:

Programs of technical cooperation and development, particularly the development efforts of private and voluntary, regional and international development organizations;

Programs to help developing countries alleviate their energy problems by increasing their production and conservation of energy, through such means as research and development of suitable energy sources and conservation methods, collection and analysis of information concerning countries' potential supplies of and needs for energy, and pilot projects to test new methods of production or conservation of energy;

Programs of research into, and evaluation of, the process, factors affecting success and cost, and the techniques of economic development to render such assistance of increasing value and benefit;

Programs of reconstruction following natural or manmade disasters;

Programs designed to help solve special development problems in the poorest countries and to make possible proper utilization of infrastructure and related projects funded with earlier United States assistance;

Programs of urban development, with particular emphasis on small, labor intensive enterprises, marketing systems for small producers, and financial and other institutions which enable the urban poor to participate in the economic and social development of their country; and

Programs to help developing countries avoid both short term and long term damage to the environment and to improve it where possible.

2. *Security supporting assistance program.*—The security supporting assistance (SSA) program has a more immediate political orientation than development assistance. It is designed to promote economic or political stability in areas where the United States has special foreign policy interests and has determined that economic assistance can be immediately useful in securing peace or averting economic or political crises.

SSA is a flexible economic instrument which may take the form of unrestricted cash grants and general budget support, commodity import programs and capital projects, as well as programs specifically directed toward meeting basic human needs. It may concentrate on all of the critical areas which have been described in B.1 the development assistance section.

In administering SSA, AID seeks to develop economically and technically sound projects. Although the primary purpose of SSA is to meet political objectives, these funds can provide an opportunity to encourage sound development. Congress had directed that, to the extent possible, SSA be used to promote development efforts which effectively aid the poor and conform to the New Directions. The Development Assistance Committee (DAC) considers SSA as official development assistance for purposes of tabulating development aid of donor nations.

3. *Specific programs*—a. *Sahel development.*—AID participates in a long term program for the development of the Sahelian region of West Africa. The program is coordinated, planned and designed by the Club du Shel comprised of eight Sahel States: Mali, Chad, Niger, Upper Volta, Senegal, Mauritania, Cape Verde and The Gambia; the United States, and eleven other donor nations; and eight multilateral organizations.

AID funds are directed towards increasing agricultural and livestock production to raise farmer and herder incomes and reduce their vulnerability to drought. Human resources and human needs of the rural population are also targeted. In addition, AID supports projects to improve the rural transportation network through the rehabilitation and maintenance of existing roads and the building of new farm-to-market roads; and to reduce ecological degradation through reforestation and land management.

b. *American schools and hospitals abroad.*—The American schools and hospitals abroad program provides grants to private U.S. nonprofit organizations sponsoring American schools and hospitals abroad. The purpose is to demonstrate American ideas and practices in education and medicine.

c. *International disaster assistance.*—The President has designated the AID Administrator as Special Coordinator for International Disaster Assistance. In this role, the Agency may call upon the resources of any agency of the U.S. Government to provide emergency relief or technical assistance in disaster preparedness. Relief may also be channeled through U.S. voluntary agencies or international relief organizations in response to foreign disasters resulting from earthquakes, droughts and famines, epidemics, floods and storms, civil strife, power shortages and accidents.

In addition to the emergency responses to disasters, programs in disaster preparedness, prediction, and prevention are also supported by AID.

d. *Reimbursable development program.*—AID also administers a reimbursable development program under which friendly countries are provided, under reimbursable arrangements, U.S. technical services, commodities, training, etc. These programs are particularly geared to those developing countries in which U.S. concessional aid programs have been concluded or whose natural resources are of interest to the U.S.

e. *Housing guaranty program.*—AID's housing guaranty program facilitates private financing for shelter for lower income families in developing countries by guarantying repayment to U.S. lenders for projects requested by these countries.

AID's shelter strategy is to assist countries develop and pursue policies which provide minimum shelter to large numbers of low income people. The housing guaranty program has been instrumental in introducing new national housing policies to benefit low income families.

AID seeks to finance innovative programs such as squatter upgrading through the provisions of sewerage, potable water, electricity and credit for home improvements; sites and services by the provision of a basic urbanized lot, with the family constructing its own dwelling unit; and low cost, expandable core housing units.

f. *Food for peace.*—In cooperation with the Department of Agriculture, the Agency participates in the sale of agricultural commodities on concessional terms under title I of Pub. L. 480 to encourage development, to assist in combating hunger and malnutrition, and for other purposes. Under title II, AID administers the donation of agricultural commodities to meet famine or other urgent or extraordinary relief requirements, to combat malnutrition, to promote economic

and community development, and for needy persons and nonprofit school lunch and preschool feeding programs outside the United States. AID also administers title III which provides that a portion of funds accruing from title I sales (not less than 5 percent in fiscal year 1978) be used for food for development programs to improve the production, protection, and utilization of food, and to increase the well-being of the poor in the rural sector of the recipient country, and that funds so used are applied against that Government's title I repayment obligation. (Pub. L. 480—Agricultural Trade Development and Assistance Act of 1954, as amended.) AID supports the use of food aid in ways which promote rather than hinder the growth of food production and associated policy and program initiatives in the host government.

4. *Special provisions*—a. *Human rights.*—The Administrator of AID is responsible for implementing the statutory and policy guidelines for promoting human rights in its bilateral country programs. In consultation with the Assistant Secretary of State for Human Rights and Humanitarian Affairs, the Administrator determines the eligibility of countries to receive foreign assistance and how programs will be formulated to benefit needy people and promote human rights in countries violating internationally recognized human rights. Proposed assistance to such countries is brought before the interdepartmental group on human rights and foreign economic assistance, chaired by the Deputy Secretary of State. The purpose of the interdepartmental group is to coordinate U.S. actions in implementing human rights policy in U.S. bilateral and multilateral assistance programs.

b. *Light capital (appropriate) technology.*—With a growing awareness that technological solutions should be more responsive to the problems of less developed countries, AID is attempting to ensure that technologies which are appropriate in terms of factors such as low cost, improved productivity, and capability of being maintained locally, are widely availabel to the poor. AID supports projects with the specify objective of broadening the range of technologies in use. This is accomplished by increasing local research and the flow of information on appropriate technologies; by promoting local development, adaptation and utilization of technologies appropriate to developing countries; and by providing assistance which encourages rational policies that broaden the range of technological options.

In response to section 107 of the FAA, the Agency is providing funds to a new private, nonprofit organization—Appropriate Technology International (A.T.I.)—to carry out activities in the field of appropriate technology which would engage the best talents in developings countries and in the United States. A.T.I. complements this Agency's own appropriate technology activities.

c. *Women in development.*—In recognition of the fact that women in developing countries play a significant role in economic production, family support, and the overall development process of the national economies of such countries, the Congress requires that U.S. bilateral aid "* * * be administered so as to give particular attention to those programs, projects and activities which tend to integrate women into the national economies of developing countries, thus improving their status and assisting the total development effort." AID carries out this Congressional mandate with leadership by the Office of Women in Development, within the Bureau for Program and Policy Coordination.

III. *Organization, functions, and methods of operations.*—A. *General.*—AID performs its functions as an Agency within the Department of State. The Administrator reports directly to the Secretary of State and the President, and is charged with central direction and responsibility for the U.S. foreign economic assistance program.

The Agency consists of a central headquarters staff in the Washington metropolitan area (AID/W) and a number of overseas missions and offices. The structure of AID headquarters includes: The Office of the Administrator supported by the Office of the Executive Secretary; a BIFAD Support Staff; seven staff offices; five functional Bureaus for program and policy coordination, intragovernmental and international affairs, development support, private and development cooperation, and program and management services; and four Geographic Bureaus for Africa, Asia, Latin America and the Caribbean, and Near East.

B. *The Office of the Administrator.*—The Administrator plans, directs, and coordinates the operations of the Agency and is responsible, subject to the approval of the Secretary of State, for the formulation and execution of U.S. foreign economic assistance policies and programs. The Administrator supervises and directs the activities of all personnel of the Agency in the United States and overseas. In addition, the AID Administrator serves as: Chairman of the Development Coordination Committee, which has been established by legislation to advise the President on bilateral and multilateral development assistance policies and programs; Chairman of the Board of Directors of the Overseas Private Investment Corp. (OPIC); Chairman of the Development Loan Committee which establishes standards and criteria for lending operations under title I (development loans) of the FAA; and the President's Special Coordinator for International Disaster Assistance.

The Office of the Executive Secretary facilities and expedites the decision-making process of AID. It serves as a channel of communication and coordination between the Office of the Administrator and the Agency's Senior Staff.

The *BIFAD support staff,* in compliance with AID's statutory obligation, provides staff support to the Board for International Food and Agricultural Development (BIFAD) and its subcommittees as authorized by section 298 of title XII of the FAA, as amended.

C. *Staff Offices.*—The following staff offices report to the Office of the Administrator;

1. The *Office of the Auditor General* is the Agency's focal point for assuring the integrity of AID's operations. It is the central authority concerned with the quality, coverage, and coordination of the audit, inspection and investigation services of AID. It also provides these services to the Overseas Private Investment Corp. (OPIC) on a reimbursable basis. In directing, monitoring, and reviewing these activities, the Auditor General emphasizes both the protective and constructive aspects of these services as a tool of management within a comprehensive Agency effort to attain improved management effectiveness. The Auditor General has full access to all phases of AID's operations in order to carry out a comprehensive plan of selected audits, investigations, surveys and reviews to provide reasonable protection and constructive advice for AID management. Serves as liaison for AID with the Department of State to assure adequate security services are performed by that Department.

2. The *Office of Legislation Affairs* has responsibility for the Agency's relations with the Congress, and is the central point of contact between the Agency and the Congress, including Congressional members and Committees. The Office coordinates the preparation of AID's legislative program, including the preparation and submission of information relating to legislative authority and appropriations requests. The Office is also responsible for advising the Administrator and the Agency on the status of pending legislation of interest to AID and on the history of pending legislation, including the concerns and views of members of the Congress on pending legislation and other matters of interest to AID.

3. The *Office of Public Affairs* has responsibility for information policy leadership and coordination to insure

that information about AID policies, objectives, and operations is disseminated fully and freely to the Congress and to the public. Dissemination of information is accomplished by concurrent external public affairs programs, such as: Production and distribution to mass communications outlets of informational materials (e.g., an Agency magazine, press releases, speech texts, brochures, films, and video tapes); scheduling press conferences, media interviews, speaking and conference engagements for senior AID officers; responding to public inquiries and to requests for information filed under the Freedom of Information Act and the Privacy Act; declassification of AID documents. Internally, the Office of Public Affairs prepares and distributes certain informational materials such as a biweekly newspaper, public opinion analyses, press highlights and summaries.

4. The *Office of the General Counsel* provides all legal advice, counsel, and services to the Agency and its officials both in the United States and abroad, and insures the AID programs are administered in accordance with legislative authorities. The Office maintains legal staffs both in AID/W and at regional or country organizations overseas.

5. The *Office of Personnel and Training* has central responsibility for personnel administration. The Office develops policies, standards, and guidelines for operation of overseas and domestic personnel systems; operates centralized personnel recruitment, assignment, evaluation, and employee training programs; and conducts a full range of personnel operations for the Agency. Additionally, the Office is responsible for the administration of the Agency's labor relations program (Executive Orders 11491 and 11636).

6. The *Office of Equal Opportunity Programs* is the central AID office responsible for directing the policy and coordinating and monitoring the implementation of all Government laws, executive orders, policies, and regulations relating to the provision of equal opportunity for employees of, and applicants for employment with, AID and AID-financed activities. The Office is also responsible for directing and monitoring implementation of section 133 of the International Development Assistance Act of 1977 (Brooke Amendment), which requires the Agency "to increase in a rational and effective manner, participation of minority business enterprises" in AID-financed activities.

7. The *Office of Financial Management* as the principal financial Office of the Agency, provides advice and assistance to Agency management on the financial implications of legislation, plans, programs, policies, procedures, operating activities, and audit and evaluation findings. The Office administers and coordinates such financial management activities as accounting, operating expense and workforce budgets, internal financial management control, advice and assistance to overseas missions regarding financial policies, practices and procedures, and preparation and interpretation of financial and related statistical reports. The Office also administers the Agency's workforce resources management program.

D. *Functional Bureaus.*—1. The *Bureau for Program and Policy Coordination* is responsible for the Agency's overall program policy formulation, planning, coordination, resource allocation, and evaluation activities, and the program management information systems which support them. The Bureau develops economic assistance policies, provides guidance on long-range program planning, economic analysis, sector assistance strategies, and project analysis and design. It coordinates the formulation and revision of the Agency's program and budget, and participates in the presentation of the Agency's program to the Congress. The Bureau reviews and monitors all country program strategies and project proposals and selectively reviews project papers from other AID bureaus to insure compliance with agency policy guidance. It provides in-depth analyses of development problems and related issues and formulates AID's position on major U.S. development policies affecting AID's assistance programs in the developing countries.

The Bureau assures implementation of title IX of the FAA, which emphasizes the encouragement of democratic institutions and, in concert with the Bureau of Intragovernmental and International Affairs seeks to develop an agency policy for the furtherance of human rights in the developing countries, in accordance with sections 116 and 502B, and implements sections 113 and 305 of the FAA relating to women in development. The Bureau provides leadership in the development of agency policies and procedures for the integrated use of capital, technical, Pub. L. 480, and other assistance and for evaluation of progress toward program goals; incorporates these policies and procedures into agency directives; reviews the policy aspects of all types of agency projects to assure consistency with agency objectives; develops and coordinates agency environmental policies; and serves as Secretariat for the Development Loan Committee (DLC).

It carries out significant evaluations of AID-supported projects which can introduce improved ideas and valuable experience into the Agency's program at key points. The Bureau exercises systems management responsibilities for the policy, planning, and program management systems, both automated and nonautomated, assigned to the Bureau; and provides central Agency statistical services. In addition, the Bureau serves Agency management in general, and the Administrator and Deputy Administrator in particular, by appraising various AID programs for purposes of identifying and analyzing problems requiring management attention.

2. The *Bureau for Intragovernmental and International Affairs* serves as the focal point within AID for coordination with other U.S. Government agencies on U.S. economic policy issues which affect the development process in the less developed countries, and for coordination of U.S. economic assistance policies and programs with those of other bilateral and multilateral assistance donors.

The Bureau provides support to the Development Coordination Committee (DCC), which is chaired by the Administrator of AID, by identifying problems of interagency coordination, developing alternatives for resolution of these issues, and preparing or coordinating analyses for DCC discussion. It formulates AID short-term policy on major international financial, trade, and other issues which affect U.S. development objectives and activities, and analyzes and plans AID policy on long-range issues affecting development. It also develops and recommends AID policy toward other development assistance donors, international financial institutions, and other international organizations having an impact on development.

3. The *Bureau for Development Support* administers the Agency's housing investment guaranty and international training programs and provides professional leadership and technical support to Agency activities in the areas of agriculture, nutrition, education, health, urban development, rural development and development administration, science and technology, population, engineering, and energy. Within each of these technical areas the Bureau:

a. Under the leadership of the Bureau for Program and Policy coordination and in cooperation with geographical bureaus, identifies problems impeding development and devises efforts to find solutions to those problems, including, but not limited to, those appropriately treated through central research and development activities.

b. Identifies, at the request of the geographical bureaus, field service needs most efficiently met from a central source, and arranges for these

needs to be served either by direct hire staff or by contracted resources.

c. Insures that new approaches to development are widely disseminated within AID and are utilized in AID field projects, and that the results of experimental efforts in one country are disseminated in useful form among the geographical bureaus, throughout the Agency, and to the international development community.

d. Provides leadership for the Agency's central research programs which shall be responsive to problems of priority concern to AID field missions and developing countries. Leads efforts to insure coordination of centrally funded, regional and country research activities. Assures provision of expert assistance in research design and methodology to geographical bureaus and missions as required. Gives particular attention to utilization of the results of research sponsored by the Agency.

The Bureau acts as the Agency's focal point for liaison with U.S. universities, Government agencies, and professional and research organizations, and for technical coordination with United Nations specialized agencies and other international organizations. It coordinates AID's participation with the Board for International Food and Agricultural Development and its committees in the management and implementation of programs/activities authorized under title XII of the FAA, as amended.

4. The *Bureau for Private and Development Cooperation* has central Agency responsibility for encouraging and strengthening the effective participation of nongovernmental organizations in support of AID's developmental and humanitarian objectives; performs designated Agency responsibilities for the food-for-peace program; coordinates internal AID and U.S. Government responses to foreign disasters with those of other private and international organizations; provides leadership and policy guidance for Agency activities in the development-related labor and manpower fields; is the focal point within AID for the planning, stimulation, formulation, and coordination of activities undertaken through reimbursable arrangements as authorized by sections 607 and 661 of the FAA; and administers the American schools and hospitals abroad program.

In the area of private and voluntary cooperation, the Bureau creates and explores approaches to enlarge the role of volunteerism in the development process; maintains liaison with the American Council on Foreign Aid, the Advisory Committee on Overseas Cooperative Development and the U.S. cooperatives engaged in overseas cooperative development and with the community of voluntary agencies generally; and provides staff support to the Advisory Committee on Voluntary Foreign Aid.

5. The *Bureau for Program and Management Services* provides centralized services in the areas of management planning, management operations, data management, direct contracting, and commodity management. It establishes and monitors AID policies, regulations, and procedures in all of these areas. The Bureau is also responsible for administering the U.S. earthquake reconstruction program in Italy.

The Bureau assists Agency management in the development, implementation, and evaluation of AID management policies and practices; provides or arranges for management consulting services to AID/W and overseas organizations; and overseas administration of AID programs for organization and functional alignment, directives, committee management (Pub. L. 92-463), management improvement, and systems coordination.

The Bureau develops policies, standards, and guidelines for, and oversees the development, operation, and management of worldwide administrative and logistical support systems; counsels and assists senior Agency personnel on all phases of administrative and logistical support services; represents AID as the Agency coordinator for overseas combined administrative support services, for all aspects of foreign affairs administrative support (FAAS), and joint nonappropriated fund activities; and provides a wide range of administrative and logistical services for AID.

The Bureau provides leadership and coordination to the development and administration of AID's automated data information systems; provides leadership and guidance on all phases of the use of automatic data processing technology; reviews, recommends, and monitors the agencywise use of management consulting firms, contracts, or participating agency service agreements for automated data information systems; and provides leadership and policy guidance to the Agency's data management systems.

The Bureau directs the development and maintenance of policies, procedures, standards, and regulations governing AID-direct contracting and AID-financed borrower/grantee contracting; directs centralized contracting services; encourages the participation of U.S. small business in services, contracting, and export supply activities of the Agency; implements AID requirements for commodity marking and labeling; and develops and maintains the AID procurement regulations.

The Bureau provides leadership and coordination to the development and administration of AID's policies and procedures for commodity management; serves as the Agency's principal adviser on the commodity management aspects of AID's economic assistance programs; administers commodity import programs and provides support for the implementation of the commodity and transportation elements of other AID-financed programs; and provides support for the transportation element of all AID programs and for programs financed by title II, Pub. L. 480, and the world food programs.

E. *Geographic Bureaus.*—There are four Geographic Bureaus: Africa, Asia, Latin America and the Caribbean and Near East.

These Bureaus are the principal line offices of AID with responsibility for the planning, formulation, and management of U.S. economic development and/or supporting assistance programs in their respective areas overseas. Their programs are administered within delegated authorities and in accordance with policies and standards established by the AID Administrator.

Each Geographic Bureau is headed by an Assistant Administrator who:

1. Directs and supervises the activities of the Bureau and its overseas missions and offices.

2. Directs the formulation of U.S. economic assistance programs; approves programs and projects within the limits of authorities delegated from the Administrator; and authorizes the execution of economic assistance agreements with Bureau countries and regional organizations.

3. Exercises policy control and approval over reimbursable development programs; exercises section 607 and related approval authorities for the region.

4. Exercises policy control within the region over the housing guaranty programs which are administered by the Office of Housing within the Bureau for Development Support.

5. Submits, through the Bureau for Program and Policy Coordination for the Administrator's approval, an annual budget of proposed Bureau activities and assists in presenting the Bureau's program and budget to the Congress.

6. Approves and directs the allocation of available resources among Bureau offices and overseas missions.

7. Assures necessary liaison with other AID offices, the Department of State, other U.S., bilateral, and multilateral agencies and officials of recipient countries; and represents AID at country consortia or consultative group meetings.

8. Oversees the implementation of Bureau programs and projects; monitors performance under loan and grant agreements, contracts, and other operating agreements; and takes or recommends any required remedial action.

9. Represents AID before the press and the public, as required.

F. *Overseas Missions and Offices.*—1. AID country organizations are located in countries where AID is carrying out bilateral economic assistance programs. Such organizations report to the Geographic Bureau, with one exception as noted below, and include the following:

a. *AID missions* are currently located in 41 countries for which the AID program is major, continuing, and usually involves multiple types of aid in several sectors. Each mission is headed by a mission director who has been delegated program planning, implementation, and representation authorities.

b. *AID offices* are currently located in 10 countries for which the AID program is moderate, declining, or has limited objectives. Each office is usually headed by an AID representative who has been delegated program planning, implementation, and representation authorities.

(Exception: The AID Regional Office—Friuli, in Italy, reports directly to the Bureau for Program and Management Services.)

c. *AID sections of Embassy* are currently located in 10 countries for which the AID program is small or is being phased out. AID program planning and implementation authorities are delegated to the chief U.S. diplomatic representative in the country.

2. *Offices for Multicountry Programs* (12 offices) administer AID overseas program activities which involve more than one country. These offices may also perform "AID country organization" responsibilities for assigned countries. (The Offices of Reimbursable Development Programs report to the Bureau for Private and Development Cooperation, and others report directly to the Geographic Bureaus.)

3. *Offices for Multicountry Services* (5 offices) provide services to other AID overseas organizations, primarily AID country organizations and Multicountry Program Offices. (The Excess Property Field Offices report to the Bureau for Program and Management Services, all others report to the Geographic Bureaus.)

4. *Development Assistance Coordination and Representation Offices* (6 offices) maintain liaison with various international organizations and represent U.S. and AID interest in development assistance matters. Such offices may be only partially staffed by AID personnel and may be headed by employees of other U.S. Government agencies.

5. *Audit and Inspections Offices* (8 offices) are maintained by the Office of the Auditor General at overseas locations to carry out a comprehensive program of selected audits, investigations, inspections, surveys, reviews, and security services for the Agency.

IV. *Statements of general policy, rules, and procedures.*—The statements of AID policy and the nature and requirements of AID's formal and informal procedures, which are currently available to the public, are contained in the published regulations and other publications of AID listed below. To the extent applicable, these also contain descriptions of forms available or specify the places at which forms may be obtained, and give instructions as to the scope and content of papers, reports, or examinations involved in the transaction of business with AID.

The following AID regulations are codified in chapter II of title 22 of the Code of Federal Regulations.

SUBJECT

No. 1. Rules and Procedures Applicable to Commodity Transactions Financed by AID.
No. 2. Overseas Shipments of Supplies by Voluntary Nonprofit Relief Agencies.
No. 3. Registration of Agencies for Voluntary Foreign Aid.
No. 5. Per Diem Payments to Participants in Nonmilitary Economic Development Training Programs.
No. 8. Suppliers of Commodities and Commodity-Related Services Ineligible for AID Financing.
No. 9. Nondiscrimination in Federally Assisted Programs of AID Effectuation of title VI of the Civil Rights Act of 1964.
No. 10. Loyalty and Security Investigations for Persons Serving Under Contracts Financed From U.S. Foreign Assistance Funds.
No. 11. Transfer of Food Commodities for Use in Disaster Relief and Economic Development, and Other Assistance (Pub. L. 480, title II).
No. 12. Public Information.
No. 13. Collection of Civil Claims by the Agency for International Development.
No. 14. Advisory Committee Management.
No. 15. Implementation of Privacy Act of 1974.
No. 16. Environmental Procedures.

The procurement regulations for the Agency for International Development (AIDPR) are codified in chapter 7 of title 41 of the Code of Federal Regulations.

In addition, the following other AID publications contain procedures available to the public:

1. AID Country Contracting Procedures, including:
a. AID Handbook 11—Country Contracting (formerly Capital Projects Guidelines).
b. Environmental Assessments Guidelines Manual.
c. Information Packet for Architect-Engineer Firms.
2. AID-Financed Export Opportunities.
3. AID Procurement Information Bulletins.
4. AID Small Business Memos.
5. AID Importer Lists.
6. U.S. Small Supplier Lists.

Copies of the above listed AID regulations and other publications are available for public inspection and copying through the Office of Public Affairs, AID, Department of State, Washington, D.C. 20523. In addition, publications listed under No. 2 through No. 6 above are available from the Bureau for Program and Management Services, Office of Contract Management, Small Business Office, AID, Washington, D.C. 20523, and at Department of Commerce field offices located in principal cities of the United States. AID procurement regulations are also for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

v. *Information, submittals, and requests for decisions.*—A. Information—AID Regulations Nos. 12, 14, and 15 (22 CFR Parts 212, 214, and 215, respectively) specify AID policy and procedures for public access to AID records.

b. *Submittals, requests, or decisions.*—Members of the public doing business, or wishing to do business, with AID may make their submittals or requests, or obtain decisions at the cognizant AID bureau or office described in section III above, in accordance with the provisions of the AID regulation or other publication which govern the action or process.

In case of uncertainty by a member of the public as to the appropriate AID bureau or office, or as to the methods of applying for or obtaining AID action, application should be made to the Director, Office of Public Affairs, AID, Room 4898, Department of State, 21st Street and Virginia Avenue NW., Washington, D.C. 20523.

Effective date: This notice shall be effective July 14, 1978.

D. G. MACDONALD,
Assistant Administrator for Program and Management Services.

[FR Doc. 78-21356 Filed 8-1-78; 8:45 am]

[4910-06]

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[BS-Ap-No. 1415]

BOSTON AND MAINE CORPORATION

Notice of Hearing

The Boston and Maine Central Corp. has petitioned the Federal Railroad Administration for approval of proposed modifications of the signal systems presently installed between

Willows, Mass. and Mechanicville, N.Y. as well as between Lancaster, Mass. and Ayer, Mass.

The proposed modifications would permit the Boston and Maine to make extensive changes to the system presently installed. The proposed changes include, but are not limited to: discontinuance of a segment of automatic cab signal between Ayer Interlocking and Willows; replacement of a segment of automatic block signal territory with a traffic control system; conversion of some power operated switches to hand operation; and the relocation of many signals, some of which would be located to the left of the track governed.

The Railroad Safety Board of the Federal Railroad Administration has voted to hold a public hearing before entering its decision in this proceeding. Accordingly, a public hearing is hereby set for 10 a.m. on August 25, 1978. The public hearing will be held in Room E226 of the John F. Kennedy Federal Building, located at Government Center in Boston, Mass.

The hearing will be an informal one and will be conducted in accordance with the provisions of § 211.25 of the FRA rules of practice (49 CFR part 211). A representative designated by the board will conduct this hearing.

The hearing will not be an adversary proceeding, and consequently, there will be no cross-examination of persons making statements. The board's representative will make an opening statement outlining the scope of the hearing and will provide interested parties with an opportunity to make statements or rebuttal statements. Additional procedures, if necessary, for the conduct of the hearing will be announced at the hearing.

This notice is issued under the authority of section 25 of the Interstate Commerce Act, 49 U.S.C. 26; and § 1.49(g).

Issued in Washington, D.C. on July 24, 1978.

ROBERT H. WRIGHT,
Acting Chairman,
Railroad Safety Board.

[FR Doc. 78-21369 Filed 8-1-78; 8:45 am]

[4910-06]

ST. PAUL & PACIFIC RAILROAD ET AL.

Petitions for Waiver of Railroad Safety Appliance Standards

Notice is hereby given that four railroads have submitted requests for permanent waivers of compliance with certain requirements of the railroad safety appliance standards (49 CFR part 231). Each of these petitions for waiver involves provisions of the railroad safety appliance standards that are applicable to locomotives used in road or switching service.

The Federal Railroad Administration (FRA) published a final rule on September 8, 1976 (41 FR 37782) that prescribed configurations for the handholds and uncoupling mechanisms of locomotives used in road service (49 CFR 231.29) and that prescribed configurations for the handholds, uncoupling mechanisms, and stairways of locomotives used in switching service (49 CFR 231.30). These regulations are applicable to both existing locomotives and locomotives that will be constructed in the future. Full compliance for the entire locomotive fleet is scheduled for October 1, 1979.

The individual petitions for a waiver of compliance with the certain provisions of this regulation are described below. The description indicates the nature and extent of the relief requested as well as any information that has been submitted in support of the request for the waiver of compliance.

Interested persons are invited to participate in these proceedings by submitting written data, views, or comments. FRA does not anticipate scheduling an opportunity for oral comment on these petitions since the facts do not appear to warrant it. All communications concerning these petitions must identify the appropriate docket number (e.g., FRA waiver petition docket No. SA-77-14) and should be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590. Communcations received before September 15, 1978, will be considered by the Federal Railroad Administration before final action is taken. Comments received after that date will be available for examination during regular business hours, both before and after the closing date for comments, in Room 5101, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590.

[Waiver Petition Docket No. SA-77-14]

CHICAGO, MILWAUKEE, ST. PAUL & PACIFIC RAILROAD

The Chicago, Milwaukee, St. Paul & Pacific Railroad (Milwaukee) seeks a waiver of compliance with § 231.30 for 23 diesel locomotives used in switching service. These locomotives are all units that lack cab enclosures and are not normally capable of single unit operation.

The locomotives involved in this request include two distinct types of diesel locomotives. One group consists of 16 carbody-style units built by Electro-Motive Division of General Motors (EMD) and identified as model type F-7. These locomotives are commonly referred to as "B" units in the industry. The other group consists of 7 switcher-type transfer units built by EMD and identified as model type TR-4. These units are commonly referred to as "calf" units in the industry.

Milwaukee notes that the F-7 carbody units are used as the center unit of a three-unit consist and that the TR-4 switcher units are used in the same manner unless the switcher unit has been equipped with a conforming corner stairway on one end of the unit, in which case two units are operated back to back as a two-unit consist.

Milwaukee seeks authority to continue operating these units without modification for an indefinite period of time. The petitioner notes that these units, as originally designed, did not have corner stairways and are not capable of easy modification. If the units are used in a consist as indicated, Milwaukee believes that the intent of § 231.30 will be complied with. If the units are used as Milwaukee indicates, switching operations will be peformed from the ends of the consists, not from the ends of individual units. Milwaukee believes, therefore, that safe switching does not require stairways on the ends of units but rather on the ends of consists. Consequently, Milwaukee is seeking a waiver of compliance for these units.

[Waiver Petition Docket No. SA-77-15]

AROOSTOOK VALLEY RAILROAD CO.

The Aroostook Valley Railroad Co. (AVR) seeks a waiver of compliance with § 231.30 for two diesel locomotives. These locomotives are 44-ton General Electric diesel electric locomotives built between 1945 and 1951.

These locomotives were designed with a vertical ladderlike step arrangement on all four corners. AVR states that modification of the step arrangement would cause the locomotives to exceed the clearance restrictions which exist at several industrial sidings serviced by the railroad. If clearance restrictions are exceeded, use of the locomotives will be limited and AVR will be unable to service certain customers effectively. AVR states that customers might be lost as a result of the inability to provide effective service.

In addition to possibly causing a loss of business, modifications of the step arrangement would be costly. AVR notes that it operates solely in the State of Maine on approximately 26 miles of trackage. The locomotives for which the waiver is sought are used to haul its single daily train and to remove snow from the tracks. AVR states that its limited use of the locomotives does not warrant the expense required for compliance with § 231.30 and therefore seeks a permanent waiver of compliance.

[Waiver Petition Docket No. SA-75-2]

LONG ISLAND RAILROAD

The Long Island Railroad (LI) seeks a waiver of compliance with the provisions of § 231.30 for eight diesel locomotives. These are Alco C-420's which were built in 1968.

In support of its request, LI notes that it uses these locomotives for road passenger service and does not often use the locomotives for switching. Consequently, the hazards which § 231.29 is designed to prevent do not occur frequently.

LI also notes that the corner step modifications required for compliance with § 231.29 would be complicated and impractical due to third rail clearance requirements and high level platforms.

In addition, LI states that employees will be subjected to increased risks if the corner steps are modified as required. The increased risks would be caused by a reduction in the surface area of the locomotive walkway in the area of the steps and an increase in the gap between the edge of the high level passenger platform and the locomotive walkway. LI seeks a permanent waiver of compliance for these locomotives.

Waiver Petition Docket No. SA-78-2]

[BANGOR & AROOSTOOK RAILROAD CO.

The Bangor & Aroostook Railroad Co. (BAR) seeks a waiver of compliance with § 231.30 for 13 diesel-electric locomotives. Six of the locomotives are designated as Electro-Motive Division Model F-3 and are numbered 40, 42, 44, 45, 46, and 49. They are road locomotives which are frequently used in switching service. The remaining seven locomotives are designated as Electro-Motive Division Model BL-2 and are numbered 50, 51, 52, 54, 55, 56, and 57. The BL-2's are branch line locomotives which are frequently used in switching service. At present, none of the 13 locomotives is equipped with switching steps.

The F-3 locomotives do not have either end platforms or side walkways. Therefore, installation of switching steps would require extension of both ends of the locomotive. This extension would require major alterations of the underframe structure. BAR states that such alteration would be very costly and would increase the possibility of jackknifing during backup moves.

Installation of switching steps on the BL-2 locomotives would also require extensive alterations. BAR notes that the alterations would affect the structural integrity of the underframe, thus making the locomotives dangerous to operate. Consequently, BAR seeks a permanent waiver of compliance for these two types of locomotives.

This notice is issued under the authority of sections 4, 6, and 12, 27 Stat. 531, as amended, section 6 (e) and (f), 80 Stat. 939; 45 U.S.C. 4, 6, 12; 49 U.S.C. 1655 and section 1.49(c) of the regulations of the Secretary of Transportation, 49 CFR 1.49(c).

Issued in Washington, D.C., on July 24, 1978.

ROBERT H. WRIGHT,
Acting Chairman,
Railroad Safety Board.

[FR Doc. 78-21368 Filed 8-1-78; 8:45 am]

[4830-01]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

PUBLIC INSPECTION OF WRITTEN DETERMINATIONS

Intention to Disclose

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of intention to disclose.

SUMMARY: This document provides notice that the Service intends to make open to public inspection certain written determinations. This notice also explains how any person may determine whether any of the described written determinations pertain to that person, and explains the procedures that person may follow if there is disagreement regarding the proposed deletions. This document does not meet the criteria for significant regulations set forth in paragraph eight of the proposed Treasury directive appearing in the FEDERAL REGISTER for Wednesday, May 24, 1978 (43 FR 22319).

DATES: Persons wanting to find out whether their particular written determinations are among those to be made open to public inspection pursuant to this notice are requested to contact the Service by August 17, 1978.

Requests for additional deletions must be submitted by September 6, 1978. A petition in the United States Tax Court must be filed by October 3, 1978. Except for the disputed portion of any document that is the subject of an action brought in the United states Tax Court, the written determinations described in this notice will be made open to public inspection on December 1, 1978.

ADDRESS: Any questions or correspondence regarding this notice should be sent to: Internal Revenue Service, Attention: T:FP:R, Ben Franklin Station, Post Office Box 7604, Washington, D.C. 20044.

FOR FURTHER INFORMATION CONTACT: George E. Freeland of the Rulings Disclosure Branch, Tax Forms and Publications Division, Office of the Assistant Commissioner, Technical; 202-566-4378 or 202-566-6272.

SUPPLEMENTARY INFORMATION: Section 6110(h) of the Internal Revenue Code of 1954 provides that certain written determinations (letter rulings and technical advice memoranda) issued in response to requests submitted before November 1, 1976, shall be open to public inspection. Accordingly, the Service is preparing to open to public inspection the general written determinations issued after July 4, 1967 (except those issued in response to requests submitted after October 31, 1976) that originated in the Estate and Gift Tax Branch, and in the Wage, Excise and Administrative Provisions Branch, Individual Tax Divison, Office of the Assistant Commissioner (Technical), or predecessor branches, and that involve issues falling within the jurisdiction of these branches. A general written determination is one the Commissioner has not determined to have significant reference value.

Issues falling within the jurisdiction of the Estate and Gift Tax Branch and the Wage, Excise, and Administrative Provisions Branch are those involving:

(a) Estate tax;
(b) Gift tax;
(c) Certain excise taxes, but not involving excise taxes under chapters 42 and 43 of the Internal Revenue Code;
(d) Employment taxes and taxes on self-employment income;
(e) Procedure and administrative provisions of the Internal Revenue Code, except those specifically applicable to employee plans, exempt organizations, and actuarial determinations;
(f) After September 30, 1973, until its expiration, Interest Equalization tax.

All general written determinations issued during the prescribed time periods discussed in this notice and originating in these branches or predecessor branches are intended to be within the scope of this notice, except those made available pursuant to an earlier Federal Register notice.

DELETIONS

Section 6110(c) of the code requires the Internal Revenue Service to delete certain information from the documents described in this notice. The Service intends to delete names, addresses, and taxpayer identifying numbers, and will also attempt to recognize and delete other identifying details, trade secrets, and the other information described in section 6110(c), before making the written determination open to public inspection.

Persons to whom the written determinations described in this notice per-

tain (or successors in interest, executors, or authorized representatives of these persons) may contact the Internal Revenue Service to find out whether their particular written determinations are among those to be made open to public inspection pursuant to this notice. These persons may request a copy of their written determinations with proposed deletions indicated. Such requests should be submitted by August 17, 1978. Such requests must indicate the specific name of the party to which the written determination pertains, for example, a corporation acting on behalf of one or more subsidiaries must indicate the name of such subsidiary or subsidiaries. If such a person disagrees with the proposed deletions, that person may indicate any additional information that person believes should be deleted. Any request for additional deletions must be submitted by September 6, 1978 and must include a statement indicating which of the exemptions provided in section 6110(c) of the code is applicable to each additional deletion requested. If the Service feels it cannot make any or all of the additional deletions requested, the Service will so advise the requester. The requester will then have the right to file a petition in the United States Tax Court. This petition must be filed by October 3, 1978.

ADDITIONAL DISCLOSURE

After the deleted copy of a written determination is made open to public inspection in the National Office Reading Room, any person may request the Service to make additional portions of the written determination open to public inspection. If the Service receives a request that involves disclosure of names, addresses, or taxpayer identifying numbers, the Service will deny the request. If the request involves disclosure of anything other than names, addresses, or taxpayer identifying numbers, the Service will contact the person to whom the written determination pertains before further action is taken.

BACKGROUND FILE DOCUMENTS

After the deleted copy of a written determination is made open to public inspection, any person may request copies of related background file documents. Notice will be provided to the person to whom the written determination pertains if a request for related background file documents is received.

Any notice regarding background file documents or requests for additional disclosure and any other correspondence relating to public inspection of written determinations, will be mailed to the latest address in the Service's written determination file, unless a later address is provided to the Service in connection with these matters.

The written determinations described in this notice will be made open to public inspection by being placed in the National Office Reading Room, Room 1564, Internal Revenue Service Building, 1111 Constitution Avenue NW., Washington, D.C. on the Monday preceding December 1, 1978. However, the disputed portion of any document that is the subject of an action brought in the United States Tax Court shall not be made available until after a court determination regarding such portion is made.

JEROME KURTZ,
Commissioner of Internal Revenue.

[FR Doc. 78-21358 Filed 8-1-78; 8:45 am]

[4810-25]

Office of the Secretary

TRIGGER PRICE MECHANISM

Base Prices and Additional TPM Manual Pages Implementing July 20 Announcement

The Treasury Department, implementing the notice of July 20, concerning the trigger price mechanism, hereby (1) announces base prices applicable to all shipments exported on or after October 1, 1978 for 84 types of steel mill products covered by the program; and (2) issues additional new pages of the trigger price manual to supplement the pages published July 20. These pages reflect third quarter prices since they take effect during this quarter.

Table I is a list of base prices applicable for the fourth quarter. For most products, the fourth quarter base price is derived by increasing the current applicable third quarter base price by 4.86 percent. Diagram I shows how this factor is derived. The same increase must be applied to current extras to derive the appropriate fourth quarter trigger price extras for specific products.

Alternatively, the fourth quarter base price for most products may be derived by increasing the original base price (announced January 9, 1978) by 10.63 percent (see diagram I). Again, extras should be increased by that same percentage for the fourth quarter.

These increases reflect: (1) Increases in the January average cost per ton of finished product arising from task force revisions announced in the July 20-release, part I; (2) third quarter adjustments (announced May 5, 1978) as recalculated by the task force to reflect an increased proportion of yen denominated costs than before (see July 20 release, part II); and (3) fourth quarter adjustments, as announced in the July 20 release, part II.

The standard percentage calculations described above may not be used for two groups of products: (1) Products whose base costs have been derived from electric furnace producers rather than integrated producers; and (2) products whose original relationship to the average cost per finished ton has been changed by the task force. For these two groups of products, an explanation of the calculations is given in footnotes to the table of fourth quarter base prices (table I)

Dated: July 25, 1978.

ROBERT H. MUNDHEIM,
General Counsel.

TABLE I

PRODUCT BASE PRICES FOR SHIPMENTS EXPORTED DURING FOURTH QUARTER 1978
(Including Task Force Revisions and Quarterly Revisions)

AISI Group	Product	$/Metric Tons January Base	Current 3rd Quarter Base	4th Quarter Revised Base	
2	Wire Rods Commercial Quality 1008	$ 265	$ 280	$ 294	
2	Wire Rods Welding Quality	266	281	295	
2	Wire Rods High Carbon 1065	309	326	342	
2	Wire Rods Cold Heading Quality 1038	319	337	353	
2	Wire Rods Cold Finished Bar Quality	319	337	353	
2	Wire Rods Alloy Base Grade 4037	466	492	516	
16	Cold Finished Spheroidized Annealed Moly Alloy Steel Wire Rod AISI 4037 5.5 MM to 13 MM Base	None	492	516	
16	Cold Finished Spheroidized Annealed SI-MN-CHR High Carbon Steel Wire Rod AISI 9254 Base	None	471	494	
3	Wide Flange Beams	259	273	286	
3	Standard Carbon Steel Channels A-36	210	239	251	(a)
3	Unequal Angles	221	252	264	(a)
3	Equal Angles A-36	199	227	238	(a)
3	Standard I-Beams A-36 S-4 S-12	243	277	290	(a)
3	Sheet Piling A-328	292	308	323	
5	Plates A-36	266	281	295	
6	Heavy Carbon Steel Rails	298	314	329	
6	Light Rails	292	308	323	
6	Tie Plates	299	315	330	
8	Plain and Deformed Reinforcing Bars A STM 615	196	223	234	(b)
10	Merchant Quality Hot Rolled Carbon Round Bars A-36 or AISI 1020	243	278	291	(c)
10	Hot Rolled Carbon Bars Special Quality AISI 1045	340	359	376	
10	Merchant Quality Squares and R.C. Squares ASTM A-36 or AISI 1020	243	278	291	(c)
10	Merchant Quality Flat Bars A-36 or AISI 1020	221	253	265	(c)
10	Bar Size Channels A-36	292	334	350	(c)
11	Round Bar Alloy 8620 Base	391	413	433	
11	Spheroidized Annealed 52100	437	461	482	
12	Cold Finished Carbon Steel Round Bar 1018	361	381	---	
	Revised	416	439	460	(d)
12	Cold Finished Sulphur Free-Cutting Round Bar 1215	408	430	---	
	Revised	471	497	521	(d)
12	Cold Finished Free-Cutting Lead Round Bar 12L14	428	452	---	
	Revised	492	519	544	(d)
14	ERW Pressure Tubing	437	461	483	
14	Welded Stainless Pipe ASTM A-312	1874	1977	None	
14	Welded Stainless Steel Round Ornamental	1689	1782	None	
14	Continuous Buttweld Standard Pipe	278	293	307	
14	Electric Resistance Pipe Excluding Oil well	311	328	344	
14	Submerged Arc Welded Pipe	377	398	417	
14	ERW Structural Tubing, ASTM A-500	None	343	360	
14	ERW Standard Pipe, ASTM A-120 (A-53)	None	317	332	
15	Seamless Carbon Oil Well Casing to 7" Not Threaded	368	388	407	
15	Seamless Carbon Oil Well Casing over 7"Not Threaded	364	384	403	
15	Seamless Carbon Casing Threaded Over 7"	413	436	457	
15	Seamless Carbon CasingThreaded up to 7"	418	441	462	
15	ERW Carbon Oil well casing not threaded	328	346	363	
15	ERW Carbon Casing Threaded	387	408	428	
15	Seamless Carbon Pressure Boilers etc.	702	741	777	
15	Seamless Carbon Tubing With Coupling	550	580	608	
15	Carbon Seamless Line Pipe	374	400	419	
15	Hot Roll Seamless 52100	534	563	590	
15	Cold Roll Hi Carbon Chrome 52100	792	836	877	
15	Seamless Round Stainless Tube 304	1798	1897	1989	
15	Seamless Square Ornamental Tube 304	1959	2067	2167	
16	Cold Heading Round Wire H.D. 1018 (Hard Drawn)	400	422	443	
16	Cold Heading Round Wire Annealed Rod 1018	455	480	503	
16	Cold Heading Round Wire Spheroidized Annealed Rods 1018	464	490	514	
16	Cold Heading Annealed in Process 1018	468	494	518	
16	Cold Heading Spherodized Annealed in Process 1018	477	503	527	
16	Cold Heading Round Wire Annealed in Process From Annealed Rods 1018	504	532	558	
16	Cold Heading Round Wire Spheroid Annealed in Process from Annealed Rod 1018	513	541	567	
16	Cold Heading Round Wire Annealed at Finished Size	455	480	503	
16	Cold Heading Round Wire Spheroid Annealed at Finished Size 1018	464	490	514	
16	Cold Heading Round Wire Annealed at Finished Size From Annealed Rods 1018	490	517	542	
16	Cold Heading Round Wire Spheroid Annealed at Finished Size and Drawn From Annealed Rod 1018	500	528	554	
16	Bright Basic Round Wire 1008 Rimmed #8	329	347	364	
16	Galvanized Iron Round Wire Type #1 Coating #8	414	437	458	
16	Round Baling Wire #14.50	459	484	508	
16	Bright Annealed Cold Drawn Stainless Wire Base 304 0.080"	2182	2302	2414	

TABLE 1—Continued

PRODUCT BASE PRICES FOR SHIPMENTS EXPORTED DURING FOURTH QUARTER 1978
(Including Task Force Revisions and Quarterly Revisions)

AISI Group	Product	$/Metric Tons January Base	Current 3rd Quarter Base	4th Quarter Revised Base	
16	Spring Hard Temper Nickel Copper and Plastic Cold Drawn Stainless .040" 302 Base	2745	2896	3037	
16	Cold Heading Quality Copper and Moly Coat Cold Drawn Stainless SteelWire ASTM 493-A #7 0.131"	2353	2482	2603	
16	Cold Heading Quality Copper and Moly Coat Cold Drawn Stainless Wire 305 0.131"	2416	2549	2673	
16	Cold Heading Quality Copper and Moly Coat Cold Drawn Stainless AISI 410 0.131"	1562	1648	1728	
16	Cold Heading Quality Copper and Moly Coat Cold Drawn Stainless AISI 430 0.131"	1602	1690	1772	
20	Wire Nails Bright and Common 20 d x # 6 x 13/32 x 4" Base	383	404	424	
21	Barbed Wire 2 Ply 12.50	527	551	578	
22	Black Plate ASTM A-625-76 0.0083" 34" x Coil	373	394		
	Revised	347	---	380	(e)
23	Electrolytic Tin Plate SR 25/25 75Lb x 34" x Coil	477	503		
	Revised	470	---	515	(e)
23	Electrolytic Tin Plate DR 25/25 55" x 34" x Coil	475	501		
	Revised	520	---	570	(e)
25	Hot Rolled Sheets Coil ASTM A-569 .121" x 48" x Coil	231	244		
	Revised	239	---	262	(e)
25	Hot Rolled Band .121" x 48" x Coil	None	238	250	
26	Electrical Steel Sheets Grained Oriented M4 0.012" x 33" x Coil	1000	1055	1106	
26	Electrical Steel Sheets Non-Oriented M-45 0.018 x 36" x Coil	538	568	596	
26	Cold Rolled Sheets ASTM A-336 1.0 MM x 48" x Coil	297	313	328	
27	Electro-Galvanized Sheets EGC-10gM^2 1.0 m/m x 48" x Coil	343	362		
	Revised	354	---	388	(e)
27	Galvanized Sheet ASTM 525 G-90 .029" - .032" x 48" x Coil	345	364		
	Revised	356	---	390	(e)
29	Hot Rolled Carbon Steel Strip Produced on Bar Mills Cut Lengths	246	282	296	
29	Hot Rolled Carbon Steel Strip Produced on Sheet Mills Coils Only	231	249	262	
32	Tin Free Steel Sheets SR 75 lb by 34" x Coil	413	436		
	Revised	403	---	441	(e)
32	Tin Free Steel Sheets DR 55 lb by 34" x Coil	412	435		
	Revised	453	---	496	(e)

(a)Electric Furnace producer, Group A product. The increase from current Third to revised Fourth Quarters is 4.87%.

(b)Electric Furnace producer, Group C product. The increase from Third to Fourth Quarters is 4.83%.

(c)Electric Furnace producer, Group B product. The increase from Third to Fourth Quarters is 4.84%.

(d)The original base price of cold finished steel bars has been adjusted. The trigger price for hot rolled bars (which is the raw material from which cold finished bars are made) is now being used as the raw material cost in calculating cold finished bar production costs, resulting in a base price increase.

(e)The original base price was adjusted by the Task Force to the figure shown in the first column on the chart above. To derive the trigger price applicable in the Fourth Quarter, apply the appropriate conversion factor shown below to the original January trigger price or the current Third Quarter trigger price. These conversion factors apply to both the base and any extras.

	Conversion Factor From Original Trigger Price	Conversion Factor From Current Third Quarter Trigger Price
Black Plate SR	1.0188	0.9645
Electrolytic Tin Plate SR	1.0797	1.0239
Electrolytic Tin Plate DR	1.200	1.1377
Hot Rolled Sheets	1.1342	1.0738
Electro Galvanized Sheets	1.1312	1.0718
Galvanized Sheets (Hot Dipped)	1.1304	1.0714
Tin Free Sheets, SR	1.0678	1.0115
Tin Free Sheets, DR	1.2039	1.1402

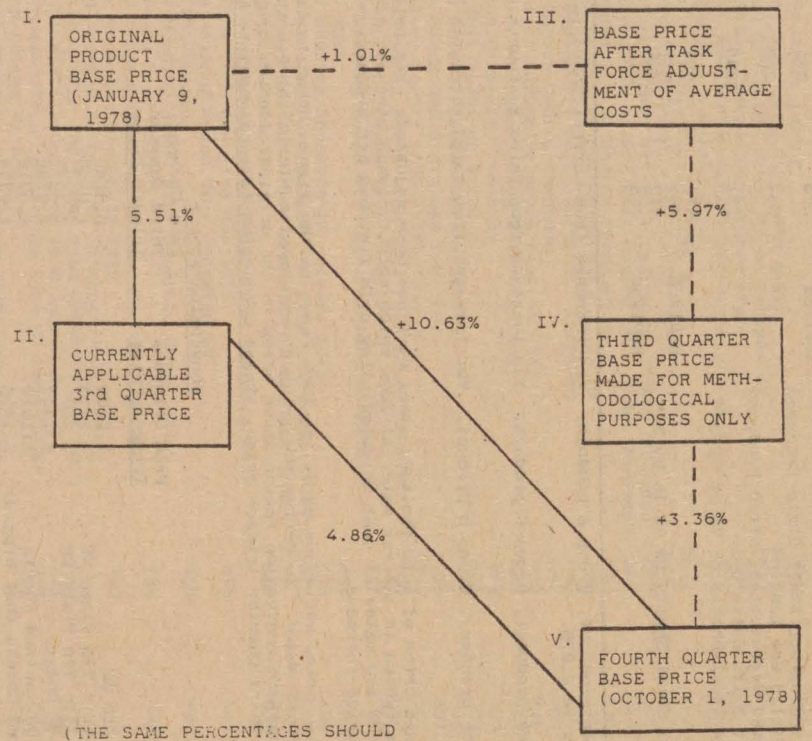
DIAGRAM I

DERIVATION OF FOURTH QUARTER BASE PRICES

For most products, the Fourth Quarter trigger price (Box V below) may be calculated by:

1. Multiplying the current Third Quarter trigger price for that product (Box II) by 1.0486; or

2. Multiplying the original January trigger price for that product (Box I) by 1.1063.



(THE SAME PERCENTAGES SHOULD BE APPLIED TO EXTRAS)

FOR ELECTRIC FURNACE PRODUCTS AND PRODUCTS WHOSE ORIGINAL BASE COSTS WERE REVISED BY THE TASK FORCE, SEE FOOTNOTES TO TABLE I FOR AN EXPLANATION OF THE CALCULATIONS.

Derivation of the Percentages

The percentages shown here were derived by first revising the January average costs ($328.23) (Box I) based on the Task Force's review. The result ($331.54 M/T) (Box III) was 1.01% above the average cost published in January. Then the previously announced Third Quarter increase (+5.5%) was applied to the revised January average cost ($331.54) (Box III) resulting in a cost of $351.33 (Box IV). The latter figure amounted to a 5.97% increase (rather than a 5.5% increase) because the Task Force cost re-structuring had made costs more sensitive to changes in the yen-dollar exchange rate. Finally, Fourth Quarter increases (+3.36%, reflecting yen appreciation over a 2-month average period ending July 15) were applied to the revised Third Quarter costs, resulting in a Fourth Quarter average cost of $363.12 (Box V). This cost was compared with the original average cost ($328.23 M/T) (Box I) and the currently applicable Third Quarter average cost ($346.30 M/T) (Box II). The resulting percentage increases (+10.63% and +4.86%, respectively) are reported in the diagram above.

It is important to note that the Third Quarter trigger prices remain those announced May 5, 1978 (ie. 5.5% above original trigger prices). Revised Third Quarter numbers (Box IV) were calculated purely to enable the Task Force to make Fourth Quarter revisions.

Diagram I and the above discussion are recapitulated in the following conversion chart:

To Obtain:	From:	Conversion Factor from $/Metric Ton)	Percentage
V	II	Multiply by 1.0486	+ 4.86%
V	I	Multiply by 1.1063	+10.63%
II	I	Multiply by 1.0551	+ 5.51%
III	I	Multiply by 1.0101	+ 1.01%
IV	III	Multiply by 1.0597	+ 5.97%
V	IV	Multiply by 1.0336	+ 3.36%
V	III	Multiply by 1.0953	+ 9.53%

Rev July, 1978

Spheroidized Annealed, Mo Alloy Steel Wire Rod AISI 4037, 5.5mm to 13mm

Category AISI 2

Tariff Schedule Number (s) 608.7880 0.375¢ per lb. + 4% + additional duties (see Headnote 4, TSUS)

Base Price per ~~Metric~~ Ton $492

Charges to CIF	Ocean Freight	Handling	Interest
West Coast	$58	$7	$10
Gulf Coast	69	5	13
Atlantic Coast	72	4	14
Great Lakes	79	4	17

Insurance 1% of base price + extras + ocean freight

Extras

1. Grade Extras
2. Size Extras
3. Thermal Treatment Extras
4. Aircraft Quality Extra
5. Bearing Quality Extra
6. Vacuum Degassed Extra

SPHEROIDIZED ANNEALED, MO ALLOY STEEL WIRE ROD, AISI 4037, 5.5 mm to 13 mm

1. Grade Extras (per MT)

AISI, SAE NUMBER	Extra ($/MT)
1330, 1335, 1340, 1345	Minus 42
4024, 4028	4
4012, 4023, 4027 4032, 4042, 4047	NIL
4118, 4130	NIL
4135, 4137, 4140, 4142, 4145, 4147, 4150	2
4161	3
4320	94
4340	93

AISI, SAE Number	Extra ($/MT)
4820	185
5046	51
5115, 5120, 5130, 5132, 5135	39
5140	41
6118	4
8115	22
8615, 8617	37
8620	21
8622, 8625, 8627	21

4422, 4427	27	8630, 8637, 8640, 8642, 8645, 8650, 8655, 8660	17
4615, 4617	91		
4620	89	8720	33
4626	42	8740	25
4718	107	8822	41
4720	73	94B15, 94B17	42
4815, 4817	187		

Boron Extra (if specified)-$21/MT

2. Size Extras

Size	Extra ($/MT)
Over 13 mm but less than 19 mm	Minus 26
1 inch & over	Minus 37

3. Thermal Treatment Extras	Extra ($/MT)
Regular Anneal	42
Spheroidized Anneal	63

4. Aircraft Quality Extra $26/MT

5. Bearing Quality Extra $26/MT

6. Vacuum Degassed Extra $12/MT

(This extra is not charged when requirements are subject to extra for aircraft and/or bearing quality.

Rev. July, 1978

Spheroidized Annealed, Si-Mn-Cr High Carbon Steel Wire Rod, AISI 9254, 5.5mm to 13mm

Category AISI 2

Tariff Schedule Number (s) 608.7880 0.375¢ per lb. + 4% + additional duties (see Headnote 4, TSUS)

Base Price per Metric Ton $471

Charges to CIF	Ocean Freight	Handling	Interest
West Coast	$58	$7	$10
Gulf Coast	69	5	13
Atlantic Coast	72	4	13
Great Lakes	79	4	16

Insurance 1% of base price + extras + ocean freight

Extras

1. Grade Extras
2. Size Extras
3. Thermal Treatment Extras
4. Vacuum Degassed Extra

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SPHEROIDIZED ANNEALED, Si-Mn-Cr HIGH CARBON STEEL WIRE ROD, AISI 9254, 5.5 mm to 13 mm

1. Grade Extras (per MT)

AISI NUMBER	Extra ($/MT)
9260	Minus 19
5150, 5155, 5160	Minus 53
6150	10

Boron Extra (if specified)-$21/MT

2. Size Extras

Size	Extra ($/MT)
Over 13 mm but less than 19 mm	Minus 26
19 mm & over	Minus 37

3. Thermal Treatment Extras	Extra ($/MT)
Regular Anneal	42
Spheroidized Anneal	63

4. Vacuum Degassed Extra $12/MT

REV. JULY, 1978

Spheroidized Annealed, High Carbon Cr Steel Wire Rod AISI 52100, 5.5mm to 13mm

Category AISI 2

Tariff Schedule Number (s) 608.7865 0.375¢ per lb. + 4% + additional duties (see Headnote 4, TSUS)

Base Price per ~~Metric~~ Ton $541

Charges to CIF	Ocean Freight	Handling	Interest
West Coast	$58	$7	$11
Gulf Coast	69	5	15
Atlantic Coast	72	4	15
Great Lakes	79	4	18

Insurance 1% of base price + extras + ocean freight

Extras

1. Grade Extras
2. Size Extras
3. Thermal Treatment Extras

1. Grade Extras (per MT)

AISI NUMBER	Extra ($/MT)
E50100, E51100	NIL

Size Extras

Size	Extra ($/MT)
13 mm but less than mm	Minus 26
mm & over	Minus 27

3. Thermal Treatment Extras ($/MT)

Regular Anneal	42
Spheroidized	63

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COLD FINISHED SPHEROIDIZED ANNEALED
MO ALLOY STEEL WIRE ROD
AISI 4037, 5.5mm to 13mm

Category AISI 2

Tariff Schedule Number(s) 609.4560 10.5% ad val + additional duties (see headnote 4, TSUS)

Base Price per Metric Ton $492

Charges to CIF	Ocean Freight	Handling	Interest
West Coast	$58	$7	$10
Gulf Coast	69	5	13
Atlantic Coast	72	4	14
Great Lakes	79	4	17

Insurance 1% of base price + extras + ocean freight

Extras

(1) Grade Extras
(2) Size Extras
(3) Thermal Treatment Extras
(4) Aircraft Quality Extra
(5) Bearing Quality Extra
(6) Vacuum Degassed Extra
(7) Cold Finished Extra

REVISED TP
Fed.Reg._____

COLD FINISHED SPHEROIDIZED ANNEALED
MO ALLOY STEEL WIRE ROD
(CONTINUED)

1. Grade Extra - see grade extras table, pp. 2-12, 2-13

2. Size Extras

Size	Extra ($/MT)
over 13 mm but less than 19mm	Minus 26
1 inch and over	Minus 37

3. Thermal Treatment Extras

	Extra ($/MT)
Regular Anneal	42
Spheroidized	63

4. Aircraft Quality Extra $26/MT

5. Bearing Quality Extra $26/MT

6. Vacuum Degassed Extra $12/MT
(This extra is not charged when requirements are subject to extra aircraft and/or bearing quality)

7. Cold Finished Extra

Size (Inches)	Extra ($/MT)
0.812-0.999	$137
0.688-0.811	137
0.625-0.687	148
0.562-0.624	148
0.500-0.561	148
0.438-0.499	179
0.375-0.437	179
0.312-0.374	179
0.250-0.311	222
0.188-0.249	253
0.125-0.187	295
0.094-0.124	338
0.062-0.093	390

REVISED TP
Fed.Reg._____

COLD FINISHED, SPHEROIDIZED ANNEALED,
SI-MN-CR HIGH CARBON STEEL WIRE ROD
AISI 9254, 5.5mm to 13mm

Category AISI 2

Tariff Schedule Number(s) 609.4560 10.5% ad val + additional duties (see headnote 4, TSUS)

Base Price per Metric Ton $471

Charges to CIF	Ocean Freight	Handling	Interest
West Coast	$58	$7	$10
Gulf Coast	69	5	13
Atlantic Coast	72	4	13
Great Lakes	79	4	16

Insurance 1% of base price + extras - ocean freight

Extras:

(1) Grade Extras
(2) Size Extras
(3) Thermal Treatment Extras
(4) Vacuum Degassed Extra
(5) Cold Finish Extra

SPEROIDIZED ANNEALED, SI-MN-CR HIGH CARBON STEEL WIRE ROD
(CONTINUED)

1. Grade Extras (per MT)

AISI Number	Extra ($/MT)
9260	Minus 19
5150, 5155, 5160	Minus 53
6150	10

Boron Extra (if specified) $21/MT

2. Size Extras

Size	Extra ($/MT)
Over 13mm but less than 19mm	Minus 26
19mm and over	Minus 37

3. Thermal Treatment Extras

	Extra $/MT
Regular Anneal	42
Spheroidized	63

4. Vacuum Degassed Extra $12/MT

5. Cold Finish Extra

Size (Inches)	Extra ($/MT)
0.812-0.999	$137
0.688-0.811	137
0.625-0.687	148
0.562-0.624	148
0.500-0.561	148
0.438-0.499	179
0.375-0.437	179
0.312-0.374	179
0.250-0.311	222
0.188-0.249	253
0.125-0.187	296
0.094-0.124	336
0.062-0.093	390

WIDE FLANGE BEAMS Rev. July, 1978

(1) Size Extras

Series	Lbs./Foot	Extra-$/M.T.	Series	Lbs./Foot	Extra-$/M.T.
4 x 4	13	40	14 x 12	78,84	Nil
5 x 5	16-18.5	37	14 x 14½	87-136	Nil
6 x 4	8.5	54	14 x 16	142-426	Nil
6 x 4	12,16	42	14 x 16	455	76
6 x 6	15.5	27	14 x 16	500	80
6 x 6	20,25	19	14 x 16	550	81
8 x 4	10	44	14 x 16	605	82
8 x 4	13,15	32	14 x 16	665	84
8 x 5¼	17,20	22	14 x 16	730	88
8 x 6½	24,28	16	16 x 5½	26,31	14
8 x 8	31-67	12	16 x 7	36-50	6
10 x 4	11.5	38	16 x 8½	58-78	Nil
10 x 4	15-19	33	16 x 11½	88,96	Nil
10 x 5-3/4	21-29	19	18 x 6	35,40	15
10 x 8	33-45	12	18 x 7½	45-60	5
10 x 10	49-112	5	18 x 8-3/4	64-85	Nil
12 x 4	14	41	18 x 11-3/4	96-114	Nil
12 x 4	16.5-22	33	21 x 6½	44,49	10
12 x 6½	27-36	14	21 x 8½	55-73	Nil
12 x 8	40-50	7	21 x 9	82,96	Nil
12 x 10	53,58	5	21 x 13	112-142	Nil
12 x 12	65-190	Nil	24 x 7	55,61	10
14 x 5	22,26	19	24 x 9	68-94	Nil
14 x 6-3/4	30-38	10	24 x 12	100-120	Nil
14 x 8	43-53	5	27 x 10	84-114	Nil
14 x 10	61-74	Nil	30 x 10	99-132	Nil
			30	172-210	17
			33	118-152	12
			33	200-240	18
			36	135-194	12
			36	230-300	18

(2) Grade Extras ($/M.T.)

ASTM Grade	Web Thickness In Inches Thru 1-7/8	Over 1-7/8 Thru 2-3/8	Over 2-3/8
A242	117	--	--
A588	117	129	129
A441	52	94	94
		--	--
G42	44	90	90
G50	52	94	--
G60	70	--	--
A36	0	34	34
A690	81	--	--

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(7/25/78)
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SIZE EXTRAS JUNIOR BEAMS

Series	lbs/ft	Extra $/MT
6"	4.5#	54
8"	6.5#	40
10"	8#	38
10"	9#	38
12"	10.8#	35
12"	11.8#	35

REV. JULY, 1978

Hot Rolled, Ni-Cr-Mo Alloy Steel Round Bar AISI 8620 40mm

Category AISI II

Tariff Schedule Number (s) 608.5240 10 1/2% + additional duties (see Headnote 4, TSUS)

Base Price per Metric Ton $413

Charges to CIF	Ocean Freight	Handling	Interest
West Coast	$49	$ 7	$ 9
Gulf Coast	51	5	12
Atlantic Coast	63	4	12
Great Lakes	79	4	15

Insurance 1% of base price + extras + ocean freight

Extras

1. Grade Extras
2. Size Extras
3. Thermal Treatment Extra
4. Quality Extras
5. Spring Steel Flat Bars

Grade Extra per MT

AISI, SAE NUMBER	$/MT
1330, 1335, 1340, 1345	Minus 63
4012, 4023, 4027	Minus 21
4024, 4028	Minus 17
4032, 4037, 4042, 4047	Minus 21
4118, 4130	Minus 21
4135, 4137, 4140 4142, 4145, 4147, 4150	Minus 19
4161	Minus 18
4320	73
4340	72
5046	Minus 72
5115, 5120, 5130, 5132, 5135	Minus 60
5140	Minus 62
6118	Minus 17
6150	Minus 33
8115	1
8615, 8617	16
8622, 8625, 8627	NIL
8630, 8637, 8640 8642, 8645, 8650 8655, 8660	Minus 4

4422,4427	6	8720	12
4615, 4617	70	8740	4
4620	68	8822	20
4626	21	94815, 94817	21
4718	85		
4720	52		
4815, 4817	166		
4820	164		

Boron Extra (if specified) $21/MT

2.

Size Extra (mm)	Round	Extra ($/MT) Round Corner Square
13-15	16	Base
16-24	11	Base
25-100	NIL	Base
101-250	5	Minus 39

Thermal Treatment Extras

Thermal Treatment	Extra ($/MT)
Regular Anneal	42
Spheroidize Anneal	13
Normalize	53
Quench & Temper	
Normalize & Stress Relieve	116
Quench, Temper & Stress Relieve	169

4. Quality Extras

Quality	Extra ($/MT)
Aircraft	26
Bearing	26
Vacuum Degassed (This extra is not charged when requirements are subject to extra for aircraft and/or bearing).	12

5. Spring Steel Flat Bars

5-1 Grade Extras per MT

AISI, SAE NUMBER	Extra ($ / MT
9260	Minus 102
5160	Minus 102

5-2 Size-Extras

Width (Inches)	Extra ($/ MT)
up to 1 3/4"	11
over 1 3/4" to 4"	NIL
over 4"	11

REV JULY, 1978

Spheroidize Annealed, High Carbon Cr Steel Round Bar AISI 52100, 40mm to 100mm

Category AISI II

Tariff Schedule Number (s) 608.5225 10 1/2% + additional duties (see Headnote 4, TSUS

Base Price per Metric Ton $461

Charges to CIF	Ocean Freight	Handling	Interest
West Coast	$49	$ 7	$10
Gulf Coast	51	5	13
Atlantic Coast	63	4	13
Great Lakes	79	4	17

Insurance 1% of base price + extras + ocean freight

Extras

1. Grade Extras
2. Size Extras
3. Thermal Treatment Extras.

1. Grade Extras

Grade	Extra($ /MT)
E51100, E50100	NIL

2. Size Extras

Size (mm)	Extra ($ / MT)
13 - 15	16
16 - 24	11
25 - 38	5
40 - 100	NIL
101- 250	5

3. Thermal Treatment Extra

Thermal Treatment	Extra ($ / MT)
Without spheroidize anneal	Minus 63

REV. JULY, 1978

SEAMLESS CARBON STEEL OIL WELL CASING, NOT THREADED, UP TO SEVEN INCHES IN OUTSIDE DIAMETER

AISI CATEGORY: 15

Tariff Schedule Number (s) 610.39 0.1 ¢/lb

Base Price per Metric Ton $388

Charges to CIF	Ocean Freight	Handling	Interest
West Coast	See Freight	$7	$ 7
Gulf Coast	Table	5	10
Atlantic Coast		4	10
Great Lakes		4	12

Insurance 1% of base price + extras + ocean freight

Extras

A. Outside Diameter/Wall Thickness

B. Grade Extras

NOTE: All prices on pg. 15-2 are to be increased by 5 1/2% for oil well casing exported to the United States on or after July 1, 1978.

REV. JULY, 1978

Base Prices Including OD/WT Extras (S/MT)

SEAMLESS CARBON STEEL OIL CASING NOT THREADED UP TO SEVEN INCHES IN OUTSIDE DIAMETER

AISI 15 TSUSA 610.39

OD	WT	Base Price
4 1/2"	.224	400
	.250	392
5"	253	384
	.296	379
5 1/2"	.244	381
	.275	374
	.304	368

Intermediate WT will be priced on the nearest WT shown.

Seamless Carbon Steel Well Casing, Not Threaded, up to 7 Inches in Outside Diameter

Grade Extras

Grade	Extra
H,J,K	Base
N,C,L	+ 21%
C-95,P	+ 39%

REV. JULY, 1978

SEAMLESS CARBON STEEL OIL WELL CASING, NOT THREADED, SEVEN INCHES AND OVER IN OUTSIDE DIAMETER

CATEGORY AISI 15

Tariff Schedule Number (s) 610.39 0.1 ¢/lb.

Base Price per Metric Ton $384

Charges to CIF	Ocean Freight	Handling	Interest
West Coast	See Freight	$7	$ 7
Gulf Coast	Table	5	10
Atlantic Coast		4	10
Great Lakes		4	12

Insurance 1% of base price + extras + ocean freight

Extras

A. Outside Diameter/Wall Thickness

B. Grade Extras

NOTE: All prices on pg. 15-4 are to be increased by 5 1/2% for oil well casing exported to the United States on or after July 1, 1978.

REV. JULY, 1978

Base Prices Including OD/WT Extras
($/MT)

SEAMLESS CARBON STEEL OIL WELL CASING, NOT THREADED, SEVEN INCHES & OVER IN OUTSIDE DIAMETER

AISI 15 TSUSA 610.39

OD	WT	Base Price
7"	.272	374
	.317	365
8 5/8"	.264	380
	.352	364
9 5/8"	.352	364
	.395	364
10 3/4"	.350	363
	.400	364
	.450	363
11 3/4"	.375	365
	.435	364
	.489	362
13 3/8"	.380	376
	.430	375
	.480	374
16"	.438	401
	.495	397
	.656	397
20"	.438	424
	.500	424
	.635	424
	.812	424

Intermediate WT will be priced on the nearest WT shown.

Seamless Carbon Steel Oil Well Casing, Not Threaded, 7 Inches and over in Outside Diameter

Grade Extras

Grade	Extra
H,J,K N,C,L C-95, P	Base + 21% + 39%

REV. JULY, 1978

Seamless Carbon Steel Oil Well Casing, Threaded and Coupled, Seven Inches and Over in Outside Diameter

Category AISI 15

Tariff Schedule Number(s) 610.42 7½

Base Price per Metric Ton $436

Charges to CIF	Ocean Freight	Handling	Interest
West Coast	See Freight Table	$7	$ 9
Gulf Coast		5	12
Atlantic Coast		4	12
Great Lakes		4	15

Insurance 1% of base price + extras + ocean freight

Extras

A. Outside Diameter/Wall Thickness

B. Grade Extras

C. Threading & Couplings Extras

NOTE: All prices on pg. 15-6 are to be increased by 5 1/2% for oil well casing exported to the United States on or after July 1, 1978.

REV. JULY, 1978
15-6

BASE PRICES INCLUDING OD/WT EXTRAS ($/MT)

SEAMLESS CARBON STEEL OIL WELL CASING, THREADED AND COUPLED, 7 INCHES & OVER

AISI 15 TSUSA 610.42

OD	WT	BASE PRICE
7"	.272	425
	.317	419
8 5/8"	.264	432
	.352	414
9 5/8"	.352	413
	.395	413
10 3/4"	.350	413
	.400	413
	.450	412
11 3/4"	.375	415
	.435	413
	.489	412
13 3/8"	.380	428
	.430	426
	.480	425

Intermediate WT will be priced in the nearest WT shown.

Seamless Carbon Steel Oil Well Casing, Threaded and Coupled, 7 inches or more in Outside Diameter.

Grade Extras

Grade	Extra
H,J,K	Base
N,C,L	+ 21%
C-95,P	+ 39%

Threading and Coupling Extras

Threading & Coupling	Extra
STC	Base
LTC	+ 5%
BTC	+12%
Threading but without coupling	-2.5%

REV. JULY, 1978 15-7

SEAMLESS CARBON STEEL OIL WELL CASING, THREADED , AND COUPLED, UP TO 7 INCHES IN OUTSIDE DIAMETER

Category AISI 15

Tariff Schedule Number(s) 610.42 7 1/2%

Base Price per Metric Ton $441

Charges to CIF	Ocean Freight	Handling	Interest
West Coast	See Freight Table	$7	$9
Gulf Coast		5	12
Atlantic Coast		4	12
Great Lakes		4	15

Insurance 1% of base price + extras + ocean freight

Extras

A. Outside Diameter/Wall Thickness

B. Grade Extras

NOTE: All prices on pg. 15-8 are to be increased by 5 1/2% on oil well casings exported to the United States on or after July 1, 1978.

REV. JULY, 1978

BASE PRICES INCLUDING OD/WT EXTRAS
($/MT)

Seamless Carbon Steel Oil Well Casing, Threaded, and Coupled, Up to Seven Inches
AISI 15 TSUSA 610.42

OD	WT	Base Price
4 1/2"	.224	455
	.250	446
5"	.253	437
	.296	431
5 1/2"	.244	433
	.275	425
	.304	418

Intermediate WT will be priced on the nearest WT shown.

Seamless Carbon Steel Oil Well Casing, Threaded and Coupled, 7 inches in Outside Diameter

Grade Extras

Grade	Extra
H,J,K	Base
N,C,L	+ 21%
C-95,P	+ 39%

Threading and Coupling Extras

Threading & Coupling	Extra
STC	Base
LTC	+ 5%
BTC	+12%
Threading but without coupling	-2.5%

[FR Doc. 78-21109 Filed 8-1-78; 8:45 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[Notice No. 690]

ASSIGNMENT OF HEARINGS

JULY 28, 1978.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the official docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which They are interested.

MC 128306 (Sub-3), T.R.Y., Inc., d.b.a. Young's Transportation, is now assigned for hearing October 11, 1978 (3 days) at Asheville, NC, at a location to be later designated.

MC 136384 (Sub-10), Palmer Motor Express, Inc., is now assigned for hearing October 16, 1978 (2 days) at Atlanta, GA, at a location to be later designated.

MC 138176 (Sub-6), Marvin Rentz, d.b.a. Rentz Farm Supply, is now assigned for hearing October 18, 1978 (3 days) at Atlanta, GA, at a location to be later designated.

MC 121649 (Sub-5), Milan Express, Inc., is now assigned for continued hearing August 30, 1978 (2 days) at the Ramada Inn Central-Downtown, Levee Room, 14th Floor, 160 Union Ave., Memphis, TN. MC 121683 (Sub-2), Jackson Express, Inc., now assigned for continued hearing August 30, 1978 in Conference Room 396, Federal Building, 167 North Main St., Memphis, TN., is transferred to the Ramada Inn Central-Downtown, Levee Room, 14th Floor, 160 Union Ave., Memphis, TN.

MC 1515 (Sub-239), Greyhound Lines, Inc., now being assigned for continued hearing on September 26, 1978 (4 days), at the Sheraton-Dallas Hotel, Southland Center, Live Oak, Dallas, TX., October 2, 1978 (2 days), at the Holiday Inn, 200 East Amite, Jackson, MS and October 4, 1978 (3 days), at the Sheraton Motor Inn, 1000 West South Boulevard, Montgomery, AL.

MC 136006 (Sub-7F), Walkill Air Freight, is now assigned for hearing October 16, 1978 (1 week) at New York, NY, at a location to be later designated.

MC-F 13116, Gra-Bell Truck Line, Inc.—Purchase (Portion)—Great Lakes Express Co., now assigned for continued hearing October 17, 1978 at Chicago, IL, is canceled.

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

[FR Doc. 78-21412 Filed 8-1-78; 8:45 am]

[7035-01]

FOURTH SECTION APPLICATIONS FOR RELIEF

JULY 28, 1978.

This application for long-and-short-haul relief has been filed with the ICC.

Protests are due at the ICC with 15 days from the date of publication of this notice.

FSA No. 43587, Southwestern Freight Bureau, Agent's No. B-752, annual volume rates on chemicals and related articles, from Port Allen, LA, to points in eastern territory; also between Port Allen, LA, on the one hand, and, on the other, specifically named points in eastern territory, supp. 3 to its tariff 12-L, ICC 5334, to become effective September 1, 1978. Grounds for relief—Market competition and rate relationship.

By the Commission.

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

[FR Doc. 78-21413 Filed 8-1-78; 8:45 am]

[7035-01]

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY

Elimination of Gateway Letter Notices

JULY 28, 1978.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's gateway elimination rules (49 CFR 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission by August 14, 1978. 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.

The following applicants seek to operate as a common carrier, by motor vehicles, over irregular routes.

MC 40215 (Sub-E8) (correction), filed May 17, 1974, published in the FEDERAL REGISTER issue of March 9, 1978, and republished May 12, 1978, and republished, as corrected, this issue. Applicant: RICHARDSON TRANSFER & STORAGE CO., INC., 246 North 5th Street, Salina, KS 67401. Representative: James F. Flint, Suite 600, 1250 Connecticut Avenue NW, Washington, DC 20036. *Household goods*, as defined by the Commission: * * * (10)(B) from points in ID to those points in MI north and east of a line beginning at the OH-MI State line, and extending along U.S. Hwy 127 to junction Interstate Hwy 96, to junction MI Hwy 57, then along MI Hwy 57 to junction MI Hwy 15, then along MI Hwy 15 to junction Interstate Hwy 10, then along Interstate Hwy 10 to Lake MI. (Hutchinson, KS*). (Gateways eliminated: indicated by asterisks above.)

NOTE.—The purpose of this republication is to correct the territorial description. The remainder of this letter-notice remains as previously published.

MC 61825 (Sub-E222) (correction), filed May 13, 1974, published in the FEDERAL REGISTER issue of October 29, 1975, republished June 21, 1978, and republished again, as corrected, this issue. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, VA 24078. Representative: Harry J. Jordan, 1000 Sixteenth St. NW, Washington, DC 20036. *Furniture parts, materials, equipment, and supplies* used in the manufacture and distribution of new furniture, and furniture parts (except in bulk), from points in CA, ID, MT, NV, and OR, and WA on and west of a line beginning at the United States-Canadian international boundary line at Port of Whitlash, MT, and extending along unnumbered highway to junction U.S. Hwy 2, then along U.S. Hwy 2 to junction MT Hwy 223, then along MT Hwy 223 to junction U.S. Hwy 87, then along U.S. Hwy 87 to junction MT Hwy 200, then along MT Hwy 200 to junction U.S. Hwy 12, then along U.S. Hwy 12 to the MT-ID State line, then along U.S. Hwy 12 to junction ID Hwy 13, then along ID Hwy 13 to junction U.S. 95, then along U.S. Hwy 95 to the ID-OR State line, then along U.S. Hwy 95 to junction U.S. Hwy 50, then along U.S. Hwy 50 to the NV-CA State line, then along U.S. Hwy 50 to junction Interstate Hwy 80, then along Interstate Hwy 80 to junction CA Hwy 113, then south along CA Hwy 113 to junction CA Hwy 12, then west along CA Hwy 12 to junction Interstate Hwy 80, then south along Interatate Hwy 80 to junction Interstate Hwy 680, then along Interstate Hwy 680 to junction CA Hwy 84, then along CA Hwy 84 to the Pacific Ocean to points in NC on and bounded by a line beginning at the TN-NC State line at U.S. Hwy 441, and extending along U.S Hwy 441 to junction U.S. Hwy 19, then along U.S. Hwy 19 to junction NC Hwy 28, then along NC Hwy 28 to junction

unnumbered highway near Stecoah, NC, then along unnumbered highway to junction U.S. 129, then along U.S. Hwy 129 to junction U.S. Hwy 19, then along U.S. Hwy 19 to junction unnumbered highway near Nantahala, NC, then along unnumbered highway through Kyle and Aquone, NC, and extending to juction U.S. Hwy 64, then along U.S. Hwy 64 to junction U.S. Hwy 23, then along U.S. Hwy 23 to the NC-GA State line, then along the NC-GA State line to the NC-SC State line, then along the NC-SC State line to U.S. Hwy 276, then along U.S. Hwy 276 to the U.S. Hwy 19A, then along U.S. Hwy 19A to junction NC Hwy 209, then along NC Hwy 209 to junction U.S. Hwy 25, then along U.S. Hwy 25 to the NC-TN State line, then along the NC-TN State line to the point of beginning. (Gateways eliminated: Lynchburg and Smyth Counties, VA.)

NOTE.—The purpose of this republication is to state the correct territorial description.

MC 61825 (Sub-E250) (correction), filed May 13, 1974, published in the FEDERAL REGISTER issue of June 21, 1978, and republished, as corrected, this issue. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, VA 24078. Representative: Harry J. Jordan, 1000 Sixteenth Street NW., Washington, DC 20036. *Materials* used in the manufacture of furniture, from points in OH on, north and east of a line beginning at the IN-OH State line, and extending along U.S. Hwy 35 to junction OH Hwy 122, then along OH Hwy 122 to junction OH Hwy 123, then along OH Hwy 123 to junction OH Hwy 350, then along OH Hwy 350 to junction OH Hwy 134, then along OH Hwy 134 to junction OH Hwy 124, then along OH Hwy 124 to junction OH Hwy 346, then along OH Hwy 346 to junction U.S. Hwy 50, then along U.S. Hwy 50 to the Ohio River, and points located south and west of a line beginning on Lake Erie in Cleveland, OH, then along the Cuyahoga River to Interstate Hwy 90, then along Interstate Hwy 90 to junction OH Hwy 14, then along OH Hwy 14 to junction Interstate Hwy 480, then along Interstate Hwy 480 to junction OH Hwy 14, then along OH Hwy 14 to junction OH Hwy 183, then along OH Hwy 183 to junction OH Hwy 173, then along OH Hwy 173 to Westville, OH, then along unnumbered highway to East Rochester, OH, then along U.S. Hwy 30 to junction OH Hwy 644, then along OH Hwy 644 to junction OH Hwy 164, then along OH Hwy 164 to junction OH Hwy 43, then along OH Hwy 43 to junction OH Hwy 152, then along OH Hwy 152 to junction OH Hwy 150, then along OH Hwy 150 to junction OH Hwy 647, then along OH Hwy 647 to junction the Ohio River to points in NC on, east, and south of a line beginning at the SC-NC State line, then along NC Hwy 18 to junction NC Hwy 150, then along NC Hwy 150 to junction U.S. Hwy 321, then along U.S. Hwy 321 to junction Interstate Hwy 40, then along Interstate Hwy 40 to junction U.S. Hwy 21, then along U.S. Hwy 21 to junction U.S. Hwy 421, then along U.S. Hwy 421 to junction U.S. Hwy 601, then along U.S. Hwy 601 to junction NC Hwy 268, then along NC Hwy 268 to junction NC Hwy 704, then along NC Hwy 704 to junction NC Hwy 8, then along NC Hwy 8 to the NC-VA State line, and points located on, west and south of a line beginning at the VA-NC State line near Roanoke Rapids, then along NC Hwy 46 to junction U.S. Hwy 158, then along U.S. Hwy 158 to junction NC Hwy 305, then along NC Hwy 305 to junction U.S. Hwy 258, then along U.S. Hwy 258 to junction NC Hwy 308, then along NC Hwy 308 to junction U.S. Hwy 13, then along U.S. Hwy 13 to junction U.S. Hwy 64, then along U.S. Hwy 64 to the Atlantic Ocean. (Gateway eliminated: Martinsville, VA.)

NOTE.— The purpose of this republication is to state the correct territorial description.

MC 107515 (Sub-E643), filed December 20, 1976. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 33050. Representative: Alan E. Serby, Fifth Floor, Lenox Towers, I-3390 Peachtree Road NE., Atlanta, GA 30326. (1) *Frozen foods* (except in bulk), in vehicles equipped with mechanical refrigeration, from points in CA to points in VA, DE, DC, NJ, CT, RI, MA, NH, VT, and ME.

(2) *Frozen foods and meats, meat products, meat byproducts* as described in section A of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except in bulk), in vehicles equipped with mechanical refrigeration from Los Angeles, CA, to points in ME, NH, VT, MA, CT, RI, NY, PA, NJ, DE, MD, DC, VA, WV, NC, SC; points in OH on and east of Interstate Hwy 75; points in MI on, east and south of a line beginning at the OH-MI State line, and extending along U.S. Hwy 24 to junction MI Hwy 59, then along MI Hwy 59 to junction Interstate Hwy 94, then along Interstate Hwy 94 to junction Lake Huron at or near Port Huron; points in KY on and east of Interstate Hwy 65; points in TN on and east of a line beginning at the KY-TN State line, and extending along U.S. Alt. Hwy 41 to junction TN Hwy 49, then along TN Hwy 49 to junction TN Hwy 48, then along TN Hwy 48 to junction TN Hwy 50, then along TN Hwy 50 to junction TN Hwy 99, then along TN Hwy 99 to junction Natchez-Trace Parkway, then along Natchez-Trace Parkway to the TN-AL State line; points in AL on, north and east of a line beginning at the AL-FL State line, and extending along AL Hwy 21 to junction AL Hwy 10, then along AL Hwy 10 to junction U.S. Hwy 43, then along U.S. Hwy 43 to junction AL Hwy 14, then along AL Hwy 14 to junction AL Hwy 17, then along AL Hwy 17 to junction U.S. Hwy 78, then along U.S. Hwy 78 to the AL-MS State line.

(3) *Frozen foods* (except in bulk), in vehicles equipped with mechanical refrigeration, from points in CA on and south of a line beginning at the AZ-CA State line and extending along Interstate Hwy 10 to junction U.S. Hwy 395, then along U.S. Hwy 395 to junction CA Hwy 138, then along CA Hwy 138 to junction CA Hwy 2, then along CA Hwy 2 to junction Interstate Hwy 5, then along Interstate Hwy 5 to junction CA Hwy 126, then along CA Hwy 126 to the Pacific Ocean at or near El Rio, CA, to points in the destination territory described in (2) above.

(4) *Canned fish and canned lemon juice* (except in bulk), in vehicles equipped with mechanical refrigeration, from Los Angeles, CA, to points in the destination territory described in part (2) above and points in GA.

(5) *Canned vegetables* (except in bulk), in vehicles equipped with mechanical refrigeration from Oxnard and Saticoy, CA, to points in the destination territory described in part (2) above and points in FL.

(6) *Canned lemon juice* (except in bulk), in vehicles equipped with mechanical refrigeration from Covina, CA, to points in the destination territory described in part (2) above (except points in VA, WV, DE, MD, PA, NJ, CT, MA, RI, that part of NY on and south of NY Hwy 7, and the DC).

(7) *Frozen foods and meats, meat products, and meat byproducts and those articles distributed by meat packinghouses which are foodstuffs*, 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 in bulk), in vehicles equipped with mechanical refrigeration from San Francisco, CA, and San Jose, CA, to points in ME, NH, VT, CT, RI, MA, DE, NJ, DC, VA, MD, WV, NC, SC, AL; and points in that part of NY on and east of a line beginning at the NY-PA State line, and extending along NY Hwy 14 to junction NY Hwy 13, then along NY Hwy 13 to junction Interstate Hwy 81, then along Interstate Hwy 81 to junction NY Hwy 13 near Pulaski, then along NY Hwy 13 to Lake Ontario at or near Selkirk Shores, NY; points in PA on and east of a line beginning at the OH-PA State line, and extending along U.S. Hwy 22 to junction PA Hwy 28, then along PA Hwy 28 to junction PA Hwy 968, then along PA Hwy 968 to junction PA Hwy 949, then along

PA Hwy 949 to junction U.S. Hwy 219, then along U.S. Hwy 219 to junction U.S. Hwy 6 and PA Hwy 446, then along PA Hwy 446 to the NY-PA State line; points in OH on and east of a line beginning at the IN-OH State line, and extending along U.S. Hwy 50 to junction bypass Hwy 50 to junction Interstate Hwy 275, then along Interstate Hwy 275 to junction Interstate Hwy 71, then along Interstate Hwy 71 to junction Interstate Hwy 70, then along Interstate Hwy 70 to junction U.S. Hwy 22 at or near Cambridge, then along U.S. Hwy 22 to the OH-WV State line; points in KY on and east of Interstate Hwy 65; points in TN on and east of a line beginning at the KY-TN State line, and extending along U.S. Hwy 79 to junction TN Hwy 13 to the TN-AL State line.

(8) *Canned lemon juice* (except in bulk), in vehicles equipped with mechanical refrigeration from Fresno, CA, to points in the destination territory described in part (7) above (except points in VA, WV, DE, MD, PA, NJ, CT, MA, RI, that part of NY on and south of NY Hwy 7, and the District of Columbia).

(9) *Frozen foods* (except in bulk), in vehicles equipped with mechanical refrigeration, from points in CA on, north and west of a line beginning at the CA-AZ State line, and extending along Interstate Hwy 40 to junction CA Hwy 58, then along CA Hwy 58 to junction CA Hwy 99, then along CA Hwy 99 to junction CA Hwy 12, then along CA Hwy 12 to junction CA Hwy 116, then along CA Hwy 116 to the Pacific Ocean at or near Jenner, CA, to points in the destination territory described in part (7) above. Restriction: Service authorized in parts (1), (2), (3), (4), (7), and (9) above is restricted against the transportation of canned citrus products to points in VA, WV, DE, MD, PA, NJ, CT, MA, RI, that part of NY on and south of NY Hwy 7, and the District of Columbia. (Gateway eliminated: Doraville, GA.)

MC 107515 (Sub-E644), filed December 20, 1976. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 33050. Representative: Alan E. Serby, Fifth Floor, Lenox Towers, I-3390 Peachtree Road NE., Atlanta, GA 30326. (1) *Frozen foods and canned foods* (except in bulk), in vehicles equipped with mechanical refrigeration from Mesa, AZ, to points in NC and that part of TN on and east of Interstate Hwy 65.

(2) *Frozen foods and canned foods* (except in bulk), in vehicles equipped with mechanical refrigeration from Mesa, AZ, to points in CT, DE, DC, ME, MD, MA, NH, NJ, NY, PA, RI, VT, VA, WV; that part of OH on and east of a line beginning at the OH-IN State line, and extending along U.S. Hwy 50 to junction U.S. Hwy 23, then along U.S. Hwy 23 to junction Interstate Hwy 70, then along Interstate Hwy 70 to junction Interstate Hwy 77, then along Interstate Hwy 77 to junction U.S. Hwy 224, then along U.S. Hwy 224 to junction OH Hwy 21, then along OH Hwy 21 to Lake Erie at Cleveland, OH; and that part of KY on and east of a line beginning at the TN-KY State line, and extending along Interstate Hwy 65 to junction U.S. Hwy 62, then along U.S. Hwy 62 to junction Interstate Hwy 75, then along Interstate Hwy 75 to the KY-OH State line. Restriction: The authority granted in part (2) is restricted against the transportation of canned citrus products to the District of Columbia and to points in VA, WV, DE, MD, PA, NJ, CT, MA, RI, and that part of NY on and south of NY Hwy 7.

(3) *Fresh fruits and vegetables* (except in bulk), in vehicles equipped with mechanical refrigeration, when moving in the same vehicle and at the same time as commodities, the transportation of which is subject to economic regulation under part II of the Interstate Commerce Act, from Litchfield Park, AL, to points in the destination territory described in part (2) above.

(4) *Frozen meat* (except in bulk), in vehicles equipped with mechanical refrigeration from Nogales, AZ, to points in NY and RI. (Gateway eliminated: Doraville, GA.)

MC 107515 (Sub-E645), filed December 20, 1976. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 33050. Representative: Alan E. Serby, Fifth Floor, Lenox Towers, I-3390 Peachtree Road NE., Atlanta, GA 30326. *Fresh and cured meats*, as described in the appendix to the report in Modification of Permits—Packing House Products, 48 M.C.C. 628 (except in bulk), in vehicles equipped with mechanical refrigeration from the facilities of Armor & Co. and Shapiro Packing Co. at Augusta, GA to points in that part of IN on and west of a line beginning at the IN-IL State line, and extending along U.S. Hwy 50 to junction U.S. Hwy 41, then along U.S. Hwy 41 to junction U.S. Hwy 24, then along U.S. Hwy 24 to junction U.S. Hwy 421, then along U.S. Hwy 421 to junction U.S. Hwy 30, then along U.S. Hwy 30 to junction U.S. Hwy 31, then along U.S. Hwy 31 to the IN-MI State line. (Gateways eliminated: points in AL and points within 10 miles of Atlanta, GA (except Atlanta).)

MC 107515 (Sub-E646), filed December 20, 1976. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 33050. Representative: Alan E. Serby, Fifth Floor, Lenox Towers, I-3390 Peachtree Road NE., Atlanta, GA 30326. *Fresh and cured meats, and dairy products* as described in the appendix to the report in Modification of Permits—Packing House Products, 48 M.C.C. 628 (except in bulk), in vehicles equipped with mechanical refrigeration, from Albany, GA, to points in KS and points in that part of TX on and west of a line beginning at the TX-OK State line, and extending along U.S. Hwy 75 to junction U.S. Hwy 67, then along U.S. Hwy 67 to junction U.S. Hwy 83, then along U.S. Hwy 83 to the international border between the United States and Mexico at Laredo, TX. (Gateways eliminated: Atlanta, GA, and points in AL.)

MC 107515 (Sub-E647), filed December 20, 1976. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 33050. Representative: Alan E. Serby, Fifth Floor, Lenox Towers, I-3390 Peachtree Road NE., Atlanta, GA 30326. *Compressed yeast, dry yeast, malt syrups, and dough enriching compounds* (except in bulk), in vehicles equipped with mechanical refrigeration, from Peking, IL, to points in FL; that part of GA on, east and south of a line beginning at the GA-AL State line, and extending along GA Hwy 20 to junction GA Hwy 369, then along GA Hwy 369 to junction GA Hwy 9, then along GA Hwy 9 to junction U.S. Hwy 19-129, then along U.S. Hwy 19-129 to junction GA Hwy 11, then along GA Hwy 11 to the GA-TN State line; and that part of AL on, south and east of a line beginning at the GA-AL State line, and extending along U.S. Hwy 78, then along U.S. Hwy 78 to junction U.S. Alt. Hwy 231, then along U.S. Alt. Hwy 231 to junction U.S. Hwy 231, then along U.S. Hwy 231 to junction U.S. Hwy 331, then along U.S. Hwy 331 to junction U.S. Hwy 29, then along U.S. Hwy 29 to the AL-FL State line. (Gateway eliminated: Doraville, GA.)

MC 107515 (Sub-E648), filed December 20, 1976. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 33050. Representative: Alan E. Serby, Fifth Floor, Lenox Towers, I-3390 Peachtree Road NE., Atlanta, GA 30326. *Cheese* (except in bulk), in vehicles equipped with mechanical refrigeration, from Plymouth, WI, to points in that part of GA on, south and east of a line beginning at the AL-GA State line, and extending along U.S. Hwy 411 to junction GA Hwy 53, then along GA Hwy 53 to junction U.S. Hwy 19, then along U.S. Hwy 19 to the GA-NC State line. (Gateway eliminated: Doraville, GA.)

MC 107515 (Sub-E650), filed December 20, 1976. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 33050. Representative: Alan E. Serby, Fifth

Floor, Lenox Towers, I-3390 Peachtree Road NE., Atlanta, GA 30326. *Fresh and cured meats,* as described in the appendix to the report in Modification of Permits—Packing House Products, 48 MCC 628 from Carrollton, GA, to points in TX, OK, KS, NE, IA, MN, MI, WI, NC, VA, WV, MD, DE, IL, PA, NJ, NY, CT, RI, MA, ME, VT, NH, points in AR on and west of a line beginning at the AR-LA State line, and extending along U.S. Hwy 167 to junction AR Hwy 9, then along AR Hwy 9 to junction U.S. Hwy 270, then along U.S. Hwy 270 to junction Interstate Hwy 30, then along Interstate Hwy 30 to junction AR Hwy 5, then along AR Hwy 5 to junction AR Hwy 9, then along AR Hwy 9 to the AR-MO State line, and points in that part of MO on and west of a line beginning at the AR-MO State line, and extending along U.S. Hwy 63 to junction Interstate Hwy 44, then along Interstate Hwy 44 to junction U.S. Hwy 66, then along U.S. Hwy 66 to the MO-IL State line at or near St. Louis. (Gateways eliminated: Doraville, GA, and points in AL.)

MC 107515 (Sub-E651), filed December 20, 1976. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 33050. Representative: Alan E. Serby, Fifth Floor, Lenox Towers, I-3390 Peachtree Road NE., Atlanta, GA 30326. (1) *Butter and cheese* (except in bulk), in vehicles equipped with mechanical refrigeration, from Battle Creek, Fullerton, Lyons, Madison, Newman Grove, and Plainview, NE, to Chattanooga, TN; to points in NC; points in VA on and south of a line beginning at the VA-NC State line, and extending along U.S. Hwy 501 to junction U.S. Hwy 58, then along U.S. Hwy 58 to junction U.S. Hwy 258, then along U.S. Hwy 258 to junction VA Hwy 10, then along VA Hwy 10 to junction VA Hwy 31, then along VA Hwy 31 to Colonial National Historic Parkway, then along Colonial National Historic Parkway to Yorktown, VA;

(2) *Dairy products* (except in bulk), in vehicles equipped with mechanical refrigeration, from Norfolk, NE, to points in NC, SC, that part of VA specified in part (1) above, and points in that part of AL on, south, and east of a line beginning at the AL-FL State line, and extending along AL Hwy 41, then along AL Hwy 41 to junction U.S. Hwy 31, then along U.S. Hwy 31 to junction Interstate Hwy 59, then along Interstate Hwy 59 to the AL-GA State line;

(3) *Meats, meat products, meat byproducts, and those articles distributed by meat packinghouses which are foodstuffs,* as described in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except commodities in bulk, in tank vehicles), in vehicles equipped with mechanical refrigeration, from Adams County, NE, to points in that part of VA on, south, and east of a line beginning at the NC-VA State line, and extending along U.S. Hwy 501, to junction U.S. Hwy 360, then along U.S. Hwy 360 to the Chesapeake Bay;

(4) *Meats, meat products, meat byproducts, and those articles distributed by meat packinghouses which are foodstuffs,* as described in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except commodities in bulk, in tank vehicles), in vehicles equipped with mechanical refrigeration, from the facilities of Platte Valley Packing Co. near Cozad, NE, to points in that part of VA described in part (3) above;

(5) *Meats, meat products, meat byproducts, and those articles distributed by meat packinghouses which are foodstuffs,* as described in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except commodities in bulk, in tank vehicles), in vehicles equipped with mechanical refrigeration, from York, NE, to Chattanooga, TN, points in that part of VA described in part (3) above; points in AL on, south, and east of a line beginning at the FL-AL State line, and extending along U.S. Hwy 29 to U.S. Hwy 31, then along U.S. Hwy 31 to junction Interstate Hwy 65, then along Interstate Hwy 65 to junction U.S. Hwy 231, then along U.S. Hwy 231 to junction AL Hwy 53, then along U.S. Hwy 53 to junction U.S. Hwy 231, then along U.S. Hwy 231 to junction U.S. Hwy 11, then along U.S. Hwy 11 to the AL-GA State line;

(6) *Meats, meat products, and meat byproducts,* as described in section A of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except commodities in bulk, in tank vehicles), in vehicles equipped with mechanical refrigeration, from Sidney, NE, to points in that part of VA on, south, and east of a line beginning at the VA-WV State line, and extending along U.S. Hwy 250 to junction U.S. Hwy 522, then along U.S. Hwy 522 to junction VA Hwy 20, then along VA Hwy 20 to junction VA Hwy 3, then along VA Hwy 3 to junction VA Hwy 218, then along VA Hwy 218 to Potomac River at or near Dahlgreen, VA; points in that part of TN on, south, and east of a line beginning at the AL-TN State line, and extending along U.S. Hwy 72 to junction TN Hwy 27, then along TN Hwy 27 to junction TN Hwy 28, then along TN Hwy 28 to junction U.S. Hwy 127, then along U.S. Hwy 127 to junction TN Hwy 30, then along TN Hwy 30 to junction TN Hwy 27, then along TN Hwy 27 to the KY-TN State line; and points in Mobile County, AL, and in that part of AL on and east of Interstate Hwy 65. (Gateway eliminated: Doraville, GA.)

MC 107515 (Sub-E652), filed December 20, 1976. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 33050. Representative: Alan E. Serby, Fifth Floor, Lenox Towers, I-3390 Peachtree Road NE., Atlanta, GA 30326. *Meats, meat products, and meat byproducts,* as described in section A of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except in bulk), in vehicles equipped with mechanical refrigeration, from the facilities of Swift Fresh Meats Co., Division of Swift & Co., at Clovis, NM, to points in ME, VT, and NH. (Gateway eliminated: Doraville, GA.)

MC 107515 (Sub-E653), filed December 20, 1976. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 33050. Representative: Alan E. Serby, Fifth Floor, Lenox Towers, I-3390 Peachtree Road NE., Atlanta, GA 30326. *Canned fruit juices* (1) from points in FL on, south, and east of a line beginning at the GA-FL State line, and extending along U.S. Hwy 441 to junction FL Hwy 47, then along FL Hwy 47 to junction U.S. Hwy 129, then along U.S. Hwy 129 to junction FL Hwy 345, then along FL Hwy 345 to junction FL Hwy 347, then along FL Hwy 347 to the Gulf of Mexico at or near Cedar Key, FL to points in AR, OK, KS, NE, MO, IA, MN, WI, ME, NH, VT, points in NY north, and west of NY Hwy 7, and points in TX on, north, and west of a line beginning at the LA-TX State line, and extending along TX Hwy 21 to junction TX Hwy 103, then along TX Hwy 103 to junction TX Hwy 94, then along TX Hwy 94 to junction TX Hwy 19, then along TX Hwy 19 to junction TX Hwy 30 then along TX Hwy 30, to junction TX Hwy 90, then along TX Hwy 90 to junction TX Hwy 6, then along TX Hwy 6 to junction U.S. Hwy 290, then along U.S. Hwy 290 to junction U.S. Hwy 77, then along U.S. Hwy 77 to junction TX Hwy 185, then along TX Hwy 185 to the Gulf of Mexico at or near Sea Drift, TX, restricted against the transportation of canned citrus products to points in VA and WV; and (2) from points in FL on, and east of Interstate Hwy 95 to Houston, TX. (Gateway eliminated: Doraville, GA.)

MC 107515 (Sub-E654), filed December 20, 1976. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 33050. Representative: Alan E. Serby, Fifth Floor, Lenox Towers, I-3390 Peachtree Road NE., Atlanta, GA 30326. *Food-*

stuffs (except (a) commodities in bulk and (b) sugar), in vehicles equipped with mechanical refrigeration, from Washington, DC, Nassau and Suffolk Counties and Staten Island and Queens Village, NY, Camden, NJ, points in DE and RI, points in MD on, and south of Interstate Hwy 95, points in NJ on, south, and east of a line beginning at the Delaware River on Interstate Hwy 295, and extending along Interstate Hwy 295 to junction NJ Turnpike, then along the NJ Turnpike to junction Interstate Hwy 287, then along Interstate Hwy 287 to junction NJ Hwy 440, then along NJ Hwy 440 to the NJ-NY State line, points in CT on, south, and east of a line beginning at the NY-CT State line, and extending along Interstate Hwy 95 to junction Interstate Hwy 91, then along Interstate Hwy 91 to the CT-MA State Line, and points in MA on, and east of Interstate Hwy 91 to points in KS on, south, and west of a line beginning at the KS-OK State line, and extending along U.S. Hwy 77 to junction U.S. Hwy 54, then along U.S. Hwy 54 to junction U.S. Hwy 154, then along U.S. Hwy 154 to junction U.S. Hwy 50, then along U.S. Hwy 50 to the KS-CO State line. (Gateways eliminated: Doraville and Forest Park, GA.)

MC 107515 (Sub-E655), filed December 20, 1976. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 33050. Representative: Alan E. Serby, Fifth Floor, Lenox Towers, I-3390 Peachtree Road NE., Atlanta, GA 30326. *Fresh and cured meats* (except in bulk), in vehicles equipped with mechanical refrigeration, from Chino, CA to points in GA, ME, NH, and VT, restricted to the transportation of traffic originating at the facilities of Swift Fresh Meats at Chino, CA. (Gateway eliminated: Doraville, GA and points in FL.)

MC 107515 (Sub-E657), filed December 20, 1976. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 33050. Representative: Alan E. Serby, Fifth Floor, Lenox Towers I-3390 Peachtree Road NE., Atlanta, GA 30326. (1) *Butter, cheese, eggs, dry milk, and dressed poultry* (except in bulk), in vehicles equipped with mechanical refrigeration, (a) from Spencer, Greenwood and Marshfield, WI, to points in FL; (b) from Marshfield, WI, to New Orleans, LA. (2) *Cheese* (except in bulk), in vehicles equipped with mechanical refrigeration, (a) from Monroe, WI to points in SC and that part of NC on or south of a line beginning at the SC-NC State line, and extending along Interstate Hwy 85 to junction NC Hwy 49, then along NC Hwy 49 to junction U.S. Hwy 220, then along U.S. Hwy 220 to junction NC Hwy 42, then along NC Hwy 42 to junction Interstate Hwy 40, then along Interstate Hwy 40 to junction U.S. Hwy 70, then along U.S. Hwy 70 to the Atlantic Ocean at Atlantic, NC; (b) from Plymouth, WI, to points in that part of NC on or south of a line beginning at the SC-NC State line, and extending along Interstate Hwy 85 to junction U.S. Hwy 74, then along U.S. Hwy 74 to junction Interstate Hwy 95, then along Interstate Hwy 95 to junction NC Hwy 41, then along NC Hwy 41 to junction U.S. Hwy 258, then along U.S. Hwy 258 to junction U.S. Hwy 17, then along U.S. Hwy 17 to junction U.S. Hwy 70, then along 70 to the Atlantic Ocean at Atlantic, NC; (c) from Green Bay, WI, to points in that part of MS on or south of Interstate Hwy 10. (Gateway eliminated: The facilities of Refrigerated Transport Co., Inc. at Doraville, GA.)

MC 107515 (Sub-E658), filed December 20, 1976. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 33050. Representative: Alan E. Serby, Fifth Floor, Lenox Towers I-3390 Peachtree Road NE., Atlanta, GA 30326. *Foodstuffs,* in vehicles equipped with mechanical refrigeration (except (a) commodities in bulk and (b) sugar); (1) from Norfolk, VA, to points in KS, MO, NE and points in that part of IL on, south or west of a line beginning at the IA-IL State line, and extending along IL Hwy 94 to junction U.S. Hwy 24, then along U.S. Hwy 24 to junction U.S. Hwy 67, then along U.S. Hwy 67 to junction IL Hwy 104, then along IL Hwy 104 to junction IL Hwy 29, then along IL Hwy 29 to junction U.S. Hwy 51, then along U.S. Hwy 51 to junction Interstate Hwy 64, then along Interstate Hwy 64 to the IL-IN State line; Evansville, IN; points in that part of IA on, south or west of a line beginning at the IA-IL State line, and extending along IA Hwy 2 to junction U.S. Hwy 218, then along U.S. Hwy 218 to junction U.S. Hwy 34, then along U.S. Hwy 34 to junction U.S. Hwy 63, then along U.S. Hwy 63 to junction IA Hwy 163, then along IA Hwy 163 to junction Interstate Hwy 80, then along Interstate Hwy 80 to junction U.S. Hwy 169, then along U.S. Hwy 169 to junction U.S. Hwy 18, then along U.S. Hwy 18 to junction IA Hwy 4, then along IA Hwy 4 to the IA-MN State line; (2) from points in that part of VA on, south or east of a line beginning at the VA-NC State line, and extending along U.S. Hwy 501 to junction U.S. Hwy 360, then along U.S. Hwy 360 to the Chesapeake Bay, to points in KS and points in that part of NW on, south or west of a line beginning at the NE-IA State line, and extending along NE Hwy 2 to junction U.S. Hwy 77, then along U.S. Hwy 77 to junction U.S. Hwy 34, then along U.S. Hwy 34 to junction U.S. Hwy 81, then along U.S. Hwy 81 to junction NE Hwy 22, then along NE Hwy 22 to junction NE Hwy 70, then along NE 70 to junction NE Hwy 2, then along NE Hwy 2 to junction U.S. Hwy 83, then along U.S. Hwy 83 to the NE-SD State line. (3) from points in that part of VA on, south or east of a line beginning at the NC-VA State line, and extending along U.S. Hwy 360 to junction U.S. Hwy 460, then along U.S. Hwy 460 to junction VA Hwy 10, then along VA Hwy 10 to junction VA Hwy 31, then along VA Hwy 31 to junction Colonial National Historic Hwy, then along Colonial National Historic Hwy to Chesapeake Bay at or near Yorktown, VA, to points in that part of NE on, south or west of a line beginning at the IA-NE State line, and extending along NE Hwy 91 to junction NE Hwy 2, then along NE Hwy 2 to junction U.S. Hwy 83, then along U.S. Hwy 83 to NE-SD State line. (4) from Bristol, VA, and points in that part of VA on, south or east of a line beginning at the TN-VA State line, and extending along Interstate Hwy 81 to junction U.S. Hwy 211, then along U.S. Hwy 221 to junction Interstate Hwy 95, then along Interstate Hwy 95 to the VA-DC State line, to points in that part of KS on, south or west of a line beginning at the KS-OK State line, and extending along U.S. Hwy 77 to junction U.S. Hwy 54, then along U.S. Hwy 54 to junction U.S. Hwy 154, then along U.S. Hwy 154 to junction U.S. Hwy 50, then along U.S. Hwy 50 to the KS-CO State line. (Gateway eliminated: The facilities of Refrigerated Transport Co., at Doraville, GA.)

MC 107515 (Sub-E659), filed December 20, 1976. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 33050. Representative: Alan E. Serby, Fifth Floor, Lenox Towers, I-3390 Peachtree Road NE., Atlanta, GA 30326. (1) *Meats, meat products, meat byproducts,* as described in section A of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk), in vehicles equipped with mechanical refrigeration, from Holton, KS to Richmond, VA and points in that part of VA on, south or east of a line beginning at the VA-NC State line, and extending along U.S. Hwy 501 to junction U.S. Hwy 360, then along U.S. Hwy 360 to the Chesapeake Bay; (2) *dairy products* (except in bulk), in vehicles equipped with mechanical refrigeration, from Sabetha, KS, to points described in (1) above; (3) *meats, meat products, meat byproducts,* as described in section A of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except in bulk), in vehicles equipped with mechanical refrig-

eration, from Arkansas City, KS to points in NC, SC, DE, RI, points in that part of TN on and east of U.S. Hwy 11; points in that part of VA on and east of a line beginning at the WV-VA State line, and extending along U.S. Hwy 460 to junction U.S. Hwy 11, then along U.S. Hwy 11 to junction U.S. Hwy 250, then along U.S. Hwy 250 to junction U.S. Hwy 29, then along U.S. Hwy 29 to the VA-MD State line; DC; points in that part of MD on, south or east of Interstate Hwy 95 and Baltimore, MD; points in that part of PA on, south or east of U.S. Hwy 1; points in that part of NJ on, south or east of a line beginning at the PA-NJ State line and extending along U.S. Hwy 1 to junction Garden State Parkway, then along Garden State Parkway to the NY-NJ State line; points in that part of NY east of the Hudson River and south of Interstate Hwy 84; points in that part of CT on, south or east of a line beginning at the NY-CT State line, and extending along Interstate Hwy 84 to junction Interstate Hwy 91, then along Interstate Hwy 91 to the CT-MA State line; points in that part of MA on or east of Interstate Hwy 91; points in that part of ME on or east of Interstate Hwy 95; points in that part of NH on or south of a line beginning at the VT-NH State line, and extending along NH Hwy 25 to junction NH Hwy 118, then along NH Hwy 118 to junction NH Hwy 112, then along NH Hwy 112 to junction NH Hwy 113, then along NH Hwy 113 to the NH-MA State line; (4) *Meats, meat products, meat byproducts,* as described in section A of appendix I to the report in descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except in bulk), in vehicles equipped with mechanical refrigeration, from the facilities of Farmland Foods, Inc., at or near Garden City, KS to the destination territory in (3) above; the service authorized herein is restricted to traffic originating at the facilities of Farmland Foods, Inc., near Garden City, KS. (5) *dairy products* (except in bulk), in vehicles equipped with mechanical refrigeration, from Sabetha, KS, to points in that part of AL on or east of a line beginning at the AL-GA State line, and extending along U.S. Hwy 278 to junction AL Hwy 21, then along AL Hwy 21 to junction U.S. Hwy 231, then along U.S. Hwy 231 to junction U.S. Hwy 331, then along U.S. Hwy 331 to the junction U.S. Hwy 29, then along U.S. Hwy 29 to the AL-FL State line. (Gateway eliminated: Facilities of Refrigerated Transport Co., Inc., at Doraville, GA.)

MC 107515 (Sub-E660), filed December 20, 1976. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 33050. Representative: Alan E. Serby, Fifth Floor, Lenox Towers, I-3390 Peachtree Road NE., Atlanta, GA 30326. *Frozen foods,* (except in bulk), in vehicles equipped with mechanical refrigeration, (1) from points in MN to points in SC; (2) from points in that part of MN on or west of U.S. Hwy 63, to points in that part of NC on, south or east of a line beginning at the NC-TN State line, and extending along U.S. Hwy 64 to junction U.S. Hwy 23, then along U.S. Hwy 23 to junction U.S. Hwy 70, then along U.S. Hwy 70 to junction Interstate Hwy 40, then along Interstate Hwy 40 to junction Interstate Hwy 85, then along Interstate Hwy 85 to junction U.S. Hwy 70, then along U.S. Hwy 70 to junction U.S. Hwy 64, then along U.S. Hwy 64 to the Atlantic Ocean at or near Manteo, NC; (3) from points in that part of MN on, north or west of a line beginning at the MN-IA State line, and extending along U.S. Hwy 71 to junction MN Hwy 23, then along MN Hwy 23 to Lake Superior at or near Duluth, to points in that part of NC on or south or east of a line beginning at the TN-NC State line, and extending along U.S. Hwy 421 to junction U.S. Hwy 158, then along U.S. Hwy 158 to the Atlantic Ocean at or near Kitty Hawk, NC; (4) from points in that part of MN on, north or west of a line beginning at the MN-ND State line, and extending along U.S. Hwy 2 to junction U.S. Hwy 59, then along U.S. Hwy 59 to junction MN Hwy 32, then along MN Hwy 32 to junction MN Hwy 11, then along MN Hwy 11 to junction MN Hwy 310, then along MN Hwy 310 to the international boundary line between the U.S. and CD to Norfolk, VA. (Gateways eliminated: Points in TN (except Nashville and McMinnville) and the facilities of Refrigerated Transport Co., Inc. at Doraville, GA.)

MC 107515 (Sub-E663), filed December 20, 1976. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 33050. Representative: Alan E. Serby, Fifth Floor, Lenox Towers I-3390 Peachtree Road NE., Atlanta, GA 30326. *Fresh and cured meats and dairy products,* as described in the appendix to the report in Modification of Permits—Packing House Products, 48 MCC 628 (except in bulk), in vehicles equipped with mechanical refrigeration, (1) from points in that part of TN on or west of a line beginning at the AL-TN State line, and extending along U.S. Hwy 43 to junction TN Hwy 99, then along TN Hwy 99 to junction TN Hwy 96, then along TN Hwy 96 to junction U.S. Hwy 231, then along U.S. Hwy 231 to the TN-KY State line (except McMinnville, TN and that part of Davidson County, TN, formerly known as the city of Nashville, TN) to points in that part of GA on, south or east of a line beginning at the AL-GA State line at Columbus and extending along U.S. Hwy 27 to junction Interstate Hwy 85, then along Interstate Hwy 85 to junction GA Hwy 365, then along GA Hwy 365 to junction U.S. Hwy 123, then along along U.S. Hwy 123 to the SC-GA State line; (2) from points in that part of MS on, north or west of a line beginning at the MS-AL State line, and extending along U.S. Hwy 78 to junction MS Hwy 6, then along MS Hwy 6 to junction U.S. Hwy 51, then along U.S. Hwy 51 to junction MS Hwy 8, then along MS Hwy 8 to junction U.S. Hwy 49, then along U.S. Hwy 49 to junction U.S. Hwy 82, then along U.S. Hwy 82 to the MS-AR State line, to points in that part of GA on, south or east of a line beginning at the GA-SC State line, and extending along U.S. Hwy 123 to junction U.S. Hwy 19, then along U.S. Hwy 19 to junction U.S. Hwy 319, then along U.S. Hwy 319 to the GA-FL State line; (3) from points in that part of MS on, north or west of a line beginning at the AL-MS State line, and extending along U.S. Hwy 278 to junction U.S. Hwy 51, then along U.S. Hwy 51 to junction U.S. Hwy 82, then along U.S. Hwy 82 to the MS-AR State line, to points in that part of GA on, south or east of a line beginning at the GA-SC State line, and extending along Interstate Hwy 85 to junction Interstate Hwy 75, then along Interstate Hwy 75 to the GA-FL State line; (4) from points in that part of MS on or north of U.S. Hwy 82, to points in that part of GA on or east of a line beginning at the NC-GA State line, and extending along U.S. Hwy 23 to junction Interstate Hwy 75, the along Interstate Hwy 75 to the GA-FL State line; (5) from points in that part of MS on or north of Interstate Hwy 20 to points in that part of GA on, south or east of a line beginning at the GA—SC State line, and extending along Interstate Hwy 85 to junction Interstate Hwy 75, then along Interstate Hwy 75 to junction Interstate Hwy 16, then along Interstate Hwy 16 to juction GA Hwy 29, then along GA Hwy 29 to junction U.S. Hwy 1, then along U.S. Hwy 1 to the GA-FL State line; (6) from points in that part of LA on or north of U.S. Hwy 80, to the territory in (5) above; (7) from points in that part of MS on or north of U.S. Hwy 84 to points in that part of GA on, south or east of a line beginning at the NC-GA State line, and extending along U.S. Hwy 23 to junction Interstate Hwy 75, then along Interstate Hwy 75 to junction Interstate Hwy 16, then along Interstate Hwy 16 to junction GA Hwy 29, then along GA Hwy 29 to junction U.S. Hwy 280, then along U.S. Hwy 280 to junction GA Hwy 23, along U.S. Hwy 23 to junction U.S. Hwy 25, then along U.S. Hwy 25 to junction Interstate Hwy 95, then

along Interstate Hwy 95 to the GA-FL State line; (8) from points in that part of LA on or north of a line beginning at the LA-MS State line, and extending along U.S. Hwy 84 to junction LA Hwy 6, then along LA Hwy 6 to the LA-TX State line, to points in (7) above; (9) from points in that part of MS on or south of a line beginning at the AL-MS State line, and extending along MS Hwy 42 to junction U.S. Hwy 98, then along U.S. Hwy 98 to junction MS Hwy 24, then along MS Hwy 24 to junction U.S. Hwy 61, then along U.S. Hwy 61 to the MS-LA State line, and points in that part of LA on or south of a line beginning at the LA-MS State line, and extending along LA Hwy 26 to junction LA Hwy 16, then along LA Hwy 16 to junction U.S. Hwy 190, then along U.S. Hwy 190 to junction Interstate Hwy 10, then along Interstate Hwy 10 to the LA-TX State line, to points in that part of GA on or east of a line beginning at the GA-TN State line, and extending along Interstate Hwy 75 to junction U.S. Hwy 341, then along U.S. Hwy 341 to junction U.S. Hwy 23, then along U.S. Hwy 23 to the FL-GA State line; (10) from points in that part of LA on or south of Interstate Hwy 10 to points in that part of GA on or south of U.S. Hwy 411, except those points both south of Interstate Hwy 85 and west of Interstate Hwy 75. (Gateway eliminated: Facilities of Refrigerated Transport Co., Inc. at Doraville, GA.)

MC 107515 (Sub-E664), filed December 20, 1976. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 33050. Representative: Alan E. Serby, Fifth Floor, Lenox Towers I-3390 Peachtree Road NE., Atlanta, GA 30326. *Frozen foods* (except in bulk), in vehicles equipped with mechanical refrigeration, (1) from points in that part of GA on, south or east of a line beginning at the AL-GA State line, and extending along GA Hwy 53 to junction GA Hwy 225, then along GA Hwy 225 to junction U.S. Hwy 76, then along U.S. Hwy 76 to junction GA Hwy 5, then along GA Hwy 5 to the GA-TN State line, to points in KS and Joplin, MO; (2) from Chattanooga, TN and points in GA, to points in that part of KS on or west of U.S. Hwy 81; (3) from points in that parts of GA on and south of a line beginning at the AL-GA State line, and extending along U.S. Hwy 29 to junction Interstate Hwy 285, then along Interstate Hwy 285 to junction GA Hwy 400, then along GA Hwy 400 to junction U.S. Hwy 19, then along U.S. Hwy 19 to the GA-NC State line, to points in AR; (4) from points in that part of GA on, south or west of a line beginning at the GA-AL State line, and extending along GA Hwy 48 to junction GA Hwy 140, then along GA Hwy 140 to junction GA Hwy 369, then along GA Hwy 369 to junction U.S. Hwy 129, then along U.S. Hwy 129 to junction GA Hwy 24, then along GA Hwy 24 to junction GA Hwy 15, then along GA Hwy 15 to junction U.S. Hwy 1, then along U.S. Hwy 1 to junction U.S. Hwy 341, then along U.S. Hwy 341 to the Atlantic Ocean at Brunswick, GA, to points in PA and NY, restricted against the transportation of canned citrus products to PA and that part of NY on and south of NY Hwy 7; (5) from points in GA, to points in NH and ME; (6) from points in that part of GA on, south or west of a line beginning at the Atlantic Ocean at Brunswick, GA, and extending along U.S. Hwy 341 to junction U.S. Hwy 1, then along U.S. Hwy 1 to junction GA Hwy 56, then along GA Hwy 56 to junction U.S. Hwy 25, then along U.S. Hwy 25 to the GA-SC State line, to VT. (Gateway eliminated: Facilities of Refrigerated Transport Co., Inc. at Doraville, GA.)

MC 116073 (Sub-E71), filed March 30, 1978. Applicant: BARRETT MOBILE HOME TRANSPORT, INC., P.O. Box 919, 1825 Main Avenue, Moorhead, MN 56560. Representative: John C. Barrett (same as above). *Used mobile homes,* in secondary movements, in truckaway service, from Pocatello, Lewiston, Idaho Falls, Moscow, Couer d'Alene, Twin Falls, Boise, Smelterville, Garden City, Nampa and Kellogg, ID to points in SD. (Gateway eliminated: Points in MT.)

MC 116073 (Sub-E80), filed March 30, 1978. Applicant: BARRETT MOBILE HOME TRANSPORT, INC., P.O. Box 919, 1825 Main Avenue, Moorhead, MN 56560. Representative: John C. Barrett (same as above). *Used moblie homes,* in secondary movements, in truckway service, from points in MT to points in TX. (Gateway eliminated: Points in NM.)

MC 116073 (Sub-E82), filed March 30, 1978. Applicant: BARRETT MOBILE HOME TRANSPORT, INC., P.O. Box 919, 1825 Main Avenue, Moorhead, MN 56560. Representative: John C. Barrett (same as above). *Used mobile homes,* in secondary movements, in truckaway service, from points in MT to points in KS. (Gateway eliminated: Points in CO.)

MC 116073 (Sub-E83), filed March 30, 1978. Applicant: BARRETT MOBILE HOME TRANSPORT, INC., P.O. Box 919, 1825 Main Avenue, Moorhead, MN 56560. Representative: John C. Barrett (same as above). *Buildings,* in sections, mounted on wheeled undercarriages, from Lewistown, MT, to points in NE. (Gateways eliminated: Cody and Laramie, WY.)

MC 117574 (Sub-E72), filed July 15, 1975. Applicant: DAILY EXPRESS, INC., P.O. Box 39, Carlisle, PA 17013. Representative: E. S. Moore, Jr. (same as above). *Agricultural implements, agricultural machinery, tractors, with or without attachments, cranes, industrial and processing machinery, and attachments, accessories, and parts of all of the above described commodities, which are also heavy machinery or contractors' equipment, and, are also machinery, commodities which because of size or weight require the use of special equipment or special handling, or self-propelled articles each weighing 15,000 pounds or more* (when transported on trailers): (1) Between points in CT, MA, and RI on the one hand, and, on the other, points in AL, AZ, AR, CA, FL, GA, ID, IL, IA, KS, KY, LA, MN, MS, MO, MT, NE, NV, NM, ND, OK, OR, SC, SD, TN, TX, UT, WA, WI, WY and points in the following described States: IN, points on and southwest of a line beginning at the IN-MI State line, and extending south along Interstate Hwy 69 to junction U.S. Hwy 30, then east along U.S. Hwy 30 to the IN-OH State line; MD, points on and west of U.S. Hwy 522; MI, points in the upper peninsula and points on and south of a line beginning at Holland, MI, and extending along MI Hwy 89 to junction Interstate Hwy 69, then south along Interstate Hwy 69 to the IN-MI State line; NC, points on and southwest of a line, and extending south along U.S. Hwy 301 to junction U.S. Hwy 70, then east along U.S. Hwy 70 to termination at the Atlantic Ocean; OH, points on and south of a line beginning at the IN-OH State line, and extending east along U.S. Hwy 30 to junction U.S. Hwy 250, then southeast along U.S. Hwy 250 to the OH-WV State line; PA, points on and south of U.S. Hwy 40; VA, points on and west of a line beginning at the WV-VA State line, and extending south along U.S. Hwy 522 to junction U.S. Hwy 60, then east along U.S. Hwy 60 to junction U.S. Hwy 301, then south along U.S. Hwy 301 to the VA-NC State line; WV, points on and south of U.S. Hwy 40 and on and east of U.S. Hwy 522; (2) between points in the VA counties of Alleghany, Botetourt, Craig, and Roanoke, on the one hand, and, on the other, points in AZ, CA, ID, MT, NV, OR, UT, WA, and points in the following described States: ND, points on and west of a line beginning at the ND-SD State line, and extending north along U.S. Hwy 85, to junction ND Hwy 23, then east along ND Hwy 23 to junction U.S. Hwy 83, then north along U.S. Hwy 83 to junction ND Hwy 256, then north along ND Hwy 256 to its termination at the ND-Canada border; SD points on and west of U.S. Hwy 85; WY, points on and west of a line beginning at the CO-WY State line, and extending north along WY Hwy 789 to junc-

tion Interstate Hwy 80, then east along Interstate Hwy 80 to junction U.S. 287, then north along U.S. Hwy 287 to junction WY Hwy 220, then north along WY Hwy 220 to junction U.S. Hwy 20, then east along U.S. Hwy 20 to junction U.S. Hwy 85, then north along U.S. Hwy 85 to the WY-SD State line; (3) between points in the VA counties of Appomattox, Bedford, and Campbell on the one hand, and, on the other, points in AZ, CA, ID, MT, NV, ND, OR, UT, WA, WY, and points in the following described States: CO, points on and west of a line beginning at the CO-NM State line, and extending north along U.S. Hwy 85 to junction U.S. Hwy 6, then along U.S. Hwy 6 to junction U.S. Hwy 138, then north along U.S. Hwy 138 to the CO-NE State line; MN, points on and west of a line beginning at the SD-MN State line, and extending east along U.S. Hwy 212 to junction MN Hwy 23, then northeast along MN Hwy 23 to its termination at Duluth, MN; NE, points on and west of a line beginning at the CO-NE State line, and extending along north along U.S. Hwy 138, then along U.S. Hwy 138 to junction U.S. Hwy 30, then east along U.S. Hwy 30 to junction U.S. Hwy 83, then north along U.S. Hwy 83 to junction NE Hwy 70, then northeast along NE Hwy 70 to junction U.S. Hwy 20, then east along U.S. Hwy 20 to junction U.S. Hwy 81, then north along U.S. Hwy 81 to the NE-SD State line; NM, points on and west of a line beginning at the NM-Mexico border; then north along NM Hwy 11 to junction U.S. Hwy 180, then west along U.S. Hwy 180 to junction MN Hwy 90, then north along NM Hwy 90 to junction NM Hwy 61, then north along NM Hwy 61 to junction NM Hwy 78, then north along NM Hwy 78 to junction U.S. Hwy 60, then east along U.S. Hwy 60 to junction U.S. Hwy 85, then north along U.S. Hwy 85 to the NM-CO State line; SD, points on and northwest of a line beginning at the NE-SD State line, and extending north along U.S. Hwy 81 to junction U.S. Hwy 212, then east along junction U.S. Hwy 212 to the MN-SD State line; (4) between points in the VA counties of Amherst and Nelson on the one hand, and, on the other, points in AZ, CA, CO, ID, MN, MT, NV, ND, OR, SD, UT, WA, WY, and points in the following described States: IA, points on and west of a line beginning at the NE-IA State line, and extending east along Interstate Hwy 80 to junction U.S. Hwy 71, then north along U.S. Hwy 71 to junction U.S. Hwy 18, then east along U.S. Hwy 18 to the IA-WI State line; KS, points on and west of a line beginning at the OK-KS State line, and extending northeast along U.S. Hwy 56 to junction U.S. Hwy 81, then north along U.S. Hwy 81 to the KS-NE State line; MI, points on and west of a line beginning at the MI-WI State line, and extending north along U.S. Hwy 8 to junction U.S. Hwy 2, then east along U.S. Hwy 2 to junction U.S. Hwy 41, then north along U.S. Hwy 41 to Marquette; NE, points on and northwest of a line beginning at the KS-NE State line, and extending north along U.S. Hwy 81 to junction Interstate Hwy 80, then east along Interstate Hwy 80 to the NE-IA State line; NM, points on and west of a line beginning at the TX-NM State line, and extending along U.S. Hwy 54 to junction NM Hwy 3, then north along NM Hwy 3 to junction Interstate Hwy 25, then north along Interstate Hwy 25 to junction U.S. Hwy 56, then east along U.S. Hwy 56 to the NM-OK State line; OK, points on and west of U.S. Hwy 56; WI, points on and west of a line beginning at the IA-WI State line, and extending east along U.S. Hwy 18 to junction U.S. Hwy 61, then north along U.S. Hwy 61 to junction U.S. Hwy 53, then north along U.S. Hwy 53 to junction U.S. Hwy 10, then east along U.S. Hwy 10 to junction WI Hwy 13, then north along WI Hwy 13 to junction U.S. Hwy 8, then east along U.S. Hwy 8 to the WI-MI State line; (5) between points in the VA counties of Franklin, Henry, and Patrick, on the one hand, and, on the other, points in CA, ID, MT, NV, OR, WA, and points in the following described States: AZ, points on and west of a line beginning at the AZ-MX border, and extending north along U.S. Hwy 95 to junction U.S. Hwy 60, then east along U.S. Hwy 60 to junction U.S. Hwy 89, then north along U.S. Hwy 89 to the AZ-UT State line; CO, points on and north of a line beginning at the CO-UT State line, and extending east along U.S. Hwy 40 to junction CO Hwy 13, then north along CO Hwy 13 to the CO-WY State line; ND, points on and west of a line beginning at the ND-SD State line, and extending north along U.S. Hwy 83 to junction ND Hwy 200, then east along ND Hwy 200 to junction ND Hwy 1, then north along ND Hwy 1 to its termination at the ND-Canada border; SD, points on and north of a line beginning at the SD-WY State line, and extending east along U.S. Hwy 212 to junction U.S. Hwy 83, then north along U.S. Hwy 83 to the ND-SD State line; UT, points on and west of a line beginning at the AZ-UT State line, and extending north along U.S. Hwy 89 to junction Interstate Hwy 70, then east along Interstate Hwy 70 to junction UT Hwy 10, then north along UT Hwy 10 to junction UT Hwy 33, then north along UT Hwy 33 to junction U.S. Hwy 40, then east along U.S. Hwy 40 to the UT-CO State line; WY, points on and northwest of a line beginning at the CO-WY State line, and extending north along WY Hwy 789 to junction U.S. Hwy 20, then east along U.S. Hwy 20 to junction U.S. Hwy 18, then north along U.S. Hwy 18 to the WY-SD State line, then north along the WY-SD State line to junction U.S. Hwy 212;

(6) Between points in the VA counties of Albemarle, Buckingham, Cumberland, and Fluvanna, on the one hand, and, on the other, points in AZ, CA, CO, ID, MN, MT, NE, NV, NM, ND, OR, SD, UT, WA, WY, and points in the following described States: IA, points on and northwest of a line beginning at the MO-IA State line, and extending north along U.S. Hwy 63 to junction U.S. Hwy 30, then east along U.S. Hwy 30 to junction U.S. Hwy 151, then east along U.S. Hwy 151 to the IA-WI State line; KS, points on and northwest of Interstate Hwy 35; MI, points on and north of MI Hwy 21; MO, points on and north of a line beginning at the KS-MO State line, and extending north along Interstate Hwy 35 to junction MO Hwy 6, then east along MO Hwy 6 to junction U.S. Hwy 63, then north along U.S. Hwy 63 to the MO-IA State line; OK, points on and west of a line beginning at the TX-OK State line, and extending east along U.S. Hwy 66 to junction Interstate Hwy 35, then north along Interstate Hwy 35 to the OK-KS State line; TX, points on and northwest of a line beginning near the TX-MX border, and extending along U.S. Hwy 385 to junction U.S. Hwy 20, then east along U.S. Hwy 20 to junction U.S. Hwy 87, then north along U.S. Hwy 87 to junction U.S. Hwy 66, then east along U.S. Hwy 66 to the TX-OK State line; WI, points on and north of a line beginning at the IA-WI State line, and extending northeast along U.S. Hwy 151 to junction U.S. Hwy 18, then east along U.S. Hwy 18 to its termination at Milwaukee; (7) between points in the VA counties of Augusta and Rockbridge, on the one hand, and, on the other, points in AZ, CA, CO, ID, MT, NV, NM, ND, OR, SD, UT, WA, WY, and points in the following described States: IA, points on and west of a line beginning at the NE-IA State line, and extending east along Interstate Hwy 80, to junction U.S. Hwy 71, then north along U.S. Hwy 71 to junction U.S. Hwy 20, then east along U.S. Hwy 20 to junction U.S. Hwy 65, then north along U.S. Hwy 65 to the IA-MN State line; KS, points on and west of a line beginning at the KS-OK State line, and extending north along KS Hwy 99 to junction U.S. Hwy 36, then east along U.S. Hwy 36 to junction U.S. Hwy 75, then north along U.S. Hwy 75 to the KS-NE State line; MI, points on and west of a line beginning at the MI-WI State line, and extending north along U.S. Hwy 45 to junction MI Hwy 26, then northeast along MI Hwy 26 to its termination at Copper

Harbor, MI; MN, points on and northwest of a line begining at the IA-MN State line, and extending north along Interstate Hwy 35 to junction U.S. Hwy 8, then along U.S. Hwy 8 to MN-WI State line; NE, points on and northwest of a line beginning at the KS-NE State line, and extending north along U.S. Hwy 75 to junction Interstate Hwy 80, then east along Interstate Hwy 80 to the NE-IA State line; OK, points on and west of a line beginning at the TX-OK State line, and extending north along U.S. Hwy 377 to junction OK Hwy 99, then north along OK Hwy 99 to the KS-OK State line; TX, points on and west of a line beginning at the Gulf of Mexico near Tivoli, and extending west along TX Hwy 113 to junction U.S. Hwy 77, then north along U.S. Hwy 77 to junction U.S. Hwy 377, then north U.S. Hwy 377 to the TX-OK State line; WI, points on and north of a line beginning at the MN-WI State line, and extending east along U.S. Hwy 8 to junction U.S. Hwy 45, then north along U.S. Hwy 45 to the MI-WI State line; (8) between points in the VA counties of Bath and Highland, on the one hand, and, on the other, points in AZ, CA, CO, ID, MT, NV, NM, ND, OR, SD, UT, WA, WY, and points in the following described States: IA, points on and west of U.S. Hwy 75; KS, points on and west of U.S. Hwy 283; MI, points on and west of a line beginning at the WI-MI State line, and extending north along U.S. Hwy 45 to junction MI Hwy 26, then northeast along U.S. MI 26 to Copper Harbor; MN, points on and north of a line beginning at the IA-MN State line, and extending north along U.S. Hwy 75 to junction U.S. Hwy 14, then east along U.S. Hwy 14 to junction U.S. Hwy 71, then north U.S. Hwy 71 to junction MN Hwy 23, then east along MN Hwy 23 to junction MN Hwy 107, then along MN Hwy 107 to junction MN Hwy 70, then east along MN Hwy 70 to the MN-WI State line; NE, points on and northwest of a line beginning at the KS-NE State line, and extending along U.S. Hwy 283, then north along U.S. Hwy 283 to junction U.S. Hwy 34, then east along U.S. Hwy 34 to junction U.S. Hwy 81, then north along U.S. Hwy 81 to junction U.S. Hwy 20, then east along U.S. Hwy 20 to the NE-IA State line; OK, points on and west of U.S. Hwy 283; TX, points on and west of a line beginning at the Mexican Border and extending along U.S. Hwy 277, then north along U.S. Hwy 277 to junction U.S. Hwy 290, then east along U.S. Hwy 290 to junction U.S. Hwy 385, then north along U.S. Hwy 385 to junction U.S. Hwy 82, then east along U.S. Hwy 82 to junction U.S. Hwy 283, then north along U.S. Hwy 283 to the EX-OK State line; WI, points on and north of a line beginning at the MN-WI State line, and extending east along WI Hwy 70 to junction U.S. Hwy 45, then north along U.S. Hwy 45 to the WI-MI State line; (9) between points in the VA counties of Charles City, James City, King William, and New Kent, on the one hand, and, on the other, points in AZ, CA, CO, DE, ID, IL, IN, IA, KS, MI, MN, MO, MT, NE, NV, NM, ND, OK, OR, SD, TX, UT, WA, WI, WY, and points in the following described States: points in AR on, north and west of a line beginning at the AR-LA State line, and extending north along U.S. Hwy 167 to junction U.S. Hwy 79, then northeast along U.S. Hwy to junction Interstate Hwy 55, then extending northwest along Interstate Hwy 55 to junction U.S. Hwy 63, then northwest along U.S. Hwy 63 to junction AR Hwy 1, then north along AR Hwy 1 to junction AR Hwy 25, then east along AR Hwy 25 to the AR-MS State line; points in KY on and north of a line beginning at the KY-TN State line, and extending along U.S. Hwy 45 to junction KY Hwy 80, then east along KY Hwy 80 to junction U.S. Hwy 641, then north along U.S. Hwy 641 to junction U.S. Hwy 60, then northeast along U.S. Hwy 60 to junction U.S. Hwy 231, then north along U.S. Hwy 231 to the KY-OH State line; points in LA on and west of a line beginning at the LA-Gulf of Mexico coast north along LA Hwy 333 to junction LA Hwy 82, then north along LA Hwy 82 to junction U.S. Hwy 167, then north along U.S. Hwy 167 to the AR-LA State line; points in OH south and east of a line beginning at the KY-OH State line, and extending northeast along OH Hwy 41 to junction U.S. Hwy 50, then northeast along U.S. Hwy 50 to the OH-WV State line; points in WV on and north of a line beginning at the OH-WV State line, and extending northeast along U.S. Hwy 50 to junction U.S. Hwy 19, then northeast along U.S. Hwy 19 to junction U.S. Hwy 119, then along U.S. Hwy 119 to the PA-WV State line; (10) between points in the VA county of York, on the one hand, and, on the other, points in AZ, CA, CO, DE, ID, IL, IN, IA, KS, MI, MN, MO, MT, NE, NV, NM, ND, OK, OR, SD, TX, UT, WI, WY, and points in the following described States: AR, points on and west of a line beginning at the AR-LA State line, and extending northeast along U.S. Hwy 79 to junction U.S. Hwy 61, then north along U.S. Hwy 61 to the AR-MO State line; KY, points on and west of a line beginning at the KY-TN State line, and extending northeast along the Purchase Parkway to junction KY Hwy 79, then north along KY Hwy 79 to the KY-IN State line; points in LA on and west of a line beginning at Lake Charles, and extending north along U.S. Hwy 171 to junction U.S. Hwy 79, then north along U.S. Hwy 79 to the AR-LA State line; MD, points on and west of U.S. Hwy 220; points in OH on and north of a line beginning at the KY-OH State line, and extending along U.S. Hwy 62 to junction OH Hwy 785, then east along OH Hwy 785 to junction OH Hwy 124, then east along OH Hwy 124 to junction 346, then north along OH Hwy 346 to junction U.S. Hwy 50, then east along U.S. Hwy 50 to the OH-WV State line; points in WV on and north of U.S. Hwy 50;

(11) Between points in VA in the corporation limits of Norfolk and Virginia Beach, on the one hand, and, on the other, points in AZ, CA, CO, ID, IL, IN, IA, KS, MI, MN, MO, MT, NE, NV, NM, ND, OK, OR, SD, TX, UT, WA, WI, and WY, and points in the following described States: Points in AR on and north of a line beginning at the AR-LA State line, and extending north along AR Hwy 29 to junction U.S. Hwy 67, then northeast along U.S. Hwy 67 to junction U.S. Hwy 67, then northeast along U.S. Hwy 67 to junction Interstate Hwy 40, then northeast along Interstate Hwy 40 to junction AR Hwy 1, then north along AR Hwy 1 to the AR-MO State line; points in KY on and north of a line beginning at the KY-TN State line, and extending northeast along Purchase Parkway to junction Interstate Hwy 65, then north along Interstate Hwy 65 to junction U.S. Hwy 60, then east along U.S. Hwy 60 to junction KY Hwy 43, then northeast along KY Hwy 43 to junction KY Hwy 22, then northeast along KY Hwy 22 to junction KY Hwy 19, then northeast along KY Hwy 19 to the KY-OH State line; points in MD on and west of U.S. Hwy 220; points in OH on, north and west of a line beginning at Ripley, OH, and extending along U.S. Hwy 68 to junction U.S. Hwy 50, then east along U.S. Hwy 50 to junction OH Hwy 41, then south along OH Hwy 41 to junction OH Hwy 124, then east along OH Hwy 124 to junction OH Hwy 7, then northeast along OH Hwy 7 to junction U.S. Hwy 50, then east along U.S. Hwy 50 to the OH-WV State line; points in WV on and north of a line beginning at the OH-WV State line, and extending east along U.S. Hwy 50 to junction U.S. Hwy 220, then northeast along U.S. Hwy 220 to the MD-WV State line;

(12) Between points in the VA county of Isle of Wight, on the one hand, and, on the other, points in AZ, CA, CO, ID, IA, KS, MI, MN, MT, NE, NV, NM, ND, OK, OR, SD, UT, WA, WY, and points in the following described States: Points in AR on, north and west of a line beginning at the AR-TX State line, and extending north along U.S. Hwy 71 to junction

AR Hwy 23, then north along AR Hwy 23 to junction AR Hwy 16, then east along AR Hwy 16 to junction AR Hwy 9, then northeast along AR Hwy 9 to the AR-MO State line; points in IL south and east of a line beginning at the IL-MO State line, and extending north along Interstate Hwy 57 to junction IL Hwy 13, then east along IL Hwy 13 to the IL-KY State line; points in IN on, north and west of a line beginning at the IN-KY State line, and extending north along IN Hwy 135 to junction IN Hwy 160, then east along IN Hwy 160 to junction IN Hwy 62, then along IN Hwy 62 to the IN-KY State line; points in KY on, north and west of a line beginning at the KY-IL State line, and extending east along KY Hwy 56 to junction U.S. Hwy 60, then east along U.S. Hwy 60 to junction KY Hwy 79, then north along KY Hwy 79 to the KY-IN State line; points in MD on and west of U.S. Hwy 220; points in MO on and west and north of a line beginning at the AR-MO State line, and extending north along U.S. Hwy 63 to junction MO Hwy 142, then east along MO Hwy 142, to junction U.S. Hwy 160, then east along U.S. Hwy 160 to junction U.S. Hwy 60, then east along U.S. Hwy 60 to the IL-MO State line; points in OH, on, north and west of a line beginning at the IN-OH State line, and extending northeast along OH Hwy 41 to junction OH Hwy 124, then east along OH Hwy 124 to junction OH Hwy 7, then northeast along OH Hwy 7 to junction U.S. Hwy 50, then east along U.S. Hwy 50 to the OH-WV State line; points in TX on, north and west of a line beginning at the Gulf of Mexico, and extending along TX Hwy 288 to junction U.S. Hwy 290, then northwest along U.S. Hwy 290 to junction TX Hwy 6, then northwest along TX Hwy 6 to junction U.S. Hwy 79, then northeast along U.S. Hwy 79 to junction U.S. Hwy 69, then north along U.S. Hwy 69 to junction TX Hwy 155, then northeast along TX Hwy 155 to junction U.S. Hwy 59, then north along U.S. Hwy 59 to the AR-TX State line; points in WV on and north of a line beginning at the OH-WV State line, and extending east along U.S. Hwy 50 to junction U.S. Hwy 220, then north along U.S. Hwy 220 to the MD-WV State line;

(13) Between points in VA counties of Southampton, Sussex, Surry, and Prince George, on the one hand, and, on the other, points in AZ, CA, CO, ID, IA, KS, MI, MN, MT, NE, NV, NM, ND, OK, OR, SD, UT, WA, WI, WY, and points in the following described States: Points in AR west and north of a line beginning at the AR-TX State line, and extending north along AR Hwy 41 to junction U.S. Hwy 71, then north along U.S. Hwy 71 to junction AR Hwy 45, then northeast along AR Hwy 45 to junction U.S. Hwy 62, then east along U.S. Hwy 62 to junction U.S. Hwy 65, then north along U.S. Hwy 65 to the AR-MO State line; points in IL north of a line beginning at the IL-MO State line, and extending along U.S. Hwy 140, to junction Interstate Hwy 57, then north along Interstate Hwy 57 to junction U.S. Hwy 13, then east along U.S. Hwy 13 to junction U.S. Hwy 45, then north along U.S. Hwy 45 to junction U.S. Hwy 1, then north along U.S. Hwy 1 to junction U.S. Hwy 460, then east along U.S. Hwy 460 to the IL-IN State line; points in IN north of a line beginning at the IN-IL State line, and extending east along U.S. Hwy 460 to junction IN Hwy 57, then north along IN Hwy 57 to junction U.S. Hwy 50, then east along U.S. Hwy 50 to junction OH-IN State line; points in MO west and north of a line beginning at the MO-AR State line, and extending north along U.S. Hwy 65 to junction MO Road 86, then east along MO Road 86 to junction U.S. Hwy 160, then east along U.S. Hwy 160 to junction MO Hwy 17, then north along MO Hwy 17 to junction U.S. Hwy 60, then east along U.S. Hwy 60 to junction MO Hwy 49, then east along MO Hwy 49 to junction U.S. Hwy 25, then south along U.S. Hwy 25 to junction U.S. Hwy 60, then east along U.S. Hwy 60 to junction Interstate Hwy 57, then along Interstate Hwy 57 to the IL-MO State line; points in OH north of a line beginning at the OH-IN State line, and extending east along U.S. Hwy 50 to junction U.S. Alt Hwy 50, then east along U.S. Alt. Hwy 50 to the OH-WV State line; points in TX west of a line beginning at the TX-Gulf of Mexico coast at Corpus Christi, and extending northwest along U.S. Hwy 181, to junction U.S. Hwy 77, then north along U.S. Hwy 77 to junction Interstate Hwy 35, then north along Interstate Hwy 35 to junction Interstate Hwy 30, then northeast along Interstate Hwy 30 to junction TX Hwy 50, then north along TX Hwy 50 to junction TX Hwy 24, then northeast along TX Hwy 24 to junction U.S. Hwy 82, then east along U.S. Hwy 82 to junction TX Hwy 8, then north along TX Hwy 8 to the TX-AR State line; points in WV north of a line beginning at the OH-WV State line, and extending east along U.S. Hwy 50 to junction U.S. Hwy 19, then north along U.S. Hwy 19 to junction WV Hwy 73, then east along WV Hwy 73 to junction WV Hwy 26, then east along WV Hwy 26 to the WV-PA State line;

(14) Between points in the VA counties of Page, Rockingham, Shenandoah, and Warren, on the one hand, and, on the other, points in AZ, CA, CO, ID, KS, MN, MT, NE, NV, NM, ND, OR SD, UT, WA, WI, WY, and points in the following described States: IL, points on and north of a line beginning at the IA-IL State line, and extending north along U.S. Hwy 34 to junction IL Hwy 59, then north along IL Hwy 59 to the IL-WI State line; IA, points on and northwest of a line beginning at the IA-MO State line, and extending north along U.S. Hwy 63 to junction U.S. Hwy 34, then east along U.S. Hwy 34 to the IA-IL State line; MI, points on and north of MI Hwy 21; MO, points on and west of a line beginning at the OK-MO State line, and extending east along Interstate Hwy 44 to junction U.S. Hwy 65, then north along U.S. Hwy 65 to junction U.S. Hwy 36, then east along U.S. Hwy 36 to junction U.S. Hwy 63, then north along U.S. Hwy 63 to the MO-IA State line; OK, points on and west of a line beginning at the TX-OK State line, and extending north along U.S. Hwy 277 to junction U.S. Hwy 77, then north along U.S. Hwy 77 to junction Interstate Hwy 44, then northeast along Interstate Hwy 44 to the OK-MO State line; TX, points on and west of U.S. Hwy 277;

(15) Between points in the VA counties of Clarke and Frederick, on the one hand, and, on the other, points in AZ, AR, CA, CO, FL, ID, IL, IA, KS, LA, MN, MS, MO, MT, NE, NV, NM, ND, OK, OR, SD, TX, UT, WA, WI, WY, and points in the following described States: AL, points on and southwest of a line beginning at the GA-AL State line, and extending northwest along U.S. Hwy 280 to junction Interstate Hwy 65, then north along Interstate Hwy 65 to the AL-TN State line; GA, points on and south of a line beginning at Brunswick and extending west along GA Hwy 27, to junction U.S. Hwy 280, then northwest along U.S. Hwy 280 to the GA-AL State line; IN, points on and west of a line beginning at the IN-KY State line, and extending north along U.S. Hwy 41 to junction IN Hwy 28, then along IN Hwy 28 to junction IN Hwy 25, then northeast along IN Hwy 25 to junction IN Hwy 19, then north along IN Hwy 19 to the KY-TN State line, and extending north along U.S. Alt Hwy 41 to junction U.S. Hwy 41, then north along U.S. Hwy 41 to the KY-IN State line; MI, points on and northwest of a line beginning at the MI-IN State line, and extending north along MI Hwy 205 to junction U.S. Hwy 205 to junction U.S. Hwy 12, then east along U.S. Hwy 12 to junction U.S. Hwy 131, then north along U.S. Hwy 131 to junction MI Hwy 20, then east along MI Hwy 20 to junction MI Hwy 30, then north along MI Hwy 30 to junction MI Hwy 55, then east along MI Hwy 55 to its termination at Tawas City; TN, points on and west of a line beginning at the AL-TN State line, and extending north along Interstate Hwy 65 to junction U.S. Alt Hwy 41,

then northwest along U.S. Alt Hwy 41 to the TN-KY State line. Restriction: The authority granted herein to the extent that it duplicates any authority heretofor granted to or now held by carrier shall not be construed as conferring more than one operating right. (Gateways eliminated: In (1) above, Stilty and Waynesboro, PA; in (2) through (13) above Wheaton, MD, and Waynesboro, PA; in (14) and (15) above Oak Orchard, MD, and Waynesboro, PA.)

MC 117574 (Sub-E79) (correction), filed July 16, 1975, and published in the FEDERAL REGISTER issue of March 24, 1978, and partially republished, as corrected, this issue. Applicant: DAILY EXPRESS, INC., P.O. Box 39, Carlisle, PA 17013. Representative: E. S. Moore, Jr. (same as above). *Agricultural implements, agricultural machinery, tractors* (other than truck tractors), *incidental machinery, attachments, and parts* when moving with such implements, machinery, or tractors, except commodities requiring special equipment * * * those points in CO on and west of a line beginning at the CO-AZ State line, and extending along U.S. Hwy 160, then northeast along U.S. Hwy 160 to junction U.S. Hwy 550, then north along U.S. Hwy 550 to junction U.S. Hwy 50, then east along U.S. Hwy 50 to junction U.S. Hwy 285, then north along U.S. Hwy 285 to junction U.S. Hwy 24, then east along U.S. Hwy 24 to junction U.S. Hwy 385,then along U.S. Hwy 385 to the CO-NE State line; * * * (Gateways eliminated: Carlisle, Shadygrove, or Waynesboro, PA.)

NOTE.—The purpose of this partial correction is to correct U.S. Hwy 85 to read as U.S. Hwy 285. The remainder of this letternotice will remain as previously published.

MC 117574 (Sub-E89), filed July 15, 1975. Applicant: DAILY EXPRESS, INC., P.O. Box 39, Carlisle, PA 17013. Representative: E. S. Moore, Jr. (same as above). *Agricultural implements and agricultural machinery, tractors with or without attachments, cranes, industrial and processing machinery and attachments, accessories and parts thereof, which are also heavy machinery, building or contractor's equipment, supplies and materials; and are also heavy and bulky articles, machinery or machine parts moving in conjunction with machinery, or articles requiring specialized handling or rigging because of size or weight,* (1) between points in the PA counties of Tioga, and those points in Bradford, Lycoming and Sullivan west of U.S. Hwy 220, on the one hand, and, on the other, points in the States of AL, AZ, AR, CA, CO, FL, GA, ID, KS, LA, MS, MO, MT, NE, NV, NM, NC, ND, OK, OR, SC, SD, TN, TX, UT, WA, WY and the District of Columbia, and points in IL on and west and south of a line beginning at the IL-IN State line, and extending along Interstate Hwy 64, then along Interstate Hwy 64 to junction IL Hwy 1, then along IL Hwy 1 to junction IL Hwy 130, then along IL Hwy 130 to junction IL Hwy 33, then along IL Hwy 33 to junction IL Hwy 128, then along IL Hwy 128 to junction IL Hwy 16, then along IL Hwy 16 to junction IL Hwy 29, then along IL Hwy 29 to junction IL Hwy 104, then along IL Hwy 104 to junction IL Hwy 78, then along IL Hwy 78 to junction IL Hwy 125, then along IL Hwy 125 to junction U.S. Hwy 67, then along U.S. Hwy 67 to junction U.S. Hwy 136, then along U.S. Hwy 136 to the IA-IL State line; points in IN on and south of a line beginning at the IN-KY State line, and extending along U.S. Hwy 231, then along U.S. Hwy 231 to junction IN U.S. Hwy 66, then along IN U.S. Hwy 66 to the IL-IN State line; points in IA on, south and west of a line beginning at the IL-IA State line, and extending along U.S. Hwy 218, then along U.S. Hwy 218 to junction IA Hwy 2, then along IA Hwy 2 to junction U.S. Hwy 69, then along U.S. Hwy 69 to junction U.S. Hwy 34, then along U.S. Hwy 34, to junction U.S. Hwy 169, then along U.S. Hwy 169 to junction U.S. Hwy 18, then along U.S. Hwy 18 to junction U.S. Hwy 69, then along U.S. Hwy 69 to the IA-MN State line; points in KY on and south of a line beginning at the KY-WV State line, and extending along KY Hwy 80 to junction U.S. Hwy 231, then along U.S. Hwy 231 to the IN-KY State line; points in MD on and south of a line beginning at the MD-WV State line, and extending along Interstate Hwy 81 to junction U.S. Hwy 40, then along U.S. Hwy 40 to junction MD Hwy 355, then along MD Hwy 355 to junction MD Hwy 27, then along MD Hwy 27 to junction Interstate Hwy 270, then along Interstate Hwy 270 to junction Interstate Hwy 495, then along Interstate Hwy 495 to north of DC to junction MD Hwy 4, then along MD Hwy 4 to the Chesapeake Bay, then along the Chesapeake Bay to the MD-VA State line; points in MI on and west of a line beginning at the MI-WI State line, and extending along U.S. Hwy 45, then along U.S. Hwy 45 to the junction U.S. Hwy 2, then along U.S. Hwy 2 to junction U.S. Hwy 141, then along U.S. Hwy 141 to junction U.S. Hwy 41, then along U.S. Hwy 41 to the shore of Lake Superior; points in MN on and west of a line beginning at the IA-MN State line, and extending along U.S. Hwy 69, then along U.S. Hwy 69 to junction U.S. Hwy 16, then along U.S. Hwy 16 to junction U.S. Hwy 65, then along U.S. Hwy 65 to junction MN Hwy 60, then along MN Hwy 60 to junction MN Hwy 58, then along MN Hwy 58 to the MN-WI State line; points in VA on, south and east of a line beginning at the WV State line on Interstate Hwy 81, then along Interstate Hwy 81 to junction U.S. Hwy 11, then along U.S. Hwy 11 to junction VA Hwy 311, then along VA Hwy 311 to the VA-WV State line; points in WV on and south of a line beginning at the VA-WV State line, and extending along U.S. Hwy 460 to junction U.S. Hwy 52, then along U.S. Hwy 52 to junction U.S. Hwy 119, then along U.S. Hwy 119 to the KY-WV State line; points in WI on and west of a line beginning at the MN-WI State line, and extending along U.S. Hwy 63 to junction U.S. Hwy 8, then along U.S. Hwy 8 to junction U.S. Hwy 51, then along U.S. Hwy 51 to junction WI Hwy 70, then along WI Hwy 70 to junction WI Hwy 55, then along WI Hwy 55 to the MI-WI State line. (2) Between points in the PA counties of Union and Snyder and those points in Montour and Northumberland Counties west of PA Hwy 147, on the one hand, and, on the other, all points in the States of AL, AZ, AR, CA, CO, FL, GA, ID, IA, KS, KY, LA, MN, MS, MO, MT, NE, NV, NC, ND, OK, OR, SC, SD, TN, TX, UT, WA, WY, and points in the following described States: Points in IL on and west of a line beginning at the IL-IN State line and extending along U.S. Hwy 150, then along U.S. Hwy 150 to junction IL Hwy 1, then along IL Hwy 1 to junction U.S. Hwy 24, then along U.S. Hwy 24 to junction IL Hwy 47, then along IL Hwy 47 to junction U.S. Hwy 30, then along U.S. Hwy 30 to junction U.S. Hwy 51, then along U.S. Hwy 51 to the IL-WI State line; points in IN on and south of a line beginning at the OH-IN State line, and extending along Interstate Hwy 74, then along Interstate Hwy 74 to junction IN Hwy 44, then along IN Hwy 44 to junction IN Hwy 37, then along IN Hwy 37 to junction IN Hwy 39, then along IN Hwy 39 to junction U.S. Hwy 136, then along U.S. Hwy 136 to the IL-IN State line; all points in the Upper Peninsula of MI; points in OH on and south of a line beginning at the OH-WV State line, and extending along U.S. Hwy 35 to junction OH Hwy 279, then along OH Hwy 279 to junction OH Hwy 139, then along OH Hwy 139 to junction OH Hwy 348, then along OH Hwy 348 to junction OH Hwy 73, then along OH Hwy 73 to junction OH Hwy 32, then along OH Hwy 32 to junction Interstate Hwy 275, then along Interstate Hwy 275 to junction OH Hwy 4, then along OH Hwy 4 to junction OH Hwy 177, then along OH Hwy 177 to the IN-OH State line; points in VA on and south of a line beginning at the VA-WV State line, and extending along U.S. Hwy 250 to junction VA Hwy 33, then along VA Hwy 33 to the York River, then along the southern shore of the York

River and the Chesapeake Bay to the Atlantic Ocean; points in WV on and south of a line beginning at the VA-WV State line, and extending along WV Hwy 39, then along WV Hwy 39 to junction U.S. Hwy 60, then along U.S. Hwy 60 to junction U.S. Hwy 35, then along U.S. Hwy 35 to the OH-WV State line; points in WI on and north of a line beginning at the IL-WI State line, and extending along WI Hwy 15 to junction with the southern boundary of the city of Milwaukee, then along the southern boundary of the shore of the shore of Lake MI. (3) Between points in the PA counties of Dauphin and York lying west of a line beginning at the MD-PA State line, and extending along Interstate Hwy 81 to junction U.S. Hwy 22, then along U.S. Hwy 22 to the Dauphin County line, on the one hand, and, on the other, all points in the States of AL, AZ, AR, CA, CO, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MI, MN, MS, MO, MT, NE, NV, NM, NC, ND, OK, OR, SC, SD, TN, TX, UT, WA, WI, and WY, and points in the following described States: Points in OH on and west of a line beginning at the OH-WV State line, and extending along U.S. Hwy 250 to junction OH Hwy 9, then along OH Hwy 9 to junction OH Hwy 43, then along OH Hwy 43 to junction U.S. Hwy 30, then along U.S. Hwy 30 to junction Interstate Hwy 77, then along Interstate Hwy 77 to junction OH Hwy 18, then along OH Hwy 18 to junction OH Hwy 57, then along OH Hwy 57 to the shore of Lake Erie; points in VA on and south of a line beginning at the VA-WV State line, and extending along U.S. Hwy 250, then along U.S. Hwy 250 to junction U.S. Hwy 15, then along U.S. Hwy 15 to junction U.S. Hwy 460, then along U.S. Hwy 460 to junction VA Hwy 32, then along VA Hwy 32 to the NC-VA State line; points in WV on and south and west of a line beginning at the VA-WV State line, and extending along U.S. Hwy 250 to junction U.S. Hwy 119, then along U.S. Hwy 119 to the PA-WV State line then along the PA-WV State line to junction U.S. Hwy 40, then along U.S. Hwy 40 to the OH-WV State line.

(4) Between points in the PA counties of Juniata and Mifflin, on the one hand, and, on the other, points in the States of AL, AZ, AR, CA, CO, FL, GA, ID, IA, KS, LA, ME, MN, MS, MO, MT, NE, NV, ND, NM, NC, OK, OR, SC, SD, TN, TX, UT, WA, WI, and WY and points in the following described States: Points in IL on and west of a line beginning at the IL-IN State line, and extending along U.S. Hwy 52 to junction U.S. Hwy 30, then along U.S. Hwy 30 to junction IL Hwy 31, then along IL Hwy 31 to junction IL Hwy 176, then along IL Hwy 176 to the shore of Lake Michigan; points in IN on, south and west of a line beginning at the IN-KY State line, and extending along U.S. Hwy 31 to junction U.S. Hwy 52, then along U.S. Hwy 52 to the IL-IN State line; points in KY on and south of a line beginning at the KY-WV State line, and extending along KY Hwy 40 to junction U.S. Hwy 460, then along U.S. Hwy 460 to the IN-KY State line; points in MI on and north of MI Hwy 72; points in VA on and south of a line beginning at the VA-WV State line, and extending along U.S. Hwy 60 to the Chesapeake Bay, then along the south shore of the Chesapeake Bay to the Atlantic Ocean, then along the Atlantic Coast to the VA-NC State line; points in WV on and south of a line beginning at the VA-WV State line, and extending along U.S. Hwy 60 to junction U.S. Hwy 19, then along U.S. Hwy 19 to junction WV Hwy 16, then along WV Hwy 16 to junction WV Hwy 10, then along WV Hwy 10 to junction WV Hwy 65, then along WV Hwy 65 to junction U.S. Hwy 52, then along U.S. Hwy 52 to junction KY-WV State line, and KY Hwy 40. (5) Between points in the PA counties of Franklin, Fulton, and Huntington, on the one hand, and, on the other, points in the States of AL, AZ, CA, CO, FL, GA, ID, KS, LA, ME, MS, MT, NE, NV, NM, ND, OK, OR, SC, SD, TX, UT, WA, and WY, points in AR on, south and west of a line beginning at the AR-TN State line, on the northern boundary of Crittenden County, then west to junction U.S. Hwy 63, then along U.S. Hwy 63 to junction AR Hwy 14, then along AR Hwy 14 to junction U.S. Hwy 65, then along U.S. Hwy 65 to the AR-MO State line; points in IA on and west of a line beginning at the IA-MN State line, and extending along U.S. Hwy 71, then along U.S. Hwy 71 to junction IA Hwy 175, then along IA Hwy 175 to junction IA Hwy 39, then along IA Hwy 39 to junction U.S. Hwy 59, then along U.S. Hwy 59 to the IA-MO State line; points in MA on and east of a line beginning at the MA-RI State line, and extending along MA Hwy 24 to junction MA Hwy 140, then along MA Hwy 140 to junction Interstate Hwy 495, then along Interstate Hwy 495 to junction MA Hwy 117, then along MA Hwy 117 to junction MA Hwy 12, then along MA Hwy 12 to junction MA Hwy 31, north of Fitchburg, MA, then along MA Hwy 31 to the MA-NH State line; points in MN on and west of a line beginning at the IA-MN State line, and extending along MN Hwy 4 to junction MN Hwy 60, then along MN Hwy 60 to junction U.S. Hwy 169, then along U.S. Hwy 169 to junction U.S. Hwy 12, then along U.S. Hwy 12 to junction U.S. Hwy 61, then along U.S. Hwy 61 to junction U.S. Hwy 8, then along U.S. Hwy 8 to the MN-WI State line; points in MO on and west of a line beginning at the AR-MO State line, and extending along MO Hwy 39 to junction U.S. Hwy 54, then along U.S. Hwy 54 to junction MO Hwy 13, then along MO Hwy 13 to junction U.S. Hwy 50, then along U.S. Hwy 50 to junction MO Hwy 291, then along MO Hwy 291 to junction U.S. Hwy 169, then along U.S. Hwy 169 to junction U.S. Hwy 71, then along U.S. Hwy 71 to the IA-MO State line; points in NH on and east of a line beginning at the MA-NH State line, and extending along NH Hwy 31 to junction U.S. Hwy 202, then along U.S. Hwy 202 to junction U.S. Hwy 3, then along U.S. Hwy 3 to the Canada-NH border; points in NC on and south of a line beginning at the NC-TN State line, and extending along U.S. Hwy 70 to junction U.S. Hwy 74, then along U.S. Hwy 74 to junction U.S. Hwy 401, then along U.S. Hwy 401 to junction NC Hwy 24, then along NC Hwy 24 to junction U.S. Hwy 258, then along U.S. Hwy 258 to junction U.S. Hwy 17, then along U.S. Hwy 17 to New Bern, NC, and the south bank of the Neuse River, then along the south bank of the Neuse River to the Pamlico Sound and the Atlantic Ocean, then along the Atlantic Coast to the NC-SC State line; points in TN on and south of a line beginning at the NC-TN State line, and extending along U.S. Hwy 70 to junction TN Hwy 101, then along TN Hwy 101 to junction TN Hwy 30, then along TN Hwy 30 to junction TN Hwy 55, then along TN Hwy 55 to junction U.S. Hwy 64, then along U.S. Hwy 64 to junction U.S. Hwy 43, then along U.S. Hwy 43 to junction TN Hwy 20, then along TN Hwy 20 to junction U.S. Hwy 79, then along U.S. Hwy 79 to junction TN Hwy 19, then along TN Hwy 19 to the AR-TN State line; points in WI on and west of a line beginning at the MN-WI State line, and extending along U.S. Hwy 8 to junction U.S. Hwy 63, then along U.S. Hwy 63 to junction U.S. Hwy 2, then along U.S. Hwy 2 to Ashland, WI and the shore of Lake Superior. (6) Between points in the PA counties of Centre and Clinton, on the one hand, and, on the other, points in the States of AL, AZ, AR, CA, CO, FL, GA, ID, KS, LA, MS, MT, NE, NV, NM, NC, ND, OK, OR, SD, SC, TX, UT, WA, and WY, and points in IA on, south and west of a line beginning at the IA-MO State line, and extending along IA Hwy 15 to junction IA Hwy 2, then along IA Hwy 2 to junction U.S. Hwy 63, then along U.S. Hwy 63 to junction IA Hwy 163, then along IA Hwy 163 to junction Interstate Hwy 235, then along Interstate Hwy 235 to junction IA Hwy 401, then along IA Hwy 401 to junction IA Hwy 17, then along IA Hwy 17 to junction U.S. Hwy 20, then along U.S. Hwy 20 to junction U.S. Hwy 69, then along U.S. Hwy 69 to the

IA-MN State line; points in MI on and west of a line beginning at the MI-WI State line, and extending along MI Hwy 28 to junction U.S. Hwy 41, then along U.S. Hwy 41 to the shore of Lake Superior; points in MN on and west of a line beginning at the IA-MN State line, and extending along U.S. Hwy 69 to junction U.S. Hwy 16, then along U.S. Hwy 16 to junction Interstate Hwy 90, then along Interstate Hwy 90 to junction U.S. Hwy 63, then along U.S. Hwy 63 to the MN-WI State line; points in MO on and west of a line beginning at the IL-MO State line, and extending along IL Hwy 146 into MO and to junction Interstate Hwy 55, then along Interstate Hwy 55 to junction Interstate Hwy 244, then along Interstate Hwy 244 around St. Louis, MO to the west to junction U.S. Hwy 61, then along U.S. Hwy 61 to junction MO Hwy 6, then along MO Hwy 6 to junction MO Hwy 15, then along MO Hwy 15 to the IA-MO State line; points in TN on and south of a line beginning at the KY-TN State line, and extending along TN Hwy 42 to junction TN Hwy 85, then along TN Hwy 85 to junction U.S. Hwy 70-N, then along U.S. Hwy 70-N to junction U.S. Hwy 70, then along U.S0Pi128°. Hwy 70 to junction TN Hwy 69, then along TN Hwy 69 to junction KY-TN State line; points in VA on and south of a line beginning at the VA-WV State line, and extending along U.S. Hwy 460, then along U.S. Hwy 460 to junction VA Hwy 24, then along VA Hwy 24 to junction U.S. Hwy 60, then along U.S. Hwy 60 to the Chesapeake Bay, then along the south shore of the Chesapeake Bay to the Atlantic Ocean, then along the Atlantic Coast shore to the VA-NC State line; points in WI on and west of a line beginning at the MN-WI State line, and extending along U.S. Hwy 63, then along U.S. Hwy 63 to junction WI Hwy 77, then along WI Hwy 77 to the MI-WI State line.

(7) between points in the PA counties of Forest, Venango, and Warren, on the one hand, and, on the other, points in the States of CA, FL, ID, NV, OR, UT, and WA, and points in AL on and south of a line beginning at the AL-GA State line, and extending along Interstate Hwy 85 to junction U.S. Hwy 80, then along U.S. Hwy 80 to junction AL Hwy 22, then along AL Hwy 22 to junction AL Hwy 5, then along AL Hwy 5 to junction U.S. Hwy 43, then along U.S. Hwy 43 to junction AL Hwy 56, then along AL Hwy 56 to the AL-MS State line; points in CO on and west of the Continental Divide; points in GA on and south of a line beginning at the GA-SC State line, and extending along GA Hwy 72 to junction U.S. Hwy 78, then along U.S. Hwy 78 to the GA-AL State line; points in LA on and south of a line beginning at the LA-MS State line, and extending along U.S. Hwy 61, to junction LA Hwy 10, then along LA Hwy 10 to junction LA Hwy 1, then along LA Hwy 1 to junction LA Hwy 29, then along LA Hwy 29 to junction U.S. Hwy 71, then along U.S. Hwy 71 to junction LA Hwy 112, then along LA Hwy 112 to junction LA Hwy 28, then along LA Hwy 28 to junction LA Hwy 8, then along LA Hwy 8 to the LA-TX State line; points in the MD counties of Dorchester, Somerset, Wicomico, and Worcester; points in MS on and south of a line beginning at the AL-MS State line, and extending along MS Hwy 42 to junction U.S. Hwy 98, then along U.S. Hwy 98 to junction MS Hwy 24, then along MS Hwy 24 to junction U.S. Hwy 61, then along U.S. Hwy 61 to the LA-MS State line; points in MT on and west of a line beginning at the MT-WY State line, and extending along U.S. Hwy 89, then along U.S. Hwy 89 to junction U.S. Hwy 87, then along U.S. Hwy 87 to the US-CD International boundary line; points in NM on and west of a line beginning at the NM-TX State line, and extending along U.S. Hwy 285 to junction NM Hwy 3, then along NM Hwy 3 to the CO-NM State line; points in NC on and east of a line beginning at the NC-VA State line, and extending along U.S. Hwy 29 to junction U.S. Hwy 220, then along U.S. Hwy 220 to junction U.S. Hwy 1, then along U.S. Hwy 1 to the NC-SC State line; points in SC on and east of a line beginning at the NC-SC State line and extending along U.S. Hwy 1 to junction SC Hwy 34, then along SC Hwy 34 to junction SC Hwy 72, then along SC Hwy 72 to the GA-SC State line; points in TX on, south and west of a line beginning at the LA-TX State line, and extending along TX Hwy 63, to junction U.S. Hwy 190, then along U.S. Hwy 190 to junction TX Hwy 30, then along TX Hwy 30 to junction TX Hwy 90, then along TX Hwy 90 to junction U.S. Hwy 290, then along U.S. Hwy 290 to junction TX Hwy 21, then along TX Hwy 21 to junction Interstate Hwy 35, then along Interstate Hwy 35 to junction U.S. Hwy 90, then along U.S. Hwy 90 to junction U.S. Hwy 285, then along U.S. Hwy 285 to junction NM-TX State line; points in VA on and east of a line beginning at the Potomac River Bridge on U.S. Hwy 301, then along U.S. Hwy 301 to junction VA Hwy 218, then along VA Hwy 218 to junction VA Hwy 3, then along VA Hwy 3 to junction VA Hwy 20, then along VA Hwy 20 to junction U.S. Hwy 250, then along U.S. Hwy 250 to junction U.S. Hwy 29, then along U.S. Hwy 29 to the NC-VA State line; points in WY on and west of the Continental Divide. (8) between points in the PA counties of Armstrong and Clarion, on the one hand, and, on the other, points in the States of AZ, CA, FL, ID, NV, OR, RI, UT, and WA, and points in AL on and south of a line beginning at the AL-GA State line, and extending along U.S. Hwy 80 to junction AL Hwy 22, then along AL Hwy 22 to junction AL Hwy 5, then along AL Hwy 5 to junction U.S. Hwy 84, then along U.S. Hwy 84 to the AL-MS State line; points in CO on and west of the Continental Divide; points in CT on and east of a line beginning at the CT-MA State line, and extending along CT Hwy 52 to junction CT Hwy 32, then along CT Hwy 32 to the west bank of the Thames River, then along the bank of the Thames River to the Atlantic Ocean; points in GA on and south of a line beginning at the GA-SC State line, and extending along U.S. Hwy 301 to junction GA Hwy 21, then along GA Hwy 21 to junction GA Hwy 17, then along GA Hwy 17 to junction GA Hwy 78, then along GA Hwy 78 to junction GA Hwy 57, then along GA Hwy 57 to junction GA Hwy 22, then along GA Hwy 22 to the AL-GA State line; points in LA on and south of a line beginning at the LA-MS State line, and extending along U.S. Hwy 84 to junction LA Hwy 28, then along LA Hwy 28 to junction LA Hwy 8, then along LA Hwy 8 to the LA-TX State line; points in ME on and east of a line beginning at the ME-NH State line, and extending along ME Hwy 5 to junction U.S. Hwy 2, then along U.S. Hwy 2 to junction ME Hwy 27, then along ME Hwy 27 to the U.S.-CD International Boundary line; points in the MD counties of Dorchester, Somerset, Wicomico, and Worcester; points in MA on and east of MA Hwy 31; points in MS on and south of U.S. Hwy 84; points in MT on and west of the Continental Divide; points in NH on and east of U.S. Hwy 202; points in NM on and west of a line beginning at the NM-TX State line, and extending along U.S. Hwy 380, to junction U.S. Hwy 285, then along U.S. Hwy 285 to junction NM Hwy 3, then along NM Hwy 3 to the CO-NM State line; points in NC on and east of a line beginning at the NC-VA State line, and extending along U.S. Hwy 13 to junction U.S. Hwy 158, then along U.S. Hwy 158 to junction Interstate Hwy 95, then along Interstate Hwy 95 to the NC-SC State line; points in SC on and south of a line beginning at the NC-SC State line, and extending along Interstate Hwy 95 to junction U.S. Hwy 301, then along U.S. Hwy 301 to the GA-SC State line; points in TX on and south of a line beginning at the LA-TX State line, and extending along TX Hwy 63 to junction U.S. Hwy 190, then along U.S. Hwy 190 to junction U.S. Hwy 87, then along U.S. Hwy 87 to junction U.S. Hwy 180, then along U.S. Hwy 180 to the NM-TX State line; points in the VA counties of

Accomack and Northamptown, and those south of the Chesapeake Bay, and east of U.S. Hwy 13; points in WY on and west of the Continental Divide. (9) between points in the PA counties of Fayette and Westmoreland, on the one hand, and, on the other, points in the States of AZ, CA, ID, MT, NV, OR, and WA and points in AL on and south of a line beginning at the AL-FL State line, and extending along Interstate Hwy 10 to junction U.S. Hwy 98, then along U.S. Hwy 98 to the AL-MS State line; points in CO on and west of Interstate Hwy 25; points in FL on and south of a line beginning at the Atlantic Ocean, and extending along FL Hwy 40 to junction U.S. Hwy 27, then along U.S. Hwy 27 to junction FL Hwy 20, then along FL Hwy 20 to junction U.S. Hwy 231, then along U.S. Hwy 231 to junction U.S. Hwy 90, then along U.S. Hwy 90 to the AL-FL State line; points in LA on and south of a line beginning at the LA-MS State line, and extending along U.S. Hwy 84 to junction LA Hwy 28, then along LA Hwy 28 to junction LA Hwy 8, then along LA Hwy 8 to the LA-TX State line; points in MS on and south of a line beginning at the AL-MS State line, and extending along U.S. Hwy 98 to junction U.S. Hwy 84, then along U.S. Hwy 84 to the LA-MS State line; points in NM on and west of a line beginning at the NM-TX State line, and extending along U.S. Hwy 84 to junction NM Hwy 18, then along NM Hwy 18 to junction NM Hwy 39, then along NM Hwy 39 to junction U.S. Hwy 56, then along U.S. Hwy 56 to junction U.S. Hwy 85, then along U.S. Hwy 85 to the CO-NM State line; points in ND on and west of a line beginning at the ND-SD State line, and extending along ND Hwy 49 to junction ND Hwy 200, then along ND Hwy 200 to junction U.S. Hwy 83, then along U.S. Hwy 83 to the U.S.-CD border; points in SD on and west of a line beginning at the ND-SD State line, and extending along SD Hwy 73 to junction SD Hwy 34, then along SD Hwy 34 to junction Interstate Hwy 90, then along Interstate Hwy 90 to junction SD Hwy 79, then along SD Hwy 79 to junction U.S. Hwy 18, then along U.S. Hwy 18 to the SD-WY State line; points in TX on and west and south of a line beginning at the LA-TX State line, and extending along TX Hwy 63, then along TX Hwy 63 to junction U.S. Hwy 190, then along U.S. Hwy 190 to the junction TX Hwy 301, then along TX Hwy 301 to junction TX Hwy 90, then along TX Hwy 90 to junction U.S. Hwy 290, then along U.S. Hwy 290 to junction TX Hwy 71, then along TX Hwy 71 to junction U.S. Hwy 87, then along U.S. Hwy 87 to junction U.S. Hwy 84, then along U.S. Hwy 84 to the NM-TX State line; points in WY on and west of a line beginning at the CO-WY State line, and extending along U.S. Hwy 85, to junction U.S. Hwy 18, then along U.S. Hwy 18 to the WY-SD State line. (Gateways eliminated: Waynesboro, PA and Lineboro, MD.)

MC 124174 (Sub-E51), filed June 4, 1974. Applicant: MOMSEN TRUCKING CO., P.O. Box 37490, Omaha, NE 68137. Representative: Karl E. Momsen (same as above). *Hides, skins, and pelts, and pieces therefrom,* except tannery products, supplies, and by-products, commodities and liquids, in bulk, in tank vehicles, from Fargo, ND, (1) to those points in IL on and south of U.S. Hwy 30 beginning at the IL-IN State line, then along U.S. Hwy 30 to junction U.S. Hwy 52, then along U.S. Hwy 52 junction U.S. Hwy 51, then along U.S. Hwy 51 to junction IL Hwy 92, then along IL Hwy 92 to junction IL Hwy 88, then along IL Hwy 88 to junction IL Hwy 2, then along IL Hwy 2 to junction U.S. Hwy 30, then along U.S. Hwy 30 to the Mississippi River; (2) to those points in IA beginning at the IA-IL State line, and extending westerly on and south of U.S. Hwy 30 to junction IA Hwy 13, then along IA Hwy 13 to junction U.S. Hwy 151, then along U.S. Hwy 151 to junction IA Hwy 150, then along IA Hwy 150 to the City Limits of Cedar Rapids, IA, to junction U.S. Hwy 30, then along U.S. Hwy 30 to junction U.S. Hwy 63, then along U.S. Hwy 63 to junction IA Hwy 96, then along IA Hwy 96 to junction IA Hwy 14, then along IA Hwy 14 to junction IA Hwy 175, then along IA Hwy 175 to junction U.S. Hwy 65, then along U.S. Hwy 65 to junction U.S. Hwy 20, then along U.S. Hwy 20 to junction U.S. Hwy 69, then along U.S. Hwy 69 to junction IA Hwy 3, then along IA Hwy 3 to junction IA Hwy 4, then along IA Hwy 4 to junction IA Hwy 10, then along IA Hwy 10 to junction IA Hwy 60, then along IA Hwy 60 to junction U.S. Hwy 18, then along U.S. Hwy 18 to the IA-SD State line; (3) to those points in SD on and south and east of a line beginning at Yankton, SD, at the SD-NE State line, and extending along SD Hwy 50, then along SD Hwy 50 to junction Interstate Hwy 29, then along Interstate Hwy 29 to junction U.S. Hwy 77, then along U.S. Hwy 77 to the SD-IA State line; (4) to those points in NE on and east and south of a line beginning at the NE-SD State line, and extending along U.S. Hwy 20, then along U.S. Hwy 20 to the NE-WY State line; (5) to points in TN; (6) to those points in IN on and east of a line beginning at the IN-MI State line, and extending along IN Hwy 23 to junction U.S. Hwy 6, then along U.S. Hwy 6 to junction U.S. Hwy 421, then along U.S. Hwy 421 to junction U.S. Hwy 30, then along U.S. Hwy 30 to the IL-IN State line; (7) to points in KY, ME, MD and MA; (8) to points in MI beginning at Lake Huron, and extending along U.S. Hwy 25 along unnumbered road to junction MI Hwy 53, then along MI Hwy 53 to junction MI Hwy 46, then along MI Hwy 46 to junction MI Hwy 83, then along MI Hwy 83 to junction MI Hwy 57, then along MI Hwy 57 to junction MI Hwy 13, then along MI Hwy 13 to junction MI Hwy 78, then along MI Hwy 78 to junction MI Hwy 52, then along MI Hwy 52 to junction MI Hwy 106, then along MI Hwy 106 to junction Interstate Hwy 94, then along Interstate Hwy 94 to junction MI Hwy 99, then along MI Hwy 99 to junction MI Hwy 60, then along MI Hwy 60 to junction MI Hwy 40, then along MI Hwy 40 to junction U.S. Hwy 12, then along U.S. Hwy 12 to junction MI Hwy 19, than along MI Hwy 19 to the MI-IN State line; (9) to points in NH, NJ, NY, OH, PA, TN, VT, VA and TX; (10) to points in KS within 6 miles of Auburn, NE; to points in MO within 60 miles of Auburn, NE; to St. Louis, MO, Buford, GA, New Orleans, LA, and points in WV. (Gateways eliminated: Sioux City and Sergeant Bluff, IA.)

MC 125433 (Sub-E2), filed June 3, 1974. Applicant: F-B TRUCK LINE CO., 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: Michael J. Norton, P.O. Box 2135, Salt Lake City, UT 84110. *Lumber and lumber mill products,* between points in CA on and north of a line due east from the Pacific Ocean to Fort Bragg, then along U.S. Hwy 1 south to junction U.S. Hwy 20, then along U.S. Hwy 20 to junction Interstate Hwy 80 at or near Cisco, CA, then along Interstate Hwy 80 to the CA-NV State line, on the one hand, and, on the other, points in that part of NM on and east of Interstate Hwy 25 beginning at the CO-NM State line, then south to junction U.S. Hwy 84, then along U.S. Hwy 84 to junction NM Hwy 20, then along NM Hwy 20 south to junction U.S. Hwy 285, then along U.S. Hwy 285 to junction U.S. Hwy 82, then east along U.S. Hwy 82 to junction NM Hwy 529, then east along NM Hwy 529 to junction U.S. Hwy 62, then east along U.S. Hwy 62 to the NM-TX State line. (Gateway eliminated: Points in ID.)

MC 125433 (Sub-E3), filed June 3, 1974. Applicant: F-B TRUCK LINE CO., 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: Michael J. Norton, P.O. Box 2135, Salt Lake City, UT 84110. *Special purpose trailers designed for use in connection with the maintenance and repair of electric power transmission lines, and those designed or use incidental to construction and mining projects,* not including in either case trailers designed to be drawn by passenger automobiles, in truckaway service; *self-propelled articles,* each weighing, 15,000 pounds or more, and *related machinery, tools, parts, and supplies* moving in connection therewith; and *commodities* the transportation of which because of their size or weight require the use of special equipment and *related machinery parts and related contractor's materials and supplies* when their transportation is incidental to the transportation by said carrier of commodities which by reason of size or weight require special equipment, between Farmington, NM, on the one hand, and, on the other, points in Mohave, Yuma, Yavapai, Maricopa, Pinal, Puma, Santa Cruz, Cochise Counties, AZ, and that part of Coconino County on and west of U.S. Hwy 89 to Flagstaff, AZ, then south along Interstate Hwy 17 to the Maricopa County line. (Gateway eliminated: Four Corners, UT.)

By the Commission.

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

[FR Doc. 78-21414 Filed 8-1-78; 8:45 am]

[1505-01]

[Notice No. 115]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

Correction

In FR Doc. 78-19185 appearing on page 30006 in the issue of Wednesday, July 12, 1978, on page 30008 in the middle column, the 1st full paragraph, the 22d line should read, "* * * to points in CT, DE, DC, ME, MD, MA, * * *"; the 23d line should read, "* * * NH, NJ, NY, PA, RI, VT, VA, and * * *"; the 24th line should read, "* * * WV, under a continuing contract or * * *"; the 35th line should read, "* * * North 14 Street, Omaha, NE 68102.".

[1505-01]

[Volume No. 103]

PETITIONS, APPLICATIONS, FINANCE MATTERS (INCLUDING TEMPORARY AUTHORITIES), RAILROAD ABANDONMENTS, ALTERNATE ROUTE DEVIATIONS, AND INTRASTATE APPLICATIONS

Correction

In FR Doc. 78-19182 appearing at page 30167 in the issue for Thursday, July 13, 1978, in the first column of page 30174, "MC 144604 (Sub-29F)" should have read "MC 144604 (Sub-53F)".

[7035-01]

[Notice No. 13]

TEMPORARY AUTHORITY TERMINATION

The temporary authorities granted in the dockets listed below have expired as a result of final action either granting or denying the issuance of a certificate or permit in a corresponding application for permanent authority, on the date indicated below:

Temporary authority application	Final action or certificate or permit	Date of action
Younger Bros., Inc., 4904 Griggs Rd., P.O. Box 14048, Houston, Tex., 77021, MC-531-346TA.	MC-531-348	Jan. 3, 1978.
Pacific Intermountain Express, 1417 Clay St., P.O. Box 958, Oakland, Calif. 94612, MC-730-403TA.	MC-730-40	Jan. 6, 1978.
Preston Trucking Co., Inc., 151 Easton Blvd., Preston, Md. 21655, MC-1824-74TA.	MC-1824-75	Jan. 9, 1978.
R-W Service System, Inc., 20225 Goddard Rd., Taylor, Mich. 48180, MC-55896-53TA.	MC-55896-52	Jan. 3, 1978.
Major Transport, Inc., Box 204, Highway 135 and Airport Rd., Palmyra, Wis. 53156, MC-56409-13TA.	MC-56409-11	Do.
Jetco, Inc., 4701 Eisenhower Ave., Alexandria, Va. 22304, MC-65475-12TA.	MC-65475-13	Jan. 4, 1978.
Kaw Transport Co., P.O. Box 8525, Sugar Creek, Mo. 64054, MC-106400-108TA.	MC-106400-109	Jan. 6, 1978.
Schilli Motor Lines, Inc., P.O. Box 123, Remington, Ind. 47977, MC-106674-241TA.	MC-106674-247	Jan. 3, 1978.
Sentle Trucking Corp., Box 7850, Toledo, Ohio 43619, MC-109124-31TA.	MC-109124-32	Jan. 4, 1978.
Warren Transport, Inc., P.O. Box 420, 324 Manhard St., Waterloo, Iowa 50704, MC-114211-338TA.	MC-114211-312	June 26, 1978.
Nationwide Carriers, Inc., P.O. Box 104, Maple Plain, Minn. 55359, MC-117940-218TA.	MC-117940-226	Jan. 7, 1978.
Service Express, Inc., P.O. Box 109, 5410 21st St., Tuscaloosa, Ala. 35401, MC-120910-12TA.	MC-120910-11	Jan. 6, 1978.
Katuin Bros. Inc., 102 Terminal St., P.O. Box 1127, Dubuque, Iowa 52001, MC-126539-27TA.	MC-126539-28	Jan. 3, 1978.
Arden E. Olsen, Route 1, Kalispell, Mont. 59901, MC-128802-5TA.	MC-128802-4	Jan. 5, 1978.
Tom Inman Trucking, Inc., P.O. Box 9667, Tulsa, Okla. 74107, MC-129032-37TA.	MC-129032-36	Jan. 6, 1978.
Blackburn Truck Lines, Inc., 4998 Branyon Ave., South Gate, Calif. 90280, MC-134387-44TA.	MC-134387-46	Jan. 9, 1978.
Blair Cartage, Inc., 13658 Auburn Rd., P.O. Box 52, Newbury, Ohio 44065, MC-136981-4TA.	MC-136981-5	Jan. 6, 1978.
Joseph Moving & Storage Co., Inc., d.b.a. St. Joseph Motor Lines, 573 Dutch Valley Rd. NW., Atlanta, Ga. 30324, MC-140010-11TA.	MC-140010-10	Do.
Cargo Contract Carrier Corp., P.O. Box 206, U.S. Highway 20, Sioux City, Iowa 51102, MC-140829-41TA.	MC-140829-46	Jan. 4, 1978.
Cargo Contract Carrier Corp., P.O. Box 206, U.S. Highway 20, Sioux City, Iowa 51102, MC-140829-44TA.	MC-140829-53	Jan. 9, 1978.
Charles W. Sircy Corp., 434 Atlas Dr., Nashville, Tenn. 37211, MC-141278-2TA.	MC-141278-3	Oct. 16, 1977.
Lone Pine Trucking Co., 11831 Vose St., North Hollywood, Calif., MC-141356-5TA.	MC-141356-4	Jan. 5, 1978.
P-Y Transport, Inc., 2767 Lewisberry Rd., York, Pa. 17404, MC-141424-3TA.	MC-141424-4	Jan. 6, 1978.
Florida Dispatch, Inc., P.O. Box 480206, Miami, Fla. 33148, MC-142842TA.	MC-142842-1	Jan. 3, 1978.
Zip Trucking, Inc., P.O. Box 5717, Jackson, Miss. 39208, MC-141652-11TA.	MC-141652-8	Jan. 6, 1978.

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

[FR Doc. 78-21415 Filed 8-1-78; 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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[6570-06]

1

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: S-1556-78.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m. (eastern time), Tuesday, August 1, 1978.

CHANGES IN THE MEETING: The date and time of the meeting are changed to 2 p.m. (eastern time), Thursday, August 3, 1978.

The following item is added to the portion open to the public:

Resolutions concerning procedures and policies of the Office of Interagency Coordination and the Commissioners Coordinating Committee for Interagency Matters.

The following item is added to the portion closed to the public:

Discussion of planning for fiscal year 1980-1986 Budgets.

A majority of the entire membership of the Commission determined by recorded vote that the business of the Commission required these changes and that no earlier announcement was possible.

In favor of change.—Eleanor Holmes Norton, Chair; Daniel E. Leach, Vice Chair; and Ethel Bent Walsh, Commissioner.
Opposed.—None.

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat at 202-634-6748.

This notice issued July 28, 1978.

[S-1574-78 Filed 7-31-78; 8:45 am]

[6715-01]

2

FEDERAL ELECTION COMMISSION.

FEDERAL REGISTER NO.: S-1549-78.

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, August 3, 1978.

CHANGES IN MEETING:

To be withdrawn.—AO 1978-42 and AO 1978-48.
To be added.—AO 1978-43. Notice to Candidates and Committees Regarding Civil Penalties for Violation of 2 U.S.C. 441b. Disclosure of Particulars—Method of Reporting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. David Fiske, Press Officer, telephone 202-523-4065.

MARJORIE W. EMMONS,
Secretary to the Commission.

[S-1578-78 Filed 7-31-78; 2:08 pm]

[7030-01]

3

INDIAN CLAIMS COMMISSION.

TIME AND DATE: 10:15 a.m., August 9, 1978.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Open to the public:

Docket 13-E, *James Strong, et al.*
Docket 15-D, *Pottawatomie.*
Docket 295-A, *Mojave.*
Docket 332-C, *Yankton Sioux.*
Disposition of library materials.

CONTACT PERSON FOR MORE INFORMATION:

David H. Bigelow, Executive Director, Room 640, 1730 K Street NW., Washington, D.C. 20006, telephone 202-653-6174.

[S-1576-78 Filed 7-31-78; 11:05 am]

[7590-01]

4

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: July 31, 1978.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open and closed.

MATTERS TO BE CONSIDERED:

Wednesday, August 2; 2 p.m.—Budget markup (approximately 3 hours, closed, exemption 9).
Thursday, August 3; 9:30 a.m.—1. Discussion of licensing procedures for geologic repositories for high level waste (approximately 1 hour, public meeting). 2. Discussion of OIA/OGC inquiry in testimony of EDO (approximately 1½ hours, closed, exemption 1) or 2. Discussion of personnel matter (approximately 1½ hours, closed, exemption 1).
Thursday, August 3; 2 p.m.—1. Discussion of general policy statement on nuclear power reactor site evaluations (approximately 1 hour, public meeting). 2. Briefing on status of systematic evaluation program (approximately 1 hour, public meeting).

NOTE.—Items are tentative, dependent on completion of budget review.

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee, 202-634-1410.

WALTER MAGEE,
Office of the Secretary.

JULY 26, 1978.

[S-1577-78 Filed 7-31-78; 2:08 pm]

[7600-01]

5

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 10 a.m., August 4, 1978.

PLACE: Room 1101, 1825 K Street NW., Washington, D.C.

STATUS: This meeting is subject to being closed by a vote of the Commissioners taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED: Discussion of specific cases in the Commission adjudication process.

CONTACT PERSON FOR MORE INFORMATION:

Ms. Lottie Richardson, 202-634-7970.

Dated: July 28, 1978.

[S-1575-78 Filed 7-31-78; 8:45 am]

Federal Register

WEDNESDAY, AUGUST 2, 1978
PART II



ENVIRONMENTAL PROTECTION AGENCY

■

PESTICIDE PROGRAMS

Rebuttable Presumption Against Registration and Continued Registration of Pesticide Products Containing 2,4,5,-Trichlorophenol and Its Salts

ENVIRONMENTAL PROTECTION AGENCY

[FRL 935-1; OPP-30000/27]

PESTICIDE PROGRAMS

Rebuttable Presumption Against Registration and Continued Registration of Pesticide Products Containing 2,4,5-Trichlorophenol and Its Salts

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Notice of rebuttable presumption.

SUMMARY: 2,4,5-Trichlorophenol and its salts have been found to exceed certain risk criteria set forth in 40 CFR 162.11. This notice requests registrants and other interested persons to submit rebuttals and other information on the presumption and to submit any other data on the risks and benefits of this pesticide chemical. This notice is the first of several which will give public notification of the Agency's progress in reviewing this chemical.

DATES: Rebuttal evidence and other information must be received on or before September 18, 1978.

ADDRESS MATERIAL TO: Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, EPA, Room 401, East Tower, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Mary Reece, Office of Special Pesticide Reviews, Office of Pesticide Programs (WH-566), Room 447, East Tower, EPA, 202-755-2972.

SUPPLEMENTARY INFORMATION: The Deputy Assistant Administrator, Office of Pesticide Programs, EPA, has determined that a rebuttable presumption exists against registration and continued registration of all pesticide products containing 2,4,5-Trichlorophenol and its salts.[1]

I. Regulatory Provisions

A. *General.* Title 40, part 162.11, of the Code of Federal Regulations for the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (86 Stat. 973, 89 Stat. 751, 7 U.S.C. 136 et seq.), provides that a rebuttable presumption against registration shall arise if the Agency determines that a pesticide meets or exceeds any of the risk criteria relating to acute and chronic toxic effects set forth in section 162.11(a)(3). If it is determined that such a rebuttable presumption has arisen, the regulations require that the registrant be notified by certified mail and afforded an opportunity to submit evidence in rebuttal of the presumption. In addition, the Agency has determined that the public should also be given notice of the bases for the presumption to provide an opportunity for comment and to solicit additional information relevant to the presumption.

A notice of rebuttable presumption against registration is issued when the evidence related to risk meets the criteria set forth in section 116.11(a)(3). It is emphasized that a notice of rebuttable presumption against registration and continued registration of a pesticide is not a notice of intent to cancel the registration of a pesticide, and may or may not lead to cancellation. The notice of intent to cancel is issued only after the risks and benefits of a pesticide are carefully considered and it is determined that the pesticide may generally cause unreasonable adverse effects to the environment.

All registrants and applicants for registration are invited pursuant to 40 CFR 162.11(a)(4) to submit evidence in rebuttal of the presumptions listed in part II of this notice and, in the case of oncogenicity, to submit information which relates to the assessment of oncogenic risks as set forth in the Agency's Interim Procedures and Guidelines for Health Risk and Economic Impact Assessment of Suspected Carcinogens (May 25, 1976; 41 FR 21402). Registrants and other interested parties may submit for consideration data on benefits which they believe would justify registration or continued registration. In addition, any registrant may petition the Agency to voluntarily cancel a current registration pursuant to section 6(a)(1) of FIFRA.

B. *Rebuttal Criteria.* Section 162.11(a)(4) provides that a registrant may rebut the presumption by sustaining the burden of proving:

(1) In the case of a pesticide presumed against pursuant to the acute toxicity or lack of emergency treatment criteria, "that when considered with the formulation, packaging, method of use, and proposed restrictions on the directions for use and widespread and commonly recognized practices of use, the anticipated exposure to an applicator or user and to local, regional, or national populations of nontarget organisms is not likely to result in any significant acute adverse effects" [40 CFR 162.11(a)(4)(i)];

(2) In the case of a pesticide presumed against pursuant to the chronic toxicity criteria, "that when considered with proposed restrictions on use and widespread and commonly recognized practices of use, the pesticide will not concentrate, persist or accrue to levels in man or the environment likely to result in any significant chronic adverse effects" [40 CFR 162.11(a)(4)(ii)]; or (3) In either case, that "the determination by the Agency that the pesticide meets or exceeds any of the criteria for risk was in error" [40 CFR 162.11(a)(4)(iii)].

C. *Benefits Information.* In addition to submitting evidence to rebut the presumption of risk, section 162.11(a)(5)(iii) provides that a registrant "may submit evidence as to whether the economic, social and environmental benefits of the use of the pesticide subject to the presumption outweigh the risk of use." If the risk presumptions are not rebutted, the benefits evidence [2] submitted by the registrant, applicants, and other interested persons will be considered by the Administrator in determing the appropriate regulatory action. Specifically, section 162.11(a)(5)(iii) provides that if the benefits appear to outweigh the risks, the Administrator may issue a notice of intent to hold a hearing pursuant to section 6(b)(2) of FIFRA to determine whether the registration(s) should be cancelled or application(s) denied. Alternatively, if the "benefits do not appear to outweigh the risks, the Administrator shall issue a notice pursuant to section 3(c)(6) or section 6(b)(1) of the Act, as appropriate." Moreover, if at any time the Administrator determines that a pesticide poses an "imminent hazard" to humans or the environment, a notice of suspension may be issued pursuant to section 6(c) of the Act.

II. Presumptions

Registrations and applications for registration of pesticide products con-

[1] A position document, containing an appendix of references, background information, and other material pertinent to the issuance of this notice, has been prepared by the Agency Working Group on 2,4,5-Trichlorophenol and its salts and is also published with this notice.

[2] Registrants or other interested persons who desire to submit benefits informations should consider submitting information on the following subjects, along with any other relevant information they desire to submit:

1. Identification of the major use of the pesticide, including estimated quantities used by crop or other application.
2. Identification of the minor uses of the pesticide, including estimated quantities used by category such as lawn and garden uses and household uses.
3. Identification of registered alternative products for the uses set forth in (1) and (2) above, including an estimate of their availability.
4. Determination of the change in costs to the user of providing equivalent pesticide treatment with any available substitute products.
5. Assessment of regulation impact upon user productivity (e.g., yield per acre and/or total output) from using available substitute pesticides or from using no other pesticides.
6. If the impacts upon either user costs or productivity are significant, a qualitative assessment of the regulation's impact on production of major agricultural commodities and retail food prices of such commodities.

taining 2,4,5-Trichlorophenol and its salts meet or exceed the 40 CFR 162.11(a)(3) risk criteria relating to oncogenicity. The Agency's basis for concluding that these risk criteria have been met or exceeded is set out in "2,4,5-Trichlorophenol and Its Salts: Position Document 1," which follows. Copies of attachments to the Position Document which are not published with this notice are available for public inspection in the Office of Special Pesticide Reviews. Information protected from disclosure pursuant to FIFRA section 10 cannot be provided. Specific inquiries concerning the position document, as well as requests for access to these files, should be directed to Project Manager Mary Reece, Office of Special Pesticide Reviews (WH-566), EPA, Room 447, East Tower, 401 M Street SW., Washington, D.C. 20460, 202-755-2972.

A. *Oncogenicity.* 40 CFR Section 162.11(a)(3)(ii)(A) provides that a rebuttable presumption shall arise if a pesticide "(i)nduces oncogenic effects in experimental mammalian species or in man as a result of oral, inhalation or dermal exposure * * *." As a further clarification of the provision, the preamble to the Agency's Interim Procedures and Guidelines for Health Risk and Economic Impact Assessment of Suspected Carcinogens [May 25, 1976; 41 FR 21402] states that "a substance will be considered a presumptive cancer risk when it causes a statistically significant excess incidence of benign or malignant tumors in humans or animals."

On the basis of scientific studies and information summarized in the position document, the Agency has concluded that all registrations and applications for registration of pesticide products containing 2,4,5-Trichlorophenol and its salts exceed this risk criterion, and that a rebuttable presumption against new or continued registration of such products has arisen.

B. *Other Chronic or Delayed Toxic Effects.* 40 CFR Section 162.11(a)(3)(ii)(B) provides that a rebuttable presumption shall arise if a pesticide "(p)roduces any other chronic or delayed toxic effect in test animals at any dosage up to a level, as determined by the Administrator, which is substantially higher than that to which humans can reasonably be anticipated to be exposed, taking into account ample margins of safety * * *".

On the basis of scientific studies and information summarized in the position document, the Agency has concluded that all registrations and applications for registration of pesticide products containing 2,4,5-Trichlorophenol or its salts exceed this risk criterion for fetotoxicity and that a rebuttable presumption against new or contined registration of such products has arisen.

III. Additional Grounds for Review

As discussed in detail in the attached Position Document, some data has associated 2,4,5-Trichlorophenol and its salts with teratogenic effects in test animals. The data and analyses available at this time with respect to this effect are not sufficient to warrant the issuance of a rebuttable presumption. The Agency specifically solicits further evidence bearing on these possible adverse effects. All comments and information received with respect to the potential adverse effects, including analysis thereof, may serve as a basis for a final decision on registering pesticides containing 2,4,5-Trichlorophenol and its salts.

IV. Rebuttal Submission Procedures

All registrants and applicants for registration listed below are being notified by certified mail of the rebuttable presumption existing against registration and continued registration of their products.

The registrants and applicants for registration shall have 45 days from the date this notice is sent or until September 18, 1978 to submit evidence in rebuttal of the presumption. However, the Administrator may, for good cause shown, grant an additional 60 days during which such evidence may be submitted. Notice of such an extension, if granted, will appear in the Federal Register.

Evidence submitted in rebuttal should conform to the section 162.11(a)(4) rebuttal criteria which are re-stated in section I of this Federal Register notice. Registrants or other persons submitting rebuttal information should provide data and references to support the statements made in their rebuttal submissions, and they should submit reproducible copies of those publications and other materials cited in support of their rebuttal statements, which are not cited in the position document.

A registrant or applicant for registration may, if it desires, assert a business confidentiality claim covering part or all of the information submitted in rebuttal. The registrant or applicant may assert the claim by placing on or attaching to the information a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as "trade secret," "proprietary," or "company confidential." Allegedly confidential portions of otherwise nonconfidential documents should be clearly marked.

If a confidentiality claim is asserted, the information covered by the claim will be disclosed by EPA only to the extent and by means of the procedures set forth in 40 CFR Part 2, Subpart B (41 FR 36906; September 1, 1976). If no confidentiality claim accompanies the information at the time it is received by EPA, EPA will place the information in the public comment file where it will be available for public inspection.

If a registrant or applicant does assert a confidentiality claim for some but not all, of the information submitted to EPA in rebuttal, the registrant or applicant should furnish two copies of the information to EPA. The first copy should contain all of the information submitted in rebuttal with information claimed as confidential clearly identified. The second copy should be identical to the first except that all information claimed as confidential should be deleted. The second copy will be placed in the public comment file. The first copy will be treated in accordance with the procedures set out above.

V. Duty To Submit Information on Adverse Effects

Registrants are required by law to submit to EPA any additional information regarding any adverse effects on man or the environment which comes to a registrant's attention at any time, pursuant to section 6(a)(2) of FIFRA and 40 CFR 162.8(d). If any registrant of products containing 2,4,5-Trichlorophenol and its salts has any published or unpublished information, studies, reports, analyses, or reanalyses regarding any adverse effects in animal species or humans, residues, and claimed or verified accidents to humans, domestic animals, or wildlife, which have not been previously submitted to EPA, the material must be submitted immediately. When responding to this notice, each registrant shall submit a written certification to the Agency that all information regarding any adverse effects known to the registrant has been submitted. In addition, the registrants should notify EPA of any studies currently in progress, including the purpose of the study, the protocol, the approximate completion date, and a summary of all results observed to date.

VI. Public Comments and Inspection

During the time allowed for submission of rebuttal evidence, specific comments on the presumptions set forth in this notice and on the material contained in the position document are solicited from the public. In particular, any documented episodes of adverse effects to humans, domestic animals, or wildlife, and information as to any laboratory studies in progress or completed are requested to be submitted to EPA as soon as possible. Specifically, information on the fate and effects of 2,4,5-Trichlorophenol and its

salts, its impurities, metabolities, and degradation products on flora and fauna, particularly animals with metabolism similar to man, is solicited. Similarly, any studies or comments on the benefits from the use of 2,4,5-Trichlorophenol and its salts are requested to be submitted. All comments and information received, as well as any other relevant information and analysis thereof, which come to the attention of the Agency may serve as a basis for final determination pursuant to section 162.11(a)(5).

All comments and information should be sent to the office of Federal Register section at the address given above, if possible in triplicate to facilitate the work of the Agency and others interested in inspecting them. The comments and information should bear the identifying notation "OPP-30000/27." Comments received after the specified time period will be considered only to the extent feasible, consistent with the time limits imposed by 40 CFR section 162.11(a)(5)(ii).

All written comments and information filed pursuant to this notice will be available for public inspection in the office of the Federal Register section from 8:30 a.m. to 4 p.m. during normal working days. Interested persons are encouraged to take advantage of the opportunity to inspect Agency files during normal working hours since (1) all of the information received may serve as a basis for final determination pursuant to section 162.11(a)(5) and (2) the Agency will not generally publish a summary of information received in the FEDERAL REGISTER at the close of the rebuttal period.

Your cooperation is solicited in identifying any errors or omissions which may have been made in the following computer listings. Corrections to the listings may not necessarily be published in the FEDERAL REGISTER, but rather handled by mail with affected parties. Omissions will be corrected by notice in the FEDERAL REGISTER.

Dated: July 25, 1978.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

2,4,5-TRICHLOROPHENOL AND ITS SODIUM AND POTASSIUM SALTS, POSITION DOCUMENT 1

2,4,5-Trichlorophenol Working Group, Mary Reece, Project Manager, U.S. Environmental Protection Agency

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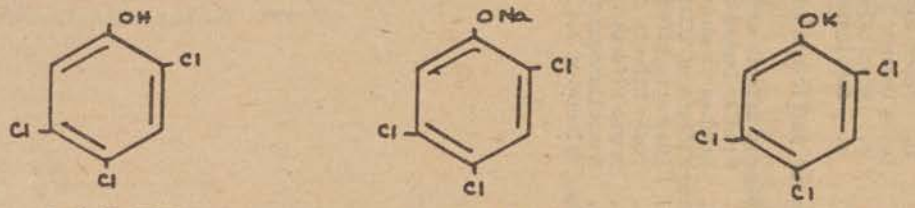
FOREWORD

All technical and formulated 2,4,5-trichlorophenol (2,4,5-TCP) products are contaminated in varying degree by a byproduct of the manufacturing process, 2,3,7,8-tetrachlorodibenzo-*p*-dioxin (TCDD). For this reason all references to 2,4,5-TCP denote TCDD-contaminated 2,4,5-TCP. Numerous toxicity studies on purified TCDD are included in this position document. Many of these studies were done in connection with another pesticide, 2,4,5-trichlorophenoxyacetic acid or 2,4,5-T, which is manufactured from 2,4,5-TCP. 2,4,5-T, which is a candidate for rebuttable presumption against registration, is the subject of a separate position document.

I. BACKGROUND

A. CHEMICAL AND PHYSICAL CHARACTERISTICS

2,4,5-Trichlorophenol (2,4,5-TCP) and its sodium (Na-2,4,5-TCP) and potassium (K-2,4,5-TCP) salts are used fungicides, algicides, and bactericides (Weissberg and Zinkl, 1973; Plimmer et al., 1973). The empirical formulas for 2,4,5-TCP and its sodium and potassium salts are $C_6TlH_2Cl_3OH$, $C_6H_2Cl_3ONa$, and $C_6H_2Cl_3OK$, respectively. The structural formulas of these compounds may be found in figure 1. 2,4,5-TCP is also known by its trade name, Dowicide 2; the trade name of Na-2,4,5-TCP is Dowicide B.



2,4,5-TCP Na-2,4,5-TCP K-2,4,5-TCP

FIGURE 1. Structural formulas of 2,4,5-TCP and its sodium and potassium salts

2,4,5-TCP is a fairly weak acid and is considered to be the least toxic of the chlorophenols (Kirk-Othmer Encyclopedia, 1964). The sodium salt is slightly more toxic. 2,4,5-TCP occurs as grey flakes in sublimed mass with a strong phenolic odor. Although 2,4,5-TCP is relatively insoluble in water (< 0.2 g/100 g water at 25° C), it is soluble in organic solvents such as alcohol, ether, and acetone. The sodium salt is more soluble in water (113 g/100 g water at 25° C). 2,4,5-TCP has a molecular weight of 197.46 and a specific gravity of 1.678 (25° C/4° C). Its boiling point is 252° C; the melting point is 60–70° C.

B. MANUFACTURING PROCESS AND RESULTING CONTAMINANTS

1. *Formulation.* 2,4,5-TCP is produced commercially by the alkaline hydrolysis of 1,2,4,5-tetrachlorobenzene to 2,4,5-TCP. The reaction is carried out under pressure at 180° C in the presence of aqueous sodium hydroxide and methanol (Kirk-Othmer Encyclopedia, 1964; Fishbein, 1973). 2,4,5-TCP can be converted to its sodium or potassium salts by the addition of sodium or potassium carbonate.

Polychlorinated dibenzo-*p*-dioxins are formed in the manufacturing process of all cholorophenols. However, the amount formed is dependent on the degree to which the temperature and pressure are controlled during production (Fishbein, 1973; Milnes, 1971; Schulz, 1968; Higginbotham et al. 1968; Muelder and Shadoff, 1973).

An especially toxic dioxin, 2,3,7,8-tetrachlorodibenzo-*p*-dioxin (TCDD), is formed during the production of 2,4,5-TCP. As can be anticipated, TCDD has been associated with all synthetic compounds derived from 2,4,5-TCP (Kearney et al., 1973). This includes the widely used herbicide and defoliant 2,4,5-T (2,4,5-trichlorophenoxyacetic acid). The formation of 2,4,5-TCP and TCDD is illustrated in figure 2.

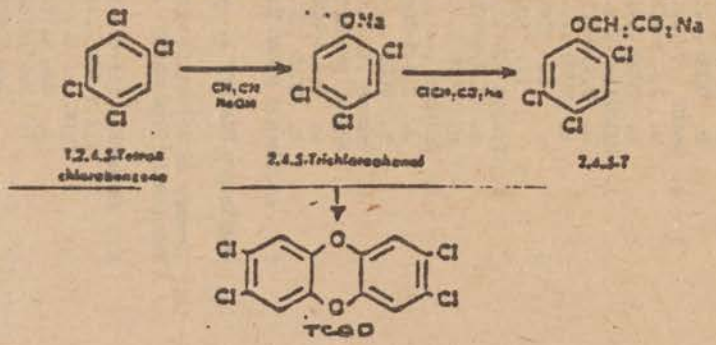


FIGURE 2. Formulation of 2,4,5-TCP and TCDD

2. *Types of Dioxins.* There are many different dioxins; the particular dioxin product depends on the chlorophenols present (Poland and Kende, 1976). Different dioxins can be distinguished by the number and position of the chlorines they contain. Chlorine atoms may be attached at any of eight different positions, creating a theoretical possibility of 75 compounds or isomers (Crossland and Shea, 1973; Khera and Ruddick, 1973).

The toxicity of a dioxin varies with the position and number of chlorines attached to the aromatic rings. Generally, the toxicity increases with increased chlorine substitution. Those dioxins that have halogens at the 2, 3, and 7 positions are particularly toxic (Burger, 1973). TCDD, which has chlorine atoms at the 2, 3, 7, and 8 positions, is considered the most toxic of the dioxins (Sparschu et al., 1971).

3. *TCDD Content in Formulated Pesticides.* Although TCDD levels in 2,4,5-TCP have not been monitored consistently over the years, these levels have been measured in 2,4,5-T. Different manufacturers produced 2,4,5-T with various TCDD contents (Kearney et al., 1973). Samples of 2,4,5-T produced by one manufacturer from 1966 to 1968 often contained more than 10 ppm TCDD (Fishbein, 1973). Because there was concern about the extremely toxic effects of TCDD, manufacturing methods were changed and carefully controlled to minimize its formation. By 1971 industry had reduced the amount of TCDD in commercial samples of 2,4,5-T to less than 1 ppm (Greig et al., 1973; Hussain et al., 1972; Milnes, 1971). Production conditions and the amount of contaminant in the final product are now closely monitored by industry.

2,4,5-TCP is available in both a technical and analytical form. Technical grade 2,4,5-TCP (Dowicide 2) currently contains 95 percent active ingredient and 5 percent inert ingredients in which TCDD is present at a maximum of 0.099 ppm. Technical grade Na-2,4,5-TCP (Dowicide B) contains 85 percent Na-2,4,5-TCP and 15 percent inert ingredients in which TCDD is present at a maximum of 0.099 ppm (Dow Chemical Co. Sales Specifications, 1976). The dioxin content in both of these products does not exceed the limit of 0.1 ppm recommended by the Advisory Committee to the EPA Administrator on May 7, 1971.

To obtain a meaningful assessment of the levels of TCDD present in the environment and to determine the amount that could be accumulated in the food chain, a sensitive analytical method had to be developed that could accurately identify TCDD in parts per trillion. During the past 10 years considerable advances have been made in this regard. The analytical procedure that is currently considered the most sensitive is gas-liquid chromatography coupled with high resolution mass spectrometry (National Academy of Sciences, 1977).

C. REGISTRATIONS, USES, AND PRODUCTION

The largest use of 2,4,5-TCP is as a starting material in the manufacture of a series of industrial and agricultural chemicals, the most notable of which is the herbicide 2,4,5-T and its related products including silvex [2-(2,4,5-trichlorophenoxy) propionic acid], ronnel [*O,O*-dimethyl *O*-(2,4,5-trichlorophenyl) - phosphorothioate], and the bactericide hexachlorophene.

2,4,5-TCP and its salts are used in the textile industry to preserve emulsions used in rayon spinning and silk yarns, in the adhesive industry to preserve polyvinyl acetate emulsions, in the leather industry as a hide preservative, and in the automotive industry to preserve rubber gaskets. The sodium salt is used as a preservative in adhesives derived from casein, as a constituent of metal cutting fluids and foundry core washes to prevent breakdown and spoilage, as a bactericide/fungicide in recirculating water in cooling towers, and as an algicide/slimicide in the pulp/paper manufacturing industry.

There are some minor uses of 2,4,5-TCP and its salts in disinfectants which are of major importance relative to human exposure. These include use on swimming-pool-related surfaces; household sickroom equipment; food processing plants and equipment; food contact surfaces; hospital rooms; sickroom equipment; and bathrooms (including shower stalls, urinals, floors, and toilet bowls).

2,4,5-TCP and its salts have been registered for pesticidal use since 1948. Current EPA records indicate that 42 registrants have 94 federally registered products and one State registered product containing 2,4,5-TCP or its salts. These products are usually formulated as wettable powders, emulsifiable concentrates, dry powders, liquids, or ball briquettes. Dow Chemical Co. is the major manufacturer of technical grade 2,4,5-TCP (Dowicide 2) and Na-2,4,5-TCP (Dowicide B). 2,4,5-TCP and its salts are frequently mixed with other pesticides including pentachlorophenol, tetrachlorophenol, and sodium pentachlorophenate.

Section 7(c) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) requires manufacturers and formulators to submit to EPA information on the production, sales, and distribution of their products. According to sections 7(d) and 10 of FIFRA, this information may not be made available to the public. A confidential memo summarizing this information (Reece, 1977) has been sent to the Deputy Assistant Administrator for Pesticide Programs.

D. TOLERANCES

There are no tolerances for 2,4,5-TCP, its salts, or TCDD in or on food crops. 40 CFR 180.302 does, however, establish a tolerance of 0.05 ppm hexachlorophene in or on cotton seed (a nonhuman dietary food item) and states that technical grade hexachlorophene shall not contain more than 0.1 ppm TCDD.

E. METABOLISM, DEGRADATION, AND RESIDUES

No data has been found on the nature of the degradation products of 2,4,5-TCP. However, there is evidence that 2,4,5-TCP itself is the metabolite or primary degradation product of a number of pesticides including 2,4,5-T, silvex, ronnel, lindane, and benzene hexachloride (Watts and Storherr, 1973; Crosby and Wong, 1973; Goto et al., 1972; Leng, 1972).

1. *Soil.*—a. *2,4,5-TCP and Its Salts.* Alexander and Aleem (1961) found that 2,4,5-TCP is persistent because it is resistant to microbial decomposition in certain soil populations. They also found that compounds containing a

meta-substituted chlorine (such as 2,4,5-TCP) were more persistent than those that did not.

These results were verified by Helling et al., in 1973.

b. *TCDD.* Crosby et al. (1973) irradiated 2,4,5-TCP and its sodium salt and found that they discolored rapidly but did not degrade into dioxins. Kearney et al. (1972) incubated 2,4,5-TCP in two types of soil for 70 days to determine whether bacterial action might convert the 2,4,5-TCP to TCDD. The fact that no TCDD was detected demonstrated that TCDD was not formed under these laboratory conditions. Thus, TCDD is neither formed indigenously in soil (Kearney et al., 1972) nor produced biosynthetically from soils receiving applications of 2,4,5-T or 2,4,5-TCP (Helling et al., 1973; Kearney et al., 1972; Kearney et al., 1973).

TCDD is a remarkably stable compound in biological systems at temperatures up to 700° C (Crossland and Shea, 1973; Piper et al., 1973). It is also immobile in soil and tends to remain on the surface (Helling, 1971). TCDD degrades slowly in soil; it has a half-life of 1 year (Kearney et al., 1972; Helling et al., 1973).

In 1973, Woolson et al. investigated the possibility that TCDD residues from old, extremely heavy 2,4,5-T applications might still pose a threat to wildlife. They analyzed soil samples from experimental plots of Lakeland sand in Florida that had received massive doses of 2,4,5-T (947 pounds 2,4,5-T/acre) by aerial application from 1962 to 1970. The authors estimated that the 2,4,5-T used at the time contained between 2 and 50 ppm TCDD. Twenty-five gram samples of 6-inch increments of a 3-foot core were taken in 1970. No TCDD residues were found in any of the increments; the detection limit was less than 1 ppb. The authors had estimated that there could be up to 2.1 ppm TCDD present in the soil as a result of the aerial applications. They felt that the absence of detectable TCDD residues could be explained by several possibilities: (1) The 2,4,5-T applied contained less than 2 ppm TCDD, (2) the TCDD moved deeper than 36 inches into the soil, (3) the TCDD was decomposed in the soil photochemically or biologically, or (4) wind erosion removed the TCDD from the point of application. However, TCDD is immobile in soil and the likelihood of wind erosion or the amount of TCDD present being less than 2 ppm is remote. It is most likely that the TCDD photochemically degraded.

Plimmer et al. (1973) found that TCDD is readily photolyzed under certain conditions. Crosby and Wong (1977) found that herbicide formulations containing TCDD on leaves, soil, or glass plates lost most or all of the TCDD in a single day of exposure to sunlight due principally to photochemical dechlorination. However, Crosby et al. (1971) found that a film of "pure" TCDD on glass plates was not photodegraded when exposed to sunlight for 14 days.

2. *Water.*—a. *2,4,5-TCP and Its Salts.* 2,4,5-TCP is soluble only in organic solvents such as alcohol, ether, or acetone. The sodium salt is more soluble in water but less soluble in organic solvents. However, some of the uses of 2,4,5-TCP and its salts could feasibly result in their reaching water bodies from industrial effluents or from cooling tower water that is not in a closed system.

b. *TCDD.* Because TCDD is relatively immobile in soil and soluble in water at only 0.2 ppb, the possibility of ground water contamination is virtually nonexistent and water transport is limited (Helling et al., 1973; Harvey, 1973).

A recent National Academy of Science report (1977) stated that TCDD has never been detected in drinking water; the limit of detection in the studies cited was in the parts per trillion. The report did note the toxicity of TCDD and its acceptable daily intake from water (.0001 μg/kg/day), and suggested no-adverse-effect levels (7×10^{-4} μg/kg/day).

3. *Wildlife.*—1. *2,4,5-TCP and Its Salts.* No studies identifying 2,4,5-TCP residues in wildlife were found.

b. *TCDD.*—i. *Terrestrial Ecosystems.* To assess the ecological importance of chlorinated dioxins, Woolson et al. (1973) examined tissues of 19 bald eagles (*Haliaectas leucocephalus*) collected in 15 widely separate States. No TCDD residues were found; the limit of detection was 50 ppb. Because eagles are at the top of a food chain, the authors concluded that TCDD residues from past pesticide applications were not available to this food chain.

ii. *Aquatic Ecosystems.* Isensee and Jones (1975) conducted an experiment in which TCDD was absorbed on three different types of soil at concentrations ranging from 0.001-7.45 ppm. The soil was then placed in aquatic model ecosystems. TCDD accumulated in all organisms (mosquito fish, daphnid, duckweed, catfish, and snails). The amount of accumulation was directly related to the concentration of TCDD in the water (0.05-1330 ppt). Therefore, the authors concluded that under certain conditions TCDD residues could accumulate in fish or other aquatic organisms.

Zitco (1972) was unable to detect chlorinated dibenzodioxin residues in several aquatic animals from various locations in Canada; the limit of detection 0.01-0.04 μg/g (ppm). The author concluded that there is no detectable contamination of food by chlorinated dibenzodioxins since the species analyzed are in high trophic levels of the aquatic food chain and serve as good indicators of environmental contamination by cumulative compounds. However, analytical methods have improved considerably since then and scientists can now detect dioxins in the parts per trillion.

Matsumura and Benezet (1973) found that TCDD pickup (biological transfer) was low in brine shrimp and fish but high in mosquito larvae, which are bottom feeders. This led them to believe that TCDD is not likely to accumulate in aquatic systems due to TCDD's low solubility in water.

Baughman and Meselson (1973) reported the presence of TCDD in fish and crustaceans taken from four locations in Vietnam. Concentrations ranged from 18 to 810 ppt.

4. *Plants.*—a. *2,4,5-TCP and Its Salts.* No studies identifying 2,4,5-TCP residues in plants were found.

b. *TCDD.* TCDD was not detected in the seeds or mature plants of soybeans or oats sprayed with TCDD or grown on soils contaminated with 60 ppb TCDD. The limit of detection was less than 1 ppb. Researchers concluded that plants do not absorb or translocate TCDD from soil or leaves after foliar application (Isensee and Jones, 1971; Matsumura and Benezet, 1973). Crosby and Wong (1977) found that herbicide formulations containing known amounts of TCDD that were exposed to natural sunlight on leaves, soil, or glass plates lost most or all of their TCDD during a single day. They felt this was due principally to photochemical dechlorination. TCDD that is sprayed on leaf surfaces can be readily washed off (Isensee and Jones, 1971; Helling et al., 1973; Kearney et al., 1973).

Matsumura and Benezet (1973) concluded that any translocation of TCDD in the environment would be limited to traces of the compound adhered to soil particles, dispersed by the wind, or biologically transferred in aquatic environments.

5. *Animals.*—a. *2,4,5-TCP and Its Salts.* No studies on the metabolism of 2,4,5-TCP in laboratory animals were found.

b. *TCDD.* TCDD is eliminated from biological systems principally through the feces but also through the urine (Allen et al., 1975; Piper et al., 1973; Vinopal and Casida, 1973; Kimbrough, 1974).

Rose et al. (1976) detected radioactivity only in the feces of rats administered a single oral does of 1 μg/kg ^{14}C-labeled TCDD. Liver and fat contained ^{14}C-TCDD concentrations over 10 times greater than those in other tissues examined 22 days after ingestion. When oral doses of 0.01, 0.1, or 1 μg

^{14}C-TCDD kg/day were administered for 13 weeks, the major route to excretion was again via the feces, and the half-life of the ^{14}C-TCDD in the rats was 23.7 days.

In Sprague-Dawley rats intubated with ^{14}C-labeled TCDD, only 4.5 percent of the radioactivity from a single oral doese was eliminated through the urine in 21 days. A large percentage of the radioactivity remaining in the body at the end of this period was in the liver and over 90 percent was within the microsomal fraction (Allen et al., 1975).

In a preliminary report of a 2-year chronic toxicity feeding study, Dow Chemical USA (Traynor, 1977) reported the following residue data for rats fed indicated TCDD doses: 24,000 ppt in liver and 8,100 ppt in fat of females ingesting 2,200 ppt/day; 5,100 ppt in liver and 1,700 ppt in fat of females ingesting 220 ppt/day; and 540 ppt in liver and fat of females ingesting 22 ppt/day. The preliminary report gives no residue data for treated males, or for control of either sex.

6. *Humans.* The National Human Monitoring Program for Pesticides is currently sampling human urine and analyzing these samples for silvex, 2,4,5-T, and 2,4,5-TCP through its cooperative arrangement with the EPA Health and Nutritional Examination Survey II (Hanes II project). The survey is scheduled for completion in 1979. Some preliminary results that relate to 2,4,5-TCP residues in the first 400 of an estimated 7,500 samples are available. These results are only tentative and of course subject to change as further data are received.

Of the initial samples analyzed, 1.68 percent have shown detectable levels of 2,4,5-TCP with a maximum amount of 32.4 ppb. The arithmetic mean is less than 1 ppb. In addition, 32.69 percent of the samples have shown trace amounts (< 5 ppb) of 2,4,5-TCP. Residues of this compound may also be derived from the metabolism of other pesticides and from exposure to 2,4,5-TCP that was used as a disinfectant (Kutz, 1977).

7. *Animal products.*—a. *2,4,5-TCP and Its Salts.* No information is available on the presence of 2,4,5-TCP residues in animal products. However, in tests with cattle, sheep, and calves that were fed diets containing 2,4,5-T and silvex, residues of 2,4,5-TCP were detected in the kidney, liver, muscle, fat, and milk (Clark et al. 1975; Leng, 1976; Bjerke et al., 1972).

b. *TCDD.* When beef fat samples that had been fortified with 2000 ppm 2,4,5-TCP or its sodium salt were cooked at 500° F for 6–22 hours and analyzed, no TCDD was found in any of the samples. The limit of detection was 0.05 ppm (Watts and Storherr, 1973).

Eighty-five samples of beef fat were analyzed for TCDD content under the auspices of the EPA Dioxin Implementation Plan (see discussion p. 20). The beef fat samples included 18 samples from control areas and 67 samples from areas previously treated with 2,4,5-T. None of the 18 control samples had detectable amount of TCDD at a detection limit of 10 ppt. Of these 67 samples from areas previously exposed to 2,4,5-T, one showed a positive TCDD level of 60 ppt; 2 appeared to have TCDD at 20 ppt; and 5 may have had TCDD levels which ranged from 5–10 ppt. The values for these 5 samples were at or below the limits of detection of 10 ppt.

Forty-three beef liver samples were analyzed and showed no TCDD residues at a detection limit of 10 ppt.

F. *Accidental Human Exposure.* In the cases of human exposure to 2,4,5-TCP, the only adverse effects reported were caused by occupational exposure or accidents that occured during the manufacture of chlorinated phenols or products derived from them.

In 1949, intermediary chemicals of the manufacturing process were released in a U.S. 2,4,5-T plant. This accident led to 117 cases of chloracne among exposed workers (Whiteside, 1977).

In 1953 there was an accident in a Middle Rhine factory manufacturing, 2,4,5-TCP from 1,2,4,5-tetrachlorobenzene. In addition to contracting chloracne (Goldman, 1972), many workers had liver cirrhosis, heart complaints, and nervous system disorders, and were depressed (Bauer et al., 1961).

In 1958, 31 employees of a Hamburg, Germany, plant in which 2,4,5-T was made from technical 2,4,5-TCP contracted chloracne and suffered the physical and psychological symptoms associated with it (Poland et al., 1971). In 1961 Bauer et al. conclusively identified TCDD as the cause of the chloracne.

An explosion occurred in a 2,4,5-T plant in Amsterdam in 1963. Six months later, 9 of the 18 men, who were attempting to decontaminate the plant, developed chloracne. All of the men had worn deep sea diving suits, and all but one wore face masks with goggles while working in the plant. Of these men, three died within 2 years. The man without the face mask or goggles was severely affected. He was unable to walk and is still undergoing treatment (Whiteside, 1977).

In 1964, workers in a 2,4,5-T plant in the United States developed chloracne from exposure to TCDD (Poland et al., 1971).

There was an explosion at the Coalite Co.'s 2,4,5-TCP plant in Great Britain in 1968. TCDD had accidentally been produced as the result of an exothermic reaction (Milnes, 1971; May, 1973). Seventy-nine cases of chloracne were reported; many of them were severe.

In 1971 there was an accidental poisoning episode in the United States that affected humans, horses, and other animals. Waste oil contaminated with TCDD had been sprayed on a riding arena to control dust. Later analyses showed that the arena contained TCDD in concentrations of 31.8 to 33.0 μg/g (Carter et al., 1975). Commoner and Scott (1976) found that the most important route of entry of dioxin into the body was the skin. (This does not preclude the effects of ingesting food contaminated with dioxin from handling.) A 6-year-old girl was the most severely affected. She had an inflammatory reaction of the kidneys and bladder bleeding that was diagnosed as acute hemorrhagic cystitis with signs of focal pyelonephritis. Nine less severely affected persons developed diarrhea, headaches, nausea, polyarthralgias, and persistent skin lesions (U.S. EPA, 1975). The girl most affected was thoroughly reexamined in 1976. Results indicated that all of her original symptoms had completely disappeared. She had grown normally and all tests, including a detailed neurological examination, were normal (Beale et al., 1977).

In July 1976, 2–10 pounds of TCDD were accidentally released in the Seveso Region of Italy (Dewse, 1976). Most of the inhabitants were adversely affected. Reports of immediate symptoms and indications of many long-term effects are just becoming available. The first overt reaction was the appearance of numerous burn-like lesions on many of the inhabitants. These lesions generally receded. Whiteside (1977) believes that they were probably caused by direct contact with the sodium hydroxide and phenolic components in the fallout. However, 2½ months after the explosion, an increasing number of children and young people in the zone most affected began to develop symptoms of chloracne on their faces and bodies, a definite mark of dioxin poisoning. By November 28 people had confirmed cases of chloracne. This number rose to 38 by December and to 130 a year after the explosion. A number of the victims exposed underwent a "complete change of character": they became extremely nervous, tired, moody, and irritable, and had a marked loss of appetite.

There were a number of Seveso women who were pregnant at the time of the accident. Whiteside (1977) reported that the total number of legal and illegal abortions performed as a result of the explosion probably totaled 90. There were 51 spontaneous (as distinct from induced) abortions. A survey conducted by an epidemiolog-

ical commission has shown that 183 babies were delivered in the 2 months following the accident. Eight cases of birth abnormalities have been noted among babies born to women in the Seveso area who were pregnant at the time of the explosion. However, local physicians have had difficulty relating these abonormalities directly to the explosion because the incidence of birth abnormalities was not significantly higher than the normal incidence of abnormal births (Whiteside, 1977).

II. Regulatory History

The regulation of many polychlorinated ring compounds has been related to the presence of TCDD as a contami- nant in the commercial product. Historically, regulation has focused on 2,4,5-T.

In October 1969, Bionetics Research Laboratory, a contractor for the National Cancer Institute, released information on their large scale screening of a number of pesticides and industrial chemicals for mutagenicity, carcinogenicity, and teratogenicity. They found 2,4,5-T to be teratogenic in mice when 113 mg/kg body weight was administered during early pregnancy. Birth defects included cleft palates and cystic kidneys. On later examination researchers ascertained that the 2,4,5-T was contaminated with approximately 30 ppm TCDD. This and other scientific studies summarized in this Section are fully discussed in sections III and IV.

On October 29, 1969, the President's science advisor responded to the release of the Bionetics' report by announcing that a series of coordinated actions would be taken by several government agencies to restrict the use of the herbicide 2,4,5-T.

In early 1970, animal experiments confirmed that when the purest available 2,4,5-T, which contained less than 0.05 ppm TCDD, was fed to pregnant mice in large doses, the offspring would be malformed (Courtney and Moore, 1971).

On April 15, 1970, the Secretaries of Agriculture; Health, Education, and Welfare; and Interior announced the suspension of the following registrations of 2,4,5-T: all uses in lakes, ponds, or ditch banks; and liquid formulations for use around the home, recreational areas, and similar sites (USDA-PRD PR 70-1, April 20, 1970). A notice of cancellation of registration was issued on May 1, 1970, for all granular 2,4,5-T formulations for use around the home, recreational areas, and similar sites, and all 2,4,5-T uses on crops intended for human consumption (USDA-PRD PR 70-13, May 1, 1970).

On September 28, 1970, the Department of Agriculture issued a Pesticide Registration Notice stating that all products containing TCDD were in violation of FIFRA because they constituted a possible hazard to humans. The notice indicated that appropriate regulatory action would be taken if TCDD were found in any economic poison (USDA-PRD PR 70-22, September 28, 1970).

On May 5, 1971, the Report of the Advisory Committee to the EPA Administrator recommended that use of 2,4,5-T be permitted only under certain conditions in forests, ranges, and rights-of-way providing:

(1) That a limit of 0.1 ppm TCDD be set for all future production of 2,4,5-T;

(2) That 2,4,5-T be applied no more than once a year at any one site; and

(3) That 2,4,5-T be applied with caution so it will not contaminate other areas where it may come into human contact.

In July 1972 Dow Chemical Co. obtained an injunction against EPA. The Court of Appeals for the 8th Circuit overturned this injunction in 1973. EPA withdrew cancellation and information gathering proceedings initiated against 2,4,5-T and related compounds on June 24, 1974, due to the Agency's inability to monitor food for residues of TCDD with the necessary analytical precision.

In July 1974 EPA held a Dioxin Planning Conference in Washington, D.C. Participants of the public meeting discussed data analysis, analytical methodology, toxicology, and monitoring. There was an emphasis on developing analytical methodology for detecting TCDD in parts per trillion. As a result, the Agency promulgated the Dioxin Implementation Plan (DIP) to identify a preferable analytical method to monitor human and environmental samples for TCDD residues in the low parts per trillion (ppt) range.

DIP consisted of a short-term monitoring program involving beef fat and liver samples and a broad 2- to 5-year research plan. The Environmental Defense Fund, the Department of Agriculture, and Dow Chemical Co. participated in the monitoring program, which utilized improved analytical methodology capable of detecting TCDD in the parts per trillion range.

On-going TCDD studies under the DIP include: an analytical method validation study to produce statistically defensible data; monitoring for residues in human milk in the Pacific Northwest; additional beef fat residue studies; additional technical pesticide residue studies; and an environmental monitoring program for TCDD residues in soil, water, and biota.

III. Summary of Scientific Evidence Relating to Rebuttable Presumption

A. Oncogenic Effects in Test Animals

40 CFR section 162.11(a)(3)(ii)(A) provides that a rebuttable presumption shall arise if a pesticide's ingredient(s), metabolite(s), or degradation product(s) * * * induces oncogenic effects in experimental mammalian species or in man as a result of oral, inhalation or dermal exposure * * *" Section 162.3(bb) defines the term oncogenic as "the property of a substance or a mixture of substances to produce or induce benign or malignant tumor formation in living animals."

1. *2,4,5-TCP.* Because all 2,4,5-TCP contains a certain amount of TCDD, any reference to 2,4,5-TCP denotes a product that is contaminated. As a result, all the information used to assess 2,4,5-TCP in relation to section 162.11 risk criteria is derived from studies in which the test substance was 2,4,5-TCP contaminated with TCDD. The Agency knows of no data relating to pure 2,4,5-TCP.

The National Cancer Institute tested 2,4,5-TCP for carcinogenicity (Innes et al., 1969). Two hybrid strain of mice [(C57BL/6xC3H/Anf)F_1 and (C57BL/6xAKR)F_1] were given a single subcutaneous injection of 1,000 mg/kg 2,4,5-TCP/kg (97 percent pure, contaminant not specified) in corn oil when the mice were approximately 28 days old. No significant difference in tumor frequency was found between the 2,4,5-TCP treated groups and the control mice at necropsy.

In a short-term study on BHC (benzene hexachloride) isomers and their metabolites including 2,4,5-TCP, Goto et al. (1972) fed 20 5-week-old male ICR-JCL mice a diet containing 600 ppm 2,4,5-TCP (contaminant in 2,4,5-TCP not specified each day for 6 months. They observed no unusual weight increases in the hearts, kidneys, or livers of treated mice as compared to the controls. No tumors were noted in the mice fed 2,4,5-TCP although malignant and benign tumors were noted in the livers of mice fed technical BHC, alpha-BH, beta-BHC, and gamma-BHC.

The EPA Carcinogen Assessment Group (CAG) judged these studies inadequate for assessing the oncogenic potential of 2,4,5-TCP. The Working Group concurs.

2. *TCDD.*—a. *Van Miller Study.* A recent paper by Van Miller et al. (1977) reports the results of a 2-year feeding study with Sprague-Dawley rats. Groups of 10 rats were administered a diet containing TCDD in one of the following concentrations: 0, 1, 5, 50, and 500 parts per trillion (ppt, 10^{-12} g TCDD/g food), and 1, 5, 50, 500, or

1,000 parts per billion (ppb, 10^{-9} g TCDD/g food).

Laparotomies were performed on all surviving rats during the 65th week. Biopsies were performed from all tumors observed. Rats were maintained on the diet for 78 weeks and were than placed on the control diet. Surviving rats were killed at 95 weeks. Complete necropsies were done at this time and tissue samples were microscopically examined. Special staining methods were used as an "aid in the diagnosis of neoplasms."

Food intake was significantly lower in rats that ingested 50, 500, or 1,000 ppb TCDD than it was in the control animals. All of the rats administered these doses died between the second and fourth weeks of treatment.

At the sublethal doses, there were toxic and tumorigenic effects. Three of the 10 deaths which occurred in the 5-ppb dose group were attributed to aplastic enemia. One animal in the 500-ppt group had severe liver infarction. The overall incidence of neoplasms in the six experimental groups was 38 percent (23/60), compared with no lesions or 0 percent (0/10) in the control group. This difference is statistically significant. Neoplastic nodules and cholangiocarcinomas of the liver were observed in 4 of 10 rats (40 percent) that ingested 5 ppb TCDD (two animals had both neoplastic plastic nodules of the liver and cholangiocarcinomas). One rat (10 percent) in the group that ingested 1 ppb had a carcinoma compared to none of the controls. Hepatic tumors were not found in rats administered the other doses (Table 1).

TABLE 1. Liver tumors in rats that ingested TCDD [1/]

Dose, ppb	Rats With Neoplastic Nodules		Rats With Cholangio-carcinomas		Rats With Nodules plus Carcinomas	
	No.	%	No.	%	No.	%
0	0/10	0	0/10	0	0/10	0
1	0/10	0	1/10	10	1/10	10
5	4/10	40 [2/]	2/10	20 [2/]	4/10	40 [2/]

1/ Data from Van Miller (1977).
2/ Two animals had both neoplastic nodules of the liver and cholangiocarcinomas.

(23)

Benign and malignant tumors developed in rats that ingested 5, 50, or 500 ppt and 1 or 5 ppb TCDD, compared to none in the control rats. Twenty-three of the rats (46 percent) in these five groups had tumors. Nineteen of these rats (57 percent) that died in the six groups fed subacute levels of TCDD had neoplastic alterations. Three rats that ingested 5 ppb died of aplastic anemia. Carcinomas were observed in the ear duct, kidney, and liver. Three retroperitioneal histiocytomas were described as metastasizing to the lungs, kidney, liver, and skeletal musculature. Statistically significant increases in tumors at all sites were found in the rats fed 5, 50, 500, 1,000, and 5,000 ppt as compared with the control animals ($p=0.05$) (table 2).

b. *Preliminary report: Dow Chemical Co. study.* The Dow Chemical Co. has just completed a chronic toxicity study of TCDD with 472 Sprague-Dawley rats (Traynor, 1977). Fifty rats of each sex were maintained for 2 years on diets which contained 0.001, 0.01, and 0.1 ug TCDD/kg body weight/day. This dose is equivalent to approximately 22, 210, and 2,200 ppt in the diet. Eight-six rats of each sex were maintained on a control diet. Table 3 lists the tumors found.

c. *Conclusion.* The working group has concluded that there is evidence to indicate that TCDD can produce oncogenic effects in rats. Since 2,4,5-TCP contains TCDD (at a maximum amount of 0.099 ppm), a rebuttable presumption against the registration of 2,4,5-TCP products has arisen because of the oncogenic effects of its contaminant, TCCD.

TABLE 2. Benign and malignant tumors in rats that ingested TCDD [1]

Dose [2]	No. Tumors			Rats with Tumors	
	Benign	Malignant	Total	No.	%
0	0	0	0	0/10	0 [3]
1 ppt	0	0	0	0/10	0
5 ppt	1	5	6 [6]	5/10	50 [4]
50 ppt	2	1	3 [7]	3/10	30
500 ppt	2	2	4 [8]	4/10	40 [5]
1 ppb	0	5	5 [9]	4/10	40
5 ppb	8	2	10 [10]	7/10	70

1/ Data from Van Miller (1977).
2/ Rats administered 50, 500, and 1000 ppb were all dead within 4 weeks.
3/ Forty male rats that were used as controls for another study were received at the same time as the rats in this study and kept under identical conditions. They did not have neoplasms when killed at 18 months.
4/ Three rats died of aplastic anemia.
5/ One rat had severe liver infarction.
6/ One rat had an ear duct carcinoma and lymphocytic leukemia.
One rat had an adenocarcinoma (kidney).
One rat had a malignant histiocytoma (retroperitoneal).
One rat had an angiosarcoma (skin).
One rat had a Leydig cell adenoma (testis).
7/ One rat had a fibrosarcoma (muscle).
One rat had a squamous cell tumor (skin).
One rat had an astrocytoma (brain).
8/ One rat had a fibroma (striated muscle).
One rat had a carcinoma (skin).
One rat had an adenocarcinoma (kidney).
One rat had a sclerosing seminoma (testis).
9/ One rat had a cholangiocarcinoma and malignant histiocytomas (retroperitoneal).
One rat had an angiosarcoma (skin).
One rat had a glioblastoma (brain).
One rat had a malignant histiocytoma (retroperitoneal).
10/ One rat had a squamous cell tumor (lung) and a neoplastic nodule (liver).
Two rats had cholangiocarcinomas and neoplastic nodules (liver).
Three rats had squamous cell tumors (lung).
One had a neoplastic nodule.

TABLE 3. Tumors in Sprague-Dawley rats that ingested TCDD

Dose, ppt	Tumors
0	0
22	0
210	Hepatocellular Nodules
	Squamous Cell Carcinoma [2]
	Alveolar Hyperplasia
2,200	Squamous Cell Carcinoma [3]
	Hepatocellular Carcinoma

1/ Data from the preliminary report of the Dow Chemical Company Study, 1977.
2/ Hardpalate squamous cell carcinomas were observed in one female rat.
3/ Squamous cell carcinomas were observed in the lung, hardpalate/nasal turbinates, or tongue.

B. FETOTOXIC AND TERATOGENIC EFFECTS IN MAMMALIAN SPECIES

40 CFR 162.11(a)(3)(ii)(B) provides that a rebuttable presumption shall arise if a pesticide's ingredients "* * * (p)roduces any other chronic or delayed toxic effect in test animals at any dosage up to a level, as determined by the Administrator, which is substantially higher than that to which humans can reasonably be anticipated to be exposed, taking into account ample margins of safety."

Embryotoxic effects are considered to denote all transiet or permanent toxic effects induced in an embryo or fetus, regardless of the mechanism of action. These effects include teratogenicity, mortality, and/or retardation of growth. Embryo mortality refers to death at any stage of embryonic or fetal development. Teratogenic effects are characterized by generally irreversible abnormalities originating from an impairment in the embryonic or fetal development.

1. *2,4,5-TCP.* Neubert and Dillmann (1972) tested NMRI mice for the embryotoxic and teratogenic effects of 2,4,5-TCP. Pregantn mice were given 0.9 or 9 mg 2,4,5-TCP/kg body weight by intubation on days 6-15 of gestation. there was an increase in embryomortality in mice treated at the higher dose: Resorptions were observed in 78 percent (7/9) of the litters as compared to 32 percent (21/65) of the oil-treated control litters (table 4). The number of resorptions in each litter was significantly greater at the 9 mg/kg dose level than it was in the oil-treated controls ($p=0.05$). No significant increases in teratogenic effects were observed at either dose.

TABLE 4. Summary of fetotoxic and teratogenic effects of 2,4,5-TCP 1/ in NMRI mice

Dose, mg/kg	Litters Affected/Live Litters: Resorptions No.	%	Cleft Palate No.	%
0	23/95	24	6/95	6
Oil	21/65	32	4/65	6
0.9 mg/kg	4/14	29	1/14	7
9.0 mg/kg	7/9	78	0/9	0

1/ Data from Neubert and Dillmann (1972).

2. *TCDD.* A number of studies on the embryotoxicity of TCDD indicate that there are two major types of teratogenic effects generally associated with test animals receiving doses of TCDD during pregnancy: Cleft palates in mice and kidney anomalies in rats and mice. TCDD is also fetotoxic in these species.

a. *Mice.* The first evidence that TCDD might represent a reproductive hazard to humans appeared in 1970 in a Bionetics Research Institute study which reported that 2,4,5-T was teratogenic (Courtney et al., 1970). When a dosage of 113 mg/kg 2,4,5-T was administered to AK mice on days 6 to 15 of pregnancy, 49 percent of the fetuses were deformed. Cleft palates, cystic kidneys, and fetal mortality were the common anomalies found. However, analysis using gas chromatography later showed that the 2,4,5-T used in the Bionetics study was contaminated with 27±8 ppm TCDD. The question of whether dioxin rather than 2,4,5-T caused these adverse effects was raised.

Courtney and Moore (1971) studied the embryotoxic and teratogenic effects of TCDD in three strains of pregnant mice (table 5). Test animals were administered 1 and 3 μg TCDD/kg body weight subcutaneously in solutions of 100 percent DMSO (dimethylsulfoxide) on days 6-15 of gestation. DMSO was administered as the control. TCDD produced cleft palates in all three strains of mice. In the CD-1 mice 30 percent of the litters (3/10) had fetuses with cleft palates at 3 μg/kg as compared to 0 percent of the controls (0/9). Seventy-one percent of the litters of C57B1/6 mice (5/7) had cleft palates at 3μg/kg body weight as compared to 0 percent (0/23) of the controls. Twenty-two percent (2/9 liters) of the DBA/2 mice also had cleft palates at this same dosage as compared to 0 percent (0/23) of the controls. The authors also found a marked increase in the incidence of kidney anomalies in all mice strains (table 5). There was a dose-related response in the CD-1 mice. One strain of inbred mice, C57B1/6, which was especially sensitive, developed kidney anomalies in all seven (100 percent) of the litters as compared to 9 percent (2/23) in the controls. Although TCDD produced a significant increase in the ratio of maternal liver weight to body weight in the inbred mice strains (C57B1/6 and DBA/2), the CD-1 (randomly bred) mice were not significantly affected. TCDD had no effect on fetal mortality, fetal weights, or maternal weights at the doses administered.

In another study in which six dioxins were administered subcutaneously and orally to CD-1 mice, Courtney (1976) found TCDD to be the most fetotoxic and teratogenic by either route of exposure at all dose levels tested. On days 7-16 of gestation, TCDD was administered orally at 25-400 μg/kg/body weight and subcutaneously at 25-200 μg/kg/body weight. The results are given in Table 6.

TABLE 5. Summary of the teratogenic effects of TCDD in mice and rats[1/]

Strain	Dose, ug/kg	Litters Affected/Live Litters: Cleft Palate No.	Cleft Palate %	Kidney Anomalies No.	Kidney Anomalies %	Average Fetuses Affected/Live Litters: Cleft Palate No.	Cleft Palate %	Kidney Anomalies No.	Kidney Anomalies %
MICE									
CD-1	0 (DMSO)	0/9	0	3/9	33	0/9	0	1/9	11
	1	1/9	11	5/9	56	2/9	22	4.6/9	51
	3	3/10	30	10/10	100	1/10	10	6.5/10	65
DBA/2	0 (DMSO)	0/23	0	3/23	13	0/23	0	1/23	4
	3	2/29	22	8/9	89	1/9	11	1.8/9	20
C57B1/6	0 (DMSO)	0/23	0	2/23	9	0/23	0	1/23	4
	3	5/7	71	7/7	100	2.6/7	37	3/7	43
RATS									
CD	0 (DMSO)	0/9	0	0/9	0	0/9	0	0/9	0
	0.5	0/6	0	4/6	67	0/6	0	1.8/6	30

1/ Data from Courtney and Moore (1971).

TABLE 6. Fetotoxic and teratogenic effects of TCDD in CD-1 mice[1/]

Dose, ug/kg/day	Route of Administration	Average Fetal Mortality/Litter, %	Average No. Abnormal Fetuses/Litter	Abnormal Anomalies/Total Fetuses: Cleft Palate, %	Kidney Anomalies, %	Club Foot, %
25	oral	6	4.6	3	34	3
50	oral	13	8.1	19	72	7
100	oral	14	8.3	66	71	13
200	oral	87	1.5	100	100	14
400	oral	97	0.4	100	50	50
25	subcutaneous	36	6.7	82	53	11
50	subcutaneous	56	5.0	79	58	17
100	subcutaneous	72	3.5	85	95	0
200	subcutaneous	76	3.1	100	38	18
5% anisole corn oil (0.1 ml)	oral	6	0.8	0	1	4
DMSO[2/]	subcutaneous	14	0.2	0	0	1

1/ Data from Courtney (1976).
2/ DMSO = dimethylsulfoxide

Mortality per litter increased with the dose and reached 97 percent (oral) and 76 percent (subcutaneous) in the litters administered TCDD, as compared with a mortality of 6 and 14 percent in the oral and subcutaneous control groups, respectively. The most common anomalies observed were cleft palates and malformed kidneys. All of the fetuses in the 200 and 400 μg/kg (oral) and 200 μg/kg (subcutaneous) groups exhibited cleft palates as compared to 0 percent of the controls. Of the fetuses in the 200 μg/kg (oral) group, 100 percent had kidney malfunctions as compared to 1 percent of the controls. Other anomalies observed were hydrocephalus, open eye, and club foot. Edema and petechiae were also observed in fetuses administered the high doses. Responses appeared to be dose related. Subcutaneous injection produced greater responses than did oral administration.

Moore et al. (1973) also found that TCDD caused fetotoxic and teratogenic responses in C57B1/6 mice at a dose level as low as 1 μg/kg administered on days 10 through 13 of gestation. Compared with 0 percent incidence (0/27) in the control litters, 94 percent (15/16) of the treated litters exhibited kidney anomalies and 19 percent (3/16) had cleft palates. At 3 μg/kg the incidence of these anomalies was 100 percent (14/14) and 86 percent (12/14), respectively.

Neubert and Dillmann (1972) tested the embryotoxic and teratogenic effects of TCDD in NMRI mice. In one test pregnant mice were given varying doses of TCDD (0.3–9 μg/kg) by intubation on days 6–15 of gestation. Results are shown in table 7. Very high embroymortality was observed, as expressed by the percent of fruitful wombs showing evidence of resorptions. At 9 μg/kg, all viable litters (3/3) evidenced resorptions; 67 percent (6/9) of all litters had total resorptions. Oil control values were 32 and 0 percent for litters with resorptions and litters with total resorptions, respectively. Cleft palate was observed in all of the litters and 82 percent of the fetuses at 9 μg/kg; comparable oil control values were 6 and 0.7 percent, respectively. Statistically significant ($p<0.01$) proportions of the fetuses evidenced cleft palate at 3, 4.5, and 9 μg/kg (3, 13, and 82 percent, respectively) when compared with the oil control.

TABLE 7. Embryotoxic and teratogenic effects of TCDD on NMRI mice [1/]

Dose, μg/kg [2/]	Litters Affected/Viable Litters			
	Resorptions		Cleft Palate	
	No.	%	No.	%
0	23/95	24	6/95	6
Oil	21/65	32	4/65	6
0.3	7/13	54	0/13	0
3.0	16/24	67	7/24	29
4.5	5/12	42	6/12	50
9.0	3/3	100	3/3	100
9.0 [3/]	3/6	50	5/6	83

1/ Data from Neubert and Dillmann (1972).
2/ Dose administered on days 6–15.
3/ Dose administered on days 9–13.

In another test in which high doses of TCDD were given orally on a single day of gestation, Neubert and Dillmann (1972) observed the same type of effects on embryomortality and the incidence of cleft palate. The authors administered 23 and 45 μg/kg TCDD on day 6. The maximum effect on mortality (resorption in 100 percent of the viable litters) was seen in the mice administered 45 μg/kg. The highest incidence of cleft palate (71 percent of

viable litters) was noted at 45 μg/kg on day 11. Control values were 24 percent for litters with resorption and 6 percent for litters with cleft palates.

Smith et al. (1976) studied the teratogenicity of TCDD in CF-1 mice. Dosages of 0.001, 0.01, 0.1, 1, and 3 μg TCDD/kg body weight/day were administered by gavage on days 6 through 15 of gestation. The percentage of resorptions per implantation was significantly higher than it was in the controls only in the 1 μg/kg group. The incidence of cleft palates in the 1 and 3 μg/kg dose groups was significantly higher than it was in the controls (table 8). At 3 μg/kg there was also a significantly greater incidence of litters that had fetuses with bilateral dilated renal pelvises than there was in the controls. The authors concluded that the no-effect level for teratogenic effects from TCDD was 0.1 μg/kg/day.

Neubert et al. (1973) found that TCDD was highly embryotoxic and fetotoxic in mice. Extrapolating from a dose-response curve, they estimated the ED_{50} for cleft palate in fetuses was 40 μg/kg/day. The no-effect level during days 6 to 15 of gestation was estimated to be 2 μg/kg/day for NMRI mice. No pronounced fetal mortality was observed when 3 μg TCDD/kg body weight was administered on days 6–15 of pregnancy (table 9).

TABLE 8. Fetotoxic and teratogenic effects of TCDD in CF-1 Mice[1/]

Dose, mg/kg	Incidence of Cleft Palate in Litters/Live Litters		Litters with Resorbed Fetuses/ Live Litters		Litters with Dilated Renal Pelvises/Live Litters	
	No.	%	No.	%	No.	%
0	0/34	0	25/34	74	0/34	0
0.001	2/41	5	30/41	73	0/41	0
0.01	0/19	0	17/19	89	0/19	0
0.1	1/17	6	16/17	94	0/17	0
1.0	4/19	21[2/]	18/19	95	1/19	5
3.0	10/14	71[2/]	11/14	78	4/14	28[2/]

1/ Data from Smith et al. (1976).
2/ Statistically different from the control by the Fishers exact probability test ($p < 0.05$)

TABLE 9. Occurrence of cleft palate in offspring of mice fed TCDD

Strain	Dose, ug/kg	Cleft Palates/Total Fetuses Examined, %	Affected Litters/ Total Litters	
			No.	%
CD-1	0	< 0.3	0/29	0
	3	3	3/10	30
DBA	0	< 1	0/23	0
	3	4	2/9	22
NMRI	0	0.7	10/160	6
	3	3	7/24	29
C57Bl	0	< 1	0/23	0
	3	22	5/7	71

1/ Data from Neubert et al. (1973).

b. *Rats.* Sparschu et al. (1971) studied the teratogenicity of TCDD in Sprague-Dawley rats. TCDD was administered orally in concentrations of 0.03, 0.125, 0.5, 2, and 8 μg/kg/day on days 6–15 of gestation. There was a high incidence of fetal mortality. At 8 μg/kg/day all fetuses (100 percent) were resorbed as compared to 63/309 (20 percent) in the controls. Fetal weights were depressed in the 0.125, 0.5, and 2 μg/kg/day groups. The occurrence of this effect was statistically significant in all groups except the females administered 0.5 μg/kg. Most of the abnormalities noted were intestinal hemorrhages. No adverse effects were noted in the fetuses whose mothers were fed 0.03 μg/kg/day. Table 10 shows the dose/response relationship. The authors concluded that TCDD induced a high level of maternal and fetal toxicity and that 0.03 μg/kg/day was the no-effect level for fetal and embryotoxic effects in rats.

Khera and Ruddick (1973) studied the effect of TCDD on reproduction in Wistar rats. In the first test, rats were orally administered 0.125–1 μg TCDD/kg on days 6–15 of gestation. Observations of visceral lesions showed a dose-response relationship at 0.25 μg/kg and above; slight decreases in fetal weight were also seen (table 11). Postnatal effects of prenatal exposure to TCDD were studied by allowing offspring of treated dams to be reared by untreated dams until weaning. Reduced survival, body weight, and reproductive ability in the progeny were observed after the mothers were treated with 0.5 and 1.0 μg/kg. No fetotoxic effects were observed at 0.125 μg/kg.

TABLE 10. Intestinal hemorrhages in offspring of Sprague-Dawley rats fed TCDD[1/]

Dose, ug/kg/day	Fetuses Affected/ Fetuses Examined		Litters Affected/ Litters Examined	
	No.	%	No.	%
0 (control)	0/246	0	0/24	0
0.03	0/115	0	0/10	0
0.125	18/127	14	7/10	70
0.5	36/99	36	10/12	83
2.0	4/7	57	2/4	50
8.0	-	-	-	-

1/ Data from Sparschu et al. (1971).

TABLE 11. Teratogenic effects of TCDD in Wistar rats[1/]

Dose, ug/kg	Average No. Live Fetuses/ Litter	Average Fetal Weight, g	Fetuses with Skeletal Anomalies/ Total No. Examined		Fetuses with Microscopic Visceral Lesions/ Total No. Examined	
			No.	%	No.	%
			TEST I			
Untreated Control	10.7	4.82	5/107	5	0/13	0
Treated Control[2/]	11.0	4.51	21/116	18	0/11	0
0.125	10.6	4.64	3/121	2	0/38	0
0.25	10.9	4.79	6/109	6	1/33	3
0.5	10.5	4.46	10/105	10	3/31	10
1.0	9.3	4.10	6/81	7	3/10	30
			TEST II			
Untreated Control	11.5	4.68	8/116	7	0/10	0
Treated Control[2/]	9.8	4.77	9/89	10	0/10	0
1.0	6.5	4.17	7/80	9	3/6	50
2.0	6.0	3.31	7/57	12	3/7	43
4.0	0	-	-	-		
8.0	0	-	-	-		
16.0	0	-	-	-		

1/ Data from Khera and Ruddick (1973).
2/ Anisole - corn oil.

In a second experiment rats were treated orally with 1-16 μg TCDD/kg body weight/day on days 6-15 of gestation. Doses of 4 μg/kg or more produced maternal toxicity and 100 percent embryomortality. Fetal weight, number of live fetuses per litter, and incidence of visceral lesions were all adversely affected by treatment. The incidence of skeletal anomalies was comparable to that in the controls at all dose levels tested. The authors concluded that oral treatment of pregnant Wistar rats with 0.25 μg (or more)/kg/day on days 6-15 of gestation results in adverse effects on rat development.

Courtney and Moore (1971) studied the teratogenicity and embryotoxicity of TCDD in CD rats. TCDD was administered subcutaneously in solutions of 100 percent DMSO on days 6-15 of gestation. DSMO was administered as the control. Kidney anomalies were found in four of the six litters (67 percent) whose dams were administered 0.5 μg/kg as compared to 0 percent (0/9) in the controls. Results also showed that TCDD did not cause an increase in fetal mortality, fetal weight, or cleft palates in the fetuses. Table 5 summarizes the results of the study.

Dow Chemical USA (Traynor, 1977) conducted a three-generation reproductive study on Sprague-Dawley rats continuously fed the equivalent of 0.001, 0.01, or 0.1 μg TCDD/kg/day. A preliminary report cites reduced fertility and litter survival in f_0 rats as the reasons for discontinuing the 0.1 μg/kg dose level; significantly reduced fertility was also observed at 0.01 μg/kg. "Clearly evident" indications of toxicity at 0.01 μg/kg among f_2 and f_3 litters, included smaller litter size at birth, plus decreased survival and growth of neonates. Dilated renal pelvis was observed in each of the three f_1 rats at 0.1 μg/kg which survived to adulthood. Increased frequency of this anomaly was also seen among weanlings at lower doses; however, a dose-related or generational correlation could not be made. In summary, Dow concluded that "the reproductive capacity of rats ingesting TCDD was clearly affected at dose levels of 0.01 and 0.1 μg/kg per day, but not at 0.001 μg/kg per day, through three successive generations." The preliminary report did not include the numerical data necessary for Agency evaluation. Analysis will continue as these become available.

In summary, studies have established that TCDD is fetotoxic and teratogenic at doses as low as 0.25μg/kg in the rat (Khera and Ruddick, 1973) and at 0.3 μg/kg in the mouse (Neubert and Dillmann, 1972). Table 12 lists the no-effect levels for teratogenicity in rats and mice from TCDD. No fetotoxic or teratogenic effects have been observed at doses of 0.03μg/kg in rats (Sparschu et al., 1971) and 0.1μg/kg in mice (Smith, 1976).

TABLE 12. Summary of no-effect levels for teratogenesis from 2,3,7,8-TCDD

Reference	Species	Route of Administration	No-Effect Levels, Ug/kg/day
Courtney and Moore (1971)	Rat	SC	< 0.5
	Mouse	SC	< 1.0
Khera and Ruddick (1971)	Rat	Oral	0.125
Sparschu et al. (1971)	Rat	Oral	0.03
Neubert and Dillman (1972)	Mouse	Oral	< 0.3
Smith et al. (1976)	Mouse	Oral	0.1

SC = Subcutaneously

(40)

c. *Chick Embryos.* Buu Hoi et al. (1971) established that 0.02μg/kg TCDD caused teratogenic effects in chick embryos. Bowes et al. (1973) and Verrett (1970) confirmed their results. They found abnormalities in the beaks, eyes, and feet of chick embryos.

3. *Exposure Analysis.*—In order to determine whether a rebuttable presumption should be issued based on reproductive and fetotoxic effects, pursuant to section 162.11(a)(3)(ii)(B), the working group must determine whether or not an ample margin of safety exists between the levels of 2,4,5-TCP or its salts and/or TCDD which produce reproductive and fetotoxic effects, and the level(s) to which the population at risk (women of childbearing age) can reasonably be anticipated to be exposed.

Social changes over the last few years, however, have given women the opportunity for employment in areas that were once considered open only to men. Since women of child-bearing age are now employed in all types of occupations, they have become part of the population at risk with potential exposure to 2,4,5-TCP, its salts and/or TCDD.

In order to determine whether an ample margin of safety exists, the working group must first determine how much 2,4,5-TCP (or salts) a woman could be exposed to. Both in-

halation and dermal exposure routes were examined.

For each of these analyses, the working group assumes a woman to weigh 60 kg. The following calculations are based on an exposure analysis for 2,4,5-TCP, its salts and TCDD performed by EPA's criteria and evaluation division.

For purposes of this analysis, the working group considered currently registered uses where the possibility of exposure to 2,4,5-TCP, its salts and/or TCDD existed.

Large quantities of 2,4,5-TCP and its sodium and potassium salts are used in industrial and other nonagricultural pesticide formulations for controlling bacteria and fungi. The following industries are the largest users of formulated products containing 2,4,5-TCP and its sodium and potassium salts: cooling towers; paper and pulp mill systems; hide and leather processing; miscellaneous industrial and institutional uses, including disinfectant use.

To a large extent most of the above industries use the sodium salt of 2,4,5-TCP because of its higher water solubility. About 10–15 percent of the commercial products for these uses contain 2,4,5-TCP itself. The commercial products can contain other chemicals including pentachlorophenol, tetrachlorophenol, and lower chlorophenols, as well as other active ingredients, organic solvents, and emulsifiers. A contaminant in 2,4,5-TCP-containing pesticides is 2,3,7,8-tetrachlorodibenzo-*p*-dioxin (TCDD) which is currently present up to a maximum concentration of 0.1 ppm (Crosby et al., 1973).

To estimate human exposure to 2,4,5-TCP or its salts in the above four major use patterns, available published literature was consulted. It should be noted that exposure data for 2,4,5-TCP or its salts was unavailable from the Occupational Safety and Health Administration (OSHA) or from other sources associated with occupational exposure of workers in the aforementioned industries. However, by making certain assumptions, estimates of potential human exposure to 2,4,5-TCP or its salts and TCDD can be made. Such estimates of human exposure in terms of derman and inhalation exposure are described in four sections of this analysis, specifically addressed to the major use patterns.

For the purpose of this analysis, it is assumed that the penetration of 2,4,5-TCP or its salts and TCDD into the human skin has a value of about 10 percent. This is similar to the penetration value of several other chlorinated hydrocarbons which is about 7–15 percent (Maibach and Feldman, 1974). It is also assumed that the TCDD content in commercial 2,4,5-TCP or its salts is at a maximum of 0.099 ppm. For the purpose of this analysis a maximum figure of 0.1 ppm TCDD is used. Lung absorption of TCDD by inhalation is assumed to be 100 percent.

Summary

This report discusses levels of human exposure to 2,4,5-TCP or its salts and TCDD that can be expected at specific use sites. The estimated values for TCDD dermal and inhalation exposure to women are summarized in table 13. Table 14 shows the estimated exposure to 2,4,5-TCP and/or its salts. Because of the possible teratogenic effects from TCDD, this analysis is predicated on the basis that the workers are women even though many of the positions that may result in exposure are held by men. No estimates of total individuals that may be exposed are available at this time.

TABLE 13. Human exposure levels to TCDD

Use Site	Product Number*	Micrograms/kg body wt/day Dermal Exposure	Micrograms/kg body wt/day Inhalation Exposure
Industrial			
Cooling Tower	Product A	0.37×10^{-6}	2.3×10^{-6}
Water Systems	Product B	1.4×10^{-6}	9.0×10^{-6}
Paper & Pulp Mills	Product C	0.2×10^{-6}	5.5×10^{-6}
Leather	Product D	4.9×10^{-6}	8.7×10^{-6}
Non-Industrial			
Hospital- Applicators	Product E	7×10^{-6}	0.88×10^{-6}
- Patients	Product E		0.49×10^{-6}

TABLE 14. Human exposure levels to 2,4,5-TCP and/or its salts

Use Site	Product Number*	Milligrams/kg body wt/day Dermal Exposure	Milligrams/kg body wt/day Inhalation Exposure
Industrial			
Cooling Tower	Product A	0.0037	0.023
Water Systems	Product B	0.014	0.0903
Paper & Pulp Mills	Product C	0.002	0.055
Leather	Product D	0.049	0.087
Non-Industrial			
Hospital- Applicators	Product E	0.07	0.009
- Patients	Product E		0.005

* Product refers to examples of commercial formulation discussed in the text of this report under specific use site.

Product	% 2,4,5-TCP or Na 2,4,5-TCP
A	7.2% (sodium salt)
B	85% (sodium salt)
C	15% (trichlorophenol)
D	17.5% (sodium salt)
E	2.32% (sodium salt)

a. *Exposure Analysis for 2,4,5-TCP or its Salts in Industrial Cooling Water Systems.* There are two types of cooling tower water systems in industry, one totally enclosed and the other open to the atmosphere. A typical enclosed cooling water system usually contains water storage tanks connected to an application manifold; water circulates between a storage reservior, chiller, and open gutters below the point of application such as dies, rolling mills, etc. These systems usually contain 20,000-100,000 gallons of coolant. At the point of application considerable evaporative losses occur so make-up water is constantly pumped from the water storage tanks. The cooling water systems are generally very large. Such systems, called "cooling towers", are found in heavy industrial manufacturing sites dealing with millions of gallons of water. These large towers are designed to provide a large evaporative surface where water cascades over heat exchangers. They are usually built outside of the production buildings, but maintenance workers and cooling tower operators could be exposed to this cooling water.

In both situations, regardless of the size of the cooling water systems, periodic water discharge occurs as blowdown. Such discharges are needed to maintain a clean system.

There are a large number of commercial algicidal formulations recommended for cooling tower application which contain 2,4,5-TCP or its salts. In some commercial formulations, it is noted that 2,4,5-TCP and/or its salts are the only active ingredients. For most products 2,4,5-TCP, or its sodium and potassium salt, is used in conjunction with pentachlorophenol, sodium, and potassium pentachlorophenate, and other chlorophenols. Pentachlorophenol and its salts are used whenever a wood preservative effect is needed in cooling towers. In the cooling tower systems, the pesticide is periodically added to maintain an effective algicidal concentration.

Factory workers, in the vicinity of the cooling water systems and the cooling tower, are potentially exposed to 2,4,5-TCP or its salts and its impurity TCDD by dermal contact or inhalation. Upon investigation, it was learned that automatic metering devices are generally used to add the 2,4,5-TCP-containing pesticide.

Two specific pesticide formulation products are considered for the purposes of estimating the levels of exposure. According to label data, the percent concentration of technical Na 2,4,5-TCP in the product and the concentration level of the product recommended for effectiveness is:

	Percent Concentration of Technical Na 2,4,5-TCP	Recommended Product Use Concentration	Na 2,4,5-TCP Active Ingredient
Product A	7.2%	300 ppm	22 ppm
Product B	85%	0.85 lbs/1000 gal	87 ppm

i. *Dermal Exposure.* It is assumed that maintenance workers and cooling tower operators could be exposed to some dermal contact with the cooling water. It is estimated that possibly 100 ml/day of cooling water could come in contact with a person. The Na 2,4,5-TCP content is each ml of cooling water is calculated, and then based on an assumed skin penetration rate of 10 percent for Na 2,4,5-TCP, the dermal exposure for a 60 kg woman to this compound is estimated as follows:

Product A

For product A the content of Na 2,4,5-TCP in the treated cooling water is 22 ppm or 22 mg/1. Therefore, the 100 ml that might contact the skin per worker per day will contain 2.2 mg of Na 2,4,5-TCP. Since the penetration of the pesticide into the human body is assumed to be 10 percent, the dermal exposure to Na 2,4,5-TCP can be estimated to be: 2.2 mg $\times$ 10 percent $\div$ 60 kg = 0.0037 mg/kg/day. Dermal exposure to TCDD will then be 0.00037 mg (0.0037 mg/kg/day $\times$ 0.1×10^{-6}) or 0.37×10^{-6} µg/kg body wt/day.

Product B

Cooling water treated with product B contains 87 mg/l of Na 2,4,5-TCP. One hundred ml of this cooling water, the quantity estimated to contact the skin per worker per day will contain 8.7 mg Na 2,4,5-TCP. Since the penetration of the pesticide into the human body is rated at 10 percent, the dermal exposure to Na 2,4,5-TCP is estimated to be 8.7×0.1 (10 percent) $\div$ 60 kg = 0.014 mg/kg/day. Dermal exposure to TCDD will then be 0.014 mg $\times$ 0.1×10^{-6} or 1.4×10^{-6} µg/kg body wt/day.

ii. *Inhalation Exposure.* While working in and around cooling towers for approximately 2 hours a day, workers are subject to inhalation exposure from pesticides added to cooling water. Because of the high evaporation rate it is assumed that the air a worker will breathe in the cooling tower will have 100 percent relative humidity at 20° C. Under these conditions, 1 m^3 of air contains 17.3 grams of water. It is assumed that the pesticide is carried into the air in proportion to its concentration in the cooling water.

Product A

If the Na 2,4,5-TCP content is 22 ppm or 22 mg/l, and the breathing rate is 1.8 m^3 hr; then a 60 kg worker will receive the following exposure 0.0173 l/m^3 $\times$ 22 mg/l $\times$ 1.8 m^3/hr $\times$ 2 hrs $\div$ 60 kg or 0.023 mg/kg/day Na 2,4,5-TCP, which implies a dose of $0.023\times.1\times10^{-6}$ or 2.3×10^{-6} µg TCDD/kg/day.

Product B

As above, the exposure to product B is calculated as follows: 0.0173 l/m^3 $\times$ 87 mg/l $\times$ 1.8 m^3/hr $\times$ 2 hrs $\div$ 60 kg or 0.0903 mg/kg/day Na 2,4,5-TCP which is equivalent to $0.0903\times0.1\times10^{-6}$ or 9.03×10^{-6}µg TCDD/kg/day.

b. *Exposure Analysis for 2,4,5-TCP and its Salts in Paper and Pulp Industry.* Paper and pulp mills use commercial formulations containing 2,4,5-TCP or its salts for controlling bacteria and fungi. In this analysis commercial products recommended for white water and stock systems of the paper mills, and the commercial products used in pulp, paper, and paper board manufacturing have been studied. The typical commercial product recommended for the control of bacteria and fungi in the above processes contains 15 percent 2,4,5-TCP by weight with the corresponding TCDD impurity. Customarily, the pesticide is added directly to the system using a metering device.

i. *Dermal Exposure.* Product C (15 percent 2,4,5-TCP) is added to pulping systems at the rate of 0.825 lb/1,000 gallons under the most demanding conditions. This is equivalent to approximately 100 ppm of the formulation and therefore, 15 ppm 2,4,5-TCP.

Workers in pulp/paper mills periodically take samples to monitor the process for quality control. Assuming sampling is done hourly and each time the worker wets one hand (10 ml); then, an exposure of 80 ml/day is possible. A 60 kg worker could then be exposed to 0.08 1/day $\times$ 15 mg/l $\times$ 0.1 (absorption) $\div$ 60 kg or 0.002 mg 2,4,5-TCP/kg/day. TCDD exposure would then be $0.002\times0.1\times10^{-6}$ or 0.2×10^{-6}µg TCDD/kg/day.

(ii) *Inhalation Exposure.* At the exposed tank areas, open conveyors, and open-spurting locations, the mill worker will be exposed to contaminated air. It is assured that conditions of 100 percent relative humidity and 20° C prevail. In that case the air would contain 17.3 grams water/m^3. If it is assumed that the pesticide is present in the same proportion as the proportion in the process water, then an inhalation can be calculated. This would represent a worst case situation as salts are generally not volatile. Using a value of 15 ppm (15 mg/1) and the worker's breathing rate of 1.8 m^3/hr, the worker would be exposed to 1.8 m^3/hr×15 mg/1×.0173 1/m^3=0.47 mg 2,4,5-TCP/hr. It is reasonable to assume that during an 8-hour shift, the worker will be exposed at least 7 hours to mill spray and contaminated air at specific locations. On this basis, the inhalation exposure (100 percent absorbed) to 2,4,5-TCP for the worker having a body weight of 60 kg will be 0.47 mg/hr×7 hrs÷60 or 0.055 mg/kg body weight/day. Based on a TCDD content of 0.1 ppm in 2,4,5-TCP, the inhalation of TCDD by the factory worker is 55 $\mu g \times 0.1 \times 10^{-6}$ or 5.5×10^{-6} µg TCDD/kg/day.

d. *Exposure Analysis for 2,4,5-TCP in the Leather Industry.* According to Anderson (1976), fungicides and bactericides that contain 2,4,5-TCP or its salts can be used at any stage of operation requiring control of fungi or bacteria; however, it is most commonly used in the tanning process. Upon evaluation of all the processes dealing with the preparation of hides and tanning operations, i.e. tanning, soaking, bating, beam house washing, and fleshing and washing, it is evident that several workers constantly handle wet leather and wash waters used in the leather treating process, which contain anti-bacterial and anti-fungal agents to cope with the heavy growth of bacteria and fungi. Data on exposure levels of pesticides in tanneries are not available; however, it is reasonable to make the following assumptions.

1. There is a percentage of workers exposed to pesticide-containing water. The difference in the exposure is based on specific tannery operations which may vary in the pesticide amount and frequency. The tanning and fleshing/washing operation appear to provide the most exposure.

2. It has been observed that a person wearing gloves and an apron could possibly get the diluted formulation on exposed skin areas during certain operations. Each time a worker is wet in that manner, approximately 50 ml of water containing small quantities of organic substances could reach the exposed skin surface. The penetration of 2,4,5-TCP through the skin is assumed to be 10 percent.

i. *Dermal Exposure.* For the purposes of estimating the dermal exposure of factory workers in the leather industry, a representative pesticide product used in tanneries is considered. This product contains 17 percent of sodium 2,4,5-trichlorophenate (product D). The label directions of the product recommend a dilution of the commercial formulation at a rate of 1 pound per 1,000 gallons of water. This is equivalent to 0.021 mg/ml of Na 2,4,5-TCP in the process water:

1 lb/1,000 gal=0.454 gm/gal=454 mg/gal×17.5 percent Na 2,4,5-TCP÷3,785 ml/gal or 0.021 mg/ml Na 2,4,5-TCP

Based on the assumption that during the fleshing and washing operation (the worst case) in the leather industry, the worker could possibly be exposed to 1,400 ml of the process water containing the pesticide per day. Further, based on the assumption that the penetration of the Na 2,4,5-TCP into the human body is 10 percent, Na 2,4,5-TCP exposure is estimated to be 0.1 (10 percent)×1,400 ml×0.021 mg/ml=2.94 mg Na 2,4,5-TCP/day. The average body weight of a woman worker is assumed to be 60 kg, than a woman tannery worker would receive a dermal exposure of 2940 µg÷60=49 µg Na 2,4,5-TCP/kg body weight/day. An additional factor of 0.1×10^{-6} converts this to the TCDD exposure: 4.9×10^{-6}µg TCDD/kg/body wt/day.

Similarly, the dermal exposure to TCDD for the tanning operation in which approximately 200 ml instead of 1,400 ml might contact a worker, results in 0.7×10^{-6}µg/kg TCDD of body wt/day. This range of values, 0.7 to 4.9×10^{-6}µg TCDD/kg/day, is calculated on the total quantity of treated water contacted per person/day by exposure to different types of operations.

ii. *Inhalation Exposure.* In tanneries, workers will be exposed to water vapor from tanks and processing vats. If 100 percent humidity and 20° C conditions prevail, then the air will contain 17.3 gm/m^3. It is assumed that the breathing rate is 1.8 m^3/hr and that the pesticide is present in the air in the same proportion as in the process water. Then, a 60 kg worker could be exposed to 17.3 ml/m^3×0.021 mg/ml×1.8 m^3/hr×8 hr÷60kg=0.087 mg Na 2,4,5-TCP/kg/day. TCDD exposure would equal $0.087 \times 0.1 \times 10^{-6}$ or 0.0087×10^{-6}mg or 8.7×10^{-6}µg/kg/day.

e. *Exposure Analysis for 2,4,5-TCP Used in Hospitals.*—(1) *Introduction.* Exposure is estimated in this analysis for pesticide formulations which are used as disinfectants in hospitals. These commercial products used as disinfectants/bactericides contain 2,4,5-TCP or its salts (sodium and potassium), other active ingredients, and inerts. These commercial products are concentrates for which the manufacturer prescribes a specific dilution ratio in water prior to application. To estimate quantitatively how much TCDD in Na 2,4,5-TCP may be released into the hospital environment, the usage pattern of typical commercial pesticide formulations that contain Na 2,4,5-TCP which are recommended for hospital use have been considered. For this purpose, data on a commercial pesticide formulation is summarized below.

Product	% Na 2,4,5-TCP	Recommended Dilution	Na 2,4,5-TCP g/100 gal
Product E	2.32%	1:128	68.6

One hundred gallons of such a diluted solution will contain 0.78 gallons of formulated product. Since product E contains 2.32 percent Na 2,4,5-TCP, 100 gallons will contain 0.018 gallons Na 2,4,5-TCP. There are 3,785 gm/gal (density of 1), and therefore 68.6 grams of Na 2,4,5-TCP are present in 100 gallons.

Data on dermal or inhalation exposure of pesticides containing 2,4,5-TCP in hospital use are not available. Therefore, to provide estimates, the following assumptions are made:

1. Uniform dispersion of 2,4,5-TCP and TCDD in the confined areas of the hospital.

2. Possible contact of hospital workers with the disinfectant solution on the hands, face, and "V" of neck of hospital workers.

3. The application of the product is made on relatively low absorptive surfaces. All of the 2,4,5-TCP contained in the applied film of the disinfectant solutions probably escapes into the interior atmosphere due to volatilization. The application of the pesticide is made at regular intervals by hospital workers mopping, wiping, or swabbing the interior surface of the hospital.

A typical hospital wing uses 100 gallons of disinfectant solution per day.

i. *Dermal Exposure.* Using Product E (the one having the highest Na 2,4,5-TCP content) the Na 2,4,5-TCP concentration would be 0.686 gm/gal of solution. Making the assumption that one cup of the diluted solution may

spill on her skin, the worker could then be exposed to 1 cup × 0.686 gm/gal ÷ 16 cups/gal or 0.043 gm of Na 2,4,5-TCP of which 10 percent (4.3 mg) could be absorbed during an 8-hour workday at the hospital. Based on a 60 kg body weight, a woman could be exposed to 4.3 mg ÷ 60 kg or 0.07 mg Na 2,4,5-TCP/kg/day. For TCDD the exposure would be 0.07 mg × 1000 μg/mg × 0.1×10^{-6} or 7×10^{-6} μg TCDD/kg/day.

ii. *Inhalation Exposure.* Both hospital workers and patients breathe the air in the hospital wards and work area. It is recognized that because of the restful conditions of the patients, they have a somewhat lower breathing rate, while the hospital worker may have a higher breathing rate.

For the purposes of estimating the relative quantity of TCDD release, it is assumed that 50 patients occupy semi-private rooms having a volumetric space of approximately 60 m³/room (20 ft x 10 ft x 10 ft). The volumetric air space of the hospital wing with 10 employees is estimated to be approximately 1,800 m³ which includes the 25 patient rooms (1,500 m³) corridor, and necessary support area (300 m³). For the size of the hospital wing and recommended air ventilation of 1,800–2,400 ft³/hr/person (approximately 60 m³) (Air Quantities for Ventilation, 7th ed.), the total circulated air volume for an 8-hour period would be 60 m³ (ventilation) × 60 (patients and employees) × 8 (hr/day) or 28,800 m³.

Of the 100 gallons of disinfectant applied, about 1 cup per gallon or 6.25 gallons (100 cups) will be distributed in the hospital wing interior. This quantity contains 0.043 gm Na 2,4,5-TCP/cup × 100 cups or 4.3 gm Na 2,4,5-TCP/100 cups or $4.3\times(0.1\times10^{-6})$ gm TCDD or 0.43 gm × 10^{-6} gm TCDD/100 cups.

Since it is estimated that in a water solution, 25 percent of the TCDD could volatilize before drying, it is assumed that 25 percent × 0.43×10^{-6} gm (amount of TCDD/100 cups diluted formulation) or 0.108×10^{-6} gm TCDD is volatilized. Based on the total circulated air volume for an 8-hour period, 28,800 m³, then: 3.7×10^{-6} μg/m³ would be available. [0.108×10^{-6} −28,800 m³ = 3.7×10^{-12} gm TCDD/m³ or 3.7×10^{-6} μg/m³.

If the breathing rate of the patients is 1.0 m³/hr and that of the workers is assumed to be 1.8 m³/hr, then the exposure could be:

a. Hospital worker (60 kg): 1.8 m³/hr × 8 hr × 3.7×10^{-6} μg TCDD/m³ −60 kg or 0.88×10^{-6} μg TCDD/kg/day.

b. Hospital worker (60 kg): 1.8 m³/hr × 8 hr × 4.3 gm TCP/100 cups × 25 percent volatilization −28,800 m³ −60 kg = 0.00895 mg Na 2,4,5-TCP/kg/day.

c. Hospital patient (60 kg): 1.0 m³/hr × 8 hr×3.7×10^{-6} μg TCDD/m³ −60 kg or 0.49×10^{-6} μg TCDD/kg/8 hrs.

d. Hospital patient (60 kg): 1.0 m³/hr × 8 hr × 4.3 gm TCP/100 cups × 25 percent volatilization −28,800 m −60 kg = 0.00497 mg Na 2,4,5-TCP/kg/day.

f. *Conclusions.* The sum of the dermal and inhalation exposures to TCDD (per table 13, page 44) were compared to the TCDD no-adverse-effect level for teratogenicity and fetotoxicity, 0.03 μg/ky body weight/day (Sparschu et al., 1971). The difference between this no-adverse-effect level and the calculated exposure represents an adequate margin of safety. However, preliminary data (Traynor, 1977) indicates the no-effect level may be one order of magnitude less.

The dermal and inhalation exposures for 2,4,5-TCP or its salts (see table 14, page 45) were also compared to the no-adverse-effect level for fetotoxicity, 0.9 mg/kg body weight/day (Neubert and Dillmann, 1972). Since the difference between this no-adverse-effect level and the calculated exposure did not represent an adequate margin of safety, the working group recommends issuance of a rebuttable presumption against registration based on fetotoxicity. The working group realizes that this decision is based on only one test performed in 1971. The 2,4,5-TCP used in this test was specified as being of analytical grade from a company in Switzerland with no TCDD content specified. The technology for manufacturing 2,4,5-TCP with low TCDD content, as well as the capability for the identification of low levels of TCDD, probably was not as advanced in 1971/1972 as it is today.

The working group requests registrants and other interested persons, who have comments or relevant data regarding 2,4,5-TCP/TCDD, exposure estimates and margins of safety to submit such information to the Agency.

IV. Evidence not Sufficient To Support a Rebuttable Presumption

A. Mutagenic Effects of TCDD in Test Animals

40 CFR 162.11 provides that a rebuttable presumption shall arise if a pesticide's ingredient(s), metabolite(s), or degradation product(s) "(i)nduces mutagenic effects, as determined by multitest evidence." The genetic effects of TCDD have been studied by several researchers. Some of the tests suggest that this dioxin is a mutagen.

1. *Studies Demonstrating the Mutagenic Effects of TCDD.* Hussain et al. (1972) evaluated the mutagenic activity of TCDD (99% pure) on three different microbial test systems. In the first study TCDD significantly increased the incidence of reverse mutations in *Escherchia coli* Sd-4 administered 2 μg/ml TCDD from streptomycin dependence to streptomycin independence. This was the only dose at which mutations were clearly observed. No details of the experimental protocol were given and statistical methods were apparently not employed in assessing the data.

The second test by Hussain studied reverse mutation from histidine dependence to histidine independence in *Salmonella typhimurium* strains TA 1532 and TA 1530. TCDD was positive in TA 1532 but negative in TA 1530. This indicates that TCDD acts as a frameshift mutagen. ICR-170 was used as a positive control in the test with TA 1532. No positive or negative controls were tested in TA 1530.

In the third test, Hussain observed slight prophage induction in *E. coli* K-39. However, data from this test were difficult to evaluate because the solvent used, DMSO, causes cellular effects.

A preliminary report on the chromosomal analysis of hospital patients exposed to TCDD in the accident at the Seveso, Italy, factory was presented at a Department of Health, Education, and Welfare meeting on October 12, 1976 (Pertel, 1977). An increased number of chromosomal lesions (gaps, chromatidic and chromosomal breaks and rearrangements) were observed in the somatic cells of the 2- to 28-year-old males and females tested. Cytogenetic studies of tissues from the therapeutic abortions performed on women who were exposed to TCDD during the accident indicated that there was chromosomal damage to cells in maternal peripheral blood and placental and fetal tissues. These preliminary results were based on a small number of samples and no specific data is available at this time.

2. *Studies in Which Mutagenic Effects Were Not Observed.* Khera and Ruddick (1973) conducted dominant lethal tests in which male Wistar rats received TCDD at dosages of 4 and 8 μg/kg/day. The studies indicated that no dominant lethal mutations arose during the 35 days posttreatment. The period examined corresponded to postmeiotic stages of spermatogensis.

A cytogenetic screening study of the effects of TCDD on the bone marrow cells of male Osborne-Mendel rats was performed by the Food and Drug Administration (Green, 1975). Two separate experiments were performed. The first was a multiple dose test in which 10 μg/kg/day was administered by intubation daily for 5 consecutive days. In the second test, single doses of 5, 10, and 15 μg/kg TCDD were administered intraperitoneally and 20 μg/kg (the highest dose) was administered orally. There was no evidence from these studies to indicate that TCDD produced cytogenetic damage in the bone marrow of these male rats. Tox-

icity, which was indicated by a slight weight loss, was noted in the rats that received a single dose of 15 or 20 μg/kg (the highest dose levels). This suggested that the dose level may have been too low.

Therefore, the working group concludes that, although there is some evidence that TCDD is a mutagen in microbial systems, the data is not sufficent to form the basis of a rebuttable presumption. Additional information or studies on the mutagenic effects of TCDD should be submitted to the Agency for further review.

B. OTHER EFFECTS OF TCDD

1. *Enzymatic Effects.* Whether there is a relationship between the effects of TCDD and chemical carcinogenesis has been the subject of several studies. Marquardt et al. (1974) found evidence that aryl hydrocarbon hydroxylase (AHH) is strongly involved in chemical carcinogenesis because many chemically nonreactive compounds must be metabolized by cellular enzymes before they can act as carcinogens. Buu-Hoi et al (1971) found that even in very low doses TCDD could greatly disturb the enzymatic character of an organism as do certain typical carcinogenic substances (e.g., benzo/a/pyrene and p-dimethylaminoazobenzene).

In a paper on AHH, Kouri et al. (1974) stated that TCDD itself is not a potent carcinogen in mice. However, the extent to which the synergistic action of TCDD and 3-methylcholanthrene (MC) produces cancer in different strains of mice is directly proportional to the increase in hydroxylase activity and associated cytochrome P-450 content. They reported that the basal enzyme activity might correlate with the enzyme activities that could be induced by either TCDD or MC. They found TCDD to be 40 to 60 times more potent as a inducer of AHH in cultured human lymphocytes than was MC. Poland and Glover (1974) showed that TCDD is approximately 30,000 times more potent than MC as an inducer of AHH in rat liver.

2. *Toxic Effects on Humans.* There are several adverse effects that occur in humans as a result of exposure to TCDD. The most well known is chloracne, a severe and persistent disease of the skin that is very difficult to cure (Schulz, 1957). Porphyria cutanea tarda (PCT) is another disease that is caused by exposure to TCDD and often accompanies chloracne (Bleiberg, 1964). PCT is a defect of hepatic prophyria metabolism characterized by an over-production of porphyrins, fragility and photosensitivity of the skin, hyperpigmentation, hirsutism, and neurological and intestinal disorders (Poland and Kende, 1976).

3. *Toxic Effects on Other Mammals.* The extreme toxicity of TCDD to a variety of animal species has been well documented (Abelson, 1970; Buu-Hoi et al., 1971; Rose et al., 1976; Farquharson et al., 1958; Higginbotham et al., 1968; Milnes, 1971; Sparschu et al., 1971). The LD_{50} for TCDD is as low as 0.6 μg/kg TCDD body weight in the guinea pig (table 15).

TABLE 15. LD-50 values for TCDD

Animal	LD-50, ug/kg	Reference
Guinea pig	0.6	Sparschu et al. (1971)
Rabbit	10	Schulz (1968)
Rat		
Female	22	Schwetz et al. (1973)
Male	45	
Mouse	114	Vos et al. (1974)
Dog	1000	Schwetz et al. (1973)

4. *Miscellaneous Toxic Effects.* Many researchers have found the liver to be the main target for the toxic action of TCDD. Liver necrosis (Norback and Allen, 1973; Courtney and Moore, 1971), stimulation of hepatic microsomal enzymes (Piper et al., 1973; Gupta et al., 1973), and the formation of multi-nucleate parenchymal cells (Greig et al., 1973) are examples of the many adverse effects also attributed to TCDD exposure.

Chick edema factor (Higgenbotham et al., 1968), severe weight loss, atrophy of the thymus, and induction of hepatic and renal microsomal drug metabolizing enzymes (Fowler et al., 1973) are some additional adverse effects that have been noted.

C. OTHER EFFECTS OF 2,4,5-TCP AND ITS SALTS

Technical grade 2,4,5-TCP can irritate the eyes, skin, nose, and throat. Depending on the degree of exposure, ocular damage may include burns of the conjunctival membrane, severe conjunctival swelling, slight to moderate iritis, and corneal damage. Those exposed to 2,4,5-TCP have contracted chloracne and porphyria tarda. However, these effects were attributed to the presence of TCDD as a contaminant (Schulz, 1968). The toxic properties of Na-2,4,5-TCP are similar to those of 2,4,5-TCP but are somewhat more intense.

The LD_{50} for 2,4,5-TCP has been established at concentrations varying from 820 to 2960 mg/kg body weight in the rat. No nonreversible pathological changes were noted at the doses cited. The acute feeding studies with both 2,4,5-TCP and its sodium salt are summarized in table 16.

McCollister et al. (1961) administered a single dose of 1-3.98g/kg 2,4,5-TCP (97-98 percent pure) by intubation to male rats. The acute oral LD_{50} was calculated to be 2.96 g-kg/body weight, a finding which led the authors to conclude that 2,4,5-TCP is low in oral toxicity.

In a 3-month sudy the authors fed rats 0 (control), 0.01, 0.03, 0.1, 0.3 or 1 g 2,4,5-TCP/kg body weight in the diet for 98 days. Rats maintained at the 1/kg/day level had only slight pathologic changes in the liver and kidneys. The kidneys showed moderated degenerative changes in the epithelial lining of the convoluted tubules and early proliferation of the interstitial tissue.

TABLE 16. Summary of acute effects of 2,4,5-TCP and its sodium salt on rats

Chemical	Route of Administration	LD-50, mg/kg body weight	Reference
2,4,5-TCP	oral	2960	McCollister et al. (1961)
2,4,5-TCP	oral	820	Deichmann (1943)
2,4,5-TCP	oral	2460-2830	Dow Chemical Company (1976)
2,4,5-TCP	oral	620-835	Deichmann and Mergard (1948)
2,4,5-TCP	intraperitoneal injection	355	Farquharson et al. (1958)
2,4,5-TCP	subcutaneous injection	2100-2260	Deichmann and Mergard (1948)
Na 2,4,5-TCP	oral	1620-1870	Dow Chemical Company (1976)

The effects of 0.3 g/kg/day were milder than those at 1 g/kg/day. No adverse effects were noted in either male or female rats maintained at 0.01, 0.03, or 0.1 g/kg. The authors concluded that 2,4,5-TCP is low in acute oral toxicity to rats when administered in their diet for a period of 98 days.

In repeated feeding tests (20 oral doses in 28 days), the authors administered doses of 2,4,5-TCP (.001, 0.01, 0.1, and 0.5 g/kg) to rabbits by intubation. There were very slight kidney changes in rabbits administered 0.1 g/kg, and very slight kidney and liver changes in those given 0.5 g/kg. No pathologic changes were observed in rabbits in the two lowest dose groups.

2,4,5-TCP and its sodium salt caused no dermal effects on guinea pigs (Dugois and Colomb, 1957), and only a slight reddening of rabbit skin after brief exposure and mild to moderate chemical burns after longer exposures (Dow Chemical Co., 1976). Refined 2,4,5-TCP also did not cause chloracne or other adverse effects in rabbits (Kimmig and Schulz, 1957). Rather it was the TCDD formed in the alkaline hydrolysis of 1,2,4,5-tetrachlorobenzene into 2,4,5-TCP that produced chloracne.

Blackman et al. (1955) determined that the LD_{50} for 2,4,5-TCP on the green water plant (*Lemna minor*) was 1.65 mg/liter. The authors defined the LD_{50} as the concentration which caused chlorosis in 50 percent of the plant fronds.

Amer and Ali (1974) studied the cytological effects of 2,4,5-TCP on the meiosis, pollen viability, and yield of *Vicia faba* plants that had been sprayed or whose seeds had been soaked in the chemical. 2,4,5-TCP had no significant effect on the pollen mother cells and no harmful effect on yield.

LIST OF REFERENCES [1]

1. Abelson, P. H. 1970. Pollution by organic chemicals. Science 170(3957):1. Copyright.
2. Alexander, M., and M. I. H. Aleem. 1961. Effects of chemical structure on microbial decomposition of aromatic herbicides. J. Agric. Food Chem. 9(1):44-47. Copyright.
3. Allen, J. R., J. P. Van Miller, and D. H. Norback. 1975. Tissue distribution, excretion and biological effects of [14C] tetrachlorodibenzo-*p*-dioxin in rats. Food Cosmet. Toxicol. 13:501-505. Copyright.
4. Amer, S. M., and E. M. Ali. 1974. Cytological effects of pesticides. V. Effects of some herbicides on *Vicia faba*. Cytologia 39:633-643. Copyright.
5. Anderson, D. F., Project Officer. 1976. Draft supplement for pretreatment to the development document for the leather tanning and finishing point source category. Environmental Protection Agency.
6. Bauer, H., K. H. Schulz, and U. Spiegelberg. 1961. Occupational intoxication in the production of chlorinated phenol compounds. Arch. fur Gewerbepathol. Gewerbehyg. 18:538-555. Copyright.
7. Baughman, R., and M. Meselson. 1973. An analytical method for detecting TCDD (dioxin): levels of TCDD in samples from Vietnam. Environ. Health Perspect. 5:27-35. Copyright.
8. Baumeister, T., Editor. Standard Handbook for Mechanical Engineers. Air conditioning and ventilation. Seventh edition. McGraw-Hill Book Co.
9. Beale, M. G., W. T. Shearer, M. M. Karl, and A. M. Robson. 1977. Long-term effects of dioxin exposure. Lancet 1(8014):748. Copyright.
10. Bjerke, E. L., J. L. Herman, P. W. Miller, and J. H. Wetters. 1972. Residue study of phenoxy herbicides in milk and cream. J. Agric. Food Chem. 20(5): 963-967. Copyright.
11. Blackman, G. E., M. H. Parke, and G. Garton. 1955. The physiological activity of substituted phenols. I. Relationships between chemical structure and physiological activity. Arch. Biochem. Biophysics 54:45-54. Copyright.
12. Bleiberg, J., M. Wallen, R. Brodkin, and I. L. Applebaum. 1964. Industrially acquired porphyria. Arch. Dermat. 89:793-797. Copyright.
13. Bowes, G. W., B. R. Simoneit, A. L. Burlingame, B. W. de Lappe, and R. W. Risenbrough. 1973. The search for chlorinated dibenzofurans and chlorinated dibenzodioxins in wildlife populations showing elevated levels of embryonic death. Environ. Health Perspect. 5:191-198. Copyright.
14. Burger, Jr., E. J. 1973. Summary: conference on dibenzodioxins and dibenzofurans, National Institute of Environmental Health Services, April 2-3, 1973. Environ. Health Perspect. 5:279-282. Copyright.
15. Buu-Hoi, N. P., D. P. Hien, G. Saint-Ruf, and J. Servoin-Sidoine. 1971. Biochem-

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istry: carcinomimetic properties of tetrachloro-2,3,7,8 dibenzo-p-dioxin ("dioxin"). C. R. Acad. Sci. Paris 272:1447-1450. Copyright.

16. Carter, C. D., R. D. Kimbrough, J. A. Liddle, R. E. Cline, M. M. Zack, Jr., W. F. Barthel, R. E. Koehler, and P. E. Phillips. 1975. Tetrachlorodibenzodioxin: an accidental poisoning episode in horse arenas. Science 188(4189):738-740. Copyright.

17. Clark, D. E., J. S. Palmer, R. D. Radeleff, H. R. Crookshank, and F. M. Farr. 1975. Residues of chlorophenoxy acid herbicides and their phenolic metabolites in tissues of sheep and cattle. J. Agric. Food Chem. 23(3):573-578. Copyright.

18. Commoner, B., and R. E. Scott. 1976. Accidental contamination of soil with dioxin in Missouri: Effects and countermeasures.

19. Courtney, K. D. 1976. Mouse teratology studies with chlorodibenzo-p-dioxins. Bull. Environ. Contam. Toxicol. 16(6):674-681. Copyright.

20. Courtney, K. D., D. W. Gaylor, M. D. Hogan, H. L. Falk, R. R. Bates, and I. Mitchell. 1970. Teratogenic evaluation of 2,4,5-T. Science 168:864-866. Copyright.

21. Courtney, K. D., and J. A. Moore. 1971. Teratology studies with 2,4,5-trichlorophenoxyacetic acid and 2,3,7,8-tetrachlorodibenzo-p-dioxin. Toxicol. Appl. Pharmacol. 20:396-403. Copyright.

22. Crosby, D. G., K. W. Moilanen, and A. S. Wong. 1973. Environmental generation and degradation of dibenzodioxins and dibenzofurans. Environ. Health Perspect. 5:259-266. Copyright.

23. Crosby, D. G., and A. S. Wong. 1977. Environmental degradation of 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD). Science 195(428):1337-1338. Copyright.

24. Crosby, D. G., and A. S. Wong. 1973. Photodecomposition of 2,4,5-trichlorophenoxyacetic acid (2,4,5-T) in water. J. Agric. Food Chem. 21(6):1052-1054. Copyright.

25. Crosby, D. G., A. S. Wong, J. R. Plimmer, and E. A. Woolson. 1971. Photodecomposition of chlorinated dibenzo-p-dioxins. Science 173:747-749. Copyright.

26. Crossland, J., and K. P. Shea. 1973. The hazards of impurities. Environment 15(5):35-38. Copyright.

27. Deichmann, W. B., and E. G. Mergard. 1948. Comparative evaluation of methods employed to express the degree of toxicity of a compound. J. Ind. Hyg. Toxicol. 30(6):373-378. Copyright.

28. Dewse, C. D. 1976. Dangers of T.C.D.D. Lancet 11(7981):363. Copyright.

29. Dow Chemical Co. 1976. Antimicrobial agents. Section I-2: Dowicide 2, Antimicrobial (Revised). Section I-10: Dowicide B, Antimicrobial (Revised). 10 pp.

30. Dugois, P., and L. Colomb. 1957. Remarks on halogen-acne (with regard to a series of cases caused by the preparing of 2,4,5-trichlorophenol). J. Med. Lyon 38:899-903. Copyright.

31. Durham, W. F., and H. R. Wolfe. 1962. Measurement of the exposure of workers to pesticides. Bull. Wld. Mth. Org. 26:75-92.

32. Farquharson, M. E., J. C. Gage, and J. Northover. 1958. The biological action of chlorophenols. Br. J. Pharmacol. 13:20-24. Copyright.

33. Federal Working Group on Pest Management. 1974. Occupational Exposure to Pesticides: Report to the Federal Working Group on Pest Management from the Task Group on Occupational Exposure to Pesticides. Pp. 120-127.

34. Fishbein, L. 1973. Mutagens and potential mutagens in the biosphere I. DDT and its metabolites, polychlorinated biphenyls, chlorodioxins, polycyclic aromatic hydrocarbons, haloethers. Sci. Total Environ. 4:305-340. Copyright.

35. Fowler, B. A., G. W. Lucier, H. W. Brown, and O. S. McDaniel. 1973. Ultrastructural changes in rat liver cells following a single oral dose of TCDD. Environ. Health Perspect. 5:141-148. Copyright.

36. Gebefugl, I., H. Parlar and F. Korte. 1976. Short notice on the analytical determination of pentachlorophenol in closed areas. Chemosphere 5(4):227-230.

37. Goldmann, P. J. 1972. Extremely severe acute chloracne due to trichlorophenol decomposition products. Ind. Med. Soc. Med. Ind. Hyg. 7(1):12-18. Copyright.

38. Goto, M., M. Hattori, T. Miyagawa, and M. Enomoto. 1972. Contributions to the ecological chemistry. II. Hepatoma formation in mice after administration of high doses of BHC isomers. Chemosphere 1(6):279-282. Copyright.

39. Green, S. 1975. Cytogenetic evaluation of several dioxins in the rat. Unpublished draft. 13 pp.

40. Greig, J. B., G. Jones, W. H. Butler, and J. M. Barnes. 1973. Toxic effects of 2,3,7,8-tetrachlorodibenzo-p-dioxin. Food Cosmet. Toxicol. 11:585-595. Copyright.

41. Gupta, B. N., J. G. Vos, J. A. Moore, J. G. Zinkl, and B. C. Bullock. 1973. Pathologic effects of 2,3,7,8-tetrachlorodibenzo-p-dioxin in laboratory animals. Environ. Health Perspect. 5:125-140. Copyright.

42. Harvey, C. G. 1973. Dioxin, a contaminant in 2,4,5-T. Presented at Wisconsin Pest Control Conference with Industry: January 17, 1973 (unpublished).

43. Helling, C. S. 1971. Pesticide mobility in soils. II. Applications of soil thin-layer chromatography. Soil Sci. Proc. 35(5):737-743. Copyright.

44. Helling, C. S., A. R. Isensee, E. A. Woolson, P. D. J. Ensor, G. E. Jones, J. R. Plimmer, and P. C. Kearney. 1973. Chlorodioxins in pesticides, soils, and plants. J. Environ. Qual. 2(2):171-178. Copyright.

45. Higginbotham, G. R., A. Huang, D. Firestone, J. Verrett, J. Ress, and A. D. Campbell. 1968. Chemical and toxicological evaluations of isolated and synthetic chloro derivatives of dibenzo-p-dioxin. Nature 220:702-703. Copyright.

46. Hussain, S., L. Ehrenberg, G. Lofroth, and T. Gejvall. 1972. Mutagenic effects of TCDD on bacterial systems. Ambio 1(1):32-33. Copyright.

47. Innes, J. R. M., B. M. Ulland, M. G. Valerio, L. Petrucelli, L. Fishbein, E. R. Hart, A. J. Pallota, R. R. Bates, H. L. Falk, J. J. Gart, M. Klein, I. Mitchell, and J. Peters. 1969. Bioassay of pesticides and industrial chemicals for tumorigenicity in mice: a preliminary note. J. Nat. Cancer Inst. 42(1):1101-1114.

48. Isensee, A. R., and G. E. Jones. 1971. Absorption and translocation of root and foliage applied 2,4-dichlorophenol, 2,7-dichlorodibenzo-p-dioxin, and 2,3,7,8-tetrachlorodibenzo-p-dioxin. J. Agric. Food Chem. 19(6):1210-1213. Copyright.

49. Isensee, A. R., and G. E. Jones. 1975. Distribution of 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD) in aquatic model ecosystem. Environ. Sci. Technol. 9(7):668-672. Copyright.

50. Kearney, P. C., E. A. Woolson, and C. P. Ellington, Jr. 1972. Persistence and metabolism of chlorodioxins in soils. Environ. Sci. Technol. 6(12):1017-1019. Copyright.

51. Kearney, P. C., E. A. Woolson, A. R. Isensee, and C. S. Helling. 1973. Tetrachlorodibenzodioxin in the environment: sources, fate, and decontamination. Environ. Health Perspect. 5:273-277. Copyright.

52. Khera, K. S., and J. A. Ruddick. 1973. Polychlorodibenzo-p-dioxins: perinatal effects and the dominant lethal test in Wistar rats. *In* Chlorodioxins—Origin and Fate. Advances in Chemistry Series No. 120. American Chemical Society. Pp. 70-84. Copyright.

53. Kimbrough, R. D. 1974. The toxicity of polychlorinated polycyclic compounds and related chemicals. Crit. Rev. Toxicol. 2(4):445-499. Copyright.

54. Kimmig, J., and K. H. Schulz. 1957. Occupational acne (chloracne) caused by chlorinated aromatic cyclic ether. Dermatologica 115:540-546. Copyright.

55. Kirk-Othmer Encyclopedia of Chemical Technology. 2nd ed., vol. 5. 1964. Pp. 325-338. Copyright.

56. Kouri, R. E., H. Ratrie, III, S. A. Atlas, A. Niwa, and D. W. Nebert. 1974. Aryl hydrocarbon hydroxylase induction in human lymphocyte cultures by 2,3,7,8-tetrachlorodibenzo-p-dioxin. Life Sci. 15(9):1585-1595. Copyright.

57. Kutz, F. W., Ecological Monitoring Branch, (EPA). July 6, 1977. Environmental Monitoring Data on 2,4,5-T, 2,4,5-TP (Silvex), Erbon, and Ronnel. Memorandum to H. L. Warnick, Office of Special Pesticide Review, (EPA). 3 pp.

58. Leng, M. L. 1976. Comparative metabolism of phenoxy herbicides in animals. Paper 73. Division of Pesticide Chemistry. Centennial Meeting, American Chemical Society. 2 pp. Copyright.

59. Leng, M. L. 1972. Residues in milk and meat and safety to livestock from the use of phenoxy herbicides in pasture and rangeland. Down to Earth 28(1):12-20. Copyright.

60. Maibach, H. I. and R. Feldman. 1974. Systematic absorption of pesticides through the skin of man. Occupational exposure to pesticides. Federal Working Group on pesticides management, 1974, p. 122.

61. Marquardt, H., J. E. Sodergren, P. Sims, and P. L. Grover. 1974. Malignant transformation *in vitro* of mouse fibroblasts by 7,12-dimethylbenz(a)anthracene and 7-hydroxymethylbenz(a)anthracene and by their K-region derivatives. Int. J. Cancer 13:304-310. Copyright.

62. Matsumura, F., and H. J. Benezet. 1973. Studies on the bioaccumulation and microbial degradation of 2,3,7,8-tetrachlorodibenzo-p-dioxin. Environ. Health Perspect. 5:253—258. Copyright.

63. May, G. 1973. Chloracne from the accidental production of tetrachlorodiben- zodioxin. Br. J. Ind. Med. 30:276-283. Copyright.

64. McCollister, D. D., D. T. Lockwood, and V. K. Rowe. 1961. Toxicologic information on 2,4,5-trichlorophenol. Toxicol. Appl. Pharmacol. 3:63-70. Copyright.

65. Milnes, M. H. 1971. Formation of 2,3,7,8-tetrachlorodibenzodioxin by thermal decomposition of sodium 2,4,5-trichlorophenate. Nature 232:395-396. Copyright.

66. Moore, J. A., B. N. Gupta, J. G. Zinkl, and J. G. Vos. 1973. Postnatal effects of maternal exposure to 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD). Environ. Health Perspect. 5:81-85. Copyright.

67. Muelder, W. W., and L. A. Shadoff. 1973. The preparation of uniformly labeled

14C-2,7-dichlorodibenzo-*p*-dioxin and 14C-2,3,7,8-tetrachlorodibenzo-*p*-dioxin. *In* Chlorodioxins—Origin and Fate. Advances in Chemistry Series No. 120. American Chemical Society. Pp. 1-6. Copyright.

68. National Academy of Sciences. 1977. Drinking Water and Health: A report of the safe drinking water committee, advisory center on toxicology, Assembly of Life Sciences, National Research Council. Summary and Part II, Chapters 6 and 7. 148 pp.

69. Neubert, D., and I. Dillmann. 1972. Embryotoxic effects in mice treated with 2,4,5-trichlorophenoxyacetic acid and 2,3,7,8-tetrachlorodibenzo-*p*-dioxin. Naunyn-Schmiedebergs Arch. Pharmacol. 272:243-264. Copyright.

70. Neubert, D., P. Zons, A. Rothenwallner, and H. J. Merker. 1973. A survey of the embryotoxic effects of TCDD in mammalian species. Environ. Health Perspect. 5:67-79. Copyright.

71. Norback, D. H., and J. R. Allen. 1973. Biological responses of the nonhuman primate, chicken, and rate to chlorinated dibenzo-*p*-dioxin ingestin. Environ. Health Perspect. 5:233-240. Copyright.

72. Pertel, R. [Office of Special Pesticide Reviews, EPA]. August 26, 1977. TCDD-Dioxin: Mutagenicity. Memorandum to M. Reece and H. Warnick [Office of Special Pesticide Reviews, EPA]. 1 p.

73. Piper, W. N., J. Q. Rose, and P. J. Gehring. 1973. Excretion and tissue distribution of 2,3,7,8-tetrachlorodibenzo-*p*-dioxin in the rat. Environ. Health Perspect. 5:241-244. Copyright.

74. Plimmer, J. R., U. I. Klingebiel, D. G. Crosby, and A. S. Wong. 1973. Photochemistry of dibenzo-*p*-dioxins. *In* Chlorodioxins—Origin and Fate. Advances in Chemistry Series No. 120. American Chemical Society. Pp. 44-54. Copyright.

75. Poland, A., and E. Glover. 1974. Comparison of 2,3,7,8-tetrachloro-dibenzo-*p*-dioxin, a potent inducer of aryl hydrocarbon hydroxylase, with 3-methylocholanthrene. Mol. Pharmacol. 10:349-359. Copyright.

76. Poland, A., and A. Kende. 1976. 2,3,7,8-Tetrachlorodibenzo-*p*-dioxin: environmental contaminant and molecular probe. Fed. Proc. 35(12):2404-2411. Copyright.

77. Poland, A. P., D. Smith, G. Metter, and P. Possick. 1971. A health survey of workers in a 2,4-D and 2,4,5-T plant: with special attention to chloracne, porphyria cutanea tarda, and psychologic parameters. Arch. Environ. Health. 22:316-327. Copyright.

78. Reece, M. E., [Office of Special Pesticide Reviews, EPA]. December 16, 1977. Production Data—RPAR Chemical 2,4,5-TCP. Memorandum to E. L. Johnson, Office of Pesticide Programs [EPA]. 1 p. Confidential.

79. Rose, J. Q., J. C. Ramsey, T. H. Wentzler, R. A. Hummel, and P. J. Gehring. 1976. The fate of 2,3,7,8-tetrachlorodibenzo-*p*-dioxin following single and repeated oral doses to the rat. Toxicol. Appl. Pharmacol. 36:209-226. Copyright.

80. Schulz, K. H. 1957. Clinical and experimental investigations in the etiology of chloracne. Arch. Fuer Exp. 206:589-596. Copyright.

81. Schulz, K. H. 1968. On the clinical aspects and etiology of chloracne. Arbeitsmed. Sozialmed. Arbeiotshyg. 3(2):25-29. Copyright.

82. Schwetz, B. A., J. M. Norris, G. L. Sparschu, V. K. Rowe, P. J. Gehring, J. L. Emerson, and C. G. Gerbig. 1973. Toxicology of chlorinated dibenzo-*p*-dioxins. Environ. Health Perspect. 5:87-99. Copyright.

83. Smith, F. A., B. A. Schwetz, and K. D. Nitschke. 1976. Teratogenicity of 2,3,7,8-tetrachlorodibenzo-*p*-dioxin in CF-1 mice. Toxicol. Appl. Pharmacol. 38:517-523. Copyright.

84. Sparschu, G. L., F. L. Dunn, and V. K. Rowe. 1971. Study of the teratogenicity of 2,3,7,8-tetrachlorodibenzo-*p*-dioxin in the rat. Food Cosmet. Toxicol. 9:405-412. Copyright.

85. Traynor, M. J. [Dow Chemical U.S.A.]. September 7, 1977. Letter and attachment to T. Holloway, Office of Special Pesticide Reviews, EPA. 7 pp.

86. U.S. Environmental Protection Agency. Dioxin Working Group. 1977. Dioxin: Position Document. (Draft—Unpublished).

87. U.S. Environmental Protection Agency. 1975. Hazardous Waste Disposal Damage Reports. Document No. 2. EPA/530/SW-151.2. Pp. iii-iv, 1-9, references.

88. Van Miller, J. P., J. J. Lalich, and J. R. Allen. 1977. Increased incidence of neoplasms in rats exposed to low levels of 2,3,7,8-tetrachlorodibenzo-*p*-dioxin. Chemosphere 9:537-544. Copyright.

89. Verrett, J. 1970. Statement of Dr. Jacqueline Verrett, Food and Drug Administration, Department of Hew. *In* hearings before the Subcommittee on Energy, Natural Resources, and the Environment of the Committee on Commerce, United States Senate, Second Session on effects of 2,4,5-T on man and the environment, April 7 and 15, 1970, Serial 91-60. Pp. 190-203.

90. Vinopal. J. H., and J. E. Casida. 1978. Metabolic stability of 2,3,7,8-tetrachlorodibenzo-*p*-dioxin in mammalian liver microsomal systems and in living mice. Arch. Environ. Contam. Toxicol. 1(2):122-132. Copyright.

91. Vos, J. G., J. A. Moore, and J. G. Zinkl. 1974. Toxicity of 2,3,7,8-tetrachlorodibenzo-*p*-dioxin (TCDD) in C57B1/6 mice. Toxicol. Appl. Pharmacol. 29:229-241. Copyright.

92. Watts, R. R., and R. W. Storherr. 1973. Negative finding of 2,3,7,8-tetrachlorodibenzo-*p*-dioxin in cooked fat containing actual and fortified residues of ronnel and/or 2,4,5-trichlorophenol. J. Assoc. Off. Anal. Chem. 56(4):1026-1027. Copyright.

93. Weissberg, J. B., and J. G. Zinkl. 1973. Effects of 2,3,7,8-tetrachlorodibenzo-*p*-dioxin upon hemostasis and hematologic function in the rat. Environ. Health Perspect. 5:119-123. Copyright.

94. Whiteside, T. July 25, 1977. The pendulum and the toxic cloud. New Yorker. 30-39,40-41,44-46,48-55. Copyright.

95. Wolfe, H. R., J. F. Armstrong, D. C. Staiff, and S. W. Comer. 1972. Exposure of spraymen to pesticides. Arch. Environ. Health. 25:29-31. Copyright.

96. Woolson, E. A., P. D. J. Ensor, W. L. Reichel, and A. L. Young. 1973. Dioxin residues in Lakeland sand and bald eagle samples. *In* Chlorodioxins—Origin and Fate. Advances in Chemistry Series No. 120. American Chemical Society. Pp. 112-118. Copyright.

97. Woolson, E. A., R. F. Thomas, and P. D. J. Ensor. 1972. Survey of polychlorodibenzo-*p*-dioxin content in selected pesticides. J. Agric. Food Chem. 20:351-354. Copyright.

98. Zitko, V. 1972. Absence of chlorinated dibenzodioxins and dibenzofurans from aquatic animals. Bull. Environ. Contam. Toxicol. 7:105-110. Copyright.

REGISTRATIONS AND PRODUCTS SUBJECT TO THE NOTICE, PRODUCT SEARCH LISTING

FEDERALLY REGISTERED PRODUCTS CONTAINING 2,4,5-TCP

NOVEMBER 30, 1977.

Registrant, Name, Address, and Product Name

000334—Hysan Corp., 919 W 38th Street, Chicago, Ill. 60609.
00323—Blue Grotto Hospital Disinfectant.
000464—Dow Chemical U.S.A., P.O. Box 1706, Midland, Mich. 48640.
00131—Dowicide B.
00160—Dowicide 2 Antimicrobial.
001022—Chapman Chemical Co., Box 9158, Memphis, Tenn. 38109.
00465—Permatox 110.
00468—Permatox 155.
00470—Chapman Permatox 150.
00471—Permatox 110A Fungicide.
001043—Vestal Laboratories—Division of Chemed Corp., 4963 Manchester Avenue, St. Louis, Mo. 63110.
00015—Anti-Bacterial Vescu-Lite.
001187—Virginia Chemicals, 3340 West Norfolk Road, Portsmouth, Va. 23703.
00085—Virchem 503 Microorganism Control Chemical.
001529—GAF Corp., Chemical Division, 140 West 51st Street, New York, N.Y. 10020.
00004—Ansco-Preventol I.
001677—Economics Laboratory, Inc., Superv. Reg. Services, Osborn Building, St. Paul, Minn. 55102.
00029—Magnus Magnicide 12.
001706—Nalco Chemicals Co., Regulatory Affairs Consultant, 2901 Butterfield Road, Oak Brook, Ill. 60521.
00006—Nalco 21-5.
00027—Nalco 201.
00033—Nalco 322.
00054—Nalco 401 Microorganism Control Chemical.
00057—Nalco 424 Microorganism Control Chemical.
00081—Nalco 7323 Microorganism Control Chemical.
00083—Nalco 272 (D-2092) Microorganism Control Chemical.
00099—Nalco D-2303 Microorganism Control Chemical.
001730—American Cyanamid Co. Consumer Product Division, Attention Medical Director, 859 Berdan Avenue, Wayne, N.J. 07470.
00014—Cytox 4310 Industrial Biocide.
00037—Baco D-131 Industrial Cooling Treatment.
001757—Drew Chemical Corp., 1 Drew Chemical Plaza, Boonton, N.J. 07005.
00009—Biosperse.
00025—Biocide 207.
00037—Biocide 289.
00042—Drewsperse 780 (for Industrial use only).
001762—Assoc. Chemists, Inc., 4401 Southeast Johnson Ck Boulevard, Portland, oreg. 97206.
00004—Oregon Brand Fungicide K-72.
002079—Merck Chemical, Division Merck & Co., Inc., 200 Wagaraw Road, Rahway, N.J. 07065.
00025—Metasol DX 3S Liquid.
00037—Metasol TC-915.
003533—Airkem, Division of Airwick Ind., Inc., 111 Commerce Road, Carlstadt, N.J. 07072.
00028—Airkem C-Kem Sanitizing Rug Shampoo and Germicidal Concentrate.

003635—Oxford Chemicals, P.O. Box 80202, Atlanta, Ga. 30341.
00110—Oxford Kontrol Cooling Tower Slimicide.
00130—Oxford Bacto-Phene.
00131—Oxford Vapogene.
00163—Oxford Germ-Master.
00197—Oxford 1922 Disinfectant-Detergent.
00198—Oxford 1925 Disinfectant-Detergent.
00202—Oxford 1926.
003876—Betz Laboratories, Inc., 4636 Somerton Road, Trevose, Pa. 19047.
00015—Betz Slime-Trol Slime Control Agent.
00026—Betz Slimicide formula 9 (Slime Control Agent).
00027—Betz Slime-Trol RX-17.
00030—Betz Fungicide F-14.
00041—Betz Slime Trol RX-26.
00065—Betz Slimicide B-7P (Pellets).
00067—Betz Funficide Fungus Control Agent DE-316.
00079—Betz Fungicide F-16 Fungus Control Agent.
00097—Slime-Trol RX-23.
00116—Betz Slime-Trol RX-12A.
004389—Pacific Chemicals Division, Pace National Corp., 500 Seventh Avenue South, Kirkland, Wash. 98033.
00027—Microcide L-36 Algaecide and Bactericide.
004643—Dearborn Chemical Division, W. R. Grace & Co., 320 Genessee Street, Lake Jurich, Ill. 60047.
00005—Dearcide 711.
00012—Dearcide 712.
00019—Dearcide 713 Bacteriostat and Algaecide.
005009—Tretolite Division, Petrolite Corp., Adm. Manager—Research, 369 Marshall Avenue, St. Louis, Mo. 63119.
00013—X-Cide 410.
00014—X-Cide 401 Industrial Bactericide:
005135—Water Services Division, Universal Oil Products Co., 700 South Flower Street, Burbank, Calif. 91502.
00018—OOP M-90 Algaecide.
005427—Wright Chemical Corp., 1319 West Wabansia Avenue, Chicago, Ill. 60622.
00036—Wrico RPV.
00039—Wrico RTM.
00045—Wrico PTB.
005736—DuBois Research Laboratories, DuBois, Chemical Division, Chemed Corp., 3630 East Kemper Road, Sharonville, Ohio 45241.
00054—D-Slime, Algicide Bacteriostat.
006338—Crystal Ext. & Chemical Co., Inc., 8828 North Port Washington Road, Milwaukee, Wis. 53217.
00001—Crysticide U-32 Preservative.
00002—Crysticide U-47 Preservative.
006520—Hamblet & Hayes Co., Colonial Road, Salem, Mass. 01970.
00001—H & H Kito B.
00004—Kito L.
00005—Kito G.
00007—Sterozol N Germicide.
00009—Sterozol T Preservative.
00010—Sterozol U Preservative.
00011—Sterozol JW Preservative.
007240—Doall Co., 254 North Laurel Avenue, Des Plaines, Ill. 60016.
00001—Duall S.O.C. Soluble Oil Conditioner.
007547—Western Chemical Co., 1345 Taney, North Kansas City, Mo. 64116.
00005—Western Algaecide C Concentrated Liquid.
00006—Western Algaecide Regular Liquid.
00007—Western Algae & Slime Control D.
00008—Western Algae & Slime Control R—Regular Liquid.
007779—Houghton, E. F., & Co., Madison and Van Burden Avenues, Norristown, Pa. 19401.
00008—Slimex No. 15.
008428—Shrader Chemical Co., 1205 South Santa Fe, Compton, Calif. 90221.
00010—SC 710 Algaecide.
008591—Mogul Corp., The P.O. Box 200, Chagrin Falls, Ohio 44022.
00005—Mogul A-423.
00006—Mogul A-421.
008728—Precision Chemicals, Inc., P.O. Box 19793, Station N, Atlanta, Ga. 30325.
00004—Precision Algaecide Liquid CL-208.
008928—Exxon Chemical Co., U.S.A., P.O. Box 3272, Houston, Tex. 77001.
00005—Curexit 7671 Bactericide.
00006—Curexit 7670 Bactericide.
009743—Skasol, Inc., 40 Cleveland Street, San Francisco, Calif., 94103.
00001—Skasol Biocide No. 2.
010145—Blumberg Co., Inc., P.O. Box 566, Peabody, Mass. 01960.
00002—Vita-San 75.
00003—Vita-San 10.
00006—Vita-San X100.
010238—Zimmite Corp., 810 Sharon Drive, Westlake, Ohio 44145.
00001—Chemtrol No. 7 Microorganism Control Chemical.
010445—Water Management Division, Calgon Corp., Attention Leo Haney, Calgon Center, Box 1346 Pittsburgh, Pa. 15230.
00005—607 Microbiocide.
010707—Magna Corp., 11808 South Bloomfield Avenue, Santa Fe Springs, Calif. 90670.
00002—Magna-440 Industrial Bacteriostat.
00004—Magnacide 414.
010880—March Chemical Co., Inc., 1464 Sierra Vista Drive, Baton Rouge, La. 70815.
00001—Marcide 105.
010932—Aqua-Service Engineers, Inc., 2431 and 56th Street, Los Angeles, Calif. 90058.
00003—A-103 Liquid Algaecide.
015300—Chemical Treatment Co., 500 Licking Hole Road, Hanover Ind. Air Park, Ashland, Va. 23005.
00004—Chemical Treatment CL-208.
017664—Baroid Division, N.L. Industries, Inc., 2404 Southwest Freeway, Houston, Tex. 77006.
00002—Barochem B 460.
019149—Superior Chemical Co., Lafayette, La. 70501.
00001—Superior S-55 Industrial Bacteriostat.
020375—Nutmeg Chemical Co., 125 Market Street, New Haven, Conn. 06513.
00010—Nutmeg NC-151.
00012—Nutmeg NC-71.
00013—Nutmeg NC-72.
009420—Water Chemists, Inc., 1275 South Boyle Avenue, Los Angeles, Calif. 90023.
07183—Algicide 101L.

[FR Doc. 78-21012 Filed 8-1-78; 8:45 am]

Federal Register

WEDNESDAY, AUGUST 2, 1978
PART III



DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Community Planning and Development

COMMUNITY DEVELOPMENT BLOCK GRANTS

Areawide Housing Plans

[4210-01]

Title 24—Housing and Urban Development

CHAPTER V—OFFICE OF ASSISTANT SECRETARY FOR COMMUNITY PLANNING AND DEVELOPMENT, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R-78-560]

PART 570—COMMUNITY DEVELOPMENT BLOCK GRANTS

Subpart E—Areawide Programs

AGENCY: Department of Housing and Urban Development.

ACTION: Final rule.

SUMMARY: This rule amends requirements and procedures for approval of Community Development Block Grant funds for areawide programs. Under the areawide program, grants are made to implement areawide housing opportunity plans selected for special allocations.

EFFECTIVE DATE: August 2, 1978.

FOR FURTHER INFORMATION CONTACT:

Trudy McFall, Office of Community Planning and Program Coordination, Room 7224, Washington, D.C., 202-755-6240.

SUPPLEMENTARY INFORMATION: On March 1, 1978, the Department of Housing and Urban Development (HUD) published regulations setting forth application requirements and criteria for discretionary grants under title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.). These appeared as 24 CFR part 570, subpart E.

HUD is amending § 570.404 of subpart E to revise the policies and procedures for reviewing and selecting applications for the award of grants for areawide programs authorized by section 107(a)(2) of the Housing and Community Development Act of 1974.

Section 107(a)(2) authorizes grants to units of general local government which join in carrying out housing and community development programs that are areawide in scope. Grants will be made available to assist in the implementation of areawide housing opportunity plans (AHOP) which receive special housing allocations under title II of the Housing and Community Development Act of 1974 (42 U.S.C. 1439).

On January 16, 1978, HUD published in the FEDERAL REGISTER regulations which provide for special allocations to jurisdictions within the area of an approved AHOP selected for special allocations under 24 CFR part 891, subpart F.

Community Development Block Grant funds will be made to jurisdictions which are within the geographic area covered by a AHOP selected to receive special allocations of housing assistance pursuant to 24 CFR part 891, subpart F. Community Development Block Grants will be made only for eligible activities which clearly and directly further implementation of AHOP plans and address the AHOP program objective.

The procedures to be followed in selecting jurisdictions to receive Community Development Block Grant funds provides an important role for APO's with AHOP plans selected for the special allocations. These regulations provide for APO's to coordinate the allocation of special Community Development Block Grant funds within their planning area, to rank the applications and to submit to HUD field offices the applications which should be funded. The role of APO's has been strengthened to ensure greater consistency of Community Development Block Grant grants with AHOP plans and to respond to local and regional priorities.

Section 570.404 is being published as a final rule effective on the date of publication. Public comment and the normal 30 day delay before the rule is effective are being waived because of the urgent and compelling need to establish this regulation. The Department has determined that public comment and a delay in effectiveness is impracticable, unnecessary, and contrary to the public interest. Areas selected for special allocations under the AHOP program have been announced and guidance is needed immediately.

It would be contrary to the public interest not to provide regulations which could provide necessary guidance and ensure prompt commitment of funds.

It is determined that a public comment period and delay in effectiveness is unnecessary because the regulation affects a relatively limited number of areas and applicants in the country and the proposed regulation has been circulated for comment to major public interest groups and to many of the areawide planning organizations applying for special allocations.

It has not been possible to publish the rule until this time because it was necessary to delay publication until the 24 CFR Part 891, Subpart F regulation establishing the AHOP special allocation program was published on January 16, 1978 and until the Notice establishing procedures for approving AHOP's was issued to the field on May 19, 1978.

Findings of Inapplicability with respect to Environmental Impact have been prepared in accordance with HUD Handbook 1390.1. A copy of the Finding is available for inspection in the Office of the Rules Docket Clerk at the above address.

In consideration of the foregoing, § 570.404 is hereby amended to read as follows:

§ 570.404 Areawide programs.

(a) *Definitions.* "Housing for low and moderate income persons and families" means assisted or unassisted housing affordable to families and persons of income levels as defined in Community Development Block Grant regulations Section 570.3(o) and (p). Affordable unassisted housing is that which can be obtained by low and moderate income persons spending no more than 25 percent of their income.

(b) *Eligible applicants.* Eligible applicants are those units of general local government which are within the geographic area covered by a AHOP selected to receive special allocations of housing assistance pursuant to 24 CFR part 891, subpart F.

(c) *Eligible activities.* Grants will be made only for activities which clearly and directly further implement approved AHOP's. In order to receive consideration for funding under the areawide program, activities proposed must be eligible for funding in accordance with Subpart C of this part. In addition, grants under this Section may only be used to:

(1) Facilitate the construction, provision, rehabilitation, conversion or acquisition of housing for low and moderate income families and persons outside areas of concentrations, such as:

(i) Site acquisition, clearance and disposition, including the reduction in the cost of the site, as set forth in § 570.201(a), (b) and (d).

(ii) Provision of public facilities and improvements, as set forth in § 570.201(c).

(iii) Payment of certain preconstruction costs for lower income housing as set forth in § 570.206(g).

(iv) Acquisition of land and existing housing for low and moderate income persons, either within or outside of the applicant jurisdiction, as set forth in § 570.201(a)(5).

(v) Assist in the provision of private utilities when necessary and appropriate to implement a housing strategy, as set forth in § 570.201(c).

(vi) Construction of new housing, rent or ownership subsidies, mortgage subsidies or other appropriate activities by a neighborhood-based nonprofit organization, local development corporation, or small business investment company when the housing activity can be shown to be necessary and appropriate to implement a community's economic development or neighborhood revitalization strategy, as set forth in § 570.204(c)(4).

(vii) Rehabilitation financing, acquisition of property for purposes of residential rehabilitation or other rehabilitation activities which increase the supply of housing for low and moderate income persons outside areas of concentration, as set forth in § 570.202(a) and (c). Rehabilitation activities eligible under this Section must be consistent with AHOP program objectives and must facilitate expanded housing choice for persons outside areas of minority and low income concentration.

(viii) Relocation assistance, as set forth, in § 570.201(i).

(ix) Loss of rental income, as set forth in § 570.201(j).

(x) Removal of architectural barriers to the mobility of the elderly and the handicapped, as set forth in § 570.201(k).

(xi) Public services, as set forth in § 570.201(e). Public services eligible under this Section must be consistent with AHOP program objectives and must facilitate expanded housing choices for persons outside areas of minority and low income concentration.

(2) Conduct outreach programs designed to facilitate movement of low and moderate income and minority families and persons to housing outside areas of concentration, particularly interjurisdictional moves when necessary to achieve the AHOP program objective, such as;

(i) Provision of fair housing counseling and legal aid services.

(ii) Participation in an areawide relocation service.

(iii) Provision of information to eligible low and moderate income persons on the availability and locations of housing in areas or communities outside areas of undue concentration.

(iv) Provision of escort, transportation, child care or other services which assist low income and minority persons to shop for housing outside traditional or immediate neighborhoods.

(v) Affirmative marketing agreements with builders, apartment managers, and real estate agents.

(vi) Training and education programs, for real estate agents, housing managers, city officials and others to increase knowledge of techniques for promoting economically and racially integrated housing.

(vii) Revisions to existing laws or regulations or enactment of new laws or regulations to promote increased interjurisdictional mobility, such as improved fair housing laws, revisions in assisted housing admission practices including the elimination of residency requirements or preferences for admission to Federally assisted housing or State grants or aids to communities accepting low income non-residents. Outreach programs are an eligible Community Developmnent Block Grant activity as set forth in § 570.206(c).

(d) *Application requirements.* An application will consist of the following items:

(1) Standard Form 424, Federal Assistances prescribed by OMB Circular A-102.

(2) Annual Community development program project summary as described in § 570.305(a).

(3) A housing assistance plan as described in § 570.306 or if there is an existing HUD approved housing assistance plan, a reference thereto;

(4) A community development budget as described in § 570.305(b); and

(5) The certifications described in § 570.307, except for 307(d).

(e) *Selection process.* The procedure for the selection of grant awards will be as follows:

(1) The Secretary will announce the AHOP plans which have been selected for supplemental allocations and the amount of Community Development Block Grant funds which will be made available to jurisdictions within the areas selected. The amount of funds to be made available will be determined in proportion to the amount of special allocations of housing assistance which is to be provided.

(2) APO's shall propose how the special Community Development Block Grant funds should be used to carry out the AHOP most effectively within their area, consistent with § 570.404(c). This may include establishing policies, priorities or ranking guidelines as appropriate for the use of such funds to ensure maximum consistency with the AHOP. In the conduct of their reviews and establishing their rankings, APO's should give priority to those applications which facilitate housing for families, particularly large families outside areas of concentration.

(3) APO's and HUD Offices shall establish procedures and time schedules for soliciting and reviewing applications from jurisdictions consistent with the APO's plans and priorities and which permit adequate time for processing by area offices. APO's shall solicit applications from their jurisdictions.

(4) APO's shall review all applications for consistency with the eligible activities set forth in § 570.404(c) and for consistency with their priorities for implementing the AHOP. APO's shall rank and submit to the HUD Area Office applications for funding consistent with HUD eligibility criteria, priorities for family housing, AHOP priorities and program objectives, and the amount of special Community Development Block Grant funds made available to the region for the jurisdictions. Only the highest ranking applications within the available funding shall be submitted to HUD for funding.

(5) The HUD Area Office shall review the applications submitted for completeness, eligibility of the applicant and activities proposed, and consistency with this regulation. In the event that an application is judged ineligible or incomplete by the Area Office and the application cannot be amended to correct the deficiencies HUD shall request the APO to recommend a substitute proposal. All applications recommended for Community Development Block Grant special allocations must be submitted by the APO to the HUD Area Office no later than December 29, 1978.

(6) *A-95.* OMB Circular No. A-95 review procedures shall apply. The total notification and review period for State and areawide clearinghouses will consist of no more than 30 days. The 30 day review period will be initiated upon date of application submission to either the APO or the HUD Area Office, whichever takes place first.

(f) The Secretary reserves the right to make areawide grants for other purposes, consistent with the general provisions of the act.

Issued in Washington, D.C., July 24, 1978.

ROBERT C. EMBRY, Jr.
Assistant Secretary for Community Planning and Development.

[FR Doc. 78-21307 Filed 8-1-78; 8:45 am]

[4210-01]

CHAPTER VI—OFFICE OF ASSISTANT SECRETARY FOR COMMUNITY PLANNING AND DEVELOPMENT, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R-78-561]

PART 600—COMPREHENSIVE PLANNING ASSISTANCE

Subpart F—Special Allocations for Areawide Housing Opportunity Plans

AGENCY: Department of Housing and Urban Development.

ACTION: Final rule.

SUMMARY: This rule amends the requirements and procedures for selection and approval of special allocations of Comprehensive Planning Assistance funds for implementing Areawide Housing Opportunity Programs.

EFFECTIVE DATE: August 2, 1978.

FOR FURTHER INFORMATION CONTACT:

Gene Hix, Office of Community

Planning and Program Coordination, Room 7220, Washington, D.C., 202-755-6228.

SUPPLEMENTARY INFORMATION: On August 22, 1975, the Department of Housing and Urban Development (HUD) published in the FEDERAL REGISTER regulations setting forth application requirements and criteria for comprehensive planning assistance (701) grants under section 701(c) of the Housing Act of 1954, as amended. These appear as 24 CFR Part 600, Subparts A-E.

HUD is adding a new subpart F defining the policies and procedures for selecting and reviewing applications for the award of grants to areawide planning organizations (APO's) in support of housing opportunity plans (AHOP's).

Special allocations of 701 funds will be made only for activities otherwise eligible under the 701 program which clearly and directly further the implementation of the AHOP and address the AHOP program objective. Some 701 eligible activities such as research, data collection or plan revisions may not be funded with the special allocation. These types of activities are to be funded through the APO's regular 701 grant.

Section 600 subpart F is being published as a final rule effective on the date of publication. Public comment and the normal 30 day delay before the rule is effective is being waived because of the urgent and compelling need to establish this regulation. The Department has determined that public comment and a delay in effectiveness is impracticable, unnecessary and contrary to the public interest. Any delay in issuing the final regulation would be impracticable and contrary to the public interest.

Areas selected for special allocations under the AHOP program have been announced and guidance is needed immediately.

It would be contrary to the public interest not to provide regulations which could provide necessary guidance and insure prompt commitment of funds.

It is determined that a public comment period and delay in effectiveness is unnecessary because the regulation affects a relatively limited number of areas and applicants in the country and the proposed regulation has been circulated for comment to major public interest groups and to many of the areawide planning organizations applying for special allocations.

It has not been possible to publish the rule until this time because it was necessary to delay publication until the 24 CFR Part 891, Subpart F regulation establishing the HOP special allocation program was published on January 16, 1978 and until the Notice establishing procedures for approving AHOP's was issued to the field on May 19, 1978.

Findings of inapplicability with respect to environmental impact have been prepared in accordance with HUD Handbook 1390.1. A copy of the finding is available for inspection in the Office of the Rules Docket Clerk at the above address.

In consideration of the foregoing, 24 CFR Part 600 is amended as follows:

1. The table of contents is amended by adding a new subpart F as follows:

Subpart F—Special Allocations for Areawide Housing Opportunity Plans

Sec.
600.180 Purpose.
600.190 Eligible applicants.
600.200 Allocation of Special Comprehensive Planning Assistance funds.
600.210 Eligible activities.
600.220 Administrative activities.
600.230 Application procedures.
600.240 Application requirements.
600.250 Submission requirements.

2. A new subpart F is added to read as follows:

Subpart F—Special Allocations for Areawide Housing Opportunity Plans

§ 600.180 Purpose

The purpose of this subpart is to describe the policies and procedures to be utilized in awarding special allocations of 701 funds made to areawide planning organizations in support of Areawide Housing Opportunity Plans (24 CFR part 891, subpart F).

§ 600.190 Eligible applicants.

Eligible applicants are only those areawide planning organizations (APO's) for a multi-county area or for a single county whose boundaries are coterminous with a designated Standard Metropolitan Statistical Area eligible for comprehensive planning assistance, and whose approved AHOP's have been selected by HUD for special allocations under CFR 891, subpart F.

§ 600.200 Allocation of Special Comprehensive Planning Assistance funds.

The amount of comprehensive planning assistance funds each APO is to receive will be proportional to special allocation of section 8 contract authority made to the AHOP area, except that the Department reserves the right to limit such grants to a maximum of $150,000 and a minimum of $25,000. Awards of special allocations of section 8 contract authority are made pursuant to 24 CFR Part 891, Subpart F.

600.210 Eligible activities.

Grants will be made only for activities which clearly and directly further the implementation of the AHOP, address the AHOP program objective and are otherwise eligible under the comprehensive planning assistance program. APO's must utilize such grants for one or both of these activities:

(a) Develop outreach programs designed to facilitate movement of low and moderate income and minority persons to housing outside areas of concentration, particularly interjurisdictional moves when necessary to achieve the AHOP program objective, such as:

(1) Developing a program for the provision of fair housing counseling and legal aid services,

(2) Establishing or strengthening an areawide relocation service,

(3) Working with member jurisdictions on a program to provide information to eligible low and moderate income persons on the availability and locations of housing in areas or communities outside areas of undue concentration,

(4) Working with member jurisdictions on the provisions of escort, transportation, child care or other services which assist low income and minority persons to shop for housing outside traditional or immediate neighborhoods,

(5) Developing affirmative marketing agreements with builders, apartment managers, real estate agents,

(6) Preparing training and educational programs for real estate agents, housing managers, city officials and others to increase knowledge of techniques for promoting economically and racially integrated housing,

(7) Initiating revisions to existing laws or regulations or enactment of new laws or regulations to promote increased interjurisdictional mobility, such as improved fair housing laws, revisions in assisted housing admission practices, including the elimination of residency requirements or preferences for admission to Federally assisted housing, state grants or aids to communities accepting low income nonresidents.

(b) Develop programs or activities designed to facilitate the construction, rehabilitation, acquisition or renting of housing for low and moderate income and minority persons outside areas of concentration, such as:

(1) Facilitating the establishment of housing authorities or development corporations, especially those capable of operation on an areawide basis,

(2) Working to make Section 8 Certificates of Family Participation usable in all APO member communities,

(3) Working with county and municipal governments and housing development corporations to assist private developers to locate sites for new construction and units to be rehabilitated,

(4) Working with county, municipal and State governments to increase the

areawide availability of State and local funds for housing assistance, such as the establishment of rehabilitation and construction loan funds and mortage finance programs.

(5) Helping public and private developers to secure financing and assurance of necessary facilities and services required to make the assisted housing successful.

Special allocations of Comprehensive Planning Assistance funds may not be used for activities, otherwise eligible under the statute, which propose the revision of allocation formulas or plans, housing studies and data collection and analysis.

§ 600.220 Administrative activities.

Use of funds for administrative activities related to implementing are limited to activities related to soliciting, assisting in the preparation of, reviewing and ranking applications from eligible member jurisdictions applying for the housing and Community Development Block Grant special funds under the AHOP.

§ 600.230 Application procedures.

Applications may be in the form of proposed amendments to the current year 701 grant or a new application. HUD will inform the APO of the amount of special allocations of Comprehensive Planning Assistance funds to be made available at the same time the APO is notified it has received HUD approval of a HOP under subpart F of 24 CFR 891. Funds will be awarded pursuant to Section 600.200 of this subpart. Work activities will then be negotiated with the appropriate Field Office to ensure the most effective use of funds to implement the AHOP program objective of spatial deconcentration.

§ 600.240 Application requirements.

An application will consist of the following items:

(a) Standard Form 424, Federal Assistance, prescribed by OMB Circular A-102.

(b) A detailed work program describing the proposed activities, including a discussion of the relationship of these activities to the AHOP implementation activities [see 24 CFR 891.503(f)].

(c) A revised or new Annual Work Program Summary (Form HUD-7026.2)

(d) A revised or new Annual Grant Budget (Form HUD-7026.2)

(e) A copy of A-95 review comments.

§ 600.250 Submission requirements.

(a) *Date of Submission.* HUD field offices will negotiate application submission dates with each eligible applicant. These dates will be set so that HUD has sufficient time to obligate the 701 special allocation funds prior to the end of the Federal fiscal year.

(b) *How to Submit.* Two copies of the application for special allocations of Comprehensive Planning Assistance shall be submitted to the HUD Regional Administrator, Attention: Regional AHOP Coordinator for the HUD regional office serving the APO's jurisdiction. If the APO is served by more than one regional office, the request shall be submitted to the office which services the APO's regular 701 grant.

(c) *A-95 Requirements.* OMB Circular No. A-95 notification and review procedures shall apply for purposes of this program. The total notification and review period for State and areawide clearinghouses will consist of no more than 30 days. The 30 day review period will be initiated upon date of application submission to either the State or HUD Area Office, whichever takes place first.

Issued in Washington, D.C., July 24, 1978.

ROBERT C. EMBRY, Jr.,
Assistant Secretary for Community Planning and Development.

[FR Doc. 78-21308 Filed 8-1-78; 8:45 am]

[4210-01]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N-78-886]

SPECIAL ALLOCATIONS BASED UPON APPROVED AREAWIDE HOUSING OPPORTUNITY PLANS

Eligible activities, procedures, and time schedules for awarding special allocations of community development block grants and comprehensive planning (701) funds.

On January 16, 1978 the Department published the final areawide HOP regulations, 24 CFR part 891, subpart F in the FEDERAL REGISTER and announced that $30 million in section 8 assistance, $16.8 million in community development block grant and $800,000 in 701 funds would be made available as AHOP special allocations.

This notice and the accompanying regulations identify the eligible activities, procedures and time schedules for awarding the special allocations of community development block grant and 701 planning funds which are to be made available pursuant to the AHOP regulations.

The community development block grant and 701 special allocation regulations are being published concurrently as 24 CFR, part 570, subpart E, and 24 CFR, part 600, subpart F, respectively.

HUD regulations define an areawide housing opportunity plan (AHOP) as a plan and program developed jointly by an areawide planning organization (APO) and its member jurisdictions, which has the effect of increasing the geographic choice of housing for lower income households outside areas of low income and minority concentration.

The community development block grant and 701 special allocation funds are to be used for similar objectives, to directly implement the AHOP plan and program objective. In particular, the implementation programs must be directed toward either or both of the two objectives as follows:

(a) Activities to facilitate the construction, rehabilitation, acquisition, or provision of housing for low and moderate income and minority persons outside areas and jurisdictions containing undue concentrations of low income or minority households; and/or

(b) Outreach programs to facilitate movement of low and moderate income and minority persons outside areas of concentration, particularly interjurisdictional moves when necessary to achieve the AHOP program objective.

Community development block grant and 701 special allocation funds must be used in a coordinated fashion to achieve one or both of these two objectives. Within this framework, APO's and participating jurisdictions within AHOP areas selected for special allocations are given substantial flexibility to develop innovative, coordinated proposals that respond to their priorities and which implement their approved AHOP plans.

Since regular community development block grant funds can be used to facilitate housing site preparation and construction, rehabilitation, and other developmental activities, whereas regular 701 funds are for planning and implementation, it is expected that grant recipients will emphasize the use of special allocation of community development block grant funds for activities related to the provision of housing and 701 funds for outreach programs. A coordinated and well defined strategy for the use of all the special allocations, housing, community development block grant and 701 funds, will be essential.

The community development block grant and 701 special allocation regulations being published concurrently with this notice detail the procedures that will be used in allocating the funds. There are some significant changes to the previous 24 CFR 570, Subpart E regulations. The process for soliciting, ranking, and recommending applications has been changed to give the APO's and HUD area offices substantially more responsibility for the selection of recipients for community development block grant special allocations.

All application approvals for 701 special allocations must be completed by APO's and HUD field offices no later than September 22, 1978. All applications for community development block grant special allocations must be submitted by the APO to the field office no later than December 29, 1978.

Issued at Washington, D.C., July 24, 1978.

ROBERT C. EMBRY, Jr.,
Assistant 0Secretary for Community Planning and Development.

[FR Doc. 78-21310 Filed 8-1-78; 8:45 am]

federal register

WEDNESDAY, AUGUST 2, 1978
PART IV



DEPARTMENT OF JUSTICE

Bureau of Prisons

■

CONTROL, CUSTODY, CARE, TREATMENT, AND INSTRUCTION OF INMATES

Proposed Rulemaking and Request for Comments

[4410-05]

DEPARTMENT OF JUSTICE

Bureau of Prisons

[28 CFR Chapter V]

CONTROL, CUSTODY, CARE, TREATMENT, AND INSTRUCTION OF INMATES

Proposed Rulemaking and Request for Comments

AGENCY: Bureau of Prisons, Justice.

ACTION: Republication of proposed rules.

SUMMARY: This document contains proposed rule changes as result of comments received and staff review on the proposed rule appearing at 42 FR 26334, May 23, 1977. These proposed changes relate to inmate discipline and special housing units.

DATE: Comments on proposed changes must be received on or before October 2, 1978.

FOR FURTHER INFORMATION CONTACT:

Curtis Sitterson, Office of General Counsel, Bureau of Prisons, phone, 202-724-3062.

SUPPLEMENTARY INFORMATION: On May 23, 1977, the Bureau of Prisons published proposed rules (at 42 FR 26334 et seq.) relating to the following:

(1) Inmate discipline and special housing units;

(2) Inmate access to legal counsel and reference materials and inmate preparation of legal documents;

(3) Inmate visiting, and correspondence through the mail;

(4) News media contact with inmates and Federal penal institutions generally;

(5) Awards, withholdings, and forefeitures of inmates' good time credits; and

(6) Scope of all Bureau of Prisons rules in institutional emergencies.

Public comments were received on all of these subjects. On the basis of these comments and internal staff review of Bureau policies, a large number of changes are contemplated. With regard to inmate discipline and special housing units, the contemplated changes are so numerous and varied that additional publication as proposed rules will be required so that the public may comment on the new changes.

It should be noted, however, that comments will receive formal response only insofar as they relate to the changes from the original proposed rules. These changes are summarized below. Comments relating to proposed rules which have not been changed in this republication receive no formal response. Comments previously received regarding these unchanged portions are summarized and addressed below.

Interested persons may participate in this proposed rulemaking by submitting data, views, or arguments in writing to the Bureau of Prisons, Room 900, 320 First Street NW., Washington, D.C. 20534. Comments received before October 2, 1978, will be considered before final action is taken on these proposals. Copies of all written comments received will be available for examination by interested persons at the Bureau of Prisons, Room 900, 320 First Street NW., Washington, D.C. 20534. The proposals may be changed in light of the comments received. No oral hearings are contemplated.

PART 541—INMATE DISCIPLINE AND SPECIAL HOUSING UNITS

(1) Section 541.10—Subsection (b), listing the general principles that apply to all disciplinary actions, was amended to include a prohibition against imposing such sanctions against inmates determined by medical staff to be mentally incompetent. This is in accordance with prior Bureau policies which were found to be still necessary.

(2) Section 541.11—Several changes have been made in the list of prohibited acts included under subsection (d). Because "return" was inadvertently omitted from No. 207 as first published, it has been added after "increased." Proposed offense No. 307, refusing to disclose to staff information concerning the commission of a prohibited act, has been stricken in its entirety since the revision of § 541.12(b), discussed below, rendered its applicability too narrow to be useful.

Three offenses have been added to make the list a more complete reflection of present Bureau policies enunciated elsewhere in the rules. These are 259, "refusing to provide a urine sample, breathalyzer test, or other drug or alcohol abuse test"; 704, "conducting a business"; and 753, "giving money to or receving money from any person for purposes of introducing contraband or for any other illegal or prohibited purpose."

(3) Section 541.12—The time constraints designated in Subsection (b), 24 hours for completion of an investigation and 8 hours for the delivery of the incident report, have been dropped. Not only are they insignificant in regard to the due process rights of inmates, but they are also more likely to confuse than to clarify. Those time limits which are an integral part of the Bureau's investigation procedures will remain in force as outlined in the new Table 2, "Time Limits in Disciplinary Process". In order to decrease vagueness, there has also been added to this section a few examples of what constitutes "good cause" for late delivery of the report to the inmate: "Absence of the inmate from the Institution, a medical condition militating against delivery, or the pendency of certain criminal proceedings."

Further revisions have been made to align this section with the U.S. Supreme Court's decision in *Baxter* v. *Palmigiano*. Rather than read the charges to an inmate and "obtain" his statement, an investigator must "ask for" the statement. Furthermore, as has been added immediately after that sentence, "the investigator shall advise the inmate that he has the right to remain silent at all stages of the disciplinary process but that his silence may be used to draw an adverse inference against him at any stage of the institutional disciplinary process."

Proposed subsection (c), which authorized the investigating officer to extend time limits upon a showing of good cause, has been dropped as no time limits are now contained in § 541.12. A new subsection (c) has been added, empowering a Warden to transfer an inmate for disciplinary reasons without a prior hearing in an emergency, but stipulating that there must be a hearing at the receiving institution and that a disciplinary transfer is a minor disposition subject to the requirements of § 541.13. This change reflects the proper role of transfers in institutional discipline and is consistent with the Supreme Court's opinions in *Meachum* v. *Fano* and *Montanye* v *Haymes*.

(4) Section 541.13—This section has been amended to include a provision designed to insure a greater degree of impartiality in the hearing process. It is now required that the staff member appointed to conduct the hearing may not be either the reporting or investigating officer, or a witness to the incident, except where virtually every staff member in the institution witnessed the incident.

The word "infraction" in subsection (a) was changed to "incident", as clarification. The requirement in subsection (b) that the intitial hearing will be held within 48 hours has been clarified by the stipulation that this period will commence when staff becomes aware of the incident

Subsection (c), setting forth the general right of an inmate to be present at the hearing has been expanded to provided for the conducting of hearings when an inmate is either absent from custody or refuses to appear. When the former occurs, the hearing in absentia will be held at the institution in which the inmate was last confined.

A new subsection (e) has been added which gives the hearing officer the

discretion to seek informal resolution of an incident. If such resolution is accomplished, staff shall expunge the inmate's file of the incident report.

Proposed subsections (e) and (f) have been changed to (f) and (g) respectively. In addition, present subsection (f) has been expanded to include rules related to the hearing officer's final judgment (it should be made in accordance with the greater weight of the evidence and should indicate that the inmate either did or did not commit the prohibited act charged or a similar prohibited act).

In order to conform with present Bureau policy, subsection (h) has been added. It provides for the referral of charges from the hearing officer to the Institutional Disciplinary Committee. When that occurs, the hearing officer shall advise the inmate of the rights afforded at a hearing and shall ask the inmate to indicate his choices of a staff representative, if any, and witnesses, if any, to be called in his behalf.

Proposed subsections (g) and (h) have been re-lettered (i) and (j) respectively. New subsection (j) has also been amended to require the hearing officer to document in the record of the hearing the reasons for an extension of time limits.

(5) Section 541.14—Proposed § 541.14(c) (3) has been deleted, as disciplinary transfers will no longer be a major sanction requiring Institution Discipline Committee action.

(6) Section 541.15—Proposed § 541.15(b) has been amended to clarify that an inmate has a right to a staff representative at all Institution Discipline Committee hearings. Certain staff members have been excluded as staff representatives due to the potential conflict in roles. Proposed § 541.15(c) has been amended to provide clearly that the inmate has the right to testify in his own behalf and to have necessary witnesses called to testify or to produce a written statement when unavailable. Proposed § 541.15(d) has been amended by deleting reference to "use of force" being used to bring an inmate to his disciplinary hearing, as an inmate has the privilege of refusing to appear at his hearing.

(7) Section 541.16—Proposed §§ 541.16 (d) and (e) have been amended to delegate responsibility to consider restoration of forfeited or withheld good time to the initial hearing officer(s). Proposed § 541.16(f) has been deleted as disciplinary transfers will no longer be a major sanction. Subsequent subsections have been appropriately renumbered.

(8) Section 541.18—Proposed § 541.18(d) has been amended by deleting the last sentence, which referred to the time an inmate spends in Disciplinary Segregation. It was felt that the first sentence in this subsection more appropriately delineates limitations in this area.

(9) Section 541.20—Subsection (c)(4) was amended to clarify the fact that segregated inmates do not necessarily receive a full choice of items from the normal institution menu. Subsection (c)(5) was amended to reflect that inmates are no longer required to shave. Subsection (c)(6) was amended to provide for a minimum of four hours exercise per week. Cross-references were added to proposed subsections (c)(8), and (c)(10) to clarify rules as to visiting, correspondence, and access to legal materials for inmates in Disciplinary Segregation. The first sentence in proposed subsection (c)(10) has been deleted.

(10) Section 541.21—Subsection (a) has been amended by adding a definition of an inmate in "holdover status".

Other Comments

I. Part 541—Inmate Discipline and Special Housing Units

(1) Section 541.11—Several comments were directed at the list of prohibited acts included under § 541.11(d). Charged with being overly ambiguous or vague are the following offenses: Engaging in sexual acts with others (051), possession of property belonging to another person (206), possession of anything not authorized for retention or receipt by an inmate (208), possession of unauthorized clothing (210), encouraging others to riot (252), engaging in or encouraging a group demonstration (253), correspondence or conduct with a visitor in violation of posted regulations (703), and conduct which disrupts or interferes with the security or orderly running of the institution (306). Since inmates are made well aware of what is and is not authorized, and since phrases such as "sexual acts" and "group demonstrations" have well-accepted definitions, they are satisfactorily precise, and the Bureau sees little room for abuse of these regulations or their employment as a subterfuge. As for the last one, disruptive conduct, the impossibility of anticipating and specifying all those activities which pose threats to the security and orderly running of an institution necessitates the use of such a conclusive definition of a prohibited act.

Other specified acts were attacked as being enforced only rarely or with difficulty, among them being possession, introduction or use of any narcotics or narcotic paraphernalia (203), insolence towards a staff member (304), using abusive or obscene language (554), gambling (601), preparing or conducting a gambling pool (602), being unsanitary or untidy (651), and tattooing or self-mutilation (652). These rules are consistent with more general Bureau of Prisons policy considerations unrelated to their difficulty of enforcement. Due to various factors such as inadequate number of staff and increased opportunities for inmates to evade official observation, the task of enforcing these rules can be arduous. That alone, however, is hardly sufficient to justify their repeal. In fact, each of them is used in disciplinary actions.

(2) Section 541.12—In response to § 541.12(b), dealing with investigations of alleged violations, it was suggested that an additional part be added guaranteeing that no inmate will either be punished, have good time forfeited, or be placed in restrictive housing while an investigation is being conducted. Such guarantees, though, would be largely redundant, for §§ 541.16 and 18 stipulate that only after a hearing has been completed can the Institution Discipline Committee impose such sanctions as forfeiture of good time and placement in disciplinary segregation. Justifications for placements in administrative detention pending investigations are discussed below.

(3) Section 541.13—A question about procedural safeguards at initial hearings was directed toward the provision entitling an inmate to make a statement and to present documentary evidence in his own behalf, but not allowing live testimony by witnesses (§ 541.13(d)). As this hearing involves the possibility of only minor sanctions, to invite witnesses would be to place an unnecessarily cumbersome burden on the hearing procedure.

(4) Section 541.15—Procedures in Institution Disciplinary Committee (IDC) hearings, § 541.15, received some critical comments, two of the comments concerning subsection (c). Disagreeing with the chairman's authority not to call repetitive or reasonably unavailable witnesses, one suggested that witnesses be excluded only where the IDC can demonstrate a threat to institutional security. These regulations, however, are consistent, for example, with Federal court rules which allow judges to exclude witnesses whose testimony is irrelevant or whose production unduly burdens the court. The need to call repetitious and redundant witnesses, who could bog a hearing down for long periods of time, is not apparent in the achievement of a fair hearing.

Another comment claimed that the accused inmate himself, as well as his representative and members of the IDC, should be able to question witnesses requested by the inmate and called by the committee. As recognized by the U.S. Supreme Court in *Wolff* v. *McDonnell*, however, it is desirable to avoid situations that needlessly trigger deep emotions and that may scuttle

the disciplinary process as a correctional vehicle. The instant provision respects such considerations, without depriving the inmate of any recognized rights.

Should an inmate escape, subsection (d) also empowers the IDC to conduct a hearing in his absence and gives the inmate the right to a rehearing upon his return, a policy which was attacked in another comment. Nevertheless, it is important that a hearing be held soon, inasmuch as evidence may be lost when the inmate remains in escape status for a long period of time. Also, an escaped inmate's sentence of imprisonment may expire before he is returned to the designated institution of his confinement if his sentence cannot be adjusted by forfeiture of good time in his absence. At the same time, his rights to due process are preserved through his ability to demand a rehearing, at which time any relevant evidence can be presented.

If an inmate is found not to have committed a prohibited act, § 541.15(h) stipulates certain documents relating to the incident that will and will not be subject to expungement. One comment challenged the exemption provided Special Housing Report Forms, records relating to a particular inmate in either administrative detention or disciplinary segregation status. These forms are maintained only to document medical or other treatment given in such a Special Housing Unit and are hardly rendered unnecessary by an IDC finding in favor of an inmate. They must be retained to answer claims of lack of treatment or of other abuses while in the Unit.

(5) Section 541.16—Several comments suggested revisions in § 541.16, concerning dispositions of the IDC. Addressing subsection (b), which empowers the committee to impose sanctions and dispositions available to initial hearing officers, one comment contended that these lesser sanctions should be described in detail and that the criteria relating to their application should be enunciated. That, however, would be both impractical and undesirable, for prompt and effective disposition of these cases necessarily requires that the nature of the incident and characteristics of the inmate and his institutional environment be taken into account. Thus, the lesser sanctions available to disciplinary committees must be many and varied and cannot be limited by constraints such as those suggested.

Various other comments were critical of the proposed rules covering major sanctions as well. As regards the withholding of statutory good time, limited by § 541.16(d) to the amount creditable for a single month, one comment asserted that there should be no withholding at all for a failure to work, where the inmate's absence is due either to attendance at classes or to confinement in protective custody. While the institutions try to avoid creating conflicts like the simultaneous scheduling of a work detail and school, they do occasionally occur. The purpose of withholding statutory good time, however, is purely disciplinary, and where there is no need for discipline, there should be no such sanction. Certainly no inmate should be disciplined for failure to work due to his placement in Administrative Detention.

It was also recommended that the amount of good time forfeitable for any single violation, now limited by subsection (e) merely to the amount accumulated by the inmate up to the time of the offense, be further reduced to a maximum of thirty days. Again, no such limitations are considered desirable by the Bureau, as the nature of the incident and the inmate involved should be taken into account, and this requires greater flexibility.

(6) Section 541.17—While numerous parties commented on various aspects of § 541.17, which concerns appeals from IDC actions, these criticisms are answered in large part by the publication of Part 542, outlining the Bureau of Prisons' Administrative Remedy procedure (See 42 FR 64082 et seq.).

(7) Section 541.18—The proposed rules on the justifications for placement of inmates in disciplinary segregation and the review of those already in the special status, § 541.18, proved controversial. Most vehemently challenged was the omission of administrative detention cases from the subsection (a) hearing requirements, which critics claimed resulted in the inmates' deprivation of liberty without due process of law. Several court cases, though, disagree, having held that the administrative detention procedure is not subject to the same due process requirements as disciplinary segregation. Moreover, the very nature of administrative detention in most cases precludes conducting hearing prior to placement there.

Another comment decried the lack of specified limits on the length of time which any given inmate can spend in disciplinary segregation and proposed that there be certain periods fixed for specific offenses. Here again, in light of the multiplicity of factors that must be considered, such a policy would deprive prison officials of the flexibility so necessary to ensure the security and order of the institution. In addition, the review process described in subsection (c) protects inmates against gross misuse of administrative discretion.

To further protect inmates, subsection (c) also provides for psychiatric or psychological interview for those whose segregation continues beyond 30 days. It is not possible or even always desirable to guarantee, as one comment suggested, that all tests will be administered by certified doctors, although the Bureau requires that only qualified personnel will be employed for these purposes.

Referring to the section as a whole, another comment recommended that no inmates exhibiting signs of mental illness should be put in disciplinary segregation. Section 541.10(b)(6) is being added which prevents institution staff from taking disciplinary action against inmates deemed mentally incompetent and prescribes tests for those suspected of being so. Furthermore, § 541.20(c)(1) confines all strip cells to the medical facility under the supervision and control of medical staff, rather than to the segregation unit, so that seriously disturbed inmates will be confined in the medical unit rather than in segregation, and (c)(9) provides for daily visits of segregated inmates by members of the medical staff.

(8) Section 541.20—Regarding other conditions of segregation, one comment contended segregated inmates ought to be guaranteed daily outdoor exercise rather than the present minimum of 2 hours per week. As set forth in § 541.20(c)(6), we propose that this minimum be increased to 4 hours. This is a bare minimum, however, and similar periods have been upheld by courts. As for the place of exercise, the Bureau endorses the concept of outdoor exercise, but because of weather variations and physical plant it is not feasible to regulate or require this on a nationwide basis. Subsection (c)(8), which empowers staff to provide reasonable amounts of reading material to segregated inmates on a continuing basis, was attacked for not requiring that such materials be made available. Due to administrative and security concerns, the Bureau desires to leave some leeway for coping with problems related to inmates who are to be in segregation for a short time only. Long-term residents, in contrast, are generally allowed to possess these materials. While subsection (c)(10), covering correspondence and visits, was challenged for not including information on when these activities can be limited, it was meant only to supplement the more comprehensive correspondence and visiting regulations in Part 540, most notably § 540.48(d).

(9) Section 541.21—The proposed rules on administrative detention listed under § 541.21 were also heavily criticized, but if anything was generally characteristic of the comments it was their lack of understanding about the purposes of administrative detention and the factors that distinguish it from disciplinary segregation. The

principal complaints were that there are no specified limitations on the amount of time an inmate can spend in this status, that full hearings are not required prior to placement in administrative detention, and that the limitations on a Warden's power discussed in subsection (d) need more specific definitions. The absence of time limitations is a direct result of the personal and institutional security considerations that underlie the use of administrative detention. Rather than being a disciplinary tool like segregation, administrative detention is a means of maintaining a secure, orderly environment for all inmates, staff members and visitors. Consequently, the rights of the individual inmate and the responsibilities of the institution are very different where administrative detention is concerned. Unfortunately, there are at times no alternatives to long-term separation of certain inmates from the general inmate population, for their own and others' protection.

We view full hearings prior to placement in administrative detention to be unnecessary as the inmate involved generally will receive written notice of the reason for his placement and may challenge this placement through Administrative Remedy procedures. Additionally, many placements in administrative detention must take place immediately in order to maintain safety and secuity within the institution (e.g., assault or protection situations). Hearings prior to placement in these situations would be difficult to achieve without compromising these immediate interests.

Finally, it is not possible to define more specifically the limitations on the Warden's authority to withold some privileges from those in administrative detention, where the reasons therefore are compelling. The Wardens bear the ultimate responsibility for ensuring that the institutions are secure and efficient; consequently, they must within reasonable bounds have the latitude to take such actions as they deem necessary to facilitate the attainment of those ends.

In consideration of the foregoing, it is proposed to amend 28 CFR, Chapter V as follows:

PART 541—INMATE DISCIPLINE AND SPECIAL HOUSING UNITS

Sec.

541.10 Purpose and Scope.
541.11 Notice to Inmate of Institution Rules.
541.12 Incident Report and Investigation.
541.13 Initial Hearing.
541.14 Establishment and Functioning of Institution Discipline Committee.
541.15 Procedures in Institution Discipline Committee Hearings.
541.16 Dispositions of the Institution Discipline Committee.
541.17 Appeals from Institution Discipline Committee Actions.
541.18 Justifications for Placement in Disciplinary Segregation and Review of Inmates in Disciplinary Segregation.
541.19 Disciplinary Procedures for Federal Community Treatment Centers.
541.20 Conditions of Disciplinary Segregation.
541.21 Administrative Detention.

AUTHORITY: 5 U.S.C. 301; 18 U.S.C. 4001, 4042, 4081, 4082, 4161-4166, 5015, 5039; 28 U.S.C. 509, 510; 28 CFR 0.95-0.99.

§ 541.10 Purpose and Scope.

(a) So that inmates may live in a safe and orderly environment, it is necessary for institution authorities to impose discipline on those inmates whose behavior is not in compliance with institution rules.

(b) The following general principles apply in every disciplinary action taken:

(1) Only institution staff may take disciplinary action.

(2) Staff shall take disciplinary action at such times and to the degree necessary to regulate an inmate's behavior within institution rules.

(3) Staff shall control inmate behavior in a completely impartial and consistent manner.

(4) Disciplinary action may not be capricious or retaliatory.

(5) Staff may not impose or allow imposition of corporal punishment of any kind.

(6) If it appears at any stage of the disciplinary process that an inmate is mentally ill, staff shall refer the inmate to the medical staff for determination of whether the inmate is incompetent as defined in 18 U.S.C. 4244. Staff may take no further disciplinary action against an inmate whom medical staff determines to be incompetent.

§ 541.11 Notice to Inmate of Institution Rules.

Staff shall advise each inmate in writing at the time of arrival at an institution of:

(a) The types of disciplinary action which may be taken by institution staff;

(b) The disciplinary system within the institution (See Table 1);

(c) The inmate's rights and responsibilities; and

(d) Prohibited acts by inmates and code number, which are:

001 Killing.
002 Assaulting any person.
003 Fighting with another person.
004 Threatening another with bodily harm, or with any offense against his person or property.
005 Extortion, blackmail, protection: Demanding or receiving money or anything of value in return for protection against others, to avoid bodily harm, or under threat of informing.
051 Engaging in sexual acts with others.
052 Making sexual proposals or threats to another.
053 Indecent exposure.
101 Escape.
102 Attempting or planning escape.
103 Wearing a disguise or mask.
151 Setting a fire.
152 Destroying, altering or damaging government property or the property of another person.
153 Stealing (theft).
154 Tampering with or blocking any locking device.
155 Adulteration of any food or drink.
201 Possession or introduction of an explosive or any ammunition.
202 Possession or introduction of a gun, firearm, weapon, sharpened instrument, knife, or unauthorized tool.
203 Possession, introduction, or use of any narcotics, narcotic paraphernalia, drugs, or intoxicants not prescribed for the individual by the medical staff.
204 Misuse of authorized medication.
205 Possession of money or currency, unless specifically authorized.
206 Possession of property belonging to another person.
207 Loaning of property or anything of value for profit or increased return.
208 Possession of anything not authorized for retention or receipt by the inmate, and not issued to him through regular institutional channels.
209 Possessing any officer's or staff clothing.
210 Possessing unauthorized clothing.
211 Mutilating or altering clothing issued by the government.
251 Rioting.
252 Encouraging others to riot.
253 Engaging in or encouraging a group demonstration.
254 Refusing to work, or to accept a program assignment.
255 Encouraging others to refuse to work or participate in work stoppage.
256 Refusing to obey an order of any staff member.
257 Violating a condition of furlough.
258 Violating a condition of work or study release.
259 Refusing to provide a urine sample, breathalyzer test, or other drug or alcohol abuse test.
301 Unexcused absence from work, or any assignment.
302 Malingering, feigning an illness.
303 Failing to perform work as instructed by a supervisor.
304 Insolence towards a staff member.
305 Lying or providing a false statement to a staff member.
306 Conduct which disrupts or interferes with the security or orderly running of the institution.
351 Counterfeiting, forging, or unauthorized reproduction of any document, article of identification, money, security, or official paper.
401 Participating in an unauthorized meeting or gathering.
402 Being in an unauthorized area.
451 Failure to follow safety or sanitation regulations.
452 Using any equipment or machinery which is not specifically authorized.
453 Using any equipment or machinery contrary to instructions or posted safety standards.
501 Failing to stand count.
502 Interfering with the taking of count.

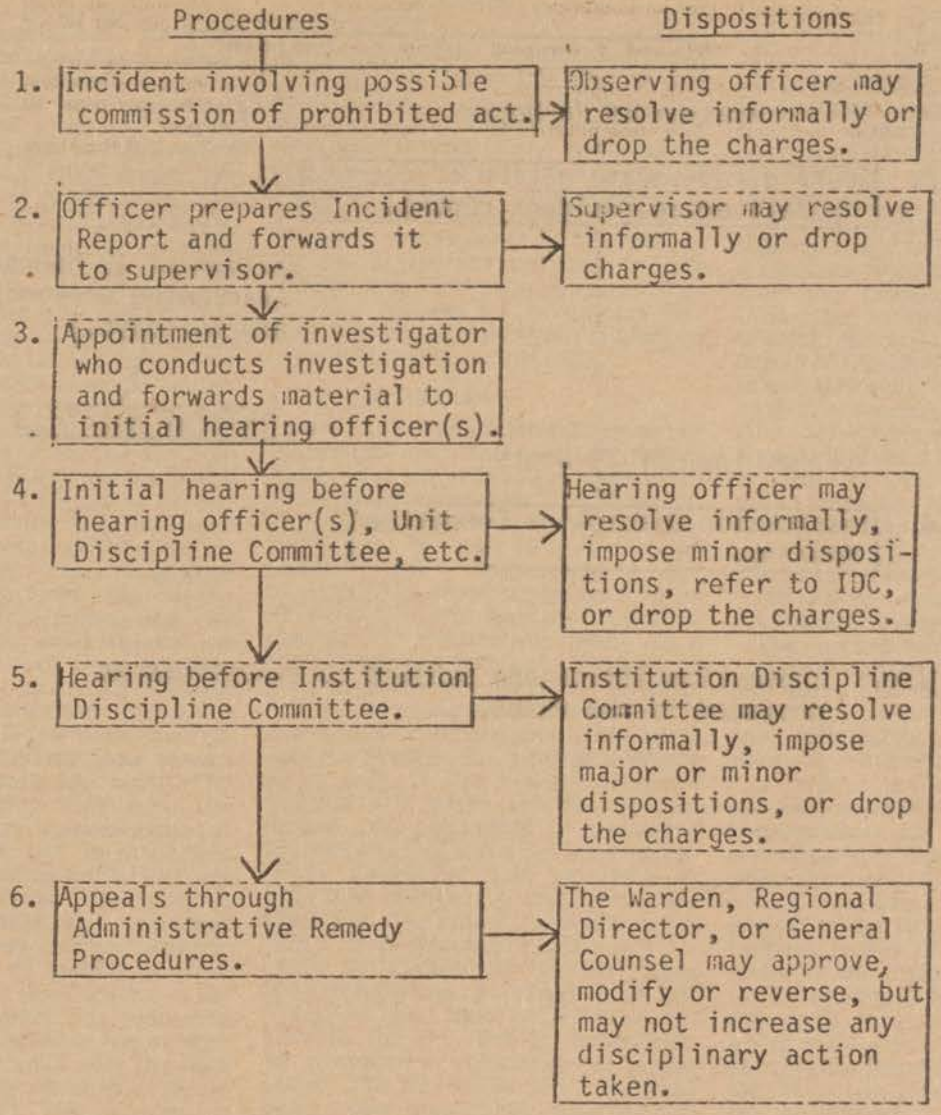
Sec.

551 Making intoxicants.
552 Being intoxicated.
553 Smoking where prohibited.
554 Using abusive or obscene language.
601 Gambling.
602 Preparing or conducting a gambling pool.
603 Possession of gambling paraphernalia.
651 Being unsanitary or untidy: failing to keep one's person and one's quarters in accordance with posted standards.
652 Tattooing or self-mutilation.
701 Unauthorized use of mail or telephone.
702 Unauthorized contacts with the public.
703 Correspondence or conduct with a visitor in violation of posted regulations.
704 Conducting a business.

Sec.

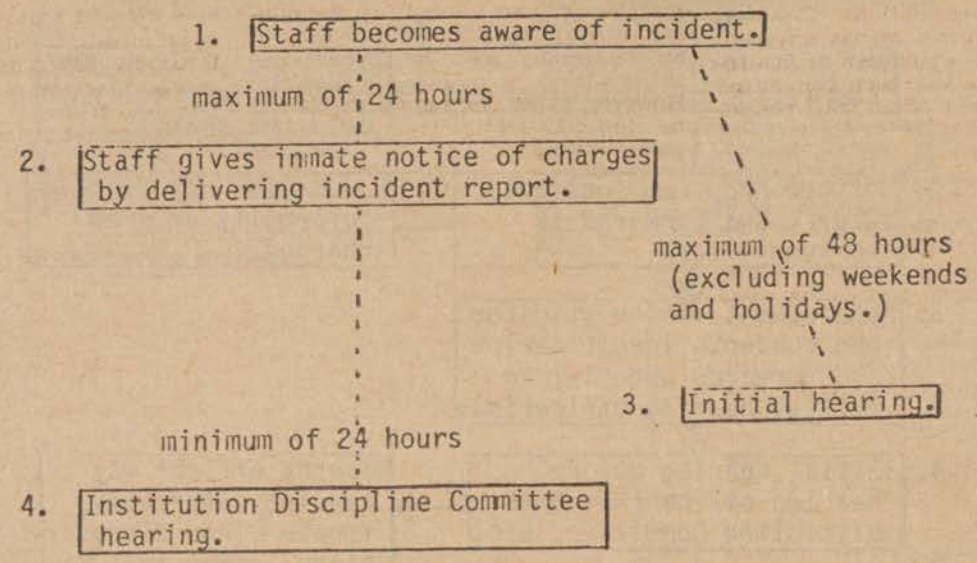
751 Giving or offering an official or staff member a bribe or anything of value.
752 Giving money or anything of value or accepting money or anything of value from another inmate, a member of his family, or his friend.
753 Giving money to or receiving money from any person for purposes of introducing contraband or for any other illegal or prohibited purpose.
801 Attempting to commit any of the above offenses, aiding another person to commit any of the above offenses and making plans to commit any of the above offenses shall be considered the same as a commission of the offense itself.

SUMMARY OF DISCIPLINARY SYSTEM
TABLE 1



TIME LIMITS IN DISCIPLINARY PROCESS

TABLE 2



NOTE: These time limits are subject to exceptions as provided in the rules.

§ 541.12 Incident Report, Investigation and Emergency Transfer.

(a) *Incident Report.* The Bureau of Prisons encourages informal resolutions of incidents involving violations of institution regulations. However, when staff witnesses or has a reasonable belief that a violation of institution regulations has been committed by an inmate, and when staff considers informal resolution of the incident inappropriate, staff shall prepare an incident report and promptly forward it to the appropriate correctional Supervisor. The supervisor may informally dispose of the incident report or forward the incident report for investigation consistent with this section. The correctional supervisor shall expunge the inmate's file of the incident report if informal resolution is accomplished.

(b) *Investigation.* Staff shall conduct the investigation promptly, unless circumstances beyond the control of the investigator intervene. The investigating officer should be an employee of supervisory level and may not be the employee reporting the incident in question. When it appears likely that the incident may be the subject of a criminal prosecution, the investigating officer shall suspend the investigation, and staff may not question the inmate until the Federal Bureau of Investigation interviews have been completed or until the Federal Bureau of Investigation advises that staff questioning may occur. The investigating officer shall give the inmate a copy of the incident report at the beginning of the investigation, unless there is good cause for delivery at a later date, such as absence of the inmate from the institution, a medical condition militating against delivery, or the pendency of certain criminal proceedings. If the investigation is delayed for any reason, any employee may deliver the charges to the inmate. The staff member shall note the date and time the inmate received a copy of the incident report. The investigator shall also read the charges to the inmates and ask for his statement concerning the incident unless it appears likely that the incident may be the subject of criminal prosecution. The investigator shall advise the inmate that he has the right to remain silent at all stages of the discipinary process but that his silence may be used to draw an adverse inference against him at any stage of the institutional disciplinary process. The investigator shall then thoroughly investigate the incident. He shall record all steps and actions taken on the incident report and forward all relevant material to the staff holding the initial hearing. The inmate does not receive a copy of the investigation. However, if the case is ultimately forwarded to the Institution Discipline Committee, the Committee shall give a copy of the investigation to the inmate's staff representative for use in his presentation on the inmate's behalf.

(c) *Emergency Transfer.* The Warden may transfer an inmate for disciplinary reasons without a prior hearing in an emergency which the Warden considers a threat to human life or safety. However, a hearing before the initial hearing officer(s) at the receiving institution must be conducted as soon as practical under the circumstances to consider the factual basis of the charge of misconduct and the reasons for the emergency transfer. In this hearing and in all non-emergency situations, a transfer for disciplinary reasons is a minor disposition subject to the requirements of § 541.13.

§ 541.13 Initial Hearing.

The Warden shall delegate to one or more institution staff members (usually a unit or team discipline committee) the authority and duty to hold an initial hearing upon completion of the investigation. In order to insure impartiality, the appropriate staff member(s) (hereinafter referred to as hearing officer(s)) may not be the reporting or investigating officer or a witness to the incident. However, a staff member witnessing an incident may act as a hearing officer where virtually every staff member in the institution witnesses the incident in whole or in part. If the hearing officer(s) finds at the initial hearing that an inmate has committed a prohibited act, the hearing officer(s) may impose minor dispostions and sanctions or refer the charges to the Institution Discipline Committee for a rehearing. Minor dispositions and sanctions include all disciplinary actions other than segregation, withholding or forfeiture of good time, or recommendations to the U.S. Parole Commission for rescission or retardation of parole grants. The process by which staff imposes minor dispositions is left to the discretion of the Warden, but the following minimum standards apply to initial hearings in all institutions:

(a) Staff shall give each inmate charged with violating an institution rule a written copy of the charges against the inmate within 24 hours of the time staff became aware of the incident.

(b) Each inmate so charged is entitled to an initial hearing before an officer(s), other than the reporting or investigating officer, held within 48 hours (excluding weekends and holidays) of the time staff became aware of the incident to consider the charge brought against the inmate.

(c) The inmate is entitled to be present at the initial hearing except during deliberations of the decision maker or when institutional security would be jeopardized by his presence. The hearing officer(s) shall clearly document in the record of the hearing reasons for excluding an inmate from the hearing. The hearing officer(s) may conduct a hearing in the absence of an inmate when the inmate refuses to appear. When an inmate escapes or is otherwise absent from custody, the hearing officer(s) shall conduct a hearing in the inmate's absence at the institution in which the inmate was last confined.

(d) The inmate is entitled to make a statement and to present documentary evidence in his own behalf.

(e) The hearing officer(s) may resolve the incident informally. The hearing officer(s) shall expunge the inmate's file of the incident report if informal resolution is accomplished.

(f) The hearing officer(s) shall consider all evidence presented at the hearing and shall make final judgment in accordance with the greater weight of the evidence. The hearing officer(s) shall find that the inmate either—

(1) Committed the prohibited act charged or a similar prohibited act, or

(2) Did not commit the prohibited act charged or a similar prohibited act.

The hearing officer(s) shall give the inmate a written copy of the decision and disposition. Any action taken as a minor disposition is reviewable under the Administrative Remedy Procedure. (Part 542 of this chapter.)

(g) When an alleged violation of institution rules is serious and warrants consideration for other than minor sanctions, the hearing officer(s) shall refer the charge to the Institution Discipline Committee for hearing and disposition. The hearing officer(s) shall forward copies of all relevant documents to the Chairman of the Institution Discipline Committee with a brief statement of reasons for the referral along with any recommendations for appropriate disposition if the Committee finds the inmate has committed the act charged or a similar prohibited act. The inmate whose charge is being referred to the Institution Discipline Committee may be retained in administrative detention or other restricted status, but the hearing officer(s) may not impose a final disposition if the matter is being referred to the Institution Discipline Committee.

(h) When charges are to be referred to the Institution Discipline Committee, the hearing officer(s) shall advise the inmate of the rights afforded at a hearing before the Institution Discipline Committee. The hearing officer(s) shall ask the inmate to indicate his choice of staff representative, if any, and the names of any witnesses he wishes to be called to testify on his behalf at the hearing.

(i) When the hearing officer(s) holds a full hearing and determines that the

inmate did not commit a prohibited act, the hearing officer(s) shall expunge the inmate's file of the incident report and related documents lodged against him.

(j) The hearing officer(s) may extend time limits imposed in this section for a good cause shown by the inmate or staff and documented in the record of the hearing.

§ 541.14 Establishment and Functioning of Institution Discipline Committee

(a) The Warden shall establish a single Institution Discipline Committee. In the event of a serious disturbance or other emergency, or if an inmate commits an offense in the presence of the Committee, the Warden may establish more than one Institution Discipline Committee with approval of the appropriate Regional Director.

(b) The Warden may appoint as many members to the Institution Discipline Committee as are appropriate. At least three members, including the Chairman, shall be present at any hearing to constitute a quorum. The Chairman and at least one member present at the hearing must be of the department head level or higher. The third member and additional members of the Committee need not be of department head level. For the purpose of this section, "department head" includes acting department head. In order to insure impartiality, no member of the Committee may be the reporting, investigating, or initial hearing officer or a witness to the incident or play any significant part in having the charge referred to the Committee. However, a staff member witnessing an incident may sit as a member of the Committee where virtually every staff member in the institution witnessed the incident in whole or in part.

(c) The Institution Discipline Committee shall conduct hearings, make findings, and impose appropriate sanctions for incidents of inmate misconduct referred to it for disposition following the hearing required by § 541.13 before the initial hearing officer(s). The Institution Discipline Committee may not hear any case or impose any sanctions (except as provided in § 541.16(d), continuing offenses) in a case not heard and referred by the initial hearing officer(s). While this Committee may impose any lesser sanctions available, only this Committee has the authority to order:

(1) An inmate placed or retained in disciplinary segregation;

(2) An inmate's statutory good time withheld or forfeited; or

(3) A recommendation to the U.S. Parole Commission that the Commission retard or rescind an inmate's parole grant. The Commission may request the Institution Discipline Committee to hold a fact finding hearing in any case where the Commission considers it necessary to determine whether to rescind or retard a parole grant. In study cases (18 U.S.C. 4205(c), 4252, 5010(e), 5037(c)), any report of disciplinary action to the sentencing judge must be preceded by a hearing in accordance with § 541.15.

(d) This Committee shall conduct reviews of inmates placed in disciplinary segregation in accordance with the requirements of § 541.18.

§ 541.15 Procedures in Institution Discipline Committee hearings.

The Institution Discipline Committee shall proceed as follows:

(a) The Warden shall give an inmate advance written notice of the charge against the inmate no less than 24 hours before his appearnace before the Institution Discipline Committee, unless he is to be released from custody within that time. An inmate may waive in writing the 24 hour notice requirement.

(b) The Warden shall provide an inmate the service of a full time staff member to represent the inmate at the hearing before the Institution Discipline Committee should the inmate so desire. The Warden, the members of the Committee, and the reporting, investigating and initial hearing officers involved in the case may not act as staff representative. The Warden may exclude other staff from acting as staff representatives when there is a potential conflict in roles. The staff representative shall be available to assist the inmate if the inmate desires by speaking to witnesses and by presenting favorable evidence to the Committee on the merits of the charges or in extenuation or mitigation of the charges. The chairman shall arrange for the presence of the staff representative selected by the inmate. If the staff member selected declines or is unavailable because of absence from the institution, the inmate has the option of selecting another representative, or in the case of an absent staff member of waiting a reasonable period for the staff member's return, or of proceeding without a staff representative. When several staff members decline this role, the Warden shall appoint a staff representative to assist the inmate. The Committee shall afford a staff representative adequate time to speak with the inmate and interview requested witnesses where appropriate. While it is expected that a staff member will have had ample time to prepare prior to the hearing, delays in the hearing to allow for adequate preparation may be ordered by the Chairman of the Institution Discipline Committee.

(c) The inmate is entitled to make a statement and to present documentary evidence in his own behalf. An inmate has the right to submit names of requested witnesses and have them called to testify and to present documents in his behalf, provided the calling of witnesses or the disclosure of documentary evidence does not jeopardize or threaten institutional or an individual's security. The chairman shall call those witnesses who are reasonably available and are necessary for an appreciation of the circumstances surrounding the charge. The Chairman need not call repetitive witnesses. The Chairman shall request submission of written statements from unavailable witnesses when necessary for an appreciation of the circumstances surrounding the charge. The Chairman shall document reasons for declining to call requested witnesses in the Committee's report. The inmate's staff representative, or when the inmate waives staff representation, members of the Committee, shall question witnesses requested by the inmate who are called before the Committee.

(d) An inmate has the right to be present throughout the Institution Discipline Committee hearing except during deliberations of the Committee or when institutional security would be jeopardized. The Chairman must document in the record the reasons for excluding an inmate from the hearing. The Committee may conduct a hearing in the absence of an inmate when the inmate refuses to appear. When an inmate escapes or is otherwise absent from custody, the Institution Discipline Committee shall conduct a hearing in the inmate's absence at the institution in which the inmate was last confined. When an inmate who has had any sanctions imposed by the Committee while absent from custody returns to custody, the Warden shall advise the inmate of his right to have the escape charge reheard before the Institution Discipline Committee at the institution to which the inmate was returned to custody. All the applicable procedural requirements of Institution Discipline Committee hearings apply to this rehearing, except that written statements of witnesses not readily available may be liberally used instead of live witnesses. The Institution Discipline Committee upon rehearing may dismiss the charge, or may modify but not increase the sanctions previously imposed in the inmate's absence.

(e) The Committee, at any time prior to making a final judgment as to whether or not a prohibited act was committed, may continue the hearing until a later date whenever further investigation or more evidence is needed.

(f) The Committee shall consider all evidence presented at the hearing and

shall make a final judgment in accordance with the greater weight of the evidence. The Committee shall find that the inmate either—

(1) Committed the prohibited act charged or a similar prohibited act, or

(2) Did not commit the prohibited act charged or a similar prohibited act.

(g) The Institution Discipline Committee shall prepare a record of its proceedings which need not be verbatim. This record must be sufficient to document the advisement of inmate rights, the Committee's findings, the Committee's decision and the specific evidence relied on by the Committee, and must include a brief statement of the reasons for the sanctions imposed. The evidence relied upon, the decision, and the reasons for the actions taken must be set out in specific terms unless doing so would jeopardize institutional security.

(h) The Institution Discipline Committee shall expunge an inmate's file of the incident report and related documents lodged against him whenever the Committee finds the inmate did not commit a prohibited act. The requirement for expunging the inmate's file does not preclude maintaining for research purposes, copies of disciplinary actions resulting in "not guilty" findings in a master file separate from the inmate's institution file. However, institution staff may not use or allow the usage of the contents of this master file in any manner which would adversely affect the inmate. Likewise, the expungement requirement does not require the destruction of medical reports or other reports relating to a particular inmate which must be maintained to document medical or other treatment given in a Special Housing Unit. If an inmate's conduct during one continuous incident may constitute more than one prohibited act, and if the incident is reported in a single Incident Report, and if the Committee finds the inmate has not committed every prohibited act charged, then the Committee shall record its findings clearly and shall mark out on the Incident Report the incident and code references to charges which were not proved. Institution staff may not use the existence of charged but unproven misconduct against the inmate.

§ 541.16 Dispositions of the Institution Discipline Committee.

The Institution Discipline Committee has available a broad range of sanctions and dispositions when it has completed a hearing. The Institution Discipline Committee may do any of the following:

(a) Dismiss any charge before it upon a finding that the inmate did not commit the prohibited act. The Committee shall order the record of charges expunged upon such finding.

(b) Impose sanctions and dispositions available to the initial hearing officer(s).

(c) Direct that an inmate be placed or retained in disciplinary segregation pursuant to guidelines contained in this part.

(d) Withhold an inmate's statutory good time. Extra good time may not be withheld by the Committee. This withholding may not be applied as a universal punishment to all persons in disciplinary segregation status. Withholding is limited to the statutory good time creditable for the single month during which the violation occurs. Each withholding must be related to a separate offense. Some offenses, such as refusal to work at an assignment, may be recurring and thus may permit consecutive withholding actions. The initial hearing officer(s) shall consider withheld good time for restoration on or about six months from the date of the offense which formed the basis of the withholding. The inital hearing officer(s) may consider withheld good time for restoration earlier than the six month date if circumstances warrant.

(e) Forfeit an inmate's statutory good time. The good time available for forfeiture is limited to an amount computed by multiplying the number of months served at the time of the offense for which forfeiture action is taken, by the applicable monthly rate specified in 18 U.S.C. 4161 (less any previous forfeiture or withholding outstanding). Extra good time may not be forfeited. All or part of an inmate's accumulated statutory good time may be forfeited. The initial hearing officer(s) has the authority to restore all types of forfeited and withheld good time. The initial hearing officer(s) shall consider forfeited good time for restoration on or about one year from the date of the offense which formed the basis of the forfeiture. The initial hearing officer(s) may consider forfeited good time for restoration earlier than the one year date if circumstances warrant.

(f) Make recommendations to the Parole Commission for retardation or rescission of parole grants and hold factfinding hearings upon request of the Commission as set forth in § 541.14.

(g) Suspend the execution of any sanction it imposes.

§ 541.17 Appeals from Institution Discipline Committee actions.

At the time the Institution Discipline Committee gives an inmate notice of its decision, the Committee shall also advise the inmate that the inmate may appeal the Committee's decision under Administrative Remedy Procedures (see part 542 of this chapter). On appeals, the Warden, Regional Director, or General Counsel may approve, modify, or reverse any disciplinary action of the Institution Discipline Committee but may not increase the sanctions imposed by the Committee. On appeals, the Warden, Regional Director, or General Counsel shall consider—

(a) Whether the Institution Discipline Committee substantially complied with the regulations on Inmate Discipline;

(b) Whether the Institution Discipline Committee based its decision on substantial evidence; and

(c) Whether under the circumstances, the Institution Discipline Committee imposed a sanction proportionate to the offense.

§ 541.18 Justification for placement in disciplinary segregation and review of inmates in disciplinary segregation.

(a) Except as provided in paragraph (b) of this section, an inmate may be placed in disciplinary segregation only by order of the Institution Discipline Committee following a hearing in which the inmate has been found to have committed a serious act of misconduct which warrants this sanction. The Institution Discipline Committee may order placement in disciplinary segregation only when other available dispositions are inadequate to regulate an inmate's behavior within acceptable limits and when his presence in the general population poses a serious threat to life, property, himself, staff or other inmates or to the security or orderly running of the institution.

(b) The Warden may temporarily (not exceeding three days) move to disciplinary segregation an inmate who is causing a serious disruption (threatening life or property) in administrative detention, who cannot be controlled within the physical confines of administrative detention, and who cannot be safely housed in the institution hospital pending a hearing before the Institution Discipline Committee. The Warden may delegate this authority no further than to the official in charge of the institution at the time the move is necessary.

(c) The Institution Discipline Committee shall conduct a hearing and formally review the status of each inmate who spends seven continuous days in disciplinary segregation and thereafter shall review these cases on the record in the inmate's absence each week and shall conduct a hearing and formally review these cases at least once every 30 days. The inmate appears before the Institution Discipline Committee at the hearings, unless he elects not to attend. Staff shall conduct a psychiatric or psychological interview when Disciplinary

Segregation continues beyond 30 days. In the interview and report, staff shall address the inmate's adjustment to surroundings and the threat the inmate poses to himself, staff and other inmates. Staff shall conduct a similar psychiatric or psychological interview and report at subsequent two-month intervals if segregation continues for this extended period.

(d) The Institution Discipline Committee shall release an inmate from disciplinary segregation when the Committee finds that the inmate no longer poses a threat to himself or others or to institutional security and when continuation in disciplinary segregation is no longer necessary to regulate the inmate's behavior within acceptable limits.

§ 541.19 Disciplinary Procedures for Federal Community Treatment Centers.

The following exceptions to the general disciplinary procedures enumerated in §§ 541.10–541.19 for Bureau of Prisons' institutions apply solely to Federal Community Treatment Centers.

(a) *Institution Discipline Committee.* Each Federal Community Treatment Center must have a single Institution Discipline Committee composed of as least one staff member appointed by the Director of the Center. No member need be of department head level. Federal Community Treatment Centers need not hold initial hearings or establish unit or team disciplinary committees with initial hearing authority but may have only one discipline committee, the Institution Discipline Committee.

(b) *Witnesses.* The Institution Discipline Committee shall permit an inmate appearing before the Committee to request the Committee to call witnesses from outside the Center who are willing to appear before the Committee at their own expense and whose presence at the hearing would not pose a serious threat to the security of the Center. When the Committee refuses a request for an outside witness, the Committee shall clearly document the reasons for refusing this requested witness. The Committee shall liberally accept written statements from requested witnesses who do not appear.

(c) *Offenders Programed in the Center Pursuant to Pub. L. 91-492 (Probationers, Parolees, or Mandatory Releases).* Center staff shall forward reports of misconduct by an offender programed in the Center pursuant to Pub. L. 91-492 to the appropriate agency (Probation Officer or Parole Commission) for disposition which that agency considers appropriate. This offender may not be the subject of disciplinary action within the Center until the appropriate agency has been contacted. Center staff shall promptly forward this report when the misconduct is serious and arrangements for removal from the Center may be necessary for the protection of life or property.

(d) *Escapes or Disappearances From Community Treatment Centers.* When an inmate is not where he is scheduled to be, and when the Center staff has made reasonable efforts to contact the inmate, Center staff shall declare the inmate to be in escape status. Staff shall take further action following the guidelines under § 541.12. Staff shall effect total resolution of the incident, to the point of holding the hearing in the inmate's absence.

(e) *Use of Part Time Employees or Other Federal Employees in the Disciplinary Process.* With the exception of sitting as a member of the Institution Discipline Committee, part time employees or other Federal employees (U.S. Probation Officer, U.S. Marshal, etc.) may be used in any stage of the disciplinary process where there is an insufficient number of full time staff available.

§ 541.20 Conditions of disciplinary segregation.

(a) Disciplinary segregation is the status of confinement of an inmate housed in a special housing unit in an individual cell either alone or with other inmates, separated from the general population. Inmates housed in disciplinary segregation have significantly fewer privileges than those housed in Administrative Detention.

(b) The Warden shall maintain for each segregated inmate basic living levels of decency and humane treatment, regardless of the purpose for which the inmate has been segregated. The Warden may add privileges, for the purpose of reinforcing acceptable behavior, to the living conditions of those whose status is purely involuntary or whose confinement is long-term. These privileges should not result in excessively time consuming procedures, or neutralize security.

(c) The basic living standards for segregation are as follows:

(1) *Segregation Conditions.* The quarters used for segregation must be well ventilated, adequately lighted, appropriately heated and maintained in a sanitary condition at all times. All cells must be equipped with beds. Strip cells may not be a part of the segregation unit. Any strip cells which are utilized must be a part of the medical facility and under the supervision and control of the medical staff.

(2) *Cell Occupancy.* Except in emergencies, the number of inmates confined to each cell or room may not exceed the number for which the space was designed. The Warden may approve temporary excess occupancy if he finds there is an emergency requiring this action.

(3) *Clothing and Bedding.* An inmate in segregation may wear normal institution clothing but may not have a belt. Staff shall furnish a mattress and bedding. Cloth or paper slippers may be substituted for shoes at the discretion of the Warden. An inmate may not be segregated without clothing, mattress, blankets and pillow, except when prescribed by the Medical Officer for medical or psychiatric reasons.

(4) *Food.* Staff shall ordinarily give a segregated inmate selected food items from the standard ration and menu of the day for the institutions. Staff may dispense disposable utensils when necessary.

(5) *Personal Hygiene.* Segregated inmates have the opportunity to maintain an acceptable level of personal hygiene. Staff shall provide toilet tissue, wash basin, tooth brush, eyeglasses, shaving utensils, etc., as needed. Staff may issue a retrievable kit of toilet articles. Each segregated inmate has the right and responsibility to shower at least two times a week, unless these procedures would present an undue security hazard.

(6) *Exercise.* Staff shall permit each segregated inmate no less than 4 hours exercise each week. Exercise should be provided in four 1-hour periods, but if circumstances require, one-half hour periods are acceptable if the 4-hour minimum is maintained. This provision must be carried out unless compelling security or safety reasons dictate otherwise, Institution staff shall document these reasons.

(7) *Personal Property.* Institution staff shall ordinarily impound personal property.

(8) *Reading Material.* Staff may provide a reasonable amount of reading material on a circulating basis. As to legal materials, see § 543.12(i).

(9) *Supervision.* In addition to the direct supervision afforded by the unit officer, but subject to staff availability, a member of the Medical Department and one or more responsible officer(s) designated by the Warden shall see each segregated inmate daily, including weekends and holidays.

(10) *Correspondence and Visits.* As to correspondence privileges, see § 540.14(c). Staff shall make reasonable effort to notify approved social vistors of any necessary restriction on ordinary visting procedures so that that may be spared disappointment and unnecessary inconvenience. If ample time for correspondence exists, staff may place the burden of this notification to vistors on the inmate. As to general visting privileges, see § 540.48(d). In respect to legal, religious, and privileged out-going mail, the relevant regulations must be fol-

lowed by institution staff (see Parts 540, 543, and 548 of this chapter).

§ 541.21 Administrative detention.

Administrative detention is the status of confinement in a special housing unit in an individual cell either by himself or with other inmates which serves to remove the inmate from the general population.

(a) *Placement in Administrative Detention.* The Warden may delegate authority to place an inmate in administrative detention to correctional supervisors, shift supervisors, or members of an inmate's unit or team. The Warden may place an inmate in administrative detention when the inmate is in holdover status (i.e., en route to designated institution) during transfer or is a new commitment pending classification. The Warden may also place an inmate in administrative detention when his continued presence in the general population poses a serious threat to life, property, himself, staff, other inmates or to the security or orderly running of the institution and when the inmate—

(1) Is pending a hearing for a violation of institution regulations;

(2) Is pending investigation of a violation of institution regulations;

(3) Is pending investigation or trial for a criminal act;

(4) Is pending transfer; or

(5) Requests admission to administrative detention for his own protection, or staff determines that admission to or continuation in administrative detention is necessary for the inmate's own protection.

(b) *Memorandum Detailing Reasons for Placement.* The Warden shall prepare a Memorandum detailing the reason for placing an inmate in administrative detention and give a copy of this memorandum to the inmate, provided institutional security is not compromised thereby.

(c) *Review of Inmates Housed in Administrative Detention.* The Warden shall designate appropriate staff to review the status of inmates housed in adminstrative detention. The reviewing authority shall hold a hearing and formally review the status of each inmate who spends seven continuous days in administrative detention, and thereafter shall review these cases on the record in the inmate's absence each week and shall hold a hearing and review these cases formally at least every 30 days. The inmate appears before the reviewing authority at the hearing unless the inmate refuses to appear. Adminstrative detention is to be used only for short periods of time, except where an inmate needs long-term protection. An inmate may be kept in adminstrative detention for longer term protection only if the need for such protection is documented by the reviewing authority. The reviewing authority shall release an inmate from administrative detention when reasons for placement cease to exist.

(d) *Conditions of Administrative Detention.* The basic level of conditions as described in § 541.20 for disciplinary segregation also apply to administrative detention. If consistent with available resources and the security needs of the unit, the Warden shall give an inmate housed in administrative detention the same general privileges given to inmates in the general population. Unless there are compelling reasons to the contrary, institutions shall provide commissary privileges, reasonable amounts of personal property, and exercise periods exceeding those provided for inmates housed in disciplinary segregation. The Warden shall give an inmate in administrative detention visting and correspondence privileges in accordance with Part 540 of this chapter.

NORMAN A. CARLSON,
Director, Federal Bureau of Prisons.

July 24, 1978.

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Federal Register

WEDNESDAY, AUGUST 2, 1978
PART V



DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

■

GRANTS ADMINISTRATION

Implementation of OMB Circular No. A-110; Uniform Policies

[4110-12]

Title 45—Public Welfare

SUBTITLE A—DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, GENERAL ADMINISTRATION

PART 74—ADMINISTRATION OF GRANTS

Amendments Primarily To Implement OMB Circular No. A-110

AGENCY: Department of Health, Education, and Welfare (HEW).

ACTION: Final rule.

SUMMARY: This amends HEW's Department-wide grants administration regulation to implement OMB Circular No. A-110 and to reflect changes made in OMB Circular No. A-102. Those two circulars are directives issued to Federal agencies by the Office of Management and Budget and prescribe uniform policies for administering grants. Circular No. A-102 applies to grants to State, local, and Indian tribal governments, and Circular No. A-110 applies to grants to nongovernmental organizations. The objectives of those circulars and consequently of this regulation are to standardize and simplify grants administration and to place greater reliance on the grantee's own management systems.

EFFECTIVE DATE: August 2, 1978.

FOR FURTHER INFORMATION CONTACT:

Matthias Lasker, Department of Health, Education, and Welfare, Room 513D, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, D.C. 20201, 202-245-8901.

SUPPLEMENTARY INFORMATION: On January 24, 1977, HEW published a notice of proposed rule making (42 FR 4137) to amend its Department-wide general grants administration regulation, primarily in order to implement OMB Circular No. A-110, "Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations—Uniform Administrative Requirements." That circular was published by OMB on July 30, 1976 (41 FR 32016). Circular A-110 adopted for grants to nongovernmental organizations basically the same policies as had already been issued in Circular A-102 for grants to States, local governments, and Federally recognized Indian tribal governments.

From September 13, 1974, to September 12, 1977, Circular A-102 was temporarily designated as Federal Management Circular 74-7. On September 12, 1977, it was revised and reissued by OMB at 42 FR 45828 under its original designation of A-102. The main effect of that revision was to make A-102 consistent with A-110: There are now very few substantive differences between the two OMB circulars. HEW anticipated this situation, and actually drafted its January 24, 1977 notice of proposed rule making on the assumption that the two circulars would soon become almost identical in substance.

HEW received numerous comments in response to its notice of proposed rule making. Most came from grantees or from organizations representing groups or classes of grantees or subgrantees.

Except for the last few paragraphs, the remainder of this preamble will consists of summaries of the substantive comments; a response to each of these, including a description of any changes made in the amendments as a result of the comment; and descriptions of additional changes made as a result of further internal review or in response to the general thrust of the comments. The comments with their responses and the additional changes are grouped according to the subpart of this part 74 to which they refer. Comments and changes affecting the part as a whole are presented first.

In addition to the changes described specifically, a great many changes have been made throughout to increase clarity, readability, and precision and to reduce the burden of compliance as much as possible.

No change is being made at this time to the cost principles in appendices C, D, E, and F to this part 74.

The Issue of Subgrants

Comment. Section 5 of OMB Circular No. A-110 requires that its provisions be applied to universities, hospitals, and other nonprofit organizations when they are subgrantees under Federal grants as well as when they are primary grantees. The purpose of this provision is to insure that subgrantees have the same rights and protections as do grantees. Consequently, the provision intends that grantees, in their dealings with subgrantees, be subject to the same rules as HEW granting agencies dealing with grantees. The amendments should be changed so as to comply strictly with this provision.

NOTE.—On September 12, 1977, a similar provision was added to OMB Circular No. A-102, extending most of its provisions to subgrantees that are States, local governments, or federally recognized Indian tribal governments. Thus, the gist of the above comment has become pertinent to virtually all subgrantees, governmental as well as nongovernmental.)

Response. HEW's proposed amendments intentionally did not require States and other grantees to administer subgrants strictly in accordance with the same standards that Federal agencies follow in administering grants. To do so, HEW felt, would be an unwarranted intrusion into the affairs of States and other grantees and could affect their ability to administer the subgrants effectively.

Instead, HEW interpreted the provision in question as placing a constraint on Federal grantor agencies, but not on grantees: Federal agencies could not impose subgrant requirements inconsistent with A-110 (or A-102), but grantees could do so in most cases.

However, the above comment was obviously of extraordinary significance, since many of HEW's largest grant programs involve extensive subgranting and, in a sense, competing interests were at stake. On the one hand, the interest of grantees lies in not being compeled to observe the OMB rules when dealing with their subgrantees. On the other, the interest of subgrantees lies in having the same rights and protections as do grantees.

After extensive consultation with OMB on this important and difficult issue, HEW concluded that the comment was valid. Therefore, these amendments have been changed to apply the OMB standards to the administration of subgrants, with only those few exceptions that were intended by OMB.

HEW also concluded that merely inserting a simple general statement on this matter would leave too many questions open to interpretation, which would cause confusion and disputes. Therefore many specific provisions had to be changed so that their effect on subgrants would be clear.

Many of these changes were simple to make. For example, in many provisions the term "grantee" has been replaced by "recipient" (meaning grantee or subgrantee). Similarly the term "granting agency" has frequently been replaced by "awarding party" (meaning the HEW component awarding the grant or a grantee awarding a subgrant). In some cases, however, it has been necessary to add special rules on this matter.

Examples of the results of these changes are:

1. States and other grantees will normally have to make advance payments to their subgrantees.

2. States and other grantees may not terminate a subgrant without the agreement of the subgrantee unless the subgrantee has materially failed to comply with the terms and conditions of the subgrant.

3. States and other grantees may not impose on subgrantees property requirements or procurement standards not authorized by this part unless the

requirements or standards are specifically required by Federal law or Executive Orders.

OTHER GENERAL COMMENTS

1. *Comment.* These regulations create additional tasks that extend into every phase of university administration and add to the indirect costs of research itself. These tasks are dictated by OMB Circular No. A-110, not HEW. The property rules are particularly complex and burdensome.

Response. This comment has been brought to the attention of OMB.

2. *Comment.* The additional implementing procedures that will be followed by HEW after these amendments are issued are not clear. Grantees are going to be very confused. The proposed HEW implementation of OMB Circular A-110 only serves to strengthen concern that, OMB Circular No. A-110 and its implementing instructions as issued by various sponsoring agencies will complicate rather than simplify grant administration.

Response. Following the amendments to this part, HEW granting agencies will issue conforming changes to both grant program regulations and their manuals for grantees. Wherever feasible, these conforming changes will consist of simply eliminating language on topics covered by this part.

3. *Comment.* Where the OMB circulars provide a choice of alternative rules, the proposed amendments would permit individual HEW granting agencies to make the choice. This high degree of latitude permitted to HEW granting agencies weakens the principles of standardization. HEW should enforce uniformity among its granting agencies by electing in each case a single alternative for the entire Department.

Response. HEW believes that it is essential for its granting agencies to retain the choice of alternatives provided by the OMB circulars. In this respect, HEW is in much the same position as was OMB in issuing the circulars. OMB included alternatives on some issues because of the many legitimate differences in grants across the Federal Government. And taking HEW by itself, the variety of programs is still too great to permit a single rule on every issue for all programs.

SUBPART D—RETENTION AND ACCESS REQUIREMENTS FOR RECORDS

1. *Comment.* The requirement for grantee or sugrantee access to records of a contractor under an HEW grant should be deleted because it is not required by OMB Circulars No. A-102 or A-110. Furthermore many contractors resist such access and it often allows them to place unwarranted emphasis on a relatively minor negotiating point.

Response. The provision in question is required by OMB Circular No. A-102, Attachment O, paragraph 4.h., and by Circular No. A-110, Attachment O, paragraph 4.i. It should be noted that the right of access is limited to negotiated contracts over $10,000 and the regulation reflects this limit in § 74.20(b).

2. *Change.* Because of changes made in the requirements for property records, it has been possible to eliminate the special and burdensome rule on retention of records for property which has been replaced. As a result, the 3-year retention period for these records will begin not from the date of disposition of the replacement property, but from the date of replacement. (§ 74.22(b))

3. *Change.* The proposed rule on the retention period for records pertaining to certain classes of program income has been revised. The primary purpose of this rule is to make sure that there is an adequate retention period for the records of transactions which take place after the period of support and which involve either the earning of program income for which there is an obligation to HEW or the use of program income to fulfill an obligation to HEW. As proposed, however, the rule did not adequately provide for records pertaining to the use of income. To correct this defect, the revised rule provides, in effect, that the 3-year retention period for the records of all such transctions as are described above shall start from the end of the grantee's or subgrantee's fiscal year in which the transaction took place. Other changes in the rule reflect changes in the amendments to Subpart F, Grant-Related Income. (§ 74.22(c))

4. *Change.* A statement has been added to make clear that the right of access to records is not limited to the required retention period, but lasts as long as the records are in fact retained. (§ 74.24(d))

SUBPART E—WAIVER OF SINGLE STATE AGENCY REQUIREMENTS

Change. Pursuant to requirements of Attachment D to OMB Circular No. A-102, as revised September 12, 1977, an addition has been made providing for expeditious handling, and approval when possible, of request for waiver of single State agency requirements. (§ 74.30)

SUBPART F—GRANT-RELATED INCOME

1. *Comment.* In order to avoid severe administrative and financial burdens on grantees and to conform to current HEW practice, the definition of program income should exclude tuition and fees received by an institution of higher education for a regularly offered course.

Response. The change has been made as requested. (§ 74.41(c)(2))

2. *Comment.* The grantee should be given the opportunity to choose which of the listed alternatives should apply to general program income.

Response. In some cases, this would permit the grantee to use the income in a way which would defeat the granting agency's purpose in making the grant. The text has been changed, however, to provide that the terms of the grant, rather than the granting agency, are to specify which alternatives may be used. This should help make clear that the choice of income alternatives, like other terms of a grant, may, in some cases, properly be a subject of negotiation between granting agency and grantee. (§ 74.42(b))

3. *Comment.* The requirement that general program income be used within 3-years is unnecessary and should be deleted.

Response. The requirement has been deleted as requested. (Proposed § 74.42b(a)(3).)

4. *Comment.* HEW should develop a clear statement as to the effect of the Intergovernmental Cooperation Act of 1968 on interest earned by nongovernmental subgrantees on grant-in-aid funds advanced to them by States.

Response. Based upon the language of the act and a decision of the Comptroller General (B-171019), it is HEW's position that States, as defined in the act, are not accountable to the Federal Government for interest earned on advances of grant-in-aid funds, whether the interest is earned by the State itself or by its subgrantees and regardless of the nature of the subgrantees. The amendments have been changed to make this clear. (§ 74.47(b))

5. *Change.* The provisions on treatment of general program income have been rewritten for greater clarity and for closer conformity with the way the corresponding provisions are stated in OMB Circulars A-102 and A-110. As rewritten, there are three non-overlapping alternatives clearly corresponding to the alternatives in the OMB circulars. They set forth a rule on selection of the alternatives and provide explanatory text for each alternative. (§ 74.42)

6. *Change.* The provision concerning interest earned on advances of grant funds has been rewritten to make clear that the grantee is the party that is accountable to the Federal Government for such interest, even when the interest is earned by subrecipients, and that the provision applies to such income earned by cost-type contractors as well as subgrantees. (§ 74.47, proposed § 74.48)

SUBPART G—COST-SHARING OR MATCHING

1. *Comment.* This subpart is silent on the institutional cost-sharing agreements which HEW enters into with some grantees and which cover all of HEW's research project grants to a grantee in the aggregate. Furthermore, the financial reporting forms provide for reporting cost sharing on each grant. It is hoped that this does not indicate that HEW intends to discontinue such agreements.

Response. HEW has no plans to discontinue institutional cost-sharing agreements. Specific language has been added recognizing such agreements and making them subject to the subpart (§ 74.50(b)). When a grant is covered by such an agreement, the grantee's financial reports need merely reference the agreement; the amount of cost sharing need not be reported on the form. HEW granting agencies will provide instructions on this point.

2. *Change.* Third-party in-kind contributions of an indirect (overhead) nature are not allowable as cost sharing or matching unless the recipient has a special rate for allocating the value of the contributions to individual projects in the same way that indirect costs are allocated. A paragraph explaining this has been added. (§ 74.53(e)(3))

SUBPART H—STANDARDS FOR GRANTEE AND SUBGRANTEE FINANCIAL MANAGEMENT SYSTEMS

1. *Comment.* Federal requirements for unit cost data often require recordkeeping which is incompatible with a grantee's basic accounting system. Such requirements should be prohibited.

Response. Decisionmaking needs in some HEW programs make such an across-the-board prohibition unpractical. However, language has been added to make it clear that when unit cost data are required, estimates based on available documentation will be accepted whenever possible. This should minimize any disruptions to grantee accounting systems. (§ 74.61(d))

2. *Comment.* The requirement that reports of audits performed pursuant to § 74.61(h) must be furnished to any granting agency which requests them goes beyond the requirements of FMC 74-7 and OMB Circular A-110. The requirement should be deleted.

Response. HEW does not interpret the circulars as prohibiting this requirement; OMB agrees. However, the text has been changed to require a grantee to submit a copy of an audit report only to the HEW Audit Agency. This change is intended to relieve recipients of the burden of submitting copies to the granting agency or to any component of HEW other than the Audit Agency. In addition, as a result of this change, the HEW Audit Agency will have a copy of every audit report and, to the extent that it can rely upon the reports, may be able to reduce the frequency and scope of direct Federal audits. (§ 74.61(h))

SUBPART I—FINANCIAL REPORTING REQUIREMENTS

1. *Comment.* Eliminate the option to require State and local government grantees to use the financial reporting form prescribed in FMC 74-7. Make it a requirement, instead, that all grantees use standard forms 269 through 272.

Response. The requested change has been made.

2. *Comment.* Has HEW been granted any exceptions by OMB to financial reporting requirements?

Response. Yes. The Department has been authorized a major exception which permits certain programs under the Social Security Act to use alternative forms. OMB has also approved minor changes in the forms for a number of HEW programs.

3. *Comment.* Will standard forms 272 and 272a, the Federal Cash Transactions Report, replace the HEW Departmental Federal Assistance Financing System (DFAFS) Recipient report of expenditures?

Response. No. Continued use of the DFAFS report (instead of forms 272 and 272a) has been authorized by OMB. Since a great many grantees are paid through DFAFS, a reference to the DFAFS report has been added to § 74.74.

4. *Comment.* Quarterly submission of the standard forms 272 and 272a, the Federal Cash Transactions Report, makes SF 269, the Financial Status Report, unnecessary. Accordingly, the latter should be required only upon completion or termination of the grant.

Response. While the two OMB-prescribed forms do overlap somewhat, there are substantial differences between them, and they serve different purposes. Most HEW grant programs will require submission of the Financial Status Report only annually, and it can be waived entirely if the granting agency concludes that it isn't needed in a particular situation. (See § 74.72(f).) Accordingly, no change has been made in the regulation.

5. *Comment.* The 15-day period allowed for submission of the Federal Cash Transaction Report is too short. It should be 30 days. A second commenter suggested 60 days.

Response. HEW recognizes that the 15-day deadline will sometimes be difficult to meet. However, OMB adopted that standard in Circulars A-102 and A-110 because the report will ususally serve as the basis for entries in granting agency accounting systems and must be received promptly to meet deadlines for Federal agency reports to the Treasury. The regulation has been changed to authorize extensions of the due date when feasible. (See § 74.72(f).)

6. *Comment.* Although OMB Circular A-110 permits Federal agencies to require monthly Federal Cash Transaction Reports from certain grantees, HEW should require such reports no more frequently than quarterly.

Response. These amendments will not in themselves cause HEW to change its prevailing practice of requiring cash transaction reports only quarterly, even from large grantees. However, increasing needs in the Federal Government for current and accurate information on outlays under Federal grants (particularly for purposes of economic analysis) may make it necessary to require monthly reporting from HEW's very largest grantees. If this should happen, every attempt will be made to develop abbreviated reporting requirements so as to minimize the burden on those grantees. No change has been made to the regulation.

SUBPART J—MONITORING AND REPORTING OF PROGRAM PERFORMANCE

1. *Change.* In order to provide greater flexibility, this subpart has been revised to allow performance reports to be waived by the granting agency when they are not needed for decisionmaking. (§ 74.82(a) and (b))

2. *Change.* On September 9, 1977, the President issued a memorandum to the executive departments on "Cutting Federal Red Tape for State and Local Grant Recipients." Pursuant to that directive, a provision has been added in this subpart to limit the number of copies of performance reports (original and two reproductions) that may be required of grantees or subgrantees. (§ 74.82(d))

SUBPART K—GRANT AND SUBGRANT PAYMENT REQUIREMENTS

1. *Change.* On December 14, 1977, the Department of the Treasury revised its Circular No. 1075 dealing with advance payments. The subpart has been revised to conform to the Treasury circular's new threshold of $120,000 for using the letter-of-credit method of payment. (§ 74.92(a))

2. *Change.* In accordance with OMB Circulars A-102 and A-110, this subpart has been revised to provide that payments may be withheld for failure to comply with reporting requirements. (§ 74.95.)

SUBPART L—PROGRAMMATIC CHANGES AND BUDGET REVISIONS

1. *Comment.* It is a needless burden on grantees to require that requests

for some, but not all, budget revisions be submitted on grant application forms. If a letter will suffice for some types of changes, why not for all changes?

Response. The requirement in question has been deleted. (Proposed § 74.106.)

2. *Change.* In the interests of accuracy and clarity, the subpart has been reorganized to distinguish between programmatic changes and budget revisions. Previously, a number of actions which were not primarily budgetary concerns were controlled through the budget revision rules. Therefore the following types of action have been transferred to a new section which requires prior approval for certain postaward programmatic changes to an approved project:

(a) Changing the scope or objectives of the approved project;

(b) Providing financial assistance to a third party;

(c) Transferring to a third party the actual performance of the substantive programmatic project activities; and

(d) Research patient care.

Furthermore, in consolidating those programmatic changes into a single section, the long-established Government-wide policy on change or absence of the project director (principal investigator) of a research project has also been located in this section.

SUBPART O—PROPERTY

1. *Group of related comments.* These amendments give the Federal Government an interest in "equipment purchased with an institution's own funds by virtue of cost sharing." We do not believe this to be OMB's intent. How should one compute the Federal share of equipment if the grant was subject to an institutional cost-sharing agreement?

Response. The OMB circulars make no distinction between property charged to Federal grant funds and property charged to required cost-sharing or matching funds. This is confirmed by the OMB rules making the Federal share of property the same as the Federal percentage of participation in overall project costs.

However, the Department has concluded that it is not practicable or appropriate to apply the property rules to property purchased from an institution's own funds under an institutional cost-sharing agreement. Therefore a provision has been added so that the subpart will not apply to such property. And for practical reasons, if the property was charged to Federal funds under a grant that was subject to such an agreement, the Federal share of the property should be computed as if there were no cost-sharing requirement (i.e., as if all the cost sharing had been voluntary). This is because, under institutional cost-sharing agreements, the cost sharing required on any one grant is not stipulated. Only the aggregate sharing on all the covered grants during a fiscal year is stipulated. (§§ 74.130(e) and 74.142(d))

2. *Group of related comments.* The rules on replacement of equipment are too restrictive and should be liberalized or eliminated.

Response. These rules were developed by HEW to meet an express need of grantees, and were strongly supported by other commenters. If the rules were eliminated, a routine trade-in (for example, of a used $2,000 microscope for a later model) would have to be treated as a disposition. The result would be that, unless the original equipment was exempt from accountability (see § 74.135), the grantee would have to compensate the Federal Government for the Federal share of the original equipment.

Fundamental changes to the rules on replacement of equipment do not appear feasible within the constraints of OMB Circulars A-102 and A-110. However, several technical changes have been made to liberalize the rules where possible. (§ 74.138)

3. *Comment.* HEW should make the "waiver-of-accountability" provisions of Pub. L. 85-934 applicable to supplies. For grants subject to that law, the OMB rules on supplies are more restrictive than those on equipment, and this can serve no meaningful Federal purpose.

Response. That provision of Pub. L. 85-934 applies only to equipment. However, since the amendments were proposed, that provision has been incorporated in and extended to supplies by the Federal Grant and Cooperative Agreement Act of 1977, Pub. L. 95-224. Therefore, text has been added to this regulation to "waive accountability" for supplies subject to the new act or any similar statute that may be enacted in the future. (§ 74.135(c))

4. *Other changes resulting from public comments.* In response to a number of technical suggestions, the following changes have been made:

(a) The rule on inclusion of the Federal share calculation in equipment records has been simplified. (§ 74.140(a)(4).) (Note that this information need not be updated each year; only the sharing ratio for the year in which the equipment was acquired is pertinent—see § 74.142(a)(1))

(b) Text has been added permitting the required physical inventory of accountable equipment to be made on a statistical sampling basis. (§ 74.140(b).)

(c) The rules on calculating the Federal share of property have been changed to reduce the Federal share when a part of the property's value was donated to the recipient as a third-party in-kind contribution. (§ 74.142(b))

5. *Comment.* If a subgrantee bears part of the burden of cost sharing, is this to be ignored in calculating the Federal and non-Federal shares of property?

Response. It depends on who acquired the property—the grantee or the subgrantee.

Basically, the Federal share of property is the same percentage as the Federal share of the acquiring party's costs under the grant. Therefore, if a subgrantee acquired the property, its cost sharing would most certainly be considered in calculating the Federal and non-Federal shares of the property.

On the other hand, if the grantee acquired the property, cost sharing by its subgrantees would not be considered in the calculation. This is because their cost sharing did not make them a party to the acquisition of the property, and was not a part of the funds which the grantee used. See §§ 74.142(a) and 74.143.

6. *Comment.* The right to require transfer of title to equipment costing over $1,000 (with compensation to the grantee for the non-Federal share) should be reserved only on a case-by-case basis, and only with the grantee's consent.

Response. HEW believes that blanket reservation of this right is necessary to insure protection of the public interest if the grant-supported project is transferred to another grantee, or if some other unforeseen contingency occurs which would justify exercise of the right. The mere reservation of the right places no burden on grantees. And if the right is exercised, the grantee will be compensated for its share of the value of the equipment.

7. *Change.* In the interests of simplification, this subpart has been made not applicable to equipment and supplies acquired under a procurement contract under a grant or subgrant if the contract terms provide that title to the property vests in the contractor or a subcontractor. (§ 74.130(d))

8. *Change.* An additional outlay to acquire replacement equipment will sometimes be supported by a Federal award having different equipment rules than the grant under which the original equipment was acquired. This could occur, for example, if the second award is not an HEW grant, or is subject to a statute that permits a waiver of accountability (as described in § 74.135). For such cases, conflicts and complexities can best be avoided by the simple rule that the property requirements (or exemptions) of the second award shall be the ones that apply to the replacement equipment. A provision to that effect has been added. (§ 74.138(b))

9. *Change.* The rules for disposition of nonexempt equipment with a unit cost of $1,000 or more have been simplified. The rules now merely provide that the Federal Government has a right to the Federal share of the quipment's market value or sales proceeds and explain how the grantee is to fulfill its obligation for this amount. In effect, this provides a standing HEW-wide disposition instruction.

The alternative disposition instructions that were provided for in the January 24, 1977 notice of proposed rulemaking would rarely, if ever, be used. They have been eliminated along with the requirement that the grantee request disposition instructions from the granting agency and wait up to 120 days for a response. (§ 74.139)

SUBPART P—PROCUREMENT STANDARDS

1. *Comment.* The OMB circulars provide standards for procurements with Federal funds, but the proposed amendments would make the standards apply also to procurements made entirely with cost-sharing funds. This should be changed.

Response. As requested, the scope section of Subpart P has been changed to be consistent with the scope of OMB's procurement standards. The subpart will therefore not apply to procurements made entirely with cost-sharing (or matching) funds. (§ 74.160(a))

2. *Comment.* Reference § 74.162, "Code of conduct." "The applicability is not clear; however, it appears that DHEW has unwarrantedly extended the language of OMB Circular A-110, Attachment O, par. 3.a., which is limited to *contracts* * * * it is essential that the applicability of this requirement be deleted."

Response. The section states that it applies to "the awarding and administration of contracts that are subject to this subpart." Simply speaking, the subpart and hence this section apply to contracts made with grant funds. This is the same as the applicability of the corresponding paragraph of the OMB circular. No change has been made.

3. *Comment.* The section on code of conduct "precludes our officers from soliciting or accepting gifts from actual or potential contractors. Our officers do in fact solicit and accept such gifts regularly as part of the university's normal fundraising activities. The proposed regulation could recognize such normal activities."

Response. As requested, text has been added specifically permitting bona-fide institutional fund-raising activities. (§ 74.162)

4. *Comment.* In accordance with OMB Circular No. A-110, a contractor which develops specifications or solicitations for a procurement is prohibited from competing for that procurement. This prohibition is too rigid.

Response. HEW has obtained authority from OMB to waive this prohibition for particular procurements upon request of the recipient. Text providing for this authority has been added. (§ 74.163(b))

5. *Comment.* "Section 74.164(g) provides that all proposed sole source contracts in which the aggregate expenditure is expected to exceed $5,000 should be subject to prior approval by DHEW * * * this * * * may introduce an unfortunate delay in the process of acquiring essential research equipment. In our opinion, the Government should place reliance on post-audit."

Response. It is intended that such contracts be submitted for prior approval only if required by the terms of the grant, and the text of the section has been modified to make this clear. Since avoidance of an improper or poor contract may be crucial to the success of a grant, there will be times when reliance on after-the-fact audit will not be adequate, and therefore the requirement cannot be eliminated entirely. (§ 74.164(g))

6. *Comment.* With respect to the requirement for some form of cost or price analysis in § 74.164(h), "there are many items ordered from catalogs or off the shelf for which detailed file documentation should not be required."

Response. The requirement in question is mandated by OMB Circular No. A-110. In response to a similar comment submitted directly to OMB, OMB has replied, "The analyses prescribed by the circular need not be complicated. Such factors as the dollar value and type of procurement will determine how much cost or price analysis is necessary. For many procurements, price analysis could be as simple as reviewing a catalog price." Note that the requirement is not applicable to governmental recipients, since OMB Circular A-102 does not contain any corresponding provision.

7. *Change.* Pursuant to the OMB circulars, awarding parties may not impose on their recipients procurement standards in addition to those in this subpart unless specifically required by Federal statutes or Executive Orders. Because knowledge of this policy is important to grantees, subgrantees, and others, it has been added to the text. Note, however, that exception procedures are provided for by Subpart A of the part. (§ 74.160(b))

SUBPART Q—COST PRINCIPLES

Comment. When a granting agency waives the requirement for prior approval of a particular type of cost under the cost principles, the waiver is conditioned on adequate safeguards being established by the grantee to assure a meaningful review of the costs. The regulation needs to be more specific in establishing standards for "adequate safeguards."

Response. Section 74.176(c) has been changed so that waivers may be unconditional. But if the granting agency chooses to make the waiver conditional, it will, if necessary, provide standards for the "adequate safeguards."

OTHER INFORMATION

Timing. These amendments shall apply to grant funding periods beginning on or after the effective date of the amendments. Additionally, pursuant to the President's September 9, 1977 memorandum on red tape, the recipient of a grant which is active when these amendments become effective may, at its option, apply these amendments to that grant for the remainder of the current funding period.

Effective date. These amendments are effective on August 2, 1978. However, these amendments are not effective for programs of the following agencies until adopted in regulations issued by the heads of those agencies:

(1) Office of the Assistant Secretary for Education.
(2) Office of Education.
(3) National Institute of Education.
(4) Institute of Museum Services.

NOTE: The Department of Health, Education, and Welfare has determined that this document does not contain a major proposal requiring preparation of a Regulatory Analysis under Executive Order 12044.

Dated: July 22, 1978.

HALE CHAMPION,
Acting Secretary of Health, Education, and Welfare.

Part 74 of Title 45, Code of Federal Regulations, is amended by revising Subparts A through Q, as follows:

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74.1 Purpose and scope of this part.
74.2 Scope of subpart.
74.3 Definitions.
74.4 Applicability of this part.
74.5 Appeals.
74.6 Deviations.
74.7 Special grant or subgrant conditions.

Subpart B—Cash Depositories

74.10 Physical segregation and eligibility.
74.11 Checks-paid basis letter of credit.
74.12 Minority-owned banks.

Subpart C—Bonding and Insurance

74.15 General.
74.16 Construction and facility improvement.
74.17 Fidelity Bonds.
74.18 Source of Bonds.

Subpart D—Retention and Access Requirements for Records

74.20 Applicability.

Sec.
74.21 Length of retention period.
74.22 Starting date of retention period.
74.23 Substitution of microfilm.
74.24 Access to records.
74.25 Restrictions on public access.

Subpart E—Waiver of Single State Agency Requirements

74.30 Policy.

Subpart F—Grant-Related Income

74.40 Scope of subpart.
74.41 Meaning of program income.
74.42 General program income.
74.43 Program income—proceeds from sale of real property and from sale of equipment and supplies acquired for use.
74.44 Program income—royalties and other income earned from a copyrighted work.
74.45 Program income—royalties or equivalent income earned from patents or from inventions.
74.46 Program income—income after grant or subgrant support not otherwise treated.
74.47 Interest earned on advances of grant funds.

Subpart G—Cost Sharing or Matching

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74.50 Scope of subpart.
74.51 Definitions.
74.52 Basic rule: Costs and contributions acceptable.
74.53 Qualifications and exceptions.
74.54 Valuation of donated services.
74.55 Valuation of donated supplies and loaned equipment or space.
74.56 Valuation of donated equipment, buildings, and land.
74.57 Appraisal of real property.

Subpart H—Standards for Grantee and Subgrantee Financial Management Systems

74.60 Scope of subpart.
74.61 Standards.

Subpart I—Financial Reporting Requirements

74.70 Scope and applicability of subpart.
74.71 Definitions.
74.72 General.
74.73 Financial Status Report.
74.74 Federal Cash Transactions Report.
74.75 Request for Advance or Reimbursement.
74.76 Outlay Report and Request for Reimbursement for Construction Programs.

Subpart J—Monitoring and Reporting of Program Performance

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74.81 Monitoring by recipients.
74.82 Performance reports under nonconstruction grants.
74.83 Performance reports under construction grants.
74.84 Significant developments between scheduled reporting dates.
74.85 Site visits.

Subpart K—Grant and Subgrant Payment Requirements

74.90 Scope of subpart.
74.91 Definitions.
74.92 Basic standard.
Sec.
74.93 Payment methods under nonconstruction grants.
74.94 Payment methods under construction grants.
74.95 Withholding of payments.
74.96 Requesting advances or reimbursements.
74.97 Payments to subgrantees.

Subpart L—Programmatic Changes and Budget Revisions

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74.101 Relationship to cost principles.
74.102 Prior approval procedures.
74.103 Programmatic changes.
74.104 Budgets generally.
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74.106 Budget revisions-construction projects.
74.107 Construction and nonconstruction work under the same grant or subgrant.
74.108 Authorized funds exceeding needs.

Subpart M—Grant and Subgrant Closeout, Suspension, and Termination

74.110 Definitions.
74.111 Closeout.
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74.113 Violation of terms.
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74.120 Scope of subpart.
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74.122 Preapplications for Federal Assistance for governmental organizations.
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REAL PROPERTY

74.134 Real property.

EQUIPMENT AND SUPPLIES

74.135 Exemptions for equipment and supplies subject to certain statutes.
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FEDERAL SHARE OF REAL PROPERTY, EQUIPMENT, AND SUPPLIES

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Subpart Q—Cost Principles

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Appendix F—Principles for determining costs applicable to grants and contracts with nonprofit institutions.

AUTHORITY: 5 U.S.C. 301.

Subpart A—General

§ 74.1 Purpose and scope of this part.

This part establishes uniform requirements for the administration of HEW grants and principles for determining costs applicable to activities assisted by HEW grants.

§ 74.2 Scope of subpart.

This subpart contains general rules pertaining to this Part 74 (definitions, purpose and scope, applicability, and appeals) and procedures for control of deviations from the part.

§ 74.3 Definitions.

As used in this part:

"Awarding party" means (1) with respect to a grant, the granting agency, and (2) with respect to a subgrant, the grantee. (See § 74.4(b))

"Contract" means (except as used in the definitions for "grant" and "subgrant" in this section and except where qualified by "Federal") a procurement contract under a grant or subgrant, and "subcontract" means a procurement subcontract under such a contract.

"Cost-type contract" means a contract or subcontract in which the contractor or subcontractor is paid on the basis of the costs it incurs, but the term does not include such subcontracts under a non-cost-type contract or subcontract.

"Expenditure report" means: (1) For nonconstruction grants, the "Financial Status Report" (or other equivalent report); (2) for construction grants, the "Outlay Report and Request for Reimbursement for Construction Programs" (or other equivalent report). (See subpart I of this part.)

"Federally recognized Indian tribal government" means the governing body or a governmental agency of any Indian tribe, band, nation, or other organized group or community (including any Native village as defined in section 3 of the Alaska Native Claims Settlement Act, 85 Stat. 688) certified by the Secretary of the Interior as eligible for the special programs and services provided by him through the Bureau of Indian Affairs. However, for policies applicable to tribal government hospitals and institutions of higher education, see § 74.4(c), "Applicability of this part."

"Government" means a State or local government or a Federally recognized Indian tribal government. However, for policies applicable to government hospitals and institutions of higher education, see § 74.4(c), "Applicability of this part."

"Grant" means an award of financial assistance in the form of money, or property in lieu of money, by the Federal Government to an eligible recipient. The term includes such financial assistance when provided by contract, but does not include any Federal procurements subject to the procurement regulations in 41 CFR, nor does it include technical assistance, which provides services instead of money, or other assistance in the form of revenue sharing, loans, loan guarantees, interest subsidies, insurance, or direct appropriations. Also, the term does not include assistance, such as a fellowship or other lump sum award, which the recipient is not required to account for on an actual cost basis.

"Grantee" means the government, nonprofit corporation, or other legal entity to which a grant is awarded and which is accountable to the Federal Government for the use of the funds provided. The grantee is the entire legal entity even if only a particular component of the entity is designated in the award document. For example, a grant award document may name as the grantee an agency of a State, or one school or campus of a university. In these cases, the granting agency usually intends, or actually requires, that the named component assume primary or sole responsibility for administering the grant-assisted project or program. Nevertheless, the naming of a component of a legal entity as the grantee in a grant award document shall not be construed as relieving the whole legal entity from accountability to the Federal Government for the use of the funds provided. (This definition is not intended to affect the eligibility provisions of grant programs in which eligibility is limited to organizations, such as State welfare departments, which may be only components of a legal entity.) The term "grantee" does not include any secondary recipients such as subgrantees, contractors, etc., who may receive funds from a grantee pursuant to a grant.

"Granting agency" means any organizational component of HEW authorized to award and administer grants.

"HEW" means the U.S. Department of Health, Education, and Welfare.

"Local government" means a local unit of government including specifically a county, municipality, city, town, township, local public authority, school district, special district, intrastate district, council of governments (whether or not incorporated as a nonprofit corporation under State law), "sponsor or sponsoring local organization" of a watershed project (as defined in 7 CFR 620.2, 40 FR 12472, March 19, 1975), any other regional or interestate government entity, or any agency or instrumentality of a local government. However, for policies applicable to government hospitals and institutions of higher education, see § 74.4(c), "Applicability of this part."

"OGP" means the Office of Grants and Procurement, which is an organizational component within the Office of the Secretary, HEW, and reports to the Assistant Secretary for Management and Budget.

"OMB" means the Office of Management and Budget within the Executive Office of the President.

"Recipient" means grantee or subgrantee. (See § 74.4(b).)

"State" means any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any agency or instrumentality of a State exclusive of local governments. However, for policies applicable to government hospitals and institutions of higher education, see § 74.4(c), "Applicability of this part."

"Subgrant" means an award of financial assistance in the form of money, or property in lieu of money, made under a grant by a grantee to an eligible subgrantee. The term includes financial assistance when provided by contract, but does not include procurements; nor does it include any form of assistance which is excluded from the definition of "grant" in this section.

"Subgrantee" means the government, nonprofit corporation, or other legal entity to which a subgrant is awarded and which is accountable to the grantee for the use of the funds provided. The subgrantee is the entire legal entity even if only a particular component of the entity is designated in the subgrant award document.

"Terms of a grant or subgrant" means all requirements of the grant or subgrant, whether in statute, regulations, the award document or elsewhere.

§ 74.4 Applicability of this part.

(a) *General.* Except where inconsistent with Federal statutes, regulations, or other terms of a grant, this part applies to all HEW grants. However, unless expressly made applicable by the granting agency, this part shall not apply when the grantee is a Federal agency, foreign government or organization, international organization such as the United Nations, for-profit organization, or individual.

(b) *Subgrants.* For each substantive provision in this part, either the language of the provision itself or other text in the same subpart will indicate whether the provision affects only grants, only subgrants, or both. Use of the term "recipient" (as defined in § 74.3) in a provision shall be taken as referring equally to grantees and subgrantees. Similarly, use of the term "awarding party" (as defined in § 74.3) shall be taken as referring equally to granting agencies and to grantees awarding subgrants. However, unless expressly made applicable by the granting agency, this part need not be applied by the grantee to a subgrant if the subgrantee is a Federal agency, foreign government or organization, international organization such as the United Nations, for-profit organization, or individual.

(c) *Public institutions of higher education and hospitals.* Grants and subgrants to institutions of higher education and hospitals operated by a government shall be subject only to provisions of this subpart that apply to nongovernmental organizations.

§ 74.5 Appeals.

In accordance with parts 16 and 75 of this title, grantees may appeal certain postaward administrative decisions made by HEW officials.

§ 74.6 Deviations.

(a) Except as provided in § 74.7, a deviation is any exception to this part not required by Federal statute without allowance of agency discretion. A deviation may be either:

(1) Use of any policy, procedure, form, standard, or grant or subgrant term which is inconsistent with an applicable provision of this part, or

(2) Failure to use any applicable policy, procedure, form, standard, or grant or subgrant term which is required by this part.

(b) In order to maintain uniformity to the greatest extent feasible, deviations shall be kept to a minimum. A deviation, whether proposed by an applicant, a recipient, or an official of the granting agency, may be authorized only when it is necessary to meet programmatic objectives, or to conserve grant funds, or when it is otherwise essential in the public interest.

(c) Except as provided in paragraph (d) of this section, a deviation from this part may be made only when authorized by both:

(1) The head of the granting agency or other officials if designated in or pursuant to formal deviation control procedures established by the agency, and

(2) OGP.

(d) Deviations from subpart Q of this part and appendixes C, D, E, and F to this part in individual cases (i.e., where only a single grant or subgrant is involved) shall not require OGP approval.

§ 74.7 Special grant or subgrant conditions.

(a) Without regard to the deviation control procedures of § 74.6, special grant conditions more restrictive than those prescribed in this part 74 may be imposed as needed when the granting agency has determined that the grantee:

(1) Is financially unstable,

(2) Has a history of poor performance, or

(3) Has a management system which does not meet the standards of this part.

(b) When special conditions are imposed under paragraph (a) of this section, the grantee will be notified in writing:

(1) Why the special conditions were imposed and

(2) What corrective action is needed.

Furthermore, in accordance with OMB Circulars A-102 and A-110, OMB and other Federal agencies in a granting relationship with the grantee will be provided copies of the notice to the grantee.

(c) Grantees may apply the provisions of paragraphs (a) and (b) of this section to their subgrantees. Whenever they do so, a copy of the notice to the subgrantee shall be furnished to the granting agency.

Subpart B—Cash Depositories

§ 74.10 Physical segregation and eligibility.

Except as provided in § 74.11, awarding parties shall not impose grant or subgrant terms which:

(a) Require the recipient to use a separate bank account for the deposit of grant or subgrant funds, or

(b) Establish any eligibility requirements for banks or other financial institutions in which recipients deposit grant or subgrant funds.

§ 74.11 Checks-paid basis letter of credit.

A separate bank account shall be used when payments under letter of credit are made on a "checks-paid" basis. A checks-paid basis letter of credit is one under which funds are not drawn until the recipient's checks have been presented to its bank for payment. (See Subpart K for definition of "letter of credit.")

§ 74.12 Minority-owned banks.

Consistent with the national goal of expanding opportunities for minority business enterprises, grantees and subgrantees are encouraged to use minority-owned banks. Upon request, OGP will furnish a list of minority-owned banks.

Subpart C—Bonding and Insurance

§ 74.15 General.

In administering grants and subgrants, recipients shall observe their regular requirements and practices with respect to bonding and insurance. No additional bonding and insurance requirements, including fidelity bonds, shall be imposed by the terms of the grant or subgrant except as provided in §§ 74.16 through 74.18.

§ 74.16 Construction and facility improvement.

(a) *Scope of this section.* This section covers requirements for bid guarantees, performance bonds, and payments bonds when the recipient will contract for construction or facility improvement (including alterations and renovations of real property) under a grant or subgrant.

(b) *Definitions.* (1) "Bid guarantee" means a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, if its bid is accepted, execute the required contractual documents within the time specified.

(2) "Performance bond" means a bond executed in connection with a contract to secure fulfillment of all the contractor's obligations under the contract.

(3) "Payment bond" means a bond executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

(c) *Bids and contacts of $100,000 or less.* The recipient shall follow its own requirements and practices relating to bid guarantees, performance bonds, and payment bonds.

(d) *Bids and contracts exceeding $100,000.* The recipient may follow its own regular policy and requirements if the HEW granting agency has determined that the Federal Governments's interest will be adequately protected. If this determination has not been made, the minimum requirements shall be as follows:

(1) A bid guarantee from each bidder equivalent to 5 percent of the bid price;

(2) A performance bond on the part of the contractor for 100 percent of the contract price; and

(3) A payment bond on the part of the contractor for 100 percent of the contract price.

§ 74.17 Fidelity bonds.

(a) If the grantee is not a government, the granting agency may require it to carry adequate fidelity bond coverage where the absence of coverage for the grant-supported activity is considered as creating an unacceptable risk.

(b) If the subgrantee is not a government, the granting agency or the grantee may require that it carry adequate fidelity bond coverage where the absence of coverage for the subgrant-supported activity is considered as creating an unacceptable risk.

(c) A fidelity bond is a bond indemnifying the recipient against losses resulting from the fraud or lack of integrity, honesty or fidelity of one or more employees, officers or other persons holding a position of trust.

§ 74.18 Source of bonds.

Any bonds required under §§ 74.16(d)(1) through (3) or 74.17 shall be obtained from companies holding certificates of authority as acceptable sureties (31 CFR Part 223). A list of these companies is published annually by the Department of the Treasury in its Circular 570.

Subpart D—Retention and Access Requirements for Records

§ 74.20 Applicability.

(a) Except as provided in paragraph (b) of this section, this subpart applies to all financial and programmatic records, supporting documents, statistical records and other records of recipients

and of contractors and subcontractors under grants and subgrants, which are:

(1) Required to be maintained by the terms of an HEW grant, or

(2) Otherwise reasonably considered as pertinent to an HEW grant.

(b) This subpart does not apply to records maintained by the contractor or subcontractor for any of the following types of awards it has received under a grant or subgrant:

(1) Any contract or subcontract of $10,000 or less, or

(2) Any contract or subcontract awarded using the formal advertising method of procurement, whether or not required to be so awarded, or

(3) Any subcontract awarded under a contract or subcontract described in paragraph (b)(2) of this section.

§ 74.21 Length of retention period.

(a) Except as provided in paragraphs (b) and (c) of this section, records shall be retained for 3-years from the starting date specified in § 74.22.

(b) If any litigation, claim, negotiation, audit or other action involving the records has been started before the expiration of the 3-year period, the records shall be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular 3-year period, whichever is later.

(c) In order to avoid duplicate recordkeeping, awarding parties may make special arrangements with recipients to retain any records which are continuously needed for joint use. The awarding party will request transfer of records to its custody when it determines that the records possess long-term retention value. When the records are transferred to or maintained by the awarding party the 3-year retention requirement is not applicable to the recipient.

§ 74.22 Starting date of retention period.

(a) *General.* (1) Where HEW grant support is continued or renewed at annual or other intervals, the retention period for the records of each funding period starts on the day the grantee submits to HEW its single or last expenditure report for that period. However, if HEW grant support is continued or renewed quarterly, the retention period for each year's records starts on the day the grantee submits to HEW its expenditure report for the last quarter of the Federal fiscal year. In all other cases, the retention period starts on the day the grantee submits its final expenditure report to HEW. If an expenditure report has been waived, the retention period starts on the day the report would have been due. "Expenditure report" is defined in § 74.3.

(2) Exceptions to this paragraph are contained in paragraphs (b) through (d) of this section.

(b) *Equipment records.* The retention period for the equipment records required by § 74.140(a) starts from the date of the equipment's disposition (§ 74.139) or replacement (§ 74.138) or transfer at the direction of the awarding party (§ 74.136).

(c) *Records for income transactions after grant or subgrant support.* (1) In some cases an HEW requirement concerning the disposition of program income, as defined in subpart F of this part, will be satisfied by applying the income to costs incurred after expiration or termination of grant or subgrant support for the activity giving rise to the income. In such a case, the retention period for the records pertaining to the costs starts from the end of the recipient's fiscal year in which the costs are incurred.

(2) In some cases, there may be an HEW requirement concerning the disposition of copyright royalties or other program income which is earned after expiration or termination of grant or subgrant support. Where there is such a requirement, the retention period for the records pertaining to the earning of the income starts from the end of the recipient's fiscal year in which the income is earned. (See subpart F of this part.)

(d) *Indirect cost rate proposals, cost allocation plans, etc.*—(1) *Applicability.* This paragraph applies to the following types of documents, and their supporting records:

(i) Indirect cost rate computations or proposals;

(ii) Cost allocation plans under Appendix C to this part;

(iii) Hospital patient care rate computations or proposals; and

(iv) Any similar accounting computations of the rate at which a particular group of costs is chargeable (such as computer usage chargeback rates or composite fringe benefit rates).

(2) *If submitted for negotiation.* If the proposal, plan, or other computation is required to be submitted to the Federal Government (or to the grantee) to form the basis for negotiation of the rate, then the 3-year retention period for its supporting records starts from the date of such submission.

(3) *If not submitted for negotiation.* If the proposal, plan, or other computation is not required to be submitted to the Federal Government (or to the grantee) for negotiation purposes, then the 3-year retention period for the proposal, plan, or computation and its supporting records starts from the end of the fiscal year (or other accounting period) covered by the proposal, plan, or other computation.

§ 74.23 Substitution of microfilm.

Copies made by microfilming, photocopying, or similar methods may be substituted for the original records.

§ 74.24 Access to records.

(a) *Records of grantees.* HEW and the Comptroller General of the United States, or any of their authorized representatives, shall have the right of access to any books, documents, papers, or other records of the grantee which are pertinent to the HEW grant, in order to make audit, examination, excerpts, and transcripts.

(b) *Records of subgrantees.* HEW, the Comptroller General of the United States, and the grantee, or any of their authorized representatives, shall have the right of access to any books, documents, papers, or other records of the subgrantee which are pertinent to the HEW grant, in order to make audit, examination, excerpts, and transcripts.

(c) *Records of contractors and subcontractors.* Except as provided in § 74.20(b), HEW, the Comptroller General of the United States, the grantee, and (if the contract was awarded under a subgrant) the subgrantee, or any of their authorized representatives, shall have the right of access to any books, documents, papers, or other records of the contractor or subcontractor which are pertinent to the HEW grant, in order to make audit, examination, excerpts, and transcripts.

(d) *Expiration of right of access.* The rights of access in this section shall not be limited to the required retention period but shall last as long as the records are retained.

§ 74.25 Restrictions on public access.

Unless required by Federal statutes, awarding parties may not impose grant or subgrant terms which limit public access to records covered by this subpart except after a determination by the granting agency that the records must be kept confidential and would have been excepted from disclosure under HEW's "Freedom of Information" regulation (part 5 of this title) if the records had belonged to HEW. This section does not require recipients or their contractors and subcontractors to permit public access to their records.

Subpart E—Waiver of Single State Agency Requirements

§ 74.30 Policy.

Requests to HEW from Governors, or other duly constituted State authorities, for waiver of single State agency requirements in accordance with section 204 of the Intergovernmental Cooperation Act of 1968 will be given expeditious handling. Whenever possible, such requests will be granted.

Subpart F—Grant-Related Income

§ 74.40 Scope of subpart.

This subpart contains policies and requirements relating to (a) program income and (b) interest and other investment income earned on advances of grant funds.

§ 74.41 Meaning of program income.

(a) Except as explained in paragraphs (b) and (c) of this section, program income means gross income earned by a recipient from activities part or all of the cost of which is either borne as a direct cost by a grant or counted as a direct cost towards meeting a cost sharing or matching requirement of a grant. It includes but is not limited to such income in the form of fees for services performed during the grant or subgrant period, proceeds from sale of tangible personal or real property, usage or rental fees, and patent or copyright royalties. If income meets this definition, it shall be considered program income regardless of the method used to calculate the amount paid to the recipient—whether, for example, by a cost-reimbursement method or fixed price arrangement. Nor will the fact that the income is earned by the recipient from a Federal procurement contract or from a procurement contract under a Federal grant awarded to another party affect the income's classification as program income.

(b) For research grants that are subject to an institutional cost-sharing agreement, income shall be considered program income only if it is earned from an activity part or all of the cost of which is borne as a direct cost by the Federal grant funds. An institutional cost-sharing agreement is one entered into between HEW and a grantee covering all of HEW's research project grants to the grantee in the aggregate.

(c) The following shall not be considered program income:

(1) Revenues raised by a government recipient under its governing powers, such as taxes, special assessments, levies, and fines. (However, the receipt and expenditure of such revenues shall be recorded as a part of grant or subgrant project transactions when such revenues are specifically earmarked for the project in accordance with the terms of the grant or subgrant.)

(2) Tuition and related fees received by an institution of higher education for a regularly offered course taught by an employee performing under a grant or subgrant.

(d) For the purposes of this subpart, program income is divided into several categories. Each category is treated in a separate section of this subpart.

§ 74.42 General program income.

(a) *Definition.* General program income means all program income accruing to a grantee during the period of grant support or to a subgrantee during the period of subgrant support, other than the special categories of such income treated in §§ 74.43 through 74.45.

(b) *Use.* (1) General program income shall be retained by the recipient and used in accordance with one or a combination of the alternatives in paragraphs (c), (d), and (e) of this section, as follows: The alternative in paragraph (c) may always be used by recipients and must be used if neither of the other two alternatives is permitted by the terms of the grant. The alternatives in paragraphs (d) or (e) may be used only if expressly permitted by the terms of the grant. In specifying alternatives that may be used, the terms of the grant may distinguish between income earned by the grantee and income earned by subgrantees and between the sources, kinds, or amounts of income.

(2) The terms of a subgrant may restrict the use of general program income earned by the subgrantee to only one or some of the alternatives permitted by the terms of the grant, but the alternative in paragraph (c) of this section shall always be permitted.

(c) *Deduction alternative.* (1) Under this alternative, the income is used for allowable costs of the project or program. If there is a cost-sharing or matching requirement, costs borne by the income may not count toward satisfying that requirement. Therefore, the maximum percentage of Federal participation is applied to the net amount determined by deducting the income from total allowable costs and third-party in-kind contributions. The income shall be used for current costs unless the granting agency authorizes deferral to a later period.

(2) To illustrate this alternative, assume a project in which the grantee incurs $100,000 of allowable costs and receives no third-party in-kind contributions. If the grantee earns $10,000 in general program income and this alternative applies, that $10,000 must be deducted from the $100,000 before applying the maximum percentage of Federal participation. If that pecentage is 90 percent, the most that could be paid to the grantee would therefore be $81,000 (90 percent times $90,000).

(d) *Cost-sharing or matching alternative.* (1) Under this alternative, the income is used for allowable costs of the project or program but, in this case, the costs borne by the income may count toward satisfying a cost-sharing or matching requirement. Therefore, the maximum percentage of Federal participation is applied to total allowable costs and third-party in-kind contributions. The income shall be used for current costs unless the granting agency authorizes deferral to a later period.

(2) To illustrate this alternative, assume the same situation as in paragraph (c)(2) of this section. Under this alternative, the 90 percent maximum pecentage of participation would be applied to the full $100,000, and $90,000 could therefore be paid to the grantee. (It should be noted that if $20,000 of general program income is earned, only $80,000 could be paid, since a grant cannot pay for costs which have been borne by general program income.)

(e) *Additional costs alternative.* Under this alternative, the income is used for costs which are in addition to the allowable costs of the project or program but which nevertheless further the objectives of the Federal statute under which the grant was made. Provided that the costs borne by the income further the broad objectives of that statute, they need not be of a kind that would be permissible as charges to Federal funds.

Examples of purposes for which the income may be used are:

(1) Expanding the project or program.

(2) Continuing the project or program after grant or subgrant support ends.

(3) Supporting other projects or programs that further the broad objectives of the statute.

(4) Obtaining equipment or other assets needed for the project or program or for other activities that further the statute's objectives.

§ 74.43 Program income—proceeds from sale of real property and from sale of equipment and supplies acquired for use.

The following kinds of program income shall be governed by subpart O of this part:

(a) Proceeds from the sale of real property purchased or constructed under a grant or subgrant.

(b) Proceeds from the sale of equipment and supplies fabricated or purchased under a grant or subgrant and intended primarily for use in the grant- or subgrant-supported project or program rather than for sale or rental.

§ 74.44 Program income—royalties and other income earned from a copyrighted work.

(a) This section applies to royalties, license fees, and other income earned by a recipient from a copyrighted work developed under the grant or subgrant. Income of that kind is covered by this section whether a third party or the recipient itself acts as the publisher, seller, exhibitor, or per-

former of the copyrighted work. In some cases the recipient incurs costs to earn the income but does not charge these costs to HEW grant funds, to required cost-sharing or matching funds, or to other program income. Costs of that kind may be deducted from the gross income in order to determine how much must be treated as program income.

(b) The terms of the grant govern the disposition of income subject to this section. If the terms do not treat this kind of income, there are no HEW requirements governing the disposition. A grantee is not prohibited from imposing requirements of its own on the disposition of this kind of income which is earned by its subgrantees provided those requirements are in addition to and not inconsistent with any requirements imposed by the terms of the grant.

§ 74.45 Program income—royalties or equivalent income earned from patents or from inventions.

Disposition of royalties or equivalent income earned on patents or inventions arising out of activities assisted by a grant or subgrant shall be governed by determinations made or agreements entered into under HEW's patent regulations. (See parts 6 and 8 of this title.) If the determination or agreement does not provide for the disposition of the royalties or equivalent income, the disposition shall be in accordance with the recipient's own policies.

§ 74.46 Program income—income after grant or subgrant support not otherwise treated.

(a) This section applies to program income not treated elsewhere in this part which arises from or is attributable to an activity while supported by a grant or subgrant but which does not accrue until after the period of grant or subgrant support. An example is proceeds from the sale or rental of a residual inventory of merchandise fabricated or purchased by a grant-supported workshop during the period of support.

(b) The terms of the grant govern the disposition of income subject to this section. If the terms do not treat this kind of income, there are no HEW requirements governing the disposition. A grantee is not prohibited from imposing requirements of its own on the disposition of this kind of income which is earned by its subgrantees provided those requirements are in addition to and not inconsistent with any requirements imposed by the terms of the grant.

§ 74.47 Interest earned on advances of grant funds.

(a) Except when exempted by Federal statute (see paragraph (b) of this section for the principal exemption), grantees shall remit to the Federal Government any interest or other investment income earned on advances of HEW grant funds. This includes any interest or investment income earned by subgrantees and cost-type contractors on advances to them that are attributable to advances of HEW grant funds to the grantee. Unless the grantee receives other instructions from the responsible HEW official, the grantee shall remit the amount due by check or money order payable to the Department of Health, Education, and Welfare.

(b) In accordance with the Intergovernmental Cooperation Act of 1968 (Pub. L. 90-577), States, as defined in the act, shall not be accountable to the Federal Government for interest or investment income earned by the State itself, or by its subgrantees, where this income is attributable to grants-in-aid, as defined in the act (42 U.S.C. 4213).[1]

(c) Recipients are cautioned that they are subject to the provisions in § 74.61(e) for minimizing the time between the transfer of advances and their disbursement. Those provisions apply even if there is no accountability to the Federal Government for interest or other investment income earned on the advances.

Subpart G—Cost Sharing or Matching

§ 74.50 Scope of subpart.

(a) This subpart contains rules for satisfying Federal requirements for cost sharing or matching. These rules apply whether the cost sharing or matching is required by Federal statute or by other terms of the grant.

(b) HEW and a grantee may enter into an institutional cost-sharing agreement covering all of HEW's research project grants to that grantee in the aggregate. Except as provided by the institutional cost-sharing agreement, this subpart applies to the satisfaction of the grantee's obligation under the agreement, as well as to the satisfaction of cost-sharing or matching requirements that apply only to a single grant.

§ 74.51 Definitions.

For purposes of this subpart:

"Cost sharing or matching" means the value of third-party in-kind contributions and that portion of the costs of a grant-supported project or program not borne by the Federal Government.

"Equipment" has the same meaning given to that term in § 74.132, except that instead of "acquisition cost," the words "market value at the time of donation" shall be substituted.

"Supplies" means all tangible personal property other than "equipment" as defined in this section.

"Third-party in-kind contributions" means property or services which benefit a grant-supported project or program and which are contributed by non-Federal third parties without charge to the grantee, the subgrantee, or a cost-type contractor under the grant or subgrant.

§ 74.52 Basic rule: Costs and contributions acceptable.

With the qualifications and exceptions listed in § 74.53, a cost-sharing or matching requirement may be satisfied by either or both of the following:

(a) Allowable costs incurred by the grantee, the subgrantee, or a cost-type contractor under the grant or subgrant. This includes allowable costs borne by non-Federal grants or by other cash donations from non-Federal third parties.

(b) The value of third-party in-kind contributions applicable to the period to which the cost-sharing or matching requirement applies.

§ 74.53 Qualifications and exceptions.

(a) *Costs borne by other Federal grants.* (1) Except as provided by Federal statute, a cost-sharing or matching requirement may not be met by costs borne by another Federal grant. This prohibition does not apply to costs borne by general program income earned from a contract awarded under another Federal grant.

(2) For the purposes of this part, general revenue sharing funds under 31 U.S.C. 1221 are not considered a Federal grant. Therefore, in the absence of any provision of Federal statute to the contrary, allowable costs borne by these funds may count towards satisfying a cost-sharing or matching requirement.

(b) *Costs or contributions counted towards other Federal cost-sharing requirements.* Neither costs nor the values of third-party in-kind contributions may count towards satisfying a cost-sharing or matching requirement of an HEW grant if they have been or will be counted towards satisfying a cost-sharing or matching requirement of another Federal grant, a Federal procurement contract, or any other award of Federal funds.

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[1] "State" is defined in the act to include any agency or instrumentality of a State, and the definition does not exclude a hospital or institution of higher education which is such an agency or instrumentality. "Grant-in-aid" is defined in the act to exclude "payments under research and development contracts or grants which are awarded directly and on similar terms to all qualifying organizations, whether public or private." (42 U.S.C. 4201)

(c) *Costs financed by general program income.* Costs financed by general program income, as defined in § 74.42, shall not count towards satisfying a cost-sharing or matching requirement of the HEW grant supporting the activity giving rise to the income unless the terms of the grant expressly permit the income to be used for cost sharing or matching. (This is the alternative for use of general program income described in § 74.42(d).)

(d) *Records.* Costs and third-party in-kind contributions counting towards satisfying a cost-sharing or matching requirement must be verifiable from the records of recipients or cost-type contractors. These records must show how the value placed on third-party in-kind contributions was arrived at. To the extent feasible, volunteer services shall be supported by the same methods that the organization uses to support the allocability of its regular personnel costs.

(e) *Special standards for third-party in-kind contributions.* (1) Third-party in-kind contributions shall count towards satisfying a cost-sharing or matching requirement only where, if the party receiving the contributions were to pay for them, the payments would be allowable costs.

(2) A third-party in kind contribution shall not count as direct cost sharing or matching where, if the party receiving the contribution were to pay for it, the payment would be an indirect cost. Cost-sharing or matching credit for such contributions shall be given only if the recipient or contractor has established, along with its regular indirect cost rate, a special rate for allocating to individual projects or programs the value of the contributions. (Information on how to establish these rates can be obtained from the Division of Cost Allocation in any HEW regional office's Regional Administrative Support Center.)

(3) The values placed on third-party in-kind contributions for cost-sharing or matching purposes shall conform to the rules in the succeeding sections of this subpart. If a third-party in-kind contribution is of a type not treated in those sections, the value placed upon it shall be fair and reasonable.

§ 74.54 Valuation of donated services.

(a) *Volunteer services.* Unpaid services provided to a recipient by individuals shall be valued at rates consistent with those ordinarily paid for similar work in the recipient's organization. If the recipient does not have employees performing similar work, the rates shall be consistent with those ordinarily paid by other employers for similar work in the same labor market. In either case, a reasonable amount for fringe benefits may be included in the valuation.

(b) *Employees of other organizations.* When an employer other than a recipient or cost-type contractor furnishes free of charge the services of an employee in the employee's normal line of work, the services shall be valued at the employee's regular rate of pay exclusive of the employer's fringe benefits and overhead costs. If the services are in a different line of work, paragraph (a) of this section shall apply.

§ 74.55 Valuation of donated supplies and loaned equipment or space.

(a) If a third party donates supplies, the contribution shall be valued at the market value of the supplies at the time of donation.

(b) If a third party donates the use of equipment or space in a building but retains title, the contribution shall be valued at the fair rental rate of the equipment or space.

§ 74.56 Valuation of donated equipment, buildings, and land.

If a third party donates equipment, buildings, or land, and title passes to a recipient, the treatment of the donated property shall depend upon the purpose of the grant or subgrant, as follows:

(a) *Awards for capital expenditures.* If the purpose of the grant or subgrant is to assist the recipient in the acquisition of property, the market value of that property at the time of donation may be counted as cost sharing or matching.

(b) *Other awards.* If assisting in the acquisition of property is not the purpose of the grant or subgrant, the following rules apply:

(1) If approval is obtained from the awarding party, the market value at the time of donation of the donated equipment or buildings and the fair rental rate of the donated land may be counted as cost sharing or matching. In the case of a subgrant, the terms of the HEW grant may require that the approval be obtained from the granting agency as well as the grantee. In all cases, the approval may be given only if a purchase of the equipment or buildings or a purchase or rental of the land would be approved as an allowable direct cost.

(2) If approval is not obtained under paragraph (b)(1) of this section, no amount may be counted for donated land, and only depreciation or use allowances may be counted for donated equipment and buildings. The depreciation or use allowances for this property are not treated as third-party in-kind contributions. Instead, they are treated as costs incurred by the recipient. They are computed and allocated (usually as indirect costs) in accordance with the cost principles specified in subpart Q of this part, in the same way as depreciation or use allowances for purchased equipment and buildings. The amount of depreciation or use allowances for donated equipment and buildings is based on the property's market value at the time it was donated.

§ 74.57 Appraisal of real property.

In some cases under §§ 74.55 and 74.56, it will be necessary to establish the market value of land or a building or the fair rental rate of land or of space in a building. In these cases, the granting agency may require that the market value or fair rental rate be established by a certified real property appraiser (or by a representative of the U.S. General Services Administration, if available) and that the value or rate be certified by a responsible official of the party to which the property or its use is donated. For subgrants, this requirement may also be imposed by the grantee.

Subpart H—Standards for Grantee and Subgrantee Financial Management Systems

§ 74.60 Scope of subpart.

This subpart prescribes standards for financial management systems of grant- and subgrant-supported activities. Awarding parties shall not impose additional standards on recipients unless specifically provided for in a Federal statute (e.g. the Joint Funding Simplification Act, Pub. L. 93-510) or these regulations. However, suggestions and assistance may be provided in establishing or improving financial management systems when needed or requested.

§ 74.61 Standards.

Grantees and subgrantees shall meet the following standards for their grant and subgrant financial management systems.

(a) *Financial reporting.* Accurate, current, and complete disclosure of the financial results of each project or program shall be made in accordance with the financial reporting requirements of the grant or subgrant. The terms of grants and subgrants shall not require financial reporting on the accrual basis if the recipient's accounting system is maintained on the cash basis. When accrual reporting is statutorily required, a recipient whose accounting system is not maintained on that basis shall not be required to convert it to the accrual basis; the recipient may develop the accrual information through an analysis of the documentation on hand.

(b) *Accounting records.* Records which identify adequately the source and application of funds for grant- or subgrant-supported activities shall be maintained. These records shall contain information pertaining to grant

or subgrant awards, authorizations, obligations, unobligated balances, assets, outlays, income, and, if the recipient is a government, liabilities.

(c) *Internal control.* Effective control and accountability shall be maintained for all grant or subgrant cash, real and personal property covered by subpart O of this part, and other assets. Recipients shall adequately safeguard all such property and shall assure that it is used solely for authorized purposes.

(d) *Budgetary control.* The actual and budgeted amounts for each grant or subgrant shall be compared. If appropriate or specifically required, recipients shall relate financial information to performance or productivity data, including the production of unit cost information. If unit cost data are required, estimates based on available documentation will be accepted whenever possible.

(e) *Advance payments.* Procedures shall be established to minimize the time elapsing between the advance of Federal grant or subgrant funds and their disbursement by the recipient. When advances are made by a letter-of-credit method, the recipient shall make drawdowns as close as possible to the time of making disbursements. Grantees advancing cash to subgrantees shall conform sustantially to the same standards of timing and amount as apply to advances by Federal agencies to grantees, including requirements for timely reporting of cash disbursements and balances. (See subpart K of this part.)

(f) *Allowable costs.* Procedures shall be established for determining the reasonableness, allowability, and allocability of costs in accordance with the applicable cost principles prescribed by subpart Q of this part and the terms of the grant.

(g) *Source documentation.* Accounting records shall be supported by source documentation such as cancelled checks, paid bills, payrolls, contract and subgrant award documents, etc.

(h) *Audits.*—(1) *General.* External or internal audits shall be made in accordance with generally accepted auditing standards, including the standards of the U.S. General Accounting Office's publication "Standards for Audit of Governmental Organizations Programs, Activities, and Functions."[1] The auditors engaged by the recipient shall meet the criteria for qualifications and independence in that publication.

(2) *Purpose and scope.* The purpose of these audits shall be to determine the effectiveness of the financial management systems and internal procedures established by the recipient to meet the terms of its grants and subgrants. The recipient's auditors need not examine every grant or subgrant awarded to the recipient. Rather, audits generally should be made on an organization-wide basis to test the fiscal integrity of financial transactions and compliance with the terms of awards. These tests would include an appropriate sampling of Federal grants and subgrants.

(3) *Frequency.* These audits shall be conducted on a continuing basis or at scheduled intervals, usually once a year, but at least every two years. The frequency shall depend on the nature, size and complexity of the recipient's grant- or subgrant-supported activities.

(4) *Relation to Federal audit.* These audits may affect the frequency and scope of Federal audit. However, nothing in this section is intended to limit the right of the Federal Government to conduct an audit of a grant- or subgrant-supported activity.

(5) *Audit resolution.* The recipient shall follow a systematic method to assure timely and appropriate resolution of audit findings and recommendations.

(6) *Copies of audit reports.* A copy of each audit report, and a description of its resolution, shall be furnished to the appropriate regional office of the HEW Audit Agency.

[1] Available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

Subpart I—Financial Reporting Requirements

§ 74.70 Scope and applicability of subpart.

(a) This subpart prescribes requirements and forms for grantees to report financial information to HEW, and to request grant payments when a letter of credit is not used.

(b) This subpart need not be applied by grantees in dealing with their subgrantees. However, grantees are encouraged not to impose on subgrantees more burdensome requirements than HEW imposes on grantees.

§ 74.71 Definitions.

As used in this subpart or in the forms identified by this subpart:

"Accrued expenditures" are the charges by grantee during a given period requiring the provision of funds for: (a) Goods and other tangible property received; (b) services performed by employees, contractors, subgrantees, and other payees; and (c) amounts "becoming owed" for which no current services or performance is required, such as annuities, insurance claims, and other benefit payments.

"Accrued income" is the sum of (a) earnings during a given period from services performed by the grantee and from goods and other tangible property delivered to purchasers, and (b) amounts becoming owed to the grantee for which no current services or performance is required by the grantee.

"Federal funds authorized" means the total amount of Federal funds obligated by the Federal Government and authorized for use by the grantee.

"In-kind contributions" means "third-party in-kind contributions" as defined in subpart G of this part.

"Obligations" are the amounts of orders placed, contracts and subgrants awarded, services received, and similar transactions during a given period, which will require payment during the same or a future period.

"Outlays" are charges made to the grant project or program. Outlays may be reported on a cash or accrual basis.

"Program income" has the same meaning it has in subpart F of this part.

"Unobligated balance" is the portion of the Federal funds authorized which has not been obligated by the grantee and is determined by deducting the grantee's cumulative obligations from the cumulative Federal funds authorized.

"Unliquidated obligations," for reports prepared on a cash basis, are the amount of obligations incurred by the grantee that has not been paid. For reports prepared on an accrued expenditure basis, they are the amount of obligations incurred by the grantee for which an outlay has not been recorded.

§ 74.72 General.

(a) Except as provided in paragraphs (d) and (e) of this section, grantees shall use only the forms specified in §§ 74.73 through 74.76, and such supplementary or other forms as may from time to time be authorized by OGP, for:

(1) Submitting grant financial reports to granting agencies, or

(2) Requesting advances or reimbursements when letters of credit are not used.

(b) Grantees shall follow all applicable standard instructions issued by OMB for use in connection with the forms specified in §§ 74.73 through 74.76. Granting agencies may issue substantive supplementary instructions only with the approval of OGP. Granting agencies may shade out or instruct the grantee to disregard any line item that the granting agency finds unnecessary for its decision making purposes.

(c) Grantees will not be required to submit more than the original and two copies of forms required under this subpart.

(d) Granting agencies may provide computer outputs to grantees to expedite or contribute to the accuracy of reporting. Granting agencies may

accept the required information from grantees in machine usable format or computer printouts instead of prescribed formats.

(e) When a granting agency has determined that a grantee's accounting system does not meet the standards for financial management systems contained in subpart H of this part, it may require financial reports with more frequency or more detail (or both), upon written notice to the grantee (without regard to § 74.7), until such time as the standards are met.

(f) HEW may waive any report required by this subpart if not needed.

(g) Granting agencies may extend the due date for any financial report upon receiving a justified request from the grantee.

§ 74.73 Financial Status Report.

(a) *Form.* Grantees shall use Standard Form 269, Financial Status Report, to report the Status of funds for all nonconstruction grants.

(b) *Accounting basis.* Each grantee shall report program outlays and program income on the same accounting basis, i.e., cash or accrued expenditure (accrual), which it uses in its accounting system.

(c) *Frequency.* The granting agency may prescribe the frequency of the report for each project or program. However, the report shall not be required more frequently than quarterly except as provided in §§ 74.7 and 74.72(e). If the granting agency does not specify the frequency of the report, it shall be submitted annually. A final report shall be required upon expiration or termination of grant support.

(d) *Due date.* When reports are required on a quarterly or semiannual basis, they shall be due 30 days after the reporting period. When required on an annual basis, they shall be due 90 days after the grant year. Final reports shall be due 90 days after the expiration or termination of grant support.

§ 74.74 Federal Cash Transactions Report.

(a) *Form.* (1) For grants paid by letters of credit (or Treasury check advances) through any HEW payment office except the Departmental Federal Assistance Financing System (DFAFS), the grantee shall submit to the payment office Standard Form 272, Federal Cash Transactions Report, and when necessary, its continuation sheet, Standard Form 272a. For grants paid by DFAFS, the grantee shall submit DFAFS Report 27, Recipient Report of Expenditures, to DFAFS.

(2) These reports will be used by the HEW payment office to monitor cash advanced to grantees and to obtain disbursement or outlay information for each grant from grantees. The format of the report may be adapted as appropriate when reporting is to be accomplished with the assistance of automatic data processing equipment: *Provided,* That the information to be submitted is not changed in substance.

(b) *Forecasts of Federal cash requirements.* Forecasts of Federal cash requirements may be required in the "Remarks" section of the report.

(c) *Cash in hands of secondary recipients.* When considered necessary and feasible by the responsible HEW payment office, grantees may be required to report the amount of cash subadvances in excess of three days' needs in the hands of their subgrantees or contractors and to provide short narrative explanations of actions taken by the grantee to reduce the excess balances.

(d) *Frequency and due date.* Grantees shall submit the report no later than 15 working days following the end of each quarter. However, where a letter of credit authorizes advances at an annualized rate of one million dollars or more, the HEW payment office may require the report to be submitted within 15 working days following the end of each month.

§ 74.75 Request for Advance or Reimbursement.

(a)(1) *Advance payments.* Requests for Treasury check advance payments shall be submitted on Standard Form 270, Request for Advance or Reimbursement. (This form is not used for drawdowns under a letter of credit or when Treasury check advance payments are made to the grantee automatically on a predetermined basis.)

(2) *Reimbursements.* Requests for reimbursement under non-construction grants shall also be submitted on Standard Form 270. (For reimbursement requests under construction grants, see § 74.76(a).)

(b) The frequency for submitting payment requests is treated in § 74.96.

§ 74.76 Outlay report and request for reimbursement for construction programs.

(a) *Construction grants paid by reimbursement method.* (1) Requests for reimbursement under construction grants shall be submitted on Standard Form 271, Outlay Report and Request for Reimbursement for Construction Programs. Granting agencies may, however, prescribe the Request for Advance or Reimbursement form specified in § 74.75 instead of this form.

(2) The frequency for submitting reimbursement requests is treated in § 74.96.

(b) *Construction grants paid by letter of credit or Treasury check advance.* (1) When a construction grant is paid by letter of credit or Treasury check advances, the grantee shall report its outlays to the granting agency using Standard Form 271, Outlay Report and Request for Reimbursement for Construction Programs. The granting agency will provide any necessary special instruction. However, frequency and due date shall be governed by § 74.73(c) and (d).

(2) When a construction grant is paid by Treasury check advances based on periodic requests from the grantee, the advances shall be requested on the form specified in § 74.75.

(3) The granting agency may substitute the Financial Status Report specified in § 74.73 for the Outlay Report and Request for Reimbursement.

(c) *Accounting basis.* The accounting basis for the Outlay Report and Request for Reimbursement for Construction Programs shall be governed by § 74.73(b).

Subpart J—Monitoring and Reporting of Program Performance

§ 74.80 Scope of subpart.

This subpart sets forth the procedures for monitoring and reporting program performance of recipients. These procedures are designed to place reliance on recipients to manage the day-to-day operations of their grant- and subgrant-supported activities.

§ 74.81 Monitoring by recipients.

Recipients shall monitor the performance of grant- and subgrant-supported activities. They shall review each program, function, or activity to assure that adequate progress is being made towards achieving the goals of the grant or subgrant.

§ 74.82 Performance reports under nonconstruction grants.

(a) Where the granting agency determines that performance information sufficient to meet its programmatic needs will be available from subsequent applications, the granting agency will require the grantee to submit a performance report only upon expiration or termination of grant support. This report will be due on the same date as the final financial Status Report unless waived by the granting agency. Note that the "Application for Federal Assistance (Nonconstruction Programs)" prescribed by subpart N of this part, when used to request continued support, provides information substantially equivalent to a performance report.

(b) Except as provided in paragraph (a) of this section, grantees shall submit annual performance reports unless the granting agency requires quarterly or semiannual reports. Annual reports shall be due 90 days

after the grant year; quarterly or semiannual reports shall be due 30 days after the reporting period. A final performance report shall be due 90 days after the expiration or termination of grant support. Granting agencies may extend the due date for any performance report upon receiving a justified request from the grantee. In addition, granting agencies may waive the requirement for any performance report which is not needed.

(c) The content of performance reports shall conform to any instructions issued by the granting agency, including, to the extent appropriate to the particular grant, a brief presentation of the following for each program, function, or activity involved:

(1) A comparison of actual accomplishments to the goals established for the period. Where the output of the project or program can be readily expressed in numbers, a computation of the cost per unit of output may be required if that information will be useful.

(2) The reasons for slippage if established goals were not met.

(3) Other pertinent information including, when appropriate, analysis and explanation of unexpectedly high overall or unit costs.

(d) Grantees will not be required to submit more than the original and two copies of performance reports.

(e) Grantees shall adhere to the standards in paragraphs (a) through (d) of this section in prescribing performance reporting requirements for subgrantees.

§ 74.83 Performance reports under construction grants.

In general, awarding parties rely heavily on on-site technical inspection and certified percentage-of-completion data to keep themselves informed as to progress under construction grants and subgrants. Formal performance reports to supplement those sources of information shall be required only if considered necessary by the awarding party, and in no case more frequently than quarterly.

§ 74.84 Significant developments between scheduled reporting dates.

Between the scheduled performance reporting dates, events may occur which have significant impact upon the grant- or subgrant-supported activity. In such cases, the recipient shall inform the awarding party as soon as the following types of conditions become known:

(a) Problems, delays, or adverse conditions which will materially impair the ability to attain the objective of the award. This disclosure shall be accompanied by a statement of the action taken, or contemplated, and any assistance needed to resolve the situation.

(b) Favorable developments which enable meeting time schedules and goals sooner or at less cost than anticipated or producing more beneficial results than originally projected.

§ 74.85 Site visits.

Site visits may be made as necessary by representatives of HEW to:

(a) Review program accomplishments and management control systems.

(b) Provide such technical assistance as may be required.

Subpart K—Grant and Subgrant Payment Requirements

§ 74.90 Scope of subpart.

This subpart prescribes the basic standard and the methods under which HEW will make grant payments to grantees, and grantees will make subgrant payments to their subgrantees.

§ 74.91 Definitions.

As used in this subpart:

"Advance by Treasury check" is a payment made by a Treasury check to a grantee, upon its periodic request or through the use of predetermined payment schedules, before payments are made by the grantee.

"Letter of credit" is an instrument certified by an authorized official which authorizes a recipient to draw funds needed for immediate disbursement in accordance with Treasury Circular No. 1075.

"Percentage of completion method" refers to a system under which payments are made for construction work according to the percentage of completion of the work, rather than to the grantee's rate of disbursements.

§ 74.92 Basic standard.

Methods and procedures for making payments to recipients shall minimize the time elapsing between the transfer of funds and the recipient's disbursements.

§ 74.93 Payment methods under nonconstruction grants.

(a) Letters of credit will be used to pay HEW grantees when all of the following conditions exist:

(1) There is or will be a continuing relationship between the grantee and the HEW payment office for at least a year and the total amount of advances to be received from the HEW payment office is $120,000 or more per year,

(2) The grantee has maintained, or demonstrated to HEW the willingness and ability to maintain, procedures that minimize the time elapsing between the transfer of funds from the Treasury and their disbursement by the grantee, and

(3) The grantee's financial management system meets the standards for fund control and accountability in Subpart H of this part.

(b) Advances by Treasury check will be used, in accordance with Treasury Circular No. 1075, when the grantee does not meet the requirements in paragraph (a)(1) of this section but does meet the requirements in paragraphs (a) (2) and (3) of this section.

(c) Reimbursement by Treasury check will be preferred method when the requirements of either paragraph (a)(2) or paragraph (a)(3) of this section are not met. This method may also be used when the major portion of the program is accomplished through private market financing or Federal loans, and the Federal grant assistance constitutes a minor portion of the program.

§ 74.94 Payment methods under construction grants.

(a) Reimbursement by Treasury check shall be the preferred method when the grantee does not meet the requirements specified in § 74.93(a) (2) or (3), and may be used for any HEW construction grant unless HEW has entered into an agreement with the grantee to use a letter of credit for all HEW grants, including construction grants.

(b) When the reimbursement by Treasury check method is not used, § 74.93 (a) and (b) shall apply to the construction grant. Implementing procedures under § 74.93 (a) and (b) will be insofar as possible the same for construction grants as for nonconstruction grants awarded to the same grantee.

(c) HEW will not use the percentage of completion method to pay its construction grants. The grantee may use that method to pay its construction contractor, but if it does, HEW's payments to the grantee will nevertheless be based on the grantee's actual rate of disbursements.

§ 74.95 Withholding of payments.

(a) Unless otherwise required by Federal statute, payments for proper charges incurred by grantees will not be withheld unless (1) the grantee has failed to comply with Federal reporting requirements or (2) the grant is suspended pursuant to § 74.114 or (3) the grantee owes money to the United States and collection of the debt by withholding grant payments will not impair the accomplishment of the objectives of any grant program sponsored by the United States.

(b) Cash withheld for failure to comply with reporting requirements but without suspension of the grant will be released to the grantee upon

subsequent compliance. When a grant is suspended, payment adjustments will be made in accordance with § 74.114. When a debt is to be collected, HEW may withhold payments or require appropriate accounting adjustments to recorded grant cash balances for which the grantee is accountable to the Federal Government, in order to liquidate the indebtedness.

§ 74.96 Requesting advances or reimbursements.

(a) If advances are made by Treasury check and the advances are not prescheduled, the grantee shall submit its requests for payment monthly. Less frequent requests are not permitted because they would result in advances covering excessive periods of time.

(b) If payments are made through reimbursement by Treasury check, the grantee may submit its requests for reimbursement monthly and may submit them more often if authorized. The grantee will be paid as promptly as possible, ordinarily within 30 days after receipt of a proper request for reimbursement.

(c) The forms for requesting advances or reimbursements are identified in subpart I of this part.

§ 74.97 Payments to subgrantees.

Grantees shall observe the requirements of this subpart in making (or withholding) payments to subgrantees, with the following exceptions:

(a) Advance payment by check may be used instead of letter of credit;

(b) The forms specified in subpart I of this part for requesting advances and reimbursements are not required to be used by subgrantees; and

(c) The reimbursement by check method may be used to pay any construction subgrant, whether or not HEW has agreed to use a letter of credit for all direct HEW grants to that same recipient.

Subpart L—Programmatic Changes and Budget Revisions

§ 74.100 Scope and applicability of this subpart.

(a) *Scope.* This subpart deals with prior approval requirements for post-award programmatic changes and budget revisions by recipients.

(b) *Exemption of mandatory grants.* Sections 74.103 through 74.106 do not apply to programmatic changes or budget revisions made by grantees under State plan or other grants which the granting agency is required by law to award if the applicant meets all applicable requirements for entitlement. (These are generally called "mandatory" or "formula" grants.)

(c) *Exemption of certain subgrants.* Sections 74.103 through 74.106 do not apply to subgrants from States to their local governments under a mandatory or formula grant, if the local government is not required to apply for the subgrant on a project basis. Generally, such exempt subgrants will occur under a State plan which provides for local administration of a State-wide program under State supervision.

§ 74.101 Relationship to cost principles.

The cost principles in Appendices C, D, E, and F to this part contain requirements for prior approval of certain types of costs (see § 74.176). Except when waived, those requirements apply to all grants and subgrants even if §§ 74.103 through 74.106 do not.

§ 74.102 Prior approval procedures.

(a) *For grants.* When requesting a prior approval required by this subpart, grantees shall address their requests to the responsible grants officer of the granting agency. Approvals shall not be valid unless they are in writing and signed by either the grants officer, the head of the granting agency, or the head of the granting agency's regional office.

(b) *For subgrants.* Grantees shall be responsible for reviewing requests from their subgrantees for the approvals required by this subpart and for giving or denying the approval. A grantee shall not approve any action which is inconsistent with the purpose or terms of the Federal grant. If an action by a subgrantee will result in a change in the overall grant project or budget requiring granting agency approval, the grantee shall obtain that approval before giving its approval to the subgrantee. Approvals shall not be valid unless they are in writing and signed by an authorized official of the grantee.

(c) *Timing.* Within 30 days from the date of receipt of a request for approval, the approval authority shall review the request and notify the recipient of its decision. If the request for approval is still under consideration at the end of 30 days, the approval authority shall inform the recipient in writing as to when to expect the decision.

§ 74.103 Programmatic changes.

(a) *Scope.* This section contains requirements for prior approval of departures, other than budget revisions, from approved project plans. In addition to the requirements in this section, awarding parties may require prior approval for other kinds of programmatic changes to an approved grant or subgrant project.

(b) *Changes to project scope or objectives.* The recipient shall obtain prior approval for any change to the scope or objectives of the approved project. (For construction projects, any material change in approved space utilization or functional layout shall be considered a change in scope.)

(c) *Changes in key people.* The recipient of a grant or subgrant for research (or any other kind of grant or subgrant if the terms of the award make this rule applicable) shall obtain prior approval:

(1) To continue the project during any continuous period of more than 3 months without the active direction of an approved project director or principal investigator; or

(2) To replace the project director or principal investigator (or any other persons named and expressly identified as key project people in the notice of grant or subgrant award) or to permit any such people to devote substantially less effort to the project than was anticipated when the grant or subgrant was awarded.

(d) *Other programmatic changes.* The following shall require prior approval except to the extent explicitly included in the project plan as approved by the awarding party at the time of award:

(1) Providing financial assistance to a third party by subgranting or any other means.

(2) Tranferring to a third party, by contracting or any other means, the actual performance of the substantive programmatic work. The term "substantive programmatic work" means activities which are central to carrying out the purpose of the project, and not merely incidental. Transfer of substantive programmatic work does not include purchase of supplies, materials, or equipment; acquisition of general or incidental support services; obtaining advice; or transfer of activities whose cost is treated as an indirect cost.

(3) Providing medical care to individuals under research grants.

§ 74.104 Budgets generally.

(a) *Definitions.* In this subpart:

(1) "Budget" means the recipient's financial plan for carrying out the project or program.

(2) "Approved budget" means a budget (including any revised budget) which has been approved by the awarding party.

(b) *Research project budgets.* For research projects, approved budgets shall not include the recipient's share of project costs.

(c) *Non-research project budgets.* For non-research projects which involve cost sharing or matching, approved budgets shall ordinarily consist of a single set of figures covering total project cost (the sum of the awarding party's share and the recipient's share). However, the awarding party may specify that the recipient's share not be included in the approved

budget. In no case, however, shall the approved budget be in the form of a separate set of figures for each share.

(d) *Subdivision by programmatic segments.* Some grants and subgrants encompass two or more programmatic segments (such as discrete programs, projects, functions, or types of activities). In these cases, the awarding party may require that the approved budget be subdivided to show the anticipated cost of each programmatic segment.

§ 74.105 Budget revisions—nonconstruction projects.

(a) Except as provided in paragraph (b) of this section, the recipient of a grant or subgrant having an approved budget shall obtain prior approval for any budget revision which will:

(1) Involve transfer of amounts budgeted for indirect costs to absorb increases in direct costs, or

(2) Involve transfer of amounts previously budgeted for student support (tuition waivers, stipends, and other payments to or for trainees), or

(3) Result in a need for the award of additional funds, e.g., an increase in the base upon which indirect costs are calculated which will increase allocable indirect costs and result in a claim for a supplementary award.

(b) Any or all of the prior approval requirements in paragraph (a) of this section may be waived by the awarding party.

(c) Except as provided in §§ 74.107 and 74.176, other budget changes under nonconstruction grants do not require approval.

§ 74.106 Budget revisions—cosntruction projects.

Unless provided otherwise by the terms of the grant or subgrant, revisions to construction project budgets do not require approval.

§ 74.107 Construction and nonconstruction work under the same grant or subgrant.

When a grant or subgrant provides support for both construction and nonconstruction work, the awarding party may require prior approval before any fund or budget transfers between the two types of work.

§ 74.108 Authorized funds exceeding needs.

The recipient shall notify the awarding party promptly whenever the amount of grant or subgrant authorized funds is expected to exceed needs by more than $5,000 or 5 percent of the grant or subgrant, whichever is greater. This notification will not be required under continuing grants or subgrants if the application for the next period's funding will include an estimate of what the unobligated balance of authorized funds will be at the end of the current period.

Subpart M—Grant and Subgrant Closeout, Suspension, and Termination

§ 74.110 Definitions.

"Grant closeout" means the process by which a granting agency determines that all applicable administrative actions and all required work of the grant have been completed by the grantee and the granting agency.

"Suspension" of a grant means temporary withdrawal of the grantee's authority to obligate grant funds pending corrective action by the grantee or a decision to terminate the grant.

"Termination" of a grant means permanent withdrawal of the grantee's authority to obligate previously awarded grant funds before that authority would otherwise expire. It also means the voluntary relinquishment of that authority by the grantee. "Termination" does not include:

(a) Withdrawal of funds awarded on the basis of the grantee's underestimate of the unobligated balance in a prior period;

(b) Refusal by the granting agency to extend a grant or award additional funds (such as refusal to make a competing or noncompeting continuation, renewal, extension, or supplemental award);

(c) Withdrawal of the unobligated balance as of the expiration of a grant;

(d) Annulment, i.e., voiding, of a grant upon determination that the award was obtained fraudulently, or was otherwise illegal or invalid from inception.

§ 74.111 Closeout.

(a) Each grant shall be closed out as promptly as is feasible after expiration or termination.

(b) In closing out HEW grants, the following shall be observed:

(1) Upon request, HEW shall promptly pay the grantee for any allowable reimbursable costs not covered by previous payments.

(2) The grantee shall immediately refund or otherwise dispose of, in accordance with instructions from HEW, any unobligated balance of cash advanced to the grantee.

(3) The grantee shall submit, within 90 days of the date of expiration or termination, all financial, performance, and other reports required by the terms of the grant. HEW may extend the due date for any report upon receiving a justified request from the grantee, and may waive any report which is not needed.

(4) The granting agency shall make a settlement for any upward or downward adjustment of the Federal share of costs, to the extent called for by the terms of the grant.

(c)(1) The closeout of a grant does not affect the retention period for, or Federal rights of access to, grant records. See subpart D of this part.

(2) If a grant is closed out without audit, the granting agency retains the right to disallow and recover an appropriate amount after fully considering any recommended disallowances resulting from an audit which may be conducted later.

(3) The closeout of a grant does not affect the grantee's responsibilities with respect to property under subpart O of this part, or with respect to any program income for which the grantee is still accountable under subpart F of this part.

§ 74.112 Amounts payable to the Federal Government.

For each grant, the following sums shall constitute a debt or debts owed by the grantee to the Federal Government, and shall, if not paid upon demand, be recovered from the grantee or its successor or assignees by setoff or other action as provided by law:

(a) Any grant funds paid to the grantee by the Federal Government in excess of the amount to which the grantee is finally determined to be entitled under the terms of the grant;

(b) Any interest or other investment income earned on advances of grant funds which is due the Federal Government pursuant to § 74.47;

(c) Any royalties or other special classes of program income which, under the terms of the grant, are required to be remitted to the Federal Government (see subpart F of this part);

(d) Any amounts due the Federal Government under subpart O of this part; and

(e) Any other amounts finally determined to be due the Federal Government under the terms of the grant.

§ 74.113 Violation of terms.

(a) When a grantee has materially failed to comply with the terms of a grant, the granting agency may suspend the grant, in accordance with § 74.114, terminate the grant for cause, as provided in § 74.115, or take such other remedies as may be legally available and appropriate in the circumstances.

(b) If a project or program is supported over two or more funding periods, a grant may be suspended or terminated in the current period for failure to submit a report still due from a prior period.

§ 74.114 Suspension.

(a) When a grantee has materially failed to comply with the terms of a grant, the granting agency may, upon reasonable notice to the grantee, suspend the grant in whole or in part.

The notice of suspension will state the reasons for the suspension, any corrective action required of the grantee, and the effective date. The suspension may be made effective at once if a delayed effective date would be unreasonable considering the granting agency's responsibilities to protect the Federal Government's interest. Suspensions shall remain in effect until the grantee has taken corrective action satisfactory to the granting agency, or given evidence satisfactory to the granting agency that such corrective action will be taken, or until the granting agency terminates the grant.

(b) New obligations incurred by the grantee during the suspension period will not be allowed unless the granting agency expressly authorizes them in the notice of suspension or an amendment to it. Necessary and otherwise allowable costs which the grantee could not reasonably avoid during the suspension period will be allowed if they result from obligations properly incurred by the grantee before the effective date of the suspension and not in anticipation of suspension or termination. At the discretion of the granting agency, third-party in-kind contributions applicable to the suspension period may be allowed in satisfaction of cost sharing or matching requirements.

(c) Appropriate adjustments to payments under the suspended grant will be made either by withholding subsequent payments or by not allowing the grantee credit for disbursements made in payment of unauthorized obligations incurred during the suspension period.

§ 74.115 Termination.

(a) *Termination for cause.* The granting agency may terminate any grant in whole, or in part, at any time before the date of expiration, whenever it determines that the grantee has materially failed to comply with the terms of the grant. The granting agency shall promptly notify the grantee in writing of the determination and the reasons for the termination, together with the effective date.

(b) *Termination on other grounds.* Except as provided in paragraph (a) of this section, grants may be terminated in whole or in part only as follows:

(1) By the granting agency with the consent of the grantee, in which case the two parties shall agree upon the termination conditions, including the effective date and in the case of partial terminations, the portion to be terminated, or

(2) By the grantee, upon written notification to the granting agency, setting forth the reasons for such termination, the effective date, and in the case of partial terminations, the portion to be terminated. However, if, in the case of a partial termination, the granting agency determines that the remaining portion of the grant will not accomplish the purposes for which the grant was made, the granting agency may terminate the grant in its entirety under either paragraph (a) or paragraph (b)(1) of this section.

(c) *Termination settlements.* When a grant is terminated, the grantee shall not incur new obligations for the terminated portion after the effective date, and shall cancel as many outstanding obligations as possible. The granting agency shall allow full credit to the grantee for the Federal share of the noncancellable obligations properly incurred by the grantee prior to termination.

§ 74.116 Applicability to subgrants.

Grantees shall adhere to the same standards regarding closeout, suspension, and termination of subgrants as are prescribed in this subpart for granting agencies.

Subpart N—Forms for Applying for Grants

§ 74.120 Scope of subpart.

(a) This subpart prescribes forms and instructions to be used by governmental organizations (except hospitals and institutions of higher education operated by a government) in applying to HEW for grants. This subpart is not applicable, however, to mandatory or formula grant programs which do not require applicants to apply to HEW for funds on a project basis.

(b) This subpart permits granting agencies to prescribe the form of applications by nongovernmental organizations (including hospitals and institutions of higher education operated by a government), but prescribes the use of a standard facesheet for certain of these applications.

(c) This subpart applies only to applications for grants, and is not required to be applied by grantees in dealing with applicants for subgrants. However, grantees are encouraged not to adopt more detailed or burdensome application requirements for subgrants.

§ 74.121 Authorized forms and instructions for governmental organizations.

(a) In applying to HEW for grants, governments shall use only the forms specified in §§ 74.122 through 74.126, and such supplementary or other forms as may from time to time be prescribed by the granting agency with the approval of OGP.

(b) Governments will not be required to submit more than the original and two copies of their applications.

(c) Governments shall follow all applicable standard instructions promulgated by OMB for use in connection with the forms specified in §§ 74.122 through 74.126. Granting agencies may specify and describe the programs, functions, or activities that will be used to plan, budget, and evaluate the work under a grant. Other supplementary instructions may be issued only with the approval of OGP. For any form, the granting agency may shade out or instruct the applicant to disregard any line item that is not needed.

(d) When a government applies for additional funding (such as a continuation or supplemental award) or amends a previously submitted application, only the facesheet and any other affected pages need be submitted. Previously submitted pages whose information is still current need not be resubmitted.

§ 74.122 Preapplications for Federal Assistance for governmental organizations.

(a) When a preapplication is submitted by a government, the preapplication for Federal assistance form prescribed by OMB Circular A-102 shall be used. The purposes of preapplications shall be to:

(1) Establish communication between the applicant and the granting agency;

(2) Determine the applicant's eligibility;

(3) Determine how well the project can compete with similar applications from others in order to discourage proposals which have little or no chance for Federal funding before applicants incur significant expenditures for preparing an application.

(b) Preapplication shall be mandatory when the potential applicant is a government and the proposed project (1) is for construction, land acquisition, or land development, and (2) would require more than $100,000 of Federal funding. The granting agency may require preapplications regardless of the type of project and regardless of the estimated amount of Federal funding. In addition, any government may submit a preapplication even when not required by the granting agency.

§ 74.123 Notice of preapplication review action for governmental organizations.

The notice of preapplication review action form prescribed by attachment M of OMB Circular No. A-102 will be used by granting agencies to inform governmental applicants of the results of the review of the preapplications submitted to them. The granting agency will send a notice to the applicant ordinarily within 45 days of the receipt of the preapplication form. If the review cannot be made within 45 days, the applicant will be informed by

letter as to when the review will be completed.

§ 74.124 Application for Federal assistance (nonconstruction programs) for governmental organizations.

The applicant for Federal assistance (nonconstruction programs) form prescribed by attachment M of OMB Circular No. A-102 shall be used by governments in applying for any grant to which this subpart is applicable except where a form specified in § 74.125 or § 74.126 is to be used.

§ 74.125 Application for Federal assistance (for construction programs) for governmental organizations.

The applicant for Federal assistance (for construction programs) form prescribed by attachment M of OMB Circular No. A-102 shall be used by governments in applying for any grant whose purpose is soley or primarily construction, land acquisition, or land development.

§ 74.126 Application for Federal assistance (short form) for governmental organizations.

The applicant for Federal assistance (short form) form prescribed by attachment M of OMB Circular No. A-102 shall be used by governments in applying for any single-purpose one-time grant of less than $10,000 not requiring clearinghouse review, an environmental impact statement, or the relocation of persons, businesses, or farms. Granting agencies may, at their discretion, authorize or prescribe this form for applications for larger amounts.

§ 74.127 Authorized forms and instructions for nongovernmental organizations.

Nongovernmental organizations shall use application forms and instructions prescribed by the granting agency, except that the facesheet of such applications shall be standard form 424 for grants under programs covered by attachment A. part I, of OMB Circular No. A-95.

Subpart O—Property

General

§ 74.130 Scope and applicability of this subpart.

(a) Except as explained in paragraphs (c), (d), and (e) of this section this subpart applies to real property, equipment, and supplies acquired with grant support. To be considered acquired with grant support, some or all of the property's acquisition cost must be a direct cost under the grant, a subgrant, or a cost-type contract and must be either borne by grant funds or counted toward satisfying a grant cost-sharing or matching requirement.

(b) This subpart also deals with inventions, patents, and copyrights arising out of activities assisted by a grant or subgrant.

(c) This subpart does not apply to—

(1) Property for which only depreciation or use allowances are charged;

(2) Property donated entirely as a third-party in-kind contribution (as defined in § 74.51); or

(3) Equipment or supplies acquired primarily for sale or rental rather than for use.

(d) Equipment or supplies acquired by a contractor under a grant or subgrant shall be subject to this subpart only if, by terms of the contract, title vests in the grantee or subgrantee.

(e) For research grants that are subject to an institutional cost-sharing agreement (see § 74.50(b)), real property, equipment, and supplies shall be subject to this subpart only if at least some part of the acquisition cost is borne as a direct cost by Federal grant funds.

§ 74.131 Prohibition against additional requirements.

Recipients may follow their own property management policies and procedures: *Provided,* They observe the requirements of this subpart. Awarding parties may not impose on recipients property requirements (including property reporting requirements) not authorize by this subpart, unless specifically required by Federal statutes or Executive Orders.

§ 74.132 Definitions.

As used in this subpart:

"Acquisition" of property includes purchase, construction, or fabrication of property, but does not include rental of property or alterations and renovations of real property.

"Acquisition cost" of an item of purchased equipment means the net invoice price of the equipment, including the cost of modifications, attachments, accessories, or auxiliary apparatus necessary to make the equipment usable for the purpose for which it was acquired. Other charges such as the cost of installation, transportation, taxes, duty or protective in-transit insurance shall be included in or excluded from the unit acquisition cost in accordance with the regular accounting practices of the organization purchasing the equipment. If the item is acquired by trading in another item and paying an additional amount, "acquisition cost" means the amount received for trade-in plus the additional outlay.

"Amount received for trade-in" of an item of equipment traded in for replacement equipment means the amount that would have been paid for the replacement equipment without a trade-in minus the amount paid with the trade-in. The term refers to the actual difference, not necessarily the trade-in value shown on an invoice.

"Equipment" means tangible personal property having a useful life of more than one year and an acquisition cost of $300 or more per unit except that organizations subject to Cost Accounting Standards Board (CASB) regulations may use the CASB standard of $500 or more per unit and useful life of two years. An organization may use its own definition of equipment: *Provided,* That such definition would at least include all tangible personal property as defined herein.

"Personal property" means property of any kind except real property. It may be tangible—having physical existence, or intangible—having no physical existence, such as patents, inventions, and copyrights.

"Real property" means land, including land improvements, structures and appurtenances thereto, but excluding movable machinery and equipment.

"Replacement equipment" means property acquired to take the place of other equipment. To qualify as replacement equipment, it must serve the same function as the equipment replaced and must be of the same nature or character, although not necessarily the same model, grade, or quality.

"Supplies" means all tangible personal property other than equipment.

§ 74.133 Title to real property, equipment, and supplies.

Subject to the obligations and conditions set forth in this subpart, title to real property, equipment, and supplies acquired under a grant or subgrant shall vest, upon acquisition, in the grantee or subgrantee respectively.

Real Property

§ 74.134 Real property.

Except as otherwise provided by federal statutes, real property to which this subpart applies shall be subject to the following requirements, in addition to any other requirements imposed by the terms of the grant:

(a) *Use.* The property shall be used for the originally authorized purpose as long as needed for that purpose. When no longer so needed, approval of the granting agency may be requested to use the property for other purposes. Use for other purposes shall be limited to:

(1) Projects or programs supported by other Federal grants or assistance agreements.

(2) Activities not supported by other Federal grants or assistance agreements but having, nevertheless, purposes consistent with those of the leg-

islation under which the original grant was made.

(b) *Transfer of title.* Approval may be requested from the granting agency to transfer title to an eligible third party for continued use for authorized purposes in accordance with paragraph (a) of this section. If approval is permissable under Federal statutes and is given, the terms of the transfer shall provide that the transferee shall assume all the rights and obligations of the transferor set forth in this subpart or in other terms of the grant or subgrant.

(c) *Disposition.* When the real property is no longer to be used as provided in paragraphs (a) and (b) of this section, the disposition instructions of the granting agency shall be followed. Those instructions will provide for one of the following alternatives:

(1) The property shall be sold and the Federal Government shall be paid an amount computed by multiplying the Federal share of the property (see § 74.142) times the proceeds from sale (after deducting actual and reasonable selling and fix-up expenses, if any, from the sales proceeds). Proper sales procedures shall be used that provide for competition to the extent practicable and result in the highest possible return.

(2) The recipient shall have the option either of selling the property in accordance with paragraph (c)(1) of this section or of retaining title. If title is retained, the Federal Government shall be paid an amount computed by multiplying the market value of the property by the Federal share of the property.

(3) The recipient shall transfer the title to either the Federal Government or an eligible non-Federal party named by the granting agency. The grantee shall be entitled to be paid an amount computed by multiplying the market value of the property by the non-Federal share of the property. If the property belonged to a subgrantee, see § 74.143 for subgrantee's share.

EQUIPMENT AND SUPPLIES

§ 74.135 Exemptions for equipment and supplies subject to certain statutes.

(a) Some Federal statutes, in certain circumstances, permit title to equipment or supplies acquired with grant funds to vest in the recipient without further obligation to the Federal Government or on such terms and conditions as deemed appropriate. An example of such a statute is the Federal Grant and Cooperative Agreement Act of 1977, Pub. L. 95-224, which provides this authority for equipment and supplies purchased with the funds of grants (and Federal contracts and cooperative agreements) for the conduct of basic or applied scientific research at nonprofit institutions of higher education or at nonprofit organizations whose primary purpose is the conduct of scientific research.

(b) If equipment is subject to a statute of the kind described in paragraph (a) of this section, it shall be exempt from the requirements in the remaining sections of this subpart. However, an item of such equipment having a unit acquisition cost of $1,000 or more shall be subject to § 74.136, concerning rights to require transfer, and, while subject to such a right, to the rules on replacement in § 74.138.

(c) If supplies are subject to a statute of the kind described in paragraph (a) of this section, they shall be exempt from all provisions of the remainder of this subpart which would otherwise apply.

§ 74.136 Rights to require transfer of equipment.

(a) *HEW right.* For items of equipment having a unit acquisition cost of $1,000 or more, the granting agency shall have the right to require transfer of the equipment (including title) to the Federal Government or to an eligible non-Federal party named by the granting agency. This right will normally be exercised by HEW granting agencies only if the project or program for which the equipment was acquired is transferred from one grantee to another. The right shall be subject to the following conditions:

(1) In order for the granting agency to exercise the right, a specific notice that it is exercising the right or considering doing so must be issued no later than the 120th day after the end of HEW grant support for the project or program for which the equipment was acquired. Furthermore:

(i) If the equipment is eligible for the exemptions in § 74.135 and ceases to be needed for the project or program for which it was acquired while the project or program is still being performed by the recipient, the notice must have been received by the grantee while the equipment was still needed for that project or program.

(ii) If the equipment is not eligible for those exemptions, the notice must have been received by the grantee before other permissible disposition of the equipment took place in accordance with § 74.139.

(2) If the right is exercised, the grantee shall be entitled to be paid any reasonable, resulting shipping or storage costs incurred, plus an amount computed by multiplying the market value of the equipment by the non-Federal share of the equipment. (See §§ 74.142 and 74.143.)

(b) *Right of parties awarding subgrants.* When a grantee awards a subgrant, it may reserve for itself a right similar to that in paragraph (a) of this section for items of equipment having a unit acquisition cost of $1,000 or more which are acquired under that subgrant. Without the approval of the granting agency, the right may be exercised only if the project or program for which the equipment was acquired is transferred to another subgrantee and only for the purpose of transferring the equipment to the new subgrantee for continued use in the project or program.

(c) *Equipment lists.* If at any time an awarding party is considering exercising its right to require transfer of equipment, it may require the recipient to furnish it a listing of all items of equipment that are subject to the right. This will enable the awarding party to determine which items, if any, should be transferred.

§ 74.137 Use of equipment.

(a) *Basic rule.* Equipment which has not been transferred under § 74.136 shall be used by the recipient in the project or program for which it was acquired as long as needed, whether or not the project or program continues to be supported by Federal funds. When no longer needed for the original project or program, the recipient shall use the equipment, if needed, in other projects or programs currently or previously sponsored by the Federal Government, in the following order of priority:

(1) Projects or programs currently or previously sponsored by the same granting agency.

(2) Projects or programs currently or previously sponsored by other Federal agencies.

(b) *Shared use* If equipment is being used less than full time in the project or program for which it was originally acquired, the recipient shall make it available for use in other projects or programs currently or previously sponsored by the Federal Government: *Provided,* Such other use will not interfere with the work on the original project or program. First preference for such other use shall be given to other projects or programs sponsored by the same granting agency.

(c) *Use by other recipients.* When the recipient can no longer use the equipment as required by paragraph (a) of this section, it may voluntarily make the equipment available for use on projects or programs currently or previously sponsored by the Federal Government which the recipient is supporting through subgrants or through non-Federal grants. If the recipient is a subgrantee, it may also voluntarily make the equipment available for use on projects or programs currently or previously sponsored by the Federal Government which are being conducted or supported by the grantee.

(d) *Other uses.* Unless the granting agency provides otherwise, while

equipment is being used as described in the preceding paragraphs of this section, it may also be used part time for other purposes. However, use as described in those paragraphs shall be given priority over other uses.

§ 74.138 Replacement of equipment.

(a) Equipment may be exchanged for replacement equipment if needed. The replacement may take place either through trade-in or through sale and application of the proceeds to the acquisition cost of the replacement equipment. In either case, the transaction must be one which a prudent person would make in like circumstances.

(b) If an additional outlay to acquire the replacement equipment is charged as a direct cost to either Federal funds or required cost-sharing or matching under a Federal award, the replacement equipment shall be subject to whatever property requirements or exemptions are applicable to that award. If the award is a grant from HEW, the full acquisition cost of the replacement equipment shall determine which provisions of this subpart apply.

(c) For any replacement not covered by paragraph (b) of this section, the provisions of this subpart applicable to the equipment replaced shall carry over to the replacement equipment. However, none of the provisions of this subpart shall carry over if (1) the Federal share of the equipment replaced was 10 percent or less or (2) the product of that share times the amount received for trade-in or sale is $100 or less.

§ 74.139 Disposition of equipment.

When original or replacement equipment is no longer to be used in projects or programs currently or previously sponsored by the Federal Government, disposition of the equipment shall be made as follows:

(a) *Equipment with a unit acquisition cost of less than $1,000 and equipment with no further use value.* The equipment may be retained, sold, or otherwise disposed of, with no further obligation to the Federal Government.

(b) *All other equipment.* (1) The equipment may be retained or sold, and the Federal Government shall have a right to an amount calculated by multiplying the current market value or the proceeds from sale by the Federal share of the equipment (see § 74.142). If part of the Federal share in the equipment came from an award under which the exemptions in § 74.135 were applicable, the amount due shall be reduced pro rata. In any case, if the equipment is sold, $100 or 10 percent of the total sales proceeds, whichever is greater, may be deducted and retained from the amount otherwise due for selling and handling expenses.

(2) If the grantee's project or program for which or under which the equipment was acquired is still receiving grant support from the same Federal program and if the granting agency approves, the net amount due may be used for allowable costs of that project or program. Otherwise, the net amount must be remitted to the granting agency by check.

§ 74.140 Equipment management requirements.

Procedures for managing equipment (including replacement equipment) until transfer, replacement, or disposition takes place shall, as a minimum, meet the following requirements:

(a) Property records shall be maintained accurately. (Retention and access requirements for these records are explained in subpart D of this part.) For each item of equipment, the records shall include:

(1) A description of the equipment, including manufacturer's model number, if any.

(2) An identification number, such as the manufacturer's serial number.

(3) Identification of the grant under which the recipient acquired the equipment.

(4) The information needed to calculate the Federal share of the equipment. (See § 74.142.)

(5) Acquisition date and unit acquisition cost.

(6) Location, use, and condition of the equipment and the date the information was reported.

(7) All pertinent information on the ultimate transfer, replacement, or disposition of the equipment.

(b) A physical inventory of equipment shall be taken and the results reconciled with the property records at least once every 2 years to verify the existence, current utilization, and continued need for the equipment. A statistical sampling basis is acceptable. Any differences between quantities determined by the physical inspection and those shown in the accounting records shall be investigated to determine the causes of the differences.

(c) A control system shall be in effect to insure adequate safeguards to prevent loss, damage, or theft of the equipment. Any loss, damage, or theft of equipment shall be investigated and fully documented.

(d) Adequate maintenance procedures shall be implemented to keep the equipment in good condition.

(e) Where equipment is to be sold and the Federal Government is to have a right to part or all of the proceeds, selling procedures shall be established which will provide for competition to the extent practicable and result in the highest possible return.

§ 74.141 Supplies.

(a) If supplies exceeding $1,000 in total aggregate market value are left over upon termination or expiration of the grant or subgrant for which they were acquired and the supplies are not needed for any project or program currently or previously sponsored by the Federal Government, the grant shall be credited by an amount computed by multiplying the Federal share of the supplies times the current market value or, if the supplies are sold, the proceeds from sale. If the supplies are sold, 10 percent of the proceeds may be deducted and retained from the credit, for selling and handling expenses.

(b) For possible exemptions from this section, see § 74.135.

FEDERAL SHARE OF REAL PROPERTY, EQUIPMENT, AND SUPPLIES

§ 74.142 Federal share of property.

Several sections of this subpart require a determination of the Federal (or non-Federal) share of real property, equipment, or supplies. In making such a determination, the following principles shall be observed:

(a) *General.* (1) Except as explained in the succeeding paragraphs of this section, the Federal share of the property shall be the same percentage as the Federal share of the acquiring party's total costs under the grant during the grant or subgrant year (or other funding period) to which the acquisition cost of the property was charged. For this purpose, "costs under the grant" means allowable costs which are either borne by the grant or counted towards satisfying a cost-sharing or matching requirement of the grant. Only costs are to be counted—not the value of third-party in-kind contributions. Moreover, if the property was acquired by a grantee that awarded subgrants, costs incurred by its subgrantees shall be included only to the extent borne by the subgrants. (For example, if a subgrantee incurred $200,000 of project costs, of which $150,000 was borne by the subgrant, only the $150,000 shall be included in the grantee's costs.)

(2) If the property is acquired by a subgrantee, the Federal share of the subgrantee's costs under the grant and hence of the property shall be calculated by multiplying the Federal share of the grantee's costs by the latter's share of the subgrantee's costs. For example, if the Federal share of a grantee's costs is 50 percent and the subgrant bears only 50 percent of a subgrantee's costs, then the Federal share of that subgrantee's costs (and of the property acquired by that subgrantee) is 25 percent.

(b) *Property acquired only partly under a grant.* (1) Sometimes only a

part of the acquisition cost of an item of property is borne as a direct cost by the grant or counted as a direct cost towards a cost-sharing or matching requirement. The remainder might, for example, represent voluntary cost sharing or matching, or it might be charged to a different activity. Occasionally, the amount paid for the property is only a part of its value, and the remainder is donated as an in-kind contribution by the party that provided the property.

(2) To calculate the Federal share of such property, first determine the Federal share of the acquiring party's total costs under the grant, as explained in the paragraph (a) of this section. Then multiply that share by the percentage of the property's acquisition cost (or its market value, if the item was partly donated) which was borne as a direct cost by the grant or counted as a direct cost towards a cost-sharing or matching requirement.

(c) *Replacement equipment.* The Federal share of replacement equipment shall be calculated as follows:

(1) *Step 1.* Determine the Federal share (percentage) of the equipment replaced.

(2) *Step 2.* Determine the percentage of the replacement equipment's cost that was covered by the amount received for trade-in or the sales proceeds from the equipment replaced.

(3) *Step 3.* Multiply the step 1 percentage by the step 2 percentage.

(4) *Step 4.* If an additional outlay for the replacement equipment was charged as a direct cost either to HEW grant funds or to required cost-sharing or matching funds, calculate the Federal share attributable to that additional outlay as explained in paragraph (b)(2) of this section. Add that additional percentage to the step 3 percentage.

(d) *Institutional cost-sharing agreements.* If a grant is subject to an institutional cost-sharing agreement (see § 74.130(e)), the Federal share of property acquired under the grant shall be calculated as though there were no cost-sharing requirement applicable to the grant (that is, as if all the grantee's cost sharing were voluntary).

§ 74.143 Subgrantee's share of market value or sales proceeds.

Where this subpart requires a sharing of the market value or sales proceeds of property acquired under a subgrant, the non-Federal share shall be proportionally divided between the grantee and the subgrantee. The subgrantee shall be entitled to the amount it would have received or retained if the award to it had been made directly by the Federal Government. The remainder of the non-Federal share shall belong to the grantee.

INTANGIBLE PERSONAL PROPERTY

§ 74.144 Inventions and patents.

HEW's regulations on inventions and patents arising out of activities assisted by a grant are set forth in parts 6 and 8 of this title.

§ 74.145 Copyrights.

(a) *Works under grants.* Unless otherwise provided by the terms of the grant, when copyrightable material is developed in the course of or under a grant, the grantee is free to copyright the material or permit others to do so.

(b) *Works under subgrants.* Unless otherwise provided by the terms of the grant or subgrant, when copyrightable material is developed in the course of or under a subgrant, the subgrantee is free to copyright the material or permit others to do so.

(c) *HEW rights.* If any copyrightable material is developed in the course of or under a HEW grant or subgrant, HEW shall have a royalty-free, nonexclusive, and irrevocable right to reproduce, publish, or otherwise use, and to authorize others to use, the work for Federal Government purposes. A grantee awarding a subgrant may reserve a similar right for itself with respect to copyrightable material developed under that subgrant.

(d) *Exemption of student-developed works.* HEW awards training grants and other kinds of grants under which individuals are provided stipends or other financial assistance for the primary purpose of aiding them to further their education or training. Except as provided by the terms of the grant, copyrightable material developed by an individual or group of individuals in the course of education or training pursued with such assistance shall not be subject to the HEW right described in paragraph (c) of this section, unless the development of the material also receives other forms of support under the same or another HEW grant (such as a research grant).

Subpart P—Procurement Standards

§ 74.160 Scope of subpart; terminology.

(a) This subpart contains standards for use by recipients in establishing procedures for the procurement of supplies, equipment, construction, and other services whose cost is borne in whole or in part as a direct cost by Federal grant funds.

(b) No additional procurement standards or requirements shall be imposed by awarding parties upon recipients unless specifically required by Federal statutes or Executive Orders.

(c) As used in this subpart:

(1) "Formal advertising" refers to that procurement method which involves adequate purchase description, sealed bids, and public opening of bids.

(2) "Negotiation" refers to any method of procurement other than formal advertising.

§ 74.161 General.

(a) Recipients may use their own procurement policies: *Provided,* That procurements subject to this subpart are made in accordance with the standards in this subpart.

(b) The standards in this subpart do not relieve the recipient of the contractual responsibilities arising under its contracts. The recipient is the responsible authority, without recourse to HEW, regarding issues arising out of its procurements. This includes but is not limited to: Disputes, claims, protests of award, source evaluation, or other matters of a contractual nature. Matters concerning violation of law are to be referred to such local, State, or Federal authority as may have proper jurisdiction.

§ 74.162 Code of conduct.

(a) The recipient shall maintain a code or standards of conduct that shall govern the performance of its officers, employees or agents engaged in the awarding and administration of contracts that are subject to this subpart. The code or standards shall provide for disciplinary actions to be applied for violations of the code or standards by the recipient's officers, employees, or agents. For governmental recipients, such disciplinary actions are required only to the extent otherwise permissible under the Government's laws, rules, or regulations. To the extent permissible under its laws, rules, or regulations, the governmental recipient shall also provide for actions to be taken against contractors or their agents who wrongfully take part in a violation of the code or standards of conduct.

(b) The recipient's officers, employees or agents shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or potential contractors. This is not intended to preclude bona-fide institutional fund-raising activities.

(c) No employee, officer, or agent of a nongovernmental recipient shall participate in the selection, award, or administration of a contract subject to this subpart where, to his or her knowledge, any of the following has a financial interest in that contract:

(i) The employee, officer, or agent;

(ii) Any member of his or her immediate family;

(iii) His or her partner;

(iv) An organization in which any of the above is an officer, director, or employee;

(v) A person or organization with whom any of the above individuals is negotiating or has any arrangement concerning prospective employment.

§ 74.163 Free competition.

(a) All procurement transactions shall be conducted in a manner to provide, to the maximum extent practicable, open and free competition.

(b) The recipient should be alert to organizational conflicts of interest or noncompetitive practices among contractors that may restrict or eliminate competition or otherwise restrain trade. In particular, a contractor that develops or drafts specifications, requirements, a statement of work, an invitation for bids or a request for proposals for a particular procurement by a nongovernmental recipient should be excluded from competing for that procurement except when, upon request of the recipient, the granting agency waives this requirement for a particular procurement.

(c) Solicitations shall clearly set forth all requirements that the bidder/offerer must fulfill in order for his bid/offer to be evaluated. Awards shall be made to the responsible bidder/offeror whose bid/offer is responsive to the solicitation and is most advantageous to the recipient, price and other factors considered. Factors such as discounts, transportation costs, and taxes may be considered in determining the lowest bid. Any and all bids/offers may be rejected when it is in the recipient's interest to do so, and, in the case of governmental recipients, such rejections are in accordance with the government's applicable law, rules, or regulations.

§ 74.164 Procedural requirements.

The recipient shall establish procurement procedures which provide for, as a minimum, the following:

(a) Proposed procurement actions shall follow a procedure to assure that unnecessary or duplicative items are not purchased. Where appropriate, an analysis shall be made of lease and purchase alternatives to determine which would be the most economical, practical procurement.

(b) Solicitations for goods and services shall be based upon a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description shall not, in competitive procurements, contain features which unduly restrict competition. "Brand name or equal" description may be used as a means to define the performance or other salient requirements of a procurement, and when so used the specific features of the named brand which must be met by bidders/offerors should be clearly specified.

(c) Where applicable, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e(b)) shall be observed.

(d) Positive efforts shall be made by procuring parties to utilize small business and minority-owned business sources of supplies and services. Such efforts should allow these sources the maximum feasible opportunity to compete for contracts subject to this subpart. [1]

(e) The type of procuring instruments used—e.g., fixed-price contracts, cost reimbursable contracts, purchase orders, incentive contracts—shall be determined by the recipient but must be appropriate for the particular procurement and for promoting the best interest of the grant project or program involved. The "cost-plus-a-percentage-of-cost" method of contracting shall not be used.

(f) Contracts shall be made only with responsible contractors who possess the potential ability to perform successfully under the terms and conditions of a proposed procurement. Consideration shall be given to such matters as contractor integrity, record of past performance, financial and technical resources or accessibility to other necessary resources.

(g) The terms of the grant may require that the following be submitted for prior approval of the granting agency if the aggregate expenditure is expected to exceed $5,000: (1) Any proposed sole source contract and (2) any contract which a nongovernmental recipient proposes to award after seeking competition but receiving only one bid or proposal.

(h) Nongovernmental recipients should make some form of price or cost analysis in connection with every negotiated procurement action. Price analysis may be accomplished in various ways, including the comparison of price quotations submitted, market prices and similar indicia, together with discounts. Cost analysis is the review and evaluation of each element of cost proposed by the offeror to determine reasonableness, allocability and allowability.

(i) Procurement records and files for purchases in excess of $10,000 shall include the following:

(1) Basis for contractor selection;

(2) Justification for lack of competition when competitive bids or offers are not obtained;

(3) Basis for award cost or price.

(j) A system for contract administration shall be maintained to ensure contractor conformance with terms, conditions and specifications of the contract, and to ensure adequate and timely followup of all purchases.

§ 74.165 Requirement for governments to use formal advertising.

(a) Except as provided in paragraph (b) of this section, in making procurements that are subject to this subpart, governmental recipients shall use formal advertising.

(b) Procurements may be negotiated if it is not practicable or feasible to use formal advertising. Generally, such procurements may be negotiated if one or more of the following conditions prevail:

(1) The public exigency will not permit the delay incident to advertising.

(2) The material or service to be procured is available from only one person or firm.

(3) The aggregate amount involved does not exceed $10,000.

(4) The contract is for personal or professional services, or for any service to be rendered by a university, college, or other educational institution.

(5) The material or services are to be procured and used outside the limits of the United States and its possessions.

(6) No acceptable bids have been received after formal advertising.

(7) The purchases are for highly perishable materials or medical supplies, for material or services where the prices are established by law, for technical items or equipment requiring standardization and interchangeability of parts with existing equipment, for experimental, developmental or research work, for supplies purchased for authorized resale, or for technical or specialized supplies requiring substantial intitial investment for manufacture.

(8) Formal advertising is otherwise not practicable or feasible, and negotiation is authorized by applicable law, rules, or regulations.

(c) Notwithstanding the existence of circumstances justifying negotiation, competition shall be obtained to the maximum extent practicable.

(d) For every negotiated procurement in excess of $10,000 by a governmental recipient, written justification for the use of negotiation in lieu of formal advertising shall be included in the government's procurement records and files, in addition to the information required by § 74.164(i). The justification may be on a class basis, i.e., covering a group of related or similar contracts, or it may be on an individual contract basis.

§ 74.166 Contract provisions.

(a) *Scope.* This section contains requirements relating to provisions that

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[1] Advice and assistance regarding the use of small or minority businesses may be obtained from the following Federal organizations:

1. The Small Business Administration and its field offices.

2. The Office of Minority Business Enterprise, Department of Commerce.

3. The Office of Facilities Engineering, HEW and its regional offices (for assistance in identifying minority-owned firms interested in performing construction, alteration, or renovation work).

4. The Office for Civil Rights, HEW.

5. The Office of Grants and Procurement, HEW.

must be included in contracts that are subject to this part. The requirements shall also apply to subcontracts of any tier under such contracts, and the term "contracts" in this section shall be construed as including subcontracts.

(b) *General.* All contracts shall contain sufficient provisions to define a sound and complete agreement.

(c) *Administrative remedies for violations.* Contracts in excess of $10,000 shall contain contractual provisions or conditions that will allow for administrative, contractual or legal remedies in instances in which contractors violate or breach contract terms, and provide for such remedial actions as appropriate.

(d) *Termination provisions.* Contracts in excess of $10,000 shall contain suitable provisions for termination by the party awarding the contract, including the manner by which termination will be effected and the basis for settlement. These contracts shall describe conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the contractor.

(e) *E.O. 11246.* Where applicable, construction contracts in excess of $10,000 shall contain a provision requiring compliance with Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41 CFR Part 60).

(f) *Copeland Act.* Contracts in excess of $2,000 for construction or repair shall include a provision for compliance with the Copeland "Anti-Kick-Back Act" (18 U.S.C. 874) as supplemented in Department of Labor regulation (29 CFR Part 3). All suspected or reported violations shall be reported to the granting agency by the grantee.

(g) *Davis-Bacon Act.* When required by the Federal legislation governing the grant program, all construction contracts in excess of $2,000 shall include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 276a to a-7) as supplemented by Department of Labor regulations (29 CFR Part 5). All suspected or reported violations shall be reported to the granting agency by the grantee.

(h) *Contract Work Hours and Safety Standards Act.* All contracts subject to the Contract Work Hours and Safety Standards Act (40 U.S.C. 327 et seq.) shall include a provision requiring the contractor to comply with the applicable sections of the act and the Department of Labor's supplementing regulations (29 CFR Parts 5 and 1926).

(i) *Inventions and patents.* Contracts which may give rise to inventions subject to parts 6 and 8 of this title shall include a provision requiring compliance with those parts.

(j) *Access to Records.* Contracts that are subject to Subpart D of this part shall include a provision reflecting § 74.24(c) on rights of access to the contractor's records.

(k) *Clean Air and Water Acts.* Contracts in excess of $100,000 shall contain provisions requiring compliance with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act as amended (42 U.S.C. 1857 et seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et seq.). Violations shall be reported in writing to the appropriate regional office of the Environmental Protection Agency, and a copy of the report shall be submitted to the granting agency. (See 40 CFR Part 15 for relevant regulations of the Environmental Protection Agency.)

Subpart Q—Cost Principles

§ 74.170 Scope of subpart.

This subpart identifies the principles to be used in determining costs applicable to grants, subgrants, and cost-type contracts under grants and subgrants.

§ 74.171 Governments.

The principles to be used in determining the allowable costs of activities conducted or administered by governments are in appendix C to this part.

§ 74.172 Institutions of higher education.

(a) *Research and development.* The principles for determining the allowable costs of research and development work performed by institutions of higher education (other than for-profit institutions) are in part I of appendix D to this part.

(b) *Training and other educational services.* The principles for determining the allowable costs of training and other educational services provided by institutions of higher education (other than for-profit institutions) are in part II of appendix D to this part.

(c) *Other activities.* Appendix D to this part shall be used as a guide for determining the allowable costs of other activities conducted by institutions of higher education (other than for-profit institutions).

§ 74.173 Hospitals.

(a) *Research and development.* The principles for determining the allowable costs of research and development work performed by hospitals are in Appendix E to this part.

(b) *Other activities.* Appendix E to this part shall be used as a guide for determining the allowable costs of other activities conducted by hospitals.

§ 74.174 Other nonprofit organizations.

(a) *Nonconstruction awards.* Under nonconstruction awards, the principles for determining the allowable costs of activities conducted by nonprofit organizations other than institutions of higher education, hospitals, and governmental organizations are in Appendix F to this part.

(b) *Construction awards.* Appendix F to this part shall be used as a guide for determining the allowable costs of work under construction awards to nonprofit organizations (other than institutions of higher education, hospitals and governmental organizations).

§ 74.175 Subgrants and cost-type contracts.

(a) The cost principles applicable to a subgrantee or cost-type contractor under an HEW grant will not necessarily be the same as those applicable to the grantee. For example, where a State government awards a subgrant or cost-type contract to an institution of higher education, Appendix D to this part would apply to the costs incurred by the institution of higher education, even though Appendix C would apply to the costs incurred by the State.

(b) The principles to be used in determining the allowable costs of work performed by for-profit organizations (other than hospitals) under cost-type contracts awarded to them under HEW grants are in 41 CFR Subpart 1-15.2.

§ 74.176 Costs allowable with approval.

Each set of cost principles identifies certain costs that, in order to be allowable, must be approved by the granting agency. Other costs do not require approval. The following procedures govern approval of these costs.

(a) When costs are treated as indirect costs (or are allocated pursuant to a government-wide cost allocation plan), acceptance of the costs as part of the indirect cost rate or cost allocation plan shall constitute approval.

(b)(1) When the costs are treated as direct costs, they must be approved in advance by the awarding party.

(2) If the costs are specified in the budget, approval of the budget shall constitute approval of the costs.

(3) If the costs are not specified in the budget, or there is no approved budget, the recipient shall obtain specific prior approval in writing from the awarding party. For this purpose the prior approval procedures of § 74.102 shall be followed, except that for formula or mandatory grants, the granting agency's written approval may be signed by any authorized official of the granting agency.

(c) The awarding party may waive or conditionally waive the requirement

for its approval of the costs. Such a waiver shall apply only to the requirement for approval. If, upon audit or otherwise, it is determined that the costs do not meet other requirements or tests for allowability specified by the applicable cost principles, such as reasonableness and necessity, the costs may be disallowed.

(d) In the case of subgrants and cost-type contracts, no approval shall be given which is inconsistent with the purpose or the terms of the Federal grant.

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federal register

WEDNESDAY, AUGUST 2, 1978
PART VI



DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

■

REGIONAL ADMINISTRATORS, ET AL.

Redelegation of Authority With Respect to the Community Development Block Grant Programs

[4210-01]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. D-78-504]

REGIONAL ADMINISTRATORS ET AL.

Redelegation of Authority With Respect to the Community Development Block Grant Programs

AGENCY: Department of Housing and Urban Development.

ACTION: Redelegation of authority.

SUMMARY: This redelegation of authority amendment is issued to consolidate previous amendments to the February 5, 1975, redelegation and to make necessary revisions to incorporate the new legislative amendments contained in title I of the Housing and Community Development Act of 1977 (Pub. L. 95-128). It will also give the Regional Administrators and their subordinate officials new powers and authority with respect to the community development block grant program, including the authority to disapprove small cities discretionary grant applications and finally, it will authorize the officials in section A of this redelegation to waive the timing requirements of 24 CFR Part 570 and Part 571 for submission of full applications, grantee performance reports, A-95 reviews, and audits for a period not to exceed 2 calendar months.

EFFECTIVE DATE: August 2, 1978.

FOR FURTHER INFORMATION CONTACT:

Betsy B. Tibbs or Robert Rusin, Dir., Org. and Mgmt. Div., Off. of Mgmt. Community, Planning and Development, U.S. Department of Housing and Urban Development, Room 7254, 202-755-5649.

SUPPLEMENTARY INFORMATION: A delegation of authority from the Secretary to the Assistant Secretary for Community Planning and Development was published in the FEDERAL REGISTER February 5, 1975, at 40 FR 5385, with respect to the community development block grant program pursuant to title I of the Housing and Community Development Act of 1974 (43 U.S.C. 5301). Pursuant to that delegation the Assistant Secretary for Community Planning and Development is redelegating certain power and authority to implement the program to the Regional Administrators and their subordinate officials. The redelegation of authority published February 5, 1975, at 40 FR 5386, as amended is being amended to include revisions and additional activities that were made eligible pursuant to title I of the Housing and Community Development Act of 1977 (Pub. L. 95-128).

Accordingly, the Assistant Secretary for Community Planning and Development redelegates authority as follows:

SECTION A. Authority redelegated. Each Regional Administrator, Deputy Regional Administrator, Area Manager, Deputy Area Manager, and the Director of Regional Community Planning and Development in region VIII is authorized to exercise the power and authority of the Assistant Secretary for Community Planning and Development with respect to the community development block grant program, pursuant to title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301), as amended, except as provided in section B of this redelegation of authority. In regions VIII and IX, the power and authority of the Assistant Secretary under section 107(a)(7) is redelegated to the Regional Administrator, Deputy Regional Administrator, and Director, Office of Indian Programs. Each Regional Administrator is further authorized to suspend the power and authority specified in this section, of any Area Manager in his/her region through execution and publication of an appropriate suspension notice.

SEC. B. Authority excepted. There is excepted from the authority redelegated under section A the power to:

1. Disapprove applications for entitlement grants filed pursuant to section 104 (42 U.S.C. 5304).

2. Terminate, reduce or limit the availability of grant payments pursuant to section 111(a) (42 U.S.C. 5311).

3. Adjust entitlement grants pursuant to section 104(d) (42 U.S.C. 5304).

4. Approve or disapprove applications filed pursuant to section 107(a)(1) and 107(a)(4) (42 U.S.C. 5307).

5. Reallocate funds to other States pursuant to sections 106(e) or 106(f)(2), except that only Regional Administrators and Deputy Regional Administrators are authorized to reallocate amounts within the same State (42 U.S.C. 5306).

6. Determine basic grant amounts for metropolitan cities and urban counties pursuant to section 106(b) and determine hold-harmless amounts for those localities entitled thereto pursuant to section 106 (g) and (h) (42 U.S.C. 5306).

7. Determine the qualifications of localities for status which entitles them to special consideration. This includes but is not limited to the determination of qualifications of counties as urban counties pursuant to section 102(a)(6) (42 U.S.C. 5302), the determination of what constitutes a city pursuant to section 102(a)(5) (42 U.S.C. 5302), the determination of levels of physical and economic distress of cities and urban counties for eligibility for urban development action grants pursuant to section 119(b) (42 U.S.C. 5318), and the determination of what constitutes a new community for purposes of section 107(a)(1) (42 U.S.C. 5307).

8. Approve and disapprove urban development action grant applications filed pursuant to section 119(c) (42 U.S.C. 5318).

9. Approve a finding of ineligibility for urban development action grants based on the housing and equal opportunity factors pursuant to section 119(b) (42 U.S.C. 5318).

10. Grant waivers of the general terms and conditions of the community development block grant agreement.

11. Determine that an applicant lacks the legal capacity to assume or carry out environmental review responsibilities pursuant to section 104(h) (42 U.S.C. 5304).

12. Issue rules and regulations.

13. Waive any requirement of 24 CFR Parts 570 and 571, except that those officials designated in section A may waive the timing requirements for submission of full applications, grantee performance reports, A-95 reviews, and audits for a period not to exceed two calendar months.

14. Approve and disapprove loan guarantee applications filed pursuant to section 108 (42 U.S.C. 5308).

15. Redelegate any authority delegated under section A of this redelegation.

SEC. C. Effect of redelegation. The redelegation of authority made under section A of this redelegation shall not be construed to modify or otherwise affect the administrative and supervisory powers of the Regional Administrators and Deputy Regional Administrators to whom an Area Manager or other delegate is responsible or to affect any other program in any way.

(Title I, Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.); Title I, Housing and Community Development Act of 1977 (Pub. L. 95-128), and section 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d).)

Issued at Washington, D.C., July 27, 1978.

ROBERT C. EMBRY, Jr.,
Assistant Secretary for Community Planning and Development.

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