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Federal Register

WEDNESDAY, AUGUST 23, 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 has added a new listing to the weekly Reminders section published every Wednesday. The Wednesday Reminders section will now include a listing of grants related documents published in the FEDERAL REGISTER during the previous week.

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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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CSA	CSC		CSA	CSC
	LABOR			LABOR
	HEW/FDA			HEW/FDA

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 August 14, 1978, Community Services Administration (CSA) documents are being assigned to the Monday/Thursday schedule.

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reminders

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

Rules Going Into Effect Today

NOTE: There were no items eligible for inclusion in the list of RULES GOING INTO EFFECT TODAY.

Improving Government Regulations: Next Week's Deadlines for Comments on Agency Proposals

There were no items eligible for inclusion in today's list of deadlines for comments on agency proposals for improving Government regulations.

Next Week's Deadlines for Comments On Proposed Rules

AGRICULTURE DEPARTMENT

Farmers Home Administration—
- Business and industrial loan program; comments by 8-30-78 ....34490; 8-4-78
  [Originally published at 43 FR 28510, 6-30-78]
- Rural rental housing loan policies, procedures, and authorizations; comments by 8-28-78 (2 documents) 32399; 7-27-78; 33923; 8-2-78

Food Safety and Quality Service—
- Turkey and ham standards; comments by 8-31-78 .....24064; 6-2-78

Soil Conservation Service
- Rural Clean Water Program, long-term technical and financial assistance to owners and operators; comments by 8-28-78 .....26740; 6-22-78

ARTS AND HUMANITIES NATIONAL FOUNDATION

Non discrimination on the basis of handicap; comments by 9-1-78 .....26589; 6-21-78
[Originally published at 43 FR 15737, 4-14-78]

Programs and activities receiving or benefiting from Federal financial assistance; comments by 9-1-78 .....15458; 4-13-78

CIVIL SERVICE COMMISSION

Survivor Annuity Benefits for Illegitimate Children; comments by 8-28-78 .....27843; 6-27-78

COMMERCE DEPARTMENT

Maritime Administration—
- Emergencies affecting national securities to the utilization of port facilities and appointment of Federal port controllers; comments by 8-31-78 ....28818; 7-3-78

National Oceanic and Atmospheric Administration—
- Coastal zone management program approval regulations; comments extended to 8-31-78 .....29106; 7-6-78
  [Originally published at 43 FR 8378, Mar. 1, 1978]
- 1979 fee schedule for foreign fishing; comments by 8-29-78 .....33776; 8-1-78

COST ACCOUNTING STANDARDS BOARD

Exemption of contracts and subcontracts with foreign concerns from certain individual standards under certain conditions; comments by 8-31-78 .....33252; 7-31-78

ENERGY DEPARTMENT

Floodplain/wetlands; compliance with environmental review requirements; comments by 8-28-78 .....31108; 7-19-78

Thermal properties of building shells and insulation materials; national program plan; comments by 8-31-78 .....30862; 7-18-78

Economic Regulatory Administration—
- Contingency gasoline rationing plan; comments by 8-31-78 .....28134; 6-28-78

Federal Energy Regulatory Commission—
- Review of settlement agreements; comments by 8-31-78 .....32814; 7-28-78

ENVIRONMENTAL PROTECTION AGENCY

Air quality implementation plans; various States:
- California; comments by 8-28-78 . 28214; 6-28-78
- California, San Joaquin County Air Pollution Control District's Rules and Regulations; comments by 8-28-78 ..... 28003; 6-28-78
- Idaho's Department of Health and Welfare; designated facilities and pollutants; comments by 8-31-78 .. 33749; 8-1-78
- Kentucky; permission to delay compliance; comments by 8-30-78 ..... 33261; 7-31-78
- Kentucky; comments by 8-28-78 . 32440; 7-27-78
- Idaho; State and Federal orders permitting compliance delay; comments by 8-28-78 ..... 32827; 7-28-78
- New York and New Jersey; enforcement by State and Federal governments after statutory deadlines (3 documents); comments by 8-31-78 ..... 33750-33754; 8-1-78

Effluent guidelines and standards electroplating point source category pretreatment standards for existing sources; comments by 8-30-78 ..... 33940; 8-2-78

Establishment of tolerance for pesticide chemical methidathion on safflower seed; comments by 8-30-78 ... 33263; 7-31-78

Establishment of tolerances for malathion on wild rice; comments by 8-30-78 ... 33264; 7-31-78

Revocation of EPA sulfur dioxide regulations for the Navajo generating station, Arizona; comments by 8-28-78 ... 28213; 6-29-78

Water quality standards; navigable waters of the State of Mississippi; comments by 8-28-78 ..... 30076; 7-13-78

FEDERAL COMMUNICATIONS COMMISSION

Broadcast equal employment opportunity; inclusion of the handicapped; comments by 8-29-78 ..... 30078; 7-13-78

Cable television certificate of compliance process; proposed rule changes; reply comments by 9-1-78 ..... 30845; 7-18-78

FM broadcast stations; changes in table of assignments:
- Klamath Falls, Oreg.; comments by 8-28-78 ..... 30079; 7-13-78
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Jurisdictional separation of telephone companies; integration of rates and services between U.S. Mainland and Hawaii, Alaska, and Puerto Rico/Virgin Islands; comments by 8-28-78 ..... 30840; 7-18-78

Spanish international network, request for authorized user status under the Communications Satellite Act, 1972; comments by 9-1-78..... 33942; 8-2-78

Television broadcast stations; table of assignments:
- Alexandria, La.; reply comments by 8-28-78 ..... 26083; 6-16-78

Use of single sideband emission A3J (suppressed carrier) on the maritime mobile service radiotelephone frequency 2182 kHz; comments by 8-28-78 ..... 32835; 7-28-78

FEDERAL RESERVE SYSTEM

Interest on deposits, penalty for early withdrawal; comments by 8-30-78 ..... 32140; 7-25-78

GENERAL SERVICES ADMINISTRATION

Telecommunications Listening-In Devices; comments by 8-28-78 ... 27867; 6-27-78

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Food and Drug Administration—
- Direct mixing of anhydrous ammonia with corn plant material; comments by 8-31-78..... 33707; 8-1-78
- Fermented ammoniated condensed whey in cattle feed; comments by 8-31-78..... 33708; 8-1-78

National Institute for Occupational Safety and Health—
- Development of recommended occupational safety and health standards, comments by 9-1-78 (2 documents). 30897; 30898; 7-18-78

Office of the Secretary—
- Publicizing procurement actions; comments by 8-31-78 ..... 33761; 8-1-78

Public Health Service—
Grants to Develop New Graduate Programs or Expand Existing Graduate Programs in Public Health; comments by 8-28-78 ..... 27837; 6-27-78
Health systems agencies; governing body requirements; comments by 8-31-78. 33764; 8-1-78
[Originally published at 43 FR 22858, May 26, 1978]
Health systems agency and state agency reviews of the appropriateness of existing institutional health services and of proposed new institutional health services; comments by 8-31-78 .... 33764; 8-1-78
Requirements for assignment of National Health Service Corps personnel; comments by 8-30-78 ..... 33265; 7-31-78
Transfer of affected coal miners to less dusty areas; conditions; comments by 8-31-78..... 33762; 8-1-78
Social Security Administration—
Disability programs; revised medical criteria for determination of disability; comments by 8-28-78 ..... 29955; 7-12-78
Federal old-age survivors and disability insurance (1950); subsequent actuarial reduction of benefit increases; comments by 8-31-78'..... 33705; 8-1-78

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner—
Administrator qualifications and procedures for HUD building products certification programs; comments by 8-31-78. 33888; 8-1-78

INTERIOR DEPARTMENT

Fish and Wildlife Service—
Deregulation of the Tecopa Pupfish, endangered and threatened wildlife and plants; comments by 9-1-78 ..... 28841; 7-3-78
Eastern timber wolf; taking of gray wolves in Minn.; comments by 8-31-78 .... 29019; 7-5-78
Endangered or threatened status or critical habitat for 10 butterflies or moths; comments by 9-1-78..... 28938; 7-3-78
Prohibition of possession of shotshells loaded with material other than approved nontoxic shot while taking waterfowl in nontoxic shot zones; comments by 9-1-78 ..... 28217; 6-29-78

INTERSTATE COMMERCE COMMISSION

Increased public participation in rail abandonment proceedings; comments by 8-31-78 ..... 33775; 8-1-78
Investigation into estimating practices of motor common carriers of household goods; comments period extended to 8-30-78. 28217; 6-29-78
[Originally published at 43 FR 18712, May 2, 1978]
Transportation of nonperishable commodities; terminal performance standards; comments by 8-31-78 ..... 33774; 8-1-78

NATIONAL TRANSPORTATION SAFETY BOARD

Notification of railroad accidents; comments by 8-28-78 ..... 32441; 7-28-78

SECURITIES AND EXCHANGE COMMISSION

Form MSD; amendments; comments by 8-31-78 ..... 32309; 7-26-78
Institutional Investment Managers; filing and reporting requirements; comments by 8-31-78 ..... 26700; 6-22-78

TRANSPORTATION DEPARTMENT

Materials Transportation Bureau—
Descriptions and classifications of commercial detonators and detonating requirements; comments by 9-1-78. 19242; 5-4-78
National Highway Traffic Safety Administration—
Decision to grant exemption from passenger automobile average fuel economy standards; comments by 8-30-78. 33268; 7-31-78

TREASURY DEPARTMENT

Customs Service—
Manifests for vehicles and certain vessels arriving from Canada and Mexico; comments by 8-28-78 ..... 32817; 7-28-78

Next Week's Meetings

AGRICULTURE DEPARTMENT

Forest Service—
Santa Fe National Forest, Intent to prepare an environmental statement, Gallina, N. Mex. (open), 8-31-78.... 34513; 8-4-78
Santa Fe National Forest, Intent to prepare an environmental statement, Cuba, N. Mex. (open), 9-1-78 ..... 34513; 8-4-78

ARTS AND HUMANITIES NATIONAL FOUNDATION

Humanities Panel Advisory (closed) Washington, D.C. 8-29-78 ..... 36133; 8-8-78
Humanities Panel, Washington, D.C. (closed), 8-29 and 8—31-78 (2 documents) 30374; 30376; 7-14-78
Humanities Panel Advisory Committee (closed) Washington, D.C. (3 documents) 8-31 thru 9-2-78 ..... 35133; 8-8-78
Media Arts Advisory Panel, Washington, D.C. (closed), 8-28 thru 8-30-78 ..... 34563; 8-4-78

CIVIL RIGHTS COMMISSION

Nebraska Advisory Committee (open) Omaha, Nebr. 8-28-78 .... 35090; 8-8-78
West Virginia Advisory Committee, Charleston, W. Va. 8-29-78 ..... 33796; 8-1-78

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration—
Gulf of Mexico Fishery Management Council; Stone Crab Advisory Subpanel, Tampa, Fla. (open), 9-1-78 ..... 35521; 8-10-78
Gulf of Mexico Fishery Management Council; Scientific and Statistical Committee, Tampa, Fla. (open), 8-28 thru 8-31-78 ..... 35521; 8-10-78
New England Fishery Management Council, Peabody, Mass. (open), 8-30 and 8-31-78 ..... 35521; 8-10-78
Western Pacific Regional Fishery Management Council, Kailua-Kona, Hi. (open), 8-29 and 8-30-78 ..... 35522; 8-10-78
National Telecommunications and Information Administration—
Electromagnetic Radiation Management Advisory Council, Washington, D.C. (open), 8-30 and 8-31-78 ..... 35374; 8-9-78

DEFENSE DEPARTMENT

Office of the Secretary—
Defense Science Board Task Force on ICBM's/MX (closed), Livermore, Calif. 8-30 and 8-31-78 ..... 35091; 8-8-78
Wage Committee, Washington, D.C. (closed), 8-29-78 ..... 25712; 6-14-78

ECONOMIC OPPORTUNITY NATIONAL ADVISORY COUNCIL

Committee progress reports, welfare reform, health care, unemployment, youth employment, and other issues affecting poverty constituency, Washington, D.C. (open), 8-28 and 8-29-78 ..... 32472; 7-27-78

FEDERAL PREVAILING RATE ADVISORY COMMITTEE

Meeting, Washington, D.C. (partially open), 8-31-78 ..... 31067; 7-19-78

GENERAL SERVICES ADMINISTRATION

Architectural and Engineering Services Regional Public Advisory Panel (Region 5), Chicago, Ill. (open), 8-31-78 ..... 34210; 8-3-78
Architectural and Engineering Services Regional Public Advisory Panel (Region 1), Boston, Mass. (open), 8-30-78 .... 34210; 8-3-78; 36143; 8-15-78

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Education Office—
Career Education National Advisory Council, Washington, D.C. (open), 8-28-78 ..... 32864; 7-28-78
National Institutes of Health—
Chemical Selection Subgroup of the Clearinghouse on Environmental Carcinogens, Bethesda, Md. 8-30-78..... 35112; 8-8-78
[Originally published at 43 FR 28562, June 30, 1978]

INTERIOR DEPARTMENT

Land Management Bureau—
Riverside District Grazing Advisory Board, Riverside, Calif. (open), 8-31-78 34545; 8-4-78
Office of the Secretary—
Outer Continental Shelf Advisory Board (open) Cambridge, Mass. 8-28 and 8-29-78..... 33833; 8-1-78

NUCLEAR REGULATORY COMMISSION

Reactor Safeguards Advisory Committee, Subcommittee on Emergency Core Cooling Systems (ECCS), Washington, D.C. (open), 8-28 through 8-30-78 ..... 35762; 8-11-78

Risk Assessment Review Group, Washington, D.C. (open), 8-29 through 8-31-78 ..... 34567; 8-4-78

STATE DEPARTMENT

Office of the Secretary—
International Telegraph and Telephone Consultative Committee, Study Group 1, Washington, D.C. (open), 8-30-78..... 34235; 8-3-78
Shipping Coordinating Committee, Subcommittee on Safety of Life at Sea, Washington, D.C. (open), 8-30-78..... 35569; 8-10-78

TRANSPORTATION DEPARTMENT

Federal Railroad Administration—
Minority Business Resource Center Advisory Committee, Washington, D.C. (open), 8-31-78 ..... 34859; 8-7-78

UNEMPLOYMENT COMPENSATION NATIONAL COMMISSION

Chicago, Ill. (partially open), 8-29 thru 8-31-78 ..... 34846; 8-7-78

Next Week's Public Hearings

AGRICULTURE DEPARTMENT

Forest Service—
Moyie River Wild and Scenic River Study, Spokane, Wash., 8-30-78 ..... 31188; 7-20-78
Moyie River Wild and Scenic River Study, Bonners Ferry, Idaho, 8-31-78 . 31188; 7-20-78
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Priest River Wild and Scenic River Study, Spokane, Wash., 8-30-78 ..... 31189; 7-20-78

DEFENSE DEPARTMENT

Air Force Department—
M-X: Milestone II; draft environmental impact statement, Lompoc, Calif., 8-30-78 ..... 35524; 8-10-78
U.S. Readiness Command Joint Readiness Exercise Gallant Eagle 79, Niceville, Fla., 8-2-78 ..... 30330; 7-14-78

ENERGY DEPARTMENT

Economic Regulatory Administration—
Contingency gasoline rationing plan, Newark, N.J., 8-29 and 8-30-78 ..... 31345; 7-21-78

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Education Office—
Health Education Assistance Loan Program; interim regulations, New York, N.Y., 8-29-78 ..... 34320; 8-3-78

JUSTICE DEPARTMENT

Eastern Fifth Circuit Panel of the U.S. Circuit Judge Nominating Commission, Atlanta, Ga., 8-28 and 8-29-78 .. 35758; 8-11-78

NATIONAL TRANSPORTATION SAFETY BOARD

Investigation into aircraft incident at La Guardia Airport, N.Y., Jamaica, N.Y., 8-29-78 ..... 34851; 8-7-78

List of Public Laws

This is a continuing numerical listing of public bills which 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: August 22, 1978]

H.J. Res. 682 ..... Public Law 95-350
To provide for the designation of a week as "National Lupus Week." (August 18, 1978; 92 Stat. 498) 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:

HEW—Emergency school aid; grant appeals process; for effective date call Mr. Thomas M. Reynolds, 202-245-732 ..... 36249; 8-16-78
OE—Awards for research in education of the handicapped; guidelines; for effective date call 202-245-9722 or 202-245-2275 ..... 36634; 8-18-78
Emergency school aid; termination, suspension, and voiding of assistance; grant appeals process; for effective date call Mr. Jesse J. Jordan, 202-245-7965 ..... 36250; 8-16-78
Magnet schools, university/business cooperation, and neutral site planning; rules on award of grants; for effective date call Dr. Thomas W. Fagan, 202-245-0931 ..... 36228; 8-15-78
PHS—Grants for training U.S. citizens in foreign medical schools; requirements; effective 8-18-78..... 36630; 8-18-78

Deadlines for Comments on Proposed Rules:

HEW/OE—Basic Educational Opportunity Grants Program; family contribution schedules; comments by 9-28-78 ..... 35964; 8-14-78

Other Items of Interest:

HEW/OE—Grants for noncommercial educational broadcasting facilities; acceptance of application for filing: Austin Community Radio, KAZI 36698; 8-18-78
SSA—Demonstration projects relating to public service employment, training work incentives, and related matters; availability of guidelines 36005; 8-14-78
Justice/LEAA—Formula grant provisions of the Juvenile Justice and Delinquency Prevention Act of 1974; final guideline revision 36402; 8-16-78
OMB—Implementation of Federal Grant and Cooperative Agreement Act of 1977; final OMB guidance 36860; 8-18-78
VA—Health Manpower Grants Review Committee; meeting to review status of grants program and other matters; Washington, D.C. (open), 9-25-78 ..... 36026; 8-14-78

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.

[3195-01]

Title 3—The President

PROCLAMATION 4589

International Literacy Day, 1978

By the President of the United States of America

A Proclamation

Throughout our history, the United States has stood for the protection and promotion of human rights for all peoples. Central to these concerns are the political, social, and economic rights of all human beings. Our dedication to these rights stems from the belief that all people should be allowed to live their lives to the fullest of their capabilities, that the talent and character given each person by God should not be wasted.

Education is one of the most important gifts our society can give to its people in helping them fulfill their human potential. Especially in our modern world, adequate communication skills are essential. Education and training to promote literacy are central to our efforts to improve the lives of all people, and guarantee their basic human rights. Every illiterate adult is an indictment of us all.

In our own nation, and in nations across the world, significant efforts have been made to advance literacy, and bring its benefits to every man and woman. Our concern and dedication to this cause have brought results, but there still remains great progress to be made. Around the world, eight hundred million people lack effective reading or writing skills.

For the past 12 years, the United Nations Educational, Scientific, and Cultural Organization has set aside September 8 as Literacy Day. The United States has always joined with other nations in recognizing the need to advance literacy among people everywhere, to promote our cherished human rights.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby proclaim September 8, 1978, as International Literacy Day, and I call upon the people of the United States to assess and strengthen our commitment to eliminating illiteracy both at home and abroad, recognizing that in so doing we are helping people everywhere open a gateway to many other human rights as well.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-first day of August, in the year of our Lord nineteen hundred seventy-eight, and of the Independence of the United States of America the two hundred and third.

Jimmy Carter

[FR Doc. 78-23766 Filed 8-21-78; 2:51 pm]

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.

[3410-01]

Title 7—Agriculture

SUBTITLE A—OFFICE OF THE SECRETARY OF AGRICULTURE

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

Revision of Delegations of Authority

AGENCY: Department of Agriculture.

ACTION: Final rule.

SUMMARY: This document revises the delegations of authority from the Secretary of Agriculture and the General Officers of the Department to facilitate the study of foreign investment in United States real estate pursuant to the International Investment Survey Act of 1976 (22 U.S.C. 3101 et seq.).

EFFECTIVE DATE: August 23, 1978.

FOR FURTHER INFORMATION CONTACT:

James L. Fulton, Room 2049-S, Office of the Deputy Administrator for Management, Economics, Statistics, and Cooperatives Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-7392.

SUPPLEMENTAL INFORMATION: The International Investment Survey Act of 1976 (22 U.S.C. 3101 et seq.) broadened the scope of executive branch surveys of U.S. investment abroad and foreign investment in the United States. It gave the President authority to maintain a regular, comprehensive data collection and publication program on international investment. The President, by Executive Order 11961, delegated all functions under the act to the Director of the Office of Management and Budget (OMB). The Director of OMB has designated the Department of Agriculture to study the feasibility of establishing a system to monitor foreign direct investment in agricultural, rural, and urban real property as called for by 22 U.S.C. 3103(d).

This document amends the Departmental delegations of authority to the Director of Economics, Policy Analysis and Budget and to the Administrator of the Economics, Statistics, and Cooperatives Service (ESCS) to make internal assignments of these responsibilities. Accordingly, part 2, subtitle A, title 7, Code of Federal Regulations is amended as follows.

Subpart C—Delegations of Authority to the Deputy Secretary, Assistant Secretaries, the Director of Economics, Policy Analysis and Budget, and the Director, Office of Governmental and Public Affairs

1. Section 2.27 is amended by adding a new paragraph (b)(12) to read as follows:

§ 2.27. Delegations of Authority to the Director of Economics, Policy Analysis and Budget.

* * * * *

(b) * * *

(12) Conduct a study of the feasibility of establishing a system to monitor foreign direct investment in agricultural, rural, and urban real property, including the feasibility of establishing a nationwide multipurpose land data system (22 U.S.C. 3101 et seq.).

* * * * *

Subpart K—Delegations of Authority by the Director of Economics, Policy Analysis and Budget

2. Section 2.85 is amended by adding a new paragraph (a)(13) to read as follows:

§ 2.85 Administrator, Economics, Statistics, and Cooperatives Service.

(a) * * *

(13) Conduct a study of the feasibility of establishing a system to monitor foreign direct investment in agricultural, rural, and urban real property, including the feasibility of establishing a nationwide multipurpose land data system (22 U.S.C. 3101 et seq.).

* * * * *

(5 U.S.C. 301 and Reorganization Plan No. 2 of 1953.)

Dated: August 14, 1978.

For Subpart C:

BOB BERGLAND,
Secretary of Agriculture.

Dated: August 14, 1978.

For Subpart K:

HOWARD W. HJORT,
Director of Economics, Policy Analysis and Budget.

[FR Doc. 78-23669 Filed 8-22-78; 8:45 am]

[3410-05]

CHAPTER XIV—COMMODITY CREDIT CORPORATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

[Amdt. 2 of the Price Support Loan Program for 1977 Crop Sugar Beets and Sugarcane; Amdt. 1 to the Price Support Loan Program for 1978 Crop Sugar Beets and Sugarcane]

PART 1435—SUGAR

Marketing Authorization Provisions for 1977 Crop and 1978 Crop Loans

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: The sugar price support loan regulations are hereby amended to permit the removal of the loan collateral from storage for delivery to a buyer prior to repayment of the loan. Request must be made by the sugar processor and approval granted by the loan making Agricultural Stabilization and Conservation Service Office prior to removal of the collateral. Approval will not be granted unless: (1) The buyer of the sugar agrees to pay to CCC an amount, not in excess of the purchase price, necessary to satisfy the loan indebtednesss on the sugar purchased and (2) the processor agrees that approval shall not constitute a release of CCC's security interest or a release of the processor from liability for any amounts due if full payment is not made by the buyer. The intended effect of this action is to increase the redemption of sugar under price support loan.

EFFECTIVE DATE: August 23, 1978.

FOR FURTHER INFORMATION CONTACT:

Laurence E. Ackland, ASCS, P.O. Box 2415, Washington, D.C. 20013, 202-447-5647.

SUPPLEMENTARY INFORMATION: On November 11, 1977, a final rule was published in the FEDERAL REGISTER (42 FR 48734) implementing a program, effective as of November 8, 1977, to support prices in the marketplace for producers of 1977 crop sugar beets and sugarcane through loans made to sugar processors. The loan program was designed to support sugar prces to producers under section 201 of the Agricultural Act of 1949, as amended by section 902 of the Food and Agriculture Act of 1977. An amendment to the 1977 crop loan regulations was published on May 17, 1978 (43 FR 21317). On June 7, 1978, a final rule was published in the FEDERAL REGISTER (43 FR 24663) implementing the price support loan program for eligible sugar processed from the 1978 crops of sugar beets and sugarcane.

A Florida raw cane sugar processor requested that a marketing authorization be permitted to help relieve the pressure on his storage facilities. This processor and others would, without the authorization, be severely limited as to the quantity they would redeem from loan. It would often be necessary for processors to borrow privately in order to make prior redemption, In some cases, such private financing may not be available because of Commodity Credit Corporation's lien on the sugar under loan. It is, however, in the interest of the Commodity Credit Corporation to encourage and expedite loan redemption when such action results in no loss of principal or interest.

For this redemption alternative to have impact upon 1977 crop loan redemptions, it is essential that it be implemented as soon as possible. In view of this situation, it is hereby determined that it is impossible to comply with applicable requirements for proposed rulemaking.

In accordance with Executive Order 12044, dated March 23, 1978, a final impact anaylsis of this action has been prepared. An approved final impact analysis is available from Laurence E. Ackland, Room 5761, South Building, USDA, Washington, D.C. 20250.

Accordingly, 7 CFR Part 1435 is amended as follows:

Subpart—Price Support Loan Program for 1977 Crop Sugar Beets and Sugarcane

1. By revising paragraph (a) of § 1435.22 to read as follows:

§ 1435.22 Loan maintenance and liquidation.

(a) *Maintenance of the commodity under loan.* A processor shall maintain in eligible storage a quantity of eligible sugar sufficient to cover his loan: *Provided,* That the processor may request and obtain prior written approval of the loan-making office on a form prescribed by CCC to remove a specified quantity of the sugar under loan from storage for the purpose of delivering it to a buyer prior to repayment of the loan. The Loan-making office shall not approve a request unless the buyer of the sugar agrees to pay to CCC an amount, not in excess of the purchase price, necessary to satisfy the processor's loan indebtedness on the sugar purchased. Any such approval shall not constitute a release of CCC's security interest in the sugar or release the processor from liability for any amounts due on his loan indebtedness if full payment of such amounts is not received by the loan-making office.

* * * * *

2. By revising paragraph (a) of § 1435.13 to read as follows:

§ 1435.23 Processor storage agreement.

(a) The borrower shall: (1) Maintain the loan collateral in eligible storage while it is under loan in accordance with the provisions of § 1435.22(a) and, as deemed necessary by CCC, after maturity of the unredeemed loan, and (2) remove and physically deliver loan collateral in accordance with written instructions issued by CCC.

* * * * *

Subpart—Price Support Loan Program for 1978 Crop Sugar Beets and Sugarcane

1. By revising paragraph (a) of § 1435.41 to read as follows:

§ 1435.41 Loan maintenance and liquidation.

(a) *Maintenance of the commodity under loan.* A processor shall maintain in eligible storage a quantity of eligible sugar sufficient to cover his loan: *Provided,* That the processor may request and obtain prior written approval of the loan-making office on a form prescribed by CCC to remove a specified quantity for the purpose of delivering it to a buyer prior to repayment of the loan. The loan-making office shall not approve a request unless the buyer of the sugar agrees to pay to CCC an amount, not in excess of the purchase price, necessary to satisfy the processor's loan indebtedness on the sugar purchased. Any such approval shall not constitute a release of CCC's security interest in the sugar or release the processor from liability for any amounts due on his loan indebtedness if full payment of such amounts is not received by the loan-making office.

* * * * *

2. By revising paragraph (a) of § 1435.42 to read as follows:

§ 1435.42 Processor storage agreement.

(a) The borrower shall: (1) Maintain the loan collateral in eligible storage while it is under loan in accordance with the provisions of § 1435.22(a) and, as deemed necessary by CCC, after maturity of the unredeemed loan, and (2) remove and physically deliver loan collateral in accordance with written instructions by CCC.

* * * * *

(Secs. 201 and 401 et seq. of the Agricultural Act of 1949, as amended (7 U.S.C. 1446, 1421 et seq.).)

NOTE.—It is hereby certified that a regulatory analysis of this action has been prepared in accordance with Executive Order 12044.

Signed at Washington, D.C., on August 17, 1978.

BOB BERGLAND,
Secretary.

[FR Doc. 78-23561 Filed 8-22-78; 8:45 am]

[7590-01]

Title 10—Energy

CHAPTER I—NUCLEAR REGULATORY COMMISSION

PART 9—PUBLIC RECORDS

Open Meetings

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Commission is amending its rules to make explicit the present practice of not permitting parties to cite statements made at open meetings by Commissioners or Commission employees in support of argument presented to its adjudicatory boards.

Open meetings of the Commission are not part of the formal or informal record of decision in Commission proceedings. It would inhibit the candid and spontaneous nature of the discussions at such meetings if every statement made could be quoted and relied upon in subsequent proceedings.

Currently the Commission's regulations prohibit filing papers based upon such statements with the Commission

itself. The same reasons that support a bar on such filings with the Commission also support a prohibition against filings with the subordinate adjudicatory bodies in the Commission. The Commission has decided to amend its regulations accordingly.

EFFECTIVE DATE: August 23, 1978.

FOR FURTHER INFORMATION CONTACT:

Stephen S. Ostrach, Esq., Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, 202-634-3224.

SUPPLEMENTARY INFORMATION: Because this amendment relates to matters of internal agency practice, general notice of proposed rulemaking is unnecessary.

Pursuant to section 161 of the Atomic Energy Act of 1954, 42 U.S.C. 2201 and to 5 U.S.C. 552b(g) and 5 U.S.C. 553, the next to last sentence of 10 CFR 9.103 is amended to read:

§ 9.103 General provisions.

* * * Such statements may not be pleaded, cited, or relied upon before the Commission or in any proceeding under part 2 of these regulations (10 CFR part 2) except as the Commission may direct.

Dated at Washington, D.C., this 17th day of August 1978.

For the Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc. 78-23588 Filed 8-22-78; 8:45 am]

[7590-01]

PART 35—HUMAN USES OF BYPRODUCT MATERIAL

Application Form for Materials License—Medical

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Final rule.

SUMMARY: NRC is amending its regulations to require use of a new form NRC-313M, "Applications for Materials License—Medical". The new form is easier to fill out than the one it replaces, and, on a trial basis, has resulted in reduced correspondence between NRC and the applicants regarding deficiencies in their applications.

EFFECTIVE DATE: November 6, 1978.

NOTE.—The Nuclear Regulatory Commission has submitted this rule to the Comptroller General for such review as may be appropriate under the Federal Reports Act, as amended, 44 U.S.C. 3512. The date on which the reporting (recordkeeping) requirement of this rule becomes effective, unless advised to the contrary, accordingly reflects inclusion of the 45-day period which that statute allows for such review (44 U.S.C. 3512(c)(2)).

FOR FURTHER INFORMATION CONTACT:

Edward Podolak, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, phone 301-443-5946.

SUPPLEMENTARY INFORMATION: Presently, applications for the medical use of byproduct material are filed on the general application form AEC-313 with the aid of a medical licensing guide (NUREG-0338, Rev. 1) which requests information necessary for and specific to the medical application. Form AEC-313 does not have enough space and does not specifically address much of the information requested in the medical licensing guide. A new form NRC-313M has been developed specifically for the medical application. Form NRC-313M does not change the substantive requirements that must be met by applicants for medical licenses. The information required on the new form is the same as that currently identified in the medical licensing guide. However, because the new form NRC-313M is tailored to the medical licensing guide, it is easier for the licensee to use and, on a trial basis, has resulted in less correspondence between NRC and the applicants regarding deficiencies in their applications.

Form NRC-313M and the medical licensing guide are available from the Radioisotopes Licensing Branch, Division of Fuel Cycle and Material Safety, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Because this notice relates to matters of agency management and procedure, general notice of proposed rulemaking and public procedure thereon are unnecessary and the amendment can be effective 75 days after publication.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorgamization Act of 1974, as amended and sections 552 and 553 of title 5 of the United States Code, the following amendments to Title 10, Chapter I, Code of Federal Regulations, Part 35 are published as a document subject to codification.

A new section § 35.4 is added which reads as follows:

§ 35.4 Application form for specific licenses.

Applications for specific licenses for human use under §§ 35.11, 35.12, and 35.13 shall be filed on form NRC-313M, "Application for Materials License—Medical."

(Secs. 81, 161b, Pub. L. 83-703, as amended, 68 Stat. 935, 948 (42 U.S.C. 2111, 2201); sec. 201, Pub. L. 93-438, as amended, 88 Stat. 1242 (42 U.S.C. 5841).)

Dated at Bethesda, Md., this 8th day of August 1978.

For the Nuclear Regulatory Commission.

LEE V. GOSSICK,
Executive Director for Operations.

[FR Doc. 78-23340 Filed 8-22-78; 8:45 am]

[7590-01]

PART 73—PHYSICAL PROTECTION OF PLANTS AND MATERIALS

Security Personnel Qualification Training and Equipment Requirements

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: On July 5, 1977, the Commission published for public comment proposed amendments to the Commission's regulations to impose upgraded guard qualification, training, and equipping requirements for security personnel protecting against theft of special nuclear materials and industrial sabotage of nuclear facilities or nuclear shipments.

In response to public comments, the training and qualifications section of the proposed amendments has been extensively revised to specify performance oriented requirements instead of the detailed training requirements as originally proposed on July 5, 1977. The performance oriented requirements give licensees flexibility in selecting and developing the most cost-effective training programs to meet site specific needs. The Nuclear Regulatory Commission now is publishing these revised amendments in final form.

Concurrent with publication of these amendments, the NRC is issuing for public comment guidance documents to assist the licensee in the development of security personnel training and qualifications plans required by the amendments. The effective date of the revised requirements has been set to permit public comment on the guidance and its issuance in final form at the time the requirements become effective.

EFFECTIVE DATE: October 23, 1978.

NOTE.—The Nuclear Regulatory Commission has submitted this rule to the Comptroller General for review of its reporting requirements under the Federal Reports Act, as amended, 44 U.S.C. 3512. The date on which the reporting requirement of the rule becomes effective, unless advised to the contrary, includes a 45-day period which

that statute allows for Comptroller General review (44 U.S.C. 3512(c)(2)).

FOR FURTHER INFORMATION CONTACT:

Mr. R. J. Jones, Chief Materials Protection Standards Branch, Division of Siting, Health and Safeguards Standards, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, 301-443-5907.

SUPPLEMENTARY INFORMATION: In 1975, the security agency study (NUREG-0015, ES) concluded that "Creation of a Federal guard force for maintaining security in the nuclear industry would not result in a higher degree of guard force effectiveness than can be achieved by the use of private guards properly qualified, trained and certified (by the NRC)." In 1976, a joint ERDA-NRC task force was formed to propose a plan of action for improving the controls and protection of nuclear materials at NRC licensed fuel cycle facilities. The task force addressed the current status and future direction of physical security protection at NRC licensed fuel cycle facilities now in possession of certain quantities of special nuclear materials. The task force report issued in July 1976 included conclusions and recommendations which provide a basis for rulemaking. The Nuclear Regulatory Commission has determined, as a result of the security agency study conclusions, the joint task force findings and other subsequent deliberations, that security personnel qualification and training requirements should be upgraded through public rulemaking. On July 5, 1977, the Nuclear Regulatory Commission published in the FEDERAL REGISTER (42 FR 34321) proposed amendments to 10 CFR part 73 of its regulations. Interested persons were invited to submit written comments and suggestions on the proposed amendments within 45 days after publication in the FEDERAL REGISTER. The comment period was subsequently extended 30 days. Based on the public comments and other considerations, the Commission has adopted the proposed amendments, with modifications as set forth below.

In adopting these amendments the Commission decided that the requirements should not be made effective until guidance had been published to assist the licensees in developing their security personnel training and qualifications plans. Concurrent with the publication of these amendments, three guidance documents are being published for public comment. These are:

1. NUREG-0464, "Site Security Personnel Training Manual,"

2. NUREG-0465, "Transportation Security Personnel Training Manual," and

3. Regulatory Guide 5.52, "Standard Format and Content for the Physical Protection Section of a License Application (For Facilities Other Than Nuclear Power Plants)," Revised Chapter 4, "Security Organization," and Chapter 18, "Security Personnel."

Copies of these three guidance documents are being sent to persons who have expressed an interest in this matter. Comments are being requested by September 22, 1978 so that final guidance can be published by the time the rule becomes effective October 23, 1978.

A fourth document specific for nuclear power plants, "Nuclear Security Personel for Power Plants, NUREG-0219, Draft 2," was published for comment in April 1978. This document has been revised and published in final form. Copies of these doucments also will be placed in the Commission's Public Document Room at 1717 H Street NW., Washington, D.C. Single copies of these four guidance documents may be obtained by writing to the U.S. Nuclear Regulatory Commission, Attention: Bernadine Scharf, Distribution Services Branch, Washington, D.C. 20555.

Significant differences from the proposed rule published for comment on July 5, 1977 are: (1) titles and definitions used in appendix B have been clarified and moved to 10 CFR 73.2 to be consolidated with other definitions applicable to 10 CFR part 73; (2) employment suitablity criteria have been revised to be less restrictive on the hiring of unarmed security personnel, and more specific on the hiring of armed security personnel; (3) physical qualification criteria have been revised to require physical examinations for central alarm station operators and armed security personnel; (4) the criteria for vision and hearing capability have been revised for clarification purposes, and to permit the use of hearing aids to qualifty to the hearing criteria; (5) mental qualifications criteria have been revised to delete the requirement for psychological testing of unarmed security personnel, except for central alarm station operators, and to allow for some flexibility in the licensee psychological evaluation program; (6) physical fitness qualifications criteria have been revised to permit each licensee to develop physical fitness requirements to meet site specific needs; (7) contract security personnel criterion has been revised to be job related; (8) training and qualifications criteria have been completely revised to delete specified training courses and instead rewritten to require the licensee to develop a plan that he will use to meet the proposed criteria, in order to assure that security personnel possess the required skill, knowledge and ability to perform assigned security job duties; (9) the criteria which specify certain requirements for security management and security supervisors have been deleted; (10) the criteria for weapons training have been revised and the number of training hours has been deleted; (11) weapons qualification criteria have been simplified and clarified; (12) the phrases "* * * not limited to * * *", and "* * * as appropriate * * *" have been deleted; (13) the period of time allotted for submittal of a licensee plan to implement these proposed requirements has been lengthened from 30 to 120 days for fuel cycle facilities and tranportation and 300 days for power reactors; and (14) fuel cycle facility and transportation licensees plans would be followed by 180 days after the effective date of the rule or 60 days after NRC approval of the plan, whichever is later, and power reactor licensees plans would be followed by 500 days after the effective date of the rule or 60 days after the approval of the plan, whichever is later.

The following discussion pertains to Items (1) through (14) above.

(1) *Titles and definitions.* Commenters stated that titles and definitions contained in appendix B should be limited and clarified and suggested that all definitions applicable to 10 CFR part 73 and appendix B should be located in 10 CFR 73.2.

In response to these comments the Commission has decided to limit the number of titles used, to clarify such titles, and to remove titles and definitions from appendix B. Accordingly, titles and definitions of job duties, essential to the effective operation of a licensee security system, have been clarified, the term "armed escort" has been added and defined, and titles and definitions have been included in 10 CFR 73.2.

(2) *Suitability criteria.* Some commenters recommended that criteria for suitability and physical qualification be deleted. Some commenters stated that in view of the fact that the age of majority for voting, joining the armed services and entering into legal transactions is 18 years, a minimum age of 21 years for hiring security personnel would present legal problems if challenged under equal employment laws. Other commenters stated that the criteria for a high school diploma or equivalent and the prohibition against felony convictions should be clarified to avoid any complications that might arise because of employment opportunity laws.

In response to these comments the Commission has decided: (a) to permit licensees to employ unarmed security personnel under 21 years of age; (b) to

elaborate on the meaning of high school equivalent; and (c) to be more explicit regarding types of felony convictions to be considered. The rule has been changed to clarify the meaning of high school equivalent, in terms of job connection, and in requiring no felony convictions to show a direct relationship between a felony conviction and the specific job assignment being sought. However, the Commission believes that because of the high level of responsibility associated with the job duties of armed personnel, suitability criteria are necessary. Accordingly, the minimum age requirement of 21 years has been retained for armed security personnel.

(3) *Physical qualifications criteria.* Some commenters stated that the rigidity of physical qualifications would severely limit the number of candidates available to fill security job functions and that the criteria specified would result in a violation of Federal age and sex discrimination laws.

In response to these comments the Commission has decided to delete the criteria requiring a physical examination for unarmed security personnel except for central alarm station operators and instead will require such personnel to be physically capable of performing assigned security job duties. The criteria specifying the requirement for physical examinations have been revised to apply only to armed security personnel and central alarm station operators.

(4) *Vision and hearing criteria.* Commenters made the following statements about the proposed vision and hearing criteria; (a) they are overly restrictive; (b) unarmed security personnel should not be required to meet the criteria; (c) the requirement for recognizing basic colors should be clarified; (d) the use of a hearing aid should be allowed to correct hearing impairment; (e) that additional clarification of these requirements is essential; and (f) that it would be preferable to specify minimum requirements in terms of the better ear.

In response to these comments the Commission has decided that: (a) unarmed security personnel should be exempt from vision and hearing requirements unless required by assigned security related task identified in the licensee's plan; (b) the criteria need to be clarified; and (c) a hearing aid to correct hearing impairment should be permitted. Accordingly, the criteria which specify vision and hearing requirements have been revised to: (a) Apply explicitly to armed personnel; (b) clarify the requirements; and (c) permit the use of a hearing aid to meet hearing requirements.

(5) *Mental qualifications criteria.* Some commenters stated that the requirement for each security force member to be examined by a licensed clinical psychologist or psychiatrist is unnecessary and overly restrictive, and that adequate psychological screening is within the capabilities of a general physician who has experience in such matters. Other commenters stated that an option to the mental examination should be available, and suggest that individuals employed by the same firm for more than 2 years with no sign of emotional instability should be excused from taking the mental examination.

In response to these comments the Commission has determined that: (a) psychological evaluations should be administered by a licensed psychologist, or psychiatrist, or physician or other person professionally trained to identify emotional instability; (b) persons other than armed personnel and central alarm station operators need not undergo psychological evaluation; and (c) the granting og exemptions or exceptions to NRC requirements, properly supported and documented, will continue to be a licensing responsibility. Accordingly, mental qualifications criteria have been revised to require only armed personnel and central station operators to undergo psychological examination, and to permit subsequent identification of possible emotional instability for these and all other security personel by normal supervisory personnel, subject to verification by an appropriately licensed and trained person.

(6) *Contract security personnel.* Commenters stated that requirements for contract security personnel should be job duty related.

In response to these comments the Commission agreed that contract security personnel should be required to meet the same criteria for specific security job tasks and duties that would be required for a licensee proprietary guard force. Accordingly, contract security personnel criteria have been revised to be job related just as for in-house security personnel.

(7) *Training and qualifications.* Some commenters stated that the proposed training and qualifications criteria attempt to be too broad and all inclusive in scope while sacrificing quality, indepth education and training. Most commenters stated that the overall concept of specifying in fine detail each course of instruction, the number of hours of instruction for each course, the individuals who would be required to attend each course, the documenting of names of instructors and places of instruction for each course, specific training requirements for licensee management and security supervisory personnel, etc., would not neccessarily achieve the desired objective of uniformly upgrading the quality of security personnel at licensed facilities and in transportation because training in itself would not measure an individual's capability to perform assigned security job duties. In addition, commenters stated that there appeared to be much duplication among the proposed training programs, and that training programs and facilities would more properly be designed and implemented on a site specific basis.

In response to these comments the Commission has decided that, because of site specific requirements as they relate to security hardware, physical barriers, material access and vital areas, alarm systems, and procedures required to implement a licensee's physical security and contingency plans, the training and qualifications criteria should be revised to give the licensee greater latitude to design and develop site specific training requirements and programs to meet site specific needs. In order to accomplish this, the training and qualifications criteria have been revised to require each licensee to submit a training and qualifications plan which outlines the processes by which guards, watchmen, armed response persons, armed escorts and other members of the security organization will be selected, trained, equipped, tested, and qualified to assure these individuals meet the requirements.

(8) *Security management.* Commenters stated that the criterion which specifies a training program and hours of instruction for managers does not clearly define up to what level of management would be required to receive such training. One commenter stated that rather than requiring specific training for management, the NRC should specify minimum qualifications for the various functions within management and that the NRC should provide any additional security training that the NRC deems necessary.

In response to these comments the Commission has decided to delete the requirement for security management training. The revised criteria for training and qualifications described in (7) above will assure the Commission that the proper level of management will be involved in the decision making and implementation process in the qualification and training of guards.

(9) *Weapons training.* Most commenters stated that weapons training requirements: (a) were excessive with respect to number of hours of instruction required; (b) were not clear as to who should undergo the training; (c) specified unnecessary training time, since performance requirements are later specified in section IV of appendix B; and (d) did not take into account individuals with previous weapons experience.

In response to these comments the Commission has decided that the weapons training criteria should be stated in terms that would permit flexibility with respect to hours of instruction required based on an individual's experience and to permit the licensee to identify by security related job tasks or duties, which individuals would be required to qualify with weapons and the weapon with which they would qualify. To effect this change the weapons training criteria have been revised to delete the number of hours of training required to give the licensee the requisite flexibility in determining by job assignment who will receive training and the extent of training required to qualify with the assigned weapon.

(10) *Weapons qualification.* Commenters stated that: (a) It would be difficult to establish and operate the firing ranges needed for weapons qualification because of training facility limitations; (b) the requirements for both day and night range firing is not necessary to achieve and maintain firing proficiency; (c) lighting presently required at nuclear facilities would preempt any need for night firing; and (d) firing ranges are not equipped to duplicate lighting at nuclear facilities. This can only be done using military type battlefield illumination sources which are beyond the scope of private licensees.

In response to these comments the Commission has decided: (a) That weapons qualification requirements should be relaxed to give the licensees flexibility in designing their weapons qualifications programs and to permit licensee armed personnel to either fire the course specified or to select an equivalent course of fire; and (b) that it is necessary to require armed individuals to perform nighttime or simulated nighttime firing for familiarization only, because of the varying psychological effects on persons not accustomed to night firing. Accordingly, weapons qualification criteria have been revised to permit the licensee to either select the course of fire specified or to choose an equivalent course of fire to qualify armed personnel. In addition, the criteria requires individuals to qualify only with assigned weapons as identified in the licensee's plan.

(11) *Suggestive phrases.* Commenters noted that phrases such as "* * * but not limited to * * *," and "* * * as appropriate * * *," were suggestive, not definitive, and implicitly require more to be done.

The criteria in appendix B have been changed to eliminate these phrases. As revised, the requirements are stated broadly in terms of capability and performance to permit flexibility in the design of training and qualifications programs. The Commission believes that the revised rule will assure the upgraded quality of licensee security personnel so that open-ended, suggestive wording is unnecessary.

(12) and (13) *Licensee plan submittal and implementation.* Commenters stated that the Commission did not provide for adequate time to develop a plan in response to the proposed requirements, or provide sufficient time to implement the plan after it has been approved.

The Commission agrees that adequate time must be allowed for proper planning and implementation to assure effective programs. The rule has been changed to allow more time for planning and implementation.

In addition to the comments that resulted in changes in the proposed amendments, a number of other issues were commented on which did not result in changes to the proposed amendments, but which warrant discussion and explanation.

(1) *Security personnel training manual.* One commenter stated that the training manual should not be published as a NUREG document if the manual is intended to demonstrate one acceptable approach to satisfying the requirements of the proposed regulation.

The Commission had intended for the training manual to represent a general course outline for training security personnel and not to provide specific parallel guidance to meet each of the requirements of appendix B. It was not intended as a regulatory guide. The utility of the training manual will be enhanced, as a general document, in light of the revised amendments.

(2) *Environmental impact statement.* A few commenters stated that as a practical matter the drastic increase in security personnel training requirements proposed by the amendments would undoubtedly require additional security, administrative, and recordkeeping staff, therefore affecting other persons rather than dealing only with the training of existing security personnel; involve the potential employment rights and opportunities of numerous existing and future security personnel; and involve the potential issuance of advanced weaponry to private security forces. They believed that the Commission has too narrowly construed the term "environment" contrary to Commission policy as stated in 10 CFR 51.1(a), concluding that an environmental impact statement is required to satisfy NRC's obligations under NEPA and CEQ guidelines.

The Commission has reviewed the criteria provided in 10 CFR Part 51, the Council on Environmental Quality (CEQ) and National Environmental Policy Act (NEPA) guidelines in light of the comments received and continues to believe that an environmental impact statement for the proposed amendments to 10 CFR Part 73 is not required. The main effect of the rule is to require training and qualification of security personnel and is basically procedural, with no environmental effect worth noting.

(3) *Guard upgrading.* One commenter stated that the entire upgrading of guard qualification, training and equipping was unwarranted because his facility maintains liaison with local law enforcement authorities and that the local authorities have superior manpower, training and equipment to deal with security contingencies beyond the control of the site security organization.

Based on the Joint ERDA-NRC Task Force on Safeguards and the Security Agency Study (SAS) reports, the Commission decided that the upgrading of licensee guard quality was necessary. In support of this decision, the Commission also compared the content and scope of training programs submitted by each licensee to meet the present requirements with the guidance the NRC provided through regulatory guide 5.20. The results of this comparison revealed that present training programs for new guards would not produce the quality needed to assure the effective protection of special nuclear materials, facilities, or shipments. The fact that licensees maintain liaison with local law enforcement authorities was considered in the decision to require upgraded guard quality, accepting that proximity to, response time by, and the number of responding local authorities could bear on the degree of upgrading that would be required in onsite response force numbers and tactical training requirements.

(4) *Tear gas or mace.* Numerous comments were made that the use of tear gas or mace would violate certain State laws which prohibit the use of such substances by private citizens. Tear gas or other nonlethal gases will continue to be required, and where State law prohibits such possession and use by private citizens, adequately supported requests for exemption may be granted or equivalent alternative protection measures may be proposed in conjunction with a request for exception from the specific requirement.

(5) *Costs.* There were a few comments made relative to costs to implement the proposed requirements. One commenter did provide a cost estimate for training his existing guard force plus annual cost for training new hires. No basis was given to support these or the other estimates. The cost effectiveness of alternative training

programs will be investigated as part of the logistical management study identified in paragraph 1. Staff has prepared a value-impact assessment which has been placed in the public document room which provides a breakdown of the cost estimates including statements of benefit whenever possible. The important aspect of the proposed regulation, as now written, is that the job related performance orientation will give the licensee greater flexibility in developing the most cost-effective training program for his plant and transport system.

(6) A few comments were received in response to the Commission's request for comments, recommendations, and cost tradeoffs on the alternate approaches available for training personnel, and the alternative of certifying training programs vs. certifying of individuals, to assist the Commission in arriving at a consensus as to the most cost-effective approach for conducting security personnel training. These comments can be categorized generally as follows:

(i) Central and regional training versus local training.

(ii) Certification of training programs versus certification of individuals.

(iii) Training costs.

The following discussion pertains to items (i) through (iii) above.

(i) Comments received were both in favor of and opposed to the need for establishing central or regional training facilities. Persons favoring the establishment of central or regional training facilities stated that such facilities could be established by or under contract to the NRC, possibly using existing Federal installations. Since there would be only a few instructors available with the expertise necessary to teach some of the courses required, the staffing of central or regional facilities would not be difficult, while the simultaneous staffing of localized training facilities may not be achievable. Such commenters also stated that with central or regional training facilities, changes in the Commission's regulations could be implemented directly, and that the skill levels of graduates would be consistent throughout the industry. No cost figures were provided by commenters advocating the establishment of central or regional facilities.

Commenters opposing central or regional training facilities stated that the expenses for transporting, feeding, and housing individuals at a central or regional facilities would add substantially to the cost for training. Under either of these training arrangements, it would be difficult to provide site specific training sufficient to meet the needs of each licensee. Additionally, regional centers or a central facility would necessitate pooling of security personnel from various licensees for each class of students, which would increase the probability of unauthorized disclosure of sensitive and proprietary licensee physical security system information. No cost comparison estimates were provided to support the position of commenters opposed to central or regional training of security personnel.

(ii) Commenters stated that the alternative of certifying training programs for a specific training center versus certification of security personnel would only be acceptable from a cost-effective standpoint if each licensee or the employer of the personnel could operate its own certified training centers. One commenter stated that the requirements should be defined, methods for certification identified, and actual training programs be made available prior to implementation of the proposed rule.

(iii) A few commenters provided generalized and unsupported costs for implementing the proposed amendments. They also expressed concern that they were limited in attracting younger personnel who might meet the requirements, and historically, they have experienced a high turnover rate in security personnel which would drive the costs for training and retraining even higher.

The Commission agrees that there are economic advantages and disadvantages and other problems associated with the alternative means available for training licensee security personel. The revised amendments take into consideration the Commission's objective to assure that security personnel quality be uniformly upgraded at licensee facilities and in transportation. This can be achieved by either close coordination with all training programs, or by a means for assuring that each person assigned to perform security tasks is properly equipped and qualified to do so. The revised amendments follow the latter approach and do not specifically address training details. Nevertheless, the Commission is still concerned that some level of uniformity of performance should be established for all affected licensees. As stated in July 1977, the Commission will study alternative approaches to training personnel and the alternative of certifying training programs or individuals. There is underway a logistical management study which should assist the Commission in deciding on the most cost-effective approach available for certification, and will provide the licensees information on the cost effectiveness of each of the training alternatives to meet NRC requirements. In addition, the results of the study should provide information on the availability of instructors with the expertise necessary to train security personnel. The results of this study should be available around November 15, 1978. These results, along with the experience gained from implementation of the effective rule, will be used in the decision making process by the Commission to determine whether a more structured system of training of security personnel should be recommended to licensees.

The Commission has determined under Council of Environmental Quality guidelines and the criteria in 10 CFR Part 51.5(d)(3), that neither an environmental impact statement nor environmental impact appraisal to support a negative declaration for the proposed amendments to 10 CFR Part 73 is required because the amendments deal primarily with the qualification and training of existing security personnel and do not directly or indirectly affect the environment.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and sections 552 and 553 of title 5 of the United States Code, notice is hereby given that the following amendments to Title 10, Chapter 1, Code of Federal Regulations, Part 73 are published as a document subject to codification.

1. Section 73.2 of 10 CFR Part 73 is amended to add paragraphs (t) through (w).

§ 73.2 Definitions.

As used in this part:

* * * * *

(t) "Armed response personnel" means persons, not necessarily uniformed, whose primary duty in the event of attempted theft of special nuclear material or industrial sabotage shall be to respond, armed and equipped, to prevent or delay such actions.

(u) "Armed escort" means an armed person, not necessarily uniformed, whose primary duty is to accompany shipments of special nuclear material for the protection of such shipments against theft or industrial sabotage.

(v) "Security management" means persons responsible for security at the policy and general management level.

(w) "Security supervision" means persons, not necessarily uniformed or armed, whose primary duties are supervision and direction of security at the day-to-day operating level.

2. Paragraphs 73.30(d) and 73.30(e) of 10 CFR Part 73 are revised to read as follows:

§ 73.30 General requirements.

* * * * *

(d) When armed escorts are used pursuant to §§ 73.31(c)(1), 73.31(c)(2), 73.33, and 73.35, the licensee shall not permit an individual to act as an armed escort unless such individual has been trained, equipped, and qualified to perform each assigned security job duty in accordance with Appendix B, "General Criteria for Security Personnel," of this part. Upon the request of an authorized representative of the Commission the licensee shall demonstrate the ability of the physical security personnel to carry out their assigned duties and responsibilities. Armed escorts shall requalify in accordance with appendix B of this part at least every 12 months. Such requalification shall be documented.

(e) Prior to transporting special nuclear material subject to the physical protection requirements of this part, each licensee shall submit a plan outlining the procedures that will be used to meet the requirements of §§ 73.30 through 73.36 and 73.70(g). By (120 days after the rule becomes effective) each licensee shall submit a training and qualifications plan outlining the processes by which armed escorts will be selected, trained, equipped, tested, and qualified to assure these individuals meet the requirements of paragraph (d) of this section.

The training and qualifications plan shall include a schedule to show how all armed escorts will be qualified by (within 2 years after the rule becomes effective) or within 2 years after the submitted plan is approved, whichever is later. The training and qualifications plan shall be followed by the licensee after (180 days after the rule becomes effective) or 60 days after the submitted plan is approved by the NRC, whichever is later.

* * * * *

3. Paragraph 73.50(a)(4) and 73.50(h) of 10 CFR Part 73 are revised to read as follows:

§ 73.50 Requirements for physical protection of licensed activities.

* * * * *

(a) * * * (4) The licensee shall not permit an individual to act as a guard, watchman, armed response person, or other member of the security organization unless such individual has been trained, equipped, and qualified to perform each assigned security job duty in accordance with Appendix B, "General Criteria for Security Personnel," of this part. Upon the request of an authorized representative of the Commission the licensee shall demonstrate the ability of the physical security personnel to carry out their assigned duties and responsibilities. Each guard, watchman, armed response person, and other member of the security organization shall requalify in accordance with appendix B of this part at least every 12 months. Such requalification shall be documented.

* * * * *

(h) By (120 days after the rule becomes effective) each licensee shall submit a training and qualifications plan outlining the processes by which guards, watchmen, armed response persons and other members of the security organization will be selected, trained, equipped, tested, and qualified to assure these individuals meet the requirements of paragraph (a)(4) of this section. The training and qualifications plan shall include a schedule to show how all security personnel will be qualified by (within 2 years after the rule becomes effective) or within two years after the submitted plan is approved, whichever is later. The training and qualifications plan shall be followed by the licensee after (180 days after the rule becomes effective) or 60 days after the submitted plan is approved by the NRC, whichever is later.

* * * * *

4. Paragraph 73.55(b)(4) of 10 CFR Part 73 is revised to read as follows:

§ 73.55 Requirements for physical protection of licensed activities in nuclear power reactors against industrial sabotage.

* * * * *

(b)(4) The licensee shall not permit an individual to act as a guard, watchman, armed response person, or other member of the security organization unless such individual has been trained, equipped, and qualified to perform each assigned security job duty in accordance with Appendix B, "General Criteria for Security Personnel," of this part. Upon the request of an authorized representative of the Commission the licensee shall demonstrate the ability of the physical security personnel to carry out their assigned duties and responsibilities. Each guard, watchman, armed response person, and other member of the security organization shall requalify in accordance with appendix B of this part at least every 12 months. Such requalification shall be documented. By (300 days after the rule becomes effective) each licensee shall submit a training and qualifications plan outlining the processes by which guards, watchmen, armed response persons, and other members of the security organization will be selected, trained, equipped, tested, and qualified to assure these individuals meet the requirements of this paragraph. The training and qualifications plan shall include a schedule to show how all security personnel will be qualified by (within 2 years after the rule becomes effective) or within 2 years after the submitted plan is approved, whichever is later. The training and qualifications plan shall be followed by the licensee after (500 days after the rule becomes effective) or 60 days after the submitted plan is approved by the NRC, whichever is later.

5. A new Appendix B entitled "General Criteria for Security Personnel" is added to 10 CFR Part 73 to read as follows:

APPENDIX B—GENERAL CRITERIA FOR SECURITY PERSONNEL

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INTRODUCTION

Pursuant to the provisions of 73.50 and 73.55 of 10 CFR part 73, Requirements for Physical Protection of Plants and Materials, each licensee who is authorized to conduct certain activities with specified quantities of special nuclear material pursuant to 10 CFR Part 70 and each licensee who is authorized to operate a production or utilization facility pursuant to 10 CFR part 50, respectively, is required to establish a security organization, including trained and equipped guards to physically protect special nuclear material in their possession and their facilities against theft and industrial sabotage.

Further, pursuant to the provisions of 73.30 through 73.36 of 10 CFR part 73, certain shipments of special nuclear material are required to be accompanied by armed escorts.

Security personnel who are responsible for the protection of special nuclear material onsite and in transit and for the protection of the facility or shipment vehicle against industrial sabotage should, like other elements of the physical security system, be required to meet minimum criteria to assure that they will effectively perform their assigned security related job duties. In order to assure that those individuals responsible for security are properly equipped and qualified to execute the job

duties prescribed for them, the NRC has developed general criteria which specifies security personnel qualification requirements.

These general criteria establish requirements for the selection, training, equipping, testing, and qualification of individuals who will be responsible for protecting special nuclear materials, nuclear facilities, and nuclear shipments.

DEFINITIONS

Terms defined in parts 50, 70, and 73 of this chapter have the same meaning when used in this appendix.

CRITERIA

I. Employment suitability and qualification.

A. Suitability: 1. Prior to employment, or assignment to the security organization, an individual shall meet the following suitability criteria:

a. Educational development—Possess a high school diploma or pass an equivalent performance examination designed to measure basic job-related mathematical, language, and reasoning skills, ability, and knowledge, required to perform security job duties.

b. Felony convictions—Have no felony convictions involving the use of a weapon and no felony convictions that reflect on the individual's reliability.

2. Prior to employment or assignment to the security organization in an armed capacity, the individual, in addition to (a) and (b) above, must be 21 years of age or older.

B. Physical and mental qualifications. 1. Physical qualifications:

a. Individuals whose security tasks and job duties are directly associated with the effective implementation of the licensee physical security and contingency plans shall have no physical weaknesses or abnormalities that would adversely affect their performance of assigned security job duties.

b. In addition to a. above, guards, armed response personnel, armed escorts, and central alarm station operators shall successfully pass a physical examination administered by a licensed physician. The examination shall be designed to measure the individual's physical ability to perform assigned security job duties as identified in the licensee physical security and contingency plans. Armed personnel shall meet the following additional physical requirements:

(1) Vision: (a) For each individual, distant visual acuity in each eye shall be correctable to 20/30 (Snellen or equivalent) in the better eye and 20/40 in the other eye with eyeglasses or contact lenses. If uncorrected distance vision is not at least 20/40 in the better eye, the individual shall carry an extra pair of corrective lenses. Near visual acuity, corrected or uncorrected, shall be at least 20/40 in the better eye. Field of vision must be at least 70° horizontal meridian in each eye. The ability to distinguish red, green, and yellow colors is required. Loss of vision in one eye is disqualifying. Glaucoma shall be disqualifying, unless controlled by acceptable medical or surgical means, provided such medications as may be used for controlling glaucoma do not cause undesirable side effects which adversely affect the individual's ability to perform assigned security job duties, and provided the visual acuity and field of vision requirements stated above are met. On-the-job evaluation shall be used for individuals who exhibit a mild color vision defect.

(b) Where corrective eyeglasses are required, they shall be of the safety glass type.

(c) The use of corrective eyeglasses or contact lenses shall not interfere with an individual's ability to effectively perform assigned security job duties during normal or emergency operations.

(2) Hearing: (a) Individuals shall have no hearing loss in the better ear greater than 30 decibels average at 500 hz, 1,000 Hz, and 2,000 Hz, with no level greater than 40 decibels at any one frequency (by ISO 1964 or ANSI 1969 audiometry).

(b) A hearing aid is accepable provided suitable testing procedures demonstrate auditory acuity equivalent to the above stated requirement.

(c) The use of a hearing aid shall not decrease the effective performance of the individual's assigned security job duties during normal or emergency operations.

(3) Diseases—Individuals shall have no established medical history or medical diagnosis of epilepsy or diabetes, or, where such a condition exists, the individual shall provide medical evidence that the condition can be controlled with proper medication so that the individual will not lapse into a coma or unconscious state while performing assigned security job duties.

(4) Addiction-Individuals shall have no established medical history or medical diagnosis of habitual alcoholism or drug addiction, or, where such a condition has existed, the individual shall provide certified documentation of having completed a rehabilitation program which would give a reasonable degree of confidence that the individual would be capable of performing assigned security job duties.

(5) Other physical requirements—An individual who has been incapacitated due to a serious illness, injury, disease, or operation, which could interfere with the effective performance of assigned security job duties shall, prior to resumption of such duties, provide medical evidence of recovery and ability to perform such security job duties.

2. Mental qualifications: a. Individuals whose security tasks and job duties are directly associated with the effective implementation of the licensee physical security and contingency plans shall demonstrate mental alertness and the capability to exercise good judgment, implement instructions, assimilate assigned security tasks, and possess the acuity of senses and ability of expression sufficient to permit accurate communication by written, spoken, audible, visible, or other signals required by assigned job duties.

b. Armed individuals, and central alarm station operators, in addition to meeting the requirement stated in paragraph a. above, shall have no emotional instability that would interfere with the effective performance of assigned security job duties. The determination shall be made by a licensed psychologist or psychiatrist, or physician, or other person professionally trained to identify emotional instability.

c. The licensee shall arrange for continued observation of security personnel and for appropriate corrective measures by responsible supervisors for indications of emotional instability of individuals in the course of performing assigned security job duties. Identification of emotional instability by responsible supervisors shall be subject to verification by a licensed, trained person.

C. Physical fitness qualifications—Subject to a medical examination conducted within the preceding 30 days and to a determination and written certification by a licensed physician that there are no medical contraindications to participation by the individual as disclosed by the medical examination, guards, armed response personnel and armed escorts shall demonstrate physical fitness for assigned security job duties by performing a practical physical exercise program within a specific time period. The exercise program performance objectives shall be described in the licensee training and qualifications plan, and shall consider such job related functions as strenuous activity, physical exertion, levels of stress, and exposure to the elements as they pertain to each individual's assigned security job duties for both normal and emergency operations. The physical fitness qualification of each guard, armed response person, and armed escort shall be documented and attested by a licensee security supervisor.

D. Contract security personnel—Contract security personnel shall be required to meet the suitability, physical, and mental requirements as appropriate to their assigned security job duties in accordance with section I of this appendix.

E. Physical requalification—At least every 12 months, central alarm station operators shall be required to meet the physical requirements of B.1.b of this section and guards, armed response personnel and armed escorts, shall be required to meet the physical requirements of paragraphs B.1.b (1) and (2), and C of this section.

F. Documentation—The results of suitability, physical, and mental qualifications data and test results shall be documented by the licensee or his agent.

G. Nothing herein authorizes or requires a licensee to investigate into or judge the reading habits, political or religious beliefs, or attitudes on social, economic, or political issues of any person.

II. Training and qualifications.

A. Training requirements—Each individual who requires training to perform assigned security related job tasks or job duties as identified in the licensee physical security or contingency plans, shall prior to assignment, be trained to perform such tasks and duties in accordance with the licensee or his agent's documented training and qualifications plan.

B. Qualification requirements—Each person who performs security related job tasks or job duties required to implement the licensee physical security or contingency plan shall, prior to being assigned to such tasks or duties, be qualified in accordance with the licensee's NRC approved training and qualifications plan. The qualifications of each individual shall be documented and attested by a licensee security supervisor.

C. Contract personnel—Contract personnel shall be trained, equipped, and qualified as appropriate to their assigned security related job tasks or job duties, in accordance with sections II, III, IV, and V of this appendix. The qualifications of each individual shall be documented and attested by a licensee security supervisor.

D. Security knowledge, skills, and abilities—Each individual assigned to perform the security related task identified in the licensee physical security or contingency plan shall demonstrate the required knowledge, skill, and ability in accordance with the specified standards for each task as stated

in the NRC approved licensee training and qualifications plan. The areas of knowledge, skills, and abilities that shall be considered in the licensee's training and qualifications plan are as follows:

1. Protection of nuclear facilities, transport vehicles, and special nuclear material.
2. NRC requirements and guidance for physical security at nuclear facilities and for transportation.
3. The private security guard's role in providing physical protection for the nuclear industry.
4. The authority of private guards.
5. The use of nonlethal weapons.
6. The use of deadly force.
7. Power of arrest and authority to detain individuals.
8. Authority to search individuals and seize property.
9. Adversary group operations.
10. Motivation and objectives of adversary groups.
11. Tactics and force that might be used by adversary groups to achieve their objectives.
12. Recognition of sabotage related devices and equipment that might be used against the licensee's facility or shipment vehicle.
13. Facility security organization and operation.
14. Types of physical barriers.
15. Weapons, lock and key control system operation.
16. Location of SNM and/or vital areas within a facility.
17. Protected area security and vulnerability.
18. Types of alarm systems used.
19. Response and assessment to alarm annunciations and other indications of intrusion.
20. Familiarization with types of special nuclear material processed.
21. General concepts of fixed site security systems.
22. Vulnerabilities and consequences of theft of special nuclear material or industrial sabotage of a facility.
23. Protection of security system information.
24. Personal equipment use and operation for normal and contingency operations.
25. Surveillance and assessment systems and techniques.
26. Communications systems operation, fixed site.
27. Access control systems and operation for individuals, packages, and vehicles.
28. Contraband detection systems and techniques.
29. Barriers and other delay systems around material access or vital areas.
30. Exterior and interior alarm systems operation.
31. Duress alarm operation.
32. Alarm stations operation.
33. Response force organization.
34. Response force mission.
35. Response force operation.
36. Response force engagement.
37. Security command and control system during normal operation.
38. Security command and control system during contingency operation.
39. Transportation systems security organization and operation.
40. Types of SNM transport vehicles.
41. Types of SNM escort vehicles.
42. Modes of transportation for SNM.
43. Road transport security system command and control structure.
44. Use of weapons.
45. Communications systems operation for transportation, shipment to control center and intraconvoy.
46. Vulnerabilities and consequences of theft of special nuclear material or industrial sabotage of a transport vehicle.
47. Protection of transport system security information.
48. Control of area around transport vehicle.
49. Normal convoy techniques and operations.
50. Familiarization with types of special nuclear materials shipped.
51. Fixed post station operations.
52. Access control system operation.
53. Search techniques and systems for individuals, packages and vehicles.
54. Escort and patrol responsibilities and operation.
55. Contengency response to confirmed intrusion or attempted intrusion.
56. Security system operation after component failure.
57. Fixed site security information protection.
58. Security coordination with local law enforcement agencies.
59. Security and situation reporting, documentation and report writing.
60. Contingency duties.
61. Self defense.
62. Use of and defenses against incapacitating agents.
63. Security equipment testing.
64. Contingency procedures.
65. Night vision devices and systems.
66. Mechanics of detention.
67. Basic armed and unarmed defensive tactics.
68. Response force deployment.
69. Security alert procedures.
70. Security briefing procedures.
71. Response force tactical movement.
72. Response force withdrawal.
73. Reponse force use of support fire.
74. Response to bomb and attack threats.
75. Response to civil disturbances (e.g., strikes, demonstrators).
76. Response to confirmed attempted theft of special nuclear material and/or industrial sabotage of facilities.
77. Response to hostage situations.
78. Site specific armed tactical procedures and operation.
79. Security response to emergency situations other than security incidents.
80. Basic transportation defensive response tactics.
81. Armed escort deployment.
82. Armed escort adversary engagement.
83. Armed escort formations.
84. Armed escort use of weapons fire (tactical and combat).
85. Armed escort and shipment movement under fire.
86. Tactical convoying techniques and operations.
87. Armed escort tactical exercises.
88. Armed escort response to bomb and attack threats.
89. Verification of shipment documentation and contents.
90. Continuous surveillance of shipment vehicle.
91. Normal and contingency operation for shipment mode transfer.
92. Armed personnel procedures and operation during temporary storage between mode transfers of shipments.
93. Armed escort threat assessment and response.
94. System for and operation of shipment vehicle lock and key control.
95. Techniques and procedures for isolation of shipment vehicle during a contingency situation.
96. Transportation coordination with local law enforcement agencies.
97. Procedures for verification of shipment locks and seals.
98. Transportation security and situation reporting, documentation, and report writing.
99. Procedures for shipment delivery and pickup.
100. Transportation security system for escort by road, rail, air and sea.

E. Requalification—Security personnel shall be requalified at least every 12 months to perform assigned security related job tasks and duties for both normal and contingency operations. Requalification shall be in accordance with the NRC approved licensee training and qualifications plan. The results of requalification shall be documented and attested by a licensee security supervisor.

III. Weapons training.

A. Guards, armed response personnel and armed escorts requiring weapons training to perform assigned security related job tasks or job duties shall be trained in accordance with the licensees' documented weapons training programs. Each individual shall be proficient in the use of his assigned weapon(s) and shall meet prescribed standards in the following areas:

1. Mechanical assembly, dissasembly, range penetration capabilitity of weapon, and bullseye firing.
2. Weapons cleaning and storage.
3. Combat firing, day and night.
4. Safe weapons handling.
5. Clearing, loading, unloading, and reloading.
6. When to draw and point a weapon.
7. Rapid fire techniques.
8. Close quarter firing.
10. Zeroing assigned weapon(s).

IV. Weapons qualification and requalification program.

Qualification firing for the handgun and the rifle shall be for daylight firing, and each individual shall perform night firing for familiarization with assigned weapons(s). The results of weapons qualification and requalification shall be documented by the licensee or his agent.

A. Handgun—Guards, armed escorts and armed response personnel shall qualify with a revolver or semiautomatic pistol firing the national police course, or an equivalent nationally recognized course. Qualifying score shall be an accumulated total of 70 percent of the maximum obtainable score.

B. Semiautomatic Rifle—Guards, armed escorts and armed response personnel, assigned to use the semiautomatic rifle by the licensee training and qualifications plan, shall qualify with a semiautomatic rifle by firing the 100-yard course of fire specified in section 17.5(1) of the National Rifle Association, High Power Rifle Rules book (effective March 15, 1976),[1] or a nationally recog-

[1] Copies of the "NRA High Power Rifle Rules" may be examined at, or obtained from, the National Rifle Association, 1600 Rhode Island Avenue NW., Washington, D.C. 20036.

nized equivalent course of fire. Targets used shall be as stated in section 17.5 for the 100-yard course. Time limits for individuals shall be as specified in section 8.2 of the NRA rule book, regardless of the course fired. Qualifying score shall be an accumulated total of 80 percent of the maximum obtainable score.

C. Shotgun—Guards, armed escorts, and armed response personnel assigned to use the 12 gauge shotgun by the licensee training and qualifications plan shall qualify with a full choke or improved modified choke 12 gauge shotgun firing the following course:

Range	Position	No. Rounds[1]	Target[2]
15 yds.....	Hip fire point.	4	B-27
25 yds.....	Shoulder....	4	B-27

[1]The 4 rounds shall be fired at 4 separate targets within 10 seconds using 00 gauge (9 pellet) shotgun shells.

[2]As set forth by the National Rifle Association (NRA) in its official rules and regulations, "NRA Target Manufacturers Index," December 1976.

To qualify the individual shall be required to place 50 percent of all pellets (36 pellets) within the black silhouette.

D. Requalification—Individuals shall be weapons requalified at least every 12 months in accordance with the NRC approved licensee training and qualifications plan, and in accordance with the requirements stated in A, B, and C of this section.

V. Guard, armed response personnel, and armed escort equipment.

A. Fixed Site—Fixed site guards and armed response personnel shall either be equipped with or have available the following security equipment appropriate to the individual's assigned contingency security related tasks or job duties as described in the licensee physical security and contingency plans:

1. Semiautomatic rifles with following nominal minimum specifications:
(a) .223 caliber.
(b) Muzzle velocity, 1980 ft/sec.
(c) Muzzle energy, 955 foot-pounds.
(d) Magazine or clip load of 10 rounds.
(e) Magazine reload, 0 10 seconds.
(f) Operable in any environment in which it will be used.

2. 12 gauge shotguns with the following capabilities:
(a) 4 round pump or semiautomatic.
(b) Operable in any environment in which it will be used.
(c) Full or modified choke.

3. Semiautomatic pistols or revolvers with the following nominal minimum specifications:
(a) .354 caliber.
(b) Muzzle energy, 250 foot-pounds.
(c) Full magazine or cylinder reload capability 0 6 seconds.
(d) Muzzle velocity, 850 ft/sec.
(e) Full cylinder or magazine capacity, 6 rounds.
(f) Operable in any environment in which it will be used.

4. Ammunition:
(a) For each assigned weapon as appropriate to the individual's assigned contingency security job duties and as readily available as the weapon:
(1) 18 rounds per handgun.
(2) 100 rounds per semiautomatic rifle.
(3) 12 rounds each per shotgun (00 gauge and slug).
(b) Ammunition available on site—two (2) times the amount stated in (a) above for each weapon.

5. Personal equipment to be readily available for individuals whose assigned contingency security job duties, as described in the licensee physical security and contingency plans, warrant such equipment:
(a) Helmet, combat.
(b) Gas mask, full face.
(c) Body armor (bullet-resistant vest).
(d) Flashlights and batteries.
(e) Baton.
(f) Handcuffs.
(g) Ammunition/equipment belt.
6. Binoculars.
7. Night vision aids, i.e., hand-fired illumination flares or equivalent.
8. Tear gas or other nonlethal gas.
9. Duress alarms.
10. Two-way portable radios (handi-talkie) 2 channels minimum, 1 operating and 1 emergency.

B. Transportation—Armed escorts shall either be equipped with or have readily available the following security equipment appropriate to the individual's assigned contingency security related tasks or job duties, as described in the licensee physical security and contingency plans:

1. Semiautomatic rifles with the following nominal minimum specifications:
(a) .223 caliber.
(b) Muzzle velocity, 1,980 ft/sec.
(c) Muzzle energy, 955 foot-pounds.
(d) Magazine or clip of 10 rounds.
(e) Reload capability, 0 10 seconds.
(f) Operable in any environment in which it will be used.

2. 12 gauge shotguns.
(a) 4 round pump or semiautomatic.
(b) Operable in any environment in which it will be used.
(c) Full or modified choke.

3. Semiautomatic pistols or revolvers with the following nominal minimum specifications:
(a) .354 caliber.
(b) Muzzle energy, 250 foot-pounds.
(c) Full magazine or cylinder reload capability 0 6 seconds.
(d) Muzzle velocity, 850 ft/sec.
(e) Full cylinder or magazine capacity, 6 rounds.
(f) Operable in any environment in which it will be used.

4. Ammunition for each shipment.
(a) For each assigned weapon as appropriate to the individual's assigned contingency security job duties and as readily available as the weapon:
(1) 36 rounds per handgun.
(2) 120 rounds per semiautomatic rifle.
(3) 12 rounds each per shotgun (00 gauge and slug).

5. Escort vehicles, bullet resisting, equipped with communications systems, red flares, first aid kit, emergency tool kit, tire changing equipment, battery chargers for radios (where appropriate, for recharging portable radio batteries).

6. Personal equipment to be readily available for individuals whose assigned contingency security job duties, as described in the licensee physical security and contingency plans, warrant such equipment:
(a) Helmet, combat.
(b) Gas mask, full face.
(c) Body armor (bullet-resistant vest).
(d) Flashlights and batteries.
(e) Baton.
(f) Ammunition/equipment belt.
(g) Pager/duress alarms.
7. Binoculars.
8. Night vision aids, i.e., hand-fired illumination flares or equivalent.
9. Tear gas or other nonlethal gas.

Effective date: October 23, 1978.

(Sec. 161i, Pub. L. 83-703, 68 Stat. 948, Pub. L. 93-377, 88 Stat. 475; Sec. 201, Pub. L. 93-438, 88 Stat. 1242-1243, Pub. L. 94-79, 89 Stat. 413 (42 U.S.C. 2201, 5841).)

Dated at Washington, D.C., this 16th day of August 1978.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc. 78-23605 Filed 8-22-78; 8:45 am]

[6750-01]

Title 16—Commercial Practices

CHAPTER 1—FEDERAL TRADE COMMISSION

[Docket 8920]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Retail Credit Co.

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: This order, among other things, requires an Atlanta, Ga. collector and seller of consumer credit information to divest itself completely, within 1 year, of the Credit Bureau of Salem, Oreg. (CB West Coast), and the Credit Bureau of Washington, D.C., subject to Commission approval; and provide purchaser, for 3 years, with copies of its current files in a form that will permit acquirer to prepare and sell credit reports. The order additionally bars the firm, for 10 years, from entering into management contracts with divested corporations, and from acquiring, without prior Commission sanction, any concern engaged in the business of collecting and reporting consumer credit information.

DATES: Complaint issued March 9, 1973. Final order issued July 7, 1978.[1]

FOR FURTHER INFORMATION CONTACT:

Alfred F. Dougherty, Jr., Director, Bureau of Competition, Federal Trade Commission, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580, 202-523-3601.

SUPPLEMENTARY INFORMATION: In the matter of retail credit company,

[1]Copies of the complaint, initial decision, opinion and final order filed with the original document.

a corporation. The prohibited trade practices and/or corrective actions, as codified under 16 CFR 13, are as follows:

Subpart-Acquiring Corporate Stock or Assets: § 13.5 Acquiring corporate stock or assets; 13.5-20 F.T.C. Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or apply sec. 5, 38 Stat. 731, as amended; 15 U.S.C. 45, 18.)

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

FINAL ORDER

This matter has been heard by the Commission upon the appeals of complaint counsel and retail credit company ("respondent") 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 has denied, in larger part, the appeal of respondent and granted, in larger part, the appeal of complaint counsel.

It is ordered, That the initial decision of the administrative law judge be adopted as the Findings of Fact and Conclusions of Law of the Commission, except to the extent inconsistent with, and as indicated in, the accompanying Opinion. Other Findings of Fact and Conclusions of Law of the Commission are contained in the accompanying Opinion.

It is further ordered, That the following order to divest and to cease and desist be, and it hereby is, entered:

ORDER

I

It is ordered, That respondent, a corporation, and its directors, agents, representatives, employees, subsidiaries, affiliates, successors and assigns, shall divest all stock, assets, properties, rights and privileges and interests of whatever nature, tangible and intangible, acquired by respondent as the result of its acquisitions of stock or assets of Credit Bureau, Inc., of Salem, Oregon ("CB West Coast") and the Credit Bureau of Washington, D.C., together with all additions and improvements to the acquired firms which have been added since the acquisitions of such firms. Such divesture shall include the removal from all manual and computerized records of respondent all credit information obtained as a result of the acquisitions, and all additions and improvements to the acquired firms' credit information added since the acquisitions, *Provided, however,* That respondent shall be permitted to retain the credit reporting and related assets and business of Credit Bureau Metro, Portland, including all additions and improvements thereto since the acquisitions. Any assets or properties of any acquired firm required to be divested that have been substantially disposed of or commingled with respondent's assets or properties since acquisition, including computerized credit files, shall be restored or recreated prior to divestiture and included in the assets and properties to be divested. Such divestiture shall be absolute and shall be accomplished no later than one (1) year from the date this order shall become final and shall be subject to the prior approval of the Federal Trade Commission.

II

It is further ordered, That each divesture required by paragraph I of this order shall be accomplished absolutely to an acquirer approved in advance by the Federal Trade Commission so as to transfer CBDC and the portion of CB West Coast to be divested as going businesses and as viable concerns engaged in the gathering and reporting of credit information on individuals to business firms. The assets and business pertaining to CB West Coast required to be divested shall be divested as a single unit.

III

Pending completion of such divestures, respondent shall not commingle any assets, properties, financing, business or operations of any acquired assets and business required to be divested with its own, and shall take no steps to impair or otherwise adversely affect the economic, competitive, and financial strength of any business required to be divested.

IV

It is further ordered, That respondent, within 1 year from the effective date of this order, shall enter into an agreement with a purchaser, the purchaser and the terms of the agreement to be approved by the Commission, whereby respondent shall, in good faith supply to the purchaser, during a period of three (3) years beginning on a date to be determined by the purchaser, copies of its then current credit files in a form which will permit said purchaser to prepare and sell credit reports concerning residents of the Portland, Oreg. metropolitan area (the city of Portland and Washington, Multnomah, and Clackamas Counties in Oregon and Clark County in Washington).

V

It is further ordered, That the divestures and sale required by Paragraphs I, II and IV of this Order shall not be effected, directly or indirectly, to any person who is an officer, director, employee or agent of, or otherwise under the control or influence of, respondent or who owns or controls directly or indirectly, more than one (1) percent of the outstanding stock of respondent.

VI

It is further ordered, That for a period of ten (10) years from the effective date of this order respondent shall cease and desist from acquiring, directly or indirectly, without the prior approval of the Federal Trade Commission, the whole or any part of the stock, share capital, assets, or any interest in or any interest of, any concern engaged in the gathering and reporting of credit information on individuals to business firms in the United States, nor shall respondent enter into any arrangement with any such concern by which respondent obtains the market share, in whole or in part, of such concern.

VII

It is further ordered, That respondent, for a period of ten (10) years from the effective date of this order, shall not enter into a contract to manage bureaus divested, pursuant to paragraphs I and II, or to which credit information was sold pursuant to Paragraph IV, at least two thousand (2,000), or twenty (20) percent, of whose files concern residents of either the San Francisco, Bay metropolitan area (San Francisco, San Mateo, Santa Clara, Alameda, Marin, Solano, Napa, Sonoma, and Contra Costa Counties in California); the Tacoma, Wash., metropolitan area (Pierce County, Wash.); the Portland, Oreg. metropolitan area (the city of Portland, Washington, Multnomah and Clackamas Counties, Oregon and Clark County, Wash.); or the Washington, D.C. metropolitan area (the District of Columbia, Montgomery and Prince Georges Counties in Maryland, Arlington and Fairfax Counties in Virginia, and the cities of Alexandria and Falls Church in Virginia): *Provided, however,* That nothing contained in this Order shall be construed to prohibit respondent from bidding for an automation service contract in competition with other firms offering automation service contracts, with any purchaser of any business divested pursuant to this Order.

VIII

It is further ordered, That within thirty (30) days from the effective date of this Order and every sixty (60) days thereafter until the divestures and the sale required by Paragaphs I, II and IV, are accomplished respondent shall submit, in writing, to the Federal Trade Commission a verified report setting forth in detail the manner and form in which it intends to comply, is complying, or has complied with the Order. All compliance reports shall include among other things that are from time to time required, (a) the steps taken to accomplish the required divestiture and sale; and (b) copies of all documents, reports memorandums, communications and correspondence concerning or relating to the divestiture and sale.

With respect to Paragraph VI of this Order, respondent shall on the first anniversary date of the effective date of Paragraph VI and each anniversary date thereafter until the ten (10) year period shall have expired, submit a report, in writing, listing all acquisitions or mergers made by it, the date of each such acquisition or merger, the products involved, and such additional information as may from time to time be required by the Federal Trade Commission.

IX

It is further ordered, That respondent shall notify the Commission at least thirty (30) days prior to any proposed change which may affect compliance obligations arising out of this Order, such as dissolution, assignment or sale resulting in the emergence of a corporate successor.

By the Commission. Commissioner Pitofsky not participating.

JAMES A. TOBIN,
Acting Secretary.

[FR Doc. 78-23597 Filed 8-22-78; 8:45 am]

[6351-01]

Title 17—Commodity and Securities Exchange

CHAPTER 17—COMMODITY FUTURES TRADING COMMISSION

PART 18—REPORTS BY TRADERS

Use of Data-Processing Media for Reporting

AGENCY: Commodity Futures Trading Commission (CFTC).

ACTION: Final rulemaking.

SUMMARY: CFTC adopts amendments regulations for reporting requirements under the Commodity Exchange Act ("the Act") for large traders which would allow them to report their futures positions to the Commission on computer printouts. Currently they are required to submit such information on series '03 reports, punched cards or magnetic tapes or discs. The amendments would also require that computer printouts accompany information submitted on computer tapes, cards or disc. The intended purpose of these amendments is to ease a reporting burden heretofore imposed on traders.

EFFECTIVE DATE: This amendment is effective August 23, 1978.

FOR FURTHER INFORMATION CONTACT:

Wayne Olson, Division of Surveillance and Analysis, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581, telephone, 202-254-3312.

SUPPLEMENTARY INFORMATION: With the growth in use of data-processing equipment, the Commission has received requests from traders to submit information required by § 18.00 of the regulations under the Act on computer printouts. Currently, this information must be submitted on series '03 reports or on punched cards or magnetic tapes or discs as provided for in § 18.06. The Commission recognizes that allowing information to be submitted on printouts may in some cases ease the current reporting burden on traders and would subject the data that the Commission receives to less chance for error. The Commission is therefore amending § 18.06 to allow for filing information on computer printout as long as the format and coding structure used thereon has been approved by the Executive Director or his designee as conforming to that of the series '03 reports.

The Commission has also amended § 18.06 to provide that series '03 tape or disc should be accompanied by a computer printout listing such information. This will facilitate processing of these data processing media and reduce the likelihood for error. The Commission has therefore amended § 18.06 accordingly.

In consideration of the foregoing, the Commission, pursuant to its authority under sections 4(i) and 8a(5) of the Act, 7 U.S.C. 6i, and 12a(5) (Supp. V, 1975), hereby amends Title 17 CFR 18.06 is revised as follows:

§ 18.06. Use of Data-Processing Media.

Any trader may provide the required series '03 information on compatible data-processing punched cards, magnetic tapes, magnetic discs or computer printouts provided that the format and coding structure used thereon have been approved in writing by the Executive Director or his designee. Information provided by means of data processing punched cards, magnetic tapes or magnetic discs shall also be accompanied by a complete and accurate printout of the information.

The foregoing amendment is adopted effective on August 23, 1978. The Commission finds that the foregoing action relieves a burden heretofore imposed and, therefore, that the notice and other public procedures called for by 5 U.S.C. 553 are not required.

Issued in Washington, D.C., on August 18, 1978, by the Commission.

WILLIAM T. BAGLEY,
Chairman,
Commodity Futures Trading Commission.

[FR Doc. 78-23663 Filed 8-22-78; 8:45 am]

[4310-02]

Title 25—Indians

CHAPTER I—BUREAU OF INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR

Subchapter W—Miscellaneous Activities

PART 258—INDIAN FISHING—HOOPA INDIAN RESERVATION

In-Seasons Adjustment

AGENCY: Department of the Interior.

ACTION: Notice of in-seasons adjustment.

SUMMARY: This rule makes in-season adjustment changes to the fishing times for the week beginning August 19, 1978, and ending August 27, 1978, under section 258.12—In-season and Emergency Regulations. These adjustments affect fishing during the fall chinook salmon fishing season on the Klamath River below the Highway 101 bridge. This action is taken after an agreement with the State of California regarding the management of this year's fishery. These adjustments make the permissible fishing days the same above and below the bridge.

DATE: These adjustments are effective on August 19, 1978.

FOR FURTHER INFORMATION CONTACT:

Sue Hvalsoe, 202-343-3163.

SUPPLEMENTARY INFORMATION:

STATEMENT OF CONSIDERATION

The rules covering Indian fishing on the Hoopa Indian Reservation were promulgated on July 7, 1978, and published in the FEDERAL REGISTER on July 13, 1978. Under these rules Indian fishing during the fall chinook salmon fishing season is allowed on the Klamath River below the Highway 101 bridge for 2 days per week, 10 hours per day, and above the Highway 101 bridge and in the Trinity River within the Reservation for 4 days per week, 10 hours per day.

Two weeks ago the Department issued an order for an in-season adjustment of the Indian fishery, affecting Indian fishing times below the Highway 101 bridge. On August 16, 1978, after consultation with Indians of the reservation indicating substantial agreement, the Department entered into an agreement with the State of California regarding the management of this year's fishery. The further adjustment of Indian fishing times has been determined to be consistent with the conservation management of the fishery, and further adjustments are therefore made part of this order. In addition, the adjustments will make the permissible fishing days the same above and below the bridge.

In addition, it has been determined that virtually no information exists by which to manage Indian sturgeon and steelhead fisheries for conservation. Therefore, as part of the agreement and as a subject of this in-season adjustment the sale of steelhead and sturgeon are prohibited.

Permanent amendments to the regulations are currently being completed to make this year's regulations consistent with the agreement of the State and this Department and substantial agreement of many of the Indians of the reservation.

It is not the intent of these in-season adjustments to dictate or set limitation on the sports fishery of the Klamath River Basin. The California Department of Natural Resources will regulate that fishing in a manner consistent with the agreement.

It is therefore ordered, That Indian fishing on days prescribed under 25 CFR 258.11 on the Hoopa Indian Reservation are hereby subject to an in-season adjustment changing the permissible fishing days to allow on-reservation fishing below the Highway 101 bridge by eligible Indians from 8 p.m.

to 12 p.m., with all boats off the river by 1 a.m., on the nights of:

August 19, 1978	August 25, 1978
August 20, 1978	August 26, 1978
August 23, 1978	August 27, 1978
August 24, 1978	

All fish landed must be cleared through a single check station at a point established by the Fish and Wildlife Service for the area below the bridge.

In addition, it is ordered that Indian fishing on the Hoopa Indian Reservation above the Highway 101 bridge is extended by 1 day, to allow fishing between the hours of 8 p.m. on Wednesday evening, August 23, 1978, to 6 a.m. on Thursday morning, August 24, 1978.

Provided, however, That Indian fishing for this week will be closed when 5,000 salmon have been harvested by Indians during the week's fishing activity.

If all parts of the regulations are not met, or if reporting of fishing effort and catch is not adequate, or if there is an accident, or if the current substantial concern for conservation of the resource, caused by the late and apparently smaller than usual size of the fall salmon run is not alleviated, this in-season adjustment will be modified, with a likelihood of closing all or part of the Indian fishery.

Notice of this order is provided to local newspapers and posted at pertinent places on the Hoopa Indian Reservation. It shall also be published in the FEDERAL REGISTER forthwith.

Dated: August 18, 1978.

HARVEY K. NELSON,
Acting Director,
Fish and Wildlife Service.

[FR Doc. 78-23697 Filed 8-22-78; 8:45 am]

[4310-02]

SUBCHAPTER Y—INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE PROGRAMS

Contracts and Grants Under Self-Determination and Education Assistance Act; Revision of Regulations

AGENCY: Bureau of Indian Affairs, Department of the Interior.

ACTION: Final rule.

SUMMARY: The Indian Self-Determination and Education Assistance Act requires the Bureau of Indian Affairs to annually review the regulations which implement the act, and to consult the Indian tribes and organizations about the need for revision or amendment of those regulations. These amendments affect contracts under the Indian Self-Determination Act; school construction contracts or services for tribally operated previously private schools; school construction contracts for public schools; uniform administrative requirements for grants; and contracting with Indian organizations pursuant to the Indian Self-Determination and Education Assistance Act.

EFFECTIVE DATE: September 22, 1978.

FOR FURTHER INFORMATION CONTACT:

Dr. Helen Miller, Acting Chief, Indian Self-Determination Staff, Code 106, Bureau of Indian Affairs, Washington, D.C. 20240, 202-343-4796.

SUPPLEMENTARY INFORMATION: On March 28, 1978, and March 23, 1978, there were published in the FEDERAL REGISTER (43 FR 12878) (43 FR 12894) (43 FR 12034) three notices of proposed rulemaking with proposed amendment to chapter I of title 25 of the Code of Federal Regulations. The public was given until April 27, 1978, for 25 CFR Parts 271, 272, 273, 274, 275, 276, and 41 CFR Part 14H-70 and until April 24, 1978, for 25 CFR Part 277 to submit written comments, suggestions, or objections regarding the proposed amendments.

II. CHANGES MADE DUE TO COMMENTS RECEIVED

As a result of comments received, the following changes in the regulations are made in addition to language changes for clarification:

A. PART 271

1. The United States Code citation is added to the authority in 25 CFR, Parts 271 through 277, and 41 CFR 14-H.

2. Section 271.2(b) delegates the authorities and responsibilities of an Area Director to the Director, Office of Tribal Resources, regarding contracting for an Indian action team program whenever a tribe elects to submit such a contract application through the Indian Technical Assistance Center, and to the Director, Office of Administration, regarding all contracting for the construction, building, and utilities program.

The definition of "Commissioner" in § 271.2(e) is changed to reflect the current status of the Office of the Commissioner.

Section 271.2(n) delegates the authorities and responsibilities of an Agency Superintendent to the Chief, Indian Technical Assistance Center, whenever a tribe elects to submit a contract application through the Indian Technical Assistance Center instead of through the Agency, and to the Chief, Division of Facilities Engineering, regarding contracting for those parts of the construction, building, and utilities program that fall within the purview of the regulation.

3. The paragraphs in § 271.12 are being redesignated and the first sentence in paragraph (b) is being revised. Two new subparagraphs are being added in paragraph (a) to clarify that only alterations and repairs which are in direct support of a contracted program may be contracted under this part, individual construction projects not being contractable, and to indicate that architect-engineering services are also under this part. The proposed revision relating to construction was further clarified by use of the terms "alterations and repairs." While individual construction projects are not contractable under these regulations, the housing improvement program may be contracted.

4. In § 271.14, former paragraph (i)(3) is revoked and reserved and paragraph (i)(6) is revised. The evaluation criteria and control systems required by former paragraph (i)(6) provide the means of measuring progress and accomplishment required by former paragraph (i)(3); therefore, the two paragraphs are consolidated for clarity.

In § 271.14(m), the accounting system must provide for the accumulation of costs throughout the contract term in a manner which will facilitate audit of the financial records, as required by § 276.7.

Additional information the Bureau needs to expedite requests for an advance payment is listed in § 271.14(o).

Section 271.14(g) requires that the applicant list or agree to establish procedures which will assure that services and assistance will be provided in a fair and uniform manner.

Section 271.14(r) includes the requirements of § 271.15(c)(6)(i)(C) that the applicant agree to keep certain records, submit reports to the Bureau, and make those reports and other information available to Indian clients. If the application does not include such a statement, a determination may result that the tribal organization would be deficient in performance under the contract pursuant to § 271.15(c)(6)(i)(C), and that would be a ground for declination.

The requirement in 41 CFR 14H-70.409 that the application give certain information on subcontracts is also to be included in § 271.14(s). If no subcontract has been awarded, the application must contain a statement that the applicant agrees to comply with appropriate regulations in awarding subcontracts. A provision is also being added to cover subcontracting by tribal organizations applying for a Johnson-O'Malley contract under 25 CFR part 273.

5. Paragraph (c)(5)(i) of § 271.15 is revised to indicate that the standards prescribed for a tribal organization's personnel system must insure equal access to all qualified tribal members. If the standards do not insure equal access to all qualified tribal members, a determination may result that the tribal organization would be deficient in performance under the contract pursuant to § 271.15(c)(6)(i)(A), which would be a ground for declination.

Paragraph (e) of § 271.15 is revised to indicate that a tribal organization acting under authority delegated by a tribe may also request waivers of the regulations.

6. Section 271.16(a) corrects the reference "271.18(d)(1)" to "271.18(c)(2)."

7. Section 271.18(b) requires a tribal governing body which elects to submit a contract application for the Indian action team program through the Indian Technical Assistance Center must so indicate in the resolution.

Paragraph (c)(2)(vii) of § 271.18 clarified that delegations of authority to the tribal organization, and any limitations thereon, should be included in the resolution. Paragraph (c)(2)(vii)(A) provides that a tribal organization which is not the tribal governing body must seek access to Bureau records through the tribe, except when authorized by a tribal resolution under a contract. Paragraphs (G) and (H) are being added to § 271.18(c)(2)(vii) to indicate that a tribal resolution should list any limitations thereon and any delegations of authority to request waivers of the regulations. A new paragraph (viii) is being added to § 271.18(c)(2) to indicate that a tribal resolution should also give the expiration date of the authority granted or carry the proviso "until revoked by the tribal governing body."

8. The reference to 41 CFR 14H-70.104 is being included with the introductory paragraph of § 271.20.

9. A provision is added to § 271.21(a)(1) that applications to contract for the Indian action team program may be submitted to the chief, Indian Technical Assistance Center, at the option of the tribal governing body. In addition, applications to contract for those parts of the construction, building, and utilities program that fall within the purview of these regulations must be submitted to the chief, Division of Facilities Engineering.

A commentator requested clarification to § 271.21(b) concerning the intent of the 120-day requirement. The intent is to allow sufficient time to find suitable employment for those individuals who will be displaced by contracting. However, if all of the individuals can be placed in similar or equivalent positions prior to the expiration of the 120 days, then the requirements are deemed to be met and the contract may begin in less than 120 days. The Bureau agrees with the comment that there is a need for clarification to § 271.21(b) and is adding a sentence accordingly.

10. A provision added to § 271.22(b) requires the Superintendent to contact the Chief of the Indian Technical Assistance Center for funding information when the application involves contracting for the Indian action team program. The funding information must be obtained without sending the application to the Center. This provision is being added to resolve complaints that when the tribal governing body chooses the option of submitting an application for the Indian action team program through the Superintendent the application was often sent to the Indian Technical Assistance Center for funding information, with resulting delay.

A provision to § 271.22(c) is added to require a provision that the Superintendent review the application to determine whether funds are available at the Agency to finance the proposed contract and the effect of the proposed contract on services to be provided through the contract and otherwise. If funds are not available at the Agency, the Superintendent is responsible for informing the applicant of its options. The applicant may propose alternatives to solve the funding problem, and an additional 15 days is allowed to try to solve the funding problem. Lack of funds to finance a proposed contract has not been previously addressed in the regulations, but such situations have often occurred.

Section 271.22(e) adds more specific requirements on the Superintendent's recommendation to the Area Director concerning the contract application.

New paragraph (f) provides for the Chief of the Indian Technical Assistance Center to contact the Superintendent for information on availability of equipment and buildings requested in an application to contract for the Indian action team program. The information must be obtained without sending the application to the Superintendent. This regulation change is an attempt to make more viable the tribal governing body's option of submitting an application for the Indian action team program through the Indian Technical Assistance Center.

New paragraph (g) provides for the Chief, Division of Facilities Engineering, to contact the Superintendent for information on availability of equipment and buildings requested in an application to contract for the construction, building, and utilities program. The information must be obtained without sending the application to the Superintendent.

11. Paragraph (b) of § 271.23 provides that the Director of Tribal Resources Development shall take all actions required of an Area Director by § 271.23 regarding Indian action team contracts whenever an applicant elects to submit a contract through the Indian Technical Assistance Center. It also states that the Director, Office of Administration, shall take all actions required of an Area Director by § 271.23 regarding construction, building, and utilities contracts.

The two paragraphs designated (a) and (b) are divided for clarity, one dealing with applications submitted directly to Area Directors and one dealing with applications forwarded by Superintendents. Existing paragraphs (a) and (b) are redesignated as paragraphs (c) and (d) and are revised.

Section 271.23(d) requires that the Area Director review an application submitted directly to him, or forwarded by the Superintendent with unresolved funding problems, to determine whether funds are available at the area to finance the proposed contract and the effect of the proposed contract on services to be provided through the contract and otherwise.

The procedures for resolving the funding problem are the same as at the Agency level. If the funding problem cannot be resolved, then the Area Director will decide that the proposed contract cannot be made.

The Area Director's decision on funding shall be subject to appeal.

A new paragraph (d)(2) covers actions to be taken when reprograming is chosen.

Paragraph (d)(3), formerly designated as paragraph (b)(1), is also being revised to clarify that before the negotiations take place the applicant will be given a copy of the documents the Bureau plans to use during the negotiations.

Former paragraph (b)(2) is being redesignated as paragraph (d)(4). The first sentence of the paragraph is being revised to clarify that the paragraph applies when adequate funds are available but declination issues exist.

12. To change the reference § 271.23(b)(2) (iii) and (iv) to read § 271.23(d)(4) (iii) and (iv) in § 271.24(c).

13. An application under § 271.25(b) which is submitted to the Commissioner under § 271.21(a)(3) will be handled by the Directorate(s) within the Bureau in whose jurisdiction the subject matter of the proposed contract falls. The Director shall perform all of the actions specified in § 271.23.

To add in § 271.25 that the appropriate Director will review an application submitted directly to the Commissioner to determine whether funds are available to finance the proposed con-

tract and the effect of the proposed contract on services to be provided through the contract and otherwise. The changes in paragraph (c) commit the Director to perform all of the actions required under § 271.23.

In a new paragraph (c)(1), the Commissioner is responsible for reviewing the factual record developed through the appeals procedure and considering the availability of funds, the action which may be taken when reprograming is chosen, and the actions required due to unresolved funding issues.

A new paragraph (c)(2) is being added in order to make the distinction between the separate actions required by the Commisioner when there are declination recommendations.

14. Section 271.32(f) expands the list of what the contractable range management program includes. A list of what "supervision of compliance" includes is being added. A list of the fees included in "fee collection" is also being added, along with a phrase to indicate that the disposition of the fees collected shall be as directed by the Bureau. Game and fish management and outdoor recreation inventories are being moved to paragraph (g).

Section 271.32(g) expands the list of what the contractable wildlife and parks program includes.

15. To add in § 271.34(e) that the Commissioner shall decline to contract if the applicant does not agree in such an application to the contracting officer's review and approval of all work performed under § 271.32(f) (4) or (5) on "supervision of compliance" and "fee collection," respectively. This declination criteria is being added so that the Bureau can carry out its trust responsibilities.

16. By revising § 271.41(d) to require that requests for advances made after an initial advance also be accompanied by a report of anticipated needs until receipt of payment.

17. By adding a requirment in § 271.46(e) that recordkeeping be adequate to verify the fairness and uniformity of services provided to the Indians served, in case of formal complaints, is required by § 271.15(b)(1)(ii).

18. A new paragraph (h) is added to § 271.54 to provide that social services grant funds distributed through a contract shall not be a direct cost for the purposes of § 271.54. See the reason for the change to § 271.55.

19. A new paragraph (d) is added to § 271.55 to add special provisions for the social services grant funds distributed through a contract. For budget purposes, the number of persons who will need such funds during a given fiscal year are estimated several years in advance based on several factors. Since unforeseen problems can arise, it is often necessary to shift grant funds from a location where an excess is anticipated to another location where unexpected need has developed, or to shift funds from one grant component to another at the same location. Therefore, the contractor is not allowed to consider excess social services grant funds as savings.

20. Paragraph (b) of § 271.66 is revised to add an exception to cover the new provisions in paragraph (c). Paragraph (c) of § 271.66 is added to allow the Bureau to revise the amount of social services grant funds designated in a contract when excess funds exist in a contract without the agreement of the contractor and tribal governing body(s) when the revision is required to meet financial assistance needs. This change is made for the same reasons as given for § 271.55(d).

21. By revising paragraph (c) of § 271.76 to state that § 271.76 does not apply to contracts previously made under the Buy Indian Act (25 U.S.C. 47) for the operation of Bureau programs. Ceiling and positions were not reserved at the time those contracts were awarded. Therefore, it may take some time for the Bureau to gain the needed positions and ceiling to fully operate such a program in the event of retrocession, reassumption, or cancellation for cause. Until that is done, the Bureau may not be able to provide the same level of services and personnel as intended by the contract or provided by the Bureau prior to the contract. However, the Bureau will make every effort to provide services and personnel as close to that level as possible.

22. In the introductory paragraph of § 271.81, §§ 271.25 and 271.82 are added.

B. PART 272

1. The definition of "Commissioner" in § 272.2(e) is changed to reflect the current status of the Office of the Commissioner.

C. PART 273

1. The definition of "Commissioner" in § 273.2(c) is changed to reflect the current status of the Office of the Commissioner.

D. PART 274

1. Section 274.2 is revised by adding planning to the functions for which the contract may be negotiated.

2. The definition of "Commissioner" in § 274.3(e) is changed to reflect the current status of the Office of the Commissioner.

3. Paragraph (b) of § 274.11 is revised to define the term of the lease as 25 years with an option for an additional 25 years. This change is being made in order to be more specific than "for the useful life of the improvement."

4. Section 274.17 is revised in order to provide a cut-off date so the update of the priority listing can be done once a year instead of each time a new application is submitted. Applications may still be submitted at any time. Those received after the beginning of the fiscal year, however, shall not be included in the priority listing until the following fiscal year.

5. Paragraph (b) of § 274.18 is revised by adding a requirement that the Superintendent submit a written statement on the sources and amount of funding, deficits, and stability of the program budget. The paragraph is also being rearranged for clarity.

6. Paragraph (c) of § 274.19 is being deleted in order to remove the requirement that the Area Director assign each proposed project an Area Office priority. Since the Commissioner assigns a priority to each proposed project in updating the Bureau-wide listing, it need not be done at the Area level.

Paragraph (d) is revised to require that the Area Director also submit a written statement on the program budget. See the explanation for § 274.18(b).

7. Section 274.20 is revised to delete the references to § 274.19(c).

8. The introductory paragraph of § 274.21 is revised by deleting the phrase "within 30 days."

Paragraph (c) is revised to conform to the requirements of § 274.17.

The provisions on notifying the applicant of the project's priority ranking to reflect the once-a-year update of the listing is revised in § 274.21(d).

9. Paragraph (a) of § 274.22 is revised to remove the requirement that the on-site inspection be conducted no later than 3 months before the new fiscal year begins. The paragraph is also being revised to indicate that on-site inspections will only be conducted for high-ranking projects for which funding is available.

Also that the tentative cost estimate made for budget purposes will cover planning as revised in paragraph (b).

10. A new paragraph (1) is added to § 274.32(a) to indicate the options available to the contractor in completing the planning documents.

E. PART 275

1. The definition of "Commissioner" in § 275.2(d) is changed to reflect the current status of the Office of the Commissioner.

2. The proposed revision to paragraph (a)(3) of § 275.3, indicating that the tribe has the option of delegating authority to the tribal organization to enter into 1834 act agreements, has not been finalized. Additional study on the legality of the proposed revision is being undertaken.

F. PART 276

1. The word "or" in the first sentence of paragraph (b)(2) of § 276.11 is replaced with a comma for clarity.

Paragraph (g)(2) of § 276.11 is revised to incorporate a policy statement into the regulations concerning a grantee retaining copyright privileges on materials produced as a result of work performed under a grant funded by the Bureau. The policy statement being incorporated was issued by the Commissioner in an April 27, 1976, memorandum. The memorandum was issued to clarify and standardize the interpretation of the regulations on copyrights so that grantees would not be adversely affected by inconsistent interpretation of those regulations.

2. A new § 276.17 is added to incorporate the Government printing and binding regulations concerning printing required by a grantee in performing work under a grant funded by the Bureau. The regulations are being incorporated in order to clarify and standardize the interpretation of the regulations on printing, so that grantees would not be adversely affected by inconsistent interpretation of those regulations of April 1977, No. 24 (JCP).

3. I.4. of appendix A to part 276 is revised to more accurately indicate where the indirect cost proposal should be submitted and to describe the Bureau's role of providing technical assistance in developing indirect cost proposals, if needed.

4. Appendix A to part 276, part II, B.11.b. is amended to change "Bureau" to "Federal Government" or the equivalent wherever it appears in paragraph B.11.b. The purpose of the change is to make it clear that Indian tribes cannot charge depreciation (or a use charge) on property financed by other Federal agencies, e.g., HUD, EDA, HEW, where the acquisition cost to the tribe is zero.

5. Appendix A to part 276, part II, C.1. is revised to indicate that the Bureau is required to obtain departmental clearance before approving the acquisition of ADP equipment. Departmental clearance is required by the Departmental Manual (306 DM).

G. PART 277

Wherever the title "Assistant Secretary for Indian Affairs" appeared in the proposed rulemaking for 25 CFR part 277, it is changed to read "Commissioner of Indian Affairs" in order to make the revisions of regulations uniform for Subchapter Y—Indian Self-Determination and Education Assistance Programs.

1. In § 277.1, the phrase "State or local education agency" is being deleted and changed to "school district." This change is being made to reflect § 277.11, which indicates that only school districts are eligible to apply for a contract under part 277.

2. Section 277.2 is revised to conform to the Memorandum of Agreement on procedures for joint implementation by the U.S. Office of Education and the Bureau of Indian Affairs of title II, part B, of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450, et seq.). The Memorandum of Agreement was signed by the Commissioner of Indian Affairs on June 21, 1976, and by the Acting U.S. Commissioner of Education on August 30, 1976. In particular, a statement is being added following the second sentence in paragraph (a) to show that the U.S. Commissioner of Education has agreed to notify the Commissioner of Indian Affairs upon receipt of an application. This information is needed so that Bureau of Indian Affairs can insure compliance with the Indian involvement requirements of Pub. L. 93-638 for any project funded under the act. The third sentence of paragraph (a), concerning the Commissioner of Indian Affairs' participation in the preparation of data for the application and national priority index, is being deleted since the Commissioner of Indian Affairs does not become involved at that stage. The last sentence in paragraph (a) is being revised to indicate that the Commissioner of Education prepares the national priority index and has agreed to furnish it to the Bureau annually or as the Bureau requests. The first sentence of paragraph (b) is being revised to add planning as a function for which the Bureau requests and receives funding. A statement is being added following the second sentence in paragraph (b) to indicate that the Commissioner of Indian Affairs and the Commissioner of Education have agreed to jointly develop an individual project management plan and provide guidance to the applicant in developing educational and facilities specifications. The third sentence in paragraph (b) is being revised for clarity and to indicate that more than one contract may be negotiated with the applicant and that planning may also be contracted. The third sentence is also being revised by deleting the phrase "meeting standards of construction given in Pub. L. 81-815" to indicate that the facilities must meet the requirements of the facilities specifications only. Another sentence is being added to the end of paragraph (b) to indicate that the construction standards and space requirements will be based on need as described in the educational and facilities specifications.

3. The definition of "Commissioner" in § 277.3(e) is changed to reflect the current status of the Office of the Commissioner.

4. Paragraph (a) of § 277.12 is revised to change the actual time the Bureau performs the consultation required by Pub. L. 93-638. The current regulations state that the consultation shall be conducted before the application is submitted to the Commissioner of Education. Since the Indian involvement requirements of Pub. L. 93-638 must be met before the Bureau is committed to fund the project, it is considered better to conduct the consultation at the time the Bureau commitment is made to fund a project for that fiscal year. This is to assure that the Indian involvement requirements have been met. In addition, tribal members on an elected public school board or the local Indian education committee are encouraged to advise the tribal governing body(s) of the local Indian tribe(s) affected of their intent to apply and to provide progress reports of the contract application process. Paragraph (b) is being revised as the Bureau wishes to encourage the applicant to consult with the local Indian education committee and the tribal governing body(s) of the local Indian tribe(s) affected before the application is submitted to the Commissioner of Education, and a statement is being added to that effect. In addition, the consultation requirement is being revised to include approved applications in the notification procedures. In addition, two typographical errors are being corrected in paragraph (c). In the first sentence of paragraph (c), the word "objectives" is being corrected to read "objections." In the second sentence of paragraph (c), the word "representatives" is being corrected to read "representative." A notice of this last correction was published on page 5098 of the February 4, 1976, FEDERAL REGISTER (41 FR 5098). However, the correction was inadvertently omitted when the 1976 edition of 25 CFR was compiled.

5. Section 277.13 is revised to reflect the Memorandum of Agreement between the Bureau of Indian Affairs and the Office of Education (see the remarks for § 277.2). In particular, a sentence is being added to the end of paragraph (a) to indicate that the Commissioner of Education has agreed to notify the Commissioner of Indian Affairs upon receipt of an application. This information is needed so the Bureau of Indian Affairs can insure compliance with the Indian involvement requirement of Pub. L. 93-638 for any project funded under that act. The Commissioner of Indian Affairs, in turn, shall notify the tribal governing body(s) of the local Indian Tribe(s) affected of the application for public school construction assistance under this part. Paragraph (b) is being revised by omitting references to the Commissioner of Indian Affairs, since

the Bureau does not become involved in the process until after receiving the priority list. The Commissioner of Education performs the field and site review alone to determine the tentative cost estimate, so reference to the Commissioner of Indian Affairs is being removed from paragraphs (b)(1) and (b)(1)(i) and those paragraphs are being combined with paragraph (b). The review for equal quality and standard of education in paragraph (b)(1)(ii) made by the Commissioner of Indian Affairs is being deleted and placed in § 277.15(a) in order to place it in proper sequence. Paragraphs (b)(2) and (b)(3) are being deleted, since the actions required by those paragraphs are part of the development of the facilities and educational specifications which is described in a new § 277.15a. Paragraph (c) is being revoked and reserved because the Commissioner of Indian Affairs does not participate in this phase of the process.

6. Section 277.14 is revised to reflect the Memorandum of Agreement between the Bureau of Indian Affairs and the Office of Education (see remarks for § 277.2). In particular, a phrase is being added to the end of the sentence to indicate that the Commissioner of Education has agreed to furnish the priority list annually or as requested by the Bureau. A new sentence is being added whereby the Commissioner of Indian Affairs is to notify the tribal governing body(s) of the local Indian Tribe(s) affected of the application for public school construction assistance under this part. In addition, a new sentence is being added to the end of the paragraph to include in the regulation another action now being taken. That action is that the Commissioner of Education notifies the Bureau of the amount of Pub. L. 81-815 funds available for public school construction under 25 CFR Part 277 at the same time the priority list is submitted.

7. The consultation requirement and the required review of the quality and standard of education are added by revising paragraph (a) of § 277.15 as paragraph (a)(1) and (a)(2) to be done before the commitment-to-fund list is prepared. These requirements are already contained elsewhere in the regulations but are being placed in this section to properly indicate when the actions will be taken. The requirements for preparing the commitment-to-fund list are being designated as paragraph (a)(3). The only change being made to these requirements is to reflect the funding provisions in the Memorandum of Agreement referred to in the comments regarding § 277.2. That change is that Pub. L. 81-815 funds will be used first to fund as many projects on the priority list as possible. Then Pub. L. 93-638 funds will be used to fund projects on the priority list for which no Pub. L. 81-815 funds have been reserved. Paragraph (b) is being revised by adding that the Commissioner of Indian Affairs is to notify each applicant in writing within 15 days from the date the project is added to the commitment-to-fund list.

8. A new § 277.15a is added to reflect the Memorandum of Agreement referred to in the comments regarding § 277.2. In the Memorandum of Agreement, the Commissioner of Indian Affairs and the Commissioner of Education agreed to jointly develop an individual project management plan and provide guidance to the applicant in developing educational and facilities specifications. In addition, the section reflects the current practice of negotiating a contract for preparation of the planning documents (educational and facilities specifications) as the first phase before negotiating one or more contracts for the other phases of the project. The planning documents must be approved by the Bureau before the other contracts can be negotiated. A paragraph is also included concerning the circumstances under which the Bureau may make an exception to the requirement to contract for preparation of the planning documents. The requirement that contracts under part 277 be developed in accordance with the regulations in 41 CFR 1, as supplemented by 41 CFR 14 and 41 CFR 14H, is being taken out of § 277.16 and placed in this section as paragraph (e), since this is the first section dealing with the contract negotiations. In addition, the applicant's option of performing the work itself or through subcontracting is included in the regulations as paragraph (f).

9. In § 277.16, the revision reflects the Bureau's current practice of negotiating one or more contracts for the remaining phases of the project separately from a contract for preparation of the planning documents. The requirement that contracts under part 277 be developed in accordance with the regulations in 41 CFR 1, as supplemented by 41 CFR 14 and 41 CFR 14H, is being taken out of § 277.16 and placed in paragraph (e) of new § 277.15a, since that is the first section dealing with the contract negotiations. However, a reference to paragraphs (e) and (f) of new § 277.15a is being added to this section so that those paragraphs will also apply to contracts under this section.

10. Paragraphs (a) and (b) of § 277.17 are revised to reflect the funding provisions in the Memorandum of Agreement referred to in the comments regarding § 277.2. Paragraph (a) is being changed to specify that Pub. L. 81-815 funds will be used first to fund as many projects on the priority list as possible. The Pub. L. 93-638 funds will be used to fund projects on the priority list for which no Pub. L. 81-815 funds have been reserved. Paragraph (B) is being revised to indicate that the paragraph applies only to projects partially funded under Pub. L 93-638. Paragraph (c) is being revised by deleting the phrase "and state education agencies" from the second sentence for the same reason given for the change to § 277.1.

11. A new § 277.18 is added to clarify ownership of the completed project.

12. Section 277.21 is revised to indicate that, in a contract or contracts under 25 CFR Part 277, the contractor may include costs for planning and administrative costs the contractor anticipates incurring subject to the review and approval by the Bureau of Indian Affairs. The provision relating to the inclusion of administrative costs is modified to limit administrative costs to the increases associated with seeking and performing part 277 contracts.

13. The word "federal" is deleted in paragraph (a) of § 277.22. This change is being made to conform to section 204(d)(2) of Pub. L. 93-638 which requires that facilities meet the requirements of the State and local building codes and other building standards, not those of the Federal Government. Paragraph (c) is revised to require the contractor to comply with State architect/engineer selection requirements in addition to complying with the Indian preference requirements of 41 CFR Chapter 14. The rest of paragraph (c) is being reworded for clarity. Paragraphs (d) and (e) are being revised to reflect the Memorandum of Agreement referred to in the comments for § 277.2. In particular, paragraph (d) is being revised to require that the architectural drawings and specifications conform to the educational and facilities specifications, instead of the project description as shown in the completed application. Paragraph (e) is being revised by deleting the first sentence concerning the Commissioner of Education's review of the architectural drawings and specifications. Such a review is unnecessary since the Commissioner of Education is involved at the earlier stage of developing the project management plan and the educational and facilities specifications. The second sentence of paragraph (e) is being revised to indicate that the Bureau of Indian Affairs is responsible for reviewing and approving the architectural drawings and specifications with the local education agency, the local Indian Education Committee and tribal governing body(s) to be served by the facility. The phrase "for structural and safety adequacy" is being deleted from the third sentence of para-

graph (e) so that the Bureau's review and approval of the final drawings and specifications are not limited to only that aspect.

14. The phrase "State education agencies or" is deleted from § 277.25 for the same reason given in the comments for § 277.1.

15. Section 277.28 is deleted. Indian preference requirements are being removed because of redundancy. Indian preference requirements are required through the Interior Procurement Regulations which are applicable to all contracts entered into under this part. Section 277.36 makes the requirements of the Federal and Interior Procurement Regulations applicable to part 277 contracts. Since Indian preference requirements are being added to the Interior Procurement Regulations in 41 CFR 14-1.354 (see 42 FR 43647), special coverage in part 277 was determined to be unnecessary.

Three school districts currently negotiating contracts under part 277 have taken strong exceptions to Indian preference requirements relating to subcontracting. They have stated that such requirements conflict with their particular State laws covering architect-engineer selection procedures for public agencies. Additionally, several Congressmen have notified the Bureau that they object to the application of the Indian preference requirements of section 7(b) of Pub. L. 93-638 to public school construction contracts under part 277.

Since section 7(b) applies to all contracts for the benefit of Indians, Part 277 contracts are covered by the statute. The Bureau does not plan to request any legislative change which would exclude Part 277 contracts from the coverage of section 7(b) of Pub. L. 93-638.

16. The phrase "States and" is deleted in § 277.29; "School" is capitalized in paragraph (a); the words "State or" in paragraph (b) are deleted; and "school district" is substituted for "State or public school authority" in paragraph (c) for the same reason given in the comments for § 277.1.

17. The phrase "States or" is deleted in § 277.36 and the word "School" is capitalized for the same reason given in the comments for § 277.1.

H. T-41, PART 14H-70

1. A new section 14H-70.205 is added to incorporate a policy statement into the regulation concerning a tribal contractor retaining copyright privileges on materials produced as a result of work performed under a contract by the Bureau. A new section 14H-70.206 is also added to incorportate a policy statement into the regulations concerning printing required by a tribal contractor in performing work under a contract funded by the Bureau. The policy statements were issued in an April 27, 1976, memorandum. The memorandum was issued to clarify and standardize the interpretation of the regulations on copyrights and printing so that tribal contractors would not be adversely affected by inconsistent interpretation of those regulations.

2. One commentator recommended one change in the proposed new section 14H-70.409(a). The recommendation was to remove the section stating that preferences in subcontracts shall be given "so long as such preferences are consistent with the efficient performance of contract." It is not clear whether this applies only to the preference requirements established by the tribe or by the Bureau. The argument was that either way, it is unnecessary and not consistent with section 7(b) of Pub. L. 93-638 which is the statutory basis for this provision. Section 7(b) requires preferences to the greatest extent feasible which is stronger language than the proposed language. The Bureau agrees that the regulation language should be consistent with the statutory language.

This section 41H-70.409 on subcontracting is revised to include the requirement in § 14H-70.610 that preference be given to qualified Indian business concerns in awarding subcontracts, If no qualified Indian business concerns are available, the contractor shall award subcontracts to small business concerns, labor surplus area concerns, or minority business enterprises to the extent feasible. This change is being made to bring the preference requirements into the subcontracting section and more directly to the attention of the contractor. The introductory text of the section is also being revised to cover cases where the tribal organization proposes to do a portion of the work by subcontract but has not yet identified its subcontractor(s).

3. In § 14H-70.611 the indemnity clause in paragraph (a) is deleted and revised. The section heading is also being changed to reflect this deletion. Numerous tribal requests were received requesting that this be removed. This change is being made to comply with those requests.

4. Paragraph (b) of the clause in section 14H-70.626 is revised to provide that the contractor shall submit supporting cost data with a proposed final overhead rate to the cognizant audit agency, with a copy to the contracting officer. The current section requires submission to the contracting officer, with a copy to the cognizant audit agency. This change is being made for consistency so that the final overhead rate is negotiated with the same office as that of the indirect cost proposal.

5. The words "Indemnity and" are deleted from the section heading of § 14H-70.809. This section refers to the clause in 14H-70.611 which is being amended by deleting the indemnity clause.

6. Paragraph (d) of § 14H-70.1403 is revised to require that requests for ongoing advances made after an initial advance be accompanied by a report of anticipated needs until receipt of payment. This change is needed to verify the validity of the request for an advance. This paragraph is also being revised to clarify that it does not apply to the Letter of Credit method of advance payment.

7. Paragraph (a) of § 14H-70.1406 is revised to make it clear that the Area Directors' authority to approve advance payments is limited to those not exceeding $250,000 *in the aggregate.* This change is being made to be consistent with paragraph (b) of the section. Paragraph (b) is being revised to make it clear that the $250,000 limit does not apply to advance payments made through the Letter-of-Credit method.

II. CHANGES NOT ADOPTED

Certain other comments have been carefully considered but have not been accepted. The following suggestions were not adopted for the reasons given:

1. Two commentators expressed the opinion that tribal organizations should be allowed to contract for Bureau programs without requiring an authorizing resolution from each tribal governing body before applying for a contract to serve more than one tribe. The Bureau does not agree with this opinion and feels that the act clearly mandates the role of the tribal governing body in the contracting process. The law requires that the Bureau obtain each tribe's concurrence in a contract application proposing to serve more than one tribe (sec. 4(c)).

2. One commentator suggested that language be added to the regulations to allow tribal governing bodies the power to delegate authority to tribal council committees to request contracts and grants. Since this is a major change, this comment should be considered by all the tribes that may be affected and will be considered for inclusion in the next draft of regulation revisions. Additional comments on this point are encouraged.

3. The proposed new paragraph (c) regulation revision to § 271.20 is rejected. The comment against the adoption was that the new paragraph would provide that recontracting shall be without regard to any new or revised program regulations issued by the Bureau unless the requirements in the regulations are statutory. Whether a regulatory requirement is "statutory" or not is quite often an arguable matter and such a provision would be

an endless source of litigation and confusion. Despite the burden placed on the tribal contractors, they should pick up all regulation changes each time a contract is renewed or modified. The alternative could eventually lead to an extreme administrative burden on the Bureau with no two contractors subject to the same set of regulations. For these reasons new paragraph § 271.20(c) is not adopted.

4. Four commentators objected to the changes proposed to resolve funding problems.

One commentator states: "The Bureau proposes to change the regulations to provide that, if the Bureau of Indian Affairs determines that funds are not available to fund a contract application, it need not follow the customary declination procedures but may decide not to contract. This decision may be made by the area director, although it is subject to appeal to the Assistant Secretary under the proposed regulations. In opinion, the change proposed by the Bureau constitutes a severe curtailment of Indian rights under the regulations as originally established. Tribes have already experienced serious problems in establishing the true funding level of a BIA program to be contracted. The elimination of the burden of proof requirement, which presently rests upon the Bureau, and the right to a Department level hearing, can be expected to increase the difficulty of obtaining accurate funding level information by tribes from the Bureau."

Another commentator states that, "While we realize the limitation of the Bureau of Indian Affairs (BIA) funds, we strongly feel that this proposed change would become a common excuse for BIA superintendents and area directors to decline contracts. We strongly feel that the Congress in enacting Pub. L. 93-638 also assumed an inherent responsibility to provide adequate funding so that tribes could exercise self-determination and control over BIA programs."

The Bureau's position for resolving insufficient funding problems was discussed as a major issue in the proposed rules published on March 28, 1978, in the FEDERAL REGISTER (43 FR 12882).

One commentator indicated concern as to the possible restrictive effects the section on the review and action by the Superintendent may have on small tribes. The section was considered to be time consuming with unrealistic timetables.

The Bureau disagrees since 30 days is a short review period and that is the maximum period of time allotted for this particular process. It is felt that the superintendents must have and take sufficient time to resolve these issues.

One commentator objected to the proposed changes which would not handle "* * * lack of funds as a declination issue and provide for a different method of handling Bureau refusal to contract for lack of funds than is provided for Bureau declinations in every other case * * *. A tribe's statutory right to contract should be protected by the same procedural safeguards when the Bureau says that insufficient funds are available as in any other declination. Many tribes have experienced difficulties in establishing just what the 'secretarial funding level' applicable to a particular contract program should be. The right to appeal beyond the Bureau and to a formal Department-level hearing on such questions is a key feature in the implementation of Indian self-determination. * * * it does not now seem to me to be essential that the tribal right to a hearing should follow a decision by the Assistant Secretary. If the Assistant Secretary feels that he is in a position to afford to tribes an impartial hearing for the purpose of reviewing the decisions of his subordinates,then it would seem to me to be sufficient if a formal hearing is held prior to the Assistant Secretary's decision to decline the contract. Interior regulations should provide, however, that such a hearing is required, not merely permitted, and that at such a hearing a tribe may compel the disclosure of relevant documents and the testimony of Bureau officials and may cross-examine such officials. Failure to afford such rights would significantly diminish the ability of tribes to establish (when necessary) that the Bureau has proposed to decline a contract application in circumstances not permitted by the Pub. L. 93-638 or secretarial regulations.

The Bureau's intent for the regulation change is to clearly face the funding availability issue and to resolve it quickly or to permit a hearing at the Assistant Secretary's level as soon as possible. The current regulations do not permit a Department level hearing on funding issues. Appropriation acts and subsequently issued fund control documents (allotments and allocations) do not permit obligation or expenditure of more funds than are appropriated. These acts take precedence over any "tribal rights" provided under Pub. L. 93-638. Therefore, if the BIA does not have sufficient funds to meet the tribe's request the Bureau must "refuse" to contract to avoid being in violation of the fund control requirements of appropriation acts. The purpose of the changes is to face this issue and attempt to overcome it.

Congress insists that the Bureau provide the amount of funds "the Secretary would have provided had he continued to directly operate the program." This is clearly discretionary and need not meet what a tribe may perceive as "need."

The Bureau desires to have similar procedures in all of the "638" hearings and appeals procedures by amending the procedures for handling declination issues which arise in review of proposed contracts and in contract modifications to conform with the procedures proposed for handling funding issues. Inasmuch as the changes in declination or modifications in hearing and appeal procedures have not been published as proposed rulemaking, that step is being taken by publication in the FEDERAL REGISTER in the same volume and number as this final rulemaking document.

5. One commentator contended that § 271.23(d) "will have either positive and negative effects on Indian tribes depending primarily on the interest and concern of area office. * * * it will enable area offices to become more knowledgeable and responsive to local Indian needs. On the other hand it will also increase existing controlling and restrictive practices even more * * *. Some criteria should be written into the rules limiting the area director's authority to decide whether funds are available for a contract, and requiring that such a decision be documented by status of funds reports * * *."

The Bureau has determined that the appealability of the area director's decision to the "Commissioner" will prevent arbitrary actions. The commentator also recommended "at this point to define and document time frames into the regulations clearly directing congressional action in the least minimum time."

The Bureau of Indian Affairs cannot direct congressional action.

6. One commentator proposed that though contract support or indirect costs have never been sufficient that the regulations might prescribe a method to resolve this or to pursue alternative courses of action. Also the commentator stated that such indirect cost funds should be made available in a similar manner for Pub. L. 93-638 grants and that the Bureau has determined that present "contract support" funds cannot be used to pay allowable indirect costs for grants. It was proposed that the final rules should reverse this determination.

The Bureau does not concur that present "contract support" funds should be used to pay indirect costs for grants. It is necessary to maintain the distinction between a tribal contract for a Bureau program and a grant to a tribe which is made to assist that tribe in enhancing its self-governing capacities.

7. Two commentators objected to the proposed changes in §§ 271.55(d)

and 271.66(d). The commentator states that "if self-determination is to have any meaning at all, tribal governing body(s) or contractors must have the option to plan on expenditure of excess funds to meet unmet needs on their own reservation, and it is absurd for the BIA to assume that services being provided by current contracts are meeting all of our needs." The commentator further stated that "the reason funds are 'excess' at this time is because the BIA has severely limited the ways we can use these funds. The BIA can develop a 6-month fiscal analysis to determine excess and/or deficit and this information be documented and forwarded to the tribal body. Establish a period of time for the tribal body to respond as to their plans on how they want to expend the excess. * * * We know our needs in social services go far beyond individual grants. Thus, to meet needs in areas other than individual grants, the tribe must have a flexible method by which transfers, amendments, or other revisions are made. This definitely should not include giving the BIA unilateral authority to move funds. Unexpended social services funds are currently termed 'savings' because the BIA has severely restricted the ways the funds can be used."

The Bureau's response to the comment is that individual grant assistance funds can only be expended for that purpose, unless otherwise directed by the Congress. It is not within the discretionary power of the Bureau to authorize the expenditure for another purpose. While the tribe under contract is only bound to serve their members, the Bureau is bound to serve members of all the tribes.

This first commentator also generalized as follows: "The major problems identified by tribal staff relates to changes which would add to the authority of the Bureau of Indian Affairs to make unilateral amendments to tribal contracts, hindering tribal efforts to plan and deliver services according to tribally established goals and priorities. This undermines the basic intent of Pub. L. 93-638." The comment received is based upon the principle of a legally binding contract. The fallacy of this principle is that the contract for individual grant assistance funds is initially based upon an estimated number of eligible individuals who may be in need. Such estimates are not exact; thus if the estimates are low there is a need for additional individual grant assistance funds. If the estimates are high there is a reduced need for individual grant assistance funds. The contract, at best, must accommodate the property rights of the individual as in *Goldberg* v. *Kelly.*

The comments reviewed by the Bureau were in the area of surplus social services grant funds in fiscal year 1978. Although the two comments were based upon separate principles, referred to, there was a generic misunderstood principle contained in both comments. Funds to carry out the social services program are requested and appropriated as two basic line items: (1) *Individual* grant assistance funds, and (2) social services *administration* funds. The reason for this is the U.S. Supreme Court case of *Goldberg* v. *Kelly,* which states that individual grant assistance funds are a property right which cannot be denied without due process of law. Social services administration funds are discretionary with the agency (tribe) provider. The proposed regulations apply only to the individual grant assistance funds. Furthermore, individual grant assistance funds are appropriated pursuant to 25 U.S.C. 13, hence would require an exception as provided in 25 CFR 271.55(b). Individual grant assistance funds can only be expended for that purpose, unless otherwise provided by the Congress. An alternative is to prohibit all grant funds which go to individuals from being "passed through" a Pub. L. 93-638 contract. This would apply to scholarships, adult vocational training and all grant funds as well as welfare. This is even more restrictive but it would be in keeping with the budget justifications to Congress. Welfare grant funds are requested to directly support the needs of individual Indians and not to provide Bureau program services. Consequently, when a tribe contracts to operate such a program, they are taking the place of the Bureau. The grant funds should be used Bureau wide to meet needs where such a need exists. The secretarial funding level for social services does not include welfare grant funds.

Another commentator states that the proposal "would eliminate a tribe's right to carry over unused social services grant funds beyond the fiscal year, and allow the Bureau to withdraw such funds unilaterally from a tribe's social service contract, when such funds are needed to meet social service grant needs for Indians not served under the contract." Advantages and disadvantages were given, however, the major concern was that if "the Bureau has agreed, in the course of its negotiations with a tribe, upon a specific dollar amount for the contract, then that amount should be available to the tribe during the term of the contract unless by subsequent negotiations an agreement is reached between the parties of a change in the dollar amount of the contract." The concern expressed is that if "the Bureau can withdraw funds from a program such as social services, there would be nothing to preclude the Bureau from further revising its regulations to permit a similar withdrawal of funds for other programs under contract to Indian tribes."

The Bureau could provide in the regulations that all pass-through grant funds will not be "contract funds" but will be modified into the contract on a quarterly basis during the year. Comments are invited on this statement.

8. One commentator objects to the proposal to remove from § 271.76 the requirement that the Bureau provide to the Indians served by any contract in effect on the date the regulations were promulgated at the same level of service that would have been provided at the level intended by the contract or operated previously by the Bureau in case of cancellation, retrocession or reassumption. The change would apply to such contracts only to the extent of providing "as nearly as possible * * * the quantity and quality of service. * * *"

The Bureau believes that this is a reasonable argument, however, this section does not apply to contracts previously made under the Buy Indian Act for the operation of Bureau programs. Ceiling and positions were not reserved at the time those contracts were awarded. Therefore, it may take some time for the Bureau to gain the needed ceiling and positions to fully operate such a program in the case of cancellation. Further the commentator does not recognize that there were no guarantees or promises made to the contractors under the Buy Indian Act as to the level of services to be provided if the contracts were not continued. There is no indication that this was a major factor in tribal decisions to continue their previous contracts under Pub. L. 93-638.

9. A commentator objected to the specific provisions of 25 CFR 277 that school districts are eligible to receive funds and not Indian tribes.

Indian tribes are eligible for school construction contracts or services for tribally operated previously private schools under 25 CFR 274. The regulations in part 277 gives the application and approval process for a school district to obtain school construction contracts. The basic legislation referred to for this part is Pub. L. 81-815. The law gives assistance to public schools on or near Indian reservations without an adequate tax base. Pub. L. 81-815 provides Federal financial assistance for school construction in areas affected by Federal activities and includes non-Indian students.

Another comment was that the regulations do not require notification to the school board and suggests clarification to provide for contact between the Assistant Secretary for Indian Af-

fairs and the elected public school board if such a board is composed of a majority or entirely of native Americans.

The Bureau's response is that since tribal approval of applications is necessary, it is proper that the tribe be notified. The tribe is the recognized governing body.

10. 41 CFR 14H-70. One commentator stated, "Proposed changes in the subcontracting provisions of 93-638 regulations should require all Federal construction contracts and/or bid documents to require a 10-percent Indian preference in awarding of prime contracts and also for the awarding of all subcontracts."

The Bureau can address only Bureau/tribal contracts in these regulations, not all Federal contracts.

One commentator suggested that though no revisions are proposed for § 14H-70.404, they would like the Bureau to consider fixed price contracts.

The Bureau interprets the language in section 106 of the Pub. L. 93-638 to not allow for fixed price contracts.

A comment was received on § 14H-70.409 concerning the Indian preference requirements for subcontracts. The contention was that the selection of subcontractors should belong to the tribe.

The Bureau includes this section to reflect the legal requirements in section 7(b) of the act.

III. General Comments

One Indian corporation formed under the Indian Reorganization Act of 1934 commented that the definition of an Indian tribe as defined for Alaska should remain as it is.

The Bureau's Division of Housing Assistance comments in part that "Following passage of the Indian Self-Determination and Education Assistance Act of 1975, the housing improvement program has been contracted in total or in part to several tribes. On the other hand, many tribes do not wish to contract the program so the BIA continues to administer it as before. The program implementation—contracting for housing construction—is carried out under the process and procedures of Pub. L. 93-638. This has been inappropriate for a construction program. In order to continue in a more successful and positive manner, we are requesting that the HIP be treated as a construction program and not be absolutely bound by the rules and regulations of Pub. L. 93-638. Therefore, the following change to the 25 CFR 271.2(g) is suggested to allow the HIP construction programs to be contracted under the Indian Self-determination and Education Assistance Act program as well as other laws:" (insert is suggested following Indian services) "except for the actual construction under the housing improvement program (HIP). * * *"

Comments are invited on this proposal.

Revise subchapter Y, chapter I of title 25 of the Code of Federal Regulations as follows:

PART 271—CONTRACTS UNDER INDIAN SELF-DETERMINATION ACT

1. By revising the authority citation of part 271 to read as follows:

* * * * *

AUTHORITY: Sec. 102, Pub. L. 93-638, 88 Stat. 2203, 2206 (25 U.S.C. 450f), unless otherwise noted.

* * * * *

2. By revising paragraphs (b), (e), and (n) of § 271.2 as follows:

§ 271.2 Definitions.

* * * * *

(b) "Area Director" means the official in charge of a Bureau of Indian Affairs area office except that:

(1) The term means the Director, Office of Tribal Resources Development, for matters regarding contracting for all or part of the Indian action team program whenever a tribal organization elects to submit such a contract application through the Indian Technical Assistance Center and the tribal governing body(s) has authorized such application in its resolution pursuant to § 271.18(b).

(2) The term means the Director, Office of Administration, for matters regarding contracting for all or part of the construction, building and utilities programs which is contractable under this part and which is within the responsibility of the Division of Facilities Engineering.

* * * * *

(e) "Commissioner," in the absence of a Commissioner of Indian Affairs appointed by the President pursuant to 25 U.S.C. 1, means the Assistant Secretary for Indian Affairs, or his designee.

* * * * *

(n) "Superintendent" means the official in charge of a Bureau of Indian Affairs agency office except that:

(1) The term means the chief, Indian Technical Assistance Center, for matters regarding contracting for all or part of the Indian action team program whenever a tribal governing body elects to submit such a contract application through the Indian Technical Assistance Center and so indicates in its resolution pursuant to § 271.18(b).

(2) The term means the Chief, Division of Facilities Engineering, for matters regarding contracting for all or part of the construction, building, and utilities program which is contractable under this part and which is within the responsibility of the Division of Facilities Engineering.

* * * * *

3. By revising § 271.12 as follows: (a) By designating the introductory text of the section as paragrah (a). (b) By redesignating paragraphs (a) through (d) as (a)(1) through (a)(4) respectively and by redesignating paragraph (e) as (b). (c) By adding new paragraphs (a)(5) and (a)(6) and revising the first sentence in paragraph (b) (formerly designated as paragraph (e)).

§ 271.12 Contractable Bureau programs.

(a) * * *

(5) Alterations and repairs in direct support of a contracted program. Individual construction projects are not contracted under title I of the act, but can be contracted under other authorities.

(6) Architect and engineer services.

(b) Paragraph (a) of this section also applies to trust resources programs or portions thereof. * * *

4. By revoking and reserving paragraph (i)(3); revising paragraphs (i)(6), (m), and (o); and adding new paragraphs (g), (r), and (s) to § 271.14.

§ 271.14 Contents of contract application.

* * * * *

(i) * * *

(3) [Reserved]

* * * * *

(6) The evaluation criteria and control systems that the tribal organization will use to measure progress and accomplishment and to assure that the quality and quantity of actual performance conforms to the requirements of the plans.

* * * * *

(m) Certification by a licensed accountant that the bookkeeping and accounting procedures which the tribal organization presently uses meet the standards of § 276.7 of this chapter. In place of the certification; the tribal organization may submit a written agreement to establish a bookkeeping and accounting system that meets the standards of § 276.7 of this chapter and to have the bookkeeping and accounting system certified before the Bureau disburses any funds under a contract awarded as a result of the ap-

plication. The accounting system shall provide for the accumulation of costs throughout the contract term or performance period in such a manner as to facilitate audit or review of the financial records. When a certification has been submitted in connection with a previous application, the applicant may state this fact instead of submitting a new certification.

* * * * *

(o) Any advance payments required by the tribal organization for contract including the type of advance, time period, and justification for the advance payments.

* * * * *

(q) A listing of the procedures which the applicant has in place to assure that services and assistance shall be provided to the Indians affected by the contract in a fair and uniform manner. If the applicant does not have such procedures but agrees to establish them, a statement to that effect should be included in the application. Such procedures include eligibility criteria for tribal members to receive services, recordkeeping adequate to verify the fairness and uniformity of services in case of formal complaints, an adequate complaint procedure available to all Indians affected, and an explanation of what rights an individual will retain pending resolution of a complaint.

(r) A statement that the applicant agrees to keep such records as required pursuant to § 271.46, to make reports required by § 271.49, and to make such information and reports available to Indian clients as required by § 271.48.

(s) Identification of any subcontractor(s); the amount and purpose of the subcontract; the manner in which the subcontractor was selected; and the basis for the cost of the subcontract. If a subcontract has not yet been awarded the contract application should include a statement that the applicant agrees to comply with 41 CFR 14H-70.409 in awarding any subcontracts; except that in the case of a tribal organization applying for a contract under § 273.11 the statement should be that the applicant agrees to comply with § 273.36 in awarding any subcontracts.

5. By revising paragraphs (c)(5)(i) and (e) of § 271.15 to read as follows:

§ 271.15 Criteria for declining to contract.

* * * * *

(c) * * *

(5) * * *

(i) If the tribal organization has a personnel system that prescribes minimum occupational qualification standards which insure equal access to all qualified tribal members; procedures for the selection of personnel on the basis of such standards; and the personnel to be used under the proposed contract are to be employed under the personnel system.

* * * * *

(e) Tribes; or tribal organizations acting under delegated authority pursuant to § 271.18(c)(2)(vii); may request from the Commissioner a waiver under 25 CFR 1.2 of any regulations in this chapter.

* * * * *

6. By revising the phrase "under § 271.18(d)(1)" to read "under § 271.18(c)(2)" in the second sentence of paragraph (a) of § 271.16.

7. By adding a sentence to the end of paragraph (b), revising paragraphs (c)(2)(vii) and (c)(2)(vii)(A), and adding new paragraphs (c)(2)(vii)(G), (c)(2)(vii)(H), and (c)(2)(viii) to § 271.18 to read as follows:

§ 271.18 Tribal request for initial contract.

* * * * *

(b) * * * If the contract application is for all or part of the Indian Action Team program and the tribal governing body elects to submit the application through the Indian Technical Assistance Center, instead of through the Agency, this choice shall be indicated in the resolution.

(c) * * *

(2) * * *

(vii) Any delegations of authority and any limitations on authorities granted the tribal organization, including those in regard to:

(A) Access to Bureau records under § 271.16. Unless specified otherwise in the tribal resolution under this section or in a subsequent resolution, a tribal organization which is not the governing body of an Indian tribe is required to seek access to Bureau records through that tribe's chairman or other official(s) designated by the tribal governing body.

* * * * *

(G) Requests for waivers of the regulations in this chapter under § 271.15(e).

(viii) The expiration date of the authorities granted by the resolution. If applicable, a statement that the authorities granted continue until revoked by the tribal governing body will be sufficient.

* * * * *

8. By revising the introductory paragraph of § 271.20 to read as follows:

§ 271.20 Recontracting.

The Bureau will recontract for the same function(s) or program(s) (as defined in 41 CFR 14H-70.104) as the original contract at the written request of the tribal organization designated in the tribal resolution. Requests for recontracting shall be made as follows unless restricted by the resolution under § 271.18(c)(2) or subsequent resolutions:

* * * * *

9. By revising paragraph (a)(1) and amending paragraph (b) by adding a sentence to the end of the paragraph to read as follows:

§ 271.21 Submission of requests to contract.

(a) * * *

(1) To the Superintendent when the tribe(s) or Indians to be served by the contract are within the jurisdiction of that Agency office. However, whether in the past they have been submitted to the Superintendent, Area Director, or the Commissioner, tribal requests and the related applications to contract for all or part of the Indian Action Team program may be submitted to the Chief, Indian Technical Assistance Center, at the option of the tribal governing body when so indicated in its resolution pursuant to § 271.18(b). All tribal requests and the related applications to contract for all or part of the Construction, Building and Utilities program which is contractable under this Part and which is within the responsibility of the Division of Facilities Engineering must be submitted to the Chief, Division of Facilities Engineering, instead to the Superintendent, Area Director, or Commissioner.

* * * * *

(b) * * * If these required actions can be completed in less than 120 days, the contract may begin at an earlier date.

10. By revising paragraphs (b), (c), and (e) and adding new paragraphs (f) and (g) to § 271.22 to read as follows:

§ 271.22 Review and action by Superintendent.

* * * * *

(b) Within 15 days of receipt, the Superintendent shall review the application for completeness and request any additional information from the applicant or from the requesting tribe that is needed to satisfy the requirements of § 271.14. If the application involves contracting for all or parts of the Indian Action Team program, the Superintendent shall also contact the Chief of the Indian Technical Assist-

ance Center for the necessary information on funding. The funding information shall be obtained without sending the application to the Center.

(c) Within 30 days of receipt, the Superintendent shall review the application to determine whether funds are available at the Agency to finance the proposed contract, the effect of services to be provided by the proposed contract, the effect of the proposed contract on other services or programs provided by the Agency, and whether any deficiencies exist which could possibly result in declination.

(1) If funds are not available at the Agency to adequately finance the proposed contract without significantly reducing services under the noncontracted programs or parts of programs, the Superintendent shall so notify the applicant in writing and offer alternative solutions to the funding problem. The applicant may propose alternative solutions to solve the funding problem. Upon receiving written notice of the applicant's choice of alternative(s), the Superintendent shall determine whether the alternative(s) chosen will solve the funding problem. If the applicant's choice of alternative(s) is sufficient to solve the funding problem, or if the solution involves reprograming which requires congressional action, the Superintendent shall take the actions in paragraphs (c)(2), (d), or (e) of this section, as appropriate. If the applicant's choice of alternative(s) will not solve the funding problem, the applicant shall be notified in writing and will be asked to reconsider the matter and select another choice. After the applicant has reconsidered and notified the Superintendent in writing of its second choice of alternative(s), the Superintendent shall determine whether the applicant's choice is sufficient to solve the funding problem. If the Superintendent determines that the applicant's second choice of alternative(s) will not solve the funding problem, or if the applicant refuses to make a selection, the Superintendent will refer the funding problem to the Area Director for a decision. The Superintendent shall notify the applicant of the referral in writing. An additional 15 days shall be allowed for the Superintendent to try to resolve the funding problem. The alternatives offered by the Superintendent may include the following which can be used alone or in combination to solve the funding problem:

(i) The Bureau may make available additional funds resulting from savings in other Bureau programs, subject to established reallocation or reprograming procedures.

(ii) The tribe(s) may obtain grant funds under part 272 of this chapter to cover any initial "start up" costs included in the proposal.

(iii) The Bureau may redesign or consolidate operations involving noncontracted programs or parts of programs.

(iv) The tribe(s) may redesign the contract proposal or consolidate all or parts of the proposal with other tribal programs.

(v) The tribe(s) may obtain additional funds from sources outside the Bureau to supplement the Bureau funds available to finance the proposal.

(vi) The tribe(s) may accept lower service levels under the proposed contract or under the noncontracted programs or parts of programs, except where such lower levels are inconsistent with the requirements of regulations or statutes, through reallocation or reprograming of Bureau funds.

(vii) The tribe(s) may choose to withdraw the contract proposal and allow the Bureau to continue to operate the program either as presently operated or as redesigned by the tribe(s).

(2) If funds are available at the Agency to adequately finance the proposed contract without significantly reducing services under the noncontracted programs or parts of programs, the Superintendent shall make in writing to the applicant and the tribal governing body those recommendations which he determines are needed in order to avoid possible declination and shall indicate the technical assistance available from the Agency Office to correct any deficiencies. This action shall also be taken within 30 days after receiving the application.

* * * * *

(e)(1) The Superintendent shall forward the application to the Area Office with his comments and recommendations. The recommendations shall include:

(i) A statement on the availability of Bureau equipment, facilities, and buildings requested in the application.

(ii) A recommendation on who should be the Contracting Officer's Representative.

(iii) A citation of funds to be charged.

(iv) A certification of the amount of funds actually available for the contract. If the Agency funds available are less than the amount requested in the application, the Superintendent must state his efforts and extent of his success or failure in resolving the funding problems.

(2) The Superintendent shall forward the application and his comments and recommendations within the following time limits:

(i) Within 30 days after receiving the application when the Superintendent has no recommendations to make to the applicant.

(ii) Within 10 days after making written recommendations to the applicant if the applicant does not respond, request additional time in which to respond, or refuses the technical assistance offered.

(f) Within 15 days after receiving an application to contract for all or part of the Indian Action Team Program, the Chief, Indian Technical Assistance Center shall contact the Superintendent for the tribe(s) or Indians to be served by the contract concerning the availability of the equipment, facilities, and buildings requested in the application. This contact shall be made without sending the application to the Superintendent. The Chief, Indian Technical Assistance Center, shall then forward the application to the Director, Office of Tribal Resources Development, with his comments and recommendations within the time frame prescribed in paragraph (e) of this section.

(g) Within 15 days after receiving an application, to contract for all or part of the Construction, Building and Utilities program, the Chief of the Division of Facilities Engineering shall contact the Superintendent for the tribe(s) or Indians to be served by the contract concerning the availability of the equipment, facilities, and buildings requested in the application. This contact shall be made without sending the application to the Superintendent. The Chief, Divison of Facilities Engineering, shall then forward the application to the Director, Office of Administration, with his comments and recommendations within the time frame prescribed in paragraph (e) of this section.

11. By revising § 271.23 to read as follows:

§ 271.23 Review and action by Area Director

(a) Upon receipt of a contract application submitted directly to the Area Director as provided for in § 271.21, the Area Director shall obtain the appropriate Superintendents' recommendations within 10 days. The Area Director shall then proceed as required by paragraphs (c) and (d) of this section.

(b) Upon receipt of a contract application fowarded by a Superintendent, the Area Director will review the application and the Superintendent's recommendations and then proceed as required by paragraphs (c) and (d) of this section, except that:

(1) After receiving an application to contract for all or part of the Indian Action Team program and the comments and recommendations of the Chief, Indian Technical Assistance Center, on the application, the Direc-

tor, Office of Tribal Resources Development, shall take all actions required of an Area Director by paragraphs (c) and (d) of this section.

(2) After receiving an application to contract for all or part of the Construction, Building, and Utilities program which is contractable under this part and which is within the responsibility of the Division of Facilities Engineering and the comments and recommendations of the Chief, Division of Facilities Engineering, on the application, the Director, Office of Administration, shall take all action required of an Area Director by paragraphs (c) and (d) of this section.

(c) The Area Director shall notify the applicant and the tribal governing body, if different from the applicant, that the application was received, within 5 days of its receipt.

(d)(1) Within 30 days, the Area Director shall review the contract application, the recommendations of the Superintendent, any responses from the contract applicant or the tribal governing body, and the criteria for declination set forth in § 271.15 to determine whether any declination issues exist which must be addressed. If the contract application was submitted directly to the Area Director as provided for in § 271.21, or if the Superintendent has forwarded an application with funding problems which could not be resolved at the Agency level, the Area Director will also review the application to determine whether funds are available within the Area to finance the proposed contract, the effect of services to be provided by the proposed contract, the effect of the proposed contract on other services or programs provided by the Area, and whether any deficiencies exist which could possibly result in declination. At the completion of the review, the Area Director will take one of the following actions as appropriate:

(i) If funds are not available to adequately finance the proposed contract without significantly reducing services under the other programs or parts of programs, the Area Director shall so notify the applicant in writing and offer alternative solutions to the funding problem. The alternatives offered by the Area Director may include those given in paragraphs (i) through (vii) of § 271.22(c)(1), which can be used alone or in combination to solve the funding problem. The applicant may also propose alternative solutions to solve the funding problem. Upon receiving written notice of the applicant's choice of alternative(s), the Area Director shall determine whether the alternative(s) chosen will solve the funding problem. If the applicant's choice of alternative(s) is sufficient to solve the funding problem, or if the solution involves reprograming which requires congressional action, the Area Director shall take the actions in paragraphs (d)(2), (d)(3), or (d)(4) of this section, as appropriate. If the applicant's choice of alternative(s) will not solve the funding problem, the applicant shall be notified in writing and will be asked to reconsider the matter and make a second choice. After the applicant has reconsidered and notified the Area Director in writing of its second choice of alternative(s), the Area Director shall decide whether that choice is sufficient to solve the funding problem. If the Area Director determines that the applicant's second choice of alternative(s) will not solve the funding problem, or if the applicant refuses to make a selection, the proposed contract cannot be entered into, due to the limitation that moneys obligated on contracts cannot exceed available appropriations (31 U.S.C. § 665(a)).

(ii) The applicant will be notified in writing if the Area Director decides that the proposed contract cannot be entered into because of unresolved funding problems. The Area Director's decision may be appealed to the Commissioner, and the notice shall include a statement to that effect. The applicant shall have 10 days from receipt of notice of the Area Director's decision in which to exercise its appeal rights by providing the Area Director with a notice in writing to that effect.

(iii) Upon receipt of notice of appeal, an informal conference conducted by an official designated by the Commissioner shall be held if requested by the applicant in its appeal notice. If an informal conference is not requested or if the applicant is not satisified with the results of an informal conference, a formal hearing conducted by an official appointed by the Office of Hearings and Appeals shall be held. The purpose of the formal hearing will be to develop a factual record upon which the Commissioner can review the formal decision of the Area Director. All interested parties may attend the hearing and present their position. The record which is developed will be submitted to the Commissioner who will make a final decision for the Department.

(2) If the applicant's choice of alternatives includes the reprograming of funds, the Area Director shall forward the reprograming request, the reasons for the request, and his recommendations to the Commissioner for further action as given in § 271.25(c)(1). The Commissioner or an official designated by him may hold an informal conference with the applicant prior to making a final decision on a reprograming request if the conference is requested by the applicant. If Congress grants the reprograming request, the Area Director shall take the actions in paragraph (d)(3) or (d)(4) of this section as appropriate. If Congress does not grant the reprograming request, the contract cannot be made and the Area Director shall so notify the applicant in writing.

(3) If funds are available to adequately finance the proposed contract without significantly reducing services under the other programs or parts of programs and no declination issues exist, the Area Director will notify the contract applicant in writing of this fact. The Area Director shall then negotiate and award the contract within 30 days of notifying the applicant unless a later date is requested by the applicant. Before the negotiations take place, the Area Director shall give the applicant a copy of any documents to be used by the Bureau during negotiations.

(4) If funds are available to adequately finance the proposed contract, without significantly reducing services under other programs or parts of programs, but declination issues exist which must be resolved, the Area Director will notify the applicant and the tribal governing body of this fact in writing. The notice shall include a list of the declination issues identified by the Area Director, the reason(s) for such determination, a copy of any documents used in arriving at the determination, recommendations for resolving the issues, and the technical assistance available. The notice shall also request a meeting with the applicant and the tribal governing body to discuss the issues and seek agreement on a course of action to resolve them. The meeting shall be held within 15 days of the applicant's and the tribal governing body's receipt of the notice or at a time and place mutually agreed to by the parties.

(i) If the applicant accepts the Area Director's offer of technical assistance, it shall be provided in accordance with the applicant's request. At such time as the declination issues are resolved, the Area Director will so advise the applicant and offer to enter into negotiations within 30 days of resolution or at the applicant's convenience.

(ii) If the applicant declines the Area Director's offer of technical assistance and the matter is not otherwise resolved, the Area Director shall proceed in accordance with § 271.24.

(iii) If the applicant does not respond within 30 days of receipt of the Area Director's recommendations and offer of assistance, and does not request additional time in which to respond, the Area Director shall proceed in accordance with § 271.24.

(iv) If the applicant does not agree with the Area Director's recommendations and the matter is not resolved within 30 days of the Area Director's

receipt of the applicant's response to the Area Director's recommendations, the Area Director shall proceed in accordance with § 271.24.

12. By revising paragraph (c) to § 271.24 to read as follows:

§ 271.24 Area Director's recommendation to decline.

* * * * *

(c) The Area Director shall send the written recommendation to the Commissioner within 15 days after the time period provided in § 271.23(d)(4)(iii) and (iv). At the same time, he shall send a copy of the written recommendation to the tribal organization and tribal governing body.

* * * * *

13 By revising paragraphs (b) and (c) of § 271.25 to read as follows:

§ 271.25 Review and action by Commissioner.

* * * * *

(b) An application submitted directly to the Commissioner under § 271.21(a)(3) will be handled by the Directorate(s) within the Bureau in whose substantive jurisdiction the subject matter of the proposed contract falls. That Director will perform all of the actions of the Area Director specified in § 271.23.

(c) For an application referred by an Area Director, the Commissioner will perform one of the following actions as required by § 271.23.

(1) In case of insufficient funds, the Commissioner shall review the factual record developed through the procedure set forth in § 271.23(d)(1)(iii) within 15 days. The Commissioner shall consider whether funds are available to finance the proposed contract if it involves a funding decision. If the solution to the funding problem chosen by the applicant involves reprogramming, the Commissioner, if he concurs, will forward the reprogramming request with the reasons for the request through the Department and the Office of Management and Budget to the appropriate congressional committees for approval. The applicant shall be notified if the Commissioner decides that the proposed contract cannot be made because of unresolved funding issues.

(2) In case of declination recommendations, the Commissioner shall review the application, the declination criteria in § 271.15 and the Area Director's recommendations. The procedures shall be followed as specified under paragraphs (d), (e), and (f) under § 271.25.

* * * * *

14. By revising paragraphs (f) and (g) of § 271.32 to read as follows:

§ 271.32 Contractable functions or programs.

* * * * *

(f) Range management:

(1) Range resource inventories, range utilization inspections, and trend studies.

(2) Range management plans.

(3) Development of contract stipulations for agricultural leases and permits (land use stipulations or conservation standards necessary to define each use shall be incorporated in and made a part of such lease or permit).

(4) Supervision of compliance, to include:

(i) Establishment of range units.

(ii) Establishment of grazing capacity and season of use.

(iii) Preparation, assignment, modification, and cancellation of grazing permit contracts.

(iv) Preparation of Authority to Grant Grazing Privileges on Allotted Lands. Obtain approval of landowner(s).

(v) Development of allocation of grazing privileges.

(vi) Processing of competitive and negotiated sales of grazing privileges.

(vii) Proposal of revision to grazing permit forms.

(viii) Determination of kind of livestock to be grazed on tribal and Government land, and recommendation of kind of livestock to be grazed on individually owned land.

(ix) Establishment of grazing fees on tribal lands, recommendation of grazing fees on individually owned lands not containing stipulated rates, and to non-Indian owned livestock which allocated permittees may be authorized to graze on tribal lands.

(x) Prescription of duration of grazing permits.

(xi) Establishment of bonding and insurance requirements.

(xii) Determination of ownership of range improvements.

(xiii) Investigation and processing of livestock trespass action.

(xiv) Requirement of participation in control of livestock diseases.

(5) Fee collection and disposition as directed by the Bureau, to include:

(i) Tribal fees and taxes.

(ii) Annual grazing fees.

(iii) Annual permit preparation fees.

(iv) Liquidated damages for excess stocking.

(v) Livestock trespass damage to property injured or destroyed, trespass penalty, and value of forage consumed.

(6) Watershed management.

(7) Wildfire prevention and control.

(g) Wildfire and parks:

(1) Game, fish, and outdoor recreation inventories.

(2) Game and fish management plans.

(3) Outdoor recreation planning, development, and management.

(4) Conservation, use, development, and management of fish and wildlife resources.

(5) Preservation of natural beauty, historical sites, and archeological remains.

(6) Wildlife prevention and control.

* * * * *

15. By adding a new paragraph (e) to § 271.34 to read as follows:

§ 271.34 Criteria for declining to contract.

* * * * *

(e) If the contract application is for range management and includes work performed under paragraphs (f)(4) or (f)(5) of § 271.32, the applicant must agree in the contract application to the Contracting Officer's review and approval of such work.

16. By revising the second sentence of paragraph (d) of § 271.41 to read as follows:

§ 271.41 Advance payments.

* * * * *

(d) * * * For advance payment methods other than the Letter of Credit method, requests for advances made after an initial advance shall be accompanied and supported by a report of expenditures to date, the amount of funds on hand, and the anticipated needs until receipt of payment.

* * * * *

17. By adding a new paragraph (e) to § 271.46 to read as follows:

§ 271.46 Recordkeeping.

* * * * *

(e) Provide recordkeeping adequate to verify the fairness and uniformity of services provided to the Indians affected by the contract in case of formal complaints.

18. By adding a new paragraph (h) to § 271.54 to read as follows:

§ 271.54 Contract funds.

* * * * *

(h) Social services grant funds distributed through a contract under this

Part shall not be considered a direct cost for the purposes of this section.

19. By adding a new paragraph (d) to § 271.55 to read as follows:

§ 271.55 Savings under contract.

* * * * *

(d) Social services grant funds in excess of those required to meet the financial assistance needs of the Indian clients served by a contract under this Part shall not be considered as savings for the purposes of this section. Excess social services grant funds will be deobligated from the contract.

20. By revising paragraph (b) and adding a new paragraph (c) to § 271.66 to read as follows:

§ 271.66 Revisions or amendments proposed by Bureau.

* * * * *

(b) Except as provided in paragraph (c) of this section, all amendments proposed by the Bureau must be agreed to, in writing, by the contractor, the tribal governing body(s) and the Bureau. If such agreement cannot be obtained, the proposed amendment shall not be adopted by the Bureau.

(c) When the Bureau finds through fiscal analysis that a redistribution of excess social services grant funds should be made in order to meet financial assistance needs in other Bureau jurisdictions, or in other social services grant program components within the same Bureau jurisdiction, the bureau has the right to revise the amount of social services grant funds designated in a contract without obtaining agreement by the contractor and tribal governing body(s). However, the Bureau must notify the contractor and tribal governing body(s) in writing as required by paragraph (a) of this section.

21. By revising paragraph (c) of § 271.76 to read as follows:

§ 271.76 Bureau operation of retroceded, reassumed or cancelled for cause contracts.

* * * * *

(c) This section does not apply to contracts for the operation of Bureau programs or parts of programs previously entered into under the authority of the Buy Indian Act (25 U.S.C. 47) and in effect on the effective date of the regulations, since ceiling and positions were not reserved at the time those contracts were awarded. However, the Bureau will provide, as nearly as possible, the same quantity and quality of service and permanent and temporary personnel that meet the U.S. Civil Service qualifications that would have been provided at the level intended by the Buy Indian Act contract or as operated previously by the Bureau.

22. By adding "§ 271.25" before "§ 271.74" and adding "§ 271.82" after "§ 271.74" in the first paragraph of § 271.81 to read as follows:

§ 271.81 Hearings.

Hearings required by §§ 271.25, 271.74, and 271.82 shall be conducted as follows: * * *

PART 272—GRANTS UNDER INDIAN SELF-DETERMINATION ACT

1. By revising the authority citation for part 272 to read as follows:

* * * * *

AUTHORITY: Section 104, Pub. L. 93-638, 88 Stat. 2207 (25 U.S.C. 450h), unless otherwise noted.

§ 272.2 [Amended]

2. By revising paragraph (e) of § 272.2 to read as follows:

* * * * *

(e) "Commissioner," in the absence of a Commissioner of Indian Affairs appointed by the President pursuant to 25 U.S.C. 1, means the Assistant Secretary for Indian Affairs, or his designee.

PART 273—EDUCATION CONTRACTS UNDER JOHNSON O'MALLEY ACT

1. By revising the authority citation for part 273 to read as follows:

* * * * *

AUTHORITY: Sections 201-203, Pub. L. 93-638, 88 Stat. 2203, 2213-2214 (25 U.S.C. 455-457).

§ 273.2 [Amended]

2. By revising paragraph (c) of § 273.2 to read as follows:

* * *

(c) "Commissioner," in the absence of a Commissioner of Indian Affairs appointed by the President pursuant to 25 U.S.C. 1, means the Assistant Secretary for Indian Affairs, or his designee.

PART 274—SCHOOL CONSTRUCTION CONTRACTS OR SERVICES FOR TRIBALLY OPERATED PREVIOUSLY PRIVATE SCHOOLS

1. By revising the authority citation for part 274 to read as follows:

* * * * *

AUTHORITY: Sections 204 and 208, Pub. L. 93-638, 88 Stat. 2203, 2214-2216 and 2216-2217 (25 U.S.C. 458 and 458d), unless otherwise noted.

2. By revising the third sentence of the introductory text in § 274.2 to read as follows:

§ 274.2 Scope.

* * * If a project is within the funding priority, the Bureau contracting officer offers to negotiate a contract with the applicant subject to approval by the requesting tribe(s) for planning, architectural-engineering design, facilities construction, and purchase of equipment to provide educational facilities meeting Bureau space standards and construction code regulations.

* * * * *

§ 274.3 [Amended]

3. By revising paragraph (e) of § 274.3 to read as follows:

* * * * *

(e) "Commissioner," in the absence of a Commissioner of Indian Affairs appointed by the President pursuant to 25 U.S.C. 1, means the Assistant Secretary for Indian Affairs, or his designee.

4. By revising paragraph (b) of § 274.11 to read as follows:

§ 274.11 Eligible applicants.

* * * * *

(b) Title to the land on which the construction for the previously private school is located must be vested in the tribe or the United States, or a lease for 25 years with an option for an additional 25 years must be entered into with the tribe or the United States for the ground on which the construction is located.

* * * * *

5. By revising § 274.17 to read as follows:

§ 274.17 When to submit application.

Applications may be submitted by a tribal organization to the Bureau at any time. However, only those applications received by the beginning of the fiscal year shall be included in the priority listing for that fiscal year. Applications received after the beginning of the fiscal year shall not be included in the priority listing until the following fiscal year.

6. By revising paragraph (b) of § 274.18 to read as follows:

§ 274.18 Agency Office review and action.

* * * * *

(b) When the Superintendent has determined that the application is complete, he will forward to the Area Director having jurisdiction over that Agency Office the following:

(1) The completed application.

(2) Documentation of the tribal request(s).

(3) A written statement that the application is complete.

(4) A written statement on the sources and amount of funding, deficits, and stability of the program budget.

7. By revoking and reserving paragraph (c) and revising paragraph (d) of § 274.19 to read as follows:

§ 274.19 Area Office review and action.

* * * * *

(c) [Reserved]

(d) Forward to the Commissioner the same items listed in paragraphs (1) through (4) of § 274.18(b).

8. By revising the introductory text of § 274.20 to read as follows:

§ 274.20 Priorites for funding construction.

As prescribed in § 274.21(b), the Commissioner shall evaluate and assign priorities on the basis of the application data submitted as required by § 274.13 including:

* * * * * *

9. By revising the introductory text, paragraph (c), and paragraph (d) of § 274.21 to read as follows:

§ 274.21 Central Office review and action.

After receiving an application directly or from the Area Director the Commissioner will take the following actions:

* * * * *

(c) At the beginning of the fiscal year, update the Bureau-wide priority listing of all approved projects in order of priority with the project with the highest priority listed first. New applications received after the beginning of the fiscal year shall be included in the update of the priority listing at the beginning of the following fiscal year.

(d) Notify each applicant in writing of the project's priority ranking on the updated Bureau-wide list each fiscal year.

10. By revising the first sentence of paragraph (a) and paragraph (b) of § 274.22 to read as follows:

§ 274.22 On-site inspection and cost estimate.

(a) The Commissioner or his representative shall conduct an on-site inspection for projects high on the priority listing and for which funding is available, beginning with the project ranked highest on the Bureauwide priority listing. * * *

(b) From this information, a tentative cost estimate for planning, design, construction, and equipment will be made for budget purposes in cooperation with the tribal organization.

11. By adding a new paragraph (a)(1) to § 274.32 to read as follows:

§ 274.32 Architectural design.

* * * * *

(a)(1) The contractor has the option of completing the planning documents itself or hiring a consultant or requesting Bureau assistance for that purpose.

* * * * *

PART 275—STAFFING

1. By revising the authority citation for part 275 to read as follows:

* * * * *

AUTHORITY: Sec. 502, Pub. L. 91-648, 84 Stat. 1909, 1925 (42 U.S.C. 4762); Sec. 105, Pub. L. 93-638, 88 Stat. 2203, 2208-2210 (25 U.S.C. 450i); 26 U.S.C. 48.

§ 275.2 [Amended]

2. By revising paragraph (d) of § 275.2 to read as follows:

* * * * *

(d) "Commissioner," in the absence of a Commissioner of Indian Affairs appointed by the President pursuant to 25 U.S.C. 1, means the Assistant Secretary for Indian Affairs, or his designee.

PART 276—UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS

1. By revising the authority citation for part 276 to read as follows:

* * * * *

AUTHORITY: 34 CFR 256; Sec. 104, Pub. L. 93-638, 88 Stat. 2203, 2207 (25 U.S.C. 450h), unless otherwise stated.

2. By amending § 276.11 as follows: By replacing the word "or" after the word "section" in the first sentence of paragraph (b)(2) with a comma, and by revising paragraph (g)(2) to read as follows:

§ 276.11 Property management standards.

* * * * *

(g) * * *

(2) Where the grant results in a book or other copyrightable material, the author or grantee is eligible to copyright the work if it is found that (i) the retention of the copyright is not precluded by statute and (ii) equity or the public interest is best served by doing so, by reason of special circumstances. If it is found that the public interest is best served by limiting the term of any copyright to be obtained, such limits shall be set forth in the grant agreement. "Developmental" copyrights may be requested during the development, testing, or evaluation of copyrightable materials in order to prevent them from prematurely falling into the public domain. The copyright will be in accordance with copyright laws. However, the Government shall receive a royalty-free, nonexclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use the work for Government purposes. A copy of any copyright obtained by a grantee shall be provided to the Bureau. Program income received as royalties from copyrights on materials produced under grants is retained by the grantee during the grant period and is to be used according to the provisions of § 276.6(c). Specific agreements between the Bureau and the grantee shall be entered into before the grant is awarded to determine the uses of the royalty income after the grant is completed or terminated.

* * * * *

3. By adding a new § 276.17 to read as follows:

§ 276.17 Printing.

As permitted by paragraph 36-2(c) in the Government Printing and Binding Regulations (October 1974, No. 23), published by the Joint Committee on Printing (JCP), printing required by a grantee in performing work under a grant is considered "incidental printing" (e.g., material which the grantee needs to use to respond to the terms of the grant). Whenever the incidental printing is likely to exceed the exclusions in paragraphs 36-3 and 36-4 of the Joint Committee on Printing (JCP) Printing and Binding Regulations, specific provisions on printing as may be required shall be included in the grant agreement. Grantees shall be given the option of using sources other than the Government Printing Office for incidental printing.

4. By revising paragraph I.4 of part I of appendix A to part 276 as follows:

APPENDIX A—PRINCIPLES FOR DETERMINING COSTS APPLICABLE TO GRANTS

* * * * *

PART I—GENERAL

* * * * *

I. *Cost allocation plan.* * * *

4. *Submission of indirect cost proposal and negotiation of indirect cost rates.*

a. A grantee should submit its indirect cost proposal to the Federal agency which provides the largest dollar volume of contracts and grants. However, once a Federal agency has handled an indirect cost proposal, that same Federal agency should continue to act upon the proposal even though the preponderance of financial interest may have shifted to another Federal agency, and grantee shall not resubmit its indirect cost proposal to a second Federal agency.

b. Where the grantee submits its proposal to the Department of Interior, the proposal should be sent by the Bureau of Indian Affairs to the cognizant Regional Office of the Department's Office of Audit and Investigation. The Office of Audit and Investigation is responsible for the audit and review of the proposals and negotiation of the indirect cost rates.

c. Grant administrators officers will usually, but are not required to, accept indirect cost rates negotiated by other Federal agencies.

d. The Bureau fo Indian Affairs will provide technical assistance in developing indirect cost próposals, if needed.

5. By amending paragraph B.11.b. of Part II of Appendix A to Part 276 as follows:

(a) By changing the phrase "by the Bureau" to read "by the Federal Government" and by changing the phrase "to Bureau grant programs" to read "to Federal grant programs" in the third sentence.

(b) By changing the word "Bureau" to read "grantor Federal agency" in the last sentence.

6. By adding a sentence to the end of paragraph C.1. of Part II of Appendix A to Part 276 to read as follows:

* * * * *

PART II—STANDARDS FOR SELECTED ITEMS OF COST

* * * * *

C. *Costs allowable with approval of the Bureau.*

1. *Automatic data processing.* * * * The Bureau must obtain required Departmental clearances before such approval can be given.

PART 277—SCHOOL CONSTRUCTION CONTRACTS FOR PUBLIC SCHOOLS

1. By revising the authority citation for Part 277 to read as follows:

* * * * *

AUTHORITY: Sec. 207, Pub. L. 93-638; 88 Stat. 2216 (25 U.S.C. 458c(b)).

§ 277.1 [Amended]

2. By deleting the phrase "State or local education agency" from § 277.1 and changing to "school district."

3. By revising § 277.2 to read as follows:

§ 277.2 Scope.

(a) The application process for public school construction contracts under section 204 of Pub. L. 93-638 is given in 20 U.S.C. 631-645 and 45 CFR 114. The application process is administered by and is the responsibility of the Commissioner of Education. Upon receipt of an application, the Commissioner of Education notifies the Commissioner of Indian Affairs. The Commissioner of Education prepares and furnishes the national priority index to the Bureau at the start of each fiscal year or when the Bureau so requests.

(b) The Bureau requests and receives funding for acquisition of sites and for planning, architectural-engineering design, facilities construction and equipment for the program. Funds are allocated to projects by the Bureau on the basis of funding priorities as established by the Commissioner of Education. For each project for which funds are allocated, the Bureau and the Office of Education shall jointly develop an individual project management plan and shall provide guidance to the applicant in developing educational and facilities specifications. A Bureau contracting officer, designated by the Commissioner of Indian Affairs, shall negotiate one or more contracts with the applicant, in accordance with the approved management program, for the acquisition of sites and for the planning, design, construction, and purchase of equipment to provide educational facilities. Construction standards and space requirements shall be based on need as described in prepared educational and facilities specification documents.

§ 277.3 [Amended]

4. By revising paragraph (e) of § 277.3 to read as follows:

* * * * *

(e) "Commissioner," in the absence of a Commissioner of Indian Affairs appointed by the President pursuant to 25 U.S.C. 1, means the Assistant Secretary for Indian Affairs, or his designee.

5. Section 277.12 is amended by revising paragraphs (a) and (b). Paragraph (c) is amended by changing the word "Objectives" to read "Objections" in the first sentence and by changing the word "representatives" to read "representative" in the second sentence.

§ 277.12 Consultation with Indians

(a) Except where there is a majority of Indians on an elected public school board, the Commissioner of Indian Affairs shall consult with the local Indian Education Committee and the tribal governing body(s) of the local Indian tribe(s) affected on each project which the Bureau is committed to fund under Pub. L. 93-638 for that fiscal year and at the time the commitment is made. Tribal members on an elected public school board or the local Indian Education Committee may advise the tribal governing body(s) of the local Indian tribe(s) affected by providing a written declaration of intent to apply and to provide progress reports of the contract application process.

(b) The school district applying for a contract under this part is encouraged to consult with the local Indian Education Committee and the tribal governing body(s) of the local Indian tribe(s) affected before the application is submitted to the Commissioner of Education. This consultation will be met when the official tribal governing body(s) of the Indian tribe(s) to be benefited by the application notify the Commissioner of Education. The notification that the tribe(s) approves or disapproves the application will be made in writing, within 60 days after the date of the consultation. The notice of disapproval must give specific stated objections to the application. A copy of the notice shall be delivered or mailed to the Commissioner of Indian Affairs at the same time as the notice is delivered or mailed to the Commissioner of Education.

6. By adding a sentence to the end of paragraph (a), revising paragraph (b), and revoking and reserving paragraph (c) of § 277.13 to read as follows:

§ 277.13 Application procedure for placement on priority list.

(a) * * * Upon receipt of an application, the Commissioner of Education shall so notify the Commissioner of Indian Affairs. The Commissioner of Indian Affairs shall in turn notify the tribal governing body(s) of the local Indian tribe(s) affected of the application for public school construction assistance under this part.

(b) Section 204(b) of Pub. L. 93-638 assigns responsibility for the application processing, determination of eligibility and establishment of project priority to the Commissioner of Education. Such application, review and determination processes will include field and site review by the Commissioner of Education to determine a tentative cost estimate for budget purposes. The Commissioner of Education will conduct the on-site inspection to determine which buildings need to be

retained, demolished or remodeled. For budget purposes, initial information will be gathered to provide a tentative cost estimate for planning, design, construction, and equipment, as well as to insure that the quality and standard of education will be equal to that of all other students in the school(s).

(c) [Reserved]

* * * * *

7. By revising § 277.14 to read as follows:

§ 277.14 Submitting priority list to Bureau.

Pursuant to section 204(b) of Pub. L. 93-638, a list of public school projects eligible for funding under this part shall be submitted to the Commissioner of Indian Affairs by the Commissioner of Education at the beginning of each fiscal year or when so requested by the Bureau. The Commissioner of Indian Affairs shall notify the tribal governing body(s) by the local Indian tribe(s) affected by the application for public school construction assistance under this Part. The Commissioner of Education shall also inform the Commissioner of Indian Affairs of the amount of funds available under subsection 14(a) or 14(b) of Pub. L. 81-815 for public school construction under this Part.

8. By revising paragraph (a) of § 277.15 to read as follows:

§ 277.15 Preparing a commitment-to-fund list.

(a) When the Assistant Secretary for Indian Affairs receives the priority list from the Commissioner of Education, the Commissioner for Indian Affairs shall:

(1) Conduct the Indian consultation when required by § 277.12.

(2) Determine whether the quality and standard of education (including facilities and auxiliary services) for Indian students enrolled in the school are at least equal to that provided all other students from resources, other than resources provided under this Part, which are available to the local school district. A project shall not be placed on the commitment-to-fund list if the Commissioner of Indian Affairs or his representative has determined that the quality and standard of education for Indian students enrolled in the schools will not be equal to that of all other students in the school(s).

(3) Place the project highest on the priority list received from the Commissioner of Education at the top of a commitment-to-fund list. Projects will be added to the commitment-to-fund list in the same order as they are on the priority list. Each project will be added to the commitment-to-fund list as long as the total of the tentative cost estimates is less than the total of the amount of funds available under subsection 14(a) or 14(b) of Pub. L. 81-815 for public school construction plus the amount of funds appropriated for public school construction under Pub. L. 93-638 for the new fiscal year.

* * * * *

§ 277.15 [Amended]

b. By revising paragraph (b) of § 277.15 to read as follows:

* * * * *

(b) Each applicant will be notified in writing by the Commissioner of Indian Affairs within 15 days from the date the project is added to the commitment-to-fund list.

9. By adding a new § 277.15a to read as follows:

§ 277.15a Contracts for planning documents.

(a) For each project added to the commitment-to-fund list, the Commissioner of Indian Affairs and the Commissioner of Education shall jointly develop an individual project management plan. This plan may include funding data, tentative schedule, assignment of responsibility, personnel to contact and other requirements for operations.

(b) A Bureau contracting officer will then negotiate a contract with the applicant for preparation of the planning documents (educational and facilities specifications). The Commissioner of Indian Affairs and the Commissioner of Education shall jointly:

(1) Provide program guidance to the applicant in developing educational specifications. The educational specifications should provide such information as educational goals, philosophy, demographic information, curriculum, teaching methods, class sizes, spatial relationships, operational logistics, staffing and adjunct requirements.

(2) Provide technical guidance to the applicant in developing facility specifications. The facility specifications should provide such information as environmental considerations, architectural/engineering features, facility space and relationships, occupancy, special equipment, engineering data, regulatory requirements, and cost estimate.

(c) The planning documents (educational and facilities specifications) prepared by the applicant must be reviewed and approved by the Bureau before one or more contracts can be negotiated under § 277.16 for the other phases of the project.

(d) In its discretion, the Bureau may make an exception to the requirement to contract with the applicant for the preparation of the planning documents and the Bureau may prepare the planning documents itself only when the applicant so requests and can clearly demonstrate that special circumstances exist which warrant the Bureau making such an exception.

(e) The contracts under this part shall be developed in accordance with the regulations in 41 CFR 1 as supplemented by 41 CFR 14 and 41 CFR 14H, except 41 CFR part 14H-70.

(f) The applicant has the option of performing the work itself or through subcontracts with outside consultants.

10. By revising § 277.16 to read as follows:

§ 277.16 Contracts for other project phases.

(a) After the planning documents (educational and facilities specifications) are approved by the Bureau, a Bureau contracting officer shall negotiate one or more contracts with the applicant for the other phases of the project:

(1) Acquisition of sites.

(2) Preparation of the architectural design drawings and specifications.

(3) Actual construction of the facility.

(4) Acquisition of equipment.

(b) Paragraphs (e) and (f) of § 271.15a also apply to contracts under this section.

11. By amending § 277.17 by revising paragraphs (a) and (b) to read as set forth below, and by deleting the phrase "and State education agencies" from the second sentence of paragraph (c).

§ 277.17 Funding provisions.

(a) When funds are available under subsections 14(a) or 14(b) of Pub. L. 81-815, those funds will be used first to fund as many projects as possible on the priority list prepared by the Commissioner of Education, beginning with the project highest on the priority list. When substantially all Pub. L. 81-815 funds available under subsection 14(a) or 14(b) are reserved for projects on the priority list, then Pub. L. 93-638 funds shall be used to fund the remaining projects on the priority list, beginning with the highest ranked project for which no Pub. L. 81-815 funds have been reserved.

(b) Projects which are partially funded under Pub. L. 93-638 in one fiscal year shall be given first consideration for additional Pub. L. 93-638 funds in the succeeding fiscal year in order to complete such projects.

* * * * *

12. By adding a new § 277.18 to read as follows:

§ 277.18 Ownership of completed project.

After completion of a project funded under Pub. L. 93-638, the school district which was the contractor under this part or the State or both shall become the owner(s) of the project. The Bureau will not be responsible for ongoing maintenance of the project.

13. By revising § 277.21 to read as follows:

§ 277.21 Costs included in contracts.

A contractor may include costs for the following in a contract or contracts under this Part: Planning, architectural design, site acquisition, facilities construction (including site development and supervision), and equipment in accordance with the approved educational and facilities specifications and equipment lists. Increases in administrative costs incurred by the contractor as the result of seeking and performing contracts awarded under this part may also be included and paid upon review and approval by the Bureau of Indian Affairs of the contractor's administrative cost proposals.

§ 277.22 [Amended]

14. By amending § 277.22 as follows: By deleting the word "Federal" and the commas following the words "Federal" and "State" in paragraph (a), and by revising paragraphs (c), (d) and (e) to read as follows:

§ 277.22 Architectural design.

* * * * *

(c) The Commissioner of Indian Affairs shall counsel with the contractor with respect to the professional qualifications and performance history of Architect/Engineer firms in order that the best qualified firm be selected. With the advice and assistance of the Commissioner of Indian Affairs, the contractor shall select an Architect/Engineer to prepare the plans and specifications. The contractor shall comply with State selection requirements in making the selection in addition to complying with the Indian preference requirements of 41 CFR Chapter 14. The contractor shall not enter into an Architect/Engineer agreement involving the expenditures of Federal funds until the Commissioner of Indian Affairs has reviewed the agreement.

(d) The drawings and specifications will conform to the educational and facilities specifications prepared in accordance with § 277.15a.

(e) The Bureau will review the drawings and specifications with the local education agency, the local Indian Education Commmittee and tribal governing body(s) of the tribe(s) to be served by the facility. After approval by the State and other regulatory agencies, the final drawings and specifications will be reviewed and approved by the Bureau.

§ 277.25 [Amended]

15. By deleting the phrase "State education agencies or" in § 277.25.

§ 277.28 [Deleted]

16. By deleting § 277.28.

§ 277.29 [Amended]

17. By amending § 277.29 as follows: By deleting the phrase "States and" and capitalizing the word "School" in the first sentence of paragraph (a), by deleting the words "State or" in paragraph (b), and by deleting the words "State or public school authority" and substituting the words "school district" in paragraph (c).

§ 277.36 [Amended]

18. By deleting the phrase "States or" and capitalizing the word "School" in § 277.36.

Title 41—Public Contracts and Property Management

Chapter 14H—Bureau of Indian Affairs, Department of the Interior

PART 14H-70—CONTRACTING WITH INDIAN ORGANIZATIONS PURSUANT TO THE INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE ACT

1. By revising the authority citation for Part 14H-70 to read as follows:

* * * * *

AUTHORITY: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); Pub. L. 93-638, 88 Stat. 2203 (25 U.S.C. 450 et seq.).

2. By adding new §§ 14H-70.205 and 14H-70.206 to read as follows:

§ 14H-70.205 Rights in data.

(a) It is the Bureau's policy that tribal contractors are eligible to retain copyright privileges on all copyrightable materials produced as a result of work performed under a program contract funded by the Bureau as long as it is found that (1) the retention of the copyright is not precluded by statute; and (2) equity or the public interest is best served by doing so because of special circumstances. If it is found that the public interest is best served by limiting the term of any copyright to be obtained, such limits shall be set forth in the contract. "Developmental" copyrights may be requested during the development, testing, or evaluation of copyrightable materials in order to prevent them from prematurely falling into the public domain. The copyright will be in accordance with copyright laws. However, the Government shall obtain a royalty-free, nonexclusive and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use the work for Government purposes. A copy of any copyright obtained by a contractor shall be provided to the Bureau.

(b) Royalties received by tribal contractors from copyrights obtained on materials produced under a program contract are the property of the contractor and may be used for any purpose. However, any income derived from such property shall be considered as an applicable credit in determining the net expense items allocable to a program contract as direct or indirect costs. Applicable credits are explained in section C.3., part I, appendix A to 25 CFR part 276.

§ 14H-70.206 Printing.

As permitted by paragraph 35-2 of the Joint Committee on Printing (JCP) Printing and Binding Regulations (October 1974, No. 23), it is the Bureau's policy that printing required by a tribal contractor in performing work under a program contract is considered "incidental printing" (e.g., material which the contractor needs to use to respond to the terms of contract). Whenever the incidential printing is likely to exceed the exclusions contained in paragraphs 35-3 and 35-4 of the Joint Committee on Printing (JCP) Printing and Binding Regulations, specific provisions on printing as may be required will be included in the contract. Tribal contractors shall be given the option of using sources other than the Government Printing Office for incidental printing.

3. By revising § 14H-70.409 to read as follows:

§ 14H-70.409 Subcontracting.

Any contract proposal or plan of operations submitted by a tribal organization which proposes to do a portion of the work by subcontract shall identify the purpose and scope of the proposed subcontract, the manner in which the subcontractor will be selected, and the estimated cost of the subcontract. In those cases where a subcontractor has already been identified, the contract proposal or plan of operations submitted by the tribal organization will identify the subcontractor, the amount and purpose of the subcontract, the manner in which the subcontractor was selected, and the basis for the cost of the subcontract. Subcontracts shall be awarded in accordance with the following:

(a) Preference shall be given to qualified Indian business concerns as defined in 25 CFR 14H-70.610 in awarding subcontracts, and the contractor shall comply with any preference requirements established by the tribe(s) receiving services under the contract when the requirements have

been concurred in by the Bureau of Indian Affairs.

(b) If no Indian business concerns are available under the conditions in paragraph (a) of this section, the contractor shall accomplish the maximum amount of subcontracting, as is consistent with efficient performance of the contract, with small business concerns, labor surplus area concerns, and minority business enterprises. The definitions of small business concerns, labor surplus area concerns and minority business enterprises are contained in Subparts 1-1.7, 1-1.8, and 1-1.13 of the Federal Procurement Regulations (41 CFR 1), respectively.

(c) Subcontract opportunities shall be advertised or negotiated in a manner which provides free and open competition to the maximum extent practicable and subcontracts shall be awarded in accordance with sound business practices and the preference requirements in paragraphs (a) and (b) of this section.

4. By revising the section heading of § 14H-70.611 and by revoking paragraph (a) of the clause in § 14H-70.611 to read as follows:

§ 14H-70.611 Insurance.

INSURANCE

(a) The contractor shall secure, pay premiums for, and keep in force until the expiration of this contract or any renewal period thereof, insurance as provided below. Such insurance policies shall specifically include a provision stating the liability assumed by the contractor under this contract.

(1) Workman's compensation insurance, as required by laws of the various States in which the contract is performed.

(2) Owner's, landlord's, and tenant's bodily injury liability insurance with limits of not less than $50,000 for each person and $500,000 for each accident.

(3) Property damage liability insurance with limits of not less than $25,000 for each accident.

(4) Automobile bodily injury liability insurance with limits on personal injury liability of not less than $50,000 for each person and $500,000 for each accident, and automobile property damage liability insurance with a limit of not less than $5,000 for each accident.

(5) Food products liability insurance with limits of not less than $50,000 for each person and $500,000 for each accident.

(6) Other insurance not specifically mentioned when required by law or other regulations.

(b) Each policy of insurance shall contain an endorsement providing that cancellation by the insurance company shall not be effective unless a copy of the cancellation is mailed (registered) to the contracting officer at least 30 days before the effective date of cancellation.

(c) A certificate of each policy of insurance, and any changes therein, shall be furnished to the contracting officer immediately upon receipt from the insurance company.

(d) Insurance companies of the contractor must be satisfactory to the contracting officer. When in his opinion an insurance company is not satisfactory for reasons stated in writing, the contractor shall provide insurance through companies which he deems satisfactory.

(e) Each policy of insurance shall contain a provision that the insurance carrier waives any rights which it may have to raise as a defense the tribe's sovereign immunity from suit, but such waiver shall extend only to claims the amount and nature of which are within the coverage and limits of the policy of insurance. The policy shall contain no provision, either express or implied, that will serve to authorize or empower, the insurance carrier to waive or otherwise limit the tribe's sovereign immunity outside or beyond the coverage and limits of the policy of insurance.

5. By revising paragraph (b) of the clause in § 14H-70.626 to read as follows:

§ 14H-70.626 Negotiated overhead rates.

NEGOTIATED OVERHEAD RATES

* * * * *

(b) The contractor, as soon as possible, but not later than six (6) months after the expiration of each of the contractor's financial years or such other period as may mutually be agreed upon by the Bureau and the contractor, shall submit to the cognizant audit agency, with a copy to the contracting officer, a proposed final overhead rate or rates for that period based on the contractor's costs experience during that period, together with supporting cost data. Negotiation of final overhead rates by the contractor and the cognizant audit agency shall be undertaken as promptly as practicable after receipt of the contractor's proposal.

6. By revising the section heading of § 14H-70.809 as follows:

§ 14H-70.809 Insurance clause.

* * * * *

7. By revising the last sentence in paragraph (d) of § 14H-70.1403 to read as follows:

§ 14H-70.1403 Advance payments by Treasury check.

* * * * *

(d) * * * For advance payment methods other than the Letter of Credit method, requests for advances made after an initial advance shall be accompanied and supported by a report of expenditures to date, the amount of funds on hand, and the anticipated needs until receipt of payment.

8. By revising § 14H-70.1406 as follows: By adding the phrase "in the aggregate" to the end of the first sentence of paragraph (a), by adding the phrase "in the aggregate for" after "$250,000" in the second sentence of paragraph (a), and by adding a second sentence to paragraph (b) to read as follows:

§ 14H-70.1406 Approval of advance payments.

* * * * *

(b) * * * However, this limitation does not apply when the advance payment(s) is made through a Letter-of-Credit.

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

FORREST J. GERRARD,
Assistant Secretary, Indian Affairs.

[FR Doc. 78-23725 Filed 8-22-78; 8:45 am]

[4830-01]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER A—INCOME TAX

[T.D. 7560]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

New Jobs Credit

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to the new jobs credit. The new jobs credit was enacted by the Tax Reduction and Simpification Act of 1977. These regulations would provide the public with guidance needed to comply with the law and would affect all partners, beneficiaries of estates and trusts, and shareholders of subchapter S corporations seeking the benefit of a new jobs credit earned by the partnership, estate or trust, or subchapter S corporation.

DATE: The new regulations are effective for taxable years beginning after December 31, 1976, and would apply to credit carrybacks from those years.

FOR FURTHER INFORMATION CONTACT:

Robert M. Fowler 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, 202-566-3458, not a toll-free number.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On April 3, 1978, the FEDERAL REGISTER published proposed amendments to the Income Tax Regulations (26 CFR part 1) under section 53 of the Internal Revenue Code of 1954, 43 FR 13893. The amendments were proposed to conform the regulations to section 202 of the Tax Reduction and Simplification Act of 1977 (91 Stat. 141). After consideration of all comments received regarding the proposed amendments, those amendments are adopted as revised by this Treasury decision.

Section 53(a) limits the availability of the new jobs credit in any year to the tax liability (with certain adjustments) of the taxpayer. Section 53(b) provides a separate limitation with respect to a credit passed through a partnership, estate or trust, or subchapter S corporation to the partners, beneficiaries, or shareholders. The separate limitation is designed to restrict the application of the credit to an amount equal to the tax on the income attributable to the taxpayer's interest in the entity. The separate limitation is applied to the credit both in the year it is passed through and in carryback or carryover years. A new paragraph (f) is added to § 1.53-1 to provide that if the entity that earned the credit changes its form of conducting business in a carryback or carryover year but the nature of its trade or business essentially remains the same, the separate limitation under section 53(b) should reflect the income attributable to the taxpayer's interest in the entity in its revised form.

DRAFTING INFORMATION

The Principal author of these final regulations was Mr. Robert M. Fowler of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the final regulations, both on matters of substance and style.

ADOPTION OF AMENDMENTS TO THE REGULATIONS

Accordingly, the amendment to 26 CFR part 1, as proposed, is hereby adopted, subject to the following change:

A new paragraph (f) is added to § 1.53-1, to read as set forth below:

§ 1.53-1 Separate rule for pass-through of jobs credit.

* * * * *

(f) *Carryback or carryover of credit subject to separte limitation.* A credit subject to the separate limitation under section 53(b) that is carried back or carried over to another taxable year is also subject to the separate limitation in the carryback or carryover year. The taxpayer to whom the credit has been passed through shall not be prevented from applying the unused portion in a carryback or carryover year merely because the entity that earned the credit changes its form of conducting business if the nature of its trade or business essentially remains the same. The computation of the separate limitation in such a case shall reflect the income attributable to the taxpayer's interest in the entity in its revised form. Thus, a shareholder carrying over a credit from a subchapter S corporation may include dividends declared by that corporation after the subchapter S election had been terminated as income attributable to that person's interest in the entity. Similary, if a partnership incorporates in a carryover year, any income attributable to an interest in the corporation will be regarded, for purposes of computing the separate limitation under section 53(b), as income attributable to an interest in the entity.

(Sec. 44B(b) and 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 91 Stat. 141, (26 U.S.C. 44B(b), 7805)).)

JEROME KURTZ,
Commissioner of Internal Revenue.

Approved: August 11, 1978.

DONALD C. LUBICK,
Assistant Secretary of the Treasury.

[FR Doc. 78-23598 Filed 8-22-78; 8:45 am]

[1410-03]

Title 37—Patents, Trademarks, and Copyrights

CHAPTER II—COPYRIGHT OFFICE, LIBRARY OF CONGRESS

[Docket RM 77-4A]

PART 201—GENERAL PROVISIONS

Recordation and Certification of Coin-Operated Phonorecord Players

AGENCY: Library of Congress, Copyright Office.

ACTION: Interim regulations.

SUMMARY: This notice is issued to inform the public that the Copyright Office of the Library of Congress is adopting interim amendments to § 201.16 of our regulations. The effects of the amendments are: To establish requirements governing the correction of errors in applications for recordation of coin-operated phonorecord players and in related certificates; to clarify our examination of applications and our treatment of certain time limits imposed by the Copyright Act in connection with the recordation of coin-operated phonorecord players; to modify the requirement for the "full address" of an operator of coin-operated phonorecord players to include post office boxes in certain cases; and to make other technical amendments. The amendments are issued on an interim basis in order to permit their immediate application while allowing full public comment.

DATES: The interim regulations are effective on August 23, 1978. Initial comments should be received on or before September 25, 1978; reply comments by October 11, 1978.

ADDRESSES: Five copies of all written comments should be provided, if by hand, to Office of the General Counsel, U.S. Copyright Office, Library of Congress, Crystal Mall, Building No. 2, Room 519, Arlington, Va., or if by mail to Office of the General Counsel, U.S. Copyright Office, Library of Congress, Caller No. 2999, Arlington, Va. 22202.

Copies of all written comments will be available for public inspection and copying between the hours of 8 a.m. and 4 p.m., Monday through Friday, in the Public Information Office of the Copyright Office, Room 101, Crystal Mall, Building No. 2, 1921 Jefferson Davis Highway, Arlington, Va.

FOR FURTHER INFORMATION CONTACT:

Jon Baumgarten, General Counsel, U.S. Copyright Office, Library of Congress, Washington, D.C. 20559, 703-557-8731.

SUPPLEMENTARY INFORMATION: 17 U.S.C. 116 establishes conditions under which operators of coin-operated phonorecord players—commonly referred to as "jukeboxes"—may obtain a compulsory license for the performance of nondramatic musical works.

A compulsory license permits the use of a copyrighted work without the consent of the copyright owner, if certain conditions are met and royalties paid. After establishing general rules governing the conditions of the compulsory license for coin-operated phonorecord players, section 116(b)(1) requires the Register of Copyrights to prescribe regulations governing compulsory license applications and the certificates to be affixed to licensed phonorecord players.

On March 30, 1977, we published in the FEDERAL REGISTER (42 FR 16838) an advance notice of proposed rulemaking in this matter. After considering the comments received in response to the advance notice, on October 11, 1977, we published a proposed regula-

tion (42 Fr 54840) and, on October 25, 1977, we held a public hearing on the proposal. After considering the comments made at the hearing and in supplemental filings, on December 20, 1977, we published (42 FR 63779) final regulations implementing section 116. In the light of our experience during the last seven months, we have concluded that certain changes and additions to the regulations are desirable. In accordance with our obligations under section 116(b)(1)(A), we have consulted with the Copyright Royalty Tribunal concerning these changes and additions. The Tribunal has advised us by letter that it has no objection to any of these interim amendments.

1. *Application requirements.* The regulations as issued did not permit a jukebox operator to use a post office box or similar designation in applying for recordation. We have found that, in some areas of the country, a post office box is the only realistic address that can be given. We have therefore amended § 201.16(b)(1)(ii) to provide that, after consultation with postal officials, we will accept a post office box or similar address in special cases where no better address is possible. In keeping with our original purpose of assuring copyright owners adequate means of identifying compulsory licensees, we have retained the requirement ruling out post office box addresses in all other cases.

The regulations also required that, where a player does not have a serial number, certain additional information including the "model number" be given. This requirement proved unnecessarily burdensome. Consistent with our treatment of model years and names in the same paragraph, we have therefore amended § 201.16(b)(2)(i) to require identification of the "model number" only "if known."

2. *Examination.* We have added a new paragraph (4) to § 201.16(c) to state our general principle in examining applications for recordation of jukeboxes: We will require the correction of errors appearing on the face of the document, but will generally not go beyond the information in the application itself. Our treatment of certain time limitations imposed by the Act is dealt with below.

3. *Time limitations.* Section 116 of the law sets forth certain time limitations in connection with applications for recordation of jukeboxes: For jukeboxes already in use on January 1, 1978, the application was to be submitted between January 1, 1978, and January 31, 1978; for jukeboxes put into use after January 1, 1978, the application must be submitted before or within 1 month after the date performances are first made available on that player; and for jukeboxes previously recorded in the Copyright Office the application must be submitted between January 1 and January 31 of each succeeding year that the machine is in use. In addition, as an exception to the requirement that applications are to be accompanied by a royalty fee of $8 per player, the statute provides that, if performances "are made available on a particular phonorecord player for the first time after July 1 of any year, the royalty fee to be deposited for the remainder of that year" is $4.

We have added a new paragraph (f) to § 201.16 to clarify the relationship of these statutory provisions to our handling of applications and fees. The first part of this paragraph states the general rule that we will not inquire into the timeliness of applications filed and that we will accept a late filing where a proper fee is paid, but that our action in issuing a certificate in cases of this sort will not relieve an operator of its statutory obligations and will only have whatever effect a court may determine.

The second part of this paragraph deals with the situation in which applications for phonorecord players that the operator plans to put into operation after July 1 of any year, and thus requiring payment of only $4, are filed much earlier in the calendar year. Situations of this sort will arise and need to be provided for, but if handled routinely they could lead to unjustified losses to copyright owners and the danger of substantial liability for jukebox operators. Accordingly, we have concluded that an operator should expressly state in writing that any players covered by a $4 fee will not be put into operation until after July 1 of the year covered by the application, where the application is filed more than one month before July 1 of that year.

The third part of paragraph (f) deals with another special case: Applications submitted after July 1 of a year accompanied by $8 per box fees. Consistent with our general practice, mentioned above, we will assume without further inquiry that the applications are for players put into operation before July 1.

4. *Corrections and refunds.* Where, before a certificate has been issued, the Copyright Office notes a mistake in the application or fee, it will notify the applicant and seek to get the error corrected. We have also found that, after the normal examining process has been completed and the certificate has been issued, there are cases in which the operator discovers its own error and requests corrections or refunds of amounts paid. Although the Act does not expressly deal with these situations, we have concluded that it would be reasonable to jukebox operators and beneficial to the accuracy of our records to allow corrections and refunds to be made after the issuance of certificates in limited cases and under certain conditions.

We have added a new paragraph (g) to § 201.16 to deal with cases of this sort. Paragraph (g)(1) specifies the four situations in which we believe that corrections and refunds should be made: The duplicate listing of players; the entry of certain erroneous information in the application; Copyright Office error in issuing a certificate; and overpayment of an $8 fee where only a $4 fee is required.

New paragraph (g)(2) makes clear that corrections or refunds will not be made in any other case, including cases in which changes have taken place after the application was signed. For example, when the application was correct at the time it was filed but a player listed on it was later sold or destroyed, or where the name of the operator has changed, there could be no "correction" since the information was correct, and no refund since a valid license had been issued.

Paragraph (g)(2) also provides that a refund will not be made where a player was listed in the application but it later turns out that, at the time the application was signed, the player was not owned by the operator, or had already been destroyed, or was in a condition that made it incapable of being repaired. There are several reasons behind our decision not to permit refunds in these cases: To permit the Copyright Office to fullfill its statutory obligation promptly to transfer royalty payments to the Treasury for investment in interest-bearing securities and to provide detailed accountings to the Copyright Royalty Tribunal; to assure that copyright owners will derive the intended benefits of prompt transfers and investments; to prevent the Copyright Royalty Tribunal from being hampered in distributing the accumulated fees and interest to copyright owners; and to avoid burdening the Office and Tribunal with unnecessary administrative expenses that would have to be deducted from the funds available to copyright owners.

The cases where refunds will not be made are distinguishable from the situations mentioned in paragraph (g)(1). The errors in these cases are not apparent from the application itself and are not attributable to the fault of the Copyright Office; the relevant facts are not verifiable from the face of the application and do not affect identification of the licensed players. Taking into account the substantial obstacles that refunds pose to the statutory objective of adequate compensation to copyright owners, we believe that the operator must bear the burden of its own errors in these cases.

New paragraph (g)(3) establishes the conditions under which refunds and corrections will be made in those cases where they are appropriate. These conditions are designed to give jukebox operators enough time to discover and advise the Copyright Office of errors, while also—like the limitations in paragraph (g)(2)—providing safeguards for the interests of copyright owners in accurate information and adequate compensation for the use of their works by compulsory licensees.

INTERIM AMENDMENTS

Part 201 of 37 CFR Chapter II is amended, on an interim basis:

§ 201.16 [Amended]

1. By revising § 201.16(b)(1)(ii) (as adopted on January 1, 1978) to read as follows:

* * * * *

(b) * * *
(1) * * *
(ii) The full address of the operator's place of business, including a specific number and street name or rural route. A post office box number or similar designation will not generally be accepted. The Copyright Office will accept a post office box number or similar designation in special cases if, after consulting with officials of the United States Postal Service, the Office concludes that no better address for the operator's place of business is possible.

* * * * *

2. By adding the words "if known;" following the phrase "Its model number" in § 201.16(b)(2)(i).

3. By correcting the phrase "a statement in accordance with section 1746 or Title 28 of the United States Code, and signed * * *" in § 201.16(d) to read "a statement in accordance with section 1746 of Title 28 of the United States Code, made and signed * * *."

4. By adding a new paragraph (4) to § 201.16(c) to read as follows:

* * * * *

(c) *Certificate.* * * *

* * * * *

(4) The Copyright Office will advise jukebox operators of errors or omissions appearing on the face of forms submitted to it, and will require that any such obvious errors or omissions (including errors in the calculation of fees) be corrected before certificates will be issued. However, the issuance of a certificate by the Copyright Office shall establish only the fact, date of issuance, and date of expiration of the certificate; it shall in no case be considered a determination that the application form was properly prepared or that all of the requirements to qualify for a compulsory license have been satisfied.

* * * * *

5. By adding new paragraphs (f) and (g) to § 201.16 to read as follows:

* * * * *

(f) *Time limitations.* (1) The Copyright Office may, when it considers it reasonable and appropriate, advise applicants of the time limitations governing the filing of applications and amount of royalty fees as set forth in 17 U.S.C. 116. However, except as set forth in paragraph (f)(2) of this section, the Office will normally not inquire into the date on which performances were actually made available on particular phonorecord players identified in the application or whether such players were previously recorded in the Copyright Office. In the following cases, the Office's acceptance of the application and issuance of a certificate is not to be considered as relieving the operator from any legal consequences arising from the late filing, and shall have only such effect as may be attributed to it by a court of competent jurisdiction: (i) Where, on the date the application covering a particular phonorecord player was received in the Copyright Office, performances had been first made available on that player more than 1 month earlier; and (ii) where, in 1979 and thereafter, a particular phonorecord player had been recorded in the Copyright Office during the previous calendar year, but the application is received after January 31 of the year in question.

(2) In the case of an application that is received in the Copyright Office before June 1 of a particular year, and that is accompanied by a fee of $4 for each player identified in the application, the Copyright Office will not issue certificates unless the application is accompanied or supplemented by a statement that performances will not be made available on such players until after July 1 of that year. The statement shall be in the form of a letter addressed to the Licensing Division of the Copyright Office, and shall be signed by the operator named in the application or the duly authorized agent of that operator. If a business entity is the operator, the signature or name shall be that of an officer if the entity is a corporation, or a partner if the entity is a partnership, and shall be accompaned by the organizational title of that person. The statement shall, for all purposes including section 116(b)(1)(B) of Title 17 of the United States Code, be considered a part of the application. The statement described in this paragraph shall not be required in the case of applications covering a particular year received in the Copyright Office after June 1 of that year. In any case, if performances are actually made available for the first time on any players covered by $4 fees on or before July 1 of that year, the Office's acceptance of the application and issuance of a certificate is not to be considered as relieving the operator from any legal consequences arising from the failure to pay the correct fee, and shall have only such effect as may be attributed to it by a court of competent jurisdiction.

(3) If an application received in the Copyright Office after July 1 of any year is accompanied by a royalty fee of $8 for each player identified, the Copyright Office will assume without further inquiry that the application pertains to players on which performances were made available for the first time on or before July 1 of that year.

(g) *Corrections and refunds.* (1) Upon compliance with the procedures, and within the time limits, set forth in paragraph (g)(3) of this section, corrections to applications for recordation of coin-operated phonorecord players will be made, and corrected certificates and refunds will be issued, in the following cases:

(i) Where the same player, identified by the same serial number or other identifying information, is listed more than once in the same application, or in two or more applications filed during the same year by or on behalf of the same operator. In these cases the operator named in the application shall be entitled to a refund of any duplicate fee paid;

(ii) Where any of the following information was incorrect at the time the application was signed: (A) The operator's name or address; (B) the serial number or name of the manufacturer of a player; or (C) the identifying information required by paragraph (b)(2) of this section. In any such case the Copyright Office will issue a new certificate containing the correct information. Each corrected certificate will be identified by a double asterisk following the name of the manufacturer.

(iii) Where an application contains information that was correct at the time the application was signed but, as the result of Copyright Office error, the certificate contains incorrect information. In this case the Copyright Office will issue a new certificate containing the correct information; and

(iv) Where an application was accompanied by payment of an $8 fee for each phonorecord player listed but, with respect to one or more such players, performances were actually made available for the first time after

July 1 of the year in which the application was filed. In this case the operator named in the application shall be entitled to a refund of any excess fee paid and the Copyright Office will issue a new certificate for each player subject to the $4 fee.

(2) Corrected certificates or refunds will not be issued after the issuance of original certificates in the following cases:

(i) Where the application was correct on the date on which the application was signed, but changes (for example, a change in the operator's name or address, or the sale or destruction of a player) took place later;

(ii) Where the application identified one or more players that the operator named in the application never owned or operated, or did not own or operate at the time the application was signed, or where, before the application was signed, an identified player had been destroyed or otherwise rendered permanently incapable of being repaired; or

(iii) In any other case not specifically mentioned in paragraph (g)(1) of this section.

(3) Requests for corrections and refunds in the cases mentioned in paragraph (g)(1) of this section shall be made to the Licensing Division of the Copyright Office, and shall meet the following conditions:

(i) The request must be in writing, must be clearly identifiable as a request for a correction or refund, and, except in the cases described in paragraph (g)(1)(iii) of this section, must be received in the Copyright Office with the appropriate fee, certificate or certificates, and affidavit (where required) before the expiration of 30 days from the date on which the original certificate was issued by the Copyright Office. A request made by telephone, or by telegraphic or similar unsigned communication, will be considered to meet this requirement if it clearly identifies the basis of the request, if it is received in the Copyright Office within the required 30-day period, and if a written request meeting all the conditions of this paragraph (g)(3) of this section is also received in the Copyright Office within 14 days after the end of such 30-day period.

(ii) The original application pertaining to each correction must be sufficiently identified in the request so that it can be readily located in the records of the Copyright Office;

(iii) The original certificate pertaining to each correction or refund must be returned to the Copyright Office within the time period prescribed by paragraph (g)(3)(i) of this section. No request will be processed until the applicable certificate is returned; and

(iv) The request must contain a clear statement of the facts on which it is based, in accordance with the following requirements:

(A) In the case of duplicate listings (paragraph (g)(1)(i)) a precise and accurate identification of the particular player or players must be given.

(B) In the case of incorrect information given in the application (paragraph (g)(1)(ii) of this section) the request must clearly identify the erroneous information and provide the correct information.

(C) In the case of a certificate that contains erroneous information resulting from Copyright Office error (paragraph (g)(1)(iii) of this section) the error must be clearly indicated.

(D) In the case of overpayment within the meaning of paragraph (g)(1)(iv) of this section, the request must be acompanied by an affidavit under the official seal of any officer authorized to administer oaths within the United States, or a statement in accordance with section 1746 of title 28 of the United States Code, made and signed by the operator named in the application or the duly authorized agent of that operator in accordance with paragraph (b)(1)(vi) of this section. The affidavit or statement shall: aver that performances of nondramatic musical works were actually made available on the particular phonorecord player(s) for the first time after July 1 of the year covered by the application; Give the exact date, including month, day, and year on which such performances were first made available and the location where that event took place; specifically identify the particular phonorecord player(s) involved by the same identifying information as given in the application; and include a brief explanation of the reason for the original submission of a $8 fee for those players.

(v) In those cases where corrections or refunds are to be made under paragraph (g)(1) of this section, the request must be accompanied by a certified check, cashier's check, or money order in the following amount: (A) In the case of a duplicate listing (paragraph (g)(1)(i) of this section): $4 for each application involved; (B) in the case of an error in the operator's name or address (paragraph (g)(1)(ii)(A)) or overpayment within the meaning of paragraph (g)(1)(iv) of this section: $4 for each separate original application pertaining to the certificates to be corrected; and (C) in the case of an error in the serial number or name of the manufacturer of the player, or other identifying information (paragraph (g)(1)(ii) (B) and (C) of this section): $4 for each separate certificate to be corrected. No request will be processed until the appropriate fee is received; and

(vi) The request must be signed by the operator named in the application, or the duly authorized agent of the operator, in accordance with paragraph (b)(1)(vi) of this section.

(4) Each request for correction or refund will be made part of the original application in the records of the Copyright Office. Nothing contained in this paragraph (g) shall be considered to relieve the operator from its full obligations under title 17 of the United States Code, including penalties for affixing a certificate to a player other than the one it covers.

(17 U.S.C. 116, 702, 708.)

Dated: August 16, 1978.

BARBARA RINGER,
Register of Copyrights.

Approved:

WILLIAM J. WELSH,
The Acting Librarian of Congress.

[FR Doc. 78-23589 Filed 8-22-78; 8:45 a.m.]

[3410-11]

Title 41—Public Contracts and Property Management

CHAPTER 4—DEPARTMENT OF AGRICULTURE

PART 4-1—GENERAL

Public Contracts, Property Management, Debarred, Suspended, and Ineligible Bidders

AGENCY: Forest Service, USDA.

ACTION: Final rule.

SUMMARY: This rule revises the authority citation for 41 CFR subpart 4-1.6 and revises 41 CFR 4-1.601-1(a)(1) to amend the statutory cite for national forest timber sales. The rule makes no substantive change in the regulation, but revises the wording so that the regulation applies to timber sales made subsequent to the passage of the National Forest Management Act of 1976.

EFFECTIVE DATE: August 23, 1978.

FOR FURTHER INFORMATION CONTACT:

Peter J. Wagner, Timber Management Staff, Forest Service, USDA, P.O. Box 2417, Washington, D.C. 20013, 202-447-4051.

SUPPLEMENTARY INFORMATION: On June 6, 1978, the Secretary of Agriculture published a proposed rule (43 FR 24559) which would update the authority for appointing debarring officers for timber sales.

When Congress passed the National Forest Management Act of 1976, it repealed existing authority for national forest timber sales and substituted new authority. Thus, the statutory cite in the debarment regulation did not cover timber sales made subsequent to the passing of the above act. The revised wording corrects that deficiency.

No comments were received on the proposal. The final wording is unchanged from the proposal.

1. Therefore, 41 CFR 4-1.601-1(a)(1) is revised to read:

§ 4-1.601-1 Definitions.

(a) * * *

(1) Timber sales pursuant to 16 U.S.C. 476 and 16 U.S.C. 472a.

2. The following is added at the end of 41 CFR subpart 4-1.6:

AUTHORITY: 16 U.S.C. 476, 16 U.S.C. 551, 16 U.S.C. 472(a).

DAVID G. UNGER,
Deputy Assistant Secretary for Conservation, Research, and Education.

AUGUST 17, 1978.

[FR Doc. 78-23633 Filed 8-22-78; 8:45 am]

[4310-02]

PART 14H-70—CONTRACTING WITH INDIAN ORGANIZATIONS PURSUANT TO THE INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE ACT

CROSS REFERENCE: For a document making miscellaneous amendments to the Bureau of Indian Affairs regulations concerning contracts with Indian organizations pursuant to the Indian Self-Determination and Education Assistance Act, see FR Doc. 78-23725, published under the headings for Title 25, Chapter I, in the Rules section of this issue. Refer to the Table of Contents under Indian Affairs Bureau, Rules, for the correct page number.

[7035-01]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER C—ACCOUNTS, RECORDS, AND REPORTS

[Docket No. 36923]

UNIFORM SYSTEM OF ACCOUNTS

Accounting for Prior Period Adjustments

AGENCY: Interstate Commerce Commission.

ACTION: Final decision.

SUMMARY: The accounting and reporting rules for prior period adjustments in the uniform system of accounts prescribed by the Commission are based upon the provisions of Accounting Principles Board Opinion No. 9, "Reporting the Results of Operations." In June 1977, the Financial Accounting Standards Board (FASB) issued Statement No. 16, "Prior Period Adjustments," which established new criteria for determining prior period adjustments. The Commission believes the accounting and reporting rules for prior period adjustments in the uniform system of accounts should be in accord with generally accepted accounting principles. Therefore, the Commission will adopt the provisions of FASB Statement No. 16 effective January 1, 1978.

EFFECTIVE DATE: January 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Bryan Brown, Jr., Chief, Section of Accounting, Interstate Commerce Commission, Washington, D.C. 20423, phone 202-275-7448.

SUPPLEMENTARY INFORMATION: In recent years the Commission has adopted many accounting and reporting rules which have more closely alined the uniform systems of accounts with generally accepted accounting principles. The Commission will continue to adopt rules which conform with generally accepted accounting principles provided the rules result in improved presentation of financial condition and operating results, and do not interfere with its regulatory responsibilities. The Commission believes it is desirable to eliminate causes of duplicate accounting and reporting for carriers reporting to the Commission, stockholders, and others. The adoption of the provisions of FASB Statement No. 16 will eliminate a source of confusion for financial statement users and keep the accounting and reporting of Commission regulated companies on a comparable bases with other industries.

By the Commission.

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

PART 1201A—RAILROAD COMPANIES

General instructions.

Instruction 1-2(d)(4), "Prior period adjustments," is revised to read as follows:

* * * * *

(4) *Prior period adjustments.* Only the following two items of profit and loss shall be accounted for and reported as prior period adjustments and excluded from the determination of net income for the current period:

(1) Correction of an error in the financial statements of a prior period, and

(2) Adjustments that result from realization of income tax benefits of preacquisition operating loss carryforwards of purchased subsidiaries.

With the exception of the two items just mentioned, all items of profit and loss recognized during a period shall be included in the determination of net income for that period.

NOTE.—The carrier shall follow generally accepted accounting principles where an interpretation of the rules is needed or obtain an interpretation from its public accountant or the Commission.

PART 1202—ELECTRIC RAILWAYS

INCOME

03 General instructions.

Instruction 03-2(d), "Prior period adjustments," is revised to read as follows:

* * * * *

(d) *Prior period adjustments.* Only the following two items of profit and

loss shall be accounted for and reported as prior period adjstments and excluded from the determination of net income for the current period:

(1) Correction of an error in the financial statements of a prior period, and

(2) Adjustments that result from realization of income tax benefits of preacquisition operating loss carryforwards of purchased subsidiaries.

With the exception of the two items just mentioned, all items of profit and loss recognized during a period shall be included in the determination of net income for that period.

NOTE.—The carrier shall follow generally accepted accounting principles where an interpretation of the rules is needed or obtain an interpretation from its public accountant or the Commission.

* * * * *

PART 1205—REFRIGERATOR CARLINES

General Instructions

3 Classification of accounts.

Instruction 3(e), "Prior period adjustments," is revised to read as follows:

* * * * *

(e) *Prior period adjustments.* Only the following two items of profit and loss shall be accounted for and reported as prior period adjustments and excluded from the determination of net income for the current period:

(1) Correction of an error in the financial statements of a prior period, and

(2) Adjustments that result from realization of income tax benefits of preacquisition operating loss carryforwards of purchased subsidiaries.

With the exception of the two items just mentioned, all items of profit and loss recognized during a period shall be included in the determination of net income for that period.

NOTE.—The carrier shall follow generally accepted accounting principles where an interpretation of the rules is needed or obtain an interpretation from its public accountant or the Commission.

* * * * *

PART 1206—COMMON AND CONTRACT MOTOR CARRIERS OF PASSENGERS

INSTRUCTIONS

Instruction 2-7(d), "Prior period adjustments," is revised to read as follows:

* * * * *

(d) *Prior period adjustments.* Only the following two items of profit and loss shall be accounted for and reported as prior period adjustments and excluded from the determination of net income for the current period:

(1) Correction of an error in the financial statements of a prior period, and

(2) Adjustments that result from realization of income tax benefits of preacquisition operating loss carryforwards of purchased subsidiaries.

With the exception of the two items just mentioned, all items of profit and loss recognized during a period shall be included in the determination of net income for that period.

NOTE.—The carrier shall follow generally accepted accounting principles where an interpretation of the rules is needed or obtain an interpretation from its public accountant or the Commission.

* * * * *

PART 1207—CLASS I AND CLASS II COMMON AND CONTRACT MOTOR CARRIERS OF PROPERTY

CLASS I AND CLASS II MOTOR CARRIERS INSTRUCTIONS

Instruction 8(d), "Prior period adjustments," is revised to read as follows:

* * * * *

(d) *Prior period adjustments.* Only the following two items of profit and loss shall be accounted for and reported as prior period adjustments and excluded from the determination of net income for the current period:

(1) Correction of an error in the financial statements of a prior period, and

(2) Adjustments that result from realization of income tax benefits of preacquisition operating loss carryforwards of purchased subsidiaries.

With the exception of the two items just mentioned, all items of profit and loss recognized during a period shall be included in the determination of net income for that period.

NOTE.—The carrier shall follow generally accepted accounting principles where an interpretation of the rules is needed or obtain an interpretation from its public accountant or the Commission.

* * * * *

PART 1208—MARITIME CARRIERS

General Instructions

Instruction K(4), "Prior period adjustments," is revised to read as follows:

* * * * *

(4) *Prior period adjustments.* Only the following two items of profit and loss shall be accounted for and reported as prior period adjustments and excluded from the determination of net income for the current period:

(1) Correction of an error in the financial statements of a prior period, and

(2) Adjustments that result from realization of income tax benefits of preacquisition operating loss carryforwards of purchased subsidiaries.

With the exception of the two items just mentioned, all items of profit and loss recognized during a period shall be included in the determination of net income for that period.

NOTE.—The carrier shall follow generally accepted accounting principles where an interpretation of the rules is needed or obtain an interpretation from its public accountant or the Commission.

PART 1209—INLAND AND COASTAL WATERWAYS CARRIERS

General Instructions

Instruction 4(d), "Prior period adjustments," is revised to read as follows:

* * * * *

(d) *Prior period adjustments.* Only the following two items of profit and loss shall be accounted for and reported as prior period adjustments and excluded from the determination of net income for the current period:

(1) Correction of an error in the financial statements of a prior period, and

(2) Adjustments that result from realization of income tax benefits of preacquisition operating loss carryforwards of purchased subsidiaries.

With the exception of the two items just mentioned, all items of profit and loss recognized during a period shall be included in the determination of net income for that period.

NOTE.—The carrier shall follow generally accepted accounting principles where an interpretation of the rules is needed or obtain an interpretation from its public accountant or the Commission.

PART 1210—FREIGHT FORWARDERS

General Instructions

Instruction 4(d), "Prior period adjustments," is revised to read as follows:

* * * * *

(d) *Prior period adjustments.* Only the following two items of profit and loss shall be accounted for and report-

ed as prior period adjustments and excluded from the determination of net income for the current period:

(1) Correction of an error in the financial statements of a prior period, and

(2) Adjustments that result from realization of income tax benefits of preacquisition operating loss carryforwards of purchased subsidiaries.

With the exception of the two items just mentioned, all items of profit and loss recognized during a period shall be included in the determination of net income for that period.

NOTE.—The carrier shall follow generally accepted accounting principles where an interpretation of the rules is needed or obtain an interpretation from its public accountant or the Commission.

* * * * *

PART 1211—RATE BUREAUS

Rate Bureau Instructions

Instruction 7(c), "Prior period adjustments," is revised to read as follows:

* * * * *

(c) *Prior period adjustments.* Only the following two items of profit and loss shall be accounted for and reported as prior period adjustments and excluded from the determination of net income for the current period:

(1) Correction of an error in the financial statements of a prior period, and

(2) Adjustments that results from realization of income tax benefits of preacquisition operating loss carryforwards of purchased subsidiaries.

With the exception of the two items just mentioned, all items of profit and loss recognized during a period shall be included in the determination of net income for that period.

NOTE.—The carrier shall follow generally accepted accounting principles where an interpretation of the rules is needed or obtain an interpretation from its public accountant or the Commission.

* * * * *

[FR Doc. 78-23590 Filed 8-22-78; 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

[3410-05]

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

Commodity Credit Corporation

(7 CFR Parts 728 and 1421)

1979 FEED GRAIN PROGRAM

Proposed Determinations Regarding Inclusion of Barley and Oats in Feed Grain Program, National Program Acreages, Program Allocation Factors, Set-Aside, Diversion Payments, Limitations on Planted Acreage, Loan and Purchase Levels, and Established (Target) Prices

AGENCY: Agricultural Stabilization and Conservation Service, Commodity Credit Corporation; Agriculture.

ACTION: Proposed rule.

SUMMARY: The Secretary of Agriculture proposes to make the following determinations with respect to the 1979 crops of corn, sorghum, barley, and oats: (a) Whether barley and oats should be included in the feed grain program; (b) The amount of the 1979 national program acreage; (c) The reduction from previous year's harvested acreage required, if any, to guarantee target price protection on total 1979 planted acreage; (d) Whether there should be a set-aside requirement and if so, the extent of such requirement; (e) Whether there should be a land diversion program, and if so, the extent of such diversion and level of payment; (f) If a set-aside or land diversion program is required, whether a limitation should be placed on planted acreage; (g) The loan and purchase levels for the 1979 crops of feed grains (corn, sorghum, barley, oats, and rye), and soybeans, including commodity eligibility, storage requirements, premiums and discounts; (h) established (target price); and (i) CCC minimum resale price and other related provisions necessary to carry out the loan, purchase and payments programs.

Most of the above determinations are required to be made by the Secretary on or before November 15, 1978, in accordance with provisions in section 105A of the Agricultural Act of 1949, as amended.

DATES: This notice invites written comments on the proposed determinations. Comments must be received on or before October 10, 1978 to be assured of consideration.

ADDRESS: Acting Director, Production Adjustment Division, ASCS, USDA, Room 3630, South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Orville I. Overboe (ASCS), 202-447-7987, Paul Meyers (ASCS), 202-447-8373.

SUPPLEMENTARY INFORMATION: The following determinations with respect to the 1979 crops of corn, sorghum, barley, and oats are to be made pursuant to section 105A of the Agricultural Act of 1949, as amended by the Food and Agriculture Act of 1977 (Pub. L. 95-113) hereafter referred to as the "Act", and with respect to the 1979 crop of soybeans pursuant to section 201 of the act.

Proposed Determinations

a. *Whether barley and oats should be included in the feed grain program.* Corn and grain sorghum are required to be in the feed grain program; however, the Secretary has discretionary authority concerning the inclusion of barley and oats.

b. *National program acreage.* Section 105A(d)(1) of the act requires that the Secretary proclaim a national program acreage for each of the 1978 through 1981 crops of feed grains. The proclamation shall be made not later than November 15 of each calendar year. The national program acreage for each feed grain in the program shall be the number of harvested acres the Secretary determines (on the basis of a national average yield) will produce the quantity (less imports) that the Secretary estimates will be utilized domestically and for exports during the 1979-80 marketing year. The national program acreage may be adjusted by an amount the Secretary determines will accomplish a desired increase or decrease in carryover stocks.

The U.S. feed grain stock objective is set at 5.7 percent of world food grain consumption, an amount judged to be our "fair" share of world feed grain stocks. Using this formula, our stock objective is approximately 41 million metric tons as of September 30, 1980. Estimates of the national program acreage required to meet this objective are requested from interested persons, together with appropriate explanatory material. Comments on the appropriate level of feed grain stocks are also requested.

c. *Voluntary reduction from previous year's harvested acreage.* Section 105A(d)(3) of the act provides that the 1979 crops of feed grain acreage eligible for payments shall not be reduced by application of an allocation factor (not less than 80 percent nor more than 100 percent) if producers reduce the acreage for any crop of feed grains planted for harvest on the farm from the previous year by at least the percentage recommended by the Secretary in his proclamation of the national program acreage.

The determination of the 1979 national program acreage simultaneously determines the reduction in acreage from 1978 to 1979 that will be required, if any, for a producer to qualify for target price protection on all acreage planted in 1979. Only if the national program acreage for 1979 is less than the national harvested acreage for 1978 will producers be required to reduce acreage in 1979 to be eligible for full target price protection on 100 percent of their acreage.

d. *Determine whether there should be a set-aside for 1979, and if so, the proportion of acreage to be set-aside.* Section 105A(f)(1) of the act provides that the Secretary shall provide for a set-aside of cropland if he determines that the total supply of feed grains will, in the absence of a set-aside, likely be excessive taking into account the need for an adequate carryover to maintain reasonable and stable supplies and prices in order to meet a national emergency. The Secretary is required to announce a set-aside program not later than November 15, 1978, for the 1979 feed grain crops. If a set-aside of cropland is in effect, then as a condition of eligibility for loans, purchases and deficiency and disaster payments, producers must set-aside and devote to conservation uses an acreage of cropland equal to the announced set-aside percentage times the acreage of feed grain crops planted for harvest in 1979.

Interested persons are encouraged to advise the Secretary on the need for a 1979 feed grain set-aside program and the appropriate proportion of acreage to be set-aside if deemed necessary, taking into account the above factors.

e. *Determination of whether there should be a land diversion requirement and, if so, the extent of such diversion and level of payment.* Section

105A(f)(2) of the act authorizes the Secretary to make land diversion payments to producers of feed grains, whether or not a set-aside is in effect. Land diversion payments may be made if the Secretary determines they are necessary to assist in adjusting the total national acreage of feed grains to desired goals. If land diversion payments are made, producers will be required devote to approved conservation uses an acreage of cropland equal to the amount of such land diversion. Land diversion payment levels will be determined by the Secretary.

Land diversion payments may be established at a flat offer rate (specific rate per bushel times farm program yield) or through the submission of bids by producers.

If it is determined necessary to make land diversion payments in 1979, full consideration will be given to the procedure of submitting bids in determining appropriate payment rates as an alternative to the offer rate system. In determining the acceptability of bids, the Secretary would take into consideration the extent of the diversion to be undertaken and the productivity of the acreage being diverted. Interested persons are encouraged to address the need for the appropriate terms and conditions and the pros and cons of a land diversion program either in place of or in combination with a set-aside program for 1979.

f. *Limitation on planted acreage.* Section 105A(f)(1) of the act provides that the Secretary may limit the acreage planted to feed grains, if a set-aside is in effect. Such limitation is to be applied on a uniform basis to all feed grain producing farms. If a land diversion program is announced, 1979 plantings may be limited to a percentage of the previous year's acreage. Interested persons are invited to comment on the pros and cons of using these provisions.

g. *Loan and purchase levels.* (1) *Corn*—Section 105A(a)(1) provides that the Secretary shall make available to producers loans and purchases at such level, but at not less than $2 per bushel for the 1979 crop of corn, as he determines will encourage the exportation of feed grains and not result in excessive total stocks of feed grains in the United States: *Provided,* That if the Secretary determines that the average price of corn received by producers in the 1978 marketing year is not more than 105 percent of the level of loans and purchases for corn for the 1978 marketing year, the Secretary may reduce the level of loans and purchases of corn for the 1979 marketing year by an amount the Secretary determines necessary to maintain domestic and export markets for grains, except that the level of loans and purchases shall not be reduced by more than 10 percent in any year nor below $1.75 per bushel.

(2) *Other Feed Grains.* Section 105A(a)(2) provides the Secretary shall make available to producers loans and purchases for the 1979 crops of barley, oats, and rye at such level as the Secretary determines is fair and reasonable in relation to the level that loans and purchases are made available for corn, taking into consideration the feeding value of such commodity in relation to corn and other factors in section 401(b) of the act, and on each crop of grain sorghum at such level as the Secretary determines is fair and reasonable in relation to the level that loans and purchases are made available for corn, taking into consideration the feeding value and average transportation costs to market grain sorghums in relation to corn.

(3) *Soybeans.* Section 201(e) provides the price of the 1979 crop of soybeans shall be supported through loans and purchases at such levels as the Secretary determines appropriate in relation to competing commodities and taking into consideration domestic and foreign supply and demand factors.

h. *Established (target) price.* Section 105A(b)(1) (A), (B), and (D) provides that the Secretary shall make available to producers, as applicable, payments for the 1979 crops of corn, grain sorghum, and if designated by the Secretary, oats and barley. The 1979 established (target) price for corn shall be the 1978 target price ($2.10 per bushel) adjusted by the change in the 2-year moving average of variable, machinery, and general farm overhead costs. The payment rate for grain sorghum and, if designated by the Secretary, oats and barley, shall be such rate as the Secretary determines fair and reasonable in relation to the rate at which payments are made available for corn.

The Emergency Agricultural Act of 1978 provides that the Secretary may increase the established (target) price for feed grains over the level provided by the Food and Agriculture Act of 1977 to compensate producers for participation in a set-aside program.

i. *Other related provisions.* The Agricultural Act of 1949, as amended, also requires a number of other determinations in order to carry out the feed grain and soybean loan and purchase program such as (1) CCC minimum resale price, (2) commodity eligibility, (3) storage requirements, (4) premiums and discounts for grades, classes, and other qualities, and (5) such other provisions as may be necessary to carry out the programs.

Prior to determining the provisions of the 1979 feed grain program, consideration will be given to any data, views, and recommendations that may be received relating to the above items.

Comments will be made available for public inspection at the Office of the Acting Director during regular business hours (8:15 a.m. to 4:45 p.m.).

Executive Order 12044 (43 FR 12661, March 24, 1978) requires at least a 60-day public comment period on any proposed significant regulations except where the Agency determines this is not possible or in the best interests of the producers. Feed grain producers have expressed an interest in receiving 1979 feed program provisions before the mandatory date of November 15, 1978. Therefore, it is hereby found and determined that compliance with provisions of Executive Order 12044 is impossible and contrary to the public interest. Accordingly, comments must be received by October 6, 1978, in order to be assured of consideration.

NOTE.—The Agricultural Stabilization and Conservation Service (ASCS) has determined that this document does contain a major proposal requiring preparation of a Draft Impact Anaylsis Statement. The Draft Impact Analysis will be available September 1, 1978 from Orville I. Overboe (ASCS), 202-447-7987, or Paul Meyers (ASCS), 202-447-8373.

Dated: August 18, 1978.

RAY FITZGERALD,
Administrator, Agricultural Stabilization and Conservation Service and Executive Vice President, Commodity Credit Corporation.

[FR Doc. 78-23730 Filed 8-22-78; 8:45 am]

[6750-01]

FEDERAL TRADE COMMISSION

[16 CFR Part 423]

CARE LABELING OF TEXTILE PRODUCTS AND LEATHER WEARING APPAREL

Proposed Revised Trade Regulation Rule; Extension of Time To File Post-Record Comments

AGENCY: Federal Trade Commission.

ACTION: Extension of time to file post-record comments.

SUMMARY: On August 25, 1977, notice of publication of the Presiding Officer's report on the proposed revised trade regulation rule relating to the care labeling of textile products and leather wearing apparel was published in the FEDERAL REGISTER, 42 FR 42875. On June 19, 1978, notice of publication of the staff report on the proposed revised rule was published in the FEDERAL REGISTER, 43 FR 26334. The date on which comments on both reports would be accepted was August 18, 1978. This notice extends the comment period to September 18, 1978.

DATES: Comments on both the Presiding Officer's and staff reports must be filed no later than September 18, 1978.

ADDRESSES: Requests for copies of the report should be sent to: Public Reference Branch, Room 130, Federal Trade Commission, Sixth Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

Comments should be sent to: Secretary, Federal Trade Commission, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT:

John F. LeFevre, Federal Trade Commission, address above, 202-724-1175. Cynthia S. Lamb, Federal Trade Commission, address above, 202-724-1566.

SUPPLEMENTARY INFORMATION: Pursuant to rule 1.13(h) of the Commission's rules of practice, 16 CFR 1.13(h), interested persons are afforded 60 days to comment on the staff's and presiding officer's reports filed in rulemaking proceedings. In this proceeding, that comment period is scheduled to end on August 18, 1978. The Commission has received several requests for extensions of up to 60 days in which to file post record comments based on the length of the staff report and the fact that the report was available in limited quantities during the beginning of the comment period.

The Commission has determined that a limited extension of 30 days is in the public interest. Accordingly, all post record comments pursuant to rule 1.13(h) must be filed no later than September 18, 1978. The Commission anticipates that no further extension of time will be necessary.

By direction of the Commission dated August 17, 1978.

ROBERT J. GAC,
Acting Secretary.

[FR Doc. 78-23643 Filed 8-22-78; 8:45 am]

[8010-01]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 249]

[Release No. 34-15068; File No. S7-750]

ANNUAL REPORT FORM

Advance Notice of Proposed Rulemaking

AGENCY: Securities and Exchange Commission.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Commission is requesting comments on part I of the present annual report form required to be filed by most publicly owned companies, form 10-K, and on the substantially revised annual report format recommended by the Advisory Committee on Corporate Disclosure ("Committee"). In addition to requesting general comments, the Commission is requesting commentators to focus on certain specified areas. The Commission intends to consider these comments in connection with possibly proposing amendments to form 10-K [1] in the future.

DATE: Comments must be received on or before December 15, 1978.

ADDRESS: All communications on the matters discussed in this release should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington D.C. 20549. Comments should refer to File No. S7-750 and will be available for public inspection. In order to reduce printing costs, only the Committee's form 10-K is printed here. Those who wish to obtain part I of the present form 10-K may request a copy of Securities Exchange Act of 1934 Release No. 15068 from "Publications," Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, 202-755-1600.

FOR FURTHER INFORMATION CONTACT:

William H. Carter, 202-376-8090, or Mauri L. Osheroff, 202-376-2378, Division of Corporation Finance, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission today announced that it is considering the recommendation in chapter XV of the report of the advisory committee on corporate disclosure ("Committee report") [2] that form 10-K be amended to eliminate what are in the Committee's view unnecessary requirements, add new requirements, and present the information in a more effective format. Form 10-K is the annual report which public companies are required to file with the Commission pursuant to sections 13 or 15(d) of the Securities Exchange Act of 1934 ("Exchange Act"). The Commission is not at this time proposing any amendments to form 10-K, but rather wishes to elicit comments to assist the development of possible future rulemaking proposals.[3]

[1] Filed with the Office of the Federal Register as part of the original document.

[2] Report of the Advisory Committee on Corporate Disclosure to the Securities and Exchange Commission, Committee Print 95-29, House Committee on Interstate and Foreign Commerce, 95th Cong., 1st sess., November 3, 1977.

[3] See Section 9, "Reporting Requirements Under the Exchange Act," of Securities Act of 1933 Release No. 5906 (February 15, 1978), "Preliminary Response of the Commission to the recommendations of the Advisory Committee on Corporate Disclosure."

BACKGROUND

Chapter XV of the Committe report makes two recommendations concerning reporting requirements under the Exchange Act. The first, that registrants be encouraged to use their annual and quarterly reports to shareholders as filing documents in lieu of preparing separate forms 10-K and 10-Q, was implemented by guide 4 of the guides for preparation and filing of reports and registration statements under the Securities Exchange Act of 1934 ("Exchange Act guides"), announced in Exchange Act Release No. 13639 (June 17, 1977) (42 FR 31780). The second, that form 10-K be reorganized and the disclosure requirements be rewritten in a way that wil minimize duplication and boilerplate language, is the subject matter of this release. After the receipt and review of comments, the Commission will consider what amendments to form 10-K are appropriate, and those will be proposed in a later release.

Part I of the present form 10-K and parts I, II, and III of the revised form 10-K recommended by the Committee are printed at the end of this release. The Commission wishes to elicit comments on part I of the present form 10-K and on the Committee's form 10-K, as well as other suggestions for improving the quality of form 10-K disclosure or reducing the reporting burden on publicly held companies which are consistent with the protection of investors. The Commission is not seeking comments at this time on part II of the present form 10-K or on the requirements as to financial statements for that form. (See section of this release entitled "Part II and Financial Statements of Form 10-K.") The Commission also is not seeking coments at this time on the corresponding parts of the Committee's suggested form 10-K, parts IV and V.

SPECIAL FACTORS TO BE CONSIDERED

Form 10-K serves a number of different purposes in addition to satisfying the annual reporting requirements under the Exchange Act. For example, it may be included in or integrated with annual reports to shareholders (as encouraged by guide 4 of the Exchange Act guides). Also, since it contains information substantially equivalent to that in a registration statement on form S-1, it may be incorporated by reference into Securities Act registration statements on form S-16. In particular, the use of form S-16 has recently been expanded in order that the form will be available for many primary offerings, in part because of reliance on the information available

in form 10-K reports.[4] Accordingly, the suitability of the Committee's form 10-K for these diverse uses will be considered carefully by the Commission.

As the Committee notes in the draft of its form 10-K, not all of the instructions to items are included and it is contemplated that a number of existing instructions would be carried over into the new form 10-K. In particular, attention is directed to the fact that item 5 of the Committee's form 10-K, "Pending Legal Proceedings," unlike item 5 of the existing form 10-K or item 5 of regulation S-K, does not specifically require any disclosure of administrative or judicial proceedings relating to environmental matters. It is possible that an instruction similar to instruction 4 to item 5 of the existing form 10-K, which calls for such disclosure even if not otherwise considered "material," would be added to this item if the Committee's form 10-K is proposed to be adopted.

Significant Differences Between the Two Versions of Form 10-K

One of the significant differences between the Committee's form 10-K and the present form 10-K is format. The Committee report states that the reorganized form 10-K should contain five parts: (I) A factsheet consisting principally of capsule financial data and a brief description of the registrant's business; (II) background information about special risks or uncertainties and special or distinctive features of the registrant's operations or industry; (III) an analysis of the financial statements and forward-looking information; (IV) information currently found in part II of the present form 10-K which may be omitted if a proxy statement has been or will be filed (including details about management's security holdings and remuneration);[5] and (V) the audited financial statements. The Committee did not recommend any specific changes in parts IV and V, but rather indicated that these parts would be substantially the same as the equivalent sections of the present form 10-K. Accordingly, the Commission is not seeking comments on parts IV and V at this time. The Committee report indicates that the purposes of this format change are to shorten the form 10-K, group data so that the user can turn directly to the information which interests him, and delete unnecessary verbiage and boilerplate.

The second significant difference from the present form 10-K is the approach taken in items 7 and 8 (part II) of the Committee's form which call for a description of risks and other characteristics of the registrant's business. Unlike item 1 of the present form 10-K, which requires a description of certain enumerated aspects of the registrant's business, part II of the Committee's form 10-K gives management more discretion in deciding what factors may have a material impact on the business and should be discussed. It is believed that since management is in the best position to assess its company and to formulate an accurate reflection of the company's operations, this discretionary approach would result in more meaningful disclosure than the mechanical boilerplate which is frequently used.

Another significant difference is that the Committee's form 10-K encourages the disclosure of forward-looking information. See instructions 3 and 4 to item 9 (part III of the Committee's form 10-K).[6]

In addition, it should be noted that item 9 of the Committee's form 10-K, "Management Analysis of the Financial Statements and Forward-Looking Information," is a revised version of "Management Discussion and Analysis of the Summary of Operations," which is not found in the present form 10-K but rather is provided for by guide 1 of the Exchange Act guides. This requirement is also applicable to Securities Act filings, as provided for by guide 22 of the guides for preparation and filing of registration statements under the Securities Act of 1933 ("Securities Act guides").[7] Thus, any revisions to the management analysis provision would be applicable not only to form 10-K but also to other Securities Act and Exchange Act disclosure documents. This would be accomplished by adoption of an additional regulation S-K item or by amendments to guides 1 and 22, rather than by adoption of a new item requirement for form 10-K only.

It should be noted that item 1(b) of the Committee's form 10-K requires the presentation of operating statistics called for by appropriate industry guides. At this time, the following disclosure guides applicable to particular industries are in the Securities Act guides: Guide 55, relating to interests in oil and gas programs; guide 60, relating to interests in real estate limited partnerships; and guide 61, relating to bank holding companies. It is anticipated that other industry guides will be adopted.[8]

Recent Amendments Adopted by the Commission

Three items of part I of the present form 10-K have recently been amended after extensive public comment. These are items 1, 3, and 5 of the present form 10-K, which are being replaced by, respectively, items 1, 2, and 5 of regulation S-K, the integrated disclosure regulation adopted in Securities Act of 1933 ("Securities Act") Release No. 5893 (December 23, 1977) (42 FR 65554).[9] Accordingly, any comments proposing changes in these items or corresponding information in the Committee's form 10-K should be made in the context of the recent rulemaking actions relating to regulation S-K, which are applicable to other Securities Act and Exchange Act disclosure documents in addition to form 10-K.

Part II and Financial Statements of Form 10-K

Part II of the present form 10-K and the instructions as to financial statements (which are parts IV and V of the Committee's recommended form 10-K) are not printed at the end of this release, nor are comments solicited at this time on these two areas of disclosure. Part II of the present form 10-K requires information concerning

[4] See Securities Act Release No. 5923 (April 11, 1978) (43 FR 16672).

[5] In commenting on these proposals, assume that part IV of the Advisory Committee's form 10-K, like part II of the present form 10-K, may be omitted from the materials filed with the Commission 90 days after the close of the fiscal year, provided the registrant files a definitive proxy or information statement within 120 days after the close of the fiscal year.

[6] In this connection, the Commission will consider proposing later this year guidelines as to the use of projections, as well as a possible safe harbor rule. See section 4, "Soft Information," of Securities Act Release No. 5906 (February 15, 1978).

[7] See Securities Act Release No. 5520 (August 14, 1974) (39 FR 31894).

[8] See section 3, "The Development of Industry Guidelines," of Securities Act Release No. 5906 (February 15, 1978), which states that the Commission has begun to implement the Committee's recommendation that disclosure guides for different industries be developed. Securities Act Release Nos. 5824 (April 28, 1977) (42 FR 24069) and 5827 (May 19, 1977) (42 FR 27260) request assistance in the development of industry guides for class I railroads and electric and gas utilities, respectively.

[9] See the above-mentioned Securities Act Release No. 5893 for the adoption of items 1 and 2 of regulation S-K, "Description of business" and "Description of property." See Securities Act Release No. 5949 (July 28, 1978) (43 FR 34402) for the adoption of item 5 of regulation S-K, "Legal Proceedings." Securities Act Release No. 5949 also adopts several other regulation S-K items which will replace various items in part II of the present form 10-K. In particular, it should be noted that the disclosure concerning executive officers now required by item 11 in part I of the present form 10-K will be combined with the disclosure concerning directors now required by item 15 in part II of the present form 10-K; this information is called for in part II, as described by item 3 of regulation S-K, "Directors and executive officers." However, as indicated in instruction 4 to item 3(b) of regulation S-K, a registrant relying on general instruction H of form 10-K will not be required to include information on executive officers in its proxy statement provided this information is furnished separately in part I of form 10-K.

management and certain security holders, such as security and option holdings, remuneration, and interests in transactions involving the registrant. These items are designed to provide substantially the same disclosure as required in proxy or information statements filed pursuant to regulation 14A or regulation 14C, and may be omitted from the form 10-K of a registrant which files such a proxy or information statement within 120 days after the close of the fiscal year. These items are presently the subject of several pending rulemaking activities.[10] Accordingly, any resulting changes in schedule 14A will be reflected as appropriate in form 10-K.

No comments are solicited at this time concerning the financial statements and schedules. Chapter XVI of the Committee report recommends that the Commission establish as a continuing goal the elimination of rules of general applicability which cause differences between financial statements prepared in accordance with regulation S-X and those prepared in accordance with generally accepted accounting principles. Securities Act Release No. 5906 (February 15, 1978) states that in response to this recommendation, the Commission has directed the Office of the Chief Accountant to review current regulation S-X requirements with the goal of eliminating those requirements which duplicate or vary unnecessarily from accepted accounting principles. Since regulation S-X establishes requirements for the form and content of financial statements required in all Securities Act and Exchange Act filings, including form 10-K, the content of financial statements included in form 10-K reports may be revised as a result of such a project.

[10] Exchange Act Release No. 13901 (August 29, 1977) (42 FR 44860) published issues which have been considered at public hearings on the "Re-examination of Rules Relating to Shareholder Communications, Shareholder Participation in the Corporate Electoral Process and Corporate Governance Generally." Securities Act Release No. 5758 (November 2, 1976) (41 FR 49493) proposed for comment various amendments to Securities Act and Exchange Act forms and proxy schedules relating to the disclosure of management background, management remuneration, and legal proceedings. Also see Securities Act Release Nos. 5856 (August 18, 1977) (42 FR 43058) and 5904 (February 6, 1978) (43 FR 6060), which set forth interpretations concerning management remuneration disclosure and requested comments to be used by the staff in considering possible amendments to the rules relating to such disclosure. More recently, Securities Act Release No. 5949 (July 28, 1978) (43 FR 34402) adopted items of regulation S-K which amend the disclosure required in part II of the present form 10-K, and Securities Act Release No. 5950 (July 28, 1978) (43 FR 34415) published for comment proposed amendments to item 4 of regulation S-K, "Management Remuneration and Transactions." In light of the extensive hearings, requests for comments, and rulemaking actions on these topics, it is unnecessary to request additional comments on part II of the present form 10-K (or part IV of the Committee's form 10-K) at this time.

Specific Inquiries

The Commission specifically invites comments on the following subjects:

1. Would the Committee's proposed format be more useful to investors than that of the present form 10-K? Is the data grouped in a manner which will be helpful to different types of investors? Would the separation of capsule factual information (part I) from more subjective information (parts II and III) assist investors in evaluating the disclosure? Would the Committee's proposed new format result in problems for companies?

2. Would the discretionary approach shown in part II of the Committee's form 10-K be likely to result in a clearer understanding of the business and its risks than the corresponding item 1 of the present form 10-K (as modified by item 1 of regulation S-K)? Would the Committee's approach result in more meaningful disclosure about distinctive features of a business, and reduce boilerplate responses? Are there any other approaches which would encourage more meaningful disclosure for investors?

3. Would the disclosure in the Committee's form 10-K be appropriate for the various uses to which this form may be put, such as partial or complete incorporation by reference into registration statements on form S-16?

4. Would the disclosure required by the Committee's form 10-K encourage its inclusion in or integration with annual reports to shareholders (see guide 4 of the Exchange Act guides)?

5. Would the business segment disclosure required by items 2, 4, 7, 8, and 9 of the Committee's form 10-K be in a format which is more helpful and understandable to investors than that required by item 1 of the present form 10-K (as modifed by item 1 of regulation S-K)?

6. Would the disclosure of the average weekly trading volume of the registrant's securities required by item 3(a) of the Committee's form 10-K be useful to investors and for what purposes?

7. Item 7 of the Committee's form 10-K, "Information Concerning Special Risks or Uncertainties," would require disclosure of "risk factors," which is now only required for Securities Act filings (guide 6 of the Securities Act guides). Would this information be appropriate in form 10-K?

8. Would item 8 of the Committee's form 10-K be as comprehensive as the similar provisions of item 1 of the present form 10-K (as modified by item 1 of regulation S-K)? Should information concerning matters such as backlog, research activities, effects of environmental regulation, seasonality, or the number of employees be specifically requested, as it is in the present form 10-K?

9. Would item 9 of the Committee's form 10-K, "Management Analysis of the Financial Statements and Forward-Looking Information," result in more meaningful disclosure than that now required by guide 1 of the Exchange Act guides? Would the deletion of the numeric significance tests (found in guide 1) appropriately emphasize management's responsibility to determine what is material?

10. Would the disclosures requested on an optional basis pursuant to instructions 3 and 4 to item 9 of the Committee's form 10-K encourage the disclosure of management's projections, plans, and objectives? Would projections provided pursuant to this item be meaningful in the absence of express requirements that management's assumptions be stated and that management's past accuracy in making projections be disclosed? [11]

11. Should the statement of income be placed with the other financial statements (in part V of the Committee's form 10-K) or in the front part of the form 10-K, as it is often placed now? Would the Committee's approach of placing only capsule financial data (item 1) in the front of the form 10-K and not requiring a 5-year summary of operations in part I be an appropriate format? Would the management analysis of the financial statements (item 9 of the Committee's form 10-K) be easy to understand even if it were not placed next to the statement of income or summary of operations?

12. The present form 10-K requires that several items be disclosed which are not in the Committee's form 10-K: Increases and decreases in outstanding securities and indebtedness (item 6); changes in securities and changes in security for registered securities (item 7); defaults upon senior securities (item 8); submission of matters to a vote of security holders (item 10); and indemnification of directors and officers (item 12). Which, if any, of these should be retained, and if retained, in which part of the Commission's form 10-K should they be included?

Other Matters

In light of section 23(a)(2) of the Exchange Act, the Commission specifical-

[11] In this connection, attention is again directed to the fact that the Commission later this year will consider proposing guidelines as to projections, as well as a possible safe harbor rule; comments on specific and detailed proposals on this subject matter may be requested later.

ly invites comments as to any competitive impact of any changes in the disclosure requirements.

All interested persons are invited to submit their written views and comments on the foregoing areas and on any other issues which might affect the revision of form 10-K.

By the Commission.

SHIRLEY E. HOLLIS,
Assistant Secretary.

AUGUST 16, 1978.

FORM 10-K RECOMMENDED BY THE ADVISORY COMMITTEE ON CORPORATE DISCLOSURE

NOTE.—Instructions only appear where necessary to explain modifications proposed and are not inclusive of all instructions in the revised form. A number of existing instructions would be carried over into the new form.

PART I—FACTSHEET

Item 1. Capsule financial data. (a) Present in comparative columnar form the following financial data for the registrant its subsidiaries (if any) consolidated for each of the last 5 fiscal years of the registrant (or for the life of the registrant and its predecessors if less): Net sales; income from continuing operations; net income; working capital; cash flow; total assets; total indebtedness; and shareholders' equity.

(b) Present in tabular form for at least the two most recent fiscal years any operating statistics called for by appropriate Industry Guide(s).

Item 2. Products and services. Present a list of all business segments identifying principal classes of products and services within each segment. For each reportable industry and geographic segment state for the registrant's last 5 fiscal years the approximate amount of percentage of: (i) Total sales and revenues, (ii) income (or loss) before income taxes and extraordinary items, and (iii) identifiable assets attributable to each industry segment.

Instruction

Definitions of "reportable business segments," "principal classes of products and services," "identifiable assets," etc., would be included. The definitions set forth in appendix A, "Definitions and Guidelines for Compliance with Industry and Homogeneous Geographic Segment Reporting Requirements" to the Commission's Release on Segment Reporting (Securities Act Release No. 5826) would provide an appropriate reference.[12]

Item 3. Market for the registrant's securities. (a) State the approximate number of holders of record as of the end of the period for which the report is filed and the number of shares outstanding of each class of equity securities of the registrant and the average weekly trading volume during the previous fiscal year.

(b) Furnish the following information, as of the most recent practicable date, with respect to any person (including any "group" as that term is used in section 13(d)(3) of the Securities Exchange Act of 1934) who is known to the registrant to be the beneficial owner of more than 5 percent of any class of the registrant's voting securities: (i) The title of class of securities owned, (ii) name of owner, (iii) the total number of shares beneficially owned, and (iv) the percent of class so owned. Of the number of shares owned, indicate by footnote or otherwise, the amount known to be shares with respect to which such listed beneficial owner has the right to acquire beneficial ownership, as specified in rule 13d-3(d)(1) under the Exchange Act.

Item 4. Properties. If applicable, identify by appropriate unit or class of units manufactured the registrant's productive capacity by segment and the extent of utilization thereof.

Instruction

The location and general character of the principal plants, mines, and other materially important physical properties of the registrant or its subsidiaries shall be filed as an exhibit to this report. A list of all subsidiaries should also be filed.

Item 5. Pending legal proceedings. Briefly describe any material pending legal proceedings, other than ordinary routine litigation incidental to the business, to which the registrant or any of its subsidiaries is a party or of which any of their property is the subject. Include the name of the court or agency in which the proceedings are pending, the date instituted, the principal parties thereto, a description of the factual basis alleged to underlie the proceeding and the relief sought. Include similar information as to any such proceedings known to be contemplated by governmental authorities.

Instruction

Registrants are encouraged to incorporate by reference any discussion of legal proceedings appearing in the footnotes to the financial statements; however, that dicussion should be supplemented by any information required by the item but not appearing in the information incorporated by reference.

Item 6. Executive officers and directors of the registrant. (a) List the names and ages of all executive officers and directors of the regiatrant who did not hold their current office with the registrant prior to the beginning of the period reported.

(b) Give a brief account of the business experience during the past 5 years of each executive officer named in (a) including his principal occupations and employment during the most recent 5-year period and the name and principal business of any corporation or other organization in which such occupations and employment were carried on.

(c) List the names and positions held of all officers and directors who terminated their employment with the registrant during the previous year.

PART II

Item 7. Information concerning special risks or uncertainties. Describe by business segment those factors, if any, which cause investment in the company securities to be high risk or highly speculative in nature. Examples of appropriate factors which might be discussed include the absence of an operating history of the registrant, an absence of profitable operations in recent periods, the financial condition of the registrant (including recent adverse changes therein), lack of management experience and the speculative nature of the business in which the registrant is engaged or proposes to engage.

Item 8. Information concerning special or distinctive features of the registrant's operations or industry. Describe by business segment those distinctive or special characteristics of the registrant's operations or industry which may have a material impact upon the registrant's future financial performance. Examples of factors which might be discussed include dependence on one or a few major customers or suppliers (including suppliers of raw materials or financing), existing or probable governmental regulation, expiration of material labor contracts or patents, trademarks, licenses, franchises, concessions or royalty agreements, unusual competitive conditions in the industry, cyclicality of the industry and anticipated raw material or energy shortages to the extent management may not be able to secure a continuing source of supply.

Instruction

This paragraph is intended to provide the investor with background information about the industry and company environment in which he or she has invested to the extent that information is distinctive or unique to either the industry or the company.

PART III

Item 9. Management analysis of the financial statements and forward-looking information. Provide an analysis for each business segment of the reported financial statements which: (1) Will enable investors to understand and evaluate material periodic changes in the various items of the reported financial statements, and (2) will enable investors to relate the reported financial statements to assessments of the amounts, timing and uncertainties of future cash flows for the reporting entity.

Instructions

1. The analysis of material periodic changes: (a) Should explain material increases or decreases in discretionary items such as research and development costs, advertising expenses, and maintenance and repair expenses, and (b) should break down variances into components, such as the amounts by which changes in prices and changes in volume resulted in a material change in sales.

2. The analysis should focus on facts and contingencies known to management which would cause reported financial statements to be not indicative of future operating results or of future financial condition. This would include description of and amounts of: (a) Matters which will have an impact on future operations or financial condition and have not had an impact in the past, and (b) matters which have had an impact on reported financial statements and are not ex-

[12] The proposals contained in Release No. 33-5826 were adopted in a modified form in Securities Act Release No. 5893 (December 23, 1977) 42 FR 65554. Under Release No. 33-5893, the revenue, profit, and asset information relating to each of the registrant's industry segments for which such information is presented in the financial statements is also required to be furnished in response to the description of business item of form 10-K. Accordingly, the definitions set forth in appendix A of Release No. 33-5826 were not expressly incorporated into the disclosure requirements of form 10-K and appropriate conforming modifications would be necessary to the above instruction.

pected to have an impact upon future operations or financial condition.

The form and content of disclosures pursuant to this item will necessarily vary among registrants and will change from period to period for the same registrant as circumstances change. In general, the disclosures should be similar to that which the chief executive officer might prepare for the board of directors of a company. Both quantitative analysis and narrative discussions are important.

3. Voluntary disclosures or projections of future economic performance and of future financial condition, and voluntary disclosure of management's plans and objectives may be included as part of this analysis. Since management's projections, and plans and objectives will inevitably reflect some amount of management's biases, it would be desirable to disclose the major assumptions which were made in developing such projections, and plans and objectives; however, disclosure of assumptions is not required in conjunction with voluntary disclosures of projections or of management's plans and objectives.

4. Registrants are encouraged, but not required, to furnish for each business segment a description of planned capital expenditures and financing for: (1) The current fiscal year and (2) the succeeding 4-year period. If this information is furnished, it would be desirable to disclose the amounts related to environmental control facilities and the expected effects upon production capacity, and to furnish an analysis of differences for the most recent fiscal year between previously disclosed budgets and actual capital expenditures.

PART IV—PART II OF CURRENT FORM 10-K[13]

PART V—FINANCIAL STATEMENTS[13]

[FR Doc. 78-23657 Filed 8-22-78; 8:45 am]

[4310-02]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

(25 CFR Parts 271, 272, 273, 274, 276, and 277)

CONTRACTS AND GRANTS UNDER INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE ACT

Update of Regulations

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Proposed rule.

SUMMARY: This proposed rule revises certain regulations which implement the Indian Self-Determination and Education Assistance Act. The regulations require that the Bureau annually consult with Indian tribes and organizations about the need to revise the regulations.

DATES: Comments must be received on or before September 22, 1978.

ADDRESS: Submit written comments to the Indian Self-Determination Staff (Code 106), Room 4627, 18th and C Streets, NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Dr. Helen Miner Miller, Acting Chief, Indian Self-Determination Staff, Bureau of Indian Affairs, Room 4627, 18th and C Streets, NW., Washington, D.C. 20240, telephone 202-343-4796.

SUPPLEMENTARY INFORMATION: The Indian Self-Determination and Education Assistance Act (Pub. L. 93-638; 25 U.S.C. 450, et seq.) is implemented in part, by regulations found in 25 CFR Parts 271, 272, 273, 274, 275, 276, and 277. The regulations require the Bureau of Indian Affairs to annually consult with Indian tribes and national and regional Indian organizations about the need to revise the regulations and to consider their comments in preparing the revision.

The Bureau desires to have similar procedures for all of the Pub. L. 93-638 hearings and appeals and proposes to amend the procedures for handling declination issues which arise in review of proposed contracts and contract modifications to conform with the procedures for handling funding issues. These changes in declination procedures are being published as proposed rulemaking in this same volume and number of the FEDERAL REGISTER as the final rulemaking document which includes the procedures for handling issues relating to lack of funding.

The Bureau of Indian Affairs proposes to update Parts 271, 272, 273, 274, 276, and 277, Subchapter Y, Chapter I, Title 25 of the Code of Federal Regulations by amending §§ 271.18, 271.23, 271.24, 271.25, 271.64, 271,65, 271.74, 271.75, 271.81, 272.51, 272.52, 272.53, 272.54, 273.73, 274.53, and 277.53 and deleting §§ 271.26, 271.82, 271.83, and 271.84.

The authority for this revision is the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450, et seq.) and 230 D.M. 1 and 2.

DISCUSSION OF PROPOSED CHANGES

The following is a list of the sections proposed to be changed and the reasons for each change:

A. PART 271

1. Paragraph (c)(2)(vii)(C) of § 271.18 is deleted and reserved because the decision of the Commissioner will be final following the formal hearing process under the newly revised § 271.81. In addition paragraph (c)(2)(vii)(F) is revised to reference only § 271.81 since all appeals have been simplified under that section and §§ 271.82, 271.83, and 271.84 have been deleted in their entirety.

2. Section 271.23(d) is rewritten regarding the review and action by the Area Director. If the Area Director is not able to resolve the insufficient funding and declination issues for proposed applications, they follow the same procedure of an informal conference conducted by an official designated by the Commissioner and a formal hearing conducted by an official from the Office of Hearings and Appeals. If the applicant is not satisfied with the informal conference, the applicant is entitled to a formal hearing under § 271.81

3. Paragraph (c) of § 271.24 is amended to change the reference of § 271.23(d)(4)(iii) to § 271.23(d)(5) (iii) and (iv). This is because the declination appeal for an informal conference and a formal hearing is written into this subsection which required renumbering of paragraphs (d) and (1) through (5)(iv).

4. Section 271.25 is shown in full with revisions for clarity.

5. Section 271.26 has been deleted in its entirety because the decisions of the Assistant Secretary—Indian Affairs, who is exercising the authority of the Commissioner, are final for the Department. It is the Assistant Secretary—Indian Affairs' desire to be involved in the Pub. L. 93-638 process, and the appeals and hearings process incorporates his participation within the procedural route.

6. Section 271.64 is revised to simplify the Pub. L. 93-638 hearings and appeals procedure for handling declination issues which arise in review of the proposed contract and contract modifications to conform with the procedures proposed for handling funding issues.

7. Section 271.65 is deleted in its entirety because of the simplification of the Pub. L. 93-638 hearings and appeals procedures for declination and insufficient funding issues.

8. In § 271.74 the references to §§ 271.81(c), 271.82, and 271.83 are revised to read "§ 271.81." Paragraph (c)(2) is deleted because the informal conference and the formal hearing are provided under paragraph (b) of § 271.81

9. Section 271.75 paragraphs (d), (e), and (f) are revised by changing the references to § 271.84 to the revised § 271.81 for the reasons cited in revision No. 8.

10. Section 271.81 under Sub-part Hearings and Appeals is revised and presented in full text. In addition §§ 271.82, 271.83, and 271.84 are deleted. The Bureau of Indian Affairs believes it would be to the interest of the tribes to simplify all of the Pub. L. 93-638 hearings and appeals procedures by amending the procedure for handling declination issues which arise in review of proposed contracts

[13] Parts IV and V would remain substantially the same as in the current form 10-K.

and of contract modifications to conform with the procedures for handling funding issues.

11. Sections 271.82, 271.83, and 271.84 are deleted in their entirety as indicated in revision No. 10.

B. PART 272

1. The introductory paragraph of § 272.51 is revised to refer to § 276.15(c)(3) as a specific cross-reference.

2. Section 272.52(a) is revised by deleting the reference to 25 CFR, Part 2 since the Assistant Secretary—Indian Affairs has the authority of the Commissioner and his decisions are final for the Department.

3. Paragraph (a) of § 272.53 is revised by deleting 25 CFR, Part 2 because of the revision of § 271.81 and the fact that the Assistant Secretary—Indian Affairs' decisions are final for the Department.

4. Section 272.54 is deleted in its entirety since the Assistant Secretary—Indian Affairs has the authority for the Commissioner and his decisions are final for the Department.

C. PART 273

1. Section 273.73 is revised by deleting Part 2 because of the revision of § 271.81.

D. PART 274

1. Section 274.52 is revised by deleting Part 2 because of the revision of § 271.81.

E. PART 276

1. Section 276.15(c)(3) is revised to cross-reference § 272.51.

F. PART 277

1. Section 277.53 is revised by adding that the Assistant Secretary—Indian Affairs has the authority of the Commissioner and his decisions are final for the Department.

The Bureau believes the procedure for hearings and appeals for all of the Pub. L. 93-638 procedures should be simplified by amending the procedures for handling declination issues which arise in review of proposed contracts and contract modifications to conform with the procedures proposed for handling funding issues.

The hearings and appeals processes for insufficient funding and declination issues are to follow a parallel route. The hearings and appeals provisions under §§ 271.81, 271.82, 271.83, and 271.84 are deleted and one procedure has been designated for an informal conference and a formal hearing under § 271.81. The applicant or the tribal governing body may appeal the Area Director's recommendation or decision to the Commissioner, and the Area Director's decision shall include a statement to that effect. Upon receipt of notice that an informal conference or a formal hearing is requested as provided in § 271.23 (a) and (b), a date, time, and place for the conference and hearing will be mutually agreed upon. An informal conference shall be conducted by an official designated by the Commissioner, the purpose of which will be to attempt to resolve issues without going through the expensive and time-consuming formal hearing procedure. If the applicant is not satisfied with the conference, or does not request an informal conference the applicant is entitled to a formal hearing under § 271.81(c). This formal hearing will be conducted by an official from the Office of Hearings and Appeals, Department of the Interior. The decision by the Commissioner following the formal hearing is final for the Department.

It is proposed to revise subchapter Y, Chapter I of title 25 of the Code of Federal Regulations as follows:

PART 271—CONTRACTS UNDER INDIAN SELF-DETERMINATION ACT

1. § 271.18 is revised as follows: Paragraph (c)(2)(vii)(C) is deleted and reserved, and paragraph (c)(2)(vii)(F) is revised to read as follows:

§ 271.18 Tribal request for initial contract.

* * * * *

(c) * * *
(2) * * *
(vii) * * *

(F) Right to an informal conference or formal hearing under § 271.81.

* * * * *

2. By revising § 271.23(d) as follows:

§ 271.23 Review and action by Area Director.

* * * * *

(d) Within 30 days, the Area Director shall review the contract application, the recommendations of the Superintendent, any responses from the contract applicant or the tribal governing body and the criteria for declination set forth in § 271.15 to determine whether any declination or funding issues exist which must be addressed.

(1) The applicant will be notified in writing if the Area Director recommends that the proposed contract cannot be entered into because of declination issues. The Area Director's recommendation may be appealed to the Commissioner, and the notice shall include a statement to that effect. The applicant shall have 10 days from receipt of notice of the Area Director's recommendation in which to exercise its appeal rights by providing the Area Director with a notice in writing to that effect. Upon receipt of notice of appeal and if an informal conference is requested, a conference shall be conducted by an official designated by the Commissioner. The purpose of the informal conference will be to attempt to resolve issues without going through the formal hearing procedure. All interested parties may attend the conference and present their position. If the applicant is not satisfied with the informal conference or does not request one, the applicant is entitled to a formal hearing in accordance with § 271.81(c).

(2) If the contract application was submitted directly to the Area Director as provided for in § 271.21, or if the Superintendent has forwarded an application with funding problems which could not be resolved at the Agency level, the Area Director will also review the application to determine whether funds are available within the Area to finance the proposed contract, the effect of services provided by the proposed contract, the effect of the proposed contract on other services or programs provided by the Area and any deficiencies which could possibly result in declination. At the completion of the review, the Area Director will take one of the following actions as appropriate.

(i) If funds are not available to adequately finance the proposed contract without significantly reducing services under the noncontracted programs or parts of programs, the Area Director shall so notify the applicant in writing and offer alternative solutions to the funding problem. The alternatives offered by the Area Director may include those given in subdivisions (i) through (vii) of § 271.22(c)(1) which can be used alone or in combination to solve the funding problem. The applicant may also propose alternative solutions to solve the funding problem. Upon receiving written notice of the applicant's choice of alternative(s), the Area Director shall determine whether the alternative(s) chosen will solve the funding problem. If the applicant's choice of alternative(s) is sufficient to solve the funding problem, or if the solution involves reprogramming which requires congressional action, the Area Director shall take the actions in paragraphs (d)(3), (d)(4), or (d)(5) of this section, as appropriate. If the applicant's choice of alternative(s) will not solve the funding problem, the applicant shall be notified in writing and will be asked to reconsider the matter and make a second choice. After the applicant has reconsidered and notified the Area Director in writing of its second choice of alternative(s), the Area Director shall decide whether that choice is sufficient to solve the funding problem. If the Area Director

determines that the applicant's second choice of alternative(s) will not solve the funding problem, or if the applicant refuses to make a selection, the proposed contract cannot be entered into due to the limitation that moneys obligated on contracts cannot exceed available appropriations (31 U.S.C. 665(a)).

(ii) The applicant will be notified in writing if the Area Director decides that the proposed contract cannot be entered into because of unresolved funding problems. The Area Director's decision may be appealed to the Commissioner, and the notice shall include a statement to that effect. The applicant shall have 10 days from receipt of notice of the Area Director's decision in which to exercise its appeal rights by providing the Area Director with a notice in writing to that effect.

Upon receipt of notice of appeal, an informal conference shall be conducted by an official designated by the Commissioner. The purpose of the informal conference will be to attempt to resolve issues without going through the formal hearing procedure. All interested parties may attend the informal conference and present their position. If the applicant is not satisfied with the informal conference, the applicant is entitled to a formal hearing in accordance with § 271.81(c).

(3) If the applicant's choice of alternatives includes the reprogramming of funds, the Area Director shall forward the reprogramming request, the reasons for the request, and his recommendations to the Commissioner for further action as given in § 271.25(c)(1). The Commissioner or an official designated by him may hold an informal conference with the applicant prior to making a final decision on a reprogramming request if the conference is requested by the applicant. If appropriate congressional committees grant the reprogramming request, the Area Director shall take the actions in paragraph (d)(4), or (d)(5) of this section as appropriate. If Congress does not grant the reprogramming request, the contract cannot be made and the Area Director shall so notify the applicant in writing.

(4) If funds are available to adequately finance the proposed contract without significantly reducing services under the noncontracted programs or parts of programs and there are no declination issues, the Area Director will notify the contract applicant in writing of this fact. Before the negotiations take place, the Area Director shall give the applicant a copy of any documents to be used by the Bureau during negotiations. The Area Director shall negotiate and award the contract within 30 days of notifying the applicant unless a later date is requested by the applicant.

(5) If the funds are available to adequately finance the proposed contract without significantly reducing services under the noncontracted programs or parts of programs but it is felt that there are declination issues which must be resolved, the Area Director will notify the applicant and tribal governing body of this fact in writing. The notice shall include a list of the declination issues identified by the Area Director, the reason(s) for such determination, a copy of any documents used in arriving at the issues, recommendations for resolving the issues, and the technical assistance available for this purpose.

(i) If the applicant accepts the Area Director's offer of technical assistance, it shall be provided in accordance with the applicant's request. At such time as the issues are thus resolved, the Area Director will so advise the applicant and offer to enter into negotiations within 30 days of resolution or unless the applicant requests additional time.

(ii) If the applicant declines the Area Director's offer of technical assistance and the matter is not otherwise resolved, the Area Director shall proceed in accordance with § 271.24.

(iii) If the applicant does not respond within 30 days of receipt of the Area Director's recommendations and offer of assistance, and does not request additional time in which to respond, the Area Director shall proceed in accordance with § 271.24.

(iv) If the applicant does not agree with the Area Director's recommendations and the matter is not resolved within 30 days of the Area Director's receipt of the applicant's response to the Area Director's recommendations, the Area Director shall proceed in accordance with § 271.24.

§ 271.24 [Amended]

3. Paragraph (c) of § 271.24 is amended to change the reference of § 271.23(d)(4) (iii) and (iv) to § 271.23(d)(5) (iii) and (iv).

4. By revising § 271.25 as follows:

§ 271.25 Review and action by Commissioner.

(a) Within 5 days after receiving a contract application submitted directly under § 271.21, or after receiving a contract application with either the Area Director's recommendation to decline or the Area Director's decision that the contract cannot be entered into because of unresolved funding problems, the Commissioner shall notify the applicant and the tribal governing body(s) in writing of the receipt of the application.

(b) An application submitted directly to the Commissioner under § 271.21(a)(3) will be handled by the Directorate(s) within the Bureau in whose substantive jurisdiction the subject matter of the proposed contract falls. That Director will perform all of the actions of the Area Director specified in § 271.23.

(c) For an application referred by an Area Director, the Commissioner will perform one of the following actions as required by § 271.23.

(1) In case of insufficient funds, the Commissioner shall within 15 days review the factual record developed in the formal hearing. The Commissioner shall consider whether funds are available to finance the proposed contract. If the solution to the funding problem chosen by the applicant involves reprograming, the Commissioner, if he concurs, will forward the reprograming request with the reasons for the request through the Department and the Office of Management and Budget to the appropriate congressional committees for approval. The applicant shall be notified in writing if the Commissioner decides that the proposed contract cannot be made because of unresolved funding problems.

(2) When the Commissioner does not accept the Area Director's advice of insufficient funding, following the review of the factual record developed under § 271.81, notice shall be given that the recommendations are not accepted and that the Bureau shall negotiate and award the contract within 45 days, unless the applicant requests additional time.

(3) If the Commissioner determines that the application cannot be accepted the insufficient funding notice shall be issued as follows:

(A) Within 15 working days as provided under § 271.811(d).

(B) The advice of insufficient funding notice shall be in writing and shall contain:

(i) Identification of the specific objections that the contract cannot be entered into due to the limitation that moneys obligated cannot exceed appropriations under 31 U.S.C 665(a).

(ii) Specific recommendations on actions required by the applicant to overcome objections and a description of the nature, scope, and source of the technical assistance which will be available to overcome objections.

(iii) Copies of the transcript of the formal hearing and all documentary evidence introduced as provided under § 271.81(c)(vi).

(d) When declination issues are involved, within 15 days after receiving the formal hearing record, the Bureau shall notify the applicant, the appropriate tribal governing bodies, and the Area Director(s) of the Commissioner's decision.

(1) When the Commissioner does not accept the area Director(s) recommendation to decline, following the review of the factual record developed under § 271.23(d)(1), notice shall be given that the recommendations are not accepted and that the Bureau shall negtiate and award the contract within 45 days unless the applicant requests additional time.

(2) If the Commissioner determines under § 271.81(d) that the application should be declined, the declination notice shall be issued as follows:

(i) Within 15 working days as provided under § 271.81(d).

(ii) Within 45 days after notifying the applicant under paragraph (d)(2) of this section when the applicant has not used the right under paragraph (d)(2).

(3) The declination notice shall be in writing and shall contain:

(i) Identification of specific objections, categorized under one or more of the declination criteria set forth in § 271.15.

(ii) Specific recommendations on actions required by the applicant to overcome objections and a description of the nature, scope, and source of the technical assistance which will be available to overcome declination objections.

(iii) Copies of the transcript of the formal hearing and all documentary evidence introduced as provided under § 271.81(c)(vii).

* * * * *

§ 271.26 [Deleted]

5. § 271.26 is deleted in its entirety and reserved.

§ 271.64 [Revised]

6. § 271.64 is revised as follows: In paragraph (c)(1) the comma is deleted following the word "decline" in the third line and the phrase is inserted to read "or to recommend not to contract because of funding problems,", paragraph (c)(2) is revised by deleting the last two words and the colon and substituting the phrase "right to appeal under § 271.81." and the remainder of this subsection from § 271.64(c)(2)(i) through (e)(vi) is deleted in its entirety.

§ 271.65 [Deleted]

7. § 271.65 is deleted in its entirety and reserved.

§ 271.74 [Amended]

8. In § 271.74(b) the reference § 271.81(c) in the third sentence is changed to § 271.81 to be consistent with the revised § 271.81, paragraph (c)(2) is deleted, and paragraph (d) is revised to change the reference to "§ 271.82" to "§ 271.81" and to delete the phrase "or § 271.83 as appropriate."

§ 271.75 [Amended]

9. § 271.75 is revised as follows: In paragraph (d) the reference § 271.84 is changed to read § 271.81 at the end of the last sentence, and in paragraph (e) the reference § 271.84 at the end of the first sentence is changed to read § 271.81, and in paragraph (f) the reference § 271.84 at the end of the second sentence is changed to read § 271.81.

10. § 271.81 under Subpart G—Hearings and Appeals is revised as follows:

§ 271.81 Informal conference and formal hearing.

(a) The applicant or the tribal governing body will be notified in writing of the Area Director's recommendation or decision. The Area Director's recommendation or decision may be appealed to the Commissioner and the notice shall include a written statement to that effect. The applicant shall have 10 days from receipt of notice of the area Director's decision in which to exercise its appeal rights by providing the Area Director with a notice in writing to that effect.

(b) Upon receipt of notice of appeal and if an informal conference has been requested, a date, time, and place for the informal conference will be arranged. The informal conference will be conducted within 30 calendar days of receipt of the appeal notice, or at such later time as may be agreed upon. The Bureau of Indian Affairs will authorize payment of transportation costs and per diem to allow adequate representation of the applicant if the meeting is more than 50 miles from the office of the applicant. The conference shall be conducted by an official designated by the Commissioner. The purpose of the informal conference is to attempt to informally resolve issues without a formal hearing. All interested parties may attend the conference and present their positions. If the applicant is not satisfied with the informal conference; or does not request a conference; the applicant is entitled to a formal hearing in accordance with § 271.81(c).

(c) The formal hearing, if requested in writing, will be convened within 30 days of the Commissioner's receipt of the request, or at a later date and place as mutually agreed upon. If the hearing is more than 50 miles from the applicant's office; the Bureau of Indian Affairs will authorize payment of transportation costs and per diem to allow adequate representation. The Bureau shall be responsible to arrange all aspects of the formal hearing.

(1) The hearing will be conducted by an official from the Office of Hearings and Appeals, Department of the Interior; and shall accord the tribal governing body or applicant the following rights:

(i) The right to written notice of the issues to be considered;

(ii) The right to be represented by counsel;

(iii) The right to have the Department provide witnesses who are capable of providing testimony on the issues;

(iv) The right to cross examine witnesses;

(v) The right to produce oral and documentary evidence;

(vi) The right to require testimony under oath; and

(vii) The right to a copy of the transcript of the hearings and all documentary evidence introduced.

(d) The decision of the Commissioner shall be rendered within 15 working days following the formal hearing. The decision of the Commissioner is final for the Department. The tribal governing body or the applicant is deemed to have exhausted his administrative remedies following rendering of the decision.

§§ 271.82 through 271.84 [Reserved]

11. §§ 271.82, 271.83 and 271.84 are deleted in their entirety and reserved.

PART 272—GRANTS UNDER INDIAN SELF-DETERMINATION ACT

1. The introductory paragraph of § 272.51 is revised to read as follows:

§ 272.51 Hearings.

Hearings referred to in § 276.15(c)(3) of this chapter shall be conducted as follows:

* * * * *

2. Paragraph (a) of § 272.52 is revised to read as follows:

§ 272.52 Appeals from decision or action by Superintendent.

(a) A grantee may appeal any decision made or action taken by a Superintendent under this Part. Such appeal shall be made to the Area Director.

* * * * *

3. Paragraph (a) of § 272.53 is revised to read as follows:

§ 272.53 Appeals from decision or action by Area Director.

(a) A grantee may appeal any decision made or action taken by an Area Director under this Part. Such appeal shall be made to the Commissioner. However, the Assistant Secretary for Indian Affairs has the authority of

the Commissioner and his decisions are final for the Department.

* * * * *

§ 272.54 [Reserved]

4. § 272.54 is deleted in its entirety and reserved.

1. The second sentence of paragraph (c)(3) of § 276.15 is revised to read as follows:

§ 276.15 Grant closeout.

* * * * *

(c) * * *

(3) * * * The Bureau shall also provide a hearing for the grantee before cancellation, as provided in § 272.51. * * *

PART 273—EDUCATION CONTRACTS UNDER JOHNSON-O'MALLEY ACT

1. Section 273.73 is revised to read as follows:

§ 273.73 Other appeals.

Any decision or action taken by a Bureau official under this Part, other than those given in §§ 273.71 and 273.72, may be appealed as provided in § 271.81.

PART 274—SCHOOL CONSTRUCTION CONTRACTS OR SERVICES FOR TRIBALLY OPERATED PREVIOUSLY PRIVATE SCHOOLS

1. Section 274.53 is revised to read as follows:

§ 274.53 Other appeals.

Any decision or action taken by a Bureau official under this Part, other than those given in §§ 274.51 and 274.52 may be appealed only as provided in § 271.81.

PART 277—PUBLIC SCHOOL CONSTRUCTION CONTRACTS FOR PUBLIC SCHOOLS

1. § 277.53 is revised to read as follows:

§ 277.53 Other appeals.

Any decision or action taken by a Bureau official under this Part, other than those given in §§ 277.51 and 277.52, may be appealed only as provided in Part 2 of this chapter. However, the Assistant Secretary for Indian Affairs has the authority of the Commissioner and his decisions are final for the Department.

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

FORREST J. GERRARD,
Assistant Secretary, Indian Affairs.

[FR Doc. 78-23726 Filed 8-22-78; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 65]

[FRL 952-4]

STATE AND FEDERAL ADMINISTRATIVE ORDERS PERMITTING A DELAY IN COMPLIANCE WITH STATE IMPLEMENTATION PLAN REQUIREMENTS

Proposed Approval of an Administrative Order Issued by the Department of Ecology to Kaiser Aluminum & Chemical Corp.

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve an administrative order issued by the Department of Ecology to Kaiser Aluminum & Chemical Corp. The order requires the company to bring air emissions from its petroleum coke calcining plant in Mead, Wash., into compliance with certain regulations contained in the federally approved Washington State implementation plan (SIP) by July 1, 1979. Because the order has been issued to a major source and permits a delay in compliance with provisions of the SIP, it must be approved by EPA before it becomes effective as a delayed compliance order under the Clean Air Act (the Act). If approved by EPA, the order will constitute an addition to the SIP. In addition, a source in compliance with an approved order may not be sued under the Federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the order. The purpose of this notice is to invite public comment on EPA's proposed approval of the order as a delayed compliance order.

DATE: Written comments must be received on or before September 22, 1978.

ADDRESS: Comments should be submitted to Director, Enforcement Division, EPA, Region X, 1200 Sixth Avenue, Seattle, Wash. 98101. The State order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Mr. Kenneth D. Brooks, Environmental Protection Agency M/S 513, 1200 Sixth Avenue, Seattle, Wash. 98101, telephone 206-442-1387.

SUPPLEMENTARY INFORMATION: Kaiser Aluminum & Chemical Corp. operates a petroleum coke calcining plant at Mead, Wash. The order under consideration addresses visible and fugitive emissions from the coke calcinining plant at the facility, which are subject to the Washington Administrative Code, WAC 18-52-031 and WAC 18-52-036. The former limits the emissions of particulate matter and is part of the federally approved Washington State implementation plan. The latter is not a part of the SIP and, therefore, is not an issue in this matter. The order requires final compliance with the regulation by July 1, 1979, through installation of hooding, ducting, and bag house collectors. The source has consented to the terms of the order and has satisfied all increments due at this time.

Because this order has been issued to a major source of particulate emissions and permits a delay in compliance with the applicable regulation, it must be approved by EPA before it becomes effective as a delayed compliance order under section 113(d) of the Clean Air Act (the Act). EPA proposes to approve the order because it satisfies the appropriate requirements of this subsection.

DEPARTMENT OF ECOLOGY

In the Matter of Approving the Compliance Program for Control of Particulate Emissions From the Kaiser-Mead Coke Calcining Plant: Delayed Compliance Order, Docket No. DE 78-263.

To: Kaiser Aluminum & Chemical Corp., Mead Works, P.O. Box 6217, Spokane, Wash. 99207.

Attention: Mr. F. J. Haydel, Works Manager.

The Kaiser Aluminum & Chemical Corp. operates a petroleum coke calcining plant adjacent to its Mead, Wash., primary aluminum reduction facilities. Emissions from this facility have been found to not comply with provisions of the Washington State air quality implementation plan.

The Department of Ecology has reviewed plans and schedules submitted by Kaiser Aluminum & Chemical Corp. for the control of visible and fugitive emissions from the coke calcining plant by the installation of hooding, ducting, and bag-house collectors.

In accordance with provisions of section 113(d) of the Federal Clean Air Act, as amended, the Department of Ecology make the following findings and issues the following order:

FINDINGS

(1) The current calcining facility is unable to contunuously comply with provisions of the Washington Administrative Code, WAC 18-52-031 and WAC 18-52-036.

(2) The Department of Ecology has reviewed the proposed control methods and schedule of compliance and finds the following:

(a) The proposed project, installed and operated as described, and will provide for continuous compliance with WAC 18-52-031 and WAC 18-52-036.

(b) The proposed methods of control will provide the best practicable system of emission reduction, and will be installed as expeditiously as practicable.

(c) The proposed control methods and equipment will be in accordance with provisions of Chapter 18-52 WAC and will not cause ambient air quality standards to be exceeded.

(d) The interim requirements as described herein will provide reasonable methods for complying to the extent possible, with provisions of Chapter 18-52 WAC.

(e) Additional interim requirements are not necessary to avoid an eminent and substantial endangerment to the health of persons.

ORDER

Therefore, it is ordered, That the methods and equipment as described in submitted plans, specifications, schedules, and other correspondence be installed according to the following schedule:

(A) *Calciner Particulate Emission Control—*

(1) Final plan submitted by July 10, 1978;

(2) Order major equipment by November 10, 1978;

(3) Submit Progress Report by April 1, 1978;

(4) Complete construction by June 1, 1979;

(5) Achieve compliance by July 1, 1979.

(B) *Fugitive Dust Control—*

(1) Start construction by August 1, 1978;

(2) Order major equipment by October 1, 1978;

(3) Submit Progress Report by April 1, 1979;

(4) Complete construction by June 1, 1979;

(5) Achieve compliance by July 1, 1979.

During the period from the date of this order and lasting until July 1, 1979, the following interim requirements shall be maintained:

(1) The current kiln particulate control system shall be maintained while operating during the term of schedule (A) above.

(2) Reasonable efforts shall be made to prevent fugitive dust from leaving the company's property. Collected dust shall not be transported in open vehicles.

(3) Spilled coke and collected fines currently deposited on outdoor surfaces and roadways shall be removed as expeditiously as practicable, but no later than November 1, 1978.

The company shall comply with the following monitoring requirements:

EMISSION MONITORING REPORTS

(1) Maintain existing system of opacity monitoring and recording.

(2) The company shall notify the Department no later than 5 days after any date described in the above schedule of the compliance or noncompliance with these requirements. Notification of any anticipated delay does not preclude the department from taking enforcement action.

(3) A monitoring and inspection program which will insure continuous and efficient operation of control and operating equipment shall be submitted for approval to the Department of Ecology on or before June 1, 1979.

Nothing in this order is to be construed in any way as to prevent enforcement and/or abatement action for any violation of any applicable law, rule, or regulation.

The Kaiser Aluminum & Chemical Corp. is hereby notified that its failure to comply with provisions of WAC 18-52-031 may result in a requirement to pay a noncompliance penalty under section 120 of the Clean Air Act as amended.

Dated at Olympia, Wash., this 12th day of July, 1978.

DONALD O. PROVOST,
Assistant Director, Department of Ecology, State of Washington.

If the order is approved by EPA, source compliance with the terms would preclude Federal enforcement action under section 113 of the Act against the source for violations of the regulation covered by the order during the period the order is in effect. Enforcement against the source under the citizen suit provision of the Act (section 304) would be similarly precluded. If approved, the order would also constitute an addition to the Washington SIP.

All interested persons are invited to submit written comments on the proposed order. Written comments received by the date specified above will be considered in determining whether EPA may approve the order. After the public comment period, the Administrator of EPA will publish in the FEDERAL REGISTER the Agency's final action on the order in 40 CFR Part 65.

The provisions of 40 CFR Part 65 will be promulgated by EPA soon, and will contain the procedure for EPA's issuance, approval, and disapproval of orders under section 113(d) of the Act. In addition, Part 65 will contain sections summarizing orders issued, approved, and disapproved by EPA. A prior notice proposing regulations for Part 65, published at 40 FR 14876 (April 2, 1975), will be withdrawn, and replaced by a notice promulgating these new regulations.

(42 U.S.C. 7413, 7601)

Dated: August 7, 1978.

DONALD P. DUBOIS,
Regional Administrator, Region X.

[FR Doc. 78-23570 Filed 8-22-78; 8:45 am]

[4110-35]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

[42 CFR Part 405]

MEDICARE PROGRAM

Prohibition Against Reassignment of Claims by Providers and Suppliers

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Proposed rule.

SUMMARY: This proposal would, except in certain specified situations, prohibit a provider, a physician or other supplier of services from reassigning claims for Medicare reimbursement. A provider who violates this prohibition would be subject to termination of its provider agreement; a physician or other supplier would be subject to revocation of the right to receive assignment from Medicare beneficiaries.

The regulations will implement sections 2(a)(1) and 2(a)(2) of the Medicare-Medicaid Anti-Fraud and Abuse Amendments (Pub. L. 95-142). They are designed to prevent the fraud and abuse that could result from the sale of Medicare claims at a discount from face value.

The proposal would also deter violations by physicians and other suppliers of their assignment agreement (chiefly their agreement to accept the reasonable charge as the full charge for the service) by conforming the administrative sanctions to those which apply to situations involving prohibited reassignments.

DATES: Consideration will be given to written comments or suggestions received on or before October 10, 1978.

ADDRESSES: Address comments to: Administrator, Health Care Financing Admininstration, Department of Health, Education, and Welfare P.O. Box 2372, Washington, D.C. 20013.

In commenting, please refer to file code MAB-66-P. Agencies and organizations are requested to submit their comments in duplicate. Comments will be available for public inspection beginning approximately 2 weeks after publication, in Room 5231 of the Department's offices at 330 C Street SW., Washington, D.C., on Monday through Friday of each week from 8:30 a.m. to 5 p.m. Telephone, 202-245-0950.

FOR FURTHER INFORMATION CONTACT:

John B. Russell, Medicare Bureau, Health Care Financing Administration, Room 1H5, East Low Rise Building, Baltimore, Md. 21235, 301-594-8260.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Under the Medicare law (title XVIII of the Social Security Act), the benefit payments for covered services furnished by a provider of services (e.g., a hospital, skilled nursing facility, or home health agency) are determined on the basis of reasonable costs and are made to the provider. The benefit payments for covered services furnished by a physician or other supplier (not a provider of services) are de-

termined on the basis of reasonable charges and are made either to the beneficiary on the basis of an itemized bill or to the supplier on the basis of an assignment under the terms of which the reasonable charge is the full charge for the service. In the past, benefits assigned to physicians and other suppliers by beneficiaries have frequently been reassigned by suppliers to other persons and the Medicare and Medicaid program has paid such other persons on the basis of the reassignments in some instances.

Section 2 of Pub. L. 95-142 (42 U.S.C. 1395u(b)(5)) prohibits payments (for services provided to Medicare beneficiaries or Medicaid recipients) to any person other than the beneficiary or recipient or the provider or supplier who furnished the services. This prohibition applies to payments made under an assignment, reassignment, or power of attorney. However, the prohibition does not apply to: (1) an assignment to a governmental entity; (2) an assignment pursuant to a court order; (3) the receipt and negotiation of benefit checks by an agent who bills and receives payment in the name of the provider or the physician or other supplier, provided that the agent's compensation for his services is not related to the amount billed or collected and is not dependent on actual collection; and (4) the reassignment to an employer, facility, or health care delivery system by a physician or other supplier.

These proposed regulations will implement the provisions applicable to the Medicare program. Final regulations implementing the statutory prohibition applicable to Medicaid claims were published in the FEDERAL REGISTER on March 3, 1978 (42 FR 8800).

PROVISIONS OF PROPOSED REGULATIONS

PROHIBITION ON REASSIGNMENT

The proposed regulations would prohibit payment of Medicare claims through an assignment, reassignment, or power of attorney or other writing to persons other than a provider or physician or other supplier who furnished the services. For this purpose, the term "power of attorney" means written authorization of the following kinds: authorization to an agent to receive in the name of the agent, payments due the provider or physician or other supplier; or authorization to an agent to negotiate checks payable to the provider or physician or other supplier.

EXCEPTIONS TO THE PROHIBITION ON REASSIGNMENT

The proposed regulations would permit payment to be made:

(a) To a government agency or entity;

(b) In accordance with the order of a court of competent jurisdiction;

(c) To an agent who submits bills and receives payment in the name of the provider or physician or other supplier if: (1) the agent receives the payment under an agency agreement; (2) the agent's compensation is not related to the dollar amount billed or collected; (3) the agent's compensation is not dependent on the actual collection of payment; (4) the agent acts under authority which the provider or physician or other supplier may modify or revoke at any time; and (5) in receiving the payment the agent acts only on behalf of the provider or physician or other supplier. Condition (5) would prevent an agent from receiving Medicare payments for a provider or a physician or other supplier where the agent also had an interest in the payments as a factor or lender or was seeking to collect the payments as an agent of a factor or lender.

(d) To an employer, facility, or health care delivery system under a reassignment by a physician or other supplier. A valid reassignee of a physician or other supplier would be subject to a prohibition against a further reassignment of benefits (with certain exceptions).

ADMINISTRATIVE SANCTIONS

Under the proposed regulations, violation of the assignment provisions could result in the imposition of administrative sanctions. A provider's agreement for participation in the program could be terminated if the provider executes or continues in effect an assignment, power of attorney, or other writing that permits payment contrary to the prohibition. The right of a physician or other supplier to receive assigned benefits could be revoked if the supplier who has been notified of the impropriety of the practice:

(a) Executes or continues in effect a reassignment, a power of attorney or other writing that permits payment prohibited under the regulations; or

(b) Collects or attempts to collect more than the reasonable charge for items or services after accepting assignment of the benefits for such item or services; or

(c) Fails to refund monies incorrectly collected under (b).

In 1972, the Congress took action to stop a practice under which some physicians and other persons providing services under Medicare and Medicaid reassigned their Medicare and Medicaid receivables to other organizations and groups. Under the conditions of these reassignments, the organizations or groups purchased the receivables for a percentage of their face value, submitted claims, and received payment in their names. By 1972 it had become apparent that such reassignments were a significant source of incorrect and inflated claims for services paid for by Medicare and Medicaid. In addition, cases of fraudulent billings by collection agencies and substantial overpayments to these so-called "factoring agencies" were also found. The Social Security Amendments of 1972, Pub. L. 92-603, therefore, included a prohibition against payment for covered services to anyone other than the patient, his physician, or other person who provided the service, with limited exceptions.

Despite these efforts to stop the factoring of Medicare and Medicaid bills, some practitioners and other persons circumvented the intent of the law by use of a power of attorney. The use of a power of attorney allowed the factoring company to receive the Medicare or Medicaid payments in the name of the physician or other supplier, thus permitting the continuation of program abuses which factoring activities were shown to produce in the past.

Pub. L. 95-142, which the proposed regulations are designed to implement, modified existing law to preclude the use of a power of attorney as a device for reassignment of benefits under Medicare and Medicaid, subject to limited exceptions. It also provided for similar prohibitions with respect to billings for care provided by institutions.

Without the proposed administrative sanctions for violations, the prohibitions against improper power of attorney arrangements would be ineffective. Although Pub. L. 95-142 makes no express provisions for such sanctions, we view them as a reasonable and appropriate means for carrying out the provisions and the purposes of the anti-fraud and abuse amendments.

We are proposing that identical sanctions be imposed on physicians and other suppliers (and their valid reassignees) for violations by them of the terms under which they accept assignment from beneficiaries (chiefly their undertaking to accept the reasonable charge as the full charge) and for improper reassignment arrangements (§ 405.1681). This section provides that action to revoke the right to accept assignment from beneficiaries would be initiated only after repeated violations (or persistent failure to correct a single violation) had occurred and admonition had proved fruitless. Before the imposition of administrative sanctions, however, the physician or other supplier would be notified of the proposed revocation of its right to receive assigned benefits and given 15 days in which to submit a statement, including any pertinent evidence, as to why its right to receive payment should not be revoked. After the state-

ment has been submitting or the 15-day period has expired without the filing of the statement, the Health Care Financing Administration would determine whether to revoke the supplier's right to receive payments. If its determination is to revoke, it would take action to have payments suspended and would notify the supplier of the revocation and of its right, within 60 days, to request a hearing.

If the hearing official reverses the revocation determination, payment on the supplier's claims would be made to the supplier. If the hearing official upholds the revocation determination, any payments otherwise due the supplier would be made to the beneficiary who received the services, or to another person or agency authorized under the law and regulations to receive payments. The revocation would remain in effect until HCFA finds that the reason for the revocation has been removed and that there is reasonable assurance that it would not recur.

Section 1877(d) of the Social Security Act makes it a misdemeanor for a physician or a supplier to knowingly, willfully, and repeatedly violate the terms of an assignment. However, the noncriminal sanctions could be invoked in appropriate cases to deny payment while criminal prosecution is being considered or is in process, or as an alternative when prosecution is inappropriate or not feasible. Since these noncriminal sanctions might in some cases interfere with effective prosecution of physician and other suppliers, the proposed regulations provide that the imposition by HCFA of the sanctions would be discretionary rather than mandatory.

COMMENT PERIOD

Executive Order 12044, published on March 24, 1978 (43 FR 12661), provides for a 60-day comment period for proposed regulations, unless the agency determines that this is not possible. Sections 2(a)(1) and (2)(a)(2) of the Medicare-Medicaid Anti-Fraud and Abuse Amendments, which these proposed regulations will implement for medicare, were effective for services furnished on or after October 25, 1977. Therefore, it is important that we try to expedite promulgation of a final regulation.

Because the statutory provisions are already in effect, and because similar provisions have already been published in final regulations for the medicaid program, we believe that 45 days will provide adequate opportunity for those interested in the regulations to analyze them and submit comments.

42 CFR part 405 is amended as follows:

1. Section 405.1505 is amended by adding a new paragraph (l) to read as follows:

§ 405.1505 Administrative actions which are not initial determinations.

Administrative actions which shall not be considered initial determinations for the purpose of this subpart include, but are not limited to, the following:

* * * * *

(l) A finding, under § 405.1681(l), that the reason for revocation of the supplier's right to receive supplementary medical insurance benefits has not been removed or that there is insufficient assurance that the reason for such revocation will not recur.

2. A new § 405.1668 is added to read as follows:

§ 405.1668 Prohibition against assignment of benefits by a provider.

(a) *General rule.* Medicare benefits which may be paid to a provider of services under § 405.1660 shall not be paid to any other person under an assignment or power of attorney, as defined in § 405.1680, or otherwise, except as indicated in paragraphs (b) through (d) of this section.

(b) *Assignment to governmental agency or entity.* Benefits may be paid in accordance with an assignment by a provider of services to a governmental agency or entity.

(c) *Assignment established by court order.* Benefits may be paid in accordance with an assignment established by, or under the order of, a court of competent jurisdiction.

(d) *Payment to agent.* Payment may be made to an agent who submits bills and receives payment in the name of the provider of services if:

(1) The agent receives the payment under an agency agreement with the provider;

(2) The agent's compensation is not related in any way to the dollar amounts billed or collected;

(3) The agent's compensation is not dependent upon the actual collection of payment;

(4) The agent acts under authority which the provider may modify or revoke at any time; and

(5) In receiving the payment, the agent acts only on behalf of the provider.

(e) *Termination of provider agreements.* The Secretary may terminate a provider's agreement, as specified in § 405.614(a)(1), if the provider executes or continues in effect a power of attorney or other writing authorizing the payment of medicare benefits contrary to the provisions of this section.

3. Section 405.1672 is amended by adding new paragraphs (e) and (f) to read as follows:

§ 405.1672. Individual's request for direct payment—General provisions.

* * * * *

(e) *Payment to governmental agency or entity.* Supplementary medical insurance benefits payable under paragraphs (b) through (d) of this section to an individual or his legal representative or representative payee may be paid to a governmental agency or entity under an assignment to the agency or entity by the individual or his representative.

(f) *Payment under order of court.* Supplementary medical insurance benefits payable under paragraphs (b) through (d) of this section to an individual or his legal representative or representative payee may be paid in accordance with an assignment established by, or under an order of, a court of competent jurisdiction.

4. Section 405.1680 is revised to read as follows:

§ 405.1680 Limitation on reassignment of benefits.

(a) *Scope.* This section implements section 1842(b)(5) of the Social Security Act by prohibiting reassignment of the right of payment except under certain specified conditions.

(b) *Definitions.* For purposes of this section:

(1) "Facility" means a hospital or other institution that furnishes health care services to inpatients.

(2) "Organized health care delivery system" means a public or private organization for delivering health services. The system may include, but is not limited to, a clinic or a group practice prepaid capitation plan.

(3) "Supplier" means a physician, or other person furnishing health care items or services, who is qualified to bill and receive payment under § 405.1675 or § 405.1684.

(4) "Power of attorney" means any written authorization from a principal to an agent:

(i) To receive in the agent's name payments due the principal; or

(ii) To negotiate checks payable to the principal.

(c) *General limitation on payments.* If a supplier is entitled to receive payment under § 405.1675 or § 405.1684, payment shall not be made ot any other person under a reassignment, power of attorney or otherwise, except as specified in paragraphs (d) through (i) of this section.

(d) *Payment to employer.* Payment may be made to the employer of the supplier if the supplier is required, as a condition of his employment, to turn over to his employer the fees for his services.

(e) *Payment to facility.* Payment may be made to the facility in which

the service was furnished if there is a contractual arrangement between the facility and the supplier under which the facility bills for the supplier's services.

(f) *Payment to organization.* Payment may be made to an organized health care delivery system if there is a contractual arrangement between that organization and the supplier under which the organization bills and receives payment for the supplier's services.

(g) *Payment to governmental agency or entity.* Payment may be made under a reassignment to a governmental agency or entity.

(h) *Assignment established by court order.* Payment may be made in accordance with a reassignment established by, or under the order of, a court of competent jurisdiction.

(i) *Payment to an agent.* Payment may be made to an agent who submits bills and receives payment in the name of the supplier of the services or other party entitled to payment under paragraphs (d), (e), or (f) of this section if:

(1) The agent receives the payment under an agency agreement with the supplier or such other party;

(2) The agent's compensation is not related in any way to the dollar amounts billed or collected;

(3) The agent's compensation is not dependent on the actual collection of payment;

(4) The agent acts under authority which the supplier or such other party may modify or revoke at any time; and

(5) In receiving the payment, the agent acts only on behalf of the supplier or such other party.

5. A new § 405.1681 is added to read as follows:

§ 405.1681 Revocation of right to receive assigned benefits.

(a) *Scope.* This section sets forth the requirements and procedures for revocation of the right of a supplier or other party to receive payment under Medicare if the supplier or other party:

(1) Violates the prohibition against the reassignment or other transfer of claims as specified in § 1842(b)(5) of the Social Security Act and § 405.1680 of this part; or

(2) Violates the undertakings required for payment under §§ 405.1675 and 405.1684 of this part.

(b) *Definitions.* For purposes of this section:

(1) "Supplier" means a supplier as defined in § 405.1680(b).

(2) "Other party" means an employer, facility, or organization entitled to payment under paragraphs (d), (e), or (f) of § 405.1680.

(c) *Bases for revocation.* The Administrator of the Health Care Financing Administration (HCFA) may revoke the right of a supplier or other party to receive payment under §§ 405.1675 and 405.1684 of this part for the following reasons:

(1) A violation of the requirements for payment of Medicare benefits under § 405.1675 or § 405.1684, after HCFA or the carrier for the supplier or other party gives it instructions against such violation; or

(2) The failure of a supplier or other party to desist from collection efforts already begun, or to refund moneys incorrectly collected, in violation of the requirements of § 405.1675 or § 405.1684, after HCFA or the carrier for the supplier or other party gives it instructions to cease or take such actions; or

(3) The execution or continuance of a power of attorney or other writing that authorizes a person, not specified in § 405.1680, to receive Medicare payments due a supplier or other party or to negotiate the benefit checks payable to the supplier or other party, after HCFA or the carrier for the supplier or othe party gives it instructions to the contrary.

(d) *Notice of proposed revocation.* If HCFA proposes to revoke the right of a supplier or other party to receive payment under paragraph (c) of this section, it shall send written notice of the proposed revocation to the supplier or other party. The notice shall:

(1) State the reasons for the proposed revocation; and

(2) Inform the supplier or other party that, within 15 days from the date of mailing, it may submit a statement, including any pertinent evidence, explaining why its right to receive payment should not be revoked.

(e) *Reduction or extension of period for responding to proposed revocation.* For good cause shown, HCFA may reduce or extend the time within which the statement provided for in paragraph (d)(2) of this section may be submitted.

(f) *Determination of revocation.* HCFA shall determine whether a supplier's or other party's right to receive benefit payments will be revoked:

(1) After the supplier or other party submits the statement as provided for in paragraph (d)(2) of this section; or

(2) If no statement is submitted, after 15 days (or other period determined under paragraph (e) of this section), from the date of the notice of proposed revocation.

(g) *Notice of revocation.* If HCFA determines that revocation is proper, it shall send notice of the revocation specifying:

(1) That the revocation is effective as of the date of the notice;

(2) The reasons for the revocation;

(3) The right of the supplier or other party to submit, within 60 calendar days of the date of notice, a written request for an administrative hearing, at which the supplier or other party may present any pertinent evidence as to why the supplier's or other party's right to receive payment should not be revoked;

(4) The right of the supplier or other party to be represented by counsel or other qualified representative (see §§ 405.870 through 405.872);

(5) That the carrier will withhold payments on any claims submitted by the supplier or other party until the official who conducts the administrative hearing makes a decision or until the period for requesting a hearing has expired without such a request having been filed;

(6) That if the offical who conducts the hearing reverses the determination of revocation, the carrier will make payment on the supplier's or other party's claims; and

(7) That if the hearing official upholds the determination of revocation, or the period for requesting a hearing expires without such request having been filed, the carrier will pay benefits otherwise payable to the supplier or other party on claims for which the revocation is effective to the individual who received the services, or to another person or agency authorized under the law and regulations to receive payment.

(h) *Extension of period for requesting hearing.* For good cause shown, HCFA may extend the period for filing a request for hearing.

(i) *Conduct of hearing.* The administrative hearing will be conducted before an official, designated by HCFA, who has not had any involvement in the determination of revocation. A decision shall be rendered in accordance with the review and hearing procedures set forth in §§ 405.824 through 405.832(a), (b), (c), and (e), § 405.833, and §§ 405.860 through 405.872. For this purpose, "carrier" should be read as "Health Care Financing Administration" and "hearing officer" should be read as "hearing official" in those sections.

(j) *Hearing Official's decision.*—(1) *Issuance of decision.* As soon as practicable after the close of the hearing, the official who conducted the hearing shall make a decision based on all of the evidence presented at the hearing and included in the hearing record.

(2) *Format and content of decision.* The decision shall be made in writing and contain findings of fact and a statement of reasons.

(3) *Notification of supplier.* A copy of the decision shall be mailed to the supplier or other party.

(k) *Finality of the determination.*—(1) *Determination on hearing.* In those cases in which a hearing is requested by the supplier or other party, the hearing official's decision specified

in paragraph (j) of this section shall constitute the final determination of the HCFA.

(2) *Determination without hearing.* In those cases in which a hearing is not requested by the supplier or other party within the period allowed, the determination of revocation by HCFA shall be the final determination.

(3) *Application of final determination.*

(i) If the final determination is that the right to receive payment will not be revoked, that decision shall be binding for those alleged actions and failures to act by the supplier or other party that constituted the basis for the determination of revocation.

(ii) If the final determination is that the right to receive payment will be revoked, the revocation shall remain in effect until HCFA finds that the reason for the revocation has been removed and that there is reasonable assurance that it will not recur.

(Secs. 1102, 1814, 1815, 1835, 1842, 1870, and 1871 of the Social Security Act; 42 U.S.C. 1302, 1395f, 1395g, 1395n, 1395u, 1395gg, and 1395hh.)

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare-Hospital Insurance; No. 13.774, Medicare-Supplementary Medicare Insurance.)

Dated: July 27, 1978.

ROBERT A. DERZON,
Administrator, Health Care Financing Administration.

Approved: August 16, 1978.

JOSEPH A. CALIFANO, Jr.,
Secretary.

[FR Doc. 78-23696 Filed 8-22-78; 8:45 am]

[4310-55]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Parts 10, 13, and 14]

PROPOSED REVISION TO REGULATIONS GOVERNING IMPORTATION, EXPORTATION, AND TRANSPORTATION OF WILDLIFE

Public Hearings

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of Public Hearings.

SUMMARY: This notice announces that public hearings will be held on the proposed regulations governing importation, exportation, and transportation of wildlife that were published in the FEDERAL REGISTER on March 27, 1978 (43 FR 12830). Comments received on the proposed regulations have indicated that public hearings are necessary to allow interested parties to adequately express their views.

DATES AND ADDRESSES: The public hearings have been scheduled as follows:

Dates, Times and Places

Monday, October 2, 1978, 9 a.m. to 4 p.m., Auditorium, U.S. Department of the Interior, 18th and C Streets NW., Washington, D.C.

Friday, October 6, 1978, 9 a.m. to 4 p.m., Denver Auditorium, Building 56, Denver Federal Center, Denver, Colo.

FOR FURTHER INFORMATION CONTACT:

Marshall L. Stinnett, Special Agent in Charge, Division of Law Enforcement, U.S. Fish and Wildlife Service, P.O. Box 19183, Washington, D.C. 20036, telephone 202-343-9237.

SUPPLEMENTARY INFORMATION: On March 27, 1978, the Fish and Wildlife Service published in the FEDERAL REGISTER proposed regulations governing the importation, exportation, and transportation of wildlife (43 FR 12830). These included several changes affecting the status of ports designated for the importation and exportation of wildlife. The proposed regulations would also implement a number of other provisions of the Endangered Species Act, including those pertaining to the inspection of wildlife items, the filing of importation and exportation declarations, and the licensing of those engaged in business as wildlife importers and exporters. Section 9(f)(1) of the Endangered Species Act provides that regulations changing designated ports are to be made "after notice and opportunity for public hearing" has been provided. (16 U.S.C. 1538(f)(1)). Section 4(f)(2)(A)(ii) of the act provides that persons who believe they "may be adversely affected" by a proposed regulation may "request * * * a public hearing thereon." (16 U.S.C. 1533(f)(2)(A)(ii)). An opportunity to request such public hearings was consequently extended to interested parties in the proposed rulemaking published on March 27, 1978. In response, the Service has received many requests that hearings be conducted on a number of the provisions contained in the proposed regulations. Accordingly, notice is hereby given that public hearings will be held for the purpose of receiving oral and written statements on all aspects of the proposed regulations.

Copies of the proposed regulations may be obtained by contacting Marshall L. Stinnett, Special Agent in Charge, Division of Law Enforcement, P.O. Box 19183, Washington, D.C. 20036, telephone 202-343-9237. The following is a summary of their contents:

These proposed rules would amend certain regulations governing the importation, exportation, and transportation of wildlife. They would thereby implement provisions of the Endangered Species Act of 1973, the Convention on International Trade in Endangered Species of Wild Fauna and Flora, the Lacey Act, the Black Bass Act, and other statutes administered by the Fish and Wildlife Service. Revisions contemplated within this proposal would impose controls on the exportation of wildlife similar to those already existing for importation of wildlife; establish a licensing system for importation and exportation of wildlife; revise the definition of "fish and wildlife" to conform to the Endangered Species Act; amend the marking requirements contained in the Lacey and Black Bass Acts; alter the designation of certain border ports through which certain wildlife may enter the United States in order to conform with changes in traffic patterns in these areas; and delete certain items from the list of shellfish and fishery products importable at any Customs port of entry to bring the list into conformity with the definition of shellfish and fishery products provided by the Tariff Schedules of the United States (T.S.U.S.).

Presiding at each public hearing will be an administrative law judge from the Department's Office of Hearings and Appeals. Oral statements will be restricted in length to ten (10) minutes unless the presiding officer decides otherwise. Those wishing to present oral statements must notify Special Agent in Charge Stinnett at the address and telephone number provided above, specifying the hearing at which they intend to appear. These should be received by the Service no later than September 25, 1978 in order that a list establishing the participants' order of appearance may be prepared. In addition to oral presentations, written statements may be filed at the hearings. These may also be submitted directly to Special Agent in Charge Stinnett at the address provided above any time prior to October 31, 1978.

HARVEY K. NELSON,
Acting Director, U.S. Fish and Wildlife Service.

AUGUST 18, 1978.

[FR Doc. 78-23636 Filed 8-22-78; 8:45 am]

[7590-01]

NUCLEAR REGULATORY COMMISSION

[10 CFR Part 50]

APPENDIX E—EMERGENCY PLANS FOR PRODUCTION AND UTILIZATION FACILITIES

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: A major objective of the Nuclear Regulatory Commission is to assure that emergency plans exist which provide reasonable assurance that appropriate measures can and will be taken in the event of an accidental release of radioactive material from a nuclear power plant. The Com-

mission is proposing to amend its regulation on emergency plans for production and utilization facilities to address emergency planning considerations that may extend to areas outside the low population zone (LPZ).

DATES: Comments should be submitted on or before October 10, 1978.

ADDRESSES: Written comments or suggestions concerning the proposed amendment should be submitted to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Attention: Docketing and Service Branch. Copies of comments received may be examined at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Mr. Michael T. Jamgochian, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, 301-443-5981.

SUPPLEMENTARY INFORMATION: A major objective of the Commission is to assure that emergency plans exist which provide reasonable assurance that appropriate measures can and will be taken in the event of an accidental release of radioactive material from a nuclear power plant.

The intent of the Commission is to assure that the decisionmaking process for licensing nuclear power plants will include an analysis by the applicant and a review by the Commission of each nuclear power plant license or permit application to plan for taking suitable protective actions on a timely basis under accident conditions within and outside the proposed site. Suitable protective actions would include measures which could mitigate radiation exposure to the public from the facility or from radioactive material released to the environs. Immediate emergency protective measures could include evacuation of the public from the area of the public taking protective shelter until the danger had passed.

The principal aspects of the NRC staff review for emergency planning includes the protections of persons within the exclusion area, the onsite emergency response organization, the protection of the public beyond the exclusion area and the connection between the facilities plan and that of the offsite emergency response organization consisting of local, State and Federal agencies. These reviews are part of the safety review of each application. These matters may also be considered in identifying any potential emergency planning advantages or disadvantages of particular sites as part of the NEPA cost/benefit analysis of alternate sites.

There are two elements of the NRC staff review required by the Commission's regulations as stated in 10 CFR Part 100, "Reactor Site Criteria," and 10 CFR Part 50, "Licensing of Production and Utilization Facilities." The first review element is to determine compliance with the seting criteria of 10 CFR Part 100. Rector site criteria are established in part 100 which, in conjunction with postulated accident calculations performed by the applicant for the proposed facility design, establish boundaries for an exclusion area and a low population zone (LPZ). In this connection, the Commission has, from the earliest days of licensing reactors, required the use of conservative assumptions and calculational methods in assessing consequences of a hypothetical release from the nuclear facility. The review conducted in conformance with 10 CFR Part 100 requirements establishes, for an acceptable site, that certain numerical exposure guidelines are met and in addition that the number and density of people within the LPZ are such that appropriate protective measures could be taken on their behalf in the event of an accident.

Beyond the siting criteria and the question of site suitability is the second review element which is to determine compliance with the licensing requirements in 10 CFR Part 50 and appendix E thereto for emergency plans. This review element focuses on the question of organizational and operational preparedness to cope with emergencies. A principal aspect of this review is to determine whether the applicant has made or will make appropriate arrangements with appropriate Federal, State and local officials to assure that, in the event of an actual emergency, necessary evacuation or other protective actions will be taken to protect offsite members of the public. Although these arrangements include the protective measures contemplated by 10 CFR Part 100, in connection with the LPZ, they need not be limited to application within the LPZ, nor to measures intended to cope primarily with the airborne pathway (cloud passage) covered by sections 100.3 and 100.11 of part 100. Such arrangements are expected to be guided by emergency action criteria, arrived at through a coordinated effort among local, State, and Federal authorities. Such criteria are believed to be a sound and prudent approach to the management of the small residual risk involved in the operation of nuclear facilities.

Indeed, their application to ingestion exposure pathways involving accidental spills into drinking water sources and accidental deposition of radioactive material onto agricultural crops or areas used for forage for milk cows has long been included as part of the review of emergency plans. Since one would anticipate that there would generally be time to monitor the actual situation for releases impacting from these pathways and to take appropriate action based on existing conditions, the Commission review has generally not emphasized postulated accident scenarios for evaluation but rather has assured that there are adequate arrangements for prompt notice to appropriate officials and arrangements to perform the appropriate monitoring, even though this may involve areas of consideration extending beyond the LPZ.

The principal considerations used in assessing emergency plans during the siting and licensing review of nuclear power plants including the need for such planning beyond the LPZ are summarized below.

1. *Physical characteristics.*—The Commission considers that the following physical characteristics in the vicinity of the site are relevant to the evaluation of protective actions which may be taken in the event of an accidental release of radioactive material: The numbers and proximity to the site boundary of resident and transient persons and the relative speed with which warnings can be communicated to them, the availability and character of evacuation routes and means of transportation, the availability and locations of structures suitable for sheltering people, and the presence of institutions (such as hospitals, nursing homes, and schools) which may require special emergency planning arrangements. Measures to compensate for those characteristics that may be adverse to the effective implementation of emergency actions should be identified and proposed by an applicant and reviewed by the NRC staff. Particular attention is to be given to the foregoing as they affect the effectiveness of taking protective actions within the LPZ established pursuant to the Commission's siting criteria of 10 CFR Part 100. This should not, however, preclude the consideration of utilizing emergency plans to provide additional protective benefit to persons beyond a LPZ as a matter of reasonable and prudent risk management, to assure protection beyond that afforded by safety design features and the siting of facilities in accordance with 10 CFR Part 100.

2. *Protective measures.*—Anessential element for reducing individual and population exposures from accidental releases of radioactive material is effective and timely protective measures. The establishment of soundly based emergency plans which include appropriate protective measures to the initial operation of a nuclear power

plant is a basic Commission requirement in its licensing process.

The NRC staff has found that there may be circumstances for which the available strategies for taking protective actions outside the facility site boundaries are limited. As a example, this occur when large numbers of persons may be engaged in outdoor recreational activities in the vicinity of a plant, and it is clear that existing structures are insufficient to provide needed temporary shelter. In such an instance, the has considered it appropriate to emphasize evacuation. When taken in conjunction with appropriate protective action criteria, such as EPA protective action guides,[1] These considertions may lead to planning for protective actions beyond the LPZ.

3. *Emergency plans.*—Protection of the public from the effects of severe natural phenomena, such as hurricanes or tornadoes, and severe manmade events, such as dam failures or toxic gas releases, are typically considered in general emergency plans. Such general emergency plans are developed and maintained by agencies of the State and local governments. Emergency plans for protecting the public health and safety from accidental releases of radioactive material involve many of the same types of actions and thus are designed to be compatible with these broader general emergency plans. Emergency plans for nuclear power plants are designed to permit protection to the public by reducing individual and population exposures resulting from postulated nuclear accidents. The benefits from the emergency plan must be commensurate with the risks to the health and safety of the public associated with the implementation of the protective action.

4. *Procedures.*—The general authorities and capabilities of Federal, State, and local officials for carrying out emergency plans are recognized. A goal of the Commission's review is to determine whether the applicant has developed adequate arrangements with Federal, State, and local officials to assure that effective initiation of protection actions within and beyond the LPZ will be implemented, should the need arise. An important factor in emergency planning is the availability to the decision-making official (Federal, State, and local) of all information necessary to determine the magnitude of the emergency and to decide whether protective actions should or should not be taken in light of the total risk (nuclear and nonnuclear) to the public health and safety from the action. Each licensee must establish procedures to assure that such officials are provided with adequate information throughout the course of any emergency.

A general examination of emergency planning in the licensing of nuclear power plants is underway. In the interim, the Commission is firmly of the opinion that continued implementation of its practice to review the possible need for emergency plans beyond the LPZ as necessitated by circumstances in the vicinity of the site is required. However, in the *New England Power Company, et al.*, and *Public Service Company of New Hampshire* decisions, ALAB-390, 5 NRC 733 (1977), the Commission's regulations were construed as not permitting licensing consideration of evacuation plans for the protection of persons outside the low population zone. In light of the above, the Commission believes that its regulations in 10 CFR Part 50, appendix E, should be amended to reflect the emergency planning considerations here discussed. The proposed change to the rule on the licensing requirements for emergency plans clarifies the intent that consideration of emergency planning beyond the LPZ is a factor in the licensing review and is not a factor in the site suitability review under 10 CFR Part 100.

Pending the receipt of comments and the promulgation of a final rule, the proposed amendment will be used as interim guidance in reviewing an applicant's emergency plan for a construction permit. In cases where a construction permit has already been issued, the emergency plans will be reviewed at the operating license stage in accordance with the interim guidance of the proposed amendment or depending on timing, the amendment as promulgated in final form. The Commission regards dealing with this matter at the operating license stage, as opposed to reopening construction permit reviews, to be a more reasonable approach. Because this proposed rule involves a limited element in addition to the siting and engineering safety considerations to assure protection of the public health and safety, this procedure for review of existing permits and licenses is acceptable. Should the rule become final as proposed, the NRC staff will review the emergency plans of operating facilities as a part of its present practice of monitoring and updating the emergency plans of an operating facility as needed. The Commission will be requesting current and operating licensees to examine their emergency plans to determine whether they are in compliance with this proposed rule change.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, and section 553 of title 5 of the United States Code, notice is hereby given that adoption of an amendment to 10 CFR Part 50, appendix E is contemplated.

Section I of appendix E of 10 CFR Part 50 is amended by adding at the end thereof a new paragraph to read as follows:

APPENDIX E—EMERGENCY PLANS FOR PRODUCTION AND UTILIZATION FACILITIES

I. INTRODUCTION

* * * * *

For nuclear power reactors, provisions for emergency protective measures to reduce exposures from an accidental release of radioactive material shall be considered, at a minimum, within the low population zone (LPZ) as specified in 10 CFR Part 100. The extent to which emergency planning, which may include planning for evacuation measures, should extend to areas beyond the LPZ shall be based on the design features of the facility and the physical characteristics of the environs in the vicinity of the site, taking into account the emergency protective action criteria developed by appropriate Federal authorities, and by appropriate State and local governmental authorities in cooperation with the Commission.

(Sec. 161, Pub. L. 83-703, 68 Stat. 948 (42 U.S.C. 2201); Sec. 201, Pub. L. 93-438, 88 Stat. 1242 (42 U.S.C. 5841).)

Dated at Washington, D.C. this 16th day of August 1978.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc. 78-23870 Filed 8-22-78; 10:42 am]

[1] "manual of Protective Action Guides and Protective actions for Nuclear Incidents", (chapter 2), U.S. Environmental Protection Agency—EPA-520/1-75-001, September 1975.

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.

[6050-01]

ACTION

CANCELLATION OF FIVE PRIVACY ACT SYSTEMS OF RECORDS

SUMMARY: This notice is issued to inform the public that four of our privacy act systems of records are obsolete and are being cancelled, and one system is cancelled because of its coverage under a Civil Service Commission governmentwide system of records. The following systems are obsolete: ACTION/AF-7 Classified Document Security Violation File; ACTION/AF-14 Theft of Employee Property File; ACTION/DO-5 Domestic Full-Time Volunteer Legal File; and ACTION/DO-10 Peace Corps Applicant File for Period 1963 to June 1974.

Our ACTION/GC-1 "Conflict of Interest Records" are covered by the Civil Service Commission, CSC/GOVT-2 "Confidential Employment and Financial Interest Statement" system. Notice of this system was last published in the FEDERAL REGISTER, Vol. 42, No. 185 on September 23, 1977 at page 48738. The notice states that records are located in agencies and the Civil Service Commission. Individuals are instructed to submit their requests to the CSC or the particular agency Office of the General Counsel or designated official. Requests to ACTION for records in this system will be referred to the ACTION Office of the General Counsel.

DATE: The effective date of cancellation is August 23, 1978.

ADDRESS: ACTION, 806 Connecticut Avenue NW., Washington, D.C. 20525.

FOR FURTHER INFORMATION CONTACT:

John F. Nolan, Director, Administrative Services Division, phone number 202-254-8105.

Signed this 31st day of July 1978.

JIM DUKE,
Executive Officer.

[FR Doc. 78-23692 Filed 8-22-78; 8:45 am]

[4310-10]

ADVISORY COUNCIL ON HISTORIC PRESERVATION

PUBLIC INFORMATION MEETING

Notice is hereby given in accordance with § 800.5(c) of the Council's "Procedures for the Protection of Historic and Cultural Properties" (36 CFR part 800) that on September 7, 1978, at 7 p.m. a public information meeting will be held at the Gaillard Municipal Auditorium, 77 Calhoun Street, Charleston, S.C. 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 Charleston Center, and undertaking of the city of Charleston assisted by an urban development action grant from the U.S. Department of Housing and Urban Development, that will adversely affect the Charleston Historic District, Market Hall, St. Mary's Catholic Church, and Temple Beth Elobim, properties included in the National Register of Historic Places.

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 and alternative courses of action and an evaluation of effects on the Charleston Historic District by the city of Charleston.

III. A statement by the South Carolina 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 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., Suite 530, Washington, D.C. 20005, 202-254-3974.

ROBERT R. GARVEY, Jr.,
Executive Director.

[FR Doc. 78-23824 Filed 8-22-78; 8:51 am]

[3410-16]

DEPARTMENT OF AGRICULTURE

Soil Conservation Service

HANCOCKS BRIDGE WATER-BASED RECREATION R.C. & D. MEASURE, NEW JERSEY

Intent Not To Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Hancocks Bridge Water-Based Recreation R.C. & D. Measure, Salem County, N.J.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Warren J. Fitzgerald, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for the installation of water-based recreation facilities in the Hancocks Bridge area of Lower Alloways Creek Township in Salem County, N.J. The planned works of improvement include a double boat ramp with pier, a floating dock, sanitary facilities, and a parking lot with spaces for 15 vehicles, and 14 vehicles with trailers will be installed on a vacant parcel of land in Hancocks Bridge. Access will be provided to Alloway Creek for fishermen, hunters, trappers, and other recreationists.

The notice of intent not to prepare an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Warren J. Fitzgerald, State Conservationist, Soil Conservation Service, 1370 Hamilton Street, P.O. Box 219, Somerset, N.J. 08873, telephone 201-246-1205. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of

copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until September 22, 1978.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Pub. L. 87-703 (16 U.S.C. 590)a-f, q).)

Dated: August 16, 1978.

JOSEPH W. HAAS,
Assistant Administrator for Water Resources, Soil Conservation Service.

[FR Doc. 78-23591 Filed 8-22-78; 8:45 am]

[3410-16]

OTTER LAKE PUBLIC WATER-BASED FISH AND WILDLIFE R. C. & D. MEASURE, WISCONSIN

Intent Not to Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservations Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Otter Lake Public Water-Based Fish and Wildlife R. C. & D. Measure, Chippewa County, Wis.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Jerome C. Hytry, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for public water-based fish and wildlife. The planned works of improvement include an aeration system to increase winter levels of dissolved oxygen to avert winterkills of game fish.

The notice of intent not to prepare an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Jerome C. Hytry, State Conservationist, Soil Conservations Service, 4601 Hammersley Road, Madison, Wis. 53711, telephone 608-252-5341. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until September 22, 1978.

Dated: August 16, 1978.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Pub. L. 87-703 (16 U.S.C. 590a-f, q).)

JOSEPH W. HAAS,
Assistant Administrator for Water Resources, Soil Conservation Service.

[FR Doc. 78-23592 Filed 8-22-78; 8:45 am]

[6320-01]

CIVIL AERONAUTICS BOARD

[Order 78-7-106; Dockets 32327-1, 32327-2, 32327-3]

FORMER LARGE IRREGULAR AIR SERVICE INVESTIGATION

Correction

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 21st day of July 1978.

This notice corrects a document originally published at 43 FR 33779, August 1, 1978.

(1) The applications of two persons once but no longer operating, Central Air Transport, Inc. and Southeast Aircraft Corp., were incorrectly assigned to Docket 32327-3 instead of Docket 32327-1. On page 33786-7, paragraph 7(a) should be changed as follows:

Delete the "and" before "Aero Finance Corporation" and add, at the end of the paragraph, "Central Air Transport, Inc. (Docket 32490); and Southeast Aircraft Corp. (Dockets 32625, 32626);"

On page 33787, paragraph 7(c) should be changed as follows:

Delete "Central Air Transport, Inc. (Docket 32490); and "Southeast Aircraft Corp. (Dockets 32625, 32626);"

References on pages 33779 and 33780 to applicants grouped by previous operating experience are incorrect. On page 33779, footnote 1 should be changed as follows:

Delete the "and" before and the "." after "Aero Finance Corporation" and add, at the end of the paragraph, "* * *; Central Air Transport, Inc., and Southeast Aircraft Corp. (contract carriage only)."

On page 33780, footnote 8 should be changed as follows:

Delete "Central Air Transport, Inc.;" and "Southeast Aircraft Corp.;"

(2) On page 33781, in the middle column, first full paragraph, the 27th line should read:

"new regulations make possible may"

(3) On Attachment A,[1] the authority requested by Southeast Airlines, Inc. was incorrectly described. On page 4 of Attachment A, the line beginning "50. Southeast Airlines" should read: "50. Southeast Airlines [9]" On page 8 of Attachment A, the following footnote should be added: "[9] Between a place in the United States and any place outside thereof."

Dated: August 15, 1978.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-23635 Filed 8-22-78; 8:45 am]

[1] Attachment A filed as part of the original document.

[6320-01]

[Order 78-9-89; Docket 33174]

NORTHWEST AIRLINES, INC.

Category Y Tariff; Order Rejecting Tariff

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 17th day of August 1978.

In Order 78-1-101, served January 25, 1978, the Board found that the "Category Y" tariffs of Pan American World Airways, Inc., and Northwest Airlines, Inc., are unjust and unreasonable, and ordered them canceled. These tariffs allow the carriers to accommodate official military passengers on scheduled commercial service at a rate equivalent to the minimum round-trip charter rate that the Board prescribes for military air transportation. The Board postponed the cancellation date for these tariffs until May 23, 1978, to allow the carriers to propose modified Category Y rules that would be found reasonable if they met certain criteria set forth in the order. In response to that invitation, Northwest filed new Category Y tariffs on March 1, 1978, to go into effect on April 16, 1978,[1] which the Board rejected by Order 78-3-145, March 30, 1978, because they did not differ in substance from the tariffs previously found unlawful in the *Category Y Fare Investigation*, Docket 28096.[2] Subsequently, the Board extended the cancellation date for the Category Y tariffs to September 23, 1978.[3] On July 19, 1978, Northwest filed a new Category Y tariff to become effective September 3, 1978.[4]

In the new tariff, Northwest amends the capacity control provision of its rejected March 1, 1978 tariff by reducing the maximum amount of Category Y passengers which may be carried from 3,000 per month and 1,000 per week to 2,400 per month and 800 per week. Northwest states in its justification that it believes that this will meet the Board's criteria for this type of traffic.

[1] Local Military Passenger Fares Tariff No. MAC-2, CAB No. 528.
[2] See Order 78-1-101.
[3] Order 78-6-162, June 22, 1978.
[4] Local Military Passenger Fares Tariff No. MAC-3, CAB No. 529.

A complaint was filed August 9, 1978, by the member carriers of the National Air Carrier Association requesting the Board reject Northwest's tariff or, alternatively, suspend and investigate it.

The Board found in Order 78-3-145 that Northwest's capacity control feature was not likely to produce any significant change in the operation of Category Y service. The Board has indicated that it is unwilling to prescribe rigid rules that will insure against displacing higher rated traffic, but that it is concerned that the carriers' normal incentives to avoid doing so may be affected by the volume of business available from the Department of Defense. Northwest's amendment of its proposed capacity control feature does not affect those features of the original Category Y tariffs which the Board found unlawful. In other words, its is not the volume of Category Y traffic but the rules governing the manner in which the traffic is carried that we find objectionable. We are concerned that those rules should provide the carriers with sufficient flexibility to avoid traffic displacement by allowing them to shift Category Y passengers to flights which have sufficient space available after higher rated traffic has been served. On the other hand, the rules should also provide the Department of Defense with confirmed space availability in advance of the flight's departure so that it can definitely complete its traffic dispatch.

For these reasons, the Board finds that Northwest's tariff does not differ in substance from tariffs that previously were found to be unlawful and that the tariff must, therefore, be rejected for failure to conform to existing Board Orders.

Accordingly, pursuant to the Federal Aviation Act of 1958, as amended, particularly sections 102, 204(a), and 1002;

It is ordered, That:

1. Local Military Passenger Fares Tariff No. MAC-3, CAB No. 529, is rejected; and

2. A copy of this order shall be served upon Northwest Airlines, Inc., the Department of Defense, and the National Air Carrier Association.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board [5]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-23634 Filed 8-22-8:45 am]

[5] All Members concurred.

[6335-01]

COMMISSION ON CIVIL RIGHTS

CONNECTICUT ADVISORY COMMITTEE

Amended Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights that a planning meeting of the Connecticut Advisoy Committee (SAC) of the Commission originally scheduled for August 23, (FR Doc. 78-22641), on page 36128 has been changed to September 13, 1978.

The meeting time and place will remain the same.

Dated at Washington, D.C., August 17, 1978.

JOHN I. BINKLEY,
Advisory Committee Managemen Officer.

[FR Doc. 78-23654 Filed 8-22-78; 8:45 am]

[6335-01]

IOWA ADVISORY COMMITTEE

Amended Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Iowa Advisory Committee (SACA) of the Commission originally scheduled for September 21, 1978 (FR Doc. 78-22644), on page 36129 has been changed to September 19, 1978, Olmstead Center, Terrace Meeting Room 32 (lower level) 29th and University, Des Moines, IA 50311. The time of this meeting will be from 4 p.m. to 7 p.m.

Dated at Washington, D.C., August 17, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-23655 Filed 8-22-78; 8:45 am]

[3510-25]

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 133]

DALLAS/FORT WORTH REGIONAL AIRPORT BOARD

Resolution and Order Approving Application for a Foreign-Trade Zone in Dallas County, Tex.

Proceedings of the Foreign-Trade Zones Board, Washington, D.C.

RESOLUTION AND ORDER

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C 81a-81u), the Foreign-Trade Zones Board has adopted the following Resolution and Order:

The Board, having considered the matter hereby orders: After consideration of the application of the Dallas/Fort Worth Regional Airport Board, filed with the Foreign-Trade Zones Board (the Board) on March 8, 1978, requesting a grant of authority for establishing, operating, and maintaining a general-purpose foreign-trade zone at the Dallas/Forth Worth Airport, Dallas County, Tex., the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that the proposal is in the public interest, approves the application.

As the proposal includes open land on which the possible construction of buildings by parties other than the grantee might be involved, this approval includes authority to the grantee to permit the erection of such buildings, pursuant to § 400.815 of the Board's regulations, as are necessary to carry out the zone proposal, providing that prior to its granting such permission it shall have the concurrences of the local District Director of Customs, the U.S. Army District Engineer, when appropriate, and the Board's Executive Secretary. Further, the grantee shall notify the Board's Executive Secretary for approval prior to the commencement of any manufacturing operation within the zone. The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

FOREIGN-TRADE ZONES BOARD, WASHINGTON, D.C.

GRANT TO ESTABLISH, OPERATE, AND MAINTAIN A FOREIGN-TRADE ZONE IN DALLAS COUNTY, TEX.

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a-81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized and empowered to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States;

Whereas, the Dallas/Fort Worth Regional Airport Board (the Grantee) has made application (filed March 8, 1978) in due and proper form to the Board requesting the establishment, operation, and maintenance of a foreign-trade zone at the Dallas/Forth Worth Airport in Dallas County, Tex., within the Dallas/Fort Worth Customs port of entry;

Whereas, notice of said application has been given and published, and full opportunity has been afforded all interested parties to be heard; and

Whereas, the Board has found that the requirements of the Act and the Board's Regulations (15 CFR Part 400) are satisfied;

Now, therefore, the Board hereby grants to the Grantee the privilege of establishing, operating, and maintaining a foreign-trade zone, designated on the records of the Board as Zone No. 39, at the location mentioned above and more particularly described on the maps and drawings accompanying the application in Exhibits IX and X, said grant being subject to the provisions, conditions and restrictions of the Act and the regulations issued thereunder, to the same extent as though the same were fully set forth herein, and also to the following express conditions and limitations:

Operation of the foreign-trade zone shall be commenced by the Grantee within a reasonable time from the date of issuance of the grant, and prior thereto the Grantee shall obtain all necessary permits from Federal, State, and municipal authorities.

The Grantee shall allow officers and employees of the United States free and unrestricted access to and throughout the foreign-trade zone in the performance of their official duties.

The Grantee shall notify the Executive Secretary of the Board for approval prior to the commencement of any manufacturing operations within the zone.

The grant shall not be construed to relieve the Grantee from liability for injury or damage to the person or property of others occasioned by the construction, operation, or maintenance of said zone, and in no event shall the United States be liable therefor.

The grant is further subject to settlement locally by the District Director of Customs and the District Army Engineer with the Grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of suitable facilities.

In witness whereof, the Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer at Washington, D.C. this 17th day of August 1978, pursuant to Order of the Board.

For the Foreign-Trade Zones Board,
C. L. HASLAM,
Acting Chairman and Executive Officer.

Attest:

JOHN J. DA PONTE,
Executive Secretary.

[FR Doc. 78-23641 Filed 8-22-78; 8:45 am]

[3810-70]

DEPARTMENT OF DEFENSE

Office of the Secretary

DOD ADVISORY GROUP ON ELECTRON DEVICES

Meeting

Working Group D (mainly laser devices) of the DOD Advisory Group on Electron Devices (AGED) will meet in closed session at 201 Varick Street, New York, N.Y. 10014, on September 7-8, 1978.

The purpose of the Advisory Group is to provide the Under Secretary of Defense for Resarch and Engineering, the Director, Defense Advanced Research Projects Agency, and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities, or in their laboratories. The laser area includes programs on developments and research related to low energy lasers for such applications as battlefield surveillance, target designation, ranging, communications, weapon guidance, and data transmission. The review will include details of classified defense programs throughout.

In accordance with section 10(d) of appendix I, title 5, United States Code, it has been determined that this Advisory Group meeting concerns matters listed in section 552b(c) of title 5 of the United States Code, specifically, subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Service, Department of Defense.

AUGUST 18, 1978.

[FR Doc. 78-23632 Filed 8-22-78; 8:45 am]

[3810-70]

DOD ADVISORY GROUP ON ELECTRON DEVICES

Meeting

Working Group B (mainly low power devices) of the DOD Advisory Group on Electron Devices (AGED) will meet in closed session at Naval Ocean Systems Center, 271 Catalina Boulevard, San Diego, Calif., 92152 on September 13-14, 1978.

The purpose of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency, and the Military Departments with tactical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group B meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. The low power device area includes such programs as integrated circuits, charge coupled devices and memories. The review will include details of classified program details throughout.

In accordance with section 10(d) of appendix I, title 5, United States Code, it has been determined that this Advisory Group meeting concerns matters listed in section 552b(c) of title 5 of the United States Code, specifically subparagraph (1) thereof, and that accordingly, this meeting will be closed to the public.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Service, Department of Defense.

AUGUST 18, 1978.

[FR Doc. 78-23631 Filed 8-22-78; 8:45 am]

[3810-70]

DOD ADVISORY GROUP ON ELECTRON DEVICES

Meeting

Working Group A (Mainly Microwave Devices) of the DOD Advisory Group on Electron Devices (AGED) will meet in closed session at 201 Varick Street, 9th Floor, New York, N.Y. 10014, on September 18 and 19, 1978.

The purpose of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency, and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group A meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities, or in their laboratories, The microwave area includes programs on developments and research related to microwave tubes, solid state microwave, electronic warfare devices, millimeter wave devices, and passive devices. The review will include details of classified defense programs throughout. In accordance with section 10(d) of Appendix I, title 5, United States Code, it is hereby determined that this meeting of the Advisory Group on Electron Devices concerns matters listed in section 552b(c) of title 5 of the United States Code, specifically subparagraph (1) thereof,

and that, accordingly, this meeting will be closed to the public.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Service, Department of Defense.

AUGUST 18, 1978.

[FR Doc. 78-23630 Filed 8-22-78; 8:45 am]

[3810-70]

DOD ADVISORY GROUP ON ELECTRON DEVICES

Meeting

The DOD Advisory Group on Electron Devices (AGED) will meet in closed session at 201 Varick Street, 9th Floor, New York, N.Y. 10014, on September 12, 1978.

The purpose of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of Electron Devices.

The meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. The AGED will review programs on microwave devices, night vision devices, lasers, infrared systems, and microelectronics. The review will include classified program details throughout.

In accordance with section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Advisory Group meeting concerns matters listed in section 552b(c) of Title 5 of the United States Code, specifically subparagraph (1) thereof, and that accordingly, this meeting will be closed to the public.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Service, Department of Defense.

AUGUST 18, 1978.

[FR Doc. 78-23629 Filed 8-22-78; 8:45 am]

[3128-01]

DEPARTMENT OF ENERGY

Economic Regulatory Administration

SOUTHERN CALIFORNIA GAS CO.

Gas Utility Use of propane

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Notice of withdrawal of petition per Southern California Gas Co. request.

SUMMARY: The Economic Regulatory Administration (ERA) hereby gives notice that on August 2, 1978, the Southern California gas Co. has withdrawn its petition for a propane purchase and use limitation waiver with respect to the Southern California Gas Co.'s (SoCal) proposed propane-air-natural gas mixing plant in the Wilmington area of Los Angeles, Calif.

SoCal petitioned the ERA on May 26, 1976, for a waiver of the restrictions on gas utility use of propane intended for use in the proposed propane-air-natural gas mixing facility.

In the March 13, 1978, FEDERAL REGISTER, the ERA announced the availability of the environmental assessment (EA) concerning the SoCal request for a waiver of the purchase and use restrictions on gas utility use of propane. The Department of Energy (DOE) also announced its tentative negative determination (ND) pursuant to 10 CFR 208.4(c), stated that no environmental impact statement was required and requested written comments and suggestions from all interested agencies, organizations, and persons. The comments received indicated several existing deficiencies in the EA. Following the DOE's review of public comments concerning the EA, the DOE found that an EIS was required to provide the appropriate forum to address the significant environmental questions raised during the public review of the EA.

On June 23, 1978, the ERA notified SoCal that an EIS was required prior to a final decision on SoCal's petition.

On August 2, 1978, SoCal withdrew its petition to the ERA. As a result of SoCal's withdrawal of its petition, the ERA has canceled the effort to prepare an EIS and has officially closed the SoCal case.

Issued in Washington, D.C., August 17, 1978.

BARTON R. HOUSE,
Assistant Administrator, Office of Fuels Regulation, Economic Regulatory Administration.

[FR Doc. 78-23584 Filed 8-22-78; 8:45 am]

[3128-01]

Office of Assistant Secretary for International Affairs

CIVIL USES OF ATOMIC ENERGY

Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of a proposed "subsequent arrangement" under the agreement for cooperation between the United States and Japan (Concerning civil uses of atomic energy), and the additional agreement for cooperation between the United States and the European Atomic Energy Community (EURATOM) (Concerning civil uses of atomic energy).

The subsequent arrangement to be carried out under the above mentioned agreements involves approval of a transfer of 126 spent fuel assemblies containing 89,000 grams of plutonium and 24,346,000 grams of uranium containing 139,000 grams of U-235 from the Tokyo Electric Power Co., Inc., Japan (TEPCO) to the Euratom Supply Agency for British Nuclear Fuels, Ltd., Windscale Works, England, for the purpose of reprocessing.

In accordance with section 131a.1. of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

In accordance with section 131b.1. of the Atomic Energy Act of 1954, as amended, the Department of Energy provided the Committee on International Relations of the House of Representatives and the Committee of Foreign Relations of the Senate with a report containing reasons for entering into such an arrangement and a period of 15 days of continuous session will elapse prior to entering into this subsequent arrangement.

This subsequent arrangement will take effect no sooner than September 7, 1978.

Dated: August 17, 1978.

For the Department of Energy.

HAROLD D. BENGELSDORF,
Director for Nuclear Affairs International Programs.

[FR Doc. 78-23563 Filed 8-22-78; 8:45 am]

[3128-01]

Office of Special Counsel for Compliance

[Case No. 630R00115]

TEXACO INC.

Consent Order

I. Introduction. Pursuant to 10 CFR 205.199J, the Office of Special Counsel of the Department of Energy (DOE) hereby gives Notice of a Consent Order which was executed between Texaco Inc. (Texaco) and the DOE on July 31, 1978. In accordance with that section, DOE will receive comments with respect to this Consent Order. Although DOE has signed and tentatively accepted this Consent Order, DOE may, after consideration of comments received, withdraw its acceptance and, if appropriate, attempt to negotiate an alternative Consent Order.

II. The Consent Order. Texaco produces, refines, and markets crude oil and petroleum products subject to DOE regulations. In its sales of motor gasoline and distillates to 34 consumers within its "National Consumer Accounts" grouping, Texaco consistently treated each customer as a separate class of purchaser at each location from which it purchased product and used prices charged under a variable price system implemented in June 1973, rather than employing prices charged in transactions with the customers on or before May 15, 1973. The Special Counsel had determined that Texaco's use of prices charged by it to these customers, insofar as they were calculated on the basis of the June 1973 prices and not on the basis of prices charged in transactions on or before May 15, 1973, resulted in Texaco's receiving revenues in excess of those permitted by applicable CLC, FEA, and DOE regulations.

In resolution of the issue raised, DOE and Texaco executed a Consent Order on July 31, 1978, the significant terms of which are as follows:

(1) Effective January 17, 1977, Texaco began using prices actually charged in transactions on or before May 15, 1973, to determine current maximum lawful selling prices to the affected National Consumer Accounts.

(2) Texaco shall, within 30 days following the effective date of this Consent Order, refund to these National Consumer Accounts, the sum of $2,400,769.78, plus interest for excess revenues received during the period September 8, 1973, through January 18, 1977. Interest will be computed at a rate of 6 percent from September 8, 1973, through June 30, 1975; 9 percent from July 1, 1975, through January 31, 1976; 7 percent from February 1, 1976, through January 31, 1978; and 6 percent from February 1, 1978, through the date of the refund by Texaco.

(3) Texaco shall have the option of making any payment to any National Consumer Account either by check or by credit memorandum; however, if in the month in which the refund is accomplished, any customer's purchases are less than the credit given by Texaco in that month, Texaco shall, within 25 days after the close of that month, make a cash payment equal to the amount of credit not used. Each payment, whether by check or by credit memorandum, shall be accompanied by a statement which (1) discloses the principal amount of overcharge and the amount of interest included in the payment; and (2) that the payment is made pursuant to this Consent Order.

(4) The provisions of 10 CFR 205.199J, including the publication of this Notice, are applicable to the Consent Order.

III. Submission of Written Comments. Interested persons are invited to comment in writing to Mr. Bill J. Eaton, Branch Manager, Southwest District, Office of Special Counsel, Department of Energy, One Allen Center, Suite 660, 500 Dallas Avenue, Houston, Tex. 77002. Copies of this Consent Order may be received free of charge by written request to this same address or by calling 713-226-5421.

Comments should be identified on the outside of the envelope and on documents submitted with the designation, "Comments on Texaco Consent Order." All comments received by 4:30 p.m. c.d.t., on or before September 15, 1978, will be considered by DOE in evaluating the Consent Order.

Any information or data which, in the opinion of the person furnishing it, is confidential must be identifed as such and submitted in accordance with the procedures outlined in 10 CFR 205.9(f).

Issued in Washington, D.C., July 14, 1978.

PAUL L. BLOOM,
Special Counsel
for Compliance.

[FR Doc 78-23670 Filed 8-22-78; 8:45 am]

[6740-02]

Federal Energy Regulatory Commission

[Docket No. ER78-547]

ALABAMA POWER CO.

Filing of Rate Schedule

AUGUST 16, 1978.

Take notice that Alabama Power Co. on August 11, 1978, tendered for filing an Agreement with the City of Opelika, intended as an initial rate schedule. The filing is for the proposed No. 6 delivery point of the City of Opelika. According to Alabama Power the delivery point will be served at the Company's applicable revision to Rate Schedule MUN-1 incorporated in FERC Electric Tariff, Original Volume No. 1 of Alabama Power Co. as allowed to become effective, subject to refund, by Commission order in FERC Docket No. ER78-77.

Alabama Power requests an effective date of July 26, 1978, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing were served upon the City of Opelika.

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 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 25, 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. 78-23606 Filed 8-22-78; 8:45 am]

[6740-02]

[Docket No. CP78-458]

COLUMBIA GULF TRANSMISSION CO. AND COLUMBIA GAS TRANSMISSION CORP.

Joint Pipeline Application

AUGUST 17, 1978.

Take notice that on August 2, 1978, Columbia Gulf Transmission Co. (Columbia Gulf), 3805 West Alabama Avenue, Houston, Tex. 77027, and Columbia Gas Transmission Corp. (Columbia Transmission), 1700 MacCorkle Avenue SE., Charleston, W. Va. 25314, hereinafter collectively referred to as "Applicants," filed in Docket No. CP78-458 a joint abbreviated application pursuant to section 7(c) of the Natural Gas Act, requesting authorization to exchange gas with Trunkline Gas Co., all as more fully set forth in the abbreviated joint application, which is on file with the Commission and open to public inspection.

Applicants propose, in accordance with an agreement dated March 28, 1978, to exchange gas with Trunkline Gas Co. Such exchange will be on a thermal equivalent basis and imbalances will be corrected at West Cameron Block 616.

Any person desiring to be heard or to make any protest with reference to said application, on or before September 7, 1978, should file with the Federal Energy 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). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the

Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-23607 Filed 8-22-78; 8:45 am]

[6740-02]

[Docket No. CP73-322]

CROWN ZELLERBACH CORP.

Petition to Amend, or in the Alternative, for a Clarifying Determination

AUGUST 16, 1978.

Take notice that on August 4, 1978, Crown Zellerbach Corp. (Petitioner), One Bush Street, San Francisco, Calif. 94119, filed in Docket No. CP73-322 a petition pursuant to section 7(c) of the Natural Gas Act to amend the order issued by the FPC on October 1, 1973 (50 FPC 971),[1] in the instant docket, so as to authorize the attachment of a new supply of natural gas and the transportation of such gas by Petitioner to its paper plant in Bogalusa, La. Alternatively, Petitioner requests that the Commission determine that further certification is not required as a condition precedent to the attachment and transportation of this gas by Petitioner, all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

Petitioner states that it is authorized, by the order issued October 1, 1973, to receive and transport natural gas produced from certain wells operated by Texaco, Inc. (Texaco), successor-in-interest to Texaco Seaboard, Inc., for use at its paper and paperboard manufacturing plant in Bogalusa, La. Texaco and Petitioner executed an agreement on July 5, 1961, it is further stated, for a term ending July 5, 1981, which entitles Petitioner to receive gas produced from formations through the base of the Paluxy Sand (approximately 14,000 feet).

It is now possible, Petitioner continues, that one of Texaco's wells, the Fernwood E-1 Well, may produce gas from the zone beneath the base of the Paluxy Sand, to a total depth of 17,000 feet. Petitioner indicates it is uncertain as to whether the 1973 order requires that Petitioner obtain Commission authorization before it can attach and transport this supply of gas and requests that the Commission either issue such authorization or assure Petitioner that it may proceed without further authorization.

Texaco has agreed to sell this new gas to Petitioner, it is stated, by an agreement dated July 25, 1978. Such agreement, however, is conditioned upon Petitioner's receipt of appropriate authorization from the Commission, if required, to transport the gas, it is stated. The 1978 agreement, as set forth in the application, provides for the following:

(1) The agreement would remain in effect until July 5, 1981;

(2) Up to 4,500 Mcf per day would be purchased by Petitioner;

(3) The price for all gas purchased would be $1.85 per million Btu;

(4) All other provisions of the 1961 gas purchase contract not in conflict with the terms, covenants, or conditions of the instant agreement are incorporated by reference.

Any person desiring to be heard or to make any protest with reference to said petition should on or before September 7, 1978, file with the Federal Energy 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. 23608 Filed 8-22-78; 8:45 am]

[6740-02]

[Docket No. RM77-14]

GAS RESEARCH INSTITUTE

Denial of Rehearing

AUGUST 15, 1978.

Take notice that the Commission agreed at its meeting of July 19, 1978, to take no action on applications filed by Northwest Pipeline Corp.[1] and Northwest's distributor customers,[2] for rehearing of the order issued June 1, 1978, in the above-docketed proceeding.

Accordingly, such applications are deemed denied under § 1.34(c) of the Commission's rules of practice and procedure [18 CFR 1.34(c)].

LOIS D. CASHELL,
Secretary.

[FR Doc. 78-23610 Filed 8-22-78; 8:45 am]

[6740-02]

[Project No. 1951]

GEORGIA POWER CO.

Application for Change in Land Rights

AUGUST 15, 1978.

Take notice that Georgia Power Co. filed an application with the Federal Energy Regulatory Commission under the Federal Power Act, 16 U.S.C. 791a-825r, on June 9, 1978 (correspondence to: Mr. I. S. Mitchell, III, vice president and secretary, Georgia Power Co., 270 Peachtree Street, Atlanta, Ga. 30302) for authorization to grant an easement over certain lands and waters of its Lake Sinclair project, FERC No. 1951. The project is located on the Oconee River in Hancock and Putnam Counties, Ga.

Licensee requests authorization to grant an easement and right-of-way to the city of Sparta, Ga., for the construction and operation of a raw water supply pumping station and associated facilities to be located within the project boundary near the confluence of Shoulderbone Creek and the Oconee River. The pumping station would be submerged in Lake Sinclair at an elevation of 324 feet above sea level. A control building would be located partly within the project boundary, above the normal pool level. From the pumping station, water would be conveyed through a 10-inch diameter pipe within a 30-foot wide easement, to the city of Sparta water treatment plant. Approximately 130 feet of the pipe would be buried in the lake bottom and on land within the project boundary. The city would have the right to use Lake Sinclair as the source of its water supply on an incremental basis in quantities ranging from 1.02 cfs in 1978 to 2.78 cfs by 2018. The proposed facilities would be part of a program of improvements needed by the city of Sparta to upgrade its municipal water system. Federal funding is available for the project in the form of a combination grant and loan to the city.

Any person desiring to be heard or to make any protest with reference to

[1] The proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

[1] Filed June 19, 1978.

[2] Cascade Natural Gas Corp., Intermountain Gas Co., Northwest Natural Gas Co., the Washington Water Power Co., and Washington Natural Gas Co., filed June 29, 1978.

this application should file with the Federal Energy 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). All petitions and protests must be filed on or before September 8, 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 to a proceeding or to participate in any hearing in it must file a petition to intervene in accordance with the Commission's rules. The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-23609 Filed 8-22-78; 8:45 am]

[6740-02]

[Docket No. ES78-51]

GULF STATES UTILITIES CO.

Application

AUGUST 16, 1978.

Take notice that on August 7, 1978, Gulf States Utilities Co. (Applicant) filed an application with the Commission pursuant to section 204 of the Federal Power Act and Part 34 of the Commission's regulations, for authorization to engage in negotiations for the sale of up to 5,000,000 shares of common stock.

Applicant is incorporated under the laws of Texas with the principal business office at Beaumont, Tex., and is engaged in the electric utility business in portions of Louisiana and Texas. Natural gas is purchased at wholesale and distributed at retail in the city of Baton Rouge, La., and vicinity.

The Applicant believes that a negotiated sale of common stock would be advantageous to it because an analysis of recent issues of common stock indicate that the cost of issuance of common stock sold in the public market is more costly than the issuance of common stock sold on a negotiated basis.

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 the requirements of §§ 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 25, 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. 78-23611 Filed 8-22-78; 8:45 am]

[6740-02]

[Docket No. ES78-41]

IOWA SOUTHERN UTILITIES CO.

Application

AUGUST 16, 1978.

Take notice that on August 2, 1978, Iowa Southern Utlities Co. (Applicant) filed an application for an order pursuant to section 204 of the Federal Power Act authorizing the issuance of $7,500,000 in 8½ percent series cumulative preferred stock

Applicant is incorporated under the laws of the State of Delaware with its principal business office at Centerville, Iowa, and is engaged in the electric utility business in 24 counties in Iowa.

The proceeds from the issuance of the cumulative preferred stock will be used to provide funds to finance, in part, the Applicant's construction program for 1978, the principal item of which, is $31,735,000 for the Applicant's 33 percent ownership share in a 675,000 kilowatt turbo-generator station near Ottumwa, Iowa. Any person desiring to be heard or to make any protest with reference to the application should on or before August 29, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions or protests in accordance with the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-23612 Filed 8-22-78; 8:45 am]

[6740-02]

[Docket No. ER78-541]

KANSAS POWER & LIGHT CO.

Proposed Changes on Rates and Charges

AUGUST 16, 1978.

Take notice that on August 7, 1978, The Kansas Power & Light Co. (KPL) tendered for filing a newly executed renewal contract dated July 31, 1978, with the city of Troy, Kans. for wholesale service to that community. KPL states that this is a renewal of a similar contract dated August 6, 1968, and designated KPL Rate Schedule FPC No. 118. The proposed effective date is August 1, 1978, and KPL requests that the Commission waive the notice requirements as allowed in § 35.11 of its regulations. According to KPL, the net billing for the 12 months succeeding the proposed change in agreement, will be $199,792.11. In addition, KPL states that copies of the contract have been mailed to the city of Troy and the State Corporation Commission of Kansas.

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 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 25, 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 the application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-23620 Filed 8-22-78; 8:45 am]

[6740-02]

[Docket No. ER78-542]

KANSAS POWER & LIGHT CO.

Proposed Changes on Rates and Charges

AUGUST 16, 1978.

Take notice that on August 7, 1978, the Kansas Power & Light Co. (KPL) tendered for filing a newly executed renewal contract dated July 31, 1978, with the city of Elwood, Kans. for wholesale service to that community. KPL states that this is a renewal of a similar contract dated July 16, 1968, and designated KPL Rate Schedule FPC No. 117. The proposed effective date is August 1, 1978, and KPL requests that the Commission waive the notice requirements as allowed in § 35.11 of its regulations. According to KPL, the net billing for the 12 months succeeding the proposed change in agreements will be $203,055.73. In addition, KPL states that copies of the contract have been mailed to the city of Elwood and the State Corporation Commission of Kansas.

Any person desiring to be heard or to protest said application should file a petition to intervene protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, 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 25, 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 the application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-23621 Filed 8-22-78; 8:45 am]

[6740-02]

[Project No. 2808]

MAINE HYDRO-ELECTRIC DEVELOPMENT

Application for License (Minor)

AUGUST 16, 1978.

Take notice that on July 28, 1977 (revised June 2, 1978) an application was filed under the Federal Power Act, 16, U.S.C. 791a-825r, by the Maine Hydro-Electric Development Corp. (correspondence to: Mr. Lawrence Gleeson, Maine Hydro-Electric Development Corp., Mill Lane, P.O. Box 402, Belfast, Maine 04915) for a minor license for the proposed Barker's Mill Project No. 2808. The proposed project would be located at an existing dam on the Little Androscoggin River near the town of Auburn, Androscoggin County, Maine.

The Barker's Mill Project No. 2808 would consist of: (1) An existing 30-foot high and 230-foot long Ambursen concrete dam; (2) a new 780-foot, 8-foot diameter penstock; (3) a new underground powerhouse containing; (4) a new single 1400 kW generator; and (5) appurtenant facilities. The project would be operated as run-of-the-river. The power generated at the project would be sold to Central Maine Power Co. for distribution to its customers.

Any person desiring to be heard or to make any protests with reference to said application should file with the Federal Energy 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). All such petitions or protests should be filed on or before October 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 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. The application is on file and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-23613 Filed 8-22-78; 8:45 am]

[6740-02]

[Project No. 2809]

MAINE HYDRO-ELECTRIC DEVELOPMENT CORP.

Application for License (Minor)

AUGUST 16, 1978.

Take notice that on July 28, 1977 (revised June 5, 1978) the Maine Hydro-Electric Development Corp. filed an application with the Federal Power Commission and its successor the Federal Energy Regulatory Commission, under the Federal Power Act, 16 U.S.C. 791a-825r, (correspondence to: Mr. Lawrence Gleeson, Maine Hydro-Electric Development Corp., Mill Lane, P.O. Box 402, Belfast, Me. 04915) for a license for the proposed American Tissue Dam Project No. 2809. The project would be located at an existing dam on the Cobbosseecontee Stream near the town of Gardiner, in Kennebec County, Me.

The American Tissue Dam Project No. 2809 would consist of: (1) An existing 24-foot high and 230-foot long masonry gravity/buttress dam (the dam will require repair to damaged gates, intakes and headworks); (2) a reservoir with a storage capacity of 120 acre-feet; (3) an existing 130-foot long, 9.5-foot diameter penstock; (4) an existing wheelpit and tailrace to be reconditioned to allow installation of (5) a new single 900 kW generator; and (6) appurtenant facilities. The power generated at the project would be sold to Central Maine Power Co. for distribution to its customers.

Any person desiring to be heard or to make any protests with reference to said application should file with the Federal Energy 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). All such petitions or protests should be filed on or before October 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 to a proceeding or to participation as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-23614 Filed 8-22-78; 8:45 am]

[6740-02]

[Docket No. CP75-215]

MOUNTAIN FUEL SUPPLY CO.

Amendment to Application

AUGUST 16, 1978.

Take notice that on August 7, 1978, Mountain Fuel Supply Co. (Applicant), 180 East First South Street, Salt Lake City, Utah 84139, filed in Docket No. CP75-215 pursuant to section 7(c) of the Natural Gas Act, an amendment to its application filed October 9, 1975, as amended, in said docket so as to authorize the construction and operation of new facilities and the continued operation of existing facilities for the underground storage of natural gas in the Coalville underground gas storage project, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Applicant states that pursuant to temporary authorization, it has constructed and operated storage facilities in the Coalville area of Summit County, Utah, and has injected 4,314,384 Mcf of gas into the storage zone. It further states that withdrawals for the 1974-75, 1975-76, 1976-77, 1977-78 heating seasons have totaled 2,642,050 Mcf and that the field had an inventory as of May 31, 1978, of 1,672,334 Mcf of gas.

Applicant further states that its experience with the reservoir has not produced any indication of leakage; however, experience has shown that, because of restricted water efflux from the storage area, the expected operational level of the reservoir using existing and proposed facilities should be reduced from 35,000,000 Mcf to 10,000,000 Mcf of which approximately 5,000,000 Mcf would be working gas. It is asserted that even though the utilizable volume of the reservoir is reduced, operating experience has shown that the individual storage wells have greater deliverability potential than was previously anticipated, and that at an operating level of 10,000,000 Mcf and with the additional facilities herein proposed, Applicant requests a maximum daily withdrawal authorization of 105,000 Mcf as opposed to the 200,000 Mcf prevously requested.

Applicant proposes the following additional development of the Coalville project:

(a) Retire the exising 600 bhp compressor from present service;

(b) Install a new 1,300 horsepower reciprocating compressor with master metering and regulation facilities and required piping to tie the compressor into Applicant's main lines Nos. 1, 13, 15, and 16 at the Coalville station;

(c) construct 0.80 mile of 16-inch pipeline from the new compressor to the central header and metering facilities at the Well No. 7 location;

(d) Construct a central header and individual well metering and regulating facilities at the Well No. 7 location;

(e) Construct 1.25 miles of permanent well laterals consisting of 6⅝-inch O.D. pipe connecting the central header and well metering facilities to Well Nos. 3, 5, 6 and 7;

(f) Install the following dehydration facilities:

(1) A new 35,000 Mcf per day unit at Well No. 3;

(2) A new 30,000 Mcf per day unit at Well No. 7;

(3) Relocate the two existing 20,000 Mcf per day units from Well Nos. 1 and 3 to Well Nos. 5 and 6;

(g) Drill five additional wells to the storage interval for observation and possible later conversion to injection/withdrawal wells; and,

(h) Construct 0.30 mile of all-weather access road, with a high capacity bridge over the Chalk Creek, connecting the county road access to the Coalville station with an existing field road leading to the central header and metering facilities in the vicinity of Well No. 7.

Applicant states that under this proposal, Well Nos. 3, 5, 6 and 7 will function as injection/withdrawal wells; Well Nos. 1, 2, 8, 9, 10, 11 and 12 will function as observation wells and Well No. 4 will maintain its current status as an observation well in the zone above the caprock.

The total cost of the proposed construction, it is stated, is approximately $3,864,697.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before September 7, 1978, file with the Federal Energy 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. Persons who have heretofore filed petitions to intervene, notices of intervention, or protests need not file again.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-23615 Filed 8-22-78; 8:45 am]

[6740-02]

[Docket No. ER78-540]

NEVADA POWER CO.

Wheeling Agreement

AUGUST 16, 1978.

Take notice that on August 7, 1978, Nevada Power Co. (Nevada) tendered for filing a Letter Agreement dated June 30, 1978, between Nevada and CP National which provides for the wheeling of energy from the Western Area Power Administration to the Needles Division of CP National.

Nevada indicates that charges for wheeling and wheeling availability shall be 1.0 mills per kilowatt-hour, but not less than $100 per month. The Letter Agreement terminates on July 31, 1979.

Nevada requests an effective date of July 12, 1978, the date of execution of the agreement, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing were served upon the Public Service Commission of Nevada, the Public Utilities Commission of the State of California, the Western Area Power Administration and the Division of Colorado River Resources of the State of Nevada.

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 25, 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. 78-23616 Filed 8-22-78; 8:45 am]

[6740-02]

[Docket No. ES78-52]

NORTHWESTERN PUBLIC SERVICE CO.

Application

AUGUST 16, 1978.

Take notice that on August 8, 1978, Northwestern Public Service Co. filed an application with the Commission pursuant to section 204 of the act and part 34 of the regulations, for authorization to engage in negotiations for the sale of up to 40,000 shares ($4 million aggregate par value) of its Cumulative Preferred Stock, par value $100 per share, pursuant to §§ 34.1a(a)(4) and 34.2(f)(2) of the regulations under the act.

Applicant is incorporated under the laws of the State of Delaware, with its principal business offices at Huron, South Dakota, and is authorized to do business in the States of Iowa, North Dakota, South Dakota, and Nebraska.

Applicant indicates that the proceeds from the proposed Cumulative Preferred Stock financing will be used to reduce bank loans, which totaled $20 million on the date of the application.

Applicant believes that a negotiated private placement sale would be advantageous because of the relatively small amount of Cumulative Preferred Stock involved and because of the successful prior negotiated private placement sales of its Cumulative Preferred Stock.

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 §§ 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 shall be filed on or before August 28, 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. 78-23617 Filed 8-22-78; 8:45 am]

[6740-02]

[Docket No. CP76-299]

TENNESSEE GAS PIPELINE CO., A DIVISION OF TENNECO INC.

Pipeline Application

AUGUST 16, 1978.

Take notice that on August 4, 1978, Tennessee Gas Pipeline Co., a Division of Tenneco Inc. (Tennessee), P.O. Box 2511, Houston, Tex. 77001, filed an application pursuant to section 7(c) of the Natural Gas Act, as amended, to amend the certificate of public convenience and necessity issued September 3, 1976, in the above-captioned docket, so as to (1) grant a ninety (90) day extension of the time permitted for the completion and placement in operation of certain authorized facilities and to (2) delete from said certificate authorization to construct certain facilities, as more fully set forth in the application which is available in the Commission's files for public inspection.

By order issued September 3, 1976, Tennessee was granted in this docket a certificate of public convenience and necessity authorizing the construction and operation of compression and related facilities on its gas supply system in the East and West Cameron Areas, offshore Louisana. Such construction was authorized to be completed in two stages, the first stage (Phase I) to be completed on or before September 3, 1977, and the second stage (Phase II) to be completed on or before September 3, 1978. The Phase I facilities were timely completed.

The facilities authorized for Phase II consist of a pipeline platform in East Cameron Block 49 for the installation of three 3,400 horsepower compressors, separation facilities, requisite piping and equipment, and 2.32 miles of 8⅝-inch O.D. pipeline extending from and existing producer's platform in West Cameron Block 193 to Tennessee's central gathering platform in West Cameron Block 192.

Tennessee commenced construction of the Phase II facilities on April 15, 1978; however, Tennessee has recently experienced certain interruptions in the completion of its Phase II facilities due to unexpected delays in receipt by Tennessee of certain component parts of the Phase II facilities and in the availability to a prime contractor of the equipment necessary to perform certain work on the aforementioned pipeline platform. It is anticipated that as of September 3, approximately 85 percent of the work on the Phase II facilities which are scheduled for construction will be completed and that such facilities will be placed in service on November 1, 1978; however, a maximum extension of 3 months is requested in order to allow for any further unexpected delay.

Tennessee has determined that the aforementioned 2.32 miles of 8⅝-inch O.D. pipeline extending from West Cameron Block 193 to West Cameron Block 192, as authorized in the Commission's September 3 order, will not be required; therefore, Tennessee does not plan to construct such pipeline. Accordingly, Tennessee also requests that the certificate issued by said order be amended to delete the authorization for such construction.

Any person desiring to be heard or to make any protest with reference to said application, on or before September 7, 1978, should file with the Federal Energy 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). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc 78-23618 Filed 8-22-78; 8:45 am]

[6740-02]

[Docket No. CP78-469]

TENNESSEE GAS PIPELINE CO., A DIVISION OF TENNECO INC. AND MICHIGAN WISCONSIN PIPE LINE CO.

Pipeline Application

AUGUST 17, 1978.

Take notice that on August 8, 1978, Tennessee Gas Pipeline Co., a Division of Tenneco Inc. (Tennessee) and Michigan Wisconsin Pipe Line Co. (Michigan) filed an application pursuant to section 7(c) of the Natural Gas Act for certificates of public convenience and necessity authorizing the construction and operation of 33.5 miles of 16-inch pipeline and related facilities, all as more fully set forth in the application on file with the Commission and open to public inspection.

The proposed 16-inch pipeline is to originate at the producer's "A" platform, South Marsh Island (SMI) block 243, offshore Louisiana, and will extend to the Blue Water Project Compressor Station located at Pecan Island in Vermilion Parish, La.

The proposed facilities, Applicants state, will permit the receipt by Applicants of volumes of gas from increased deliverability from existing reserves and gas to be purchased from producers from newly committed reserves in SMI 244, 257, and 265. Applicants estimate that approximately 85,000 Mcf/d of additional capacity will be made available to Applicants from construction and operation of the proposed line.

Any person desiring to be heard or to make any protest with reference to said application, on or before September 7, 1978, should file with the Federal Energy 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). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application is no petition to intervene is filed within the time required

herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-23619 Filed 8-22-78; 8:45 am]

[6740-02]

[Docket No. CP78-456]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Pipeline Application

AUGUST 16, 1978.

Take notice that on August 1, 1978, Transcontinental Gas Pipe Line Corp. (Applicant), P.O. Box 1396, Houston, Tex. 77001, filed in Docket No. CP78-456, an application pursuant to section 7 of the Natural Gas Act, as amended, and the rules and regulations of the Federal Energy Regulatory Commission (Commission) for a certificate of public convenience and necessity authorizing Applicant to provide a transportation service for Southern Natural Gas Co. (Southern), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that Southern will purchase natural gas produced in Vermilion Area Block 84, offshore Louisiana, and deliver a daily contract demand quantity of 12,000 Mcf into Applicant's existing Central Louisiana Gathering System in Vermilion Area Block 77 for transportation and delivery of a thermally equivalent quantity, less any fuel use and line loss make-up if retention is warranted by operating conditions and less reduction in volume and Btu due to processing, if any, to Florida Gas Transmission Co. (Florida) for the account of Southern at an existing point of interconnection between Transco's Central Louisiana Gathering System and Florida's East White Lake Lateral in Vermilion Parish.

Applicant avers that no additional facilities will be required to render the proposed service, for which Southern will pay Transco initially a monthly charge of $38,000.

Any person desiring to be heard or to make any protest with reference to said application, on or before September 7, 1978, should file with the Federal Energy 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). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-23622 Filed 8-22-78; 8:45 am]

[6740-02]

[Docket No. CP78-466]

TRANSCONTINENTAL GAS PIPELINE CORP.

Pipeline Application

AUGUST 17, 1978.

Take notice that on August 4, 1978, Transcontinental Gas Pipe Line Corp. (Applicant), P.O. Box 1396, Houston, Tex. 77001, filed in Docket No. CP78-466, an application pursuant to section 7 of the Natural Gas Act, as amended, and the rules and regulations of the Federal Energy Regulatory Commission (Commission) for a certificate of public convenience and necessity authorizing Applicant to provide a transportation service for United Gas Pipe Line Co. (United), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that United will purchase natural gas produced in Vermillion Area Block 84, offshore Louisiana, and deliver a daily contract demand quantity of 12,500 Mcf into Applicant's existing Central Louisiana Gathering System in Vermillion Area Block 77 for transportation and delivery of a thermally equivalent quantity, less any fuel use and line loss make-up if retention is warranted by operating conditions and less reduction in volume and Btu due to processing, if any, to or for the account of United at existing exchange points near Starks, Calcasieu Parish, La.; near Crowley, Acadia Parish, La.; and In Victoria County, Tex.

Applicant avers that no additional facilities will be required to render the proposed service, for which United will pay Transco initially a monthly charge of $38,000.

Any person desiring to be heard or to make any protest with reference to said application, on or before September 7, 1978, should file with the Federal Energy 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). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-23623 Filed 8-22-78; 8:45 am]

[6740-02]

[Docket No. ER78-539]

VIRGINIA ELECTRIC AND POWER CO.

Tendered Revised Contract Supplement

AUGUST 16, 1978.

Take notice that on August 7, 1978, Virginia Electric and Power Co. (Vepco) tendered for filing a Contract Supplement dated June 12, 1978, to the Contract between Vepco and Edgecombe-Martin County Electric Membership Corp. designated as Vepco's Rate Schedule FERC No. 90-29.

Vepco requests that the Commission allow the new Conetoe Delivery Point Supplement to become effective on the date the facilities are connected with the understanding that the Company will notify the Commission of the effective date which is expected to occur sometime in July 1978.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 25, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-23624 Filed 8-22-78; 8:45 am]

[6740-02]

[Docket No. ER78-548]

VIRGINIA ELECTRIC & POWER CO.

Filing

AUGUST 16, 1978.

Take notice that Virginia Electric & Power Co. (Vepco) on August 11, 1978, tendered for filing a proposed interruptible resale rate schedule applicable to rural electric cooperatives.

Vepco indicates that the proposed schedule is applicable for the supply of 2,500 kW or more of alternating current electricity to any separately metered delivery point for any rural electric cooperative electing to contract for interruptible service for resale under Vepco's Contract for the Purchase of Electricity for Resale by Rural Electric Cooperatives.

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 25, 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. 78-23625 Filed 8-22-78; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 952-5]

ALASKA DRINKING WATER PRIMARY ENFORCEMENT RESPONSIBILITY

Approval of State Application

In accordance with the provisions of Section 1413 of the Safe Drinking Water Act (Pub. L. 93-523, December 16, 1974 as amended by Pub. L. 95-190, November 16, 1977), and 40 CFR Part 142 (41 FR 2918, January 20, 1976), Ernst W. Mueller, Commissioner of the Alaska Department of Environmental Conservation has submitted to the Environmental Protection Agency (EPA) an application to assume primary enforcement responsibility over public water systems in the State of Alaska.

Notice is hereby given that the Regional Administrator, EPA Region 10, has approved this application for primary enforcement authority, to become effective on September 22, 1978. This action is based on a thorough evaluation of the State's public water system supervision program in relation to the requirements of the Safe Drinking Water Act. The State:

(1) Has adopted drinking water regulations which are no less stringent than the National Interim Primary Drinking Water Regulations;

(2) Has adopted and will implement adequate procedures for the enforcement of such State regulations, including adequate monitoring and inspections;

(3) Will keep such records and make such reports as required;

(4) If it permits variances or exemptions from the requirements of its regulations, will issue such variances and exemptions in accordance with the provisions of the Safe Drinking Water Act; and

(5) Has adopted and can implement an adequate plan for the provision of safe drinking water under emergency conditions.

This evaluation has shown that the Alaska program fulfills all requirements for obtaining primary enforcement authority.

Any interested person may request a public hearing requiring the Regional Administrator's determination on or before September 22, 1978. If a public hearing is requested and granted, this determination shall not become effective until such time, following the hearing, as the Regional Administrator issues an order affirming or rescinding the determination. Requests for hearing shall be addressed to:

Donald P. Dubois, Regional Administrator, U.S. Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101.

and shall include the following information:

(1) The name, address, and telephone number of the individual, organization, or other entity requesting a hearing;

(2) A brief statement of the requesting person's interest in the Regional Administrator's determination and of information that the requesting person intends to submit at such hearing; and

(3) The signature of the individual making the request; or, if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

A complete copy of the Alaska application for primary enforcement responibility is available for public inspection during normal business hours at the Office of the Regional Administrator. William Mullen, Chief of the Region 10 Drinking Water Programs Branch may be contacted at 206-442-1223 for additional information. In addition, a copy of the complete Alaska application is available at the following location in Alaska:

Alaska Department of Environmental Conservation, Central Office, Pouch O, 3220 Hospital Drive, Juneau, Alaska 99811.

Dated: August 16, 1978.

DONALD P. DUBOIS,
Regional Administrator, Region 10.

[FR Doc. 78-23569 Filed 8-22-78; 8:45 am]

[1505-01]

[FRL 938-4; PF-104]

PESTICIDE AND FEED ADDITIVE PETITIONS

Filing

Correction

In FR Doc. 78-21435 appearing at page 33961 in the issue for Wednesday, August 2, 1978, in the first paragraph printed in small type, the number for the Mobay Chemical Corp. now reading "PP 8F091" should have read "PP 8F2091".

[6720-01]

FEDERAL HOME LOAN BANK BOARD

[H. C. No. 252]

V. E. McDANIEL

2RECEIPT OF APPLICATION FOR RETENTION OF CONTROL OF MODERN SAVINGS AND LOAN ASSOCIATION

AUGUST 18, 1978.

Notice is hereby given that the Federal Savings and Loan Insurance Corporation has received an application from Mr. V. E. McDaniel, 3222 Burke Road, Suite 107, Pasadena, Tex., agent for certain of the shareholders of Modern Savings and Loan Association, Pasadena, Tex., for permission pursuant to section 408(e) of the National Housing Act and § 584.4 of the Regulations for Savings and Loan Holding Companies, to retain control of Modern Savings pursuant to a certain shareholders' agreement of April 7, 1975. Comments on the proposed retention of control should be submitted to the Director, Office of the District Banks, Federal Home Loan Bank Board, 1700 G Street, Washington, D.C. 20552, within 30 days of the date this notice appears in the FEDERAL REGISTER.

RONALD A. SNIDER,
Assistant Secretary,
Federal Home Loan Bank Board

[FR Doc. 78-23596 Filed 8-22-78; 8:45 am]

[6210-01]

FEDERAL RESERVE SYSTEM

CENTRAL NATIONAL CORP. AND FIDELITY AMERICAN BANKSHARES, INC.

Acquisition of Banks

AUGUST 15, 1978.

Central National Corp., Richmond, Va., and Fidelity American Bankshares, Inc., Lynchburg, Va., have applied for the Board's approval under section 3(a)(5) of the Bank Holding Company Act (12 U.S.C. 1842(a)(5)) to consolidate into a new company to be known as Commonwealth Banks, Inc., Richmond, Va. The factors that are considered in acting on the application are set forth in section 3(c) of the act (12 U.S.C. 1842(c)).

Central National Corp. and Fidelity American Bankshares, Inc., are also engaged in the following nonbank activities: of acting as insurance agent or broker with respect to certain types of credit-related insurance, of acting as investment and financial advisor, providing portfolio investment advice and portfolio management services to individuals, partnerships, corporations, pension and profit sharing plans, private foundations, and endowments, and of owning, operating and maintaining computer hardware and other related electronic data processing equipment, performing electronic data processing and related clerical bookkeeping, accounting, and statistical services for the internal operations for the holding company and its subsidiaries, and performing such services and engaging otherwise in the business of storing and processing banking, financial, or related economic data for others, including, but not limited to, other banks and financial institutions. In addition to the factors considered under section 3 of the act (banking factors), the Board will consider the proposal in the light of the company's nonbanking activities and the provisions and prohibitions in section 4 of the act (12 U.S.C. 1843).

The application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Richmond. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than September 14, 1978.

Board of Governors of the Federal Reserve System, August 14, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-23666 Filed 8-22-78; 8:45 am]

[6210-01]

BARNETT BANKS OF FLORIDA, INC.

Acquisition of Bank

Barnett Banks of Florida, Inc., Jacksonville, Fla., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 80 per cent or more of the voting shares of Peoples State Bank of New Port Richey, New Port Richey, Fla. The factors that are considered in acting on the application are set forth in section 3(c) of the act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than September 13, 1978.

Board of Governors of the Federal Reserve System, August 14, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-23659 Filed 8-22-78; 8:45 am]

[6210-01]

CENTRAL NATIONAL CORPORATION AND FIDELITY AMERICAN BANKSHARES, INC.

Proposed Acquisition

Proposed Acquisition of The Columbia Advisory Corp., Lynchburg, Va., Columbia Insurance Agency, Inc., Lynchburg, Va., Fidelity American Computer Services, Inc., Lynchburg, Va., Cencor Insurance Agency Inc., Richmond, Va., Bankers Mortgage Corp., Bailey's Crossroads, Va.

Commonwealth Banks, Inc., Richmond, Va., the resulting company of the proposed consolidation of Central National Corp., Richmond, Va., and Fidelity American Bankshares, Inc., Lynchburg, Va., has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of the above-mentioned companies. Notice of the application was published on July 28, 1978, in The Daily Press, a newspaper circulated in Newport News, Va.; in The Daily Progress, a newspaper circulated in Charlottesville, Va.; in the Washington Post, a newspaper circulated in Washington, D.C.; in The Register, a newspaper circulated in Danville, Va.; in The Richmond Times-Dispatch, a newspaper circulated in Richmond, Va.; on July 29, 1978, in Roanoke Times & World-News, a newspaper circulated in Roanoke, Va.; and on July 31, 1978, in The Daily Advance, a newspaper circulated in Lynchburg, Va.

Applicant states that some of the subsidiaries would continue to engage in the activities of acting as insurance agent or broker with respect to the following types of insurance related to or arising out of loans made or credit transactions involving credit granting subsidiaries: (1) Credit life, disability, accident and health insurance; (2) physical-damage insurance on mobile homes, motor homes or similar vehicles; (3) "vendors single interest" physical-damage insurance on motor vehi-

cles, boats, trailers, and other kinds of personal property or attachments used in connection therewith; and (4) mortgage redemption insurance. Other of the subsidiaries would continue to engage in the activities of acting as investment and financial advisor, providing portfolio investment advice and portfolio management services to individuals, partnerships, corporations, pension and profit sharing plans, private foundations, and endowments, and of owning, operating, and maintaining computer hardware and other related electronic data processing equipment, performing electronic data processing and related clerical bookkeeping, accounting and statistical services for the internal operations for the holding company and its subsidiaries, and performing such services and engaging otherwise in the business of storing and processing banking, financial, or related economic data for others, including, but not limited to, other banks and financial institutions. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question of whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statment of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Richmond.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of governors of the Federal Reserve System, Washington, D.C. 20551, not later than September 14, 1978.

Board of Governors of the Federal Reserve System, August 14, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-23664 Filed 8-22-78; 8:45 am]

[6210-01]

FLORIDA NATIONAL BANKS OF FLORIDA, INC.

Acquisition of Bank

AUGUST 15, 1978.

Florida National Banks of Florida, Inc., Jacksonville, Florida, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 51 percent or more of the voting shares of The National Bank of Cape Coral, Cape Coral, Fla. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than September 13, 1978.

Board of Governors of the Federal Reserve System, August 14, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-23660 Filed 8-22-78; 8:45 am]

[6210-01]

SECURITY PACIFIC CORP.

Proposed Acquisition of American Finance System Incorporated

Security Pacific Corp., Los Angeles, Calif., has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of American Finance System Inc., Silver Spring, Md. Notice of the application was published in newspapers of general circulation in the communities to be served by the proposed subsidiary.

Applicant states that the proposed subsidiary would engage in (a) making, acquiring, or servicing loans such as would customarily be made by a finance company or an industrial bank operating in the manner authorized by the State of Colorado, (b) sale of credit life, accident and health insurance and credit related property insurance, and (c) underwriting credit life, accident and health insurance. Such activities have been specified by the Board in § 255.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than September 14, 1978.

Board of Governors of the Federal Reserve System, August 15, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-23661 Filed 8-22-78; 8:45 am]

[6210-01]

STATE EXCHANGE BANCSHARES, INC.

Formation of Bank Holding Company

State Exchange Bancshares, Inc., Yates Center, Kans., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 85 percent or more of the voting shares of The State Exchange Bank, Yates Center, Kans. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 8, 1978.

Board of Governors of the Federal Reserve System, August 10, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-23662 Filed 8-22-78; 8:45 am]

[6210-01]

FEDERAL OPEN MARKET COMMITTEE

Domestic Policy Directive of July 18, 1978

In accordance with § 271.5 of its rules regarding availability of informa-

tion, there is set forth below the Committee's Domestic Policy Directive issued at its meeting held on July 18, 1978.[1]

The information reviewed at this meeting suggests that growth in economic activity has slowed in recent months. Following substantial gains in March and April, increases in industrial production and nonfarm payroll employment moderated in May and June and retail sales changed little. In June, however, the unemployment rate dropped 0.4 of a percentage point to 5.7 percent. Average producer prices rose somewhat less rapidly in May and June than earlier in 1978, but over the first half of this year prices increased at a considerably faster rate than they had on the average during 1977. The advance in the index of average hourly earnings also moderated in May and June but was at a somewhat faster pace over the first half of 1978 than during 1977.

Since mid-June the trade-weighted value of the dollar against major foreign currencies has declined further to its lowest level of the year. The U.S. trade deficit in May was lower than the very high rate of the first 4 months of the year.

Growth in M-1 moderated in May and June, but reflecting the extraordinarily rapid pace in April, growth from the first to the second quarter was relatively high. Growth in M-2 and M-3 has been moderate over recent months. In June inflows of small-denomination time deposits to commercial banks and other thrift institutions picked up, following introduction of the new 6-month certificate. Market interest rates have risen further in recent weeks. On June 30 an increase in Federal Reserve discount rates from 7 to 7¼ percent was announced.

In light of the foregoing developments, it is the policy of the Federal Open Market Committee to foster monetary and financial conditions that will resist inflationary pressures while encouraging continued moderate economic expansion and contributing to a sustainable pattern of international transactions. The Committee agreed that these objectives would be furthered by growth of M-1, M-2, and M-3 from the second quarter of 1978 to the second quarter of 1979 at rates within ranges of 4 to 6½ percent, 6½ to 9 percent, and 7½ to 10 percent, respectively. The associated range for bank credit is 8½ to 11½ percent. These ranges are subject to reconsideration at any time as conditions warrant.

In the short run, the Committee seeks to achieve bank reserve and money market conditions that are broadly consistent with the longer-run ranges for monetary aggregates cited above, while giving due regard to developing conditions in financial markets more generally. During the period until the next regular meeting, System open market operations shall be directed at maintaining the weekly-average Federal funds rate within the range of 7¾ to 8 percent. In deciding on the specific objective for the Federal funds rate the Manager shall be guided mainly by the relationship between the latest estimates of annual rates of growth in the July-August period of M-1 and M-2 and the following ranges of tolerance: 4 to 8 percent for M-1 and 6 to 10 percent for M-2. If, giving approximately equal weight to M-1 and M-2, their rates of growth appear to be close to or beyond the upper or lower limits of the indicated ranges, the objective for the funds rate shall be raised or lowered in an orderly fashion within its range.

If the rates of growth in the aggregates appear to be above the upper limit or below the lower limit of the indicated ranges at a time when the objective for the funds rate has already been moved to the corresponding limit of its range, the Manager is promptly to notify the Chairman who will then decide whether the situation calls for supplementary instructions from the Committee.

By order of the Federal Open Market Committee, August 18, 1978.

MURRAY ALTMANN,
Secretary.

[FR Doc. 78-23665 Filed 8-22-78; 8:45 am]

[1] The Record of Policy Actions of the Committee for the meeting of July 18, 1978 is filed as part of the original document. Copies are available on request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

[6750-01]

FEDERAL TRADE COMMISSION

HOME OWNERS WARRANTY CORP.

Extension of Exemption

AGENCY: Federal Trade Commission.

ACTION: Notice of extension or exemption.

SUMMARY: The Home Owners Warranty Corp. (HOW) has been granted an extension of its limited exemption until November 1, 1978, to continued its requirement conciliation process.

EFFECTIVE DATE: The extension of the exemption is effective on April 28, 1978.

FOR FURTHER INFORMATION CONTACT:

Gary Laden, Attorney, Division of Product Reliability, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580, 202-523-1642, or Lemuel W. Dowdy, Division of Product Reliability, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580, 202-523-1670.

SUPPLEMENTARY INFORMATION: By letter of March 28, 1978, the Home Owners Warranty Corp. (HOW) has requested that the Commission extend for 2 years its grant of an exemption to the rule on informal dispute settlement procedures, 16 CFR Part 703, to permit HOW to incorporate into its warranty a required conciliation process before resorting to the procedures required by the Commission rule.

The Commission has granted HOW an extension of its limited exemption until November 1, 1979, to continue its required conciliation process, subject to the following conditions:

1. Technical or commercial experts can act as conciliators, provided they do not take part in any subsequent decisionmaking proceeding;

2. Any conciliation requirement must be accompanied by clear oral and written disclosures that it is the option of the parties to terminate conciliation any time and request arbitration, without penalty;

3. Conciliation may proceed no longer than 20 days;

4. HOW must submit to the Commission a report on its conciliation process by June 1, 1979, said report to include:

(a) A listing of all conciliations and arbitrations conducted by HOW between May 1, 1978, and May 1, 1979;

(b) The length of time to complete each conciliation or arbitration; and

(c) The average length of time of all conciliations and arbitrations; and

5. HOW must maintain and make available to the Commission records adequate to verify compliance with the conditions of the exemption.

By direction of the Commission.

JAMES A. TOBIN,
Acting Secretary.

[FR Doc. 78-23551 Filed 8-23-78; 8:45 am]

[4110-86]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

CENTER FOR DISEASE CONTROL

Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HC (Center for Disease Control) of the statement of organization, functions, and delegations of authority for the Department of Health, Education, and Welfare (39 FR 1461-68, January 9, 1974, as amended most recently at 43 FR 26139 dated June 16, 1978) is amended to reflect the recent transfer of certain environmental health functions from the Office of the Assistant Secretary for Health to the Bureau of State Services, Center for Disease Control.

Sec. HC-B, organization and functions, is hereby amended, as follows:

Under the heading Bureau of State Services (HCS), make the following changes:

Under Environmental Health Services Division (HCS2), after item (5) change the period to a semicolon and add item (6): "(6) reviews and coordinates for the Public health Service the health aspects of environmental impact statements under the National Environmental Policy Act (NEPA) and other acts."

Dated: August 14, 1978.

LEONARD D. SCHAEFFER,
Assistant Secretary for Management and Budget.

[FR Doc. 78-23587 Filed 8-22-78; 8:45 am]

[4110-89]

Assistant Secretary for Education

COMMENTS ON COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

Pursuant to section 406(g)(2)(B), General Education Provisions Act, notice is hereby given as follows:

The U.S. Office of Education has proposed collections of information and data acquisition activities which will request information from educational agencies or institutions.

The purpose of publishing this notice in the FEDERAL REGISTER is to comply with paragraph (g)(2)(B) of the "Control of Paperwork" amendment which provides that each educational agency or institution subject to a request under the collection of information and data acquisition activity and their representative organizations shall have an opportunity, during a 30-day period before the transmittal of the request to the Director of the Office of Management and Budget, to comment to the Administrator of the National Center for Education Statistics on the collection of information and data acquisition activity.

These data acquisition activities are subject to review by the HEW Education Data Acquisition Council and the Office of Management and Budget.

Descriptions of the proposed collections of information and data acquisition activities follow below.

Written comments on the proposed activities are invited. Comments should refer to the specific sponsoring agency and form number and must be received on or before September 22, 1978, and should be addressed to Administrator, National Center for Education Statistics, Attention: Manager, Information Acquisition, Planning, and Utilization, Room 3001, 400 Maryland Avenue SW., Washington, D.C. 20202.

Further information may be obtained from Elizabeth M. Proctor of the National Center for Education Statistics, 202-245-1022.

Dated: August 18, 1978.

MARIE D. ELDRIDGE,
Administrator, National Center for Education Statistics.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. TITLE OF PROPOSED ACTIVITY

1979-80 Student Eligibility Report (Basic Educational Opportunity Grant program).

2. AGENCY/BUREAU/OFFICE

U.S. Office of Education/Bureau of Student Financial Assistance/Division of Policy and Program Development.

3. AGENCY FORM NUMBER

OE 255-1.

4. LEGISLATIVE AUTHORITY FOR THIS ACTIVITY

Section 411(a)(1) * * * "The Commissioner shall * * * pay to each student who has been accepted for enrollment in, or is in good standing at, an institution of higher education (according to the prescribed standards, regulations, and practices of that institution) for each academic year during which that student is in attendance at that institution, as an undergraduate, a basic grant in the amount for which that student is eligible * * * (Pub. L. 92-318; 20 U.S.C. 1070a).

(a) * * * "In order to receive a Basic Educational Opportunity Grant for an academic year a student must apply for such a grant by submitting an official 'Student Eligibility Report' to the institution in which he is enrolled." (CFR 190.76)

5. VOLUNTARY/OBLIGATORY NATURE OF RESPONSE

Required to obtain benefit.

6. HOW INFORMATION COLLECTED WILL BE USED

Program management: To determine the eligibility of a student for a BEOG award and the amount of the award.

7. DATA ACQUISITION PLAN

a. Method of collection: Mail.
b. Time of collection: Throughout 1979-80 academic year.
c. Frequency: Once.

8. RESPONDENTS

a. Type: Financial Aid Officers.
b. Number: Universe (5,000).
c. Estimated average man-hours per respondent: 0.5 hour.

9. INFORMATION TO BE COLLECTED

Total student cost.
Eligibility index.
Award recipient EIN.
Scheduled BEOG award.
Expected disbursement.
Date enrolled.
BEOG ID number.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. TITLE OF PROPOSED ACTIVITY

Request for Payment of BEOG Award, 1978-79.

2. AGENCY/BUREAU/OFFICE

U.S. Office of Education/Bureau of Student Financial Assistance/Division of Program Operations/Basic Grants Branch.

3. AGENCY FORM NUMBER

OE 304.

4. LEGISLATIVE AUTHORITY FOR THIS ACTIVITY

Sec. 411 "* * * 4B(3)(A) Payments under this section shall be made in accordance with regulations promulgated by the Commissioner for such purposes, in such manner as will best accomplish the purpose of this section." (Pub. L. 94-482; 20 U.S.C. 1070a).

5. VOLUNTARY/OBLIGATORY NATURE OF RESPONSE

Required to obtain benefit.

6. HOW INFORMATION TO BE COLLECTED WILL BE USED

Program Management: The "Request" form is the means by which a student will submit information to OE in order to receive payment of an award. This information is required for purposes of correspondence as well as to identify the applicant for subsequent requests for payments.

7. DATA ACQUISITION PLAN

A. Method of collection: Mail.
B. Time of collection: Summer.
C. Frequency: One time only unless student enrolls in another school participating under the Alternate Disbursement System.

8. RESPONDENTS

A. Type: BEOG recipients.
B. Number: 20,000.
C. Estimated Average Manhours Per Respondent: 15 minutes.

A. Type: Financial aid officers.
B. Number: 700.
C. Estimated Average Manhours Per Respondent: 35 minutes.

9. INFORMATION TO BE COLLECTED

A. Data to be collected from the student: Applicant's social security number, name, present mailing address, permanent mailing address, notary public's signature and seal, applicant's signature regarding his/her funds, and student affidavit.

B. Data to be collected from the institution: Name and address of institution, BEOG ID Number, institution's academic calendar, dates (beginning and ending) of program, applicant's status, length in clock hours of a student's academic year for his/her program, number of hours per week and number of weeks a student is expected to complete in an award period, total number of hours in a student's award period, student cost information, institutional official's title, phone number, date and certification of an applicant's eligibility to receive Basic Grant assistance, termination dates for dropouts, and the name and enrollment dates of students who have transferred from other institutions.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. TITLE OF PROPOSED ACTIVITY

Sharing Business Success. (A handbook for identifying and validating school business practices to facilitate constructive educational improvement in the Nation's public and nonprofit private elementary and secondary schools.)

2. AGENCY/BUREAU/OFFICE

U.S. Office of Education/Bureau of Elementary and Secondary Education/State and Local Educational Programs.

3. AGENCY FORM NUMBER

OE 580.

4. LEGISLATIVE AUTHORITY FOR THIS ACTIVITY

Sec. 422(a)(3) * * * "The Commissioner shall * * * collect data and information on applicable programs for the purpose of obtaining objective measurements of the effectiveness of such programs in achieving their purposes * * * (Pub. L. 94-482; 20 U.S.C. 1231a).

5. VOLUNTARY/OBLIGATORY NATURE OF RESPONSE

Voluntary.

6. HOW INFORMATION TO BE COLLECTED WILL BE USED

The Identification, Validation, Dissemination (IVD) process, contained in *Sharing Business Success,* provides a standard system of ascertaining the success of school business practices. Through the (IVD) process, successful practices are identified, validated, and disseminated by State education agencies, local education agencies, and interested professional organizations. Any disenination of these practices by the U.S. Office of Education must be approved by the USOE Joint Dissemination Review Panel. This process enables educators to adopt innovative exemplary practices with a degree of certainity that their educational significance will make a difference in the management of schools.

7. DATA ACQUISITION PLAN

A. Method of collection: On-site visits.
B. Time of collection: Spring.
C. Frequency: Annually.

8. RESPONDENTS

A. Type: Local education agencies.
B. Number: 100.
C. Estimated average man-hours per respondent: 60.

9. INFORMATION TO BE COLLECTED

(1) Effectiveness—evidence which shows that objectives have been attained; measurability of objectives, needs determination, intervention process, evaluation design, data collection, sampling technique, evidence effectiveness, control group selection, evaluation instruments, qualified personnel, data accuracy, data analysis procedures, statistical evidence, and educational significance.

(2) Cost Analysis—information about start-up and operational costs and information on per unit, start-up and operational costs which facilitates decision-making by school districts.

(3) Exportability—information which demonstrates the feasibility of successful adoption/adaption by other school districts: Description of needs, district willingness to serve as a demonstration site, community variables, activities critical to projects' success, essential materials (software), essential equipment (hardware), procedures for training, qualifications of personnel, and description of problems and solutions.

(4) Efficiency—information on a practice which identifies it as effective when measured by a comparison of production with cost in energy, time, and money. Long term outcomes and impact are also determined.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. TITLE OF PROPOSED ACTIVITY

A Study of the Sustaining Effects of Compensatory Education on Basic Skills: The Successful Sites Subsidy.

2. AGENCY/BUREAU/OFFICE

U.S. Office of Education.
Office of Planning, Budgeting and Evaluation.

3. AGENCY FORM NUMBER

OE 656-1, 656-2.

4. LEGISLATIVE AUTHORITY FOR THIS ACTIVITY

Section 151. (a) "The Commissioner shall provide for independent evaluations which describe and measure the impact of programs and projects assisted under this title. Such evaluations may be provided by contract or other arrangements, and all such evaluations shall be made by competent and independent persons, and shall include, whenever possible, opinions obtained from program or project participants about the strengths and weaknesses of such programs or projects." (Pub. L. 93-380; 20 U.S.C. 241o)

Section 417(a)(1) "* * * the Secretary shall transmit to the * * * (Congress) * * * an annual evaluation report which evaluates the effectiveness of applicable programs in achieving their legislated purposes together with recommendations relating to such programs for the improvement of such programs which will result in greater effectiveness in achieving such purposes." (Pub. L. 93-380; 20 U.S.C. 1226c.)

5. VOLUNTARY/OBLIGATORY NATURE OF RESPONSE

Voluntary.

6. HOW INFORMATION TO BE COLLECTED WILL BE USED

The information collected in the study will be used to provide program managers and Congress with information about the effectiveness of different types of compensatory education activities supported by Title I of ESEA.

7. DATA ACQUISITION PLAN

a. Method of Collection: Personal interview.
b. Time of collection: Spring 1979.
c. Frequency: Once.

8. RESPONDENTS

a. Type: Teachers, elementary/secondary.
b. Number: 306.
c. Estimated man-hours per respondent: 1.2 hours.

a. Type: Principals.
b. Number: 44.
c. Estimated average man-hours per respondent: .8 hour.

9. INFORMATION TO BE COLLECTED

Respondent type: Teachers, elementary/secondary.
Student/teacher instructional grouping for reading and mathematics.
Coordination of regular and compensatory instruction.
Administration leadership and staff work relationships.
Instructional and management practices and resources utilized.
Respondent type: Principals.
Coordination of instruction and administrative leadership.
Utilization of resources, specialists and in-service training

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. TITLE OF PROPOSED ACTIVITY

Financial Status and Performance Reports—State Student Incentive Grant Program.

2. AGENCY/BUREAU/OFFICE

Office of Education/Bureau of Student Financial Assistance/State.
Student Incentive Grant Program.

3. AGENCY FORM NUMBER

OE Form 1288-1.

4. LEGISLATIVE AUTHORITY FOR THIS ACTIVITY

Sec. 415C(b)(6) HEA specifies "such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the State agency * * * and for the making of such reports * * * as may be reasonably necessary to enable the Commissioner to perform his function * * *." (20 U.S.C. 1070c-2.)

5. VOLUNTARY/OBLIGATORY NATURE OF RESPONSE

Required to obtain and maintain benefit.

6. HOW INFORMATION COLLECTED WILL BE USED

To provide fiscal control information in the standard OMB format; to provide operational data to assess program effectiveness in serving undergraduate students with substantial financial need; to examine State agency compliance with matching and maintenance of effort requirements; to study outreach according to income levels of student recipients and kinds of institutions they attend; to look at relationships between Basic Grants (which are federally funded), and State (SSIG) grants (which are composed of equal parts of Federal and State funds); and to provide State agencies with data against which to assess their own programs in relation to the total National effort.

7. DATA ACQUISITION PLAN

a. Method of collection: Mail.
b. Time of collection: Fall.
c. Frequency: Annually.

8. RESPONDENTS

a. Type: State agencies.
b. Number 57.
c. Estimated average man-hours per respondent: 6.

9. INFORMATION TO BE COLLECTED

Information to be collected includes number of initial and continuation SSIG student awards compared to the total number receiving State needbased grants and the number denied State grants from lack of funds; number and amount of awards by income levels of recipients; number of recipients by size of awards and by type of institution; whether awards are available to less-than-full-time students; system used for determining substantial financial need of students; matching and maintenance of effort assurances; and relationships between SSIG and Basic Grants in the State's treatment of student applications and awards.

[FR Doc. 78-23671 Filed 8-22-78; 8:45 am]

[4110-07]

Office of the Secretary

SOCIAL SECURITY ADMINISTRATION

Statement of Organization, Functions and Delegations of Authority

Part S (formerly part 4) of the statement of organization, functions, and delegations of authority for the Department of Health, Education, and Welfare contains the statement of organization, functions and delegations of authority for the Social Security Administration (SSA). Sections SM.00, SM.10 and SM.20 of the SSA statement (formerly sections 4-02-00, 4-02-10 and 4-02-20, respectively, of the SSA statement published at 40 FR 4474-75, dated January 30, 1975) describe the mission, organization, order of succession and functions for SSA's Office of Management and Administration (OMA). Sections SM.10 I and SM.20 I of the OMA Statement are devoted to the organization and functions of OMA's Office of Quality Assurance (OQA). Notice is hereby given that section SM.20 I, originally published as section 4-02-20 I on January 30, 1975 (40 FR 4474-75) and amended as section 4-02-20 I on May 10, 1976 (41 FR 19153-54), is further amended to reflect a reorganization of OQA's Quality Assurance Field Offices (QAFO's). The purposes of this reorganization are: To add the function of operating a field quality assurance program for benefits paid under the retirement, survivors and disability insurance (RSDI) programs to the QAFO's; to expand the existing special study and analysis function in the QA field organization; and to delete the program integrity and fraud deterrence functions for the Supplemental Security Income (SSI) program from the QAFO statement. The amended section SM.20 I reads as follows: SEC. SM.20 *Office of Management and Administration—(Functions)*—I. *The Office of Quality Assurance (OQA)*—5. *Quality Assurance Field Offices (QAFO's).* a. Conduct basic quality reviews of selected samples of payment and nonpayment cases within an assigned geographic area. Determine accuracy of current payment and beneficiary eligibility in accordance with law and regulations. Conduct an independent sample of the total SSA payment universe to measure payment accuracy and provide data analysis so that operational staff can design and implement corrective actions. Analyze sample results and make recommendations for corrective action to appropriate OQA and SSA operations and policy components.

b. Provide leadership, direction, and coordination to the administration of an SSA quality review program in the regions. Analyze data resulting from OQA regular and special study sample case reviews of RSDI and SSI cases, and from other sources, and make recommendations for improvement. Perform comprehensive technical reviews of RSDI operational appraisal systems. Provide feedback to SSA regional commissioners and others on all matters concerning regional operation of the SSA quality review program.

c. Re-review claims initially reviewed by SSA program operational components as a part of their operational appraisal, for the purpose of determining adherence to established quality assurance standards, policies, procedures, and techniques. Assist the headquarters division of review and validation in reviews of operational appraisal systems. Provide regular and special reports and feedback to SSA program operational components and to headquarters components of OQA. As appropriate, coordinate OQA activities with other regional officials.

d. Perform quality review activities for the RSDI and SSI programs, to determine the overall payment accuracy of these programs. Enter the results of such case reviews into the headquarters data base, for preparation of reports concerning the overall payment accuracy of such programs. Return error cases directly to the field offices of the office of program operations for appropriate action.

Dated: August 14, 1978.

LEONARD D. SCHAEFFER,
Assistant Secretary for Management and Budget.

[FR Doc. 78-23585 Filed 8-22-78; 8:45 am]

[4310-84]

DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

UTAH

Wilderness Aspects; Public Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Notice is hereby given that the following public meeting will be held to discuss wilderness aspects of three areas that would be crossed by proposed electrical transmission and pipeline routes for the Emery Power Project, units 3 and 4. The meeting will be held September 13, at 7:30 p.m. in the Emery County Courthouse, Castledale, Utah.

The meeting is being held to gain public input for evaluating wilderness aspects of the areas. The information gained from public input and wilderness inventories will be discussed in the draft environmental statement (DES) on Emery units 3 and 4, now being prepared by BLM.

Public comments on the wilderness aspects of the areas will be accepted until October 13. Comments should be mailed to: Richfield BLM district manager, 146 North Main, P.O. Box 767, Richfield, Utah 84701.

FOR FURTHER INFORMATION CONTACT:

Richfield BLM district office, 146 North Main, P.O. Box 767, Richfield, Utah 84701, 801-584-8244.

Date signed: August 15, 1978.

PAUL L. HOWARD,
State Director.

[FR Doc. 78-23734 Filed 8-22-78; 8:45 am]

[4310-55]

Fish and Wildlife Service

ENDANGERED SPECIES PERMIT

Receipt of Application

Applicant. Duke University Primate Center, 3705 Erwin Road, Durham, N.C. 27705.

The applicant requests a permit to export one female captive-bred ruffed lemur (*Lemur variegatus*) to the Koln, Germany Zoo, for enhancement of propagation. Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-3084. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before September 22, 1978. Please refer to the file number when submitting comments.

Dated: August 18, 1978.

LARRY LAROCHELLE,
Acting Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 78-23576 Filed 8-22-78; 8:45 am]

[4310-55]

ENDANGERED SPECIES PERMIT

Receipt of Application

Applicant. Duke University Primate Center, 3705 Erwin Road, Durham, N.C. 27705.

The applicant requests a permit to export one female captive-bred ruffed lemur (*Lemur variegatus*) to the Institute for Breeding Research, Toyko,

Japan for enhancement of propagation. Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-3081. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before September 22, 1978. Please refer to the file number when submitting comments.

Dated: August 18, 1978.

LARRY LAROCHELLE,
Acting Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 78-23577 Filed 8-22-78; 8:45 am]

[4310-55]

ENDANGERED SPECIES PERMIT

Receipt of Application

Applicant. International Crane Foundation, City View Road, Baraboo, Wis. 53913.

The applicant requests a permit to export one captive-bred female white-naped crane (*Grus vipio*) to the Frankfurt, Germany Zoo for enhancement of propagation. Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-2210. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before September 22, 1978. Please refer to the file number when submitting comments.

Dated: August 18, 1978.

LARRY LAROCHELLE,
Acting Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 78-23578 Filed 8-22-78; 8:45 am]

[4310-55]

ENDANGERED SPECIES PERMIT

Receipt of Application

Applicant. Henry Vilas Park Zoo, 702 South Randall Avenue, Madison, Wis. 53715.

The applicant requests a permit to import one pair of captive-bred Bactrian camels (*Camelus bactrianus*) from the Toronto Zoo and purchase one female captive-bred Bactrian camel from International Animal Exchange for enhancement of propagation. Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-3080. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before September 22, 1978. Please refer to the file number when submitting comments.

Dated: August 18, 1978.

LARRY LAROCHELLE,
Acting Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 78-23579 Filed 8-22-78; 8:45 am]

[4310-55]

THREATENED SPECIES PERMIT

Receipt of Application

Applicant. Wildwood Park & Zoo, City of Marshfield, Marshfield, Wis. 54449.

The applicant wishes to apply for a captive self-sustaining population permit authorizing the purchase and sale for propagation species of pheasants listed in 50 CFR 17.11 as [T(C/P)]. Humane shipment and care in transit is assured.

Documents and other information submitted with this application are available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-2779. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before September 22, 1978. Please refer to the file number when submitting comments.

Dated: August 18, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 78-23580 Filed 8-22-78; 8:45 am]

[4310-55]

DIRECTOR, NATIONAL FISH AND WILDLIFE LABORATORY

Receipt of Application for Permit

Notice is hereby given that an applicant has applied in due form for a permit to take (harass) West Indian manatees as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 18).

1. *Applicant.* a. Name, Director, National Fish and Wildlife Laboratory. b. Address, National Museum of Natural History, Washington, D.C. 20560.

2. Type of permit: Marine Mammal/Scientific Research and Endangered Species/Scientific Research.

3. Name and number of animals: West Indian manatee (Trichechus manatus) 10.

4. Type of activity: Marking with paintsticks (non-injurious).

5. Location of activity: Crystal River, Citrus County, Fla.

6. Period of activity: October 1, 1978 through May 1, 1978.

The purpose of this application is to mark 10 West Indian manatees in order to establish the details of the manatees' movements between feeding grounds and warm water refuges.

Concurrent with the publication of this notice in the FEDERAL REGISTER the Federal Wildlife Permit Office is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

The application has been assigned file No. PRT 2-3093. Written data or views, or requests for copies of the complete application or for a public hearing on this application should be submitted to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240, on or before September 22, 1978. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Director.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the United States Fish and Wildlife Service.

Documents submitted in connection with the above application are available for review during normal business

hours in Room 534, 1717 H Street NW., Washington, D.C.

Dated: August 18, 1978.

LARRY LAROCHELLE,
Acting for Chief, Permit Branch,
Federal Wildlife Permit Office.

[FR Doc. 78-23581 Filed 8-22-78; 8:45 am]

[4310-55]

DIRECTOR, NATIONAL FISH AND WILDLIFE LABORATORY

Receipt of Application for Permit

Notice is hereby given that an applicant has applied in due form for a permit to take sea otters as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the regulations governing the taking and importing of marine mammals (50 CFR Part 18).

1. Applicant:

a. Name: Director, National Fish and Wildlife Laboratory.

b. Address: National Museum of Natural History, Washington, D.C. 20560.

2. Type of permit: Marine mammal/scientific research.

3. Name and number of animals: Sea otters (*Enhydra lutris*) *31.*

4. Type of activity: Sacrificing not more than 25 adult females; relocating 6 adults males.

5. Location of activity: Prince William Sound, Alaska.

6. Period of activity: September 1, 1978, through December 1, 1979.

The purpose of this application is to analyze the reproductive tract of adult females to describe seasonal changes in reproductive tracts of females with known reproductive histories; determine age of maturity of females; determining frequency of pupping; and, provide insight on how territories are established, their discreteness, and affinity of a male for a territory. Additional information will be gathered on body size and condition, body growth, parasites, feeding, and gross effects of an ongoing marking program.

Concurrent with the publication of this notice in the FEDERAL REGISTER the Federal Wildlife Permit Office is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

The application has been assigned file No. PRT 2-3106. Written data or views, or requests for copies of the complete application or for a public hearing on this application should be submitted to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240, on or before September 22, 1978. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Director.

All statements and opinions contained in this application are summaries of those of the applicant and do not necessarily reflect the views of the U.S. Fish and Wildlife Service.

Documents submitted in connection with the above application are available for review during normal business hours in room 534, 1717 H Street NW., Washington, D.C.

Dated: August 18, 1978.

LARRY LAROCHELLE,
Acting Chief, Permit Branch,
Federal Wildlife Permit Office.

[FR Doc. 78-23582 Filed 8-22-78; 8:45 am]

[4310-10]

Office of the Secretary

[INT FES 78-18]

GULF ISLANDS NATIONAL SEASHORE, FLORIDA AND MISSISSIPPI

Availability of Final Environmental Statement on General Management Plan and Development Concept Plans

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a final environmental statement on the proposed general management plan and development concept plans for Gulf Islands National Seashore, Florida and Mississippi.

The statement considers the future management and development of Gulf Islands National Seashore.

There will be a 30 day public review period before proposals contained in this plan will be implemented.

Copies will be available at the addresses given below:

Southeast Regional Office, National Park Service, 1895 Phoenix Boulevard, Atlanta, Ga. 30349.

Superintendent, Gulf Islands National Seashore, P.O. Box 100, Gulf Breeze, Fla. 32561.

Assistant Superintendent, Gulf Islands National Seashore, 4000 Hanley Road, Ocean Springs, Miss. 39564.

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

Dated: August 11, 1978.

LARRY E. MEIEROTTO,
Deputy Assistant
Secretary of the Interior

[FR Doc. 78-23593 Filed 8-22-78; 8:45 am]

[4310-10]

PRIVACY ACT OF 1974

System Notice

Notice is hereby given that the Department of the Interior is modifying its Personnel Research System of Records (Interior OS-98) and that this system will be maintained and will be subjected to the Privacy Act of 1974, 5 U.S.C. 552a.

The purpose of this system is to maintain the research records needed to validate the various selection procedures used by the Department of the Interior.

The system notice, as modified, is attached. The modification consist of deleting from the routine use section disclosure statement No. 3.

Comments on the proposed notice may be submitted to the Assistant Solicitor, General Legal Service, Office of the Solicitor, U.S. Department of the Interior, 18th and C Streets NW., Washington, D.C. 20240. All comments received on or before September 22, 1978, will be considered. Copies of any comments received may be inspected in room 6512 at the above address.

RICHARD R. HITE,

Deputy Assistant Secretary
of the Interior.

AUGUST 17, 1978.

System name:

Personnel Research Records

System location:

For Departmental Records: (a) Office of the Secretary, Office of Personnel Management, Division of Program Planning and Evaluation, 18th and C Streets NW., Washington, D.C. 20245. For Bureau Records: (a) Bureau of Indian Affairs, Division of Personnel Management, 1951 Constitution Avenue NW., Washington, D.C. 20245, (b) Bureau of mines, Division of Personnel, 2401 E Street NW. (Columbia Plaza), Washington, D.C. 20241, (c) Geological Survey, 12201 Sunrise Valley Drive, Reston Va, 22092, (d) National Park Service, Division of Personnel, 18th and C Streets NW., Washington, D.C. 20240, (e) U.S. Fish and Wildlife Service, Division of Personnel Management, 18th and C Streets NW., Washington, D.C. 20240, (f) Bureau of Reclamation, Division of Personnel Management, 18th and C Streets NW., Washington, D.C., 20240, (g) Bureau of Land Management, Division of Personnel, 18th and C Streets NW., Washington, D.C. 20240, (h) Heritage Conservation and Recreation Service, Division of Personnel, 18th and C Streets NW., Washington, D.C. 20240, (i) Office of the Solicitor, 18th and C Streets NW., Washington, D.C. 20240.

(j) Office of the Secretary and other Departmental Offices, Division of Personnel Services, 18th and C Streets NW., Washington, D.C. 20240.

Categories of individuals covered by the system:

Department of the Interior employees and applicants for Interior employment.

Categories of records in the system.

These records may include education and experiential history, test scores, responses to questionnaires and tests, interview data, ratings of supervisors or other individuals (such as references) familiar with the individual and other pertinent information concerning the individual to whom the records pertain.

Authority for maintenance of the system:

Title 5, U.S. Code, Section 3301.

Routine uses of records maintained in the system, including categories of users and purpose of such uses:

Data are collected on a project-by-project basis and are used for research on personnel measurement and selection methods. Routine use includes the exchange of personnel records between the Department and other Federal agencies for personnel research purposes only and the use of personal identifiers such as employee name to identify employees included in research studies that extend over a period of time (longitutinal studies). No personnel decisions are made in the use of these research records. The confidentiality of the data collected will be protected. Personnel identifiers will be used only as a means of relating information. Information in this system of records is used by the Department personnel research staff or by the specific bureau personnel offices involved.

These records may be also used as a data source for management information for production of summary descriptive statistics and analytical studies in support of the research function for which the records are collected and maintained, or for related personnel research functions or manpower studies; they may also be utilized to respond to general requests for statistical information (without personal identification of individuals) under the Freedom of Information Act or to locate individuals for personal research.

In addition to the above uses, disclosures outside the Department of Interior may be made (1) to other Federal agencies (such as the Civil Service Commission) having a subject matter interest and; (2) to the U.S. Department of Justice when related to litigation or anticipated litigation.

Policies and practices for storing, retrieving, assessing, retaining, and disposing of records in the system.

Storage.

Records are maintained in file folders, on punched cards, magnetic tape, computer printout, and/or organized lists.

Retrievability.

Records are maintained by project. Personal information can be retrieved by name or personal identifier only for research projects that involve longitudinal studies, and only for the period of time needed to complete all data collection.

Safeguards.

Records are kept in locked files, in a locked room, and access is limited to authorized research staff.

Retention and disposal.

Retention may be for a short period of time or indefinite.

System manager and address.

Chief, Division of Program Planning and Evaluation, Office of Personnel Management, Office of the Secretary, Department of the Interior, 18th and C Streets NW., Washington, D.C. 20240 and Bureau Personnel Officers (see systems location above for Bureau Personnel Officer Addresses).

Notification procedure.

An individual may inquire whether or not the system contains a record pertaining to him/her by contacting the systems manager.

Record access procedures.

Under very specific situations (see exemptions) an individual may gain access to portions of or all of their record by contacting the systems manager.

Record source categories.

Individual Interior employees or applicants, supervisors, colleges, or data from the agency files and records.

Exemption from certain provisions of the act.

Pursuant to 5 U.S.C. 552a(k)(6) all material and information in this system of records about an individual that meet the criteria stated in 5 U.S.C. 552a(c)(3); (d); (e)(4)(G), (H), and (I); and (f) relating to access and content, making an accounting of disclosure to the individual named in the record, maintenance of information in records, publication annually in the FEDERAL REGISTER, and provisions regarding agency rules in that portions of this system relate to testing and examination materials. The specific material that is exempted is as follows:

a. Answer keys.

b. Ratings given for the purpose of validating examinations, or examination procedures.

c. Rating sheets.

d. Rating schedules, including crediting plans.

e. Transmutation tables.

f. Test booklets.

[FR Doc. 78-23691 Filed 8-23-78; 8:45 am]

[7020-02]

INTERNATIONAL TRADE COMMISSION

[TA-332-92]

BASELINE STUDY OF THE TELEPHONE TERMINAL AND SWITCHING EQUIPMENT INDUSTRY

Change in Time of Hearing

Notice is hereby given that the starting time of the public hearing ordered by the Commission in connection with this investigation is changed from 9 a.m., e.d.t., as published June 20, 1978 (43 FR 26597) to 10 a.m., e.d.t., on Tuesday, September 26, 1978, in the Main Hearing Room, Room 331, U.S. International Trade Commission, 701 E Street NW., Washington, D.C.

By order of the Commission.

Issued: August 18, 1978.

KENNETH R. MASON,
Secretary.

[FR Doc. 78-23658 Filed 8-22-78; 8:45 am]

[4410-01]

DEPARTMENT OF JUSTICE

Antitrust Division

UNITED STATES v. AMERICAN SERVICE CORPORATION ET AL.

Proposed Consent Judgment and Competitive Impact Statement Thereon

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. sections 16 (b) through (h), that a proposed consent judgment and a competitive impact statement as set out below have been filed with the U.S. District Court for the Southern District of Florida, in Civil Action No. FL 76-6041-Civ-JE, *United States of America* v. *American Service Corporation et al.*

The complaint in this case alleges that the defendants, companies which are in the business of renting and maintaining industrial garments, engaged in a conspiracy to allocate customers in southern Florida.

The proposed judgment prohibits the defendants from entering into any agreement, contract, or understanding with each other or any other competi-

tor to: (1) Allocate territories or customers; (2) refrain from soliciting the business of any customer; or (3) refrain from doing business with any customer. The defendants are further prohibited from furnishing to or requesting from any competitor information on prices, terms of bids, or identity of customers. For 10 years, the defendants are prohibited from including within any customer contract any provisions for automatic renewal or for penalty damages or restricting a customer's right to terminate for material breach. For 5 years, the defendants are prohibited from using customer contracts of longer than 30 months duration.

The defendants are required to give notice of the final judgment to each of their industrial laundry customers who pay rentals of less than $350 per week. The judgment also grants certain additional relief.

Public comment is invited within the statutory 60-day comment period. Such comments and responses thereto will be published in the FEDERAL REGISTER and filed with the court. Comments should be directed to Donald A. Kinkaid, Chief, Atlanta Field Office, Antitrust Division, U.S. Department of Justice, Suite 420, 1776 Peachtree Road NW., Atlanta, Ga. 30309.

Dated: August 17, 1978.

JOHN H. SHENEFIELD,
Assistant Attorney General,
Antitrust Division.

U.S. DISTRICT COURT, SOUTHERN DISTRICT OF FLORIDA

[Civil No. 76-6041-Civ-JE; Filed: August 15, 1978]

United States of America, Plaintiff, v. *American Service Corporation; Cadillac Overall Supply Company; Everglades Laundry, Inc., d.b.a. Mechanics Uniform Service; Neway Uniform & Towel Supply of Florida, Inc.; and Uniforms for Industry, Inc.,* Defendants.

STIPULATION

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

1. A final judgment in the form hereto attached may be filed and entered by the court, upon the motion of either party or upon the court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. § 16), and without further notice to either party or other proceedings, *Provided,* that plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed final judgment by serving notice thereof on defendants and by filing that notice with the court.

2. In the event plaintiff withdraws its consent or if the proposed final judgment is not entered pursuant to this stipulation, this stipulation shall be of no effect whatever and the making of this Stipulation shall be without prejudice to plaintiff or defendants in this or any other proceeding.

Dated: August 15, 1978.

For the Plaintiff: John H. Shenefield, *Assistant Attorney General;* William E. Swope, Charles F. B. McAleer, Donald A. Kinkaid, Justin M. Nicholson, John T. Orr, Jr., Nicholas A. Lotito, *Attorneys, Antitrust Division, U.S. Department of Justice,* J. V. Eskenazi, *U.S. Attorney.*

For the Defendants: Daniel Neal Heller, Esq., *Heller & Kaplan, Attorney for American Service Corporation and Everglades Laundry, Inc., d.b.a. Mechanics Uniform Service;* Arnold Lerman, Esq., *Wilmer, Cutler & Pickering, Attorney for Neway Uniform & Towel Supply of Florida, Inc.;* Patrick B. McCauley, Esq., *Nederlander, Dodge & McCauley, Attorney for Cadillac Overall Supply Company;* Seymour Kaplan, Esq., *Heller & Kaplan, Attorney for Uniforms for Industry, Inc.*

U.S. DISTRICT COURT, SOUTHERN DISTRICT OF FLORIDA

[Civil No. 76-6041-Civ-JE; Filed: August 15, 1978]

United States of America, Plaintiff, v. *American Service Corporation; Cadillac Overall Supply Company; Everglades Laundry, Inc., d.b.a. Mechanics Uniform Service; Neway Uniform & Towel Supply of Florida, Inc.; and Uniforms for Industry, Inc.,* Defendants.

FINAL JUDGMENT

Plaintiff, United States of America, having filed its complaint herein on January 27, 1976, and the defendants having appeared and filed their answers to the complaint, and the plaintiff and defendants, by their respective attorneys, having consented to the entry of this final judgment without trial or adjudication of any issue of fact or law herein, and without this final judgment constituting any evidence against or any admission by any party with respect to any issue of fact or law herein:

Now, therefore, before the taking of any testimony, and without trial or adjudication of any issue of fact or law herein, and upon consent of the parties hereto, it is hereby

Ordered, adjudged and decreed:

I

This court has jurisdiction over the subject matter herein and the parties hereto. The complaint states claims upon which relief may be granted against the defendants under sction 1 of the Sherman Act (15 U.S.C. § 1).

II

As used in this final judgment:

(A) "Industrial garmet" shall mean any item of work clothing and ancillary products, including but not limited to, work pants, work shirts, coveralls, overalls, jackets, coats, uniforms, shop towels, dust control materials, and other similar items;

(B) "Industrial laundry business" shall mean the business of renting and/or servicing industrial garmets in south Florida;

(C) "Person" shall mean any individual, corporation, partnership, firm, association, or other business or legal entity;

(D) "Operator" shall mean any person engaged in the industrial laundry business;

(E) "South Florida" means the counties of Palm Beach, Broward, Dade, and that part of Monroe County commonly referred to as the Florida Keys in the State of Florida;

(F) A corporation "under common control" with a defendant shall mean any corporation: (i) Which is a subsidiary, directly or indirectly, of a parent corporation of a defendant, or (ii) 50 percent or more of whose stock is owned or controlled by a person who also owns or controls 50 percent or more of the stock of a defendant.

III

The provisions of this final judgment apply in south Florida only and are applicable to all defendants and to their subsidiaries, officers, directors, agents, employees, successors, and assigns and to all other persons in active concert or participation with any of them who shall have received actual notice of this final judgment by personal service or otherwise. Unless otherwise included within this section, the provisions of this final judgment are not applicable to the customers and trade of the defendants, their subsidiaries or corporations under common control.

IV

Each defendant is enjoined and restrained from entering into, adhering to, maintaining, or furthering, directly or indirectly, any contract, agreement, understanding, plan, program, combination, or conspiracy with respect to the industrial laundry business with any operator to:

(A) Divide, allocate, or apportion any market territory, customer, or potential customer for the rental and/or servicing of any industrial garmet.

(B) Refrain from soliciting the business of any customer or potential customer for the rental and/or servicing of any industrial garmet.

(C) Refrain from renting and/or servicing any industrial garmet to and/or for any customer or potential customer.

The provisions of this section IV shall not apply to lawful covenants not to compete which are a part of a contract of (i) employment; or (ii) sale of an industrial laundry or interest therein entered into in good faith and on a nonreciprocal basis between a defendent and another person.

V

Each defendant is enjoined and restrained from directly or indirectly furnishing to or requesting or accepting from any operator (i) prices or charges, or (ii) terms of bids or offers, or (iii) the identity of customers, for the rental and/or servicing of any industrial garment in south Florida, except as provided in section VII, infra.

VI

Each defendant is enjoined and restrained, in any contract or agreement for the rental and/or servicing of industrial garments in south Florida, from directly or indirectly entering into, enforcing, furthering, adhering to, maintaining, or claiming any right pursuant to any provision:

(A) For the automatic renewal of the contract of agreement;

(B) For liquidated or other formula damages in such unreasonable amount as to constitute a penalty;

(C) Of a contract or agreement which provides for a term longer than thirty months from the date of its execution or last renewal, whichever is later; except that contracts which are in existence on the effective date

of this section of the final judgment can continue for no longer than twenty-four months from that effective date; and provided that such a provision shall not be prohibited in a contract or agreement entered into after the fifth anniversary of the date of entry of this final judgment, if the defendant at the time of negotiation has furnished its customer clear and conspicuous written notice that the duration of the contract or agreement is subject to negotiation between the parties;

(D) Prohibiting a customer's right to terminate its contract because of a defendant's material breach by substantial failure of performance which the defendant refuses to cure upon proper notice. This subsection (D) shall not apply to a failure of performance or cure outside the control of the defendant.

This section VI shall become effective ninety days after the date of entry of this final judgment and shall remain in effect for a period of ten years from that date. The provisions of this section VI shall not apply to any written agreement or specification prepared or submitted by a customer.

VII

Each defendant is enjoined and restrained from entering into, adhering to, or enforcing, directly or indirectly in south Florida, any contract or covenant under which an employee agrees not to engage in the industrial laundry business for a period in excess of 2 years following the termination of his employment.

VIII

(A) For purposes of sections IV, V, and VI of this final judgment a defendant and its direct or indirect parent, or a defendant and a corporation under common control with it, shall be deemed to be one person.

(B) This final judgment shall not be construed to prohibit a defendant: (i) acting upon a bona fide belief that one or more of its contracts is being interfered with by another person or operator, from notifying that person or operator in writing of the contract; nor (ii) from pursuing in good faith its legal remedies or the resolution of legal claims with respect to tortious interference with a specific contractual relationship. For the purpose of this section VIII the term "tortious interference" shall be deemed not to include the contacting of a customer for the purpose of ascertaining solely whether the customer has a contractural relationship and, if so, the expiration date of such relationship.

(C) The provisions of sections IV and V shall not apply to a bona fide transaction between a defendant and an operator (i) for the purchase or sale of an industrial laundry or an interest therein; or (ii) for the purchase of goods and services by a defendant, or the sale of goods and services by a defendant; or (iii) for the exchange of information between a defendant and another operator solely for and necessary to such transactions.

(D) The provisions of this final judgment shall not be construed to prohibit a defendant from engaging with other operators in joint negotiations, agreements or activity, the sole purpose or effect of which is to deal with labor unions or labor disputes.

IX

Within 90 days of the entry of this final judgment, and annually thereafter for a period of 10 years, each defendant shall take affirmative steps to advise each of its officers, directors, and employees engaged in sales in the industrial laundry business, of its and their obligations under this final judgment. In addition, each defendant shall, for so long as it remains in the industrial laundry business, cause a copy of this final judgment to be distributed annually to each of its officers.

X

For a period of 10 years from the date of entry of this final judgment, each defendant shall file with plaintiff, on each anniversary date of this final judgment, a report setting forth the steps it has taken during the preceding year to discharge its obligations under section IX above. Said report shall be accompanied by copies of all written directives issued by said defendant during the prior year with respect to compliance with the terms of this final judgment.

XI

Within 90 days of the entry of this final judgment each defendant shall mail or deliver to each of its industrial laundry customers who pay rentals of less than $350 per week either a copy of the final judgment or a notice of its entry, which notice shall also set forth, in a form acceptable to the Department of Justice, a summary of the prohibitions of section VI and an offer to make a copy of the judgment available upon written request. Where a defendant has contracts with individuals in the same establishment, the copy or notice may be mailed or delivered to the person responsible for administering the contracts.

XII

For the purpose of determining or securing compliance with this final judgment and subject to any legally recognized privilege, from time to time:

(A) Duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to any defendant made to its principal office, be permitted:

(1) Access during the office hours of the defendant to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of the defendant, which may have counsel present, relating to any of the matters contained in this final judgment; and

(2) Subject to the reasonable convenience of the defendant and without restraint or interference from it, to interview officers, employees and agents of the defendant, who may have counsel present, regarding any such matters.

(B) Upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division made to any defendant's principal office, the defendant shall submit such written reports, under oath if requested, with respect to any of the matters contained in this final judgment as may be requested.

No information obtained by the means provided in this final judgment shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the plaintiff, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this final judgment, or as otherwise required by law.

If at the time information or documents are furnished by a defendant to the United States, the defendant represents and identifies in writing the material in any such information or documents to which a claim of protection may be asserted under rule 26(c)(7) of the Federal rules of civil procedure, and the defendant marks each pertinent page of such material, "Subject to Claim of Protection under rule 26(c)(7) of the Federal rules of civil procedure", then ten days' notice shall be given by the United States to such defendant prior to divulging such material in any legal proceeding (other than a Grand Jury proceeding) to which the defendant is not a party.

XIII

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this final judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or modification of any of the provisions thereof, for the enforcement of compliance therewith, and for the punishment of violations thereof.

Entry of this final judgment is in the public interest.

U.S. District Judge.

U.S. DISTRICT COURT, SOUTHERN DISTRICT OF FLORIDA

[Civil No. FL 76-6041-Civ-JE; Filed August 15, 1978]

United States of America, Plaintiff, v. *American Service Corporation; Cadillac Overall Supply Company; Everglades Laundry, Inc. d.b.a. Mechanics Uniform Service; Neway & Towel Supply of Florida, Inc.*; and *Uniforms for Industry, Inc.*, Defendants.

PROPOSED CONSENT DECREE; COMPETITIVE IMPACT STATEMENT

Pursuant to section 2(b) of the Antitrust Procedures and Penalties Act (15 U.S.C. §§ 16(b)-(h)), the United States of America hereby submits this competitive impact statement relating to the proposed consent judgment submitted for entry in this civil antitrust proceeding.

I. NATURE OF THE PROCEEDING

On January 27, 1976, the Department of Justice filed a civil antitrust complaint under section 4 of the Sherman Act (15 U.S.C. § 4) alleging that the above-named defendants violated section 1 of the Sherman Act (15 U.S.C. § 1). The complaint alleges that the defendants and various coconspirators engaged in a combination and conspiracy in unreasonable restraint of interstate trade and commerce in industrial garments, the substantial terms of which were to divide, allocate, and apportion customers among the corporate defendants and coconspirators in south Florida.

Entry by the court of the proposed consent judgment will terminate the action, except that the court will retain jurisdiction over the matter for possible further proceedings which may be required to interpret, modify, or enforce the judgment, or to punish alleged violations of any of the provisions of the judgment.

II. DESCRIPTION OF THE PRACTICES INVOLVED IN THE ALLEGED VIOLATION

The defendants are engaged in the uniform rental industry, which is the business of renting and maintaining industrial garments, in south Florida. Industrial garments are items of work clothing and ancillary products including work pants, dress pants, work shirts, dress shirts, coveralls, overalls, jackets, coats, uniforms, shop towels, dust control materials, and other similar items. Typical customers for industrial garments would include various commercial and industrial businesses, institutions, and municipalities, the employees of which wear and use industrial garments.

The complaint in this case alleges that the defendants and coconspirators engaged in a conspiracy from at least as early as the 1960's and continuing thereafter up to September 1974, the substantial terms of which were to divide, allocate, and apportion industrial garment customers in south Florida. The complaint further alleges that the defendants and coconspirators actually allocated customers as they agreed to do. The complaint also alleges that the conspiracy may recur unless enjoined by the court. The market area alleged to have been affected by the conspiracy includes the counties of Palm Beach, Broward, and Dade, and that part of Monroe County commonly referred to as the Florida Keys, in the State of Florida.

The complaint alleges that the conspiracy had the following effects, among others: (a) Competition in the uniform rental industry in south Florida has been restrained; (b) the freedom of customers to do business with uniform rental companies of their choice has been restricted in south Florida; and (c) the prices charged by uniform rental companies in south Florida have been stabilized and maintained at noncompetitive and artificial levels.

If this case had gone to trial, the Government would have adduced evidence to show that beginning in the 1960's and continuing until September 1974, the defendant and coconspirator corporations allocated industrial garment customers. The evidence would have shown that although new customers without existing uniform rental service were open to competitive solicitation, once a defendant succeeded in obtaining the uniform rental business of a customer, the other defendants and coconspirators were to refrain from soliciting that customer or doing business with him. Attempts by dissatisfied customers to change from one uniform rental company to another were discouraged and prevented by the defendants and coconspirators. On occasion, the defendants and coconspirators exchanged certain customers or allowed each other to solicit certain customers for the purpose of maintaining proportionate volumes of business among themselves and without regard for the rights or wishes of the customers. The conspiracy was effectuated and carried out in a series of meetings and telephone conversations among certain officers and managerial employees of the defendant and coconspirator corporations.

III. EXPLANATION OF THE PROPOSED CONSENT JUDGMENT

The United States and the defendants have stipulated that the proposed consent judgment, in the form negotiated by and between the parties, may be entered by the court at any time after compliance with the Antitrust Procedures and Penalties Act. The stipulation between the parties provides that there has been no admission by any party with respect to any issue of fact or law. Under the provisions of section 2(e) of the Antitrust Procedures and Penalties Act, entry of the proposed judgment is conditioned upon a determination by the court that the proposed judgment is in the public interest.

A. *Prohibited conduct.* The proposed judgment prohibits the defendants from entering into any agreement, contract, or understanding with each other or any other competitor to (1) allocate territories or customers; (2) refrain from soliciting the business of any customer; or (3) refrain from doing business with any customer. The defendants are further prohibited from furnishing to or requesting from any competitor information on prices, terms of bids, or identity of customers.

For 10 years, the defendants are prohibited from including within any customer contract any provisions for automatic renewal or for penalty damages or restricting a customer's right to terminate for material breach. For 5 years, the defendants are prohibited from using customer contracts of longer than 30 months' duration.

The defendants are further prohibited from entering into any contract or convenant under which an employee agrees not to engage in the industrial laundry business for a period in excess of 2 years following the termination of his employment.

The defendants are required to give notice of the final judgment to each of their industrial laundry customers who pay rentals of less than $350 per week.

The proposed consent judgment requires that for ten (10) years each defendant furnish a copy of the judgment to each of its employees engaged in sales in the industrial laundry business. Also, each defendant is required to furnish to the court and the plaintiff an affidavit as to the fact and manner of its notification of its employees.

B. *Scope of the proposed judgment.* The proposed consent judgment will expressly provide the maximum coverage permitted by law. By its terms the judgment applies to each defendant and to each of its officers, directors, agents, employees, subsidiaries, successors and assigns, and to all other persons who act in concert with any of the defendants, provided that such persons have actual notice of the judgment, by personal service or otherwise. Unless the court either modifies or vacates all or a part of the proposed judgment, and except for those provisions which expressly contain a time limitation, the defendants are forever bound by its prohibitions.

C. *Effect of the proposed judgment on competition.* The relief encompassed in the proposed consent judgment is designed to prevent any recurrence of the activities alleged in the complaint. The prohibitive language of the judgment should insure that future customer solicitation practices of the defendants will be independently determined, without the restraining and artificial influences which result from meetings and agreements between competitors.

The judgment provides two methods for determining the defendants' compliance with the terms of the judgment. First, the Government is given access, upon reasonable notice, to the records of the defendants, to examine these records for possible violations or the judgment, and to interview officers, directors, agents, partners, or employees of the defendants. Second, the defendants may be required to submit written reports with respect to any matters contained in the proposed judgment.

It is the opinion of the Department of Justice that the proposed consent judgment contains fully adequate provisions to prevent future violations of the antiturst laws by these defendants, and to insure that the customer solicitation practices of the defendants are determined in a competitive atomosphere. In the Department's view, disposition of the lawsuit without further litigation is appropriate in that the proposed judgment provides all the relief which the Government sought by filing its complaint; the additional expense of litigation would therefore not result in additional public benefit.

IV. REMEDIES AVAILABLE TO POTENTIAL PRIVATE LITIGANTS

Section 4 of the Clayton Act [15 U.S.C. § 15] provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in Federal court to recover three times the damages such person has suffered, as well as costs and reasonable attorney fees. Entry of the proposed consent judgment in this proceeding will neither impair nor assist the bringing of any such private antitrust actions. Under the provisions of section 5(a) of the Clayton Act [15 U.S.C. § 16(a)], this consent judgment has no prima facie effect in any subsequent lawsuits which may be brought against these defendants.

V. PROCEDURES AVAILABLE FOR MODIFICATION OF THE PROPOSED JUDGMENT

As provided by the Antitrust Procedures and Penalties Act, any person believing that the proposed judgment should be modified may submit written comments to Donald A. Kinkaid, Antitrust Division, U.S. Department of Justice, 1776 Peachtree Street NW., Suite 420, Atlanta, Ga. 30309, within the 60-day period provided by the act. These comments, and the Department's responses to them, will be filed with the court and published in the FEDERAL REGISTER. All comments will be given due consideration by the Department of Justice, which remains free to withdraw its consent to the proposed judgment at any time prior to its entry if it should determine that some modification of it is necessary. The proposed judgment provides that the court retains jurisdiction over this action, and the parties may apply to the court for such order as may be necessary or appropriate for its modification, interpretation or enforcement.

VI. ALTERNATIVES TO THE PROPOSED CONSENT JUDGMENT

This case does not involve any unusual or novel issues of fact or law which might make litigation a more desirable alternative than entry of this consent decree. The Department considers the substantive language of the judgment to be of sufficient scope and effectiveness to make litigation on relief unnecessary, as the judgment provides all relief which reasonably could have been expected after trial.

VII. OTHER MATERIALS

No materials and documents of the type described in section 2(b) of the Antitrust Procedures and Penalties Act (15 U.S.C.

16(b)) were considered in formulating this proposed judgment.

Dated: August 15, 1978.

JUSTIN M. NICHOLSON,
NICHOLAS A. LOTITO,
Attorneys.[1]

[FR Doc. 78-23568 Filed 8-22-78; 8:45 am]

[7590-01]

NUCLEAR REGULATORY COMMISSION

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS

Meeting

In accordance with the purposes of sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b.), the Advisory Committee on Reactor Safeguards will hold a meeting on September 7-9, 1978, in Room 1046, 1717 H Street NW., Washington, D.C.

The agenda for the subject meeting will be as follows:

THURSDAY, SEPTEMBER 7, 1978

8:30 a.m.-9:30 a.m.: Executive session (open).—The Committee will hear and discuss the report of the ACRS Chairman regarding miscellaneous matters relating to ACRS activities and matters for discussion with the NRC Commissioners regarding ACRS activities during the period of May-August 1978.

9:30 a.m.-10:30 a.m.: Meeting with NRC Commissioners (open).—The Committee will meet with the NRC Commissioners to discuss ACRS activities during the period of May-August 1978.

10:30 a.m.-11:15 a.m.: Executive session (open).—The Committee will hear and discuss the report of the ACRS Subcommittee and consultants who may be present regarding proposed operation of the fast flux test facility.

11:15 a.m.-12:45 p.m. and 1:45 p.m.-4:30 p.m.: Fast flux test facility (open).—The Committee will hear and discuss presentations by representatives of the Nuclear Regulatory Commission (NRC) staff, the Department of Energy and their contractors regarding proposed operation of the fast flux test facility.

4:30 p.m.-5:15 p.m.: Meeting with NRC staff (open).—The Committee will hear presentations and hold discussions with representatives of the NRC staff regarding recent licensing actions and operating experience at nuclear powerplants. The future schedule for ACRS activities will also be discussed.

15:15 p.m.-6:30 p.m.: Executive session (open).—The Committee will hear and discuss the reports of ACRS subcommittees on proposed revisions to NRC regulatory guides.

The Committee will also discuss its proposed report to the NRC regarding the fast flux test facility.

FRIDAY, SEPTEMBER 8, 1978

8:30 a.m.-9:15 a.m.: Meeting with the NRC Executive Director for Operations (open).—The Committee will hear and discuss information regarding the Office of Nuclear Reactor Regulation workload and resources.

9:15 a.m.-9:45 a.m.: Executive session (open).—The Committee will hear and discuss the report of its subcommittee and consultants who may be present regarding proposed implementation of provisions to mitigate the consequences of anticipated transients without scram in light water reactors.

9:45 a.m.-1:15 p.m.: Meeting with NRC staff (open).—The Committee will hear presentations from and hold discussions with representatives of the NRC staff, the nuclear and utility industry regarding proposed implementation of provisions to mitigate the consequences of anticipated transients without scram in light water reactors.

2:15 p.m.-2:45 p.m.: Executive session (open).—The Committee will hear and discuss the report of its subcommittee and consultants who may be present regarding reactor safety research for emergency core cooling systems.

2:45 p.m.-6:15 p.m.: Meeting with NRC staff (open).—The Committee will hear and discuss reports of representatives of the NRC staff regarding reactor safety research applicable to emergency core cooling systems.

6:15 p.m.-7 p.m.: Executive session (open).—The Committee will discuss its proposed reports to NRC regarding the fast flux test facility and anticipated transients without scram.

SATURDAY, SEPTEMBER 9, 1978

8:30 a.m.-12 m.: Executive session (open).—The Committee will complete its reports to the NRC regarding matters discussed during this meeting and proposed ACRS comments regarding the source term used in accident analysis and anticipated doses in adjacent nuclear reactors from postulated accidents in one of the facilities.

Procedures for the conduct of and participation in ACRS meetings were outlined in the FEDERAL REGISTER on October 31, 1977, page 56972. In accordance with these procedures, 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 be members of the Committee, its consultants, and staff. Persons desiring to make oral statements should notify the ACRS Executive Director as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

Background information concerning items to be considered during this meeting can be found in documents on file and available for public inspection as appropriate in the NRC's Public Document Room 1717 H Street NW., Washington, D.C. 20555.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the ACRS Executive Director, Mr. Raymond F. Fraley, telephone 202-634-3265 between 8:15 a.m. and 5 p.m. e.d.t.

Dated: August 17, 1978.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc. 78-23556 Filed 8-22-78; 8:45 am]

[7590-01]

APPLICATIONS FOR LICENSES TO EXPORT NUCLEAR FACILITIES OR MATERIALS

Pursuant to 10 CFR 110.70, "public notice of receipt of an application," please take notice that the Nuclear Regulatory Commission has received the following applications for export licenses during the period of August 7-11, 1978. A copy of each application is on file in the Nuclear Regulatory Commission's Public Document Room located at 1717 H Street NW., Washington, D.C.

Dated: August 16, 1978, at Bethesda, Md.

For the Nuclear Regulatory Commission.

GERALD G. OPLINGER,
Assistant Director, Export/Import and International Safeguards, Office of International Programs.

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[1] Antitrust Division, U.S. Department of Justice, Suite 420, 1776 Peachtree Street NW., Atlanta, Ga. 30309, telephone 404-881-3820, FTS 257-3820.

Name of applicant, date of application, date received, and application number	Material in kilograms or reactor type and power level	Enrichment (in percent)	End-use	Country of destination
Edlow International, July 26, 1978, Aug. 7, 1978, XU08427.	68,500 natural uranium..	Enrichment of UF_6 for the Kernkraftwerk Kaiseraugst reactor.		Switzerland.
Westinghouse Electric, Aug. 3, 1978, Aug. 8, 1978, XSNM00953 (amendment 03).	Add'l 23,347 uranium. Add'l 888 U^{235}.	3.55	Fuel for Beznau I and extend expiration date to June 1, 1984.	Do.
Transnuclear Inc., Aug. 8, 1978, Aug. 8, 1978, XSNM01362.	72.6 uranium	93.3	Fuel for high flux reactor in Grenoble.	France.
Transnuclear Inc., Aug. 9, 1978, Aug. 10, 1978, XSNM01363.	49,656 uranium	3.30	Used in Fessenheim 2 and Bugey 3 reactors as reloads.	Do.
Transnuclear Inc., Aug. 10, 1978, Aug. 11, 1978, XSNM01247 (amendment 01).	Decreased to 22.055. Decreased to 20.577.	93.3	Material decreased by 2.002 U^{235} and 2.145 uranium.	Sweden.

[FR Doc. 78-23557 Filed 8-22-78; 8:45 am]

[7590-01]

[Docket No. 50-344SP]

PORTLAND GENERAL ELECTRIC CO. ET AL. (TROJAN NUCLEAR PLANT)

Amended Notice of Place of Evidentiary Hearing

AUGUST 16, 1978.

By a previous notice of evidentiary hearing set for September 6-8, 1978, the place of the hearing was noticed for Room 103, Interstate Commerce Commission, the Pioneer Courthouse, 555 Southwest Yamhill, Portland, Oreg.

Due to the need for more space, the evidentiary hearing will be held instead at 9 a.m., local time, in the East Courtroom, Sixth Floor, U.S. District Court, 620 Southwest Main Street, Portland, Oreg., on September 6-8, 1978.

It is so ordered.

Dated at Bethesda, Md., this 16th day of August 1978.

For the Atomic Safety and Licensing Board.

MARSHALL E. MILLER,
Chairman.

[FR Doc. 78-23558 Filed 8-22-78; 8:45 am]

[7590-01]

[Docket Nos. STN 50-556 STN 50-557]

PUBLIC SERVICES COMPANY OF OKLAHOMA, ASSOCIATED ELECTRIC COOPERATIVE, INC. AND WESTERN FARMERS ELECTRIC COOPERATIVE, INC.

BLACK FOX STATION, UNITS 1 AND 2

Order Setting Evidentiary Hearing on Health and Safety Issues

The U.S. Nuclear Regulatory Commission (the Commission) by its January 19, 1976 "notice of hearing on application for construction permits" (41 FR 3515), ordered a hearing be held on the application by Public Service Co. of Oklahoma and the Associated Electric Cooperative, Inc. (hereinafter referred to as applicants),[1] to construct two boiling water nuclear reactors designated as the Black Fox Station, Units 1 and 2 (the facility). The facility is proposed to be located in the township of Inola, Okla., approximately 23 miles east of Tulsa, on the east side of the Verdigris River in Rogers County. This hearing will be evidentiary in nature and will be conducted pursuant to the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2011, et seq., and the Commission's rules and regulations as set out in title 10, Code of Federal Regulations (CFR).

The hearing on this application will be conducted by an Atomic Safety and Licensing Board which is composed of Dr. Paul W. Purdom and Mr. Frederick J. Shon as technically qualified members, and Mr. Sheldon J. Wolfe as chairman.

After hearings had been held on site suitability and environmental issues, on July 24, 1978 the Board issued a partial initial decision authorizing limited work authorization. This notice and order resumes the hearings on health and safety issues to be considered pursuant to the aforementioned "notice of hearing on application of construction permits" dated January 19, 1976. Specifically, in its initial decision to be rendered after this hearing upon whether the construction permits should be issued as proposed, the Board will rule on the following issues:

1. Whether in accordance with the provisions of 10 CFR § 50.35(a):

(a) The applicants have described the proposed design of the facilities including, but not limited to, the principal architectural and engineering criteria for the design, and have identified the major features or components incorporated therein for the protection of the health and safety of the public;

(b) Such further technical or design information as may be required to complete the safety analysis and which can reasonably be left for later consideration, will be supplied in the final safety analysis report;

(c) Safety features or components, if any, which require research and development have been described by the applicants and the applicants have identified, and there will be conducted a research and development program reasonably designed to resolve any safety questions associated with such features or components; and

(d) On the basis of the foregoing, there is reasonable assurance that (i) such safety questions will be satisfactorily resolved at or before the latest date stated in the application for completion of construction of the proposed facilities, and (ii) taking into consideration the site criteria contained in 10 CFR Part 100, the proposed facilities can be constructed and operated at the proposed location without undue risk to the health and safety of the public.

2. Whether Public Service Company of Oklahoma is technically qualified to design and construct the proposed facilities;

3. Whether the applicants are financially qualified to design and construct the proposed facilities; and

4. Whether the issuance of permits for construction of the facilities will be inimical to the common defense and security or to the health and safety of the public.

Accordingly, please take notice and it is hereby ordered that the evidentiary hearing on health and safety issues specified above is scheduled to begin at 9:30 a.m. on September 18, 1978 in Courtroom No. 3, United States Courthouse, 333 West Fourth Street, Tulsa, Okla. The hearing will continue on week days through September 29, 1978.

Members of the public are invited to attend this evidentiary public hearing. Pursuant to 10 CFR 2.715(a), individuals or organizations wishing to make limited appearances in order to state their positions on the issues will be permitted to do so on September 18, 1978. In order to accommodate those who desire to make limited appearance statements, evening sessions between 7 p.m. and 10 p.m. will be held also on September 18 and 19, 1978. Oral statements will be limited to five (5) minutes each but written statements may be submitted without limitation on length. Those individuals and organi-

[1] Subsequently Western Farmers Electric Cooperative, Inc. became a co-owner in the facility and an "amended notice of hearing application for construction permits" was issued October 20, 1976.

zations making limited appearance statements are reminded that they are not parties in this proceeding and do not have a right to participate therein other than to present their statements.

Dated at Bethesda, Md., this 17th day of August 1978.

For the Atomic Safety and Licensing Board.

SHELDON J. WOLFE, Esq.,
Chairman.

[FR Doc. 78-23559 Filed 8-22-78; 8:45 am]

[8010-01]

SECURITIES AND EXCHANGE COMMISSION

[Release No. 10364; 812-4300]

AMERICAN GENERAL LIFE INSURANCE CO. OF DELAWARE

AMERICAN GENERAL LIFE INSURANCE CO. OF DELAWARE SEPARATE ACCOUNT D

Application for an Order Approving Certain Offers of Exchange

AUGUST 16, 1978.

Notice is hereby given that American General Life Insurance Co of Delaware Separate Account D ("Separate Account D"), a unit investment trust registered under the Investment Company Act of 1940 ("Act"), and American General Life Insurance Company of Delaware (the "Company") (hereinafter collectively referred to as "Applicants"), 2727 Allen Parkway, Houston, Tex. 77019, have filed an application on April 28, 1978, and amendments thereto on May 22 and July 25, 1978, pursuant to section 11 of the Act for an order approving certain offers of exchange. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

The Company is a life insurance company organized under the laws of Delaware. On November 19, 1973, the Company created Separate Account D under the Delaware Code as a separate account for the purpose of investing the net purchase payments received by the Company for certain variable annuity contracts which it sells (the "Contracts"). The Separate Account is a registered unit investment trust under the Act.

Pursuant to a registration statement under the Securities Act of 1933 the Applicants offer and sell the Contracts under which payments made by a contract owner may be accumulated until retirement on a fixed as well as variable basis. Before the annuity payment period begins, the contract holder may transfer the value of net purchase payments accumulated on one basis to the other basis for the purposes of future accumulation. For such transfers a $5 administrative charge is made, but additional sales and administrative charges as would obtain for an initial payment are not imposed. In addition, the holders of fixed life insurance or annuity contracts, issued by the Company or any other wholly owned life insurance subsidiary of the American General Group, may apply the cash surrender value or death benefits of any such contract which has previously incurred sales and administrative expense charges payable under these policies toward the purchase of a single payment variable annuity contract without any sales or administrative expense. If the requested order is granted, holders of shares in certain investment companies, the investment adviser of which is a subsidiary of the Company's parent, who have paid a sales load upon the purchase of such shares, will be offered the right to exchange the net asset value of shares toward the purchase of a single payment variable annuity contract without any sales or administrative charge; however, a $5 fee to cover the Company's costs in effecting the transfer will be imposed.

If accumulated on a variable basis, net purchase payments have been deposited in the Separate Account and applied to purchase shares of American General Growth Fund, Inc. ("Growth Fund"), an open-end management investment company registered under the Act, whose investment adviser is American General Capital Management, Inc. ("Capital Management"), a wholly owned subsidiary of the company's parent, American General Insurance Co. The Separate Account has now been modified to allow net purchase payments to be allocated to one of four Divisions of Separate Account D which are funded by four open-end management investment companies registered under the act, American General Reserve Fund, Growth Fund, Comstock Fund and American General Capital Bond Fund, all of which are advised by Capital Management. The Separate Account is expected to be modified further to allow net payments to be allocated to a fifth open-end management investment company registered under the Act, American General High Yield Investments, Inc., which is also advised by Capital Management.

As a result of these changes a contract owner may elect to have purchase payments for a contract invested in the Growth Fund with respect to Division 1, in the Comstock Fund with respect to Division 2, in the American General Capital Bond Fund with respect to Division 3, in the American General Reserve Fund with respect to Division 4 and in American General High Yield Investments, Inc. with respect to Division 5. Applicants now propose, subject to receipt of the requested order, to allow contract owners the right to transfer accumulated Purchase Payments from one Division of the Separate Account to another Division of the Separate Account. Such right would be exercised at any time: *Provided*, That a transfer may not be made if a previous transfer has been made within 30 days. The Company reserves the right to impose a longer holding period requirement between transfers if circumstances dictate the need for imposition of any such limitation. Thus, in the case of all transfers between Divisions, there is imposed a requirement that no such exchange may be effected for at least 7 days after the initial purchase of the Contract. The transfer of interests in one Division for interests in another Division would be on the basis of the relative net asset values of units accumulated in a Division without any additional sales or administrative charge being imposed other than a $5 administrative charge for each transfer.

SECTION 11

Section 11(a) of the Act makes it unlawful for any registered open-end company or principal underwriter therefor to make an offer to the holder of a security of such company or of any other open-end investment company to exchange his security for a security in the same or another such company on any basis other than the relative net asset values of the respective securities to be exchanged unless the terms of the offer have first been submitted to and approved by the Commission. Section 1(c) provides that, irrespective of the basis of exchange, the provisions of section 11(a) shall be applicable to any type of offer of exchange of the securities of registered unit investment trusts for the securities of any other investment company.

TRANSFERS

Applicants assert that the contemplated transfers between Divisions would not appear to involve any exchange of a security of a registered unit investment trust for the security of any other investment company; however, Applicants are requesting an order pursuant to section 11 approving the proposed right of such transfer to avoid any question that might be raised.

Applicants assert that the main reason for such transfer provision is to allow a contract owner to modify the prior allocation of purchase payments between investment media in light of changing personal needs and evolving economic conditions. Applicants state

that the transfer provisions are designed to afford flexibility in the selection of investment media under the contracts and should be for the benefit of contract owners.

Applicants assert that except for the $5 administrative fee a transfer will be effected at the applicable respective net asset values of units accumulated under the Divisions of the Separate Account from which and to which a transfer is being made, and is thus consistent with the policy underlying section 11. Applicants state that the $5 charge is intended to be a partial reimbursement for expense incurred in connection with a transfer and is identical to charges made upon transfers between the Company's General Account and the Separate Account and for the partial or full surrender of a Contract. Applicants further assert that such charge is similar to the charge made by many open-end management investment companies for transfers with related open-end management companies.

EXCHANGE OFFER

The proposed exchange offer to shareholders of other investment companies would be made to the shareholder of the following investment companies the investment adviser of each of which is American General Capital Management, Inc., a subsidiary of the Company's parent, subject in each case to any necessary prior approval of an investment company's board of directors (collectively called the "Funds"):

American General Capital Bond Fund, Inc.
American General Capital Growth Fund
American General High Yield Investments, Inc.
American General Income Fund
American General Venture Fund, Inc.
Comstock Fund, Inc.
Enterprise Fund, Inc.
Equity Growth Fund of America
Fund of America, Inc.
Harbor Fund, Inc.
Legal List Investments, Inc.
Pace Fund, Inc.
Provident Fund for Income, Inc.

A transfer would be initiated by written request of a shareholder of one of the Funds and delivery of any issued share certificate to the transfer agent. The exchange would be accompanied by the redemption of the shares of the Fund at the net asset value next determined after receipt of the request for exchange and the reinvestment of the proceeds without a sales charge in accumulation units of the Separate Account at the value next determined after receipt of the funds for purchase of a Single Payment Contract.

Applicants assert that since the exchange will be effected at net asset value and the only charge to the shareholder will be the $5 transfer fee, the exchange is consistent with section 11.

Applicants assert that the purpose of this exchange right is to permit shareholders of the Funds who wish to continue their equity investment in a variable annuity contract to do so without paying additional sales and administrative charges upon the purchase of the Contract.

Notice is further given that any interested person may, not later than September 8, 1978, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit, or in case of an attorney at law, by certificate) shall be filed contemporaneously with the request. As provided by rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following September 8, 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 notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

SHIRLEY E. HOLLIS,
Assistant Secretary.

[FR Doc. 78-23637 Filed 8-22-78; 8:45 am]

[8010-01]

[Rel. No. 15073; SR-CBOE-78-16]

CHICAGO BOARD OPTIONS EXCHANGE, INC.

Order Approving Proposed Rule Change

AUGUST 16, 1978.

On June 12, 1978, the Chicago Board Options Exchange, Incorporated ("CBOE"), La Salle at Jackson, Chicago, Ill. 60604, filed with the Commission, pursuant to section 19 (b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78 (s)(b) (the "act") and rule 19b-4 (17 CFR 240.19b-4) thereunder, copies of a proposed rule change that would permit introduction of a third expiration cycle—March/June/September/December (the "March cycle"), for certain classes of standardized options contracts listed on the CBOE. Initially the CBOE will transfer to the March cycle fourteen option classes currently assigned to the January/April/July/October cycle (the "January cycle").[1]

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. 14874, June 21, 1978) and by publication in the FEDERAL REGISTER (43 FR 28061, June 28, 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.

While the CBOE has not identified the fourteen classes which will be transferred to the new expiration cycle, the Exhange represents that the subject classes will be exclusively traded on the CBOE and that implementation of the March cycle will not result in multiple cycle trading in any option class.[2] Accordingly, should the CBOE determine to initiate multiple cycle trading in any option class listed thereon, such a decision would be required to be submitted to the Commission as a proposed rule change pursuant to section 19(b)(1) of the act and rule 19b-4 thereunder.

To the extent that SR-CBOE-78-16 will ease the administrative burdens on CBOE member firms by reducing the concentration of option classes assigned to the January expiration cycle, the proposal would appear to facilitate transactions in certain option classses traded on that Exchange by fostering better coordination among persons engaged in the clearance and settlement of transactions therein. Accordingly, the Commission finds that the proposed rule change is consistent with the requirements of the act and the rules and regulations thereunder applicable to national securities ex-

[1] The CBOE has indicated that its January cycle classes currently account for about 80 percent of contract volume. The contemplated transfer would commence on October 23, 1978.

[2] Multiple cycle trading would occur, for example, where two exchanges list options of the same class but assign them to different expiration cycles. Similarly, an exclusively listed option class would be traded on a multiple-cycle basis if option series of that class were issued on at least two expiration cycles.

changes, and in particular, the requirements of section 6 and the rules and regulations thereunder.

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. 78-23638 Filed 8-22-78; 8:45 am]

[8010-01]

[Release No. 15071; SR-NYSE-78-40]

NEW YORK STOCK EXCHANGE, INC.

Order Approving Proposed Rule Change

AUGUST 16, 1978.

On June 22, 1978, the New York Stock Exchange, Inc., 11 Wall Street, New York, N.Y. 10005, 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 to amend NYSE Rule 410 to require members and member organizations to preserve certain records of orders "in an easily accessible place" for the first 2 years of the present 3 year retention period, as required by Securities Exchange Act Rule 17a-4(b)(1) (17 CFR 240.17a-4(b)(1)); to amend NYSE Rule 416(a) to require members and member organizations to submit to the Exchange such information as the Exchange determines is essential for the protection of investors and in the public interest; and to delete the reporting requirement relating to Income and Expense Reports contained in NYSE Rule 425, in view of the uniform reporting requirements for brokers and dealers.

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. 34-14935, July 6, 1978) and by publication in the FEDERAL REGISTER (43 FR 29873, July 11, 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 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 national securities exchanges and in particular, the requirements of section 6 and the rules and regulations thereunder.

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. 78-23639 Filed 8-22-78; 8:45 am]

[8010-01]

[Release No. 34-15072; File No. SR-NYSE-78-20]

NEW YORK STOCK EXCHANGE, INC.

Self-Regulatory Organizations; 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 the New York Stock Exchange, Inc. ("NYSE") submitted, on July 24, 1978, an amendment (the "amendment") to its proposed rule change (the "Proposal"), previously filed under Rule 19b-4 (File No. SR-NYSE-78-20), concerning qualification and examination requirements for certain categories of registered representatives. The Proposal, as originally filed, was to amend NYSE Rule 345.15 to (a) allow registered representatives whose activities are limited solely to the solicitation of the sale or purchase of investment company securities and variable contracts, real estate securities, and direct participation programs to meet the NYSE's qualification standards by fulfilling specialized training and examination requirements either of the NYSE, or of other self-regulatory organizations whose requirements are acceptable to the NYSE, and (b) to enable the NYSE to create specialized training and examination requirements for registered representative candidates engaged in limited activities other than those enumerated above. Notice of the Proposal together with its terms of substance was given by publication of a Commission Release (Securities Exchange Act Release No. 14689, April 20, 1978) and by publication in the FEDERAL REGISTER (43 FR 19089, May 3, 1978).

The amendment to the Proposal deletes paragraph 345.15(3) of the Proposal. That paragraph was the portion of the Proposal which would have enabled the NYSE to create specialized training and examination requirements for registered representative candidates engaged in limited activities other than the solicitation of the sale or purchase of investment company securities and variable contracts, real estate securities, and direct participation programs.

According to the NYSE the purpose of the amendment is as follows:

"The purpose of the [amendment] is to remove the possibility of ambiguity that paragraph [345.15(3)] is substantive in nature whereas it was intended merely as a reflection of the Exchange's attitude not to foreclose the possibility that future developments may give rise to new categories of activity, not presently recognized."

The NYSE amendment also changes the NYSE's *Statement of the Purpose of the Proposed Rule Change by* adding the following statement:

"As regards the categories specifically enumerated in paragraph (2) of the Proposal, it is the present intention of the [NYSE] to accept satisfactory completion of the National Association of Securities Dealers, Inc.'s shorter and less complex Series 1 examination (Examination for Qualification as a registered representative), as it may, from time to time, be amended or supplanted, by an equivalent examination, in lieu of the [NYSE's] Series 7 examination (Qualification Examination for General Securities Representatives)."

On or before September 27, 1978, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change,

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, 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 NYSE. All submissions should refer to the file number referenced in the caption above and should be submitted on or before September 7, 1978.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

SHIRLEY E. HOLLIS,
Assistant Secretary.

AUGUST 16, 1978.

[FR Doc. 78-23640 Filed 8-22-78; 8:45 am]

[4710-07]

DEPARTMENT OF STATE

Office of the Secretary

[Public Notice CM-8/96]

SHIPPING COORDINATING COMMITTEE, SUBCOMMITTEE ON SAFETY OF LIFE AT SEA

Meeting

The ad hoc working group on nuclear ships of the Subcommittee on Safety of Life at Sea (SOLAS), a component of the Shipping Coordinating Committee (SHC), will conduct an open meeting on Wednesday, September 13, 1978, at 9:30 a.m., in Room 8238 of the Department of Transportation, 400 Seventh Street SW., Washington, D.C.

The purpose of this meeting is to consider the following:

(a) Definitions of terms used in the proposed code;

(b) Requirements for physical barriers;

(c) List of items to be included in the safety assessment; and

(d) Initial consideration of port entry provisions.

Requests for further information should be directed to Commander John Deck III, U.S. Coast Guard (G-MMT-4/82), Washington, D.C. 20590, telephone 202-426-2197.

The Chairman will entertain comments from the public as time permits.

RICHARD K. BANK,
Chairman,
Shipping Coordinating Committee.

AUGUST 14, 1978.

[FR Doc. 78-23564 Filed 8-22-78; 8:45 am]

[4710-07]

[Public Notice CM-8/97]

ADVISORY COMMITTEE ON TRANSNATIONAL ENTERPRISES

Meeting

The Department of State will hold meetings on September 26 of two working groups of the Advisory Committee on Transnational Enterprises. The working group on technology transfer will meet from 9:30 a.m. until 12:30 p.m., and the working group on restrictive business practices (RBPs) will meet from 2:30 p.m. until 5:30 p.m. Both meetings will be held in Room 1105 of the State Department, 2201 C Street NW., Washington, D.C. The meetings will be open to the public.

The purpose of the meetings will be to discuss ongoing work in international bodies in the areas of technology transfer and restrictive business practices. The working group on technology transfer will focus its discussion on the June 26-July 7 meeting of the intergovernmental group of experts aimed at preparing a code of conduct on the transfer of technology. The working group on RBPs will review the work of the third ad hoc group of intergovernmental experts at their meeting of July 10-21, which continued discussion of a set of "principles and rules" on restrictive business practices. Both working groups will consider documents that emerged from the international meetings and discuss possible next steps in each forum.

Requests for further information on the meeting should be directed to Richard Kauzlarich, Department of State, Office of Investment Affairs, Bureau of Economic and Business Affairs, Washington, D.C. 20520. He may be reached by telephone on (area code 202) 632-2728.

Members of the public wishing to attend the meeting must contact Mr. Kauzlarich's office in order to arrange entrance to the State Department building.

The chairman of the working group will, as time permits, entertain oral comments from members of the public attending the meeting.

Dated: August 14, 1978.

RICHARD D. KAUZLARICH,
Executive Secretary.

[FR Doc. 78-23565 Filed 8-22-78; 8:45 am]

[4710-05]

[Pub. Notice 622]

Office of the Secretary

PRIVACY ACT OF 1974

Proposed Change to a System of Records

Notice is hereby given that the Department of State proposes to alter a system of records pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a(o)) and the Office of Management and Budget Circular No. A-108, Transmittal Memorandum No. 1, dated September 30, 1975 (40 FR 45877, October 3, 1975).

The Department proposes to alter the "Security Records, STATE-36", by expanding the category of records to include security violations records of Department employees and by automating that portion of the system. Since records of security violations were maintained on hard copy and included as part of the employee's general security file at the time of the original system description publication in September 1975, it was not required that the Department list "security violations" as a separate category; however, the automation of these records and their physical separation from other security records necessitates the appropriate system amendment.

E.O. 11652 (the adoption of E.O. 12065 December 1, 1978, does not affect the requirements concerning the safeguards of classified material/information and related agency regulations) provides that certain official material/information maintained within the federal government is so important to the national defense and the conduct of foreign relations that it should be given limited dissemination. To ensure that such material is protected, the order identifies the material/information to be protected, prescribes classification, downgrading, declassification and safeguarding procedures to be followed, and establishes a monitoring system to insure its effectiveness. The Office of Security has primary responsibility within the Department of State for these latter provisions of the Order and has developed the security Violations Program as a means of monitoring these provisions. The name retrievable portion of this program is the security violations records which reflect the date, location, and disposition of each infraction by a Department employee of the security regulations concerning the storage, handling, transmission, or protection of classified material; these records are maintained under the authority of E.O. 11652. The proposed automated system will operate as part of the Department's major unclassified system; access to the information contained on the computer tapes will be gained only by authorized personnel using a restricted password.

The automation of the security violations records clearly would enable the Office of Security to more effectively fulfill its responsibility under E.O. 11652 by facilitating its implementation of the Security Violations Program.

Any person interested in commenting on the proposed change to the Security Records may do so by submitting comments in writing to the Director of the Foreign Affairs Document and Reference Center, Room 1239, Department of State, 2201 C Street NW., Washington, D.C. 20520. If no comments are received by 1978, the proposed change will go into effect.

The proposed "Security Records, STATE-36" will read as set forth below.

Dated: August 11, 1978.

For the Secretary of State.

BEN H. READ,
Deputy Under Secretary for Management.

STATE—36

System Name:

Security Records.

System location:

Department of State, 2201 C Street NW., Washington, D.C. 20520.

Categories of individuals covered by the system:

Employees and former employees of the Department of State; applicants for departmental employment who have been or are presently being investigated; contractors working for the Department; recipients of cultural grants; individuals requiring access to the official Department of State premises who have undergone or are undergoing security clearance; individuals involved in matters of passport and visa fraud, munitions control, unauthorized access to classified information, and alien prospective spouses of American personnel of the Department of State; individuals whose activities have a potential bearing on the security of departmental or Foreign Service operations. In addition, security files contain information needed to provide protective services for the Secretary of State and visiting foreign dignitaries and heads of state, and to protect the Department's official premises. There are also information copies of investigations of individuals conducted abroad at the request of Federal agencies. Finally, security files contain documents and reports furnished to the Department by other agencies concerning individuals whose activities the other agencies believe may have a bearing on U.S. foreign policy interests.

Categories of records in the system:

Investigatory material relating to any category of individual described above; applications for employment; intelligence reports; fingerprints; photographs; internal memoranda; *security violations records.*

Authority for maintenance of the system:

5 U.S.C. 7311 and 7531-33; 8 U.S.C. 1104; 18 U.S.C. 111, 112, 201, 1114, 1116, 1117, 1541, 1542, 1543, 1544, 1545, 1546; 22 U.S.C. 211a, 846, 911, 2454, and 2667; Executive Order 10450; Executive Order 11652; Executive Order 10865; 22 CFR Subchapter M.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

The principal users of this information outside the Department of State are: Department of Treasury; Civil Service Commission; Agency for International Development; U.S. Information Agency; Arms Control and Disarmament Agency; U.S. Secret Service; Immigration and Naturalization Service; Department of Defense; Central Intelligence Agency; Department of Justice; National Security Agency; Drug Enforcement Administration; any other Federal agency inquiring pursuant to law or Executive Order in order to make a determination of general suitability for employment or retention in employment, to grant a contract or issue a license, grant, or security clearance; and other Federal, State, or municipal law enforcement agency for law enforcement purposes; any other agency or Department of the Federal Government pursuant to statutory intelligence responsibilities or other lawful purposes, any other agency or Department of the Executive branch having oversight or review authority with regard to its investigative responsibilities; to the extent necessary to identify the individual adequately, to any other record custodian in order to obtain information relevant to a legitimate investigative or intelligence interest of the Department of State. The information may also be released to other Government agencies who have statutory or other lawful authority to maintain such information. Also see "Routine Uses" of Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Hard copy; microfilm; microfiche; computer media.

Retrievability:

By individual name.

Safeguards:

All employees of the Department of State have undergone a thorough security investigation. Access to the Department of State building and its annexes is controlled by security guards, and is limited to those individuals possessing a valid identification card or individuals under proper escort. All records containing personal information are maintained in secured file cabinets or in restricted areas, access to which is limited to authorized personnel.

Retention and disposal:

Retention of these records varies, depending upon the specific kind of record involved. They are retired or destroyed in accordance with published schedules of the Department of State. More specific information may be obtained by writing to the Director, Foreign Affairs Document and Reference Center, Room 1239, Department of State, 2201 C Street NW., Washington, D.C. 20520.

System manager(s) and address:

Deputy Assistant Secretary for Security, Room 2513, Department of State, 2201 C Street NW., Washington D.C. 20520.

Notification procedure:

Individuals who wish to find out if the Office of Security has records pertaining to them should write to the Director, Foreign Affairs Document and Reference Center, Room 1239, Department of State, 2201 C Street NW., Washington, D.C. 20520. At a minimum, the individual must include: Name; date and place of birth; current mailing address and zip code; signature.

Record access procedures:

Individuals who wish to gain access to or amend records pertaining to themselves should write to the Director, Foreign Affaris Document and Reference Center (address above).

Contesting record procedures:

(See above)

Record source categories:

The individual; persons having knowledge of the individual; persons having knowledge of incidents or other matters of investigative interest to the Department; pertinent records of other Federal, State, or local agencies or foreign governments; pertinent records of private firms or organizations; public sources.

Systems exempted from certain provisions of the Act:

Certain records contained within this system of records are exempted from 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4) (G), and (H), and (I), and (f). See Department of State Rules published in the FEDERAL REGISTER. Pursuant to section (j)(2) of the act, records compiled by the Passport and Visa Fraud Branch of the Office of Security may be exempted from the requirements of any part of the act except subsections (b), (c) (1), and (2), (e)(4) (A) through (F), (e) (6), (7) (9), (10), and (11), and (i) to the extent necessary to assure the effective completion of the investigative and judicial processes.

[FR Doc. 78-23690 Filed 8-22-78; 8:45 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[Notice No. 704]

ASSIGNMENT OF HEARINGS

AUGUST 18, 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 107012 (Sub-258), North American Van Lines, Inc., now being assigned November 13, 1978 (3 days), at Atlanta, GA in a hearing room to be later designated.

MC 65491 (Sub-48F), Tower Lines, Inc., now being assigned November 16, 1978 (2 days), at Atlanta, GA in a hearing room to be later designated.

MC 143364 (Sub-1F), Associated Cab Co., Inc., d.b.a. Gray Line of Atlanta, now being assigned November 20, 1978 (2 days), at Atlanta, GA in a hearing room to be later designated.

MC 95540 (Sub-1009F), Watkins Motor Lines, Inc., now being assigned October 31, 1978 (2 days), at Chicago, IL, in a hearing room to be later designated.

MC 113434 (Sub-96F), Gra-Bell Truck Line, Inc., now being assigned November 6, 1978 (2 days), at Chicago, IL, in a hearing room to be later designated.

MC 96328 (Sub-5F), Illinois Short Line, Inc., now being assigned November 6, 1978 (2 days), at Chicago, IL, in a hearing room to be later designated.

MC 114632 (Sub-144), Apple Lines, Inc., now being assigned November 8, 1978, at Chicago, IL (2 days), in a hearing room to be later designated.

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

[FR Doc. 78-23651 Filed 8-22-78; 8:45 am]

[1505-01]

[Notice No. 106]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

Correction

In FR Doc. 78-18389 appearing at page 28890 in the issue for Monday, July 3, 1978, on page 28892, third column, under No. MC 144030 (Sub-No. 2TA), add "MO" to line 18 of that paragraph.

[7035-01]

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY—ELIMINATION OF GATEWAY LETTER NOTICES

AUGUST 18, 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 on or before September 5, 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 carrrier 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 1334 (Sub-E3), filed May 19, 1978. Applicant: RITEWAY TRANSPORT, INC., P.O. Box 6849, Phoenix, AZ 85005. Representative: William H. Shawn, 1730 M Street NW., Suite 501, Washington, DC 20036. (1) *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), between points in Montezuma County, CO, on the one hand, and, on the other, points in AZ, except Globe and Safford; (2) *machinery, equipment, materials, and supplies,* used in, or in connection with, the discovery, development, production, refining, manufacturing, processing, storage, transmission, and distribution of natural gas and petroleum and their products and byproducts, and the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof, and heavy or bulky articles that require the use of special equipment, between points in AZ, on the one hand, and, on the other, points in San Juan, McKinley, and Valencia Counties, NM, and Montecello, UT, and points in UT within 100 miles thereof. (Gateways eliminated: (1) Red Lake, AZ, and the Hopi Indian Reservation in which Red Lake is located: and (2) (A) Red Lake, AZ, (B) the Hopi Indian Reservation, and (C) Montezuma County, CO, and San Juan County, NM.)

MC 1334 (Sub-E4), filed May 19, 1978. Applicant: RITEWAY TRANSPORT, INC., P.O. Box 6849, Phoenix, AZ 85005. Representative: William H. Shawn, 1730 M Street NW., Suite 501, Washington, DC 20036. (1) *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), between points in Montezuma County, CO, on the one hand, and, on the other, Phoenix, AZ; (2) *machinery, equipment, materials, and supplies,* used in, or in connection with, the discovery, development, production, refining, manufacturing, processing, storage, transmission, and distribution of natural gas and petroleum and their products and byproducts, and the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof, and heavy or bulky articles that require the use of special equipment, between Phoenix, AZ, on the one hand, and, on the other, points in San Juan, McKinley, and Valencia Counties, NM, and Montecello, UT, and points in UT within 100 miles thereof. (Gateways eliminated: Tonalea, AZ, and the Hopi Indian Reservation in which Tonalea is located and (2) (A) Tonalea, AZ, (B) the Hopi Indian Reservation, and (C) Montezuma County, CO, and San Juan County, NM.)

MC 61825 (Sub-E355) (correction), filed May 13, 1974, published in the FEDERAL REGISTER issue of October 29, 1975, 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. *New furniture,* from points in NC on and bounded by a line beginning at the NC-SC State line extending along U.S. Hwy 321 to the south fork of the Catawba River near High Shoals, NC, then along the south fork of the Catawba River to junction NC Hwy 127, then along NC Hwy 127 to junction U.S. Hwy 321, then along U.S. Hwy 321 to junction U.S. Hwy 321A, then along U.S. Hwy 321A to junction U.S. Hwy 321, then along U.S. Hwy 321 to junction NC Hwy 268, then along NC Hwy 268 to junction U.S. Hwy 21, then along U.S. Hwy 21 to junction U.S. Hwy 521, then along U.S. Hwy 521 to the NC-SC State line, then along the NC-SC State line to point of beginning to points in AZ, CA, CO, ID, MT, NE, NM, NV, ND, OR, SD, UT, WA, and WY on and west of a line beginning at

the United States-Canadian international boundary line at the ND-MN State line, and extending along the ND-MN State line to the MN-SD State line, then along the MN-SD State line to SD-IA State line, then along the SD-IA State line to the NE-IA State line, then along the NE-IA State line to the junction Interstate Hwy 80, then along Interstate Hwy 80, then along Interstate Hwy 80 to junction NE Hwy 15, then along NE Hwy 15 to junction U.S. Hwy 6, then along U.S. Hwy 6 to junction U.S. Hwy 81, then along U.S. Hwy 81 to the NE-KS State line, then along the NE-KS State line to the KS-CO State line, then along the KS-CO State line to the CO-OK State line, then along CO-OK State line to the OK-NM State line, then along the OK-NM State line to the NM-TX State line, then along the NM-TX State line to junction U.S. Hwy 70, then along U.S. Hwy 70 to junction NM Hwy 18, then along NM Hwy 18 to junction U.S. Hwy 380, then along U.S. Hwy 380 to junction NM Hwy 172, then along NM Hwy 172 to junction U.S. Hwy 82, then along U.S. Hwy 82 to junction NM Hwy 31, then along NM Hwy 31 to junction NM Hwy 360, then along NM Hwy 360 to junction U.S. Hwy 62, then along U.S. Hwy 62 to junction U.S. Hwy 285, then along U.S. Hwy 285 to the TX-NM State line, then along the TX-NM State line to the United States-Mexican international boundary line. (Gateways eliminated: Lynchburg and Smyth County, VA.)

NOTE.—The purpose of this correction is to state the correct territorial description that was omitted in previous publication.

MC 61825 (Sub-E368) (correction), filed May 13, 1974, published in the FEDERAL REGISTER issue of October 17, 1975, 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, D.C. 20036. *New furniture*, between points in VA on and bounded by a line beginning at Staunton, VA, and extending south along U.S. Hwy 11 to junction U.S. Hwy 60, then east along U.S. Hwy 60 to junction U.S. Hwy 29, then north along U.S. Hwy 29 to junction U.S. Hwy 250, then west along U.S. Hwy 250 to point of beginning, on the one hand, and, on the other, points in IL and those points in IN and MI on and west of a line beginning at Dexter, IN, and extending north along IN Hwy 66 to junction IN Hwy 37, then north along IN Hwy 37 to junction IN Hwy 46, then northwest along IN Hwy 46 to junction IN Hwy 59, then north along IN Hwy 59 to junction U.S. Hwy 36, then west along U.S. Hwy 36 to junction U.S. Hwy 41, then north along U.S. Hwy 41 to junction IN Hwy 28, then east along IN Hwy 28 to junction IN Hwy 25, then northeast along IN Hwy 25 to junction U.S. Hwy 421, then north along U.S. Hwy 421 to junction U.S. Hwy 24, then east along U.S. Hwy 24 to junction IN Hwy 39, then north along IN Hwy 39 to junction IN Hwy 119, then north along IN Hwy 119 to junction U.S. Hwy 35, then north along U.S. Hwy 35 to junction IN Hwy 10, then east along IN Hwy 10 to junction IN Hwy 17, then north along IN Hwy 17 to junction U.S. Hwy 30, then east along U.S. Hwy 30 to junction U.S. Hwy 31, then north along U.S. Hwy 31 to junction U.S. Hwy 33, then north along U.S. Hwy 33 to St. Joseph, MI, then to Lake MI, then along the eastern shore of Lake MI to the Straits of Mackinac, then through the Straits of Mackinac to Lake Huron, then to the United States-Canadian international boundry line, then northwest along the United States-Canadian international boundry line to Whitefish Bay. (Gateways eliminated: Lynchburg and Pulaski, VA.)

NOTE.—The purpose of this republication is to state the correct highway description.

MC 61825 (Sub-E452) (correction), filed May 13, 1974, published in the FEDERAL REGISTER issue of October 3, 1975, 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. *New furniture*, from Norfolk, VA, to points in IL, IN, IA, MI, MO, and WI and those points in OH and WV on, south and west of a line beginning at the VA-WV State line, and extending along U.S. Hwy 60 to junction WV Hwy 20, then along WV Hwy 20 to junction WV Hwy 39, then along WV Hwy 39 to junction U.S. Hwy 19, then along U.S. Hwy 19 to junction WV Hwy 4, then along WV Hwy 4 to junction Interstate Hwy 79, then along Interstate Hwy 79 to junction WV Hwy 16, then along WV Hwy 16 to junction WV Hwy 5, then along WV Hwy 5 to junction WV Hwy 14, then along WV Hwy 14 to junction Interstate Hwy 77, then along Interstate Hwy 77 to junction U.S. Hwy 40, then along U.S. Hwy 40 to junction OH Hwy 209, then along OH Hwy 209 to junction OH Hwy 658, then along OH Hwy 658 to junction Oh Hwy 541, then along OH Hwy 541 to junction OH Hwy 83, then along OH Hwy 83 to junction U.S. Hwy 36, then along U.S Hwy 36 to junction OH Hwy 206, then along OH Hwy 206 to junction U.S. Hwy 62, then along U.S. Hwy 62 to junction OH Hwy 205, then along OH Hwy 205 to junction OH Hwy 3, then along OH Hwy 3 to junction OH Hwy 39, then along OH Hwy 39 to junction OH Hwy 61, then along OH Hwy 61 to junction U.S. Hwy 224, then along U.S. Hwy 224 to junction OH Hwy 4, then along OH Hwy 4 to junction OH Hwy 269, then along OH Hwy 269 to Lake Erie. (Gateway eliminated: Martinsville, VA.)

MC 61825 (Sub-E512), (correction), filed May 13, 1974, published in the FEDERAL REGISTER issue of October 1, 1975, 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. *New furniture*, from Sumter, SC, to points in KS and MN, and those points in OK and TX on and west of a line beginning at the OK-AR State line at OK Hwy 20 and extending west along OK Hwy 20 to junction Interstate Hwy 44, then southwest along Interstate Hwy 44 to junction U.S. Hwy 75, then south along U.S. Hwy 75 to junction OK Hwy 1, then southwest along OK Hwy 1 to junction OK Hwy 3, then south along OK Hwy 3 to junction OK Hwy 99, then south along OK Hwy 99 to junction U.S. Hwy 70, then west along U.S. Hwy 70 to junction U.S. Hwy 81, then south along U.S. Hwy 81 to the OK-TX State line, then south along U.S. Hwy 81 to junction TX Hwy 59, then south along TX Hwy 59 to junction U.S. Hwy 281, then south along U.S. Hwy 281 to junction U.S. 180, then west along U.S. Hwy 180 to junction TX Hwy 16, then south along TX Hwy 16 to junction U.S. Hwy 377, then south along U.S. Hwy 377 to junction U.S. Hwy 87, then south along U.S. Hwy 87 to junction TX Hwy 16, then south along TX Hwy 16 to junction TX Hwy 27, then south along TX Hwy 27 to junction TX Hwy 173, then south along TX Hwy 173 to junction TX Hwy 97, then east along TX Hwy 97 to junction U.S. Hwy 281, then southeast along U.S. Hwy 281 to junction Interstate Hwy 37, then southeast along Interstate Hwy 37 to junction TX Hwy 358, then east along TX Hwy 358 to the Gulf of Mexico. (Gateway eliminated: Martinsville, VA.)

MC 112304 (Sub-E332) (correction), filed May 1, 1978, published in the FEDERAL REGISTER issue of July 12, 1978, and republished, as corrected, this issue. APPLICANT: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: A. Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. *Structural steel, and iron and steel angles, bars, channels, conduit, lath, piling, pipe, posts, rails, rods, roofing, tubing and wire in coils*, from points in MI on and east and south of a line beginning on U.S. Hwy 23 at the MI-OH State line, then north to junction MI Hwy 21, then east along MI Hwy 21 to the MI-Ontario line at Sarnia, MI, to points in WI on and south and west of a line be-

ginning at Interstate Hwy 94 at the WI-MN State line, then south to junction Interstate Hwy 90 near Tomah, WI, then south along Interstate Hwy 90 to the WI-IL State line. Limitation: The certificate in MC 112304 (Sub-65) shall be of no further force and effect after August 9, 1980. (Gateway eliminated: Points in OH.)

NOTE.—The purpose of this republication is to state the correct origin territory.

MC 112304 (Sub-E362), filed May 1, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: A. Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. *Structural steel, and iron and steel angles, bars, channels, conduit, lath, piling, pipe, posts, rails, rods, roofing, tubing and wire in coils,* between points in VA on and east of Interstate Hwy 77, on the one hand, and, on the other, points in MI. Limitation: The certificate in MC 112304 (Sub-65) shall be of no further force and effect after August 9, 1980. (Gateway eliminated: Clarksburg, WV and points within 50 miles of Clarksburg.)

MC 112304 (Sub-E391) (correction), filed May 1, 1978, published in the FEDERAL REGISTER issue of July 19, 1978, and republished, as corrected, this issue. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: A. Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. *Structural steel, and iron and steel angles, bars, channels, conduit, lath, piling, pipe, posts, rails, rods, roofing, tubing, and wire in coils,* between points in the Lower Peninsula of MI on and bounded by a line beginning at Clare, MI, and extending along U.S. Hwy 10 to junction MI Hwy 25, then along MI Hwy 25 to junction MI Hwy 29, then along MI Hwy 29 to junction U.S. Hwy 25, then along U.S. Hwy 25 to the MI-OH State line, to junction U.S. Hwy 27, then along U.S. Hwy 27 to point of beginning, on the one hand, and, on the other, points in WI on and south of a line beginning at Lake Michigan extending along U.S. Hwy 18 to junction U.S. Hwy 16, then along U.S. Hwy 16 to junction Interstate Hwy 94, then along Interstate Hwy 94 to junction U.S. Hwy 53, then along U.S. Hwy 53 to junction U.S. Hwy 8, then along U.S. Hwy 8 to the WI-MN State line. Limitation: The certificate in MC 112304 (Sub-65) shall be of no further force and effect after August 9, 1980. (Gateway eliminated: points in OH.)

NOTE.—The purpose of this correction is to state the correct destination territory.

MC 112304 (Sub-E392), filed May 1, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: A. Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. *Structural steel, and iron and steel angles, bars, channels, conduit, lath, piling, pipe, posts, rails, rods, roofing, tubing and wire in coils,* between points in IN on and east of a line beginning at U.S. Hwy 27 at the MI-IN State line, then south along U.S. Hwy 27 to junction IN Hwy 101, then south along IN Hwy 101 to junction IN Hwy 1, then south along IN Hwy 1 to the IN-KY State line on the Ohio River, on the one hand, and, on the other, all points in IL. Limitation: The certificate in MC 112304 (Sub-65) shall be of no further force and effect after August 9, 1980. (Gateway eliminated: OH.)

MC 112304 (Sub-E405), filed May 1, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnate, OH 45223. Representative: A. Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. *Structural steel, and iron and steel angles, bars, channels, conduit, lath, piling, pipe, posts, rails, rods, roofing, tubing and wire in coils,* from all points in KY on and east of a line beginning at Interstate Hwy 65 at the KY-TN State line, then north along Interstate Hwy 65 to junction the Green River Parkway, then north along the Green River Parkway to junction U.S. Hwy 60 bypass, then west along U.S. Hwy 60 bypass to junction U.S. Hwy 431, then north along U.S. Hwy 431 to the KY-IN State line on the Ohio River to all points in TX. Limitation: The certificate in MC 112304 (Sub-65) shall be of no further force and effect after August 9, 1980. (Gateway eliminated: Daviess County, KY.)

MC 112304 (Sub-E406) (correction), filed May 1, 1978, published in the FEDERAL REGISTER issue of July 19, 1978, and republished, as corrected, this issue. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: A. Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. *Structural steel, and iron and steel angles, bars, channels, conduit, lath, piling, pipe, posts, rails, rods, roofing, tubing and wire in coils,* from points in WV to points in TX. Limitation: The certificate in MC 112304 (Sub-65) shall be of no further force and effect after August 9, 1980. (Gateway eliminated: Daviess County, KY)

NOTE.—The purpose of this correction is to state the correct territorial description.

MC 112304 (Sub-E413), filed May 1, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: A. Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. *Structural steel, and iron and steel angles, bars, channels, conduit, lath, piling, pipe, posts, rails, rods, roofing, tubing and wire in coils,* from points in OH in Lucas, Wood, Sandusky, Ottawa and Ashtabula Counties, OH to points in TN on and west of Interstate Hwy 65. Limitation: The certificate in MC 112304 (Sub-65) shall be of no further force and effect after August 9, 1980. (Gateways eliminated: Oakland and Wayne Counties, MI.)

MC 112304 (Sub-E422), filed May 1, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: A. Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. *Structural steel, and iron and steel angles, bars, channels, conduit, lath, piling, pipe, posts, rails, rods, roofing, tubing and wire in coils,* from all points in VA on and north of a line beginning at Interstate Hwy 65 at the WV-VA State line, then east along Interstate Hwy 64 to junction Interstate Hwy 81, then north along Interstate Hwy 81 to junction Interstate Hwy 64, then east along Interstate Hwy 64 to junction U.S. Hwy 360, then east along U.S. Hwy 360 to the Chesapeake Bay, to all points in TX. Limitation: The certificate in MC 112304 (Sub-65) shall be of no further force and effect after August 9, 1980. (Gateways eliminated: Daviess County, KY, and Clarksburg, WV, and points within 50 miles of Clarksburg.)

MC 113678 (Sub-E102) (correction), filed October 20, 1977, published in the FEDERAL REGISTER issue of July 19, 1978, and partially republished, as corrected this issue. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, CO 80022. Representive: Roger M. Shaner (same as above). *Frozen foods,* (except in bulk), (1) from points in CA to points in CT, DE, IA, MD, MA, MI, NJ, NY, OH, PA, RI, SD, VA, WY, and DC. (Gateway eliminated: points in ID.)

NOTE.—The purpose of this partial republication is to correct part (1) substituting MA for MS, as originally filed. The remainder of this letter-notice remains as originally published.

MC 114019 (Sub-E468), filed December 20, 1976. Applicant: MIDWEST EMERY FREIGHT SYSTEM, INC., 7000 South Pulaski Road, Chicago, IL 60629. Representative: Arthur J. Sibik (same as above). *Glycerine, soap stock, liquid soap and fatty acids,* except commodities in bulk, (1) from Chicago, IL to points in IA, MO, those points in WI on, north and west of a line beginning at the IL-WI State line, and extending north along WI Hwy 69 to junction U.S. Hwy 151, then north along U.S. Hwy 151 to junction WI

Hwy 26, then along WI Hwy 26 to junction U.S. Hwy 41, then north along U.S. Hwy 41 to Green Bay, those points in IN on and south of U.S. Hwy 50, points in KY, those points in OH on, south and east of a line beginning at the IN-OH State line, and extending east along U.S. Hwy 50 to junction U.S. Hwy 71, then north along U.S. Hwy 71 to junction OH Hwy 13, then north along OH Hwy 13 to Lake Erie, Sparrows Point, and Baltimore, MD, New York, NY, and points within 30 miles of New York, NY, points in that part of NJ, DE, and MD, which are located within 30 miles of New York, NY, points in that part of NJ, DE, and MD, which are located within 30 miles of Philadelphia, PA, points in that part of NY on and west of a line beginning at Windsor Beach, NY, and extending to Rochester, NY, then along U.S. Hwy 15 to Wayland, NY, then along NY Hwy 245 to Dansville, NY, then along NY Hwy 36 to junction NY Hwy 21, then along NY Hwy 21 to Andover, NY, and then along NY Hwy 17 to the NY-PA State line, and points in WV and PA. (2) from Sparrows Point, and Baltimore, MD, New York, NY, and points within 30 miles of Philadelphia, PA, those points in NY on and west of a line beginning at Windsor Beach, NY, and extending to Rochester, NY, then along U.S. Hwy 15 to Wayland, NY, then along NY Hwy 245 to Dansville, NY, then along NY Hwy 36 to junction NY Hwy 21, then along NY Hwy 21 to Andover, NY, and then along NY Hwy 17 to the NY-PA State line, and points in WV on and north of U.S. Hwy 50, and PA, to points in WI, MO and points in IN in the Chicago, IL commercial zone. (Gateways eliminated: facilities of Armour Grocery Products Co. near Aurora, IL, or points in OH.)

MC 114019 (Sub-E469), filed December 20, 1976. Applicant: MIDWEST EMERY FREIGHT SYSTEM, INC., 7000 South Pulaski Road, Chicago, IL 60629. Representative: Arthur J. Sibik (same as above). (1) *Glassware, glass containers, caps, covers, tops, stoppers, paper cartons, and accessories used for glassware and glass containers,* from Chicago, IL, to points in WI (except Milwaukee and points in the Milwaukee, WI commercial zone as defined by the Commission, and points in Racine, Milwaukee, and Kenosha Counties, WI), MN, MO, NE, CO, MT, ND, SD, and WY; and those points in IA on and west of a line beginning at the IL-IA State line, and extending along U.S. Hwy 151 to junction U.S. Hwy 218, then south along U.S. Hwy 218 to junction IA Hwy 2, then along IA Hwy 2 to the Mississippi River. (2) Materials, supplies, and equipment (except equipment which because of size or weight requires the use of special equipment), used in the manufacture of the above-described commodities, from points in the above-described destination territory to Chicago, IL. (Gateway eliminated: Facilities of Anchor Hocking Glass Corp. near Gurnee, IL.)

MC 115826 (Sub-E54) (correction), filed December 15, 1977, published in the FEDERAL REGISTER issue of July 12, 1978, and republished, as corrected, this issue. Applicant: W. J. DIGBY, INC., P.O. Box 5088 Termina, Denver, CO 80217. Representative: William N. Shawn, Suite 501, 1730 M Street NW., Washington, DC 20036. *Frozen fruits and vegetables,* from Boulder, CO, and points within 50 miles of Boulder, CO, including service from points in the commercial zone of all cities situated in the above-described area to Phoenix, AZ. (Gateway eliminated: Delta, CO.)

NOTE.—The purpose of this republication is to state the correct commodity description.

MC 115826 (Sub-E56) (correction), filed December 15, 1977, published in the FEDERAL REGISTER issue of July 12, 1978, and republished, as corrected, this issue. Applicant: W. J. DIGBY, INC., P.O. Box 5088 Termina, Denver, CO 80217. Representative: William N. Shawn, Suite 501, 1730 M Street NW., Washington, DC 20036. *Frozen foods,* from points in CO on and north and on and west of a line beginning at the UT-CO State line, then along the southern and eastern boundaries of Mesa County to junction with the southern boundary of Garfield County, then along the southern boundaries of Garfield and Eagle Counties, the southern and eastern boundary of Summit County to the southern boundary of Clear Creek County, then along the southern boundary of Clear Creek County, then along an imaginary direct line from the southern boundary of Clear Creek County to Jefferson County across Jefferson County to the southern boundary of Arapahoe County, then along the southern boundary of Arapahoe County to junction with U.S. Hwy 87, then along U.S. Hwy 87 to junction Interstate Hwy 76, then along Interstate Hwy 76 to junction U.S. Hwy 34, then along U.S. Hwy 34 to junction CO Hwy 71, then along Co Hwy 71 to junction Interstate Hwy 76, then along Interstate Hwy 76 to the CO-NE State line, to Amarillo, TX. (Gateway eliminated: Denver, CO.)

NOTE.—The purpose of this republication is to include a part of the territorial description that was omitted in previous publication.

MC 115826 (Sub-E61) (correction), filed December 15, 1977, published in the FEDERAL REGISTER issue of July 12, 1978, and republished, as corrected, this issue. Applicant: W. J. DIGBY, INC., P.O. Box 5088 Termina, Denver, CO 80217. Representative: William N. Shawn, Suite 501, 1730 M Street NW., Washington, DC 20036. *Frozen fruits, frozen vegetables, and frozen fish, in packages, when moving in the same vehicle with frozen fruits and frozen vegetables,* from points in OR and WA, to points in CO on and east of a line beginning at the junction of the CO-NM boundry line and U.S. Hwy 285, then along U.S. Hwy 285 to junction CO Hwy 15, the along CO Hwy 15 to junction U.S. Hwy 285, then along U.S. Hwy 285 to Fairplay, then along CO Hwy 9 to junction U.S. Hwy 6, then along U.S. Hwy 6 to junction U.S. Hwy 40, then along U.S. Hwy 40 to junction U.S. Hwy 34, then along U.S. Hwy 34 to junction U.S. Hwy 287, then along U.S. Hwy 287 to the CO-WY State line. (Gateway eliminated: Denver, CO.)

NOTE.—The purpose of this republication is to include a part of the territorial description that was omitted in previous publication.

MC 115840 (Sub-E120), filed September 12, 1977. Applicant: COLONIAL FAST FREIGHT LINES, INC. P.O. Box 10327, Birmingham, AL 35202. Representative: E. Stephen Heisley, 666 Eleventh Street NW., Washington, DC 20001. *Valves, hydrants, fittings, and accessories* (except commodities in bulk), from Anniston, AL to points in AZ, AR, CA, CO, CT, ID, IL, IA, KS, ME, MA, MI, MN, MO, MT, NE, NV, NH, NM, ND, OH, OK, OR, RI, SD, TX, UT, VT, WA, WI, and WY. (Gateway eliminated: Holt, AL.)

MC 116073 letter-notices (clarification). Applicant: BARRETT MOBILE HOME TRANSPORT, INC., P.O. Box 919, Moorhead, MN 56560. Representative: John C. Barrett (same as above). This clarification reflects applicant's correct address. Some letter-notices had been incorrectly published as Moorhead, MD.

MC 117574 (Sub-E55) (partial correction), filed June 6, 1975, published in the FEDERAL REGISTER issue of July 26, 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). *Dredges, component parts of dredges, and dredging equipment, which is also industrial machinery and attachments, accessories, and parts of such industrial machinery,* (1) between points in Cayuga, Ontario, Seneca, Wayne, and Yates Counties, NY, on the one hand, and, on the other, points in AL, AR, AZ, CA, CO, FL, GA, ID, KS, LA, MS, MT, NV, NM, NC, ND, OK, OR, SC, TX, UT, VA, WA, WY * * * (3) between points in Broome, Chenango, Clinton, Cortland, Essex, Franklin, Hamilton, Herkimer, Jefferson, Lewis, Madison,

Oneida, Onondaga, Oswego, Saint Lawrence, and Tioga Counties, NY, on the one hand, and, on the other, points in 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, VA, WA, and WY * * * (Gateway eliminated: Carlisle, PA.)

NOTE.—The purpose of this partial republication is to add the state of Arizona and Louisiana as destination states in (1) previously omitted, and add Georgia as a destination state in (3) previously omitted. The remainder of this letter notice remains as previously published.

MC 117574 (Sub-E61), filed June 24, 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* (other than truck tractors), *except commodities requiring special equipment*, (1) between points in the NY Counties of Chemung, Schuyler, and Tompkins on the one hand, and, on the other, points in the States of AL, AZ, AR, CA, CO, CT, DE, FL, GA, ID, KS LA, ME, MN, MS, MO, MT, NE, NV, NM, NC, ND, OK, OR, SC, SD, TN, TX, UT, VA, WA, and WY and points in the following described states: points in IL south and west of a line beginning at the IL-IA State line, and extending east along U.S. Hwy 34 to junction IL Hwy 116, then southeast along IL Hwy 116 to junction U.S. Hwy 67, then south along U.S. Hwy 67 to junction U.S. Hwy 136, then east along U.S. Hwy 136 to junction IL Hwy 10, then east along IL Hwy 10 to junction U.S. Hwy 45, then south along U.S. Hwy 45 to junction I Hwy 57, then south along I Hwy 57 to junction IL Hwy 133, then southeast along IL Hwy 133 to the IL-IN State line; points in IN south of a line beginning at the IL-IN State line, on IN Hwy 133, then east along IN Hwy 133 to junction U.S. Hwy 40, then east along U.S. Hwy 40 to junction IN Hwy 46, then southeast along IN Hwy 46 to junction IN Hwy 7, then southeast along IN Hwy 7 to the IN-KY State line; points in IA west of a line beginning at the IA-WI State line, and extending west along U.S. Hwy 18/52 to junction IA Hwy 13, then south along IA Hwy 13 to junction U.S. Hwy 151, then southwest along U.S. Hwy 151 to junction U.S. Hwy 218, then south along U.S. Hwy 218 to junction U.S. Hwy 34, then southeast along U.S. Hwy 34 to the IA-IL State line; points in KY south of a line beginning at the KY-IN State line on KY Hwy 36, then east along KY Hwy 36 to junction KY Hwy 22, then east along KY Hwy 22 to the KY-OH State line; points in MI west of a line beginning at Marquette, and extending south along U.S. Hwy 41 to the WI-MI State line; points in OH except Portsmouth and Gallipolis; points in WV south and east of a line beginning at the WV State line on WV Hwy 2, then east along WV Hwy 2 to junction U.S. Hwy 33, then east along U.S. Hwy 33 to junction U.S. Hwy 19, then north along U.S. Hwy 19 to junction U.S. Hwy 119, then north along U.S. Hwy 119 to the WV-PA State line; points in WI west and north of a line beginning at the WI-MI State line, and extending along U.S. Hwy 41 to junction WI Hwy 22, then along WI Hwy 22 to junction WI Hwy 66, then west along WI Hwy 66 to junction U.S. Hwy 51, then south along U.S. Hwy 51 to junction WI Hwy 54, then southwest along WI Hwy 54 to junction WI Hwy 173, then southwest along WI Hwy 173 to junction U.S. Hwy 12/16, then west along U.S. Hwy 12/15 to junction WI Hwy 27, then southwest along WI Hwy 27 to the WI-IA State line. (2) between points in NY counties of Livingston and Monroe, on the one hand, and, on the other, points in AL, AZ, CA, CO, DE, FL, GA, ID, LA, MS, MT, NV, NM, NC, OK, OR, SC, TX, UT, VA, WA, and WY, and points in the following described states: those points in AR south and west of a line beginning at the AR-MO State line, then southeast along U.S. Hwy 63 to junction AR Hwy 18, then east along AR Hwy 18 to the AR-TN State line; in KS those points south and west of a line beginning at the NE-KS State line, and extending south along U.S. Hwy 77 to junction U.S. Hwy 36, then east along U.S. Hwy 36 to junction U.S. Hwy 73, then south along U.S. Hwy 73 to junction U.S. Hwy 40, then east along U.S. Hwy 40 to the KS-MO State line; in KY those points south and east of a line beginning at the TN-KY State line, and extending north along U.S. Hwy 27 to junction KY Hwy 92, then northeast along KY Hwy 92 to junction KY Hwy 11, then along KY Hwy 11 to junction KY Hwy 80, then northeast along KY Hwy 80 to junction U.S. Hwy 460, then southeast U.S. Hwy 460 to the KY-WV State line; in MD south and east of a line beginning at the MD-WV State line, and extending north along U.S. Hwy 219 to the MD-PA State line; in MO those points south and west of a line beginning at the KS-MO State line, and extending east along U.S. Hwy 40 to junction U.S. Hwy 71, then south along U.S. Hwy 71 to junction U.S. Hwy 60, then east along U.S Hwy 60 to junction MO Hwy 13, then southeast along MO Hwy 13 to junction U.S. Hwy 160, then southeast along U.S. Hwy 160 to junction U.S. Hwy 63, then southeast along U.S. Hwy 63 to junction MO-AR State line; in NE those points south and west of a line beginning at the SD-NE State line, and extending south along U.S. Hwy 183 to junction U.S. Hwy 136, then east along U.S. Hwy 136 to junction U.S. Hwy 77, then south along U.S. Hwy 77 to the NE-KS State line; in NJ south and east of a line beginning at the PA-NJ State line, and extending east along I Hwy 78 to junction NJ Hwy 31, then southeast along NJ Hwy 31 to junction U.S. Hwy 206, then south along U.S. Hwy 206 to junction NJ Hwy 70, then east along NJ Hwy 70 to junction NJ Hwy 37, then east along NJ Hwy 37 to the Atlantic Ocean; in ND those points north and west of a line beginning at Grand Forks, and extending south along U.S. Hwy 81 to junction ND Hwy 200, then west along ND Hwy 200 to junction ND Hwy 1, then south along ND Hwy 1 to the junction ND Hwy 13, then west along ND Hwy 13 to junction ND Hwy 3, then south along ND Hwy 3 to the ND-SD State line; in PA south and east of a line beginning at the PA-MD State line, and extending north along U.S. Hwy 219 to junction U.S. Hwy 22, then east along U.S. Hwy 22 to the PA-NJ State line; in SD those points west of a line beginning at the ND-SD State line, and extending south along SD Hwy 3 to junction SD Hwy 10, then west along SD Hwy 10 to junction SD Hwy 47, then south along SD Hwy 47 to junction U.S. Hwy 18, then west along U.S. Hwy 18 to junction U.S. Hwy 183, then south along U.S. Hwy 183 to the SD-NE State line; in TN, those points south and east of a line beginning at the AR-TN State line, and extending east along TN Hwy 88 to junction TN Hwy 20, then southeast along TN Hwy 20 to junction U.S. Hwy 43, then south along U.S. Hwy 43 to junction U.S. Hwy 64, then east along U.S. Hwy 64 to junction U.S. Alt Hwy 31, then north along U.S. Alt Hwy 31 to junction TN Hwy 96, then northeast along TN Hwy 96 to junction TN Hwy 56, then northeast along TN Hwy 56 to junction TN Hwy 85, then east along TN Hwy 85 to junction TN Hwy 52, then east along TN Hwy 52 to junction U.S. Hwy 27, then north along U.S. Hwy 27 to the TN-KY State line; in WV, those points south and east of a line beginning at the KY-WV State line, and extending southeast along U.S. Hwy 460 to junction WV Hwy 83, then northeast along WV Hwy 83 to junction WV Hwy 16, then northeast along WV Hwy 16 to junction U.S. Hwy 19, then northeast along U.S. Hwy 19 to junction U.S. Hwy 33, then east along U.S. Hwy 33 to junction U.S. Hwy 219, then north along U.S. Hwy 219 to the WV-MD State line. Restrictions: The authority granted in (1) and (2) above is restricted against the transportation of shipments between Racine, WI, Burlington and Bettendorf, IA, and Rockford and Rock Island, IL. The authority granted in (1) and (2) above, to the extent that it duplicates any authority heretofor granted to or now held by carri-

er, shall not be construed as conferring more than one operating right. (Gateways eliminated: Carlisle, Shadygrove, and Waynesboro, PA.)

MC 117574 (Sub. E62), filed June 24, 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* (other than truck tractors), except commodities requiring special equipment, (1) between points in NY counties of Essex and Hamilton, on the one hand, and, on the other, points in AL, AZ, AR, CA, CO, FL, GA, ID, IA, KS, KY, LA, MN, MI, MO, MT, NE, NV, NM, NC, ND, OK, OR, SC, SD, TN, TX, UT, WA, WV, WI, WY, and DC, and in points in the following described states: points in IL, on and west of a line beginning at the WI-IL State line, and extending along U.S. Hwy. 41 to junction IL Hwy 173, then along IL Hwy 173 to junction U.S. Hwy 51, then along U.S. Hwy 51 to junction IL Hwy 17, then along IL Hwy 17 to junction U.S. Hwy 52, then along U.S. Hwy 52 to the IL-IN State line; points in IN, on and south of a line beginning at the IL-IN State line along U.S. Hwy 52 to junction IN Hwy 18, then along IN Hwy 18 to junction U.S. Hwy 421, then along U.S. Hwy 421 to junction IN Hwy 18, then along IN Hwy 18 to junction IN Hwy 29, then along IN Hwy 29 to junction IN Hwy 22, then along IN Hwy 22 to the IN-OH State line; points in MD west of the Susquehanna River and the Chesapeake Bay; points in MI, on and north of a line beginning at Lake Michigan on MI Hwy 72, then along MI Hwy 72 to junction U.S. Hwy 131, then along U.S. Hwy 131 to junction MI Hwy 32, then east along MI Hwy 32 to Alpena, MI; points in OH, on and south of a line beginning at the IN-OH State line along OH Hwy 219 to to junction OH Hwy 29, then along OH Hwy 29 to junction U.S. Hwy 36, then along U.S. Hwy 36 to junction OH Hwy 37, then along OH Hwy 37 to junction U.S. Hwy 62, then along U.S. Hwy 62 to junction OH Hwy 39, then along OH Hwy 39 to the OH-PA State line; points in VA west of the Chesapeake Bay.

(2) Between points in the NY counties of Montgomery, Schoharie, Albany, and Rensselaer, on the one hand, and, on the other points in AL, AZ, AR, CA, CO, FL, GA, ID, IA, KS, KY, LA, MN, MS, MO, MT, NE, NV, NM, ND, OK, OR, SC, SD, TN, TX, UT, WA, WV, WI, and WY; and in points in the following described States: Points in IL south and west of a line beginning at Chicago, IL, then south along IL Hwy 1 to junction IL Hwy 114, then east along IL Hwy 114 to junction IL-IN State line: points in IN south and west of a line beginning at the IN-IL State line on IN Hwy 10, then east along IN Hwy 10 to junction Interstate Hwy 65, then southeast along Interstate Hwy 65 to junction U.S. Hwy 24, then east along U.S. Hwy 24 to junction U.S. Hwy 31, then south along U.S. Hwy 31 to junction Interstate Hwy 18, then east along Interstate Hwy 18 to junction Interstate Hwy 67, then east along Interstate Hwy 67 to the IN-OH State line; points in MD west of a line beginning at the MD-PA State line along Interstate Hwy 83 to junction Interstate Hwy 95, then south along Interstate Hwy 95 to junction MD-VA State line; points in MI north of a line beginning at Tawas City then west along MI Hwy 55 to junction MI Hwy 33, then north along MI Hwy 33 to junction MI Hwy 72, then west along MI Hwy 72 to Lake Michigan; points in NC on and west of U.S. Hwy 258; points in OH south of a line beginning at the OH-IN State line on OH Hwy 29 to junction U.S. Hwy 33, then east along U.S. Hwy 33 to junction U.S. Hwy 36, then east along U.S. Hwy 36 to junction U.S. Hwy 62, then northeast along U.S. Hwy 62 to junction OH Hwy 39, then east along OH Hwy 39 to the OH-PA State line; points in PA south and west of a line beginning at the OH-PA State line southeast along U.S. Hwy 30 to junction Interstate Hwy 83 to the PA-MD State line; points in VA on and west of Interstate Hwy 95.

(3) Between points in the NY counties of Jefferson and Lewis, on the one hand, and, on the other points in AL, AZ, AR, CA, CO, FL, GA, ID, KS, KY, LA, MN, MS, MO, MT, NE, NV, NM, NC, ND, OK, OR, SC, SD, TN, TX, UT, VA, WA, WY, and in points in the following described States: Points in IL south and west of a line beginning at the IA-IL State line east along U.S. Hwy 34 to junction IL Hwy 94, then south along IL Hwy 94 to junction U.S. Hwy 136, then east along U.S. Hwy 136 to junction Interstate Hwy 74, then east along Interstate Hwy 74 to junction U.S. Hwy 150, then southeast along U.S. Hwy 150 to the IL-IN State line; points in IN south and west of a line beginning at the IN-IL State line southeast along IN Hwy 150 to junction IN Hwy 46, then southeast along IN Hwy 46 to junction Interstate Hwy 74, then southeast along Interstate Hwy 74 to the IN-OH State line: points in IA south and west of a line beginning at the IA-WI State line northwest along IA Hwy 9 to junction U.S. Hwy 63, then south along U.S. Hwy 63 to junction U.S. Hwy 34, then east along U.S. Hwy 34 to the IA-IL State line: points in MD south and west of a line beginning at the PA-MD State line southeast along Interstate Hwy 70 to junction Interstate Hwy 695, then south along Interstate Hwy 695 to to junction MD Hwy 2, then along MD Hwy 2 to junction U.S. Hwy 301, then east along U.S. Hwy 301 to junction U.S. Hwy 50, then south along U.S. Hwy 50 to termination at the Atlantic Ocean; points in MI west of a line beginning at Escanaba along U.S. Hwy 41 to Marquette; points in OH south and west of a line beginning at the IN-OH State line southeast along Interstate Hwy 74, to junction OH Hwy 28, then northeast along OH Hwy 28 to junction U.S. Hwy 50, then east along U.S. Hwy 50 to junction OH Hwy 93, then north along OH Hwy 93 to junction OH Hwy 668, then north along OH Hwy 668 to junction OH Hwy 37, then east along OH Hwy 37 to junction OH Hwy 93, then north along OH Hwy 93 to junction Interstate Hwy 70, then northeast along Interstate Hwy 70 to the OH-WV State line: points in PA south of a line beginning at the WV-PA State line along Interstate Hwy 70, then east along Interstate Hwy 70 to the PA-MD State line; points in WV south and west of a line beginning at the OH-WV State line east along U.S. Hwy 40 to the WV-PA State line; points in WI north and west of a line beginning at Marinette along WI Hwy 64 to junction U.S. Hwy 51, then south along U.S. Hwy 51 to junction U.S. Hwy 10, then west along U.S. Hwy 10 to junction U.S. Hwy 53, then south along U.S. Hwy 53 to junction WI Hwy 35, then south along WI Hwy 35 to junction WI Hwy 82, then south along WI Hwy 82 to the IA-WI State line.

(4) Between points in the NY counties of Madison and Oneida, on the one hand, and, on the other, points in AL, AZ, AR, CA, CO, FL, GA, ID, KS, KY, LA, MN, MS, MO, MT, NE, NV, NM, NC, ND, OK, OR, SC, SD, TN, TX, UT, VA, WA, WY, and DC, and in points in the following described States: Points in IL south and west of a line beginning at the IL-IA State line on U.S. Hwy 150, then southeast along U.S. Hwy 150 to junction U.S. Hwy 136, then along U.S. Hwy 136 to the IL-IN State line; points in IN south of a line beginning at the IL-IN State line southeast along U.S. Hwy 136 to junction U.S. Hwy 40, then east along U.S. Hwy 40 to the IN-OH State line; points in IA west of a line beginning at the IA-IL State line at Dubuque, then south along U.S. Hwy 61 to the IA-IL State line; points in MD on and west of a line beginning at the PA-MD State line south along Interstate Hwy 83 to its termination at Baltimore, then south along the coast of the Cheaspeake Bay to the MD-VA State line; points in MI west of a line beginning at Marquette along U.S. Hwy 41 to Escanaba; points in OH south of a line beginning at the OH-IN State line southeast along U.S. Hwy 35, to junction U.S. Hwy 22, then northeast along U.S. Hwy 22 to the

OH-WV State line; points in PA on and south of a line beginning at the PA-OH State line east along Interstate Hwy 70 to junction U.S. Hwy 30, then east along U.S. Hwy 30 to junction Interstate Hwy 83, then south along Interstate Hwy 83 to the PA-MD State line; points in WV south of a line beginning at the WV-OH State line east along U.S. Hwy 22 to the WV-PA State line; points in WI north and west of a line beginning at Maritowoc, then west along U.S. Hwy 10 to junction WI Hwy 47, then along WI Hwy 47 to junction WI Hwy 45, then south along WI Hwy 45 to junction WI Hwy 23, then southwest along WI Hwy 23 to junction U.S. Hwy 151, then southwest along U.S. Hwy 151 to the WI-IA State line.

(5) Between points in the NY county of Otsego, on the one hand, and, on the other, points in AL, AZ, AR, CA, CO, FL, GA, ID, IL, IA, KS, KY, LA, MN, MS, MO, MT, NE, NV, NM, NC, ND, OK, OR, SC, SD, TN, TX, UT, VA, WA, WV, WI, and WY, and points in the following described States: Points in IN south and west of a line beginning at Gary, IN, then east along Interstate Hwy 80/90 to junction IN Hwy 51, then along IN Hwy 51 to junction IN Hwy 130, then southeast along IN Hwy 130 to junction U.S. Hwy 30, then east along U.S. Hwy 30 to junction U.S. Hwy 35, then southeast along U.S. Hwy 35 to junction U.S. Hwy 24, then east along U.S. Hwy 24 to junction IN Hwy 124, then along IN Hwy 124 to the IN-OH State line; points in MI north of a line beginning at Tawas City along MI Hwy 55 to junction MI Hwy 33, then north along MI Hwy 33 to junction MI Hwy 72, then west along MI Hwy 72 to Lake Michigan; points in OH south of a line beginning at the OH-IN State line east along OH Hwy 81 to junction U.S. Hwy 30S, then southeast and northeast along U.S. Hwy 30S to junction U.S. Hwy 30, then east along U.S. Hwy 30 to the OH-PA State line; points in PA south and west of a line beginning at the OH-PA State line east along PA Hwy 68 to junction PA Hwy 65, then south along PA Hwy 65 to junction Interstate Hwy 376, then east along Interstate Hwy 376 to junction Interstate Hwy 76, then southeast along Interstate Hwy 76 to junction Interstate Hwy 70, then south along Interstate Hwy 70 to the MD-PA State line. Restrictions: The authority granted in (1), (2), (3), (4), and (5) above are restricted against the transportation of shipments between Racine, WI, Burlington and Bettendorf, IA, and Rockford and Rock Island, IL. The authority granted in (1), (2), (3), (4), and (5) above, to the extent that it duplicates any authority heretofore granted to or now held by carrier shall not be construed as conferring more than one operating right. (Gateways eliminated: Carlisle, Shadygrove and Waynesboro, PA.)

MC 117574 (Sub-E63), filed June 27, 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* (other than truck tractors), except commodities requiring special equipment, (1) between points in the NY counties of Albany, Fulton, Montgomery, Otsego, Rensselaer, Saratoga, Schoharie, Warren, and Washington, on the one hand, and, on the other, points in AL, AZ, AR, CA, CO, FL, GA, ID, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, MT, NE, NV, NM, NC, ND, OK, OR, SC, SD, TN, TX, UT, WA, WV, WI, WY and points in the following described States: MD, south and west of U.S. Hwy 24; OH, points south and west of a line beginning at Lake Erie and extending southeast along U.S. Hwy 250 to junction U.S. Hwy 422, then east along U.S. Hwy 422 to the OH-PA State line; PA, points south and west of a line beginning at the MD-PA State line, and extending north along Interstate Hwy 83 to junction Interstate Hwy 76, then west along Interstate Hwy 76 to junction U.S. Hwy 220, then north along U.S. Hwy 220 to junction U.S. Hwy 422, then west along U.S. Hwy 422 to the OH-Pa State line; VA, all points except the counties of Accomack and Northampton.

(2) Between points in the MD counties of Alleghany and Garrett, on the one hand, and, on the other, points in AZ, CA, CO, FL, ID, LA, MN, MT, NE, NV, NM, ND, OK, OR, SD, TX, UT, WA, WY and those points in the following described States: AL, points south of a line beginning at the AL-MS State line, and extending east along U.S. Hwy 78 to junction U.S. Hwy 43, then north along U.S. Hwy 43 to junction AL Road 24, then east along AL Road 24 to junction AL Road 67, then south along AL road 67 to junction U.S. Hwy 278, then southeast along U.S. Hwy 278 to junction U.S. Hwy 431, then southeast along U.S. Hwy 431 to the GA-AL State line; AR, points south of a line beginning at the OK-AR State line, then southeast along Interstate Hwy 40 to junction U.S. Hwy 49, then east along U.S. Hwy 49 to the AR-MS State line; GA, points south of a line beginning at the AL-GA State line, and extending east along U.S. Hwy 280 to termination at the Atlantic Ocean; IA, points north and west of a line beginning at the IA-WI State line, and extending south along IA Road 13 to junction IA Road 187, then south along IA Road 187 to junction U.S. Hwy 20, then west along U.S. Hwy 20 to junction U.S. Hwy 63, then south along U.S. Hwy 63 to junction U.S. Hwy 30, then west along U.S. Hwy 30 to junction IA Road 330, then southwest along IA Road 330 to junction Interstate Hwy 35, then south along Interstate Hwy 35 to junction IA Road 2, then west along IA Road 2 to junction U.S. Hwy 169, then south along U.S. Hwy 169 to the MO-IA State line; KS, points north and west of a line beginning at the KS-MO State line, then west along Interstate Hwy 70 to junction U.S. Hwy 75, then south along U.S. Hwy 75 to the KS-OK State line; MI, points west of a line beginning at Lake Superior extending south along U.S. Hwy 41 to junction MI Road 26, then south along MI Road 26 to junction U.S. Hwy 45, then south along U.S. Hwy 45 to the MI-WI State line; MS, points south of a line beginning at the MS-AR State line, and extending east along U.S. Hwy 49 to junction U.S. Hwy 61, then south along U.S. Hwy 61 to MS Road 6, then east along MS Road 6 to junction U.S. Hwy 78, then east along U.S. Hwy 78 to the MS-AL State line; MO, points west of a line beginning at the MO-IA State line, and extending south along U.S. Hwy 169 to junction Interstate Hwy 29, then south along Interstate Hwy 29 to the MO-KS State line; WI, points west of a line beginning at the WI-MI State line, and extending south along U.S. Hwy 45 to junction U.S. Hwy 8, then west along U.S. Hwy 8 to junction WI Road 27, then south along WI Road 27 to junction WI Road 178, then south along WI Road 178 to junction Interstate Hwy 94, then south along Interstate Hwy 94 to junction U.S. Hwy 53, then south along U.S. Hwy 53 to junction WI Road 35, then south along WI Road 35 to the WI-IA State line.

(3) Between points in the NY counties of Broome, Chenango, Cortland, and Tioga, on the one hand, and, on the other, points in the States of AL, AZ, AR, CA, CO, FL, GA, ID, KS, KY, LA, MN, MS, MO, MT, NE, NV, NM, NC, ND, OK, OR, SC, SD, TN, TX, UT, WA, WY, DC and points in the following described States: IL, points on and south of a line beginning at the IL-IA State line, and extending east along Interstate Hwy 80 to junction Interstate Hwy 74, then south along Interstate Hwy 74 to junction U.S. Hwy 150, then east along U.S. Hwy 150 to junction U.S. Hwy 136, then east along U.S. Hwy 136 to junction IL-IN State line; IN, points on and south of U.S. Hwy 136 at the IN-IL State line, and extending southeast along U.S. Hwy 136 to junction U.S. Hwy 40, then east along U.S. Hwy 40 to the IN-OH State line; IA, points on and west of a line beginning at Dubuque, then south along U.S. Hwy 61 to junction Interstate Hwy 80, then along Interstate Hwy 80 to the IA-IL State line; MD, points on and west of a line beginning

at the PA-MD State line, and extending south along Interstate Hwy 83 to its termination at Baltimore, then south along the shore of the Chesapeake Bay to the MD-VA State line; points in the upper peninsula of MI; OH, points on and south of a line beginning at the OH-IN State line, and extending east along U.S. Hwy 40 to junction OH Hwy 16, then east along OH Hwy 16 to junction U.S. Hwy 36, then east along U.S. Hwy 36 to junction U.S. Hwy 22, then east along U.S. Hwy 22 to the OH-WV State line; PA, points on and south of a line beginning at the PA-WV State line, and extending east along U.S. Hwy 22 to junction Interstate Hwy 76, then east along Interstate Hwy 76 to junction Interstate Hwy 83, then south along Interstate Hwy 83 to the PA-MD State line; VA, points west of the Chesapeake Bay; WV, points on and south of U.S. Hwy 22; WI, points on and northwest of a line beginning at Sheboygan, then west along WI Hwy 23 to junction U.S. Hwy 151, then southwest along U.S. Hwy 151 to the WI-IA State line.

(4) Between points in the NY county of Steuben, on the one hand, and, on the other, points in the States of AL, AR, AZ, CA, CO, DE, FL, GA, ID, KS, LA, MS, MT, NE, NV, NM, NC, ND, OK, OR, SC, SD, TN, TX, UT, VA, WA, WY and DC and points in the following described States: IL, points south and west of a line beginning at the IL-MO State line, and extending southeast along IL Hwy 96 to junction IL Hwy 108, then along IL Hwy 108 to junction IL Hwy 4, then south along IL Hwy 4 to junction IL Hwy 161, then east along IL Hwy 161 to junction IL Hwy 37, then south along IL Hwy 37 to junction U.S. Hwy 460, then east along U.S. Hwy 460 to the IL-IN State line; IN, points south of a line beginning at the IN-IL State line, and extending east along U.S. Hwy 460 to junction IN Hwy 66, then east along IN Hwy 66 to junction U.S. Hwy 231, then south along U.S. Hwy 231 to the IN-KY State line; IA, points west of a line beginning at the IA-MN State line, and extending south along IA Hwy 4 to junction IA Hwy 9, then east along IA Hwy 9 to junction U.S. Hwy 71, then south along U.S. Hwy 71 to junction IA Hwy 3, then west along IA Hwy 3 to junction IA Hwy 31, then southwest along IA Hwy 31 to junction IA Hwy 37, then southeast along IA Hwy 37 to junction U.S. Hwy 59, then south along U.S. Hwy 59 to junction IA Hwy 83, then east along IA Hwy 83 to junction U.S. Hwy 71, then south along U.S. Hwy 71 to junction U.S. Hwy 34, then east along U.S. Hwy 35 to junction U.S. Hwy 169, then south along U.S. Hwy 169 to junction IA Hwy 2, then east along IA Hwy 2 to junction U.S. Hwy 65, then south along U.S. Hwy 65 to the IA-MO State line; KY, points south of a line beginning at the KY-IN State line, and extending southeast along U.S. Hwy 231, to junction U.S. Hwy 68, then east along U.S. Hwy 68 to junction KY Hwy 80, then east along KY Hwy 80 to junction KY Hwy 30, then northeast along KY Hwy 30 to junction U.S. Hwy 460, then east along U.S. Hwy 460 to junction KY Hwy 80, then along KY Hwy 80 to junction U.S. Hwy 119, then along U.S. Hwy 119 to the KY-WV State line; MD, points on and east of U.S. Hwy 522; MN, points west of a line beginning at the WI-MN State line, and extending southwest along U.S. Hwy 8 to junction Interstate Hwy 35W, then southwest along Interstate Hwy 35W to junction U.S. Hwy 169, then southwest along U.S. Hwy 169 to junction MN Hwy 60, then southwest along MN Hwy 60 to junction MN Hwy 4, then south along MN Hwy 4 to the MN-IA State line; MO, points south and west of a line beginning at the MO-IA State line, and extending south along U.S. Hwy 65 to junction U.S. Hwy 136, then east along U.S. Hwy 136 to junction MO Hwy 15, then south along MO Hwy 15 to junction MO Hwy 6, then southeast along MO Hwy 6 to junction MO-IL State line; PA, points on and south of a line beginning at the PA-MD State line, and extending northeast along Interstate Hwy 81 to junction PA Hwy 74, then south along PA Hwy 74 to its termination at the PA-MD State line; WV, points south and east of a line beginning at the WV-KY State line, and extending northeast along U.S. Hwy 119 to junction WV Hwy 10, then southeast along WV Hwy 10 to junction WV Hwy 16, then east along WV Hwy 16 to junction U.S. Hwy 19, then northeast along U.S. Hwy 19 to junction U.S. Hwy 60, then southeast along U.S. Hwy 60 to junction U.S. Hwy 219, then northeast along U.S. Hwy 219 to the WV-MO State line; WI, points north and west of a line beginning at Ashland, and extending west along U.S. Hwy 2 to junction U.S. Hwy 63, then southwest along U.S. Hwy 63 to junction WI Hwy 70, then west along WI Hwy 70 to junction WI Hwy 35, then southwest along WI Hwy 35 to junction U.S. Hwy 8, then along U.S. Hwy 8 to the WI-MN State line.

(5) Between points in the NY counties of Genessee, Orleans and Wyoming, on the one hand, and, on the other, points in AZ, CA, DE, FL, GA, ID, LA, MT, NM, NV, NC, OR, SC, TX, UT, VA, WA, WY and points in the following described States: AL, points south of a line beginning at the MS-AL State line, and extending northeast along AL Hwy 24 to junction Interstate Hwy 65, then north along Interstate Hwy 65 to the AL-TN State line; AR, points south of a line beginning at the OK-AR State line, and extending east along AR Hwy 8 to junction AR Hwy 88, then east along AR Hwy 88, to junction U.S. Hwy 270, then east along U.S. Hwy 270 to junction U.S. Hwy 65, then southeast along U.S. Hwy 65 to junction U.S. Hwy 82, then northeast along U.S. Hwy 82 to the AR-MS State line; CO, points west of a line beginning at the NE-CO State line, and extending south along CO Hwy 71 to junction U.S. Hwy 36, then east along U.S. Hwy 36 to junction CO-KS State line; KS, points west of a line beginning at the CO-KS State line, and extending east along U.S. Hwy 36 to junction KS Hwy 27, then south along KS Hwy 27 to junction U.S. Hwy 24, then east along U.S. Hwy 24 to junction U.S. Hwy 183, then south along U.S. Hwy 183 to junction Interstate Hwy 70, then east along Interstate 70 to junction KS Hwy 14, then south along KS Hwy 14 to junction KS Hwy 96, then east along KS Hwy 96 to junction KS Hwy 17, then south along KS Hwy 17 to junction U.S. Hwy 54, then east along U.S. Hwy 54 to junction KS Hwy 49, then south along KS Hwy 49 to the KS-OK State line; KY, points south of a line beginning at the TN-KY State line, and extending north along U.S. Hwy 27 to junction U.S. Hwy 119, then northeast along U.S. Hwy 119 to junction KY Hwy 932, then east along KY Hwy 932 to the KY-VA State line; MD, points east of Interstate Hwy 81; MS, points south of a line beginning at the AR-MS State line, and extending east along U.S. Hwy 82 to junction MS Hwy 7, then northeast along MS Hwy 7 to junction MS Hwy 8, then east along MS Hwy 8 to junction U.S. Alt Hwy 45, then north along U.S. Alt Hwy 45 to junction U.S. Hwy 78, then east along U.S. Hwy 78 to junction MS Hwy 23, then northeast along MS Hwy 23 to the MS-AL State line; NE, points west of a line beginning at the SD-NE State line, and extending along Unimproved Hwy to NE Hwy 29, then south along NE Hwy 29 to junction NE Hwy 71, then along NE Hwy 71 to the NE-CO State line; NJ, points south of a line beginning at Deepwater extending south along NJ Hwy 49 to junction NJ Hwy 47, then southeast along NJ Hwy 47 to its termination at the Atlantic Ocean; ND, points west of a line beginning at the ND-CD Boundary line, and extending south along ND Hwy 256 to junction U.S. Hwy 83, then south along U.S. Hwy 83 to junction ND Hwy 23, then west along ND Hwy 23 to junction ND Hwy 22, then south along ND Hwy 22 to junction U.S. Hwy 12, then northwest along U.S. Hwy 12 to junction U.S. Hwy 85, then south along U.S. Hwy 85 to the ND-SD State line; OK, points west of a line beginning at the KS-OK State line, and extending south along U.S.

Hwy 81 to junction U.S. Hwy 64, then east along U.S. Hwy 64 to junction Interstate Hwy 35, then south along Interstate Hwy 35 to junction U.S. Hwy 64, then east along U.S. Hwy 64 to junction OK Hwy 99, then south along OK Hwy 99 to junction OK Hwy 3, then southeast along OK Hwy 3 to junction U.S. Hwy 271, then northeast along U.S. Hwy 271 to junction OK Hwy 63, then east along OK Hwy 63 to the OK-AR State line; PA, points south of a line beginning at the PA-MD State line, and extending northeast along Interstate Hwy 81 to junction U.S. Hwy 322, then southeast along U.S. Hwy 322 to junction U.S. Hwy 202, then south along U.S. Hwy 202 to the PA-DE State line; SD, points west of a line beginning at the ND-SD State line, and extending south along U.S. Hwy 85 to junction U.S. Hwy 385, then south along U.S. Hwy 385 to junction SD Hwy 71, then south along SD Hwy 71 to the SD-NE State line; TN, points east of a line beginning at the AL-TN State line, and extending north along Interstate Hwy 65 to junction U.S. Hwy 64, then east along U.S. Hwy 64 to junction TN Hwy 50, then northeast along TN Hwy 50 to junction TN Hwy 55, then northeast along TN Hwy 55 to junction TN Hwy 30, then east along TN Hwy 30 to junction TN Hwy 101, then north along TN Hwy 101 to junction U.S. Hwy 127, then north along U.S. Hwy 127 to junction TN Hwy 62, then east along TN Hwy 62 to junction U.S. Hwy 27, then north along U.S. Hwy 27 to the TN-KY State line. Restrictions: The authority granted in (1), (2), (3), (4), and (5) above is restricted against the transportation of shipments between Racine, WI, Burlington and Bettendorf, IA, and Rockford and Rock Island, IL. The authority granted in (1), (2), (3), (4), and (5) above, 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: Carlisle, Shadygrove, and Waynesboro, PA.)

MC 117574 (Sub-E66), filed July 16, 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* (other than truck tractors), except commodities requiring special equipment, (1) between points in the NY county of Herkimer, on the one hand, and, on the other, points, in AL, AZ, AR, CA, CO, FL, GA, ID, KS, KY, LA, MD, MN, MS, MO, MT, NE, NV, NM, NC, ND, OK, OR, SC, SD, TN, TX, UT, VA, WA, WY, and points in the following described States: DE, points on and south of DE Hwy 8; IL, points on and south of a line beginning at the IL-IA State line, and extending east along U.S. Hwy 34 to junction U.S. Hwy 150, then east along U.S. Hwy 150 to junction U.S. Hwy 136, then east along U.S. Hwy 136 to the IL-IN State line; IN, points on and south of a line beginning at the IN-IL State line, and extending along U.S. Hwy 136 to junction U.S. Hwy 40, then east along U.S. Hwy 40 to the IN-OH State line; IA, points on and west of a line beginning at the IA-WI State line, and extending west along U.S. Hwy 18 to junction U.S. Hwy 52, then south along U.S. Hwy 52 to junction IA Hwy 136, then south along IA Hwy 136 to junction U.S. Hwy 151, then southwest along U.S. Hwy 151 to junction IA Hwy 38, then south along IA Hwy 38 to junction Interstate Hwy 80, then east along Interstate Hwy 80 to junction IA Hwy 38, then south along IA Hwy 38 to junction U.S. Hwy 61, then south along U.S. Hwy 61 to junction U.S. Hwy 34, then east along U.S. Hwy 34 to the IA-IL State line; MI, points on and west of a line beginning at Marquette, and extending south along U.S. Hwy 41 to termination at Lake Michigan; OH, points on and south of a line beginning at the OH-IN State line, and extending east along U.S. Hwy 40 to junction OH-WV State line; PA, points on and south of a line beginning at the PA-OH State line, and extending east along Interstate 70 to junction U.S. Hwy 30, then east along U.S. Hwy 30 to junction U.S. Hwy 222, then southeast along U.S. Hwy 222 to the MD-PA State line; WV, points on and south of a line beginning at the WV-OH State line, and extending east along U.S. Hwy 40 to the WV-PA State line; WI, points on and west of a line beginning at Green Bay, then south along U.S. Hwy 41 to junction U.S. Hwy 10, then west along U.S. Hwy 10 to junction WI Hwy 49, then south along WI Hwy 49 to junction WI Hwy 21, then west along WI Hwy 21 to junction WI Hwy 13, then south along WI Hwy 13 to junction WI Hwy 23, then southwest along WI Hwy 23 to junction U.S. Hwy 14, then west along U.S. Hwy 14 to junction WI Hwy 60, then southwest along WI Hwy 60 to junction U.S. Hwy 18, then west along U.S. Hwy 18 to the WI-IA State line; (2) between points in the NY counties of Fulton and Saratoga, on the one hand, and, on the other, points in AL, AZ, AR, CA, CO, FL, GA, ID, IA, KS, KY, LA, MN, MS, MO, MT, NE, NV, NM, NC, ND, OK, OR, SC, SD, TN TX, UT, WA WV, WI, WY, DC, and points in the following described States: IL, points north, west and south of a line beginning at Waukegan, and extending west along IL Hwy 120 to junction IL Hwy 23, then south along IL Hwy 23 to junction U.S. Hwy 52, then southeast along U.S. Hwy 52 to the IL-IN State line; IN, points on and south of a line beginning at the IL-IN State line, and extending U.S. Hwy 52, then along U.S. Hwy 52 to junction IN Hwy 18, then along IN Hwy 18 to junction IN Hwy 29, then along IN Hwy 29 to junction IN Hwy 22, then along IN Hwy 22 to the IN-OH State line; MD, all points west of the Susquehanna River, and the Chesapeake Bay; MI, points on and north of a line beginning at Lake Michigan, and extending along MI Hwy 72 to junction U.S. Hwy 131, then along U.S. Hwy 131 to junction MI Hwy 32, then along MI Hwy 32 to Alpena, MI; OH, points on and south of a line beginning at the IN-OH State line, then along OH Hwy 219 to junction OH Hwy 29, then along OH Hwy 29 to junction U.S. Hwy 36, then along U.S. Hwy 36 to junction OH Hwy 37, then along OH Hwy 37 to junction U.S. Hwy 62, then along U.S. Hwy 62 to junction OH Hwy 39, then along OH Hwy 39 to the OH-PA State line; VA, all points west of the Chesapeake Bay. Restrictions: The authority granted in (1) and (2) above are restricted against the transportation of shipments between Racine, WI, Burlington and Bettendorf, IA, and Rockford and Rock Island, IL. The authority granted in (1) and (2) above, to the extent that it duplicates any authority heretofore granted to or now held by carrier, shall not be construed as conferring more than one operating right. (Gateways eliminated: Carlisle, Shadygrove, and Waynesboro, PA.)

MC 117574 (Sub-E67), filed July 16, 1975. Applicant: DAILY EXPRESS, INC., P.O. Box 39, Carlisle, PA 17013. Representative: E. S. Moore, Jr. (same as above). *Agricultural machinery, tractors* (other than truck tractors), except commodities requiring special equipment, (1) between points in Allegany, Cattaraugus, and Chautauqua, NY, on the one hand, and, on the other, points in AZ, CA, DE, FL, GA, ID, NV, NM, NC, OR, SC, UT, WA, and points in the following described States: AL south of U.S. Hwy 82 beginning at the AL-MS State line, then east along U.S. Hwy 82 to junction U.S. Hwy 11, and continuing north along U.S. Hwy 11 to the AL-TN State line, in CO south and west of a line beginning at the CO-WY State line, and extending south along CO Hwy 789 to junction U.S. Hwy 24, then east along U.S. Hwy 24 to junction U.S. Hwy 285, then south along U.S. Hwy 285 to junction U.S. Hwy 160, then east along U.S. Hwy 160 to junction U.S. Hwy 385, then south along U.S. Hwy 385 to the CO-OK State line, in LA south of U.S. Hwy 80, in MD east and south of a line beginning at the MD-WV State line along Interstate Hwy 81, then along Interstate Hwy 81 to junction Interstate Hwy 70, then along Interstate Hwy 70 to junction Interstate Hwy 695, then north and east along

Interstate Hwy 695 to junction Interstate Hwy 95, then along Interstate Hwy 95 to the MD-DE State line, in MS south and east of a line beginning at U.S. Hwy 80 at the AR-MS State line, then along east along U.S. Hwy 80 to junction U.S. Hwy 51, then north along U.S. Hwy 51 to junction U.S. Hwy 82, then east along U.S. Hwy 82 to the AL-MS State line, in MT south and west of a line beginning at the Montana-Canada international border, then south along MT Road 238 to junction U.S. Hwy 87, then south along U.S. Hwy 87 to junction U.S. Hwy 89, then southeast along U.S. Hwy 89 to junction Interstate Hwy 90, then east along Interstate Hwy 90 to junction U.S. Hwy 310, then south along U.S. Hwy 310 to the MT-WY State line, in OK west of U.S. Hwy 287, in TN east of U.S. Hwy 11, in TX south and west of a line beginning at the OK-TX State line, then south along U.S. Hwy 287 to junction Interstate Hwy 20, then east along Interstate Hwy 20 to the LA-TX State line, in VA south and east of Interstate 81, in WY west of a line beginning at the MT-WY State line, then south along WY Hwy 120 to junction WY Hwy 172, then south along WY Hwy 172 to junction WY Hwy 789, then southwest along WY Hwy 789 to junction WY Hwy 28, then southwest along WY Hwy 28 to junction U.S. Hwy 187, then south along U.S. Hwy 187 to junction Interstate Hwy 80, then east along Interstate Hwy 80 to junction WY Hwy 789, then south along WY Hwy 789 to the CO-WY State line. Restrictions: The authority granted here is restricted against the transportation of shipments between Racine, WI, Burlington and Bettendorf, IA, and Rockford and Rock Island, IL. The authority granted here, to the extent that it duplicates any authority heretofore granted to or new hold by carrier, shall not be construed as conferring more then one operating right. (Gateways eliminated: Carlisle, Shadygrove, and Waynesboro, Pa.)

MC 117574 (Sub-E110), filed July 8, 1975. Applicant: DAILY EXPRESS, INC., P.O. Box 39, Carlisle, PA 17013. Representative: E. S. Moore, Jr. (same as above). *Agricultural and industrial machinery, tractors, cranes, and processing machinery which are also construction machinery* (except tractors with vehicle beds, bed frames, and fifth wheels, and such commodities which because of size or weight require the use of special equipment), (1) from points in Nassau County in FL to points in WA and points in CA north and west of a line beginning at Eureka, CA, and extending north along U.S. Hwy 101 to junction U.S. Hwy 199, then along U.S. Hwy 199 to the CA-OR State line; points in ID north of a line beginning at the ID-OR State line, and extending east along ID Hwy 71 to junction U.S. Hwy 95, then north along U.S. Hwy 95 to junction U.S. Hwy 13, then north along U.S. Hwy 13 to junction U.S. Hwy 12, then east along U.S. Hwy 12 to the ID-MT State line; points in MT north of a line beginning at the ID-MT State line, and extending east along U.S. Hwy 12 to junction Interstate Hwy 90, then east along Interstate Hwy 90 to junction Interstate Hwy 94, then northeast along Interstate Hwy 94 to junction MT Hwy 16, then northeast along MT Hwy 16 to the MT-ND State line; points in ND west and north of a line beginning at the ND-MT State line, and extending east along ND Hwy 200 to junction U.S. Hwy 85, then north along U.S. Hwy 85 to its termination at the North Dakota-Canada border; points in OH east of a line beginning at Cleveland, OH, on Lake Erie, and extending southeast along OH Hwy 14 to junction OH Hwy 45, then southeast along OH Hwy 45 to junction U.S. Hwy 30, then east along U.S. Hwy 30 to the OH-PA State line; points in OR north and west of a line beginning at the CA-OR State line, and extending north along U.S. Hwy 199 to junction Interstate Hwy 5, then east along Interstate Hwy 5 to junction OR Hwy 66, then east along OR Hwy 66 to junction OR Hwy 140, then east along OR Hwy 140 to junction U.S. Hwy 395, then north along U.S. Hwy 395 to junction U.S. Hwy 26, then east along U.S. Hwy 26 to junction OR Hwy 7, then east along OR Hwy 7 to junction OR Hwy 86, then east along OR Hwy 86 to the OR-ID State line; (2) from Baker, Bradford, and Union counties in FL to points in ID on and north of a line beginning at the ID-WA State line, and extending east along U.S. Hwy 12 to the ID-MT State line; points in MT on and north and west of a line beginning at the ID-MT State line, and extending east along U.S. Hwy 12 to junction MT Hwy 200, then east along MT Hwy 200 to junction U.S. Hwy 87, then northeast along U.S. Hwy 87 to junction U.S. Hwy 2, then east along U.S. Hwy 2 to MT Hwy 247, then along MT Hwy 247 to the Canadian border; points in OH east of a line beginning at Lake Erie at Ashtabula, OH, and extending south along OH Hwy 11 to junction OH Hwy 7, then south along OH Hwy 7 to junction U.S. Hwy 30, then east along U.S. Hwy 30 to the OH-PA State line; points in OR on and west of a line beginning at the CA-OR State line, and extending along U.S. Hwy 199 to junction Interstate Hwy 5, then east along Interstate Hwy 5 to junction OR Hwy 62, then north along OR Hwy 62 to junction U.S. Hwy 97, then north along U.S. Hwy 97 to the OR-WA State line; points in WA on and north and west of a line beginning at the WA-OR State line, and extending east along WA Hwy 14 to junction U.S. Hwy 395, then northeast along U.S. Hwy 395 to junction WA Hwy 261 then along WA Hwy 261 to junction U.S. Hwy 12, then east along U.S. Hwy 12 to the WA-ID State line; (3) from points in the state of FL counties of Highlands and Okeechobee to points in WA; points in CA on and north and west of a line beginning at Eureka, CA, and extending east along CA Hwy 299, to junction Interstate Hwy 5, then north along Interstate Hwy 5 to junction U.S. Hwy 97, then northeast along U.S. Hwy 97 to the CA-OR State line; points in ID on and north and west of a line beginning at the OR-ID State line, and extending east along along U.S. Hwy 20 to junction ID Hwy 68, then east along ID Hwy 68 to junction U.S. Hwy 93, then along U.S. Hwy 93 to the ID-MT State line; points in MT on and north and west of a line beginning at the ID-MT State line, and extending north along U.S. Hwy 93 to junction U.S. Hwy 10, then northeast along U.S. Hwy 10 to the MT-ND State line; points in ND on and north and west of a line beginning at the MT-ND State line, and extending east along U.S. Hwy 10 to junction U.S. Hwy 81, then north along U.S. Hwy 81 to Emerson, CO; points in OH on and east of a line beginning at Toledo, OH, and extending south along Interstate Hwy 75, to junction U.S. Hwy 30, then east along U.S. Hwy 30 to the OH-PA State line; points in OR on and north and west of a line beginning at the CA-OR State line, and extending northeast along U.S. Hwy 97 to junction OR Hwy 140, then east along OR Hwy 140 to junction U.S. Hwy 395, then north along U.S. Hwy 395 to junction U.S. Hwy 20, then east along U.S. Hwy 20 to the OR-ID State line; (4) from Broward County in FL to WA and points in CA west of a line beginning at the Pacific Ocean, and extending north along U.S. Hwy 199 to the CA-OR State line; points in ID north of a line beginning at the ID-OR State line, and extending east along U.S. Hwy 30 to Interstate Hwy 15, then north along Interstate Hwy 15 to junction U.S. Hwy 20, then along U.S. Hwy 20 to the ID-WY State line; points in MN west and north of a line beginning at the ND-MN State line, and extending east along U.S. Hwy 10 to the junction MN Hwy 34, then east along MN Hwy 34 to junction U.S. Hwy 71, then northeast along U.S. Hwy 71 to its termination at International Falls, MN; points in ND west and north of a line beginning at the ND-SD State line, and extending north along ND Hwy 3 to junction Interstate Hwy 94, then east along Interstate Hwy 94 to the ND-MN State line; points in OR west of a line begin-

ning at the CA-OR State line, and extending north along U.S. Hwy 199 to junction OR Hwy 62, then north along OR Hwy 62 to junction U.S. Hwy 97, then north along U.S. Hwy 97 to junction U.S. Hwy 26, then east along U.S. Hwy 26 to the OR-ID State line; points in SD west and north of a line beginning at the WY-SD State line, and extending east along U.S. Hwy 212 to junction SD Hwy 65, then north along SD Hwy 65 to junction SD Hwy 20, then east along SD Hwy 20 to junction U.S. Hwy 83, then north along U.S. Hwy 83 to junction SD Hwy 10, then east along SD Hwy 10 to junction SD Hwy 3, then north along SD Hwy 3 to the SD-ND State line; points in WY on and north of a line beginning at the ID-WY State line, and extending east along U.S. Hwy 14 to the WY-SD State line; (5) from points in the FL counties of Marion and Putnam to points in ID on and west of a line beginning at the WA-ID State line, and extending north along U.S. Hwy 95 to Eastport, ID; points in OH on and east of a line beginning at Cleveland, OH, and extending south along OH Hwy 21 to junction Interstate Hwy 80, then east along Interstate Hwy 80 to the OH-PA State line; points in OR on and north and west of a line beginning at the CA-OR State line, and extending along U.S. Hwy 199 to junction Interstate Hwy 5, then east along Interstate Hwy 5 to junction OR Hwy 66, then east along OR Hwy 66 to junction OR Hwy 140, then east along OR Hwy 140 to junction U.S. Hwy 395, then north along U.S. Hwy 395 to junction OR Hwy 11, then north along OR Hwy 11 to the OR-WA State line; points in WA on and north and west of a line beginning at the OR-WA State line, and extending north along U.S. Hwy 12 to junction WA Hwy 127, then north along WA Hwy 127 to junction U.S. Hwy 195, then along U.S. Hwy 195 to junction Interstate Hwy 90, then east along Interstate Hwy 90 to the WA-ID State line; (6) from Columbia, Hamilton, and Suwannee Counties in FL to points in ID west of a line beginning at the WE-ID State line, and extending east along ID Hwy 200 to junction U.S. Hwy 95, then north along U.S. Hwy 95 to its termination at the Canada border; points in OH east of a line beginning at Lake Erie near Ashtabula, OH, along OH Hwy 11 to junction OH Hwy 7, then south along OH Hwy 7 to junction U.S. Hwy 30, then east along U.S. Hwy 30 to the OH-PA State line; points in WA on and north and west of a line beginning at Astoria, OR, and extending east along WA Hwy 4 to Interstate Hwy 5, then north along Interstate Hwy 5 to junction U.S. Hwy 12, then east along U.S. Hwy 12 to junction Washington Principal Road, then along WA Principal Road to junction U.S. Hwy 97, then north along U.S. Hwy 97 to junction U.S. Hwy 2, then east along U.S. Hwy 2 to the WA-ID State line; (7) from points in the State of FL counties of Alachua, Gilchrest, and Levy to points in ID on and north and west of a line beginning at the WA-ID State line, and extending north along U.S. Hwy 95 to junction ID Hwy 200, then east along ID Hwy 200 to the ID-MT State line; points in MT on north and west of a line beginning at the ID-MT State line, and extending MT Hwy 200 to junction U.S. Hwy 93, then north along U.S. Hwy 93 to the Montana-Canada border; points in OH on and east of a line beginning at Lake Erie near Ashtabula, OH, and extending south along OH Hwy 45 to junction U.S. Hwy 422, then east along U.S. Hwy 422 to junction OH-PA State line; points in OR on and north and west of a line beginning at the Pacific Ocean near Coquille, OR, and extending east along OR Hwy 138 to junction U.S. Hwy 97, then north along U.S. Hwy 97 to junction U.S. Hwy 26, then east along U.S. Hwy 26 to junction U.S. Hwy 395, then north along U.S. Hwy 395 to junction OR Hwy 11, then north along OR Hwy 11 to the OR-WA State line; points in WA on and north and west of a line beginning at the OR-WA State line, and extending west along U.S. Hwy 12 to junction U.S. Hwy 395, then north along U.S. Hwy 395 to junction Interstate Hwy 90, then east along Interstate Hwy 90 to the WA-ID State line; (8) points in the state of FL counties of Citrus and Hernando to points in ID on and north of a line beginning at the WA-ID State line, and extending east along Interstate Hwy 90 to junction ID-MT State line; points in MT on and north and west of a line beginning at the ID-MT State line, and extending east along Interstate Hwy 90 to junction U.S. Hwy 93, then north along U.S. Hwy 93 to the Montana-Canada border; points in OH on and east of a line beginning at Lake Erie near Ashtabula, OH, and extending south along OH Hwy 45 to junction U.S. Hwy 422, then east along U.S. Hwy 422 to the OH-PA State line, points in OR on and north and west of a line beginning at the Pacific Ocean near Coquille, OR, and extending east along OR Hwy 42 to junction OR Hwy 138, then east along OR Hwy 138 to junction U.S. Hwy 97, then north along U.S. Hwy 97 to junction U.S. Hwy 26, then east along U.S. Hwy 26 to junction U.S. Hwy 395, then north along U.S. Hwy 395 to junction OR Hwy 11, then north along OR Hwy 11 to the OR-WA State line; points in WA on and west of a line beginning at the OR-WA State line, and extending west along U.S. Hwy 12 to junction U.S. Hwy 395, then north along U.S. Hwy 395 to junction Interstate Hwy 90, then east along Interstate Hwy 90 to the ID-MT State line; (9) from Hillsborough, Pasco, and Pinellas Counties in FL to points in ID on and north of a line beginning at the ID-WA State line, and extending east along U.S. Hwy 12 to the ID-MT State line; points in MT north of a line beginning at the ID-MT State line, and extending east along U.S. Hwy 12 to junction U.S. Hwy 87, then north along U.S. Hwy 87 to junction MT Hwy 200, then east along MT Hwy 200 to junction MT Hwy 200s, then east along MT Hwy 200s to junction MT Hwy 16, then northeast along MT Hwy 16 to junction MT Hwy 200, then northeast along MT Hwy 200 to the MT-ND State line; points in ND on and west of a line beginning at the ND-MT State line, and extending east along ND Hwy 200 to junction U.S. Hwy 85, then north along U.S. Hwy 85 to its termination at the North Dakota-Canada border; points in OH on and east of a line beginning at Lake Erie near Elyria, and extending south along OH Hwy 83 to junction U.S. Hwy 250, then southeast along U.S. Hwy 250 to the OH-WV State line; points in OR on and north and west of a line beginning at the CA-OR State line, and extending along U.S. Hwy 199 to junction Interstate Hwy 5, then north along Interstate Hwy 5 to junction OR Hwy 58, then south along OR Hwy 58 to junction U.S. Hwy 97, then north along U.S. Hwy 97 to junction U.S. Hwy 26, then east along U.S. Hwy 26 to junction U.S. Hwy 395, then north along U.S. Hwy 395 to junction OR Hwy 11, then north along OR Hwy 11 to the OR-WA State line; points in WA on and north and west of a line beginning at the OR-WA State line, and extending northeast along U.S. Hwy 12 to the WA-ID State line; points in WV on and north of a line beginning at the WV-OH State line, and extending east along Interstate Hwy 70 to the WV-PA State line; (10) from Leon and Wakulla Counties of FL to that part of OH described in (2) above, and points in WA on and north and west of a line beginning at Aberdeen, WA, and extending east along U.S. Hwy 12 to Interstate Hwy 5, then north along Interstate Hwy 5 to its termination at the Canada border; (11) from points in Charlotte and Lee Counties in FL to points in WA and points in CA on and north and west of a line beginning at Eureka, CA, on the Pacific Ocean, and extending east along CA Hwy 299 to junction U.S. Hwy 395, then north along U.S. Hwy 395 to junction CA-OR State line; points in ID on and north of a line beginning at the ID-OR State line, and extending east along ID Hwy 52 to junction ID Hwy 55, then along ID Hwy 55 to junction ID Hwy 21, then along ID Hwy 21 to junction U.S. Hwy

93, then north along U.S. Hwy 93 to the ID-MT State line; points in MT on and north and west of a line beginning at the ID-MT State line, and extending east along MT Hwy 43 to junction U.S. Hwy 91, then east along U.S. Hwy 91 to junction Interstate Hwy 90 then east along Interstate Hwy 90 to junction Interstate Hwy 94, then northeast along Interstate Hwy 94 to the MT-ND State line; points in ND on and north of a line beginning at the ND-MT State line, and extending east along Interstate Hwy 94 to junction ND Hwy 22, then north along ND Hwy 22 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 U.S. Hwy 2, then east along U.S. Hwy 2 to junction U.S. Hwy 281, then north along U.S. Hwy 281 to junction ND Hwy 5, then east along ND Hwy 5 to junction ND Hwy 1, then north along ND Hwy 1 to its termination at the Canada border; points in OR on and north and west of a line beginning at the OR-CA State line, and extending north along U.S. Hwy 395 to junction U.S. Hwy 20, then east along U.S. Hwy 20 to the OR-ID State line; (12) from points in the State of FL county of Collier to points in ID on and north and west of a line beginning at the WA-ID State line, and extending north along ID Hwy 3 to junction U.S. Hwy 10, then east along U.S. Hwy 10 to the ID-MT State line; points in MT on and north and west of a line beginning at the ID-MT State line, and extending east along U.S. Hwy 10 to junction U.S. Hwy 12, then east along U.S. Hwy 12 to junction MT Hwy 22, then north along MT Hwy 22 to junction MT Hwy 200, then east along MT Hwy 200 to junction MT Hwy 24, then north along MT Hwy 24 to the Montana-Canada border; points in OH on and east of a line beginning at Toledo, OH, and extending south along Interstate Hwy 75 to junction U.S. Hwy 68, then south along U.S. Hwy 68 to junction U.S. Hwy 30, then east along U.S. Hwy 30 to the OH-PA State line; points in OR on and north and west of a line beginning at the CA-OR State line, and extending north along OR Hwy 199 to junction Interstate Hwy 5, then east along Interstate Hwy 5 to junction OR Hwy 66, then east along OR Hwy 66 to junction OR Hwy 140, then east along OR Hwy 140 to junction U.S. Hwy 395, then north along U.S. Hwy 395 to junction OR Hwy 11, then north along OR Hwy 11 to the OR-WA State line; points in WA described in (9) above; (13) from DeSoto and Hardee counties in FL to OR and WA and points in CA on and north of a line beginning at Eureka, CA, and extending east along CA Hwy 299 to the CA-NV State line; points in ID north of a line beginning at the NV-ID State line, and extending north along U.S. Hwy 93 to Interstate Hwy 80, then east along Interstate Hwy 80 to junction U.S. Hwy 30, then northeast along U.S. Hwy 30 to junction U.S. Hwy 26, then east along U.S. Hwy 26 to the ID-WY State line; points in MN on and north and west of a line beginning at the SD-MN State line, and extending east along U.S. Hwy 12 to junction U.S. Hwy 71, then north along U.S. Hwy 71 to its termination at International Falls, MN; points in MT on and north and west of a line beginning at the WY-MT State line, and extending east along MT Hwy 59 to junction U.S. Hwy 212, then east along U.S. Hwy 212 to the WY-SD State line; points in NV on and north of a line beginning at the CA-NV State line, and extending east along NV Hwy 8a, to junction NV Hwy 140, then east along NV Hwy 140 to junction U.S. Hwy 40, then east along U.S. Hwy 40 to junction U.S. Hwy 93, then north along U.S. Hwy 93 to the NV-ID State line; points in OH on and east of a line beginning at Sandusky on Lake Erie, and extending along U.S. Hwy 250 to junction Interstate Hwy 80, then east along Interstate Hwy 80 to junction Interstate Hwy 77, then south along Interstate Hwy 77 to junction U.S. Hwy 250, then southeast along U.S. Hwy 250 to junction OH-WV State line; points in SD on and north and west of a line beginning at the WY-SD 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 SD-MN State line; points in WV north of a line beginning at the OH-WV State line, and extending east along Interstate Hwy 70 to the WV-PA State line; points in WY on and north of a line beginning at the ID-WY State line, and extending east along U.S. Hwy 26 to junction U.S. Hwy 20, then north along U.S. Hwy 20 to junction U.S. Hwy 16, then east along U.S. Hwy 16 to junction WY Hwy 59, then north along WY Hwy 59 to the MT-WY State line; (14) from points in Holmes and Washington Counties, FL, to points in OH described in (2) above; (15) from points in the State of FL counties of Lake and Sumter to points in WA and points in CA described in (1) above; points in ID on and north of a line beginning at the OR-ID State line, and extending north along U.S. Hwy 95, to junction U.S. Hwy 12, then east along U.S. Hwy 12 to the ID-MT State line; points in OH on and east of a line beginning at Cleveland, OH, and extending south along OH Hwy 14 to junction OH Hwy 45, then east along OH Hwy 45 to the OH-PA State line; points in OR described in (1) above; points in MT on and north of a line beginning at the ID-MT State line, and extending east along U.S. Hwy 10 to junction MT Hwy 22, then north along MT Hwy 22 to junction MT Hwy 200, then east along MT Hwy 200 to junction MT Hwy 24, then north along MT Hwy 24 to the Montana-Canada border; (16) from points in the State of FL counties of Orange and Seminole; points in CA described in (11) above; points in ID described in (2) above; points in MT on and north of a line beginning at the ID-MT State line; and extending east along U.S. Hwy 10 to the MT-ND State line; points in ND on and north and west of a line beginning at the MT-ND State line, and extending east along U.S. Hwy 10 to junction U.S. Hwy 85, then north along U.S. Hwy 85 to the North Dakota-Canada border; points in OH on and east of a line beginning at Cleveland, OH, and extending southeast along OH Hwy 14 to junction U.S. Hwy 422, then east along U.S. Hwy 422 to the OH-PA State line; points in OR on and north and west of a line beginning at the CA-OR State line, and extending north along U.S. Hwy 395 to junction OR Hwy 11, then north along OR Hwy 11 to the OR-WA State line; points in WA on and north and west of a line beginning at the OR-WA State line, and extending along U.S. Hwy 12 to the WA-ID State line. Restriction: The authority granted herein to the extent that it duplicates any authority heretofore granted to or now held by carrier shall not be construed as conferring more than one operating right. (Gateways eliminated: Shadygrove and Belleville, PA.)

MC 117574 (Sub-E 122), filed July 16, 1975. Applicant: DAILY EXPRESS, INC., P.O. Box 39, Carlisle, PA 17013. Representative: E. S. Moore, Jr. (same as above). *Agricultural machinery, tractors* (except truck tractors, and tractors with vehicle beds, bed frames, and fifth wheels), *and such agricultural implements as are dealt in by recreational lawn and garden dealers*, except commodities which because of their size or weight require the use of special equipment: (1) From Beckley, WV, to points in OR and WA, and points in CA on, west, and north of a line beginning at the CA-NV State line, and extending along Interstate Hwy 15 to junction U.S. Hwy 395, then along U.S. Hwy 395 to junction Interstate Hwy 10, then along Interstate Hwy 10 to junction CA Hwy 86, then along CA Hwy 86 to the California-Mexico border, points in ID on and west of a line beginning at the ID-MT State line, and extending along Interstate Hwy 15 to junction U.S. Hwy 30, then along U.S. Hwy 30 to junction Interstate Hwy 80N, then along Interstate Hwy 80N to junction U.S. Hwy 93, then along U.S. Hwy 93 to the ID-NV State line, points in MT on and west of a line beginning at the Montana-Canada border, and extending along MT Road

223 to junction U.S. Hwy 87, then along U.S. Hwy 87 to junction U.S. Hwy 91, then along U.S. Hwy 91 to the ID-MT State line, and points in NV on and west of a line beginning at the ID-NV State line, and extending along U.S. Hwy 93 to junction Interstate Hwy 15, then along Interstate Hwy 15 to the CA-NV State line; (2) from Bluefield, WV, to points in ID, NV, OR, and WA, and points in CA, except those points within 25 miles of the AZ-CA State line, points in MT on and west of a line beginning at the MT-WY State line, and extending along U.S. Hwy 87 to junction U.S. Hwy 10, then along U.S. Hwy 10 to junction MT Hwy 200S, then along MT Hwy 200S to junction MT Hwy 13, then along MT Hwy 13 to the Montana-Canada border, points in UT on, north and west of a line beginning at the UT-AZ State line, and extending along U.S. Hwy 91 to junction U.S. Hwy 189, then along U.S. Hwy 189 to the UT-WY State line, points in WY on and west of a line beginning at the WY-UT State line, and extending along Interstate Hwy 80 to junction U.S. Hwy 187, then along U.S. Hwy 187 to junction WY Hwy 28, then along WY Hwy 28 to junction WY Hwy 789, then along WY Hwy 789 to junction U.S. Hwy 16, then along U.S. Hwy 16 junction U.S. Hwy 87, then along U.S. Hwy 87 to the WY-MT State line; (3) from Berkeley Springs, Sheperdstown, and Harpers Ferry, WV, to points in AZ, CA, CO, ID, IA, KS, LA, MI, MN, MT, NE, NV, ND, OK, OR, SD, TX, UT, WA, WI, and WY, and points in AL on and west of U.S. Hwy 45, points in AR on and west of a line beginning at the AR-MS State line, and extending along U.S. Hwy 49 to junction AR Hwy 39, then along AR Hwy 39 to junction AR Hwy 17, then along AR Hwy 17 to junction U.S. Hwy 67, then along U.S. Hwy 67 to the AR-MO State line, points in FL on and south of FL Hwy 70, points in IL on, north, and west of a line beginning at the IL-MO State line, and extending along IL Hwy 159 to junction U.S. Hwy 460, then along U.S. Hwy 460 to junction Interstate Hwy 57, then along Interstate Hwy 57 to junction U.S. Hwy 40, then along U.S. Hwy 40 to the IL-IN State line, points in IN on and north of U.S. Hwy 40, points in MS on and south of a line beginning at the MS-AL State line, and extending along U.S. Hwy 45 to junction U.S. Hwy 84, then along U.S. Hwy 84 to junction U.S. Hwy 49, then along U.S. Hwy 49-U.S. Hwy 49E to the MS-AR State line, points in MO on and west of a line beginning at the MO-AR State line, and extending along U.S. Hwy 67 to junction MO Hwy 32, then along MO Hwy 32 to the MO-IL State line, points in OH on and west of a line beginning at the OH-IN State line, and extending along U.S. Hwy 40 to junction U.S. Hwy 127, then along U.S. Hwy 127 to junction U.S. Hwy 33, then along U.S. Hwy 33 to junction OH Hwy 67, then along OH Hwy 67 to junction OH Hwy 162, then along OH Hwy 162 to junction OH Hwy 4, then along OH Hwy 4 to the northern OH State line; (4) from Gassaway, WV, to points in ID, OR, and WA, and points in AZ on and west of a line beginning at the AZ-CA State line, and extending along Interstate Hwy 40 to junction U.S. Hwy 93, then along U.S. Hwy 93 to junction U.S. Hwy 39, then along U.S. Hwy 89 to the Arizona-Mexico border, points in CA on and west of a line beginning at the CA-NV State line, and extending along U.S. Hwy 6 to junction U.S. Hwy 395, then along U.S. Hwy 395 to junction CA Hwy 58, then along CA Hwy 58 to junction Interstate Hwy 40, then along Interstate Hwy 40 to the CA-AZ State line, points in MT on and west of a line beginning at the Montana-Canada border, and extending along MT Road 247 to junction U.S. Hwy 2, then along U.S. Hwy 2 to junction U.S. Hwy 191, then along U.S. Hwy 191 to junction U.S. Hwy 87, then along U.S. Hwy 87 to junction U.S. Hwy 212, then along U.S. Hwy 212 to junction U.S. Hwy 310, then along U.S. Hwy 310 to the MT-WY State line, points in NV on and north of a line beginning at the NV-UT State line, and extending along NV Hwy 25 to junction U.S. Hwy 93, then along U.S. Hwy 93 to junction NV Hwy 25, then along NV Hwy 25 to junction U.S. Hwy 6, then along U.S. Hwy 6 to the NV-CA State line, points in UT on and west of a line beginning at the UT-WY State line, and extending along U.S. Hwy 189 to junction U.S. Hwy 91, then along U.S. Hwy 91 to junction UT Hwy 56, then along UT Hwy 56 to the UT-NV State line, points in WY on and west of a line beginning at the WY-MT State line, and extending along U.S. Hwy 310 to junction U.S. Hwy 14, then along U.S. Hwy 14 to junction U.S. Hwy 89, then along U.S. Hwy 89 to junction U.S. Hwy 189, then along U.S. Hwy. 189 to the WY-UT State line; (5) from Grafton, WV, to points in AZ, CA, ID, MT, NV, OR, WA, and UT, and points in CO on and west of a line beginning at the CO-WY State line, and extending along U.S. Hwy 87 to junction U.S. Hwy 285, then along U.S. Hwy 285 to the CO-NM State line, points in NM on and west of U.S. Hwy 285, points in ND on and west of a line beginning at the North Dakota-Canada border, and extending along U.S. Hwy 83 to junction ND Hwy 23, then along ND Hwy 23 to junction U.S. Hwy 85, then along U.S. Hwy 85 to the ND-SD State line, points in SD on and west of U.S. Hwy 85, points in TX on and west of a line beginning at the TX-NM State line, and extending along U.S. Hwy 285 to junction TX Hwy 17, then along TX Hwy 17 to junction U.S. Hwy 67, then along U.S. Hwy 67 to the Texas-Mexico border, and points in WY on and west of U.S. Hwy 85; (6) from Huntingden, and Point Pleasant, WV, to points in CA on and west of a line beginning at the western border of CA and extending along Interstate Hwy 80 to junction Interstate Hwy 5, then along Interstate Hwy 5 to the CA-OR State line, points in OR on and west of Interstate Hwy 5, and points in WA on and west of Interstate Hwy 5; (7) from Lewisburg, WV, to points in AZ, CA, ID, MT, NV, OR, UT, and WA, and points in CO on and west of CO Hwy 789, points in NM on and west of U.S. Hwy 666, points in ND on and west of a line beginning at the ND-SD State line, and extending ND Hwy 31 to junction ND Hwy 21, then along ND Hwy 21 to junction ND Hwy 6, then along ND Hwy 6 to junction U.S. Hwy 10, then along U.S. Hwy 10 to junction ND Hwy 3, then along ND Hwy 3 to junction ND Hwy 17, then along ND Hwy 17 to junction ND Hwy 1, then along ND Hwy 1 to the North Dakota-Canada border, points in SD on and west of a line beginning at the SD-WY State line, and extending along U.S. Hwy 85 to junction U.S. Hwy 212, then along U.S. Hwy 212 to junction SD Hwy 65, then along SD Hwy 65 to the SD-ND State line, and points in WY on, west, and north of a line beginning at the WY-CO State line, and extending along WY Hwy 789 to junction WY Hwy 220, then along WY Hwy 220 to junction U.S. Hwy 20, then along U.S. Hwy 20 to junction U.S. Hwy 85, then along U.S. Hwy 85 to the WY-SD State line; (8) from Logan, WV, to points in CA on, west, and north of a line beginning at the CA-OR State line, and extending along U.S. Hwy 395 to the CA-NV State line, then along the CA-NV State line in a southern direction to U.S. Hwy 395, then along U.S. Hwy 395 to junction CA Hwy 168, then along CA Hwy 168 to junction CA Hwy 180, then along CA Hwy 180 to junction CA Road J-1, then along CA Road J-1 to junction CA Hwy 25, then along CA Hwy 25 to junction CA Hwy 68, then along CA Hwy 68 to the western CA State line at Monterey, points in ID on and west of U.S. Hwy 95, points in NV on west of U.S. Hwy 395, points in OR on and and west of U.S. Hwy 395, and points in WA on, west, and north of a line beginning at the WA-ID State line, and extending along U.S. Hwy 12 to junction U.S. Hwy 395, then along U.S. Hwy 395 to the WA-OR State line; (9) from Parkersburg, WV, to points in WA and points in CA on, north, and west of a line beginning at the southwestern CA State line, and extending along U.S. Hwy 395 to junction Inter-

state Hwy 15, then along Interstate Hwy 15 to junction CA Hwy 127, then along CA Hwy 127 to the CA-NV State line, points in ID on and west of a line beginning at the ID-OR State line, and extending along U.S. Hwy 95 to junction U.S. Hwy 20, then along U.S. Hwy 20 to junction ID Hwy 55, then along ID Hwy 55 to junction U.S. Hwy 95, then along U.S. Hwy 95 to junction U.S. Hwy 12, then along U.S. Hwy 12 to the ID-MT State line, points in MT on and west of a line beginning at the MT-ID State line, and extending along U.S. Hwy 12 to junction U.S. Hwy 93, then along U.S. Hwy 93 to the Montana-Canada border, points in NV on and west of a line beginning at the NV-CA State line, and extending along NV Hwy 29 to junction U.S. Hwy 95, then along U.S. Hwy 95 to junction U.S. Hwy 6, then along U.S. Hwy 6 to junction NV Hwy 8-A, then along NV Hwy 8-A to junction Interstate Hwy 80, then along Interstate Hwy 80 to junction U.S. Hwy 95, then along U.S. Hwy 95 to the NV-OR State line, and points in OR on, west, and north of U.S. Hwy 95; (10) from Nitro and St. Albans, WV, to points in WA and points in CA on and north of a line beginning at western CA State line, and extending along Interstate Hwy 80 to junction U.S. Hwy 50, then along U.S. Hwy 50 to the CA-NV State line, points in ID on and west of U.S. Hwy 95, points in NV on and west of a line beginning at the NV-CA State line, and extending along U.S. Hwy 50 to junction U.S. Hwy 95, then along U.S. Hwy 95 to the NV-OR State line, and points in OR on, north, and west of U.S. Hwy 95; (11) from Petersburg, WV, to points in AZ, CA, CO, ID, MT, NM, ND, NV, OR, SD, UT, WA, and WY, and points in IA on and west of a line beginning at the IA-MN State line, and extending along U.S. Hwy 52 to junction IA Hwy 24, then along IA Hwy 24 to junction U.S. Hwy 18, then along U.S. Hwy 18 to junction IA Hwy 14, then IA Hwy 14 to junction U.S. Hwy 30, then along U.S. Hwy 30 to junction U.S. Hwy 169, then along U.S. Hwy 169 to junction U.S. Hwy 6, then along U.S. Hwy 6 to junction U.S. Hwy 59, then along U.S. Hwy 59 to junction IA Hwy 2, then along IA Hwy 2 to the IA-NE State line, points in KS on and west of U.S. Hwy 75, points in MI on and west of a line beginning at the northern MI State line at Marquette and extending along U.S. Hwy 41 to junction U.S. Hwy 2, then along U.S. Hwy 2 to the MI-WI State line, points in MN on and west of a line beginning at the MN-WI State line, and extending along U.S. Hwy 16 to junction U.S. Hwy 52, then along U.S. Hwy 52 to the MN-IA State line, points in NE on and west of a line beginning at the NE-IA State line, and extending along NE Hwy 2 to junction U.S. Hwy 75, then along U.S. Hwy 75 to the NE-KS State line, points in OK on and west of U.S. Hwy 75, points in TX on and west of U.S. Hwy 75, and points in WI on and west of a line beginning at the WI-MI State line, and extending along U.S. Hwy 8 to junction WI Hwy 27, then along WI Hwy 27 to junction U.S. Hwy 10, then along U.S. Hwy 10 to junction U.S. Hwy 53, then along U.S. Hwy 53 to junction U.S. Hwy 16, then along U.S. Hwy 16 to the WI-MN State line; (12) from Ravenswood, WV, to points in WA and points in CA on and west of a line beginning at the CA-OR State line, and extending along U.S. Hwy 395 to the CA-NV State line, then along the CA-NV State line to U.S. Hwy 395, then along U.S. Hwy 395 to junction CA Hwy 168, then along CA Hwy 168 to junction CA Hwy 99, then along CA Hwy 99 to junction CA Hwy 119, then along CA Hwy 119 to junction CA Hwy 33, then along CA Hwy 33 to western CA State line, points in ID on and west of U.S. Hwy 95, points in NV on and west of U.S. Hwy 395, and points in OR on and west of U.S. Hwy 395; (13) from Romney, WV, to points in AZ, CA, CO, ID, KS, MT, NE, NV, NM, ND, OK, OR, SD, TX, UT, WA, and WY, and points in AR on and west of Interstate Hwy 55, points in IA on and west of Interstate Hwy 35, points in LA on, west, and south of a line beginning at the LA-MS State line, and extending along Interstate Hwy 10 to junction Interstate Hwy 55, then along Interstate Hwy 55 to the LA-MS State line, points in MN on, west, and north of Interstate Hwy 35, points in MS on and west of Interstate Hwy 55, points in MO on and west of a line beginning at the MO-AR State line, and extending along Interstate Hwy 55 to junction Interstate 70, then along Interstate Hwy 70 to junction Interstate Hwy 35, then along Interstate Hwy 35 to the MO-IA State line, and points in TN on and west of Interstate Hwy 55. (Gateways eliminated: Shady Grove and Belleville, PA.)

MC-117574 (Sub-E123), filed July 16, 1975. Applicant: DAILY EXPRESS, INC., P.O. Box 39; Carlisle, PA 17013. Representative: E. S. Moore, Jr. (same as above). *Agricultural machinery, tractors* (except truck tractors and tractors with vehicle beds, bed frames, and fifth wheels), *and such agricultural implements as are dealt in by recreational lawn and garden dealers* (except commodities which because of their size or weight require the use of special equipment). (1) From Buckhannon and Clarksburg, WV, to points in AZ, CA, ID, NV, OR and WA; points in CO on and west of U.S. Hwy 666; points in MT on and west of a line beginning at the ND-MT State line, and extending along MT Hwy 16 to junction U.S. Hwy 10, then along U.S. Hwy 10 to junction U.S. Hwy 87 then along U.S. Hwy 87 to the MT-WY State line; points in NM on and west of a line beginning at the CO-NM State line, and extending along U.S. Hwy 666 to junction U.S. Hwy 550, then along U.S. Hwy 550 to junction NM Hwy 44, then along NM Hwy 44 to junction Interstate Hwy 25, and then along Interstate Hwy 25 to the NM-TX State line; points in ND on and west of a line beginning at the International boundary line between the United States and Canada and extending along U.S. Hwy 85 to junction U.S. Hwy 2, then along U.S. Hwy 2 to the ND-MT State line; points in TX on and west of U.S. Hwy 54; points in UT on and west of a line beginning at the WY-UT State line, and extending along UT Hwy 44 to junction U.S. Hwy 40, then along U.S. Hwy 40 to junction UT Hwy 53, then along UT Hwy 53 to junction U.S. Hwy 50, then along U.S. Hwy 50 to junction U.S. Hwy 163, then along U.S. Hwy 163 to junction U.S. Hwy 666, then along U.S. Hwy 666 to the CO-UT State line, and then along the CO-UT State line to the UT-NM State line; and points in WY on and west of a line beginning at the MT-WY State line, and extending along U.S. Hwy 87 to junction WY Hwy 220, then along WY Hwy 220 to junction U.S. Hwy 287, then along U.S. Hwy 287 to junction Interstate Hwy 80, then along Interstate Hwy 80 to junction WY Hwy 530, then along WY Hwy 530 to the WY-UT State line. (2) from Charleston and South Charleston, WV, to points in CA on and north of a line beginning at San Francisco, CA, and extending along Interstate Hwy 80 to junction U.S. Hwy 50, then along U.S. Hwy 50 to the CA-NV State line; points in ID on and west of U.S. Hwy 95; points in NV on and west of a line beginning at the CA-NV State line, and extending along U.S. Hwy 50 to junction U.S. Hwy 95, then along U.S. Hwy 95 to the NV-OR State line; points in OR on and west of U.S. Hwy 395; and points in WA on and west of U.S. Hwy 395. (3) From Elkins, WV, to points in AZ, CA, ID, MT, NM, NV, OR, UT, WA, and WY; points in CO on and west of U.S. Hwy 385; points in MN on and south of a line beginning at the ND-MN State line, and extending along U.S. Hwy 10 to junction U.S. Hwy 71, then along U.S. Hwy 71 to its termination at International Falls, MN; points in NE on and west of a line beginning at the CO-NE State line, and extending along Interstate Hwy 80 to junction U.S. Hwy 83, then along U.S. Hwy 83 to the NE-SD State line; points in ND on, north and west of a line beginning at the ND-SD State line, and extending along U.S. Hwy 281 to junction U.S. Hwy 10, then along U.S. Hwy 10 to the ND-MN State line; points in OK on and west of U.S. Hwy 385; points in SD on and

west of a line beginning at the NE-SD State line, and extending along U.S. Hwy 83 to junction U.S. Hwy 212, then along U.S. Hwy 212 to junction U.S. Hwy 281, then along U.S. Hwy 281 to the SD-ND State line; and points in TX on and west of U.S. Hwy 385. (4) From Fairmont, WV, to points in AZ, CA, ID, MT, NV, OR, UT, and WA; points in CO on and west of a line beginning at the CO-WY State line, and extending along U.S. Hwy 87 to junction U.S. Hwy 285, then along U.S. Hwy 285 to the CO-NM State line; points in NM on and west of U.S. Hwy 285; points in ND on, north and west of a line beginning at the International boundary line between the United States and Canada and extending along U.S. Hwy 83 to junction ND Hwy 23, then along ND Hwy 23 to junction U.S. Hwy 85, then along U.S. Hwy 85 to the ND-SD State line; points in SD on and west of U.S. Hwy 85; points in TX on and west of a line beginning at the NM-TX State line, and extending along U.S. Hwy 285 to junction TX Hwy 17, then along TX Hwy 17 to junction U.S. Hwy 67, then along U.S. Hwy 67 to its termination at the International boundary line between U.S. and Mexico; and points in WY on and west of U.S. Hwy 85. (5) From Follansbee, Wheeling, Triadelphia, Weirton, and Moundsville, WV, to points in OR and WA; points in AZ and CA on and west of U.S. Hwy 95; points in ID and MT on and west of U.S. Hwy 93; and points in NV on and west of a line beginning at the NV-CA State line, and extending along U.S. Hwy 95 to junction U.S. Hwy 93, then along U.S. Hwy 93 to the NV-ID State line. (6) From Sutton, WV, to points in ID, OR, and WA; points in AZ on and west of a line beginning at the AZ-CA State line, and extending along Interstate Hwy 40 to junction U.S. Hwy 93, then along U.S. Hwy 93 to junction U.S. Hwy 89, then along U.S. Hwy 89 to its termination at the International Boundary line between the U.S. and Mexico; points in CA on, south and west of a line beginning at the CA-NV State line, and extending along U.S. Hwy 6 to junction U.S. Hwy 395, then along U.S. Hwy 395 to junction CA Hwy 58, then along CA Hwy 58 to junction CA Hwy 247, then along CA Hwy 247 to junction CA Hwy 62, then along CA Hwy 62 to the CA-NV State line; points in MT on and west of a line beginning at the International Boundary line between the U.S. and CD, and extending along MT Hwy 247 to junction U.S. Hwy 2, then along U.S. Hwy 2 to junction U.S. Hwy 191, then along U.S. Hwy 191 to junction U.S. Hwy 87, then along U.S. Hwy 87 to junction U.S. Hwy 310, then along U.S. Hwy 310 to the MT-WY State line; points in NV on and north of a line beginning at the NV-UT State line, and extending along NV Hwy 25 to junction U.S. Hwy 6, then along U.S. Hwy 6 to the CA-NV State line; points in UT on and north of a line beginning at the UT-WY State line, and extending along U.S. Hwy 189 to junction U.S. Hwy 91, then along U.S. Hwy 91 to junction UT Hwy 56, then along UT Hwy 56 to the UT-NV State line; and points in WY on and west of a line beginning at the MT-WY State line, and extending along U.S. Hwy 310 to junction U.S. Hwy 14, then along U.S. Hwy 14 to junction U.S. Hwy 89, then along U.S. Hwy 89 to junction U.S. Hwy 189, then along U.S. Hwy 189 to the WY-UT State line. (7) From points in Morgantown, WV, to points in AZ, CA, ID, MT, NV, UT, WA, and WY; points in CO on and west of a line beginning at the CO-NM State line, and extending along Interstate Hwy 25 to junction Interstate Hwy 25 then along Interstate Hwy 76, to junction CO Hwy 113, then along CO Hwy 113 to the CO-NE State line; points in NE on and west of U.S. Hwy 385 points in NM on and west of Interstate Hwy 25; points in ND on and west of U.S. Hwy 85; points in SD on and west of a line beginning at the SD-NE State line, and extending along U.S. Hwy 385 to junction U.S. Hwy 85, then along U.S. Hwy 85 to the SD-ND State line; and El Paso, TX; and (8) from Martinsburg, WV, to points in AZ, CA, CO, ID, IA, KS, LA, MI, MN, MT, NE, NM, NV, ND, OK, OR, SD, TX, UT, WA, WI, and WY; points in AL on and west of U.S. Hwy 45; points in AR on and west of a line beginning at the AR-MS State line, and extending along U.S. Hwy 49 to junction AR Hwy 17, then along AR Hwy 17 to junction U.S. Hwy 67, then along U.S. Hwy 67 to the AR-MO State line; points in FL on and south of FL Hwy 70; points in IL on, west and north of a line beginning at the IL-MO State line, and extending along IL Hwy 159 to junction U.S. Hwy 460, then along U.S. Hwy 460 to junction Interstate Hwy 57, then along Interstate Hwy 57 to junction U.S. Hwy 40, then along U.S. Hwy 40 to the IL-IN State line; points in IN on and north of U.S. Hwy 40; points in MS on and south of a line beginning at the AL-MS State line, and extending along U.S. Hwy 45 to junction U.S. Hwy 84, then along U.S. Hwy 84 to junction U.S. Hwy 49, then along U.S. Hwy 49 to junction 49/49E, then along U.S. Hwy 49/49E to the MS-AR State line; points in MO west of a line beginning at the MO-AR State line and extending along U.S. Hwy 67 to junction MO Hwy 32, then along MO Hwy 32 to the MO-IL State line; and points in OH on, north and west of a line beginning at the OH-IN State line, and extending along U.S. Hwy 40 to junction U.S. Hwy 127, then along U.S. Hwy 127 to junction U.S. Hwy 33, then along U.S. Hwy 33 to junction OH Hwy 67, then along OH Hwy 67 to junction OH Hwy 162, then along OH Hwy 162 to junction OH Hwy 4, then along OH Hwy 4 to its termination at Sandusky, OH. (Gateways eliminated: Shady Grove, Waynesboro and Belleville, PA.)

MC 117574 (Sub-E124), filed July 16, 1975. Applicant: DAILY EXPRESS, INC., P.O. Box 39, Carlisle, PA 17013. Representative: E. S. Moore, Jr. (same as above). *Agricultural machinery, tractors* (except truck tractors, and tractors with vehicle beds, bed frames, and fifth wheels), *and such agricultural implements as are dealt in by recreational lawn and garden dealers*, except commodities which because of their size or weight require the use of special equipment: (1) From Santa Barbara, Ventura, and Santa Maria, CA to points in Horry County, SC; (2) from Santa Cruz, Monterey, and Salinas, CA, to points in SC on and east of a line beginning at the NC-SC State line, and extending along U.S. Hwy 52 to junction U.S. Hwy 521, then along U.S. Hwy 521 to the SC-Atlantic Ocean boundary at or near Georgetown, SC; (3) from Eureka, CA, to points in FL on and east of a line beginning at the FL-Atlantic Ocean boundary at or near Miami, FL, and extending along U.S. Hwy 441 to junction FL Hwy 70, then along FL Hwy 70 to the FL-Atlantic Ocean boundary at or near Fort Pierce, FL; points in FL on, north and east of a line beginning at the Fl-Atlantic Ocean boundary at or near Jacksonville, FL, and extending along U.S. Hwy 90 to junction U.S. Hwy 301, then along U.S. Hwy 301 to the FL-GA State line; points in GA on and east of a line beginning at the FL-GA State line, and extending along U.S. Hwy 301 to junction U.S. Hwy 25, then along U.S. Hwy 25 to the GA-SC State line; points in SC on and east of U.S. Hwy 25; (4) from Palmdale, CA, to points in Horry County, SC on and east of U.S. Hwy 701; (5) from Los Angeles, CA, to Myrtle Beach, SC; (6) from Astoria, OR, to points in FL on and East of a line beginning at the FL-Atlantic Ocean boundary at or near Suwannee, FL, and extending along FL Hwy 349 to junction U.S. Hwy 19, then along U.S. Hwy 19 to junction U.S. Hwy 129, then along U.S. Hwy 129 to junction U.S. Hwy 27, then along U.S. Hwy 27 to junction U.S. Hwy 441, then along U.S. Hwy 441 to the FL-GA State line; points in GA on and east of a line beginning at the FL-GA State line, and extending along U.S. Hwy 441 to junction U.S. Hwy 221, then along U.S. Hwy 221 to junction GA Hwy 17, then along GA Hwy 17 to junction U.S. Hwy 29, then along U.S. Hwy 29 to the GA-SC State line; points in SC on and east of a line beginning at the GA-SC State line, and

extending along U.S. Hwy 29 to junction U.S. Hwy 178, then along U.S. Hwy 178 to the NC-SC State line; (7) from San Luis Obispo, CA, to points in SC on and east of a line beginning at the SC-Atlantic Ocean boundary at or near Georgetown, SC, and extending along U.S. Hwy 701 to the NC-SC State line; (8) from Tracy and Manteca, CA, to points in SC on and east of a line beginning at the SC-Atlantic Ocean boundary at or near Charleston, SC, and extending along U.S. Hwy 52 to junction U.S. Hwy 521, then along U.S. Hwy 521 to the NC-SC State line; (9) from Stockton, CA, to points in SC on and east of U.S. Hwy 21; (10) lfrom Lodi, CA, to points in SC on and east of a line beginning at the SC-Atlantic Ocean boundary at or near Beaufort, SC, and extending along U.S. Hwy 21 to junction U.S. Hwy 321, then along U.S. Hwy 321 to the SC-NC State line; (11) from Salem, OR to points in FL on, south and east of a line beginning at the FL-Tampa Bay boundary and extending along Interstate Hwy 4 to junction U.S. Hwy 301, then along U.S. Hwy 301 to the FL-GA State line; points in GA on and east of a line beginning at the GA-FL State line, and extending along U.S. Hwy 301 to junction GA Hwy 121, then along GA Hwy 121 to the GA-SC Stateline; points in SC except those points in Anderson, Oconee, and Pickens Counties, SC; (12) from Bellingham and Port Angeles, WA, to points in SC; points in FL on, south and east of a line beginning at the FL-Gulf of Mexico boundary at or near Adams Beach, FL, and extending along FL Hwy 361 to junction U.S. Hwy 19, then along U.S. Hwy 19 to junction U.S. Hwy 221, then along U.S. Hwy 221 to the FL-GA State line; points in GA on and east of a line beginning at the FL-GA State line, and extending along U.S. Hwy 221 to junction U.S. Hwy 441, then along U.S. Hwy 441 to the GA-NC State line; (13) from Kelso, WA, to points in SC; points in FL on, south and east of a line beginning at the FL-Gulf of Mexico boundary at or near Cedar Key, FL, and extending along FL Hwy 24 to junction U.S. Hwy 441, then along U.S. Hwy 441 to the FL-GA State line; points in GA on and east of a line beginning at the FL-GA State line, and extending along U.S. Hwy 441 to junction U.S. Hwy 221, then along U.S. Hwy 221 to the GA-SC State line; (14) from Eugene, OR, to points in FL on and east of a line beginning at the GA-FL State line, and extending along Interstate Hwy 95 to junction Interstate Hwy 4, then along Interstate Hwy 4 to the FL-Tampa Bay boundary at or near Tampa, FL; points in GA on and east of a line beginning at the GA-SC State line, and extending along U.S. Hwy 25 to junction U.S. Hwy 301, then along U.S. Hwy 301 to the GA-FL State line; points in SC on and east of a line beginning at the NC-SC State line, and extending along U.S. Hwy 25 to the SC-GA State line; (15) from Aberdeen, WA, to points in FL on and east of a line beginning at the GA-FL State line, and extending along U.S. Hwy 319 to the FL-Gulf of Mexico boundary at or near Lanark, FL; points in GA on and east of a line beginning at the SC-GA State line, and extending along U.S. Hwy 29 to junction U.S. Hwy 441, then along U.S. Hwy 441 to junction U.S. Hwy 280, then along U.S. Hwy 280 to junction U.S. Hwy 41, then along U.S. Hwy 41 lto junction U.S. Hwy 84, then along U.S. Hwy 84 to junction U.S. Hwy 319, then along U.S. Hwy 319 to the FL-GA State line; points in SC on and east of a line beginning at the NC-SC State line, and extending along U.S. Hwy 29 to the SC-GA State line; (16) from Seattle, Olympia, Everett, Bremerton, and Tacoma, WA, to points in SC; points in FL on and east of a line beginning at the FL-Gulf of Mexico boundary at or near Adams Beach, FL, and extending along FL Hwy 361 to junction U.S. Hwy 19, then along U.S. Hwy 19 to junction U.S. Hwy 221, then along U.S. Hwy 221 to the FL-GA State line; points in GA on and east of a line beginning at the FL-GA State line, and extending along U.S. Hwy 221 to junction U.S. Hwy 441, then along U.S. Hwy 441 to junction GA Hwy 44, then along GA Hwy 44 to the junction GA Hwy 77, then along GA Hwy 77 to junction GA Hwy 17, then along GA Hwy 17, then along GA Hwy 17 to junction U.S. Hwy 23, then along U.S. Hwy 23 to the GA-NC State line. (Gateways eliminated: Mountville and Waynesboro, PA.)

MC 117574 (Sub-E125), filed July 16, 1975. Applicant: DAILY EXPRESS, INC., P.O. Box 39, Carlisle, PA 17013. Representative: E. S. Moore, Jr. (same as above). *Agricultural machinery, tractors* (except truck tractors, and tractors with vehicle beds, bed frames, and fifth wheels), *and such agricultural implements as are dealt in by recreational lawn and garden dealers,* except commodities which because of their size or weight require the use of special equipment: (1) From Santa Rosa, San Francisco, Oakland, Fairfield, San Mateo, and San Jose, CA, to points in SC on and east of a line beginning at the SC-NC State line, and extending along Interstate Hwy 77 to junction U.S. Hwy 321, then along U.S. Hwy 321 to junction Interstate Hwy 26, then along Interstate Hwy 26 to Charleston; (2) from Newport, OR, to points in FL on and east of a line beginning at St. Petersburg and extending along Interstate Hwy 275 to junction Interstate Hwy 4, then along Interstate Hwy 4 to junction U.S. Hwy 301, then along U.S. Hwy 301 to the FL-GA State line, points in GA on and east of a line beginning at the GA-FL State line, and extending along U.S. Hwy 1 to junction U.S. Hwy 221, then along U.S. Hwy 221 to the GA-SC State line, and points in SC on and east of a line beginning at the SC-GA State line, and extending along U.S. Hwy 221 to junction U.S. Hwy 25, then along U.S. Hwy 25 to the SC-NC State line; (3) from Portland, OR, to points in FL on and east of a line beginning at Sarasota and extending along U.S. Hwy 41 to junction U.S. Hwy 301, then along U.S. Hwy 301 to the FL-GA State line, points in GA on and east of a line beginning at the GA-FL State line, and extending along U.S. Hwy 1 to junction U.S. Hwy 221, then along U.S. Hwy 221 to the GA-SC State line, and points in SC on and east of a line beginning at the SC-GA State line, and extending along U.S. Hwy 221 to junction U.S. Hwy 25, then along U.S. Hwy 25 to the SC-NC State line; (4) from Grants Pass, OR, to points in FL on and east of a line beginning at Sarasota, and extending along U.S. Hwy 41 to junction FL Hwy 64, then along FL Hwy 64 to junction U.S. Hwy 17, then along U.S. Hwy 17 to junction U.S. Hwy 23, then along U.S. Hwy 23 to junction U.S. Hwy 301, then along U.S. Hwy 301 to the FL-GA State line, point in GA on and east of a line beginning at the GA-FL State line, and extending along U.S. Hwy 301 to junction U.S. Hwy 25, then along U.S. Hwy 25 to the GA-SC State line, and points in SC on and east of U.S. Hwy 25; (5) from Coquille, OR, to points in FL on and east of a line beginning at the FL-gulf coast at or near Hudson, and extending along FL Hwy 52 to junction U.S. Hwy 301, then along U.S. Hwy 301 to the FL-GA State line, points in GA on and east of a line beginning at the GA-FL State line, and extending along U.S. Hwy 1 to junction U.S. Hwy 221, then along U.S. Hwy 221 to the GA-SC State line, and points in SC (except points in Oconee County); (6) from Reedsport, OR, to points in FL on and east of a line beginning at Tampa, and extending along Interstate Hwy 4 to junction U.S. Hwy 301, then along U.S. Hwy 301 to the FL-GA State line, points in GA on and east of a line beginning at the GA-FL State line, and extending along U.S. Hwy 301 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 221, then along U.S. Hwy 221 to the GA-SC State line, and points in SC (except points in Anderson, Oconee, and Pickens Counties). (Gateways eliminated: Mountville and Waynesboro, PA.)

MC 117574 (Sub-E126), filed July 16, 1975. Applicant: DAILY EXPRESS,

INC., P.O. Box 39, Carlisle, PA 17013. Representative: E. S. Moore, Jr. (same as above). (1) *Agricultural implements and agricultural machinery, tractors with or without attachments, cranes, and industrial and processing machinery (a) which are self-propelled articles each weighing 15,000 pounds or more and are transported on trailers or (b) the transportation of which, because of their size or weight, require the use of special equipment, and (2) related parts moving in connection with the commodities listed in (1) above:* (1) Between points in Fairfield and Zicking Counties, OH, on the one hand, and, on the other, points in and west of Alameda, Contra Costa, Colusa, Del Norte, Glenn, Humboldt, Zake, Marin, Mendocino, Monterey, Merced, Napa, Sacramento, Solano, San Benito, San Joaquin, San Luis Obispo, Santa Barbara, Santa, Clara, Santa Cruz, Siskiyou, Sonoma, Stanislaus, Sutter, Tehama, Trinity, and Yolo Counties, CA, and the city of San Diego, CA; points in OR on and west of a line beginning at the CA-OR State line, and extending along Interstate Hwy 5 to junction OR Hwy 62, then along OR Hwy 62 to junction OR Hwy 230, then along OR Hwy 230 to junction OR Hwy 138, then along OR Hwy 138 to junction U.S. Hwy 97, then along U.S. Hwy 97 to the OR-WA State line; and points in Cowlitz, Lewis, Thurston, Pacific, Wahkiakum, Mason, Gray Harbor, Jefferson, and Clallam Counties, WA, which are on and west of Interstate Hwy 5; (2) between points in Knox and Richland Counties, OH, on the one hand, and, on the other, points in CA on and west of U.S. Hwy 101 and points in OR on and west of a line beginning at the CA-OR State line, and extending along Interstate Hwy 5 to junction OR Hwy 38, then along OR Hwy 38 to junction U.S. Hwy 101, then along U.S. Hwy 101 to the OR-WA State line; (3) between those points in Ashland and Lorain Counties, OH, within 80 miles of Columbus, OH, on the one hand, and, on the other, points in CA on and west of a line beginning at the CA-OR State line, and extending along U.S. Hwy 395 to junction CA Hwy 58, then along CA Hwy 58 to junction U.S. Hwy 66, then along U.S. Hwy 66 to junction Interstate Hwy 15, then along Interstate Hwy 15 to junction Interstate Hwy 10, then along Interstate Hwy 10 to junction CA Hwy 86, and then along CA Hwy 86 to the international boundary line between the United States and Mexico points in OR on and west of a line beginning at the CA-OR State line, and extending along U.S. Hwy 97 to junction OR Hwy 58, then along OR Hwy 58 to junction Interstate Hwy 5, then along Interstate Hwy 5 to the OR-WA State line; and points in WA on and west of Interstate Hwy 5; (4) between those points in Holmes and Wayne Counties, OH, within 80 miles of Columbus, OH, on the one hand, and, on the other, points in CA west of a line beginning at the intersection at the CA-OR and CA-NV State lines, and extending along the CA-NV State line to intersection with CA Hwy 127, then along CA Hwy 127 to junction Interstate Hwy 15, then along Interstate Hwy 15 to junction Interstate Hwy 10, then along Interstate Hwy 10 to junction CA Hwy 86, then along CA Hwy 86 to the international boundary line between the United States and Mexico; points in NV on and west of a line beginning at the CA-NV State line, and extending along NV Hwy 3 to junction NV Hwy 34, then along NV Hwy 34 to the NV-OR State line; points in OR on and west of U.S. Hwy 395; and points in WA west of a line beginning at the OR-WA State line, and extending along U.S. Hwy 395 to junction WA Hwy 21, then along WA Hwy 21 to the international boundary line between the United States and Canada; (5) between those points in Coshocton, Guernsey, Muskingum, and Tuscarawas Counties, OH, within 80 miles of Columbus, OH, on the one hand, and, on the other, points in OR and WA; points in CA on and west of a line beginning at the intersection of the CA-OR and CA-NV State line, and extending along the CA-NV State line to junction CA Hwy 127, then along CA Hwy 127 to junction Interstate Hwy 15, then along Interstate Hwy 15 to junction Interstate Hwy 10, then along Interstate Hwy 10 to junction CA Hwy 86, then along CA Hwy 86 to the international boundary line between the United States and Mexico; and points in NV on and west of a line beginning at the OR-NV State line, and extending along U.S. Hwy 95 to junction U.S. Hwy 40, then along U.S. Hwy 40 to junction NV Hwy 8A, then along NV Hwy 8A to junction U.S. Hwy 6, then along U.S. Hwy 6 to junction U.S. Hwy 95, then along U.S. Hwy 95 to junction NV Hwy 29, then along NV Hwy 29 to the CA-NV State line; (6) between points in Perry County, OH, on the one hand, and, on the other, points in CA on and west of a line beginning at the CA-OR State line, and extending along U.S. Hwy 97 to junction Interstate Hwy 5, then along Interstate Hwy 5 to junction CA Hwy 99, then along CA Hwy 99 to junction CA Hwy 58, then along CA Hwy 58 to junction U.S. Hwy 395, then along U.S. Hwy 395 to junction Interstate Hwy 15, then along Interstate Hwy 15 to junction Interstate Hwy 10, then along Interstate Hwy 10 to junction CA Hwy 86, then along CA Hwy 86 to the international boundary line between the United States and Mexico; points in OR on and west of U.S. Hwy 97; and points in WA on and west of a line beginning at the OR-WA State line, and extending along U.S. Hwy 395 to junction WA Hwy 21, then along WA Hwy 21 to the international boundary line between the United States and Canada; (7) between those points in Noble and Washington Counties, OH, within 80 miles of Columbus, OH, on the one hand, and, on the other, points in CA, OR, and WA, and points in NV, MT, and ID on and west of U.S. Hwy 93; (8) between points in Athens and Morgan Counties, OH, on the one hand, and, on the other, points in CA on and west of a line beginning at the intersection of the CA-OR and CA-NV State lines and extending along the CA-NV State line to intersection with U.S. Hwy 395, then along U.S. Hwy 395 to junction Interstate Hwy 10, then along Interstate Hwy 10 to junction CA Hwy 86, then along CA Hwy 86 to the international boundary line between the United States and Mexico; points in OR on and west of U.S. Hwy 395; and points in WA on and west of a line beginning at the OR-WA State line, and extending along U.S. Hwy 395 to junction WA Hwy 21, then along WA Hwy 21 to the international boundary line between the United States and Canada; (9) between those points in Meigs County, OH, on the one hand, and, on the other, points in CA on and west of a line beginning at the intersection of the CA-OR and CA-NV State lines, and extending along the CA-NV State line to intersection U.S. Hwy 395, then along U.S. Hwy 395 to junction CA Hwy 14, then along CA Hwy 14 to junction Interstate Hwy 5, then along Interstate Hwy 5 to junction CA Hwy 7, then along CA Hwy 7 to the Pacific Ocean; points in NV on and west of a line beginning at the CA-NV State line, and extending along U.S. Hwy 395 to junction NV Hwy 33, then along NV Hwy 33 to junction NV Hwy 34, then along NV Hwy 34 to junction NV Hwy 8A, then along NV Hwy 8A to the OR-NV State line; points in OR on and west of U.S. Hwy 395; and points in WA on and west of a line beginning at the OR-WA State line, and extending along U.S. Hwy 395 to junction WA Hwy 21, then along WA Hwy 21 to the international boundary line between the United States and Canada; and (10) between points in Hocking and Vinton Counties, OH, and those points, in Gallia, Laurence, and Jackson Counties, OH, within 80 miles of Columbus, OH, on the one hand, and, on the other, points in CA on and west of a line beginning at the CA-OR State line, and extending along Interstate Hwy 5 to junction Interstate Hwy 505, then along Interstate Hwy 505 to junction Interstate Hwy 80, then along Interstate Hwy 80 to the eastern boundary of the city of San Francisco, CA.

and then along the eastern and southern boundaries of the city of San Francisco to the Pacific Ocean; and points in OR and WA on and west of Interstate Hwy 5. (Gateway eliminated: Shady Grove, PA.)

MC 117574 (Sub-E127), filed July 16, 1975. Applicant: DAILY EXPRESS, INC., P.O. Box 39, Carlisle, PA 17013. Representative: E. S. Moore, Jr. (same as above). *Agricultural implements, agricultural machinery, cranes, and industrial and processing machinery, all of which because of their size or weight require the use of special equipment or special handling,* (1) between points in Ashtabula, Mahoning and Trumbull Counties, OH, on the one hand, and, on the other, DC; points in CA and Santa Cruz and Yuma Counties, AZ; points in DE on and south of a line beginning at the MD-DE State line and extending along DE Hwy 404 to junction DE Hwy 18, then along DE Hwy 18 to the DE-Atlantic Ocean boundary at or near Lewes, DE; points in FL on and east of U.S. Hwy 331; points in GA on and south of a line beginning at the Atlantic Ocean on U.S. Hwy 84, then along U.S. Hwy 84 to junction U.S. Hwy 82, then along U.S. Hwy 82 to junction AL-GA State line; points in MD east of the Chesapeake Bay, and south of a line beginning at the Chesapeake Bay and extending along U.S. Hwy 50 to junction MD Hwy 404, then along MD Hwy 404 to the MD-DE State line; points in Clark, Douglas, Esmeralda, and Mineral Counties, NV; points in Atlantic and Cape May Counties, NJ; points in Burlington County, NJ, east and south of a line beginning at the Burlington-Atlantic County line, and extending along U.S. Hwy 206 to junction NJ Hwy 70, then along NJ Hwy 70 to the Burlington-Ocean County line; points in Ocean County, NJ, south of NJ Hwy 70; points in NC on and south of a line beginning at the NC-VA State line, and extending along U.S. Hwy 17 to junction U.S. Hwy 13, then along U.S. Hwy 13 to junction U.S. Hwy 301, then along U.S. Hwy 301 to the NC-SC State line; points in OR on and west of U.S. Hwy 97; points in Berkeley, Charleston, Georgetown, Horry, and Williamsburg Counties, SC; points in VA east of Southampton and Isle of Wight Counties, VA, and east of the Chesapeake Bay; points in WA on and west of Interstate Hwy 5; (2) between points in Lorain and Medina Counties, OH, on the one hand, and, on the other, DC; points in DE and RI; points in CA on and west of a line beginning at Los Angeles, CA, and extending along U.S. Hwy 101 to junction CA Hwy 1, then along CA Hwy 1 to the CA-Pacific Ocean border at or near Morro Bay, CA; points in CT on and east of U.S. Hwy 202; points in FL on and south of FL Hwy 40; points in MD on and east of U.S. Hwy 11; points in MA on, east and south of a line beginning at the CT-MA State line, and extending along U.S. Hwy 202 to junction Interstate Hwy 90, then along Interstate Hwy 90 to junction MA Hwy 12, then along MA Hwy 12 to junction MA Hwy 110, then along MA Hwy 110 to junction MA Hwy 111, then along MA Hwy 111 to the MA-NH State line; points in NH on and east of a line beginning at the NH-MA State line, and extending along NH Hwy 111 to junction NH Hwy 102, then along NH Hwy 102 to junction NH Hwy 125, then along NH Hwy 125 to junction U.S. Hwy 202, then along U.S. Hwy 202 to the NH-ME State line; points in NJ on, east and south of U.S. Hwy 202; points in NY on, east and south of U.S. Hwy 202; points in NC in and east of Bladen, Brunswick, Columbus, Durham, Granville, Johnston, Sampson, and Wake Counties, NC; points in VA east of a line beginning at the Potomac River, and extending along Interstate Hwy 495 to junction U.S. Hwy 1, then along U.S. Hwy 1 to junction U.S. Hwy 360, then along U.S. Hwy 360 to junction U.S. Hwy 15, then along U.S. Hwy 15 to the VA-NC State line; (3) between points in Erie and Huron Counties, OH, on the one hand, and, on the other, DC; points in CT, DE, and RI; points in FL on and south of a line beginning at the FL-Gulf of Mexico boundary at or near Bayport, FL, and extending along FL Hwy 50 to the FL-Atlantic Ocean boundary at or near Titusville, FL; points in ME on, east and south of a line beginning at the ME-NH State line, and extending along ME Hwy 11 to junction ME Hwy 121, then along ME Hwy 121 to junction ME Hwy 26, then along ME Hwy 26 to junction ME Hwy 232, then along ME Hwy 232 to junction U.S. Hwy 2, then along U.S. Hwy 2 to junction ME Hwy 43, then along ME Hwy 43 to junction ME Hwy 150, then along ME Hwy 150 to junction ME Hwy 6/16, then along ME Hwy 6/16 to junction ME Hwy 11, then along ME Hwy 11 to the ME-Canada border; points in MA on, east and south of a line beginning at the MA-CT State line, and extending along U.S. Hwy 202 to junction MA Hwy 9, then along MA Hwy 9 to junction MA Hwy 32, then along MA Hwy 32 to junction MA Hwy 62, then along MA Hwy 62 to junction MA Hwy 31, then along MA Hwy 31 to the MA-NH State line; points in NH on, east and south of a line beginning at the NH-MA State line, and extending along NH Hwy 31 to junction NH Hwy 101, then along NH Hwy 101 to junction NH Hwy 107, then along NH Hwy 107 to junction U.S. Hwy 202, then along U.S. Hwy 202 to junction NH Hwy 202A, then along NH Hwy 202A to junction NH Hwy 11, then along NH Hwy 11 to the NH-ME State line; points in NJ on, east and south of a line beginning at the NJ-PA State line, and extending along NJ Hwy 57 to junction U.S. Hwy 46, then along U.S. Hwy 46 to junction U.S. Hwy 202, then along U.S. Hwy 202 to the NJ-NY State line; points in NY on, east and south of U.S. Hwy 202; points in NC on and east of a line beginning at the NC-VA State line, and extending along U.S. Hwy 15 to junction NC Hwy 50, then along NC Hwy 50 to junction U.S. Hwy 70, to junction U.S. Hwy 70 to junction U.S. Hwy 301, then along U.S. Hwy 301 to junction U.S. Hwy 701, then along U.S. Hwy 701 to the NC-SC State line; points in VA on and east of a line beginning at the VA-MD State line, and extending along U.S. Hwy 15 to junction U.S. Hwy 522, then along U.S. Hwy 522 to junction VA Hwy 609, then along VA Hwy 609 to junction U.S. Hwy 360, then along U.S. Hwy 360 to junction VA Hwy 49, then along VA Hwy 49 to junction U.S. Hwy 15, then along U.S. Hwy 15 to the VA-NC State line; (4) between points in Cuyahoga, Geauga, and Lake Counties, OH, on the one hand, and, on the other, DC; points in DE; points in Del Norte, Humboldt, Los Angeles, Monterey, Orange, San Benito, San Diego, San Luis Obispo, Santa Barbara, Santa Cruz, and Ventura Counties, CA; points in Sonoma and Mendocino Counties, CA, on and west of a line beginning at the Sonoma-Marin County line, and extending along CA Hwy 1 to junction U.S. Hwy 101, then along U.S. Hwy 101 to the Mendocino-Humboldt County line; points in FL on and south of a line beginning at the FL-Gulf of Mexico boundary at or near Yankeetown, FL, and extending along FL Hwy 40 to the FL-Atlantic Ocean boundary at or near Ormond Beach, FL; points in Ga on and east of a line beginning at the GA-SC State line, and extending along U.S. Hwy 301 to junction GA Hwy 144, then along GA Hwy 144 to junction U.S. Hwy 1, then along U.S. Hwy 1 to the GA-FL State line; points in MD east of a line beginning at the MD-PA State line, and extending along MD Hwy 194 to junction MD Hwy 355, then along MD Hwy 355 to junction MD Hwy 85, then along MD Hwy 85 to junction MD Hwy 28, then along MD Hwy 28 to the Potomac River boundary at or near Point of Rocks, MD; points in NJ on and south of a line beginning at the NJ-PA State line, and extending along NJ Hwy 33 to the NJ-Atlantic Ocean border at or near Neptune, NJ; points in NC on and east of U.S. Hwy 15; points in Coos, Curry, and Lincoln Counties, OR, and points in Douglas and Love Counties, OR, located on U.S. Hwy 101; points in SC on, east and south of a line beginning at the SC-NC State line, and extending along

U.S. Hwy 15 to junction U.S. Hwy 301, then along U.S. Hwy 301 to the GA-SC State line; points in VA on and east of a line beginning at the Potomac River, and extending along Interstate Hwy 495 to junction U.S. Hwy 1, then along U.S. Hwy 1 to the VA-NC State line; (5) between points in Summit and Portage Counties in OH, on the one hand, and, on the other, points in CA on and west of a line beginning at the CA-OR State line, and extending along Interstate Hwy 5 to junction CA Hwy 99, then along CA Hwy 99 to junction CA Hwy 58, then along CA Hwy 58 to junction Interstate Hwy 40, then along Interstate Hwy 40 to the CA-NV State line; points in OR and WA on and west of Interstate Hwy 5; (6) between points in Stark and Tuscarawas Counties, OH (except points within 80 miles of Columbus, OH, on the one hand, and, on the other, points in CA on and west of a line beginning at the CA-NV State line, and extending along CA Hwy 127 to junction Interstate Hwy 15, then along Interstate Hwy 15 to junction Interstate Hwy 10, then along Interstate Hwy 10 to junction CA Hwy 86, then along CA Hwy 86 to the CA-Mexico border; points in NV on and west of a line beginning at the NV-OR State line, and extending along U.S. Hwy 95 to junction Interstate Hwy 80, then along Interstate Hwy 80 to junction NV Hwy 8A, then along NV Hwy 8A to junction U.S. Hwy 6, then along U.S. Hwy 6 to junction U.S. Hwy 95, then along U.S. Hwy 95 to junction NV Hwy 29, then along NV Hwy 29 to the CA-NV State line; points in OR on and west of U.S. Hwy 95; points in WA on and west of a line beginning at the OR-WA State line, and extending along U.S. Hwy 395 to junction WA Hwy 21, then along WA Hwy 21 to the WA-Canada border; (7) between points in Belmont, Guernsey, Monroe, Noble, and Washington Counties, OH (except points in within 80 miles of Columbus, OH), on the one hand, and, on the other, points in CA on and west of a line beginning at the CA-NV State line, and extending along U.S. Hwy 6 to junction U.S. Hwy 395, then along U.S. Hwy 395 to junction CA Hwy 58, then along CA Hwy 58 to junction Interstate Hwy 15, then along Interstate Hwy 15 to junction Interstate Hwy 10, then along Interstate Hwy 10 to junction CA Hwy 86, then along CA Hwy 86 to the CA-Mexico border; points in NV on and west of a line beginning at the NV-OR State line, and extending along U.S. Hwy 95 to junction U.S. Hwy 6, then along U.S. Hwy 6 to the CA-NV State line; points in OR on and west of U.S. Hwy 395; and points in WA on and west of a line beginning at the OR-WA State line, and extending along U.S. Hwy 395 to junction U.S. Hwy 10, then along U.S. Hwy 10 to the ID-WA State line; (8) between points in Carroll, Columbiana, Harrison, and Jefferson Counties, OH (except points within 80 miles of Columbus, OH, on the one hand, and, on the other, points in CA, OR, and WA; points in AZ on and south of a line beginning at the AZ-NV State line, and extending along U.S. Hwy 93 to junction U.S. Hwy 89, then along U.S. Hwy 89 to the AZ-Mexico border; points in NV on and west of a line beginning at the AZ-NV State line, and extending along U.S. Hwy 93 to junction U.S. Hwy 95, then along U.S. Hwy 95 to junction U.S. Hwy 6, then along U.S. Hwy 6 to junction NV Hwy 8A, then along NV Hwy 8A to junction Interstate Hwy 80, then along Interstate Hwy 80 to junction U.S. Hwy 95, then along U.S. Hwy 95 to the NV-OR State line. (Gateways eliminated: Gettysburg and Waynesboro, PA, and Frizzleburg, MD.)

MC 117574 (Sub-E128), filed July 16, 1975. Applicant: DAILY EXPRESS, INC., P.O. Box 39, Carlisle, PA 17013. Representative: E. S. Moore, Jr., (same address as above). (1) *Agricultural implements and agricultural machinery, tractors, with or without attachments, cranes, and industrial and processing machinery (a) which are self-propelled articles each weighing 15,000 pounds or more and are transported on trailers or (b) the transportation of which, because of their size or weight, require the use of special equipment, and (2) related parts moving in connection with the commodities listed in (1) above:* (1) between those points in Huron and Richland Counties, OH, within 80 miles of Columbus, OH, on the one hand, and, on the other, points in DE and DC; points in FL on and south of a line beginning at the Atlantic Ocean, and extending along the northern boundary of the city of Jacksonville, FL, to its intersection with U.S. Hwy 301, then along U.S. Hwy 301 to junction FL Hwy 24, then along FL Hwy 24 to the Gulf of Mexico; points in MD except those in Allegany and Garrett Counties; points in NC on and east of U.S. Hwy 501; points in Horry County, SC; points in VA on and east of a line beginning at the VA-WV State line, and extending along U.S. Hwy 522 to junction Interstate Hwy 81, then along Interstate Hwy 81 to junction U.S. Hwy 501, then along U.S. Hwy 501 to the NC-VA State line; and points in WV on and east of U.S. Hwy 522; (2) between those points in Ashland County, OH, within 80 miles of Columbus, OH, on the one hand, and, on the other, points in DE and DC; points in FL on and south of a line beginning at the Atlantic Ocean at St. Augustine, FL, and extending along FL Hwy A1A to junction FL Hwy 207, then along FL Hwy 207 to junction FL Hwy 20, then along FL Hwy 20 to junction FL Hwy 24, then along FL Hwy 24 to the Gulf of Mexico; points in MD except those in Allegany and Garret Counties; points in NC on and east of a line beginning at the NC-VA State line, and extending along U.S. Hwy 501 to junction NC Hwy 87, then along NC Hwy 87 to the Atlantic Ocean; and points in VA on and east of a line beginning at the VA-WV State line, and extending along U.S. Hwy 522 to junction Interstate Hwy 81, then along Interstate Hwy 81 to junction U.S. Hwy 501, then along U.S. Hwy 501 to the NC-VA State line; (3) between those points in Wayne County, OH, within 80 miles of Columbus, OH, on the one hand, and, on the other, points in DE and DC; points in FL on and east of a line beginning at the FL-GA State line, and extending along U.S. Hwy 221 to junction FL Hwy 361, then along FL Hwy 361 to the Gulf of Mexico; points in GA on and south of a line beginning at the Atlantic Ocean, and extending along GA Hwy 50 to junction U.S. Hwy 84, then along U.S. Hwy 84 to junction U.S. Hwy 221, then along U.S. Hwy 221 to the FL-GA State line; points in MD except those in Allegany and Garrett Counties; points in NC on and east of a line beginning at the VA-NC State line, and extending along U.S. Hwy 501 to junction U.S. Hwy 301, then along U.S. Hwy 301 to the NC-SC State line; points in SC on each of a line beginning at the NC-SC State line, and extending along U.S. Hwy 301/501 to junction SC Hwy 41, then along SC Hwy 41 to junction U.S. Hwy 17A, then along U.S. Hwy 17A to juntion U.S. Hwy 52, then along U.S. Hwy 52 to the Atlantic Ocean; points in VA on and east of a line beginning at the VA-WV State line, and extending along U.S. Hwy 522 to junction Interstate Hwy 81, then along Interstate Hwy 81 to to junction U.S. Hwy 501, then along U.S. Hwy 501 to the VA-NC State line; points in WV on and east of U.S. Hwy 522; (4) betwen those points in Coshocton and Tuscarawas Counties, OH, within 80 miles of Columbus, OH, on the one hand, and, on the other, points in DE and DC; points in FL on and south of a line between at the Atlantic Ocean at Cape Canaveral, FL, and extending along FL Hwy 528 to junction Interstate Hwy 4, then along Interstate Hwy 4 to junction FL Hwy 60, then along FL Hwy 60 to the Gulf of Mexico; points in MD except those in Allegany and Garrett Counties; points in NC on and east of a line beginning at the VA-NC State line, and extending along U.S. Hwy 501 to junction U.S. Hwy 70, then along U.S. Hwy 70 to junction U.S. Hwy 701, then along U.S. Hwy 701 to junction U.S. Hwy 421, then along U.S. Hwy 41 to the Atlantic Ocean; points in VA on and east of a line beginning at the VA-

WV State line, and extending along U.S. Hwy 522 to junction Interstate Hwy 81, then along Interstate Hwy 81 to junction Interstate Hwy 64, then along Interstate Hwy 64 to junction VA Hwy 6, then along VA Hwy 6 to junction VA Hwy 20, then along VA Hwy 20 to junction U.S. Hwy 15, then along U.S. Hwy 15 to the VA-NC State line; and points in WV on and east of U.S. Hwy 522; (5) between those points in Holms and Tuscarawas Counties, OH, within 80 miles of Columbus, OH, on the one hand, and, on the other, points in DE and DC; points in FL on and south of a line beginning at the Atlantic Ocean and extending along U.S. Hwy 92 to junction U.S. Hwy 17, then along U.S. Hwy 17 to junction FL Hwy 44, then along FL Hwy 44 to junction U.S. Hwy 41, then along U.S. Hwy 41 to junction FL Hwy 50, then along FL Hwy 50 to the Gulf of Mexico; points in MD except those in Allegany and Garrett Counties; points in NC on and east of a line beginning at the VA-NC State line, and extending along U.S. Hwy 501 to junction U.S. Hwy 421, then along U.S. Hwy 421 to the Atlantic Ocean; points in VA on and east of a line beginning at the VA-WV State line, and extending along U.S. Hwy 522 to junction Interstate Hwy 81, then along Interstate Hwy 81 to junction U.S. Hwy 501, then along U.S. Hwy 501 to the VA-NC State line; and points in WV on and east of U.S. Hwy 522; (6) between those points in Knox and Zicking Counties, OH, within 80 miles of Columbus, OH, on the one hand, and, on the other, points in DE and DC; points in FL on and south of FL Hwy 70; points in MD except those in Allegany and Garrett Counties; points in NC on and east of a line beginning at the VA-NC State line, and extending along U.S. Hwy 51 to junction NC Hwy 39, then along NC Hwy 39 to junction U.S. Hwy 70, then along U.S. Hwy 70 to junction U.S. Hwy 117, then along U.S. Hwy 117 to junction U.S. Hwy 421, then along U.S. Hwy 421 to the Atlantic Ocean; points in VA on and east of a line beginning at the VA-WV State line, and extending along U.S. Hwy 522 to junction Interstate Hwy 81, then along Interstate Hwy 81 to junction U.S. Hwy 501, then along U.S. Hwy 501 to the VA-NC State line; and points in WV on and east of U.S. Hwy 522; (7) between those points in Muskingum County, OH, within 80 miles of Columbus, OH, on the one hand, and, on the other, points in DE and DC; points in FL on and south of FL Hwy 70; points in MD except those in Allegany and Garrett Counties; points in NC on and east of a line beginning at the VA-NC State line, and extending along U.S. Hwy 15 to junction NC Hwy 50, then along NC Hwy 50 to junction Interstate Hwy 95, then along Interstate Hwy 95 to junction U.S. Hwy 421, then along U.S. Hwy 421 to the Atlantic Ocean; points in VA on and east of a line beginning at the VA-WV State line, and extending along U.S. Hwy 522 to junction U.S. Hwy 15, then along U.S. Hwy 15 to the VA-NC State line; and points in WV on and east of U.S. Hwy 522; (8) between those points in Guernsey County, OH, within 80 miles of Columbus, OH, on the one hand, and, on the other, points in DE and DC; points in FL on and south of FL Hwy 70; points in MD except Allegany and Garrett Counties; points in NC on and east of a line beginning at the VA-NC State line, and extending along U.S. Hwy 15 to junction NC Hwy 50, then along NC Hwy 50 to junction Interstate Hwy 95, then along Interstate Hwy 95 to junction U.S. Hwy 421, then along U.S. Hwy 421 to the Atlantic Ocean; points in VA on and east of a line beginning at the VA-WV State line, and extending along U.S. Hwy 522 to junction U.S. Hwy 60, then along U.S. Hwy 60 to junction U.S. Hwy 15, then along U.S. Hwy 15 to the VA-NC State line; (9) between those points in Athens County, OH, within 80 miles of Columbus, OH, on the one hand, and, on the other, points in DE and DC; points in MD except those in Allegany and Garrett Counties; points in VA on and east of a line beginning at the VA-WV State line, and extending along U.S. Hwy 522 to junction U.S. Hwy 17, and then along U.S. Hwy 17 to the VA-NC State line; and points in WV on and east of U.S. Hwy 522; and (10) between Columbus, OH, on the one hand, and, on the other, points in DE and DC; points in MD except those in Allegany and Garrett Counties; points in NC on and east of a line beginning at the VA-NC State line, and extending along U.S. Hwy 15 to junction NC Hwy 96, then along NC Hwy 96 to junction U.S. Hwy 70A, then along U.S. Hwy 70A to junction U.S. Hwy 70, then along U.S. Hwy 70 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 NC Hwy 50, then along NC Hwy 50 to the Atlantic Ocean. (Gateway eliminated: Waynesboro, PA.)

By the Commission.

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

[FR Doc. 78-23648 Filed 8-22-78; 8:45 am]

[7035-01]

[Notice No. 149]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

August 23, 1978.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the Federal Register publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the Federal Register. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

Motor Carriers of Property

MC 5888 (Sub-46TA), filed June 21, 1978. Applicant: MID-AMERICAN LINES, INC., 127 East Tenth Street, 11th Floor, Kansas City, MO 64105. Representative: Louis A. Hoger, 127 West Tenth Street, 11th Floor, Kansas City, MO 64105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Fiberglass materials and products, fibrous glass mineral wool products, fibrous glass textile materials, fiberglass textile products, and plastic material and products;* and (2) *equipment, material, and supplies* used in the installation or erection of such commodities, (3) *raw materials, supplies, machinery, and equipment* used in the manufacture or packaging of such material or products, between points in Franklin and Licking Coun-

ties, OH, on the one hand, and on the other, points in the States of IL, IA, KS, MN, MO, ND, NE, SD, WI, and the upper pensinula of MI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Owens-Corning Fiberglas Corp., Fiberglas Tower, Toledo, OH 53659. Send protests to: Vernon V. Coble, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, MO 64106.

MC 43593 (Sub-7TA), filed April 14, 1978, and published in the FEDERAL REGISTER issue of June 14, 1978, and republished as corrected this issue. Applicant: FUNK'S HAULING SERVICE, INC., 2750 Grant Avenue, Philadelphia, PA 19114. Representative: Alan Kahn, Esquire, 1920 Two Penn Center Plaza, Philadelphia, PA 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, dangerous explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment) from the facilities of K-Mart Corp. in Upper Merion Township, Montgomery County, PA, to points in PA, for 180 days. Supporting shipper: K-Mart Corp., 3100 West Big Beaver Road, Troy, MI 48084. Send protests to: T. M. Esposito, Transportation Assistant, 600 Arch Street, Room 3238, Philadelphia, PA 19106. The purpose of this republication is to reflect the change of its new facilities as previously indicated.

MC 51146 (Sub-603TA), filed June 19, 1978. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: John R. Patterson, 2480 East Commercial Boulevard, Fort Lauderdale, FL 33308. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tire pumps, tool boxes, paint, televisions, rifles, furniture, and other such commodities* as are dealt in or used by automobile supply and household appliance stores, from the facilities of Kansas City Handling Co. at Kansas City, MO, to the facility of Western Auto Supply Co. at Delaware, OH, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days operating authority. Supporting shipper: Western Auto Supply Co., 2107 Grand Avenue, Kansas City, MO 64108 (Raymond F. Schaefer). Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 69281 (Sub-44TA), filed June 23, 1978. Applicant: THE DAVIDSON TRANSFER & STORAGE CO., 698 Fairmount Avenue, Towson Plaza, Baltimore, MD 21204. Representative: Henry J. Bouchat, P.O. Box 58, Baltimore, MD 21203. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Baltimore, MD, and Hagerstown, MD, and points in the commercial zone of Hagerstown, MD, serving all points in Frederick County, MD, as intermediate and off-route points. From Baltimore, MD, to Hagerstown, MD, via Interstate Route 70, and return via the same route for 180 days. Authority sought herein to be tacked with authority held at MC 69281. Supporting shippers: There are approximately thirteen (13) statements of support attached to the application, which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. Send protests to: William L. Hughes, District Supervisor, Interstate Commerce Commission, 814-B, Federal Building, Baltimore, MD 21201.

MC 105656 (Sub-8TA), filed June 12, 1978, and published in the FEDERAL REGISTER issue of July 27, 1978, and republished as corrected this issue. Applicant: TOM PASQUALE, d.b.a. PASQUALE TRUCKING CO. P.O. Box 295, County Road 250 South, Logansport, IN 46947. Representative: Jack H. Blanshan, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages and related advertising materials and supplies, and malt beverage dispensing equipment when shipped therewith*, from the facilities of Olympia Brewing Co. at St. Paul, MN, to Winamac, Warsaw, Huntington, Kokomo, Logansport, Indianapolis, Wabash, and Fort Wayne, IN; and (2) *Rejected shipments and empty malt beverage containers*, from Winamac, Warsaw, Huntington, Kokomo, Logansport, Indianapolis, Wabash, and Fort Wayne, IN, to the facilities of Olympia Brewing Co. at St. Paul, MN, restricted to the transportation of shipments originating at the named origins and destined to the named destinations, for 180 days. Supporting shippers: There are approximately eight (8) statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, IN 46802. The purpose of this republication is to add Indianapolis to part (1) of the territorial description as previously omitted.

MC 107012 (Sub-271TA), filed June 23, 1978. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Gary M. Crist, P.O. Box 988, Fort Wayne, IN 46801. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Toys and games, including electronic games, skateboards and related accessories*, from the facilities of Mattel Toys at or near Edison, NJ, and city of Industry, CA, to points in the United States, for 180 days. Supporting shipper: Mattel Toys, 5150 Rosecrans Avenue, Hawthorne, CA 92050. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, IN 46802.

MC 107403 (Sub-1093TA), filed June 23, 1978. Applicant: MATLACK, INC., 10 West Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum dust*, in bulk, in tank vehicles, from Oswego, NY, to Rock Creek, OH, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: C-E Cast Industrial Combustion Engineering, Inc., Mill Street, Rock Creek, OH 44084. Send protests to: T. M. Esposito, Transportation Assistant, 600 Arch Street, Room 3238, Philadelphia, PA 19106.

MC 107515 (Sub-1154TA), filed June 19, 1978. Applicant: REFRIGERATED TRANSPORT CO., INC., Post Office Box 308, Forest Park, GA 30050. Representative: Alan E. Serby and Richard M. Tettelbaum, Serby & Mitchell, P.C., Fifth Floor, Lenox Towers South, 3390 Peachtree Road NE., Atlanta, GA 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk), in vehicles equipped with mechanical refrigeration, from facilities of Sunnyland Refining Co., Birmingham, AL to points in CT, DE, DC, FL, GA, ME, MD, MA, NH, NJ, NY, NC, OH, PA, RI, SC, VT, and VA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Sunnyland Refining Co., P.O. Box

457, Birmingham, AL 35201. Send protests to: Transportation Assistant, Sara K. Davis, Interstate Commerce Commission, 1252 West Peachtree Street NW., Room 300, Atlanta, GA 30309.

MC 107515 (Sub-1155TA), filed June 19, 1978. Applicant: REFRIGERATED TRANSPORT CO., INC., Post Office Box 308, 3901 Jonesboro Road, Forest Park, GA 30050. Representative: Alan E. Serby and Richard M. Tettelbaum, Serby & Mitchell, P.C., Fifth Floor, Lenox Towers South, 3390 Peachtree Road NE., Atlanta, GA 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Margarine* (except in bulk), in vehicles equipped with mechanical refrigeration, from the facilities of Deep South Products, Inc., at or near Gainesville, GA, to the facilities of Winn-Dixie Stores, Inc., at Montgomery, AL; Jacksonville, Miami, Orlando and Tampa, FL; Louisville, KY; New Orleans, LA; Albuquerque, NM; Charlotte and Raleigh, NC; Greenville, SC; Ft. Worth, TX; and points in their respective commercial zones, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Deep South Products, Inc., subsidiary of Winn-Dixie Stores, Inc., 825 White Sulphur Road, Gainesville, GA. Send protests to: Transportation Assistant, Sara K. Davis, Interstate Commerce Commission, 1252 West Peachtree Street NW., Room 300, Atlanta, GA 30309.

MC 110410 (Sub-23TA), filed June 19, 1978. Applicant: BENTON BROTHERS FILM EXPRESS, INC., 168 Baker Street NW., Atlanta, GA 30313. Representative: Warren A. Goff, 2008 Clark Tower, 5100 Poplar Avenue, Memphis, TN 38137. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Attachments, component parts and supplies*, used or useful in connection with copying, duplicating and reproduction machines between the facilities of the Xerox Corp., located at or near Atlanta, GA, on the one hand, and, on the other, points in FL, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Xerox Corp., 6077 Fulton Industrial Boulevard, Atlanta, GA 30336. Send protests to: Transportation Assistant, Sara K. Davis, Interstate Commerce Commission, 1252 West Peachtree Street NW., Room 300, Atlanta, GA 30309.

MC 110988 (Sub-368TA), filed June 19, 1978. Applicant: SCHNEIDER TANK LINES, INC., 4321 West College Avenue, Appleton, WI 54911. Representative: John R. Patterson, 2480 East Commercial, Fort Lauderdale, FL 33308. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals, in bulk*, between the facilities of Poly Chem Resin Corp. at or near East St. Louis, IL on the one hand, and, on the other, Oklahoma City, OK; Omaha, NE; Dayton, Columbus and Tipp City, OH; St. Louis, Kansas City and Joplin, MO; Memphis, TN; Jacksonville, FL; Birmingham, AL; Houston, TX; Indianapolis, IN; Wichita and El Dorado, KS; Chicago, IL; and Savannah, GA, for 180 days. Supporting shipper: Poly Chem Resin Corp., 2904 Missouri Avenue, East St. Louis, IL 62205 (H. J. Lanson). Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53203.

MC 111302 (Sub-131TA), filed June 23, 1978. Applicant: HIGHWAY TRANSPORT, INC., P.O. Box 10470, Knoxville, TN 37919. Representative: David A. Petersen, P.O. Box 10470, Knoxville, TN 37919. Authority sought operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Processing or Extender Oil* used in the process of Synthetic or natural rubber, in bulk, in tank vehicles, from the facilities of Exxon Co. U.S.A. in Charleston, SC, to the facilities of Schlegel Tennessee, Inc., in Maryville, TN, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Schlegel Tennessee, Inc., 1713 Henry G. Lane Street, Maryville, TN 37801. Send protests to: Glenda Kuss, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Suite A-422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 111302 (Sub-132TA), filed June 23, 1978. Applicant: HIGHWAY EXPRESS, INC., P.O. Box 10470, Knoxville, TN 37919. Representative: David A. Petersen, P.O. Box 10470, Knoxville, TN 37919. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Soybeam meal*, in bulk, in tank vehicles, from the facilities of Cargill, Inc., at or near Sidney, OH, to the States of MI, WI, IL, KY, TN, NC, and all States North and East thereof, for 180 days. Supporting shipper(s): Cargill, Inc., 2400 Industrial Drive, Sidney, OH 45365. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite A-422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 115496 (Sub-91TA), filed June 19, 1978. Applicant: LUMBER TRANSPORT, INC., P.O. Box 111, HIghway 23 South, Cochran, GA 31014. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Boulevard, Atlanta, GA 30349. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing and building materials*, and materials used in the installation and application of such commodities (except commodities in bulk), from the facilities of Bird & Son, Inc., at Charleston Heights, SC to Miami, Ft. Lauderdale, Tampa, Sanford, Orlando, Winter Haven, Ft, Meyers, Ft. Pierce, Daytona Beach, Clearwater, Gainesville, Jacksonville, Naples, Ocala, Sarasota, Sebring, St. Augustine, St. Petersburg, West Palm Beach, and Vero Beach, FL, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Bird & Son, Inc., Washington Street, East Walpole, MA 02032. Send protestes to: Transportation Assistant Sara K. Davis, Interstate Commerce Commission, 1252 West Peachtree Street NW., Room 300, Atlanta, GA 30309.

MC 117820 (Sub-21TA), filed June 23, 1978. Applicant: AURELIA TRUCKING CO., 2136 Pine Grove Avenue, Port Huron, MI 48060. Representative: Robert D. Schuler, 100 West Long Lake, Suite 102, Bloomfield Hills, MI 48013. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ice cream*, from Dunkirk, NY, to Bay City, Flint, Mt. Clemens, Port Huron, and Saginaw, MI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Clarence B. Fair, Vice President—Sales, London Farm Dairy, 2136 Pine Grove Avenue, Port Huron, MI 48060. Send Protests to: Timothy S. Quinn, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 604 Federal Building and U.S. Courthouse, 231 Lafayette Boulevard, Detroit, MI 48226.

MC 118922 (Sub-17TA), filed May 26, 1978, and published in the FEDERAL REGISTER issue of July 18, 1978, and republished as corrected this issue. Applicant: CARTER TRUCKING CO., INC., P.O. Box 225, Locust Grove, GA 30248. Representative: W. Randall Rye, Suite 1400, Candler Building, 127 Peachtree Street NE., Atlanta, GA 30303. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in, or used by, agricultural equipment, industrial equipment, and lawn and leisure product dealers, between the facilities of John Deere Co., located at or near Conyers, GA, on the one hand,

and, on the other, points in AL, FL, GA, NC, SC, TN, and VA, under a continuing contract or contracts, with John Deere Co., for 180 days. Supporting shipper(s): Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 West Peachtree Street NW., Room 300, Atlanta, GA 30309. The purpose of this republication is to add the State of Florida to the territorial description.

MC 121783 (Sub-4TA), filed June 21, 1978. Applicant: WEST-PAK, INC., 3987 San Pablo Avenue, P.O. Box 8704, Emeryville, CA 94662. Representative: Walter H. Walker III of Handler, Baker & Green, 100 Pine Street, Suite 2550, San Francisco, CA 94111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except articles of unusual value, classes A & B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), restricted to packages each weighing not more than 100 pounds, and against the transportation of more than 200 pounds in the aggregate from one consignor at one location to one consignee at one location during a single day. From Reno, NV, over Interstate Hwy 80 to Truckee, CA, then from Truckee over CA State Hwy 89 and NV State Hwy 28 to the intersection of that highway with U.S. Hwy 50 to Carson City, NV, serving all intermediate points, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): There are approximately (18) statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: A. J. Rodriguez, District Supervisor, 211 Main Street, Suite 500, San Francisco, CA 94105.

MC 128746 (Sub-40TA), filed June 19, 1978. Applicant: D'AGATA NATIONAL TRUCKING CO., 3240 South 61st Street, Philadelphia, PA 19153. Representative: Edward J. Kiley, Suite 501, 1730 M Street NW., Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers* between the plantsite of Midland Glass Co., at or near Cliffwood, NJ, on the one hand, and, on the other, Williamsburg, VA, and its commercial zone, and facilities of Midland Glass Co., at or near Newport News and Suffolk, VA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Midland Glass Co., Inc., P.O. Box 557, Cliffwood, NJ 07721. Send protests to: T. M. Esposito, Transportation Assistant, 600 Arch Street, Room 3238, Philadelphia, PA 19106.

MC 129459 (Sub-16TA), filed June 19, 1978. Applicant: KEARNEY'S TRUCKING SERVICE, INC., U.S. Route Alternate 611, P.O. Box 264, Portland, PA 18351. Representative: Joseph F. Hoary, 121 South Main Street, Taylor, PA 18517. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Dry spaghetti and macaroni products*, from Jersey City, NJ, to points in MI, under a continuing contract or contracts with C. F. Muller Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: C. F. Muller Co., 180 Baldwin Avenue, Jersey City, NJ 07306. Send protests to: T. M Esposito, Transportation Assistant, 600 Arch Street, Room 3238, Philadelphia, PA 19106.

MC 138741 (Sub-46TA), filed June 23, 1978. Applicant: AMERICAN CENTRAL TRANSPORT, INC., 2005 North Broadway, Joliet, IL 60435. Representative: Tom B. Kretsinger, 20 East Franklin, Liberty, MO 64068. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fabricated metal products*, from the facilities of United States Gypsum Co., Franklin Park, IL, to IN, OH, and KY, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Robert D. Hilditch, Rate Specialist, United States Gypsum Co., 101 South Wacker Drive, Chicago, IL 60606. Send protests to: Lois Stahl, Transportation Assistant, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 139261 (Sub-9 TA), filed June 22, 1978. Applicant: BULKEYE EXPRESS, INC., H and First Streets, Willis Day Industrial Park, P.O. Box 368, Perrysburg, OH 43551. Representative: Michael M. Briley, 300 Madison Avenue, 12th Floor, Toledo, OH 43603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cookies* (except in bulk and except those requiring mechanical refrigeration) from McComb, OH, to all points in the States of CA, CT, FL, GA, IL, MD, MA, NJ, NY, NC, OR, PA, TN, TX, and VA, and return of *equipment, materials, and supplies* used in the manufacture of cookies (except in bulk); limited to transportation services to be performed for and under a continuing contract, or contracts, with Consolidated Biscuit Corp. and Nabisco, Inc. (and its wholly-owned subsidiary, Fireside Food Products, Inc.), for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippings: Consolidated Biscuit Corp., P.O. Box 547, Rader Road, McComb, OH 45858. Nabisco, Inc. (and its wholly-owned subsidiary, Fireside Food Products, Inc.), P.O. Box 1006, East Hanover, NJ 07936. Send protests to: Keith D. Warner, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 313 Federal Office Building, 234 Summit Street, Toledo, OH 43604.

MC 139482 (Sub-56 TA), filed May 8, 1978, and published in the FEDERAL REGISTER issue of July 13, 1978, and republished as corrected this issue. Applicant: NEW ULM FREIGHT LINES, INC., County Road 29 West P.O. Box 347, New Ulm, MN 56073. Representative: Samuel Rubenstein 301 North Fifth Street, Minneapolis, MN 55403. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen boxed meats*, applicable only on import traffic, from the commercial zones of Boston, MA, New York, NY, Philadelphia, PA, and Wilmington, DE, to points in MI, IL, IN, OH, IA, MN and WI, for 180 days. Supporting shipper: A. J. Cunningham Packing Corp., 1776 Heritage Drive, Quincy, MA 02171. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commision, Bureau of Operations, 414 Federal Building and U.S. Courthouse, 110 South Fourth Street, Minneapolis, MN 55401. The purpose of this republication is to reflect the State of Minnesota as a destination point.

MC 139577 (Sub-23TA), filed June 21, 1978. Applicant: ADAMS TRANSIT, INC., P.O. Box 338, 204 East Winnebago Street, Friesland, WI 53935. Representative: Michael J. Wyngaard, 150 East Gilman Street, Madison, WI 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Metal containers and container ends* from the facilities of American Can Co., at (a) Chicago, IL to points in IN, IA, MI, MN, MO, OH, and WI; (b) Hoopeston, IL, to points in IN, IA, MI, MN, MO, OH, and WI; (c) Austin, IN, to points in IL, MN, MO, OH, and WI; (3) Indianapolis, IN, to points in IL, IA, MI, MN, MO, OH, and WI; (f) Fort Dodge, IA, to points in IL, IN, and MN; (g) St. Paul, MN, to points in IL, IN, IA, MO, and WI; (h) White House, OH, to points in MI and WI; and (i) Milwaukee, WI, to points in IL, IN, IA, MI, MN, MO, and OH; and (2) *Plastic containers and container ends*, from the facilities of American Can Co., at Batavia, IL, to points in IN, IA, MO,

OH, and WI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): American Can Co., 915 Harger Road, Oak Brook, IL 60521. Send protests to: Ronald Morken, District Supervisor, Interstate Commerce Commission, 212 East Washington Avenue, Room 317, Madison, WI 53703.

MC 139979 (Sub-2TA), filed May 26, 1978, and published in the FEDERAL REGISTER issue of July 21, 1978, and republished as corrected this issue. Applicant: AMERICAN COLLOID CARRIER CORP., P.O. Box 706, Gering, NE 69341. Representative: John T. Wirth, 2310 Colorado State Bank Building, 1600 Broadway Denver, CO 80202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Calcium chloride*, from Ludington and Midland, MI, to Lincoln and Jeffers City, NE; and (2) *Bentonite*, from Upton and Lovell, WY, and Belle Fourche, SD, to Points in MI, restricted to a transportation service to be performed, under a continuing contract, or contracts, with American Colloid Co., Skokie, IL, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Robert N. Garity, Transportation Specialist, Americal Colloid Co., 5100 Suffield Court, Skokie, IL 60076. Send protests to: Max H. Johnston, District Supervisor, 285 Federal Building and Courthouse, 100 Centennial Mall North, Lincoln, NE 68508. The purpose of this republication is to show Lovell, WY, in lieu of Lovall, WY, and also to show the destination point as Michigan (MI) in lieu of Montana (MT).

MC 144938TA filed June 29, 1978. Applicant: VETERANS TRUCKING, a partnership, BURTON W. BENDER and BILLY L. NORTH, 9003 Lenox Avenue SW., Tacoma, WA 98498. Representative: Billy L. North, 1711 Bridgeview Drive, Tacoma, WA 98406. Authority sought to operate as a *contract carrier*, by motor vehicle over irregular routes, transporting: *Native wood doors, not further finished*, from Tacoma, WA, to Sacramento, San Francisco, Los Angeles, and San Diego, CA; Reno and Las Vegas, NV; Flagstaff, Phoenix, and Tuscon, AZ; Tulsa and Oklahoma City, OK; Dallas, Ft. Worth, Lubbock, Austin, San Antonio, Houston, Corpus Christi, and Longview, TX, under a continuing contract or contracts with West Coast Door, Inc., for 180 days. Supporting shipper: West Coast Door, Inc., P.O. Box 11093, Tacoma, WA 98411. Send protests to: Hugh H. Chaffee, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 858 Federal Building, Seattle, WA 98174.

By the Commission.

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

[FR Doc. 78-23649 Filed 8-22-78; 8:45 am]

[7035-01]

[Notice No. 150]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

AUGUST 24, 1978.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publications no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

MC 3252 (Sub-102TA), filed June 20, 1978. Applicant: MERRILL TRANSPORT CO., 1037 Forest Avenue, Portland, ME 04103. Representative: Francis E. Barnett, Jr., 10 Industrial Park Road, Hingham, MA 02043. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Crushed glass and cullet*, whole and broken bottles for recycling, and cans, crushed, baled, whole or shredded from points in ME, to points in MA, for 90 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Matcon Recyling Inc., 53 Jefferson Avenue, Salem, MA 01970. Send protests to: Donald G. Weiler, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 305, 76 Pearl Street, Portland, ME 04111.

MC 29555 (Sub-194TA), filed June 20, 1978. Applicant: BRIGGS TRANSPORTATION CO., 2360 West County Road, St. Paul, MN 55113. Representative: Stephen F. Grinnell, North 400, Griggs-Midway Building, St. Paul, MN 55104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value), livestock, class A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment (except those requiring temperature control) and those injurious or contaminating to other lading, serving the plantsite of Midwest Manufacturing Co., at or near Kellogg, IA, as an off-route point in connection with applicant's authorized regular route operations, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Midwest Manufacturing Co., 101 High Street, Kellogg, IA 50171. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operation, 414 Federal Building and U.S. Post Office, 110 South 4th Street, Minneapolis, MN 55401.

MC 94265 (Sub-273TA), filed June 20, 1978. Applicant: BONNEY MOTOR EXPRESS, INC., P.O. Box 305, Route 460 West, Windsor, VA 23487. Representative: Clyde W. Carver, Attorney, Suite 212, 5299 Roswell Road NE., Atlanta, GA 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts*, and articles distributed by meat packinghouses as described in section A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766, except hides and commodities in bulk in tank vehicles, from the facilities of Kenosha Beef International, Ltd., in Kenosha County, WI and the facilities of Birchwood Meat Provision, Inc., in McHenry County, IL to points in AL, FL, GA, KY, LA, MD, MS, NC, SC, TN, VA, WV, and DC. Restricted to the transportation of traffic originating at the above named origin facilities, for 180 days. Supporting shipper: Kenosha Beef International, Donald L. Jenkins,

Traffic Manager, P.O. Box 639, Kenosha, WI 53141. Send protests to: D/S Paul D. Collins, Bureau of Operations, Room 10-502, Federal Building, 400 North 8th Street, Richmond, VA 23240.

MC 107002 (Sub-531TA), filed June 20, 1978. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, U.S. Hwy 80 West, Jackson, MS 39205. Representative: John J. Borth (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Reclaimed solvent*, in bulk, in tank vehicles, from Corinth, MS, to New Albany, IN, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Flint Ink Corp., 25111 Glendale, Detroit, MI 48239. Send protests to: Alan C. Tarrant, District Supervisor, Interstate Commerce Commission, Room 212, 145 East Amite Building, Jackson, MS 39201.

MC 114015 (Sub-26TA), filed June 20, 1978. Applicant: HUSE, INC., Hwy 47 West, P.O. Box 666, Chase City, VA 23924. Representative: Eugene M. Malkin, Suite 6193, 5 World Trade Center, New York, NY 10048. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Composition boards*, from the facilities of the U.S. Gypsum Co. at Danville, VA, to points in IL, IN, KS, MI, MN, and OH, under a continuing contract or contracts with U.S. Gypsum Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: United States Gypsum Co., Russell S. Hancock, Traffic Manager, 101 South Wacker Drive, Chicago, IL 60606. Send protests to: D/S Paul D. Collins, Bureau of Operations, Room 10-502, Federal Building, 400 North 8th Street, Richmond, VA 23240.

MC 116459 (Sub-70TA), filed June 20, 1978. Applicant: RUSS TRANSPORT, INC., P.O. Box 4022, Chattanooga, TN 37405. Representative: Charles T. Williams, P.O. Box 4022, Chattanooga, TN 37405. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid coal tar*, in bulk, in tank vehicles, from Chattanooga, TN, to Granite City, IL, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Reilly Tar and Chemical Co., P.O. Box 370, Granite City, IL 62040. Send protests to: Glenda Kuss, Transportation Assistant, Bureau of Operations—ICC, Suite A-422—U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

MC 118299 (Sub-3TA), filed June 20, 1978. Applicant: D. K. BRADSHAW and D. D. BRADSHAW, d.b.a. BRADSHAW PRODUCE & TRUCKING, 306 Shelby Street, Shelbina, MO 63468. Representative: Willard C. Reine, Attorney at Law, 235 East High Street, Suite 300, Jefferson City, MO 65101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal in bulk in dump trucks*, from the mine site of Mid-Missouri Coal Co. near Huntsville, MO to electric generating plants owned by the city of Springfield, IL, in or near Springfield, IL for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Mid-Missouri Coal Co., Box D, Huntsville, MO 65259. Send protests to: Vernon V. Coble, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, MO 64106.

MC 119988 (Sub-150TA), filed June 26, 1978. Applicant: GREAT WESTERN TRUCKING CO., INC., Highway 103 East, P.O. Box 1284, Lufkin, TX 75901. Representative: Paul D. Angenend, 1086 Rio Grande, P.O. Box 2207, Austin, TX 78768. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Transport leonardite* (except in bulk) from points in Brewster County, TX to points in LA and OK, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Valley Land & Cattle, Ltd., P.O. Box 63, Terlingua, TX 79852. Send protests to: John F. Mensing, District Supervisor, 8610 Federal Bldg., 515 Rusk Avenue, Houston, TX 77002.

MC 121142 (Sub-18TA), filed June 26, 1978. Applicant: J & G EXPRESS INC., 489 Julienne Street, P.O. Box 2069, Jackson, MS 39205. Representative: James N. Clay, III, 2700 Sterick Bldg., Memphis, TN 38103. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except household goods, commodities in bulk, classes A and B explosives and those requiring special equipment), between Jackson, MS and Canton, MS serving no intermediate points, from Jackson north over U.S. Hwy 51 (and I-55) to Canton and return over the same route. Restriction: Restricted against traffic interlined at Jackson, MS and points within its commercial zone. Applicant seeks to tack this authority with its Sub 8 certificate at Jackson, MS so as to serve Coldwater, MS. Applicant intends to serve commercial zone of all cities and towns within scope of application for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Ely & Walker Mfg. Co., 340 East Barfield Street, Canton, MS 39046; Madison Furniture Industries, P.O. Box 111, Canton, MS 39046; T & H Equipment Co., Inc., P.O. Box 650, Canton, MS 39046; Madison County Equipment Co., P. O. Box 689, Canton, MS 39046. Send protests to: Alan C. Tarrant, District Supervisor, Interstate Commerce Commission, Room 212, 145 East Amite Building, Jackson, MS 39201.

MC 125777 (Sub-227 TA), filed June 26, 1978. Applicant's: JACK GRAY TRANSPORT, INC., 4600 East 15th Avenue, Gary, IN 46403. Representative: Duane O'Donnell (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pig Iron*, in dump vehicles, from Birmingham, AL, and East Liverpool, OH, to points in and east of the States of MN, IA, KS, OK, and TX, for 180 days. Supporting shipper: John A. Adcock, Jr., Senior Sales Representative, Jim Walter Resources, 7 Salt Creek Lane, Hinsdale, IL 60521. Send protest to: Lois M. Stahl, Transportation Assistant, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 134375 (Sub-17 TA), filed June 20, 1978. Applicant: ELDON GRAVES, d.b.a. Eldon Graves Trucking, P.O. Box 3044, Union Gap, WA 98903. Representative: Robert G. Gleason, 1127 10th East, Seattle, WA 98102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cedar Shakes and shingles* from the plant site of Erickson Enterprises, Inc., mill located at Amanda Park, WA, to points located in the States of CA, NV, and AZ, via flat-bed equipment, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operation authority. Suppporting shipper: A. E. Erickson Enterprises, Inc., 1010 Bank of California Center, Seattle, WA 98164. Sent protests to: R. V. Dubay, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, Portland, OR 97204.

MC 134477 (Sub-247 TA), filed June 20, 1978. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, MN 55118. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Artificial Christmas trees and related novelties ad accessories* (except in bulk), from Aurora, IL, to points in IN, IA, KS, MI, MN, MO, NE, ND, OH, SD, and WI, for 180 days. Applicant has also filed an underlying ETA seek-

ing up to 90 days of operating authority. Supporting shipper: American Tree & Wreath Division, American Technical Industries, 29 Elm Avenue, Mt. Vernon, NY 10550. Send Protest to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Courthouse, 110 South 4th Street, Minneapolis, MN 55401.

MC 135410 (Sub-26 TA), filed June 20, 1978. Applicant: COURTNEY J. MUNSON, d.b.a. MUNSON TRUCKING, 700 South Main, Monmouth, IL 61462. Representive: Stephen H. Loeb, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Meats, meat products, meat byproducts, dairy products, and articles distributed by meat packinghouses* as described in sections A, B, and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk), and (2) *foodstuffs* (except in bulk) when moving in mixed loads with the commodities described in (1) above, from the facilities of Oscar Mayer & Co., Inc., (a) at Davenport, IA, to points in Cook, DuPage, Will, Kane, and Lake Counties, IL, Madison and Jefferson, WI, points in the lower peninsula of MI, IN, and OH, and (b) Beardstown, IL, to Madison and Jefferson, WI, points in the lower peninsula of MI, IN, and OH, for 180 days. Supporting shipper: Joseph R. Dixon, Assistance General Traffic Manager, Oscar Mayer & Co., Inc., P.O. Box 7188, Madision, WI 53707. Send protests to: Charles D. Little, District Supervisor, Interstate Commerce Commission, 414 Leland Office Building, 527 East Capitol Avenue, Springfield, IL 60701.

MC 135874 (Sub-132TA), filed June 20, 1978. Applicant: LTL PERISHABLES, INC., 550 East 5th Street South, South St. Paul, MN 55075. Representative: K. O. Petrick, 550 East 5th Street South, South St. Paul, MN 55075. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts*, 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 in bulk), from St. Joseph, MO, to Minneapolis, MN, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: German Butcher Shops, Inc., 516 Felix Street, St. Louis, MO 64501. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Courthouse, 110 South 4th Street, Minneapolis, MN 55401.

MC 136161 (Sub-14TA), filed June 26, 1978. Applicant: ORBIT TRANSPORT, INC., P.O. Box 163, Spring Valley, IL 61362, or 500 Canal Street, LaSalle, IL 61301. Representative: William B. Welbers, P.O. Box 163, Spring Valley, IL 61362. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Containers, and materials and supplies used in the manufacture thereof*, between Kankakee, IL, on the one hand, and IN, MI, MO, OH, WI, IA, and IL, on the other, for 180 days. Supporting shipper: William Cox, Vice President, Fibre Drum Co., 20 North Wacker Drive, Room 2805, Chicago, IL 60606. Send protests to: Lois Stahl, Transportation Assistant, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 138824 (Sub-11TA), filed June 20, 1978. Applicant: REDWAY CARRIERS, INC., 5910 49th Street, Kenosha, WI 53140. Representative: Paul J. Maton, 10 South LaSalle Street, Chicago, IL 60603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Food products, liquid or dry, in containers, materials, supplies*, incidental to and/or used in processing, canning, bottling, or sale of food products, (1) between the facilities of RJR Foods, Inc., at Plymouth, Argus, or South Bend, IN, and all points and places in the States of IL, IA, KY, MO, OH, WV, and WI, (2) between the facilities of RJR Foods, Inc., at Lockport, NY, and the facilities of RJR Foods, Inc., at Plymouth, Argus, or South Bend, IN, (3) between the facilities of RJR Foods, Inc., at Lockport, NY, and points in Cook, DuPage, Kane, and Will Counties, IL, and Miami County, OH, under a continueing contract or contracts with RJR Foods, Inc., for 180 days, Supporting shipper: RJR Foods, Inc., P.O. Box 3037, Winston-Salem, NC 27102. Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 139434 (Sub-6TA), filed June 20, 1978. Applicant: MID-AMERICA EXPRESS, INC., P.O. Box 9, Nebraska City, NE 68401. Representative: Arthur J. Cerra, P.O. Box 19251, 2100 Ten Main Center, Kansas City, MO 64141. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat products, meat byproducts, and articles distributed by meat packinghouses* 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), from the facilities of Armour & Co. at or near Madison, NE, and Sioux City, IA, to MA, NH, NJ, NY, NC, PA, SC, and VA, for 180 days. Supporting shipper: D. A. Chute, Manager, Transportation & Distribution, Fresh Meats Division, 111 West Clarendon, Greyhound Tower, Phoenix, AZ 85077. Send protests to: Max H. Johnston, District Supervisor, 285 Federal Building and Courthouse, 100 Centennial Mall North, Lincoln, NE 68508.

MC 143664 (Sub-4TA), filed June 20, 1978. Applicant: ZEELAND FARM SERVICES, INC., 2468 86th Street, Zeeland, MI 49464. Representative: James R. Neal, Loomis, Ewert, Ederer, Parsley, Davis & Gotting, 1200 Bank of Lansing Building, Lansing, MI 48933. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Soybean meal and soybean hulls*, in bulk, in hopper type vehicles, from the facilities of Cargill Inc., located at or near Chicago, IL, to points in IL, IN, MI, and WI, for 180 days. Supporting shipper: Cargill Inc., 122d & Torrence Avenue, Chicago, IL 60617. Send protests to: Interstate Commerce Commission, C. R. Flemming, District Supervisor, Bureau of Operations, 225 Federal Building, Lansing, MI 48933.

MC 144330 (Sub-38TA), filed June 20, 1978. Applicant: UTAH CARRIERS, INC., P.O. Box 1218, Freeport Center, Clearfield, UT 84016. Representative: Rick J. Hall, P.O. Box 2465, Salt Lake City, UT 84110. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum wallboard, joint systems*, and the *materials and supplies*, used in the application thereof, from the facilities of Georgia Pacific in Acme, TX, to points in AZ, CO, and NM, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Georgia-Pacific Corp., 900 S.W. Fifth Avenue, Portland, OR 97204 (Scott A. Keller, Transportation Analyst). Send Protests to: Lyle D. Helfer, District Supervisor, Interstate Commerce Commission, 5301 Federal Building, Salt Lake City, UT 84138.

MC 144522 (Sub-3TA), filed June 20, 1978. Applicant: PETERSEN AND FOGO, INC., Route 1, Box 22, Byron, NE 68325. Representative: Lavern R. Holdeman, P.O. Box 81849, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal Buildings*, knocked down and in sections, *building sections and build-*

ing panels, metal prefabricated components, and parts, materials, and supplies, used in the construction of metal buildings, from the facilities of Superior Manufacturing Co., at or near Mattoon, IL, to Detroit and Texline, TX; Yuma, CO; and points in the State of OK, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Don's Agri Sales, Don Gunn, President, P.O. Box 38, Superior, NE 68978. Send protests to: Max H. Johnston, District Supervisor, 285 Federal Building and Courthouse, 100 Contennial Mall North, Lincoln, NE 68508.

MC 144806 (Sub-1TA), filed June 20, 1978. Applicant: FRED M. ANDERSON, d.b.a. DELTA VALLEY TRUCKING, 69 North 200 West, Delta, UT 84624. Representative: Mr. Bruce W. Shand, 430 Judge Building, Salt Lake City, UT 84111. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by retail variety stores, from Los Angeles, CA, to points in ID, UT, and CO, under a continuing contract or contracts with Ben Franklin Stores, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Ben Franklin Stores, 3030 South Atlantic Boulevard, Los Angeles, CA 90040, Ernest E. Brown, Traffic Manager. Send Protests to: L. D. Helfer, District Supervisor, Interstate Commerce Commission, 5301 Federal Building, Salt Lake City, UT 84138.

MC 144931 (Sub-1TA), filed June 20, 1978. Applicant: MID-FLA HAULING, INC., State Road 121, P.O. Box 367, Worthington Springs, FL 32697. Representative: Norman J. Bolinger, 1729 Gulf Life Tower, Jacksonville, FL 32207. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Road building and construction aggregates,* from points in Camden and Charleton Counties, GA, to points in FL, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Dickerson, Inc., P.O. Drawer 40940, Jacksonville, FL 32203; Griffin Construction Co., P.O. Box 2346, Macon, GA 31203; Phil Gonzales, Sr., Route 1, Alachua, FL 32615; Ashland-Warren, Inc., 5154 Edwards Street, P.O. Box 41086, Jacksonville, FL 32203; Union Correctional Institution, P.O. Box 221, State Road 16, Raiford, FL 32083. Send protests to: G. H. Fauss, Jr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 144939 TA, filed June 20, 1978. Applicant: LARRY A. HOUSEHOLDER, d.b.a. HOUSEHOLDER TRUCKING, Rural Route No. 1, Fenton, IA 50539. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Meat scraps, blood meal, and bone meal,* from Estherville, IA, to Magnolia, MN, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Plains Milling, Inc., P.O. Box 98, Magnolia, MN 56158. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309.

MC 144940 TA, filed June 20, 1978. Applicant: LLOYD E. PETERS, GRATZ E. PETERS, GARY R. PETERS, and GREGORY R. PETERS, A PARTNERSHIP, d.b.a. LLOYD E. PETERS & SONS. Representative: Clyde N. Christey, Kansas Credit Union Building, 1010 Tyler, Suite 110L, Topeka, KS 66612. Authority sought to operate as a *contract carrier,* by motor vehicles, over irregular routes, transporting: *Lumber,* from Memphis, TN to Erie, KS, under contract with Prest Lumber Co., Inc., and also from Erie, KS, to Memphis, TN, under contract with Prest Manufacturing Co., Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Prest Manufacturing Co., Inc., 768 Plum, P.O. Box 7065, Memphis, TN 38107; Prest Lumber Co., Inc., 102 East Railroad, P.O. Box 26, Erie, KS 66733. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, 101 Litwin Building, Wichita, KS 67202.

MC 144948 TA, filed June 20, 1978. Applicant: BILLY WAYNE HUDSON, d.b.a. BILL HUDSON, 860 Nicholas Street, Carlinville, IL 62626. Representative: Robert T. Lawley, Attorney, 300 Reisch Building, Springfield, IL 62701. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Mine ventilating equipment* for the account of Jack Kennedy Metal Products & Buildings, Inc., from Taylorville, IL, to points in CO, OH, PA, UT, WV, and WY, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: William R. Kennedy, Plant Manager, Jack Kennedy Metal Products & Buildings, Inc., Box 38, 200 South Jayne St., Taylorville, IL 62568. Send protests to: Charles D. Little, District Supervisor, Interstate Commerce Commission, 414 Leland Office Building, 527 East Capitol Avenue, Springfield, IL 62701.

By the Commission.

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

[FR Doc. 78-23650 Filed 8-22-78; 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.

TIME AND DATE: 2 p.m. (eastern time), Tuesday, August 22, 1978.

PLACE: Chairman's Conference Room, No. 5240, on the fifth floor of the Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. 20506.

STATUS: Open to the public.

MATTER TO BE CONSIDERED: Proposed Guidelines on Employee Selection Procedures. A majority of the entire membership of the commission determined by recorded vote that the business of the Commission required that this meeting be held and that no earlier announcement was possible.

The vote was as follows:

In the affirmative.—Eleanor Holmes Norton, Chair; Daniel E. Leach, Vice Chair; and Ethel Bent Walsh, Commissioner.

In the negative.—None.

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat at 202-634-6748.

This notice issued August 18, 1978.

[S-1685-78 Filed 8-21-78; 3:27 pm]

[6355-01]

2

CONSUMER PRODUCT SAFETY COMMISSION.

DATE AND TIME: August 10, 1978; 9:30 a.m. and 10 a.m.

LOCATION: Eighth Floor Conference Room and Third Floor Hearing Room, 1111 18th Street NW., Washington, D.C. 20207.

STATUS: Partly closed, partly open.

MATTERS TO BE CONSIDERED: (See following agenda.)

CONTACT PERSON FOR ADDITIONAL INFORMATION:

Sheldon D. Butts, Assistant Secretary, Office of the Secretary, Consumer Product Safety Commission, Suite 300, 1111 18th Street NW., Washington, D.C. 20207, telephone 202-634-7700.

REVISED AGENDA*

9:30 a.m.
Eighth Floor Conference Room
Closed to the public

1. *Litigation matter.* The Commission and staff will discuss a matter now in litigation (closed to the public—exemption 10, litigation).

10 a.m.
Third Floor Hearing Room
Open to the public

2. *Recommendation close case and endorse corrective action plan: Hedstrom Co. children's merry-go-round, ID 77-54.* The staff has recommended that the Commission close the case and endorse the corrective action plan which Hedstrom has implemented to deal with possible hand or finger injuries associated with certain merry-go-rounds it manufactures. Under the plan, Hedstrom has notified distributors and consumers, and has designed a guard which it has installed on all merry-go-rounds in inventory and which is available to consumers free of charge. The staff has also recommended that the Commission not pursue a timeliness-of-reporting case.

3. *Recommendation to accept corrective action plan: Crosman Arms Division pellet pistols, ID 78-49.* The staff has recommended that the Commission accept the corrective action plan Crosman has implemented to deal with certain pellet pistols it manufactures, which may discharge unexpectedly. Crosman has notified distributors and consumers, asking consumers to return the pistols to a Crosman service center for replacement of improperly-secured screws on the pistol.

4. *Recommendation to accept corrective action plan: C & S Trading Co., handheld electric curling iron, ID 77-77.* The Staff has recommended that the Commission accept the corrective action plan which this firm has implemented to deal with a possible shock or burn hazard associated with certain curling irons it imports. C & S has notified distributrors and customers, and will replace the curling irons with new ones at no cost to consumers.

5. *Briefing on chain saw standard development.* Since June, CPSC staff have been participating in the Chain Saw Manufacturers Association's development of voluntary safety standards for chain saws. At this briefing, staff and CSMA representatives will report on the status of that proceeding.

[S-1686-78 Filed 8-21-78; 3:27 pm]

* Agenda revised August 8. The Commission rescheduled until next week budget discussions previously scheduled for this date, and added items 2 through 5.

[6355-01]

3

CONSUMER PRODUCT SAFETY COMMISSION.

DATE AND TIME: August 15, 2 p.m.

LOCATION: Eighth Floor Conference Room, 1111 18th Street NW., Washington, D.C. 20207.

STATUS: Open.

MATTERS TO BE CONSIDERED: (See following agenda.)

CONTACT PERSON FOR ADDITIONAL INFORMATION:

Sheldon D. Butts, Assistant Secretary, Office of the Secretary, Consumer Product Safety Commission, Suite 300, 1111 18th Street NW., Washington, D.C. 20207, telephone 202-634-7700.

AGENDA

OPEN TO THE PUBLIC

Budget decisions. The Commission will meet to make final decisions on CPSC's budget for fiscal year 1980. Other meetings on the budget are scheduled for Wednesday, August 16 and Thursday, August 17 (if needed). These meetings were previously scheduled for the week of August 7.

Agenda approved August 8, 1978. The Commission determined that Agency business required waiving the 7-day notice.

[S-1687-78 Filed 8-21-78; 3:27 pm]

[6355-01]

4

CONSUMER PRODUCT SAFETY COMMISSION.

DATE AND TIME: August 16, 1978; 9:30 p.m.

LOCATION: Third Floor Hearing Room, 1111 18th Street NW., Washington, D.C. 20207.

STATUS: Open.

MATTERS TO BE CONSIDERED: (See following agenda.)

CONTACT PERSON FOR ADDITIONAL INFORMATION:

Sheldon D. Butts, Assistant Secretary, Office of the Secretary, Consumer Product Safety Commission, Suite 300, 1111 18th Street NW., Washington, D.C. 20207, telephone 202-634-7700.

AGENDA

OPEN TO THE PUBLIC

1. *Briefing on architectural glazing petition.* In February 1978, Elwood W. Buck, Jr., of the Guaranteed Products Division, DG Shelter Products, petitioned the Commission, seeking a revision of the terms "glazed panel" and "sliding glass door * * * (patio type)" as these terms are used in CPSC's Safety Standard for Architectural Glazing. At this meeting, the staff will brief the Commission on issues arising from this petition.

2. *Budget decisions.* The Commission will meet to make final decisions on CPSC's budget for fiscal year 1980. The Commission began this discussion on Tuesday, and has scheduled another session for Thursday, if needed.

Agenda approved August 8, 1978.

[S-1688-78 Filed 8-21-78; 3:27 pm]

[6355-01]

5

CONSUMER PRODUCT SAFETY COMMISSION

DATE AND TIME: August 17, 1978.

LOCATION: Third Floor Hearing Room, 1111 18th Street NW., Washington, D.C. 20207.

STATUS: Open.

MATTERS TO BE CONSIDERED: (See following agenda.)

CONTACT PERSON FOR ADDITIONAL INFORMATION:

Sheldon D. Butts, Assistant Secretary, Office of the Secretary, Consumer Product Safety Commission, Suite 300, 1111 18th Street NW., Washington, D.C. 20207, telephone 202-634-7700.

AGENDA

OPEN TO THE PUBLIC

1. *Unvented gas-fired space heaters.* The Commission and staff will meet for further discussion of options related to the Commission's proposed ban of unvented gas-fired space heaters.

2. *Budget discussions.* The Commission will continue its consideration of CPSC's budget for fiscal year 1980. The Commission held similar meetings on Tuesday, August 15 and on Wednesday, August 16.

Agenda approved August 8, 1978.

[S-1689-78 Filed 8-21-78; 3:27 pm]

[6355-01]

6

CONSUMER PRODUCT SAFETY COMMISSION.

DATE AND TIME: August 24, 1978, 9:30 a.m. and 10:30 a.m.

LOCATION: Third Floor Hearing Room, 1111 18th Street NW., Washington, D.C. 20207.

STATUS: Partly open, partly closed.

MATTERS TO BE CONSIDERED: (See following agenda.)

CONTACT PERSON FOR ADDITIONAL INFORMATION:

Sheldon D. Butts, Assistant Secretary, Office of the Secretary, Consumer Product Safety Commission, Suite 300, 1111 18th Street NW., Washington, D.C. 20207, telephone 202-634-7700.

REVISED AGENDA *

9:30 A.M., EIGHTH FLOOR CONFERENCE ROOM—CLOSED TO THE PUBLIC

1. *Recommendation to accept corrective action plan (OS 580).* The staff has recommended that the Commission accept the corrective action plan in this possible substantial product hazard case, and also that the Commission take other action. (Closed—Exemption 10: Possible civil action.)

2. *Administrative claims arising from the Tris ban.* The Commission will consider claims which have been filed under the Federal Tort Claims Act. (Closed—Exemption 9: Possible significant frustration of agency action).

10:30 A.M., THIRD FLOOR HEARING ROOM—OPEN TO THE PUBLIC

3. *Petition on home playground equipment (CP 76-16).* The Commission will consider a petition in which Theodora Sweeney asks that the Commission develop mandatory safety standards for home playground equipment.

4. *Architectural glazing petition (CP 78-10).* The Commission will consider a petition which seeks revision of the terms "glazed panel" and "sliding glass door (patio type,)" as these terms are used in CPSC's Safety Standard for Architectural Glazing. The staff briefed the Commission on the petition on August 17.

5. *Meeting with American Ladder Institute.* At the Institute's request, the Commission will meet with representatives of the American Ladder Institute to discuss cooperative ladder safety programs.

[S-1690-78 Filed 8-21-78; 3:27 pm]

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* Agenda revised August 18, 1978 with deletion of previous Item 6 (Final Rule to Exempt Certain Ink Cartridges from Labeling Requirements.)

[6210-01]

7

FEDERAL RESERVE SYSTEM.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 36198, August 15, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 11 a.m., Friday, August 18, 1978.

CHANGES IN THE MEETING: Addition of the following closed item to the meeting:

Appointment of an officer at a Federal Reserve Bank. (Accordingly, this matter will not be considered on August 25, 1978, as originally announced.)

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board, 202-452-3204.

Dated: August 18, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[S-1681-78 Filed 8-21-78; 10:42 am]

[7030-01]

8

INDIAN CLAIMS COMMISSION.

TIME AND DATE: 10:15 a.m., August 30, 1978.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Open to the public:

Dockets 15-L, 29-I and 216, *Potawatomi.*
Docket 15-D, *Pottawatomie.*
Docket 332-C, *Yankton Sioux.*

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-1682-78 Filed 8-21-78; 10:42 am]

[7527-01]

9

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE.

TIME: 9:15 a.m. to 5 p.m., and 8:30 a.m. to 12:30 p.m., respectively.

DATE: September 21 and 22, 1978.

PLACE: Sheraton Airport-Inn, Albany, N.Y.

STATUS: Open and partially closed.

MATTERS TO BE DISCUSSED:

Opening remarks, Chairman.

White House Conference on Library and Information Services--Update.
Commission Appointments—Status.
Executive Session (closed meeting. § 1703.202(2) and (6) of the Code of Federal Regulations, 45 CFR, Part 1703.
Reports on Projects, Task Forces, and Committees.
Copyright developments.
Discussion of activities since May 25 and 26, 1978, meeting.
Continuing Library Education and Network Exchange (CLENE), Presentation.
OCLC Programs, Presentation.
Commissioners' Comments.
Executive Director's Report.
Old business.
New business.

CONTACT PERSON FOR MORE INFORMATION:

Alphonse F. Trezza, Executive Director, NCLIS, 202-653-6252.

Dated: August 18, 1978.

ALPHONSE F. TREZZA,
Executive Director.

[S-1691-78 Filed 8-21-78; 4:33 pm]

10

NATIONAL RAILROAD PASSENGER CORPORATION.

In accordance with rule 4a. of Appendix A of the Bylaws of the National Railroad Passenger Corporation, notice is given that the Board of Directors will meet on August 30, 1978.

A. The meeting will be held on Wednesday, August 30, 1978, in the Columbia A Room of the Hyatt Regency Hotel, 400 New Jersey Avenue NW., Washington, D.C. beginning at 10:15 a.m.

B. The meeting will be open to the public at 10:45 a.m. beginning with agenda item No. 3, as described below.

C. The agenda items to be discussed at the meeting follow:

AGENDA

NATIONAL RAILROAD PASSENGER CORPORATION, MEETING OF THE BOARD OF DIRECTORS—AUGUST 30, 1978

Closed Session (10:15)

1. Internal personnel matters.
2. Litigation matters.

Open Session (10:45)

3. Approval of minutes of regular meeting of July 26, 1978.
4. Commitment approval requests:
   74-43 S1. Phase II—Rehabilitation and Modernization of On-Board Service Support Facility, Sunnyside Yard.
   78-33 S1. Modernization of Beech Grove—Phase III.
5. State-related Amtrak activities.
6. *Board Committee Reports:* Audit, Equipment, Northeast Corridor Improvement Project, and Organization and Compensation.
7. President's Report.
8. New Business.
9. Adjournment.

D. Inquiries regarding the information required to be made available pursuant to Appendix A of the Corporation's Bylaws should be directed to the Corporate Secretary at 202-383-3973.

Dated: August 18, 1978.

ELYSE G. WANDER,
Corporate Secretary.

[S-1680-78 Filed 8-21-78; 10:42 am]

[7590-01]

11

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: August 17 and 18, 1978.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open and closed (changes).

CHANGES IN THE MEETINGS:

1. The meeting titled "Discussion of Personnel Matter" (approximately 1 hour, closed-exemption 6) scheduled for approximately 11 a.m., Thursday, August 17 was rescheduled to 9:30 a.m., Friday, August 18.

2. The Affirmation Items (approximately 10 minutes, public meeting) scheduled for approximately 3:30 p.m. on Thursday, August 17 were rescheduled to 12:05 p.m. that same day. Item b., Licensing of Spent Fuel Storage, was canceled.

CONTACT PERSON FOR MORE INFORMATION:

Roger Tweed, 202-634-1410.

Dated: August 18, 1978.

ROGER M. TWEED,
Office of the Secretary.

[S-1683-78 Filed 8-21-78; 10:42 am]

[7590-01]

12

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: August 25, 1978.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington D.C.

STATUS: Open and closed.

MATTERS TO BE CONSIDERED:

FRIDAY, AUGUST 25; 10:30 A.M.

1. Briefing by Yankee Atomic on results of Psychological Screening Program (approximately 1 hour, public meeting).

2.Discussion of settlement in Midland Special Proceeding (approximately 30 minutes, closed—exemptions 6,9,10.

CONTACT PERSON FOR MORE INFORMATION:

Roger Tweed, 202-634-1410).

Dated: August 18, 1978.

ROGER M. TWEED,
Office of the Secretary.

[S-1684-78 8-21-78; 10:42 am]

Federal Register

WEDNESDAY, AUGUST 23, 1978
PART II

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

■

DESIGN STANDARDS FOR HIGHWAYS

Resurfacing, Restoration, and Rehabilitation Projects

[4910-22]

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[23 CFR Part 625]

[FHWA Docket No. 78-10]

DESIGN STANDARDS FOR HIGHWAYS

Notice of Proposed Rulemaking

AGENCY: Federal Highway Administration, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Highway Administration (FHWA) proposes to amend the existing regulations relating to design standards for highways by adding geometric design standards for resurfacing, restoration, and rehabilitation (RRR) projects. The FHWA has developed a draft entitled "Geometric Design Standards for Resurfacing, Restoration, and Rehabilitation of Streets and Highways Other Than Freeways," FHWA, 1978, as the standard for Federal-aid nonfreeway resurfacing, restoration, and rehabilitation projects. Comments on the specific elements of the criteria and their effect on Federal-aid highway programs are requested.

DATES: Comments on the proposed standards must be submitted by October 23, 1978.

ADDRESSES: Written comments should be sent (preferably in triplicate) to: FHWA Docket No. 78-10, room 4205, 400 Seventh Street SW., Washington, D.C. 20590. All comments received will be available for examination at the above address between 7:45 a.m. and 4:15 p.m. e.t., Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

Seppo I. Sillan, Highway Design Division, Office of Engineering, 202-426-0321, or Lee J. Burstyn, Office of the Chief Counsel, 202-426-0790, Federal Highway Administration, 400 Seventh Street SW., Washington, D.C. 20590.

SUPPLEMENTARY INFORMATION: The FHWA proposes to amend the existing regulation, 23 CFR part 625, Design Standards for Highways, by adding geometric design standards for resurfacing, restoration, and rehabilitation (RRR) projects. RRR is work that is undertaken primarily to preserve an existing facility. Restoration and rehabilitation are considered to be work required to return the existing pavement or bridge deck (including shoulders) to a condition of adequate structural support or to a condition adequate for placement of an additional stage of construction (bridge deck protective system or resurfacing). Resurfacing consists of the placement of additional surface material over the existing, restored, or rehabilitated roadway or bridge deck to improve serviceability or to provide additional strength. RRR work may or may not include changes to geometric features such as minor widening, flattening curves, or improving sight distances.

The proposed standards will not be applicable to freeway projects, which includes the National System of Interstate Highways, nor are they to be used for the construction of a new highway or for reconstruction of an existing one on any system. The provisions, now contained in 23 CFR Part 625, Design Standards for Highways, apply to the above cases. Also, it should be noted that the proposal is not for standards in the strictest sense of the word, but are guides for making realistic decisions as to what criteria should be used. They are intended to provide the lower limit for applying engineering judgment in designing RRR projects and should not be used automatically, but only when higher values are not possible or practical.

Resurfacing, restoration, and rehabilitation work is not new or unique. The States have been doing such work for many years, mostly with non-Federal-aid financing, and under a variety of program titles, although some federally funded RRR projects have also been approved in the past under the existing provisions for design exceptions on an individual project basis. Therefore, the only relatively new aspect is the expanded Federal involvement in the program.

The resurfacing, restoration, and rehabilitation of our highways is vital in order to protect the vast investment which they represent—$76 billion since 1956 in Federal funds alone.[1]

The maintenance of the Federal-aid system, which is 929,000 miles of the Nation's total 3.8 million miles, is the responsibility of the States. that responsibility has been taking an ever increasing share of the States' revenues available for highways. At the same time due to inflationary pressures, the actual real value of such revenues has depreciated. In general the quality of pavement has declined nationally. Pavements that are allowed to deteriorate will: (1) increase vehicle operating cost, (2) increase fuel consumption, (3) adversely affect safety due to reduced skid resistance and roughness, and (4) adversely affect the driving comfort. Therefore, it is apparent that there is a need for RRR work to improve the service and extend the life of more miles of highway through optimized geometric design standards that reflect a regard for preservation without sacrificing traffic safety.

The Congress recognized that need by amending section 101 of title 23 United States Code, by including in the definition of the term "construction" the words "resurfacing, restoration, and rehabilitation." The purpose of the amendment is to provide greater flexibility in the use of Federal funds for obtaining maximum use from the extensive system of existing facilities by improving their serviceability through measures short of complete reconstruction. That purpose is expressed in several congressional committee reports.[2]

The General Accounting Office report on maintenance recommended that FHWA should encourage States to give a high priority to RRR projects in their Federal-aid highway construction programs.

Also, one of the findings of a recent National Highway Inventory and Performance Study, as reported in the Secretary of Transportation's report to Congress[3] on the status of highways, was:

> In order to avert deterioration in the quality of pavements and bridges, and to maintain a satisfactory level of operating performance, commitments by Federal, State, and local governments to highway preservation are necessary. Postponing rehabilitation can only increase the long-run costs of maintaining good performance due to the progressive nature of deterioration and the predicted growth in price inflation.

The fact that the 1976 Highway Act amended the definition of the term "construction" to allow greater latitude in designing and constructing certain specific types of projects did not mean that other parts of the law were repealed or could be ignored, especially those on safety. Neither does the law require that any one facet must overwhelmingly govern above all others. They must all be woven together in a manner that will adequately meet the existing and probable future traffic needs, conditions, and particular needs of each locality.

An advance notice of proposed rulemaking (ANPRM) for establishing geometric design standards for RRR projects was published in the FEDERAL REGISTER at 42 FR 42876 (August 25, 1977) on FHWA docket No. 77-4. The

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[1] "Improving and Maintaining Federal-Aid Roads—Department of Transportation Action Needed," U.S. General Accounting Office, February 2, 1977.

[2] (a) H.R. Rept. No. 1567, 93d Cong., 2d sess. 3 (1974); (b) H.R. Rept. No. 109, 94th Cong., 1st sess. 5 (1975); (c) S. Rept. No. 485, 94th Cong., 1st sess. 7, 8 (1975); (d) H.R. Rept. No. 716, 94th Cong., 1st sess. 5, 6 (1975); (e) H.R. Rept. No. 1017, 94th Cong., 2d sess. 42, 43 (1976).

[3] "The Status of the Nation's Highways: Conditions and Performance. Report of the Secretary of Transportation to the U.S. Congress," September 1977.

original due date for comments was extended to November 22, 1977, by a notice published in the FEDERAL REGISTER at 42 FR 56751 (October 28, 1977). All suggestions and proposals for establishing RRR standards were requested. Additionally, three specific alternatives were offered for consideration. Two of the proposed alternatives involved the "Geometric Design Guide for Resurfacing, Restoration, and Rehabilitation (RRR) of Highways and Streets," American Association of State Highway and Transportation Officials (AASHTO), 1977.

After reviewing the comments that were made on the proposal, as well as the legislative background and physical needs of the highway system, it was concluded that:

1. Because of some of the severe comments on the specific criteria contained therein, the FHWA decided not to adopt the AASHTO "Geometric Design Guide for Resurfacing, Restoration, and Rehabilitation (RRR) of Highways and Streets," 1977, in its present form for Federal-aid projects.

2. Using comments received in response to the ANPRM and other available information, FHWA will develop geometric design criteria for Federal-aid RRR projects.

3. Until such time as separate FHWA criteria are promulgated, RRR projects will be handled under the current procedures contained in extisting 23 CFR part 625. These existing procedures permit the needed flexibility in the geometric design of RRR projects through approval of exceptions on a project-by-project basis. Although not considered an adequate long-term solution, this interim procedure can be used immediately to provide the latitude needed for implementing Federal-aid RRR projects.

4. Emphasis will be given to the evaluation of the RRR program.

This information was part of the notice of withdrawal of the advance notice of proposed rulemaking published in the FEDERAL REGISTER at 43 FR 2734 (January 19, 1978).

The criteria now being proposed for adoption are contained in the draft of "Geometric Design Standards for Resurfacing, Restoration, and Rehabilitation of Streets and Highways Other Than Freeways." The text of this document is in this notice. The FHWA has developed this guide using comments received in response to the ANPRM, and other available information such as any research on the subject, or on subjects closely related to RRR, as well as all existing policies and guides on the geometric design of highways.

The provisions of Title 23 of the United States Code provide for a federally assisted State program. In furtherance of the objectives of this program and in accordance with the general purposes of Title VI of the Intergovernmental Cooperation Act of 1968, Pub. L. No. 90-577, 82 Stat. 1098, the development of the RRR standards will be carried out in full coordination with the States. Copies of the proposed standards are being provided directly to the States and to interested associations.

The FHWA would prefer to see one set of standards apply to all RRR work nationwide rather than separate standards dependent solely on the type of funding available. Accordingly, following analysis of all comments received as a result of this notice and appropriate revision of the proposed standards, FHWA will request adoption of the standards by the States as a standard of the American Association of State Highway and Transportation Officials.

It is well known that in aggregate, the higher (within reason) the criteria for most design elements are, the safer the facility will be. That has been shown by the experience with the Interstate System of Highways which is built to the highest standards. For obvious reasons, all roads cannot be built to the same high standards. A farm to market road with full control of access is totally unrealistic. The design, therefore, must vary with the intended function of the facility.

Because the existing research does not provide reliable information on the full impact of variances in individual design criteria, considerable judgment and opinion based on past experience and knowledge have to be used to supplement the current data in developing proper standards for RRR, i.e., preservation projects. Many remaining questions will be answered and problems resolved by future research, development, and evaluations. Meanwhile, to avoid the deterioration of the existing highway system beyond reasonable usefulness, immediate steps must be taken to preserve it.

Many of those who responded to the ANPRM supported the adoption of the AASHTO RRR Guide for use on Federal-aid work. Many others had serious doubts about it, some perhaps caused by a misunderstanding about the character of RRR work, the need for it, the application and the intent of the guide, and its philosophy, as well as its specific numerical values. A brief discussion of the major concerns and how they have been accounted for in the standards proposed for adoption by this notice follows.

One of the basic concerns was that the guide would have reduced standards for all highway construction. The current proposal makes it clear that the proposed standards are intended only for nonfreeway RRR projects, and existing standards will continue to apply to all new construction, reconstruction, and all freeway work.

Criticism was also directed at the apparent lack of emphasis on safety. The current proposal provides for safety throughout by encouraging the use of the highest practical design criteria, by requiring certain safety improvements such as on bridge approaches, and by requiring an analysis of the project's accident history to determine hazardous locations to be improved. Therefore, by improving safety to a reasonable extent, by improving the service, and by extending the life of more miles of highway through optimized geometric design standards, substantial systemwide safety benefits can be realized.

The section on lane and shoulder widths has been modified to take into account the effects of various traffic conditions such as volume, and percentage of trucks and buses, and whether urban or rural conditions prevail.

The section on bridges has been rewritten to clearly designate under what conditions structures that do not meet the current non-RRR criteria may be retained without reconstruction on RRR projects. Because about 73 percent of errant vehicles at bridges impacted either the approach railing or bridge ends, the proposed standards require that the approach barriers must always be upgraded to meet current criteria.

The superelevation criteria now applicable to new projects is also the basis for superelevation on RRR projects. This eliminates the concerns expressed over the possibilities of extensive reversed "banking" of curves under the criteria proposed in the Advance Notice of Proposed Rulemaking.

It should be noted that because of the specific type of projects for which these standards are intended, the limits are broader and minimums somewhat lower than those for new construction or reconstruction. Therefore, a RRR project, on an individual project basis, may not necessarily achieve the same degree of traffic service and safety as a project designed to existing standards. However, in total, greater systemwide safety can be achieved by being able to improve more miles of highways.

This proposed amendment of 23 CFR Part 625 is not considered to produce a major effect on the general economy in terms of costs, consumer prices, or production, nor will it produce a major increase in costs or prices for individual industries, level of government, geographic regions, or specific elements of the population. No new reporting requirements, other than identifying by code RRR projects on existing programing documents, are

imposed on any level of government, industry, or the public in general.

Determination of the systemwide impacts of the RRR program and the specific criteria in the proposed standards will be accomplished through individual evaluations and research studies. Also, RRR activities will be monitored through the existing project and program review procedures of FHWA.

Draft evaluation of the proposed regulation is on file and available for examination at the address given at the beginning of this notice.

The entire regulation, 23 CFR Part 625, to which this amendment is proposed was published in the FEDERAL REGISTER at 43 FR 14648 (April 7, 1978).

NOTE.—The FHWA has determined that this document does contain a major proposal according to the criteria established by the Department of Transportation pursuant to E.O. 12044.

In consideration of the foregoing, it is proposed to amend 23 CFR Part 625.3(a) by renumbering existing paragraphs (6) through (20) to read (7) through (21) and adding a new paragraph (6) to read as follows:

Section 625.3(a)(6) Geometric Design Standards for Resurfacing, Restoration, and Rehabilitation of Streets and Highways Other Than Freeways, FHWA, 1978. These standards represent the minimum criteria to which nonfreeway RRR projects may be designed.

The text of the "Geometric Design Standards for Resurfacing, Restoration, and Rehabilitation of Streets and Highways Other Than Freeways," FHWA, 1978 proposed to be incorporated by reference in the regulation, is as follows:

GEOMETRIC DESIGN STANDARDS FOR RESURFACING, RESTORATION, AND REHABILITATION (RRR) OF STREETS AND HIGHWAYS OTHER THAN FREEWAYS

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  Superelevation.
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DEFINITIONS

Resurfacing, Restoration and Rehabilitation (RRR)—Work undertaken primarily to preserve an existing facility. Restoration and Rehabilitation is considered to be work required to return the existing pavement or bridge deck (including shoulders) to a condition of adequate structural support or to a condition adequate for placement of an additional stage of construction (bridge deck protective system or resurfacing). Resurfacing consists of the placement of additional surface material over the existing, restored, or rehabilitated roadway or bridge deck to improve serviceability or to provide additional strength. RRR work may or may not include changes to geometric features, such as minor widening, flattening curves, or improving distances.

New Construction and Reconstruction—Building a facility where none existed previously, or the replacement of an existing facility.

Existing Standards—Those current documents [1] that contain criteria and discussions to be used as the basic model or pattern of guidance in developing the geometric design of highways and streets.

INTRODUCTION

The 1976 Federal-aid Highway Act made it possible for the State and local highway agencies to use Federal funds to improve the service and extend the life of the maximum possible miles of the total highway system.

One of the findings of a recent National Highway Inventory and Performance Study (NHIPS)[2] was:

In order to avert deterioration in the quality of pavements and bridges, and to maintain a satisfactory level of operating performance, commitments by Federal, State, and local governments to highway preservation are necessary. Postponing rehabilitation can only increase the long run cost of maintaining good performance due to the progressive nature of deterioration and the predicted growth in price inflation.

Highways for which geometrics were established some years ago are still capable of performing a useful transportation service. In most cases minor improvements will make such highways serviceable for many more years.

Recognizing that highway resources are limited, a flexible approach to design which is consistent with environmental and community values is essential to meet the pressing need for preserving the functional and safety characteristics of the existing highway systems. The geometric design standards that are appropriate for new construction and reconstruction are not the optimum criteria for resurfacing, restoration, and rehabilitation (RRR) projects. It is important that designers have guidelines for making realistic decisions as to what criteria should apply. Therefore, to assure the future usefulness of the highway system and to assure that all factors, especially safety, are considered adequately and uniformly nationwide, RRR geometric design standards separate from existing standards for new construction and reconstruction are needed.

The geometric standards in this document are the minimums considered acceptable and are intended to provide the lower limit for applying engineering judgment in designing nonfreeway RRR projects. As with the design of any type of project, the minimums should not be applied automatically but used only when higher values are not possible or practical. The criteria used should be compatible with the proposed improvement. For example, higher geometric criteria should be applied to a project for a 6-inch pavement overlay than for a ¾-inch overlay.

RRR projects designed to the standards in this document will enable the improvement of safety and traffic service on a large portion of the highway system without requiring total reconstruction. Because of the specific type of projects for which these standards are intended, the limits are broader and minimums somewhat lower than the existing standards for new construction or reconstruction. A RRR project, on an individual project basis, may not necessarily achieve the same degree of traffic service and safety as a project designed to existing standards. However, in total, greater systemwide traffic service and safety can be achieved by being able to improve more miles of highways.

These standards are intended to provide flexibility in some of the basic geometric design features, especially those on which modification could result in appreciable savings in cost and other impacts and still improve the degree of safety and traffic service.

For any of the other numerous design details not covered here, the existing standards for new construction or reconstruction will govern. Most of such criteria are already sufficiently flexible and further flexibility would not result in appreciable cost savings and may even result in reduced performance.

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[1] "A Policy on Geometric Design of Rural Highways," AASHO 1965; "A Policy on Design of Urban Highways and Arterial Streets," AASHO 1973; "Geometric Design Standards for Highways other than Freeways," AASHO 1969; "Geometric Design Guide for Local Roads and Streets," AASHO 1970. (See App. B for the availability of these and other documents referenced in this publication.)

[2] "The Status of the Nation's Highways: Conditions and Performance. Report of the Secretary of Transportation to the United States Congress," September 1977.

This document is intended to modify some of the requirements for geometric design features of nonfreeway RRR projects only. All other project procedures are applicable and should be modified only according to existing administrative policies.

These standards are applicable to all rural nonfreeway RRR projects. Because of physical constraints and operational characteristics of many urban streets, the only urban facilities these criteria apply to are the nonfreeway arterials. This document does not provide minimum criteria for urban local and collector streets. The standards for these facilities are those criteria acceptable to the local jurisdiction.

GEOMETRIC STANDARDS

TRAFFIC DATA

Traffic data required to be collected and anaylzed for RRR projects is that which will allow the determination of the necessary level of improvement (i.e., RRR or reconstruction), establishment of necessary design elements such as pavement and bridge widths, and proper consideration for safety.

As a minimum the following data should be acquired and analyzed for all RRR projects:

Current mainline ADT and DHV. (Average Daily Traffic and Design Hourly Volume).

Percent of trucks and buses.

Accident locations and descriptions (collision diagrams).

Turning movements and pedestrian volumes at signalized and problem intersections and at major traffic generators.

Any known near future traffic impact.

School and other bus usage of the route or project.

DESIGN SPEED

The purpose of a design speed is to correlate those physical features of a highway that influence vehicle operation. It is also the maximum safe speed that can be maintained over a specified section of highway when conditions are so favorable that the design features govern. For new construction and reconstruction the assumed design speed should be logical with respect to the character of terrain and the type of highway, and it should be as high as practical.

Although the selection of design speed for a RRR project through a process or rationale which is the same as for new construction is the most desirable approach, it may not be the most practical in view of the character of RRR projects. Application of an ideal design speed that has no relationship to the speeds actually found on an existing highway would be arbitrary. Some operational value that reflects the existing conditions (driver, vehicle, roadway, environmental, and traffic constraints) would be more appropriate. The one value that is readily obtainable and which most closely reflects the existing conditions is the average running speed. "Running Speed" is defined as the speed of a vehicle over a specified section of highway, being the distance divided by the running time; i.e., the time the vehicle is in motion.

Average running speed varies during the day depending primarily on the volume of traffic. It is important that the running speed be determined for the appropriate traffic conditions if it is to be the basis for selecting the design speed. The speed to be measured should be for the freeflowing or low volume conditions.

Since the average running speed represents speed applicable to only about half the motorists on a section of highway, some modification of this value is needed. A 10-percent increase in the average running speed rounded up to the nearest 5 mph (8km/h) increment should be used.

It is also important when considering a RRR project for a section of highway to consider the geometric conditions beyond the portion to be improved. Every attempt should be made to maintain a uniform speed for a significant segment of highway.

Urban arterial streets and highways with some access control and fairly long distances between intersections should have a design speed determined according to the above procedures. However, arterials that have obvious "street-like" characteristics, operationally and physically, do not require a design speed determination. Typically in such instances, closely spaced intersections and other operational constraints usually limit vehicular speeds making the effect of design speed of no significance in the design.

In order to obtain an equivalent average running speed on an existing facility spot speed measurements may be used. The "average spot speed" is the arithmetic mean speed of all traffic at a specified point. Such an average spot speed may be considered to be representative of the average running speed on short sections of highway with essentially uniform characteristics. On longer stretches of highway, spot speeds measured at several points may be averaged (taking relative lengths into account) to represent the average running speed.

It is not intended that elaborate studies be conducted for RRR projects. A few simple representative measurements will be adequate.

SUPERELEVATION

Superelevation is one of the critical speed-related aspects of design that is relatively easy to correct on most RRR projects. The variables involved are the rate of roadway superelevation, side friction factor, vehicle speed and radius of curvature. The laws of mechanics form the basis and those values are modified by practical limitation and factors to provide logical design controls.

In order to provide for the same degree of safety and comfort as on any other project, superelevation including transitions, in accordance with the standards for new construction or for reconstruction should be provided on rural resurfacing, restoration, and rehabilitation projects (See Tables 1-5 in app. A) When constraints make such values infeasible or impractical for the design speed, highest reasonably achievable values may be used.

in rurual areas conditions that would require deviation from the normal superelevation practices should be quite infrequent. The feasibility of rebuilding horizontal curves to larger radii and appropriate superelevation must always be considered, especially when accident data indicate that a problem exists. Urban arterial streets and highways should, within the constraints imposed by adjacent development, curbs and sidewalks, be superelevated in accordance with the same criteria as for rural highways.

When the superelevation applied to a curve does not meet the appropriate criteria, the maximum safe speed for that curve must be determined and the curve signed and marked in accordance with the provisions of the Manual on Uniform Traffic Control Devices for Streets and Highways (MUTCD).

An accepted engineering practice for determining the safe speed is the use of ball bank indicator (BBI). The BBI reading at any time is indicative of the combined effect of the vehicle body roll, the centrifugal force, and the superelevation. A 10° BBI reading is indicative of a safe speed on a curve at the practical speed range of 35 to 60 mph (56 to 97km/h).

If a BBI is not available, Figure 1 of Appendix A which relates the maximum degree of curve to the rate of superelevation and speed, may be used. When entered with a given degree of curve or radius and a known rate of superelevation, the speed that very closely corresponds with 10° BBI reading can be readily determined.

Normal pavement cross slopes may vary from 1 to 3 percent. Existing slopes that are too flat or too steep should be altered to within that range, with the perferred cross slope being 2 percent.

ROADWAY AND SURFACING WIDTHS

The acceptable minimum roadway and surfacing widths for two-lane. two-way rural RRR projects are given in Table I.

TABLE I.—*Roadway and surfacing widths*

Current traffic (ADT)	Design speed (mph)	Width (ft)			
		10 percent or more trucks		Less than 10 percent trucks	
		Roadway	Surfacing	Roadway	Surfacing
1-400	All	24	20	24*	20*
401-4000	50 or less	26	22	24	20
	Over 50	30	24	28	22
Over 4000	All	32	24	30	22

(Conversion factors: 1 mph = 1.609km/h, 1 ft = 0.305m.)

* Note.—For design speeds of 50 mph (80km/h) or less, widths 2 feet (0.6m) narrow may be used on minor roads.

For multilane rural highways, the lanes should be 11 feet (3.4m) wide and the shoulder widths should be 4 feet (1.2m) on the right and 2 (0.6m) feet on the left. If the design speed is 50 mph (80km/h) or less and the percentage of trucks is less than 10 percent, 10 foot (3.1m) lanes may be used.

For urban conditions constraints are such that roadway widening is frequently not practical or possible. The following are minimum lane widths and curb offsets for urban arterial RRR projects:

Through and turning lanes: 10 ft (3.1m).
Parking lanes: 8 ft (2.4m).
Curb Offset—Design Speed 40 mph (64km/h) or less: None. Design speed over 40 mph (64km/h) 1 ft (0.3m).

NOTES.—(1) Lane widths of 9 ft (2.7m) may be used on one-way steets or divided roadways if at least a 1-ft (0.3M) curb offset is used or if trucks and buses are prohibited. (2) If an uncurbed, open ditch, cross section design is used where urban conditions are present, it should be in accordance with the rural criteria.

CURVATURE, STOPPING SIGHT DISTANCE, AND GRADES

The horizontal and vertical curvature, and the stopping sight distance are criteria which are directly related to the speed of vehicles, and major deviations from the proper design may cause serious problems. These geometric characteristics can be the most difficult and costly to improve and although every horizontal or vertical sight restriction can create a potential hazard, improvement on that basis alone may not be practical on every RRR project.

If the curvature is shown to be the cause of the accidents, some corrective action must be taken. This corrective action can range from reconstruction to the placement of warning signs and markings.

Alignment improvements should be undertaken when the accident experience is high and if previously installed warning signs, markings or other devices have not proven to be effective. In many cases, under both rural and urban conditions existing horizontal or vertical alignment may be retained if a careful analysis indicates that it can be adequately signed and marked.

If the calculated design speed for a particular horizontal or vertical curve is less than 15 mph (24km/h) below the designated design speed of the adjacent sections and the location is not an identified accident location, proper signs and markings may be used to inform the drivers of the condition in lieu of reconstruction to meet the standards for the assumed design speed. When the difference is 15 mph (24km/h) or more or the design speed of the horizontal or vertical curve is less than 20 mph (32km/h) corrective work must be considered and should be undertaken unless the cost or other factors would make the improvement impractical. If improvement is not possible, additional signs and markings and other provisions must be used to provide for proper speed transition.

Sight distance at horizontal curves can often be improved, short of reconstruction, by minor cut slope flattening or selective clearing or both. If such work cannot be done, the actual sight distance must be measured, the maximum safe speed determined, and the location signed and marked accordingly.

Safe speed for vertical curves with stopping sight distance restrictions must also be determined. A warning sign with the legend "Limited Sight Distance" is available for use in such situations.

Grades generally do not need to be flattened on RRR projects. Steep grades and restricted horizontal or vertical curvature in combination, however, may warrant corrective action. In summary, the retention of existing grades, curvature or stopping distances which do not meet the existing minimum criteria must be based on good judgment founded on a critical analysis of the conditions. Sites that have a known accident experience related to these geometric features must be corrected, preferably by reconstruction. If that is not possible, signs, markings and other devices, above and beyond the normal requirements, must be installed. If such measures have not worked adequately in the past at a particular location, then reconstruction is required.

BRIDGES

For bridges located of RRR projects, decisions must be made on their retention or replacement, including special consideration for structures with historical significance. If replacement is required, the bridges should be designed in accordance with the current AASHTO geometric and structural standards for new bridges and be consistent with the standards to which the highway may be upgraded in the foreseeable future.

For bridges to remain in place, an evaluation must be made to determine what treatment, if any, is required for operational and structural adequacy. National Cooperative Research Highway Program (NCHRP) Research Results Digest 98, Safety at Narrow Bridge Sites, provides guidance for making the operational safety evaluation. Categories of bridges to remain in place are (1) Bridges requiring no work or only minor rehabilitation, and (2) Bridges requiring major rehabilitation.

1. *Bridges requiring no work or only minor rehabilitation:* When an existing highway or street is to be resurfaced, restored or rehabilitated, existing highway bridges 18 feet wide or wider may remain in place provided:

a. The bridge clear roadway width is equal to or greater than the values for minimum surfacing or traveled way widths provided by these criteria, or if the bridge clear roadway width is less than that minimum surfacing width or traveled way, accident experience indicates that no accident problem exists and the approach way is gradually narrowed to meet the bridge clear roadway width in advance of the bridge. (When an accident problem exists, an analysis should be made to determine the necessary corrective action such as providing improved transitions, rehabilitation, or replacement.)

b. To the extent practical, the bridge railings meet or are made to meet adequate strength and geometric standards.

c. The load carrying capacity is sufficient to carry school buses and vital service vehicles (H-15 minimum) where there is no reasonable and adequate alternative route.

2. *Bridges requiring major rehabilitation:* The design of high cost deck replacement and/or major rehabilitation shall, to the extent practical, be in accordance with the current AASHTO Standard Specifications for Highway Bridges for the class of highway of which the structure is an integral part (H-15 minimum design loading) and meet current AASHTO geometric and safety standards for bridges. When it is not practical to widen to existing geometric standards due to such factors as physical constraints and/or operational characteristics, Table II values apply.

All bridges within the RRR project limits shall be signed and marked in accordance with the MUTCD and the criteria as specified in the AASHTO report, "Highway Design and Operational Practices Related to Highway Safety, Second Edition, 1974." Approach traffic barriers are to be in conformance with the "Guide for Selecting, Locating, and Designing Traffic Barriers, AASHTO, 1977."

TABLE II.—*Bridge Widths For Bridges Requiring Major Rehabilitation*

Current (ADT)	Traffic DHV	Clear Roadway Width* (ft) Desirable minimum	Minimum
0-50		24	20
51-250		26	20
251-400		28	22
401-750	100-200	28	22
	201-400	32	24
	Over 400	36	28

Metric Conversion: 1 ft = 0.305m.

*NOTE.—Clear Width between curbs or rails whichever is the lesser.

HORIZONTAL CLEARANCE TO OBSTRUCTIONS

For safety, it is desirable to provide a clear roadside recovery area that is as wide as practical, but because of existing topographic features and right-of-way limitations associated with RRR work, considerable judgment must be used. The clear zone must be given particular attention at identified roadside accident locations (fixed object accidents). Good engineering judgment, cost effectiveness, and consideration of community impact may also influence decisions.

Widening to provide more clear distance through short sections of rock cuts should be considered. In longer rock cuts, protrusions should be cut back or protected, if warranted. An adequate clear zone at some horizontal curves, especially those at the end of a downgrade, should be provided if possible. A review of accident data will help to define dangerous obstructions.

Under urban conditions the minimum setback for an obstruction should be behind the paved shoulder or 2 feet (0.6m) behind the curb. Where sidewalks are to be included, it is desirable to locate all obstructions behind them.

SAFETY APPURTENANCES

Safety appurtenances for reducing the severity of run-off-the-road accidents include longitudinal roadside barriers (including bridge rails), crash cushions, breakaway or yielding sign supports, and breakaway luminaire supports. It is desirable that such installations be upgraded to meet the current criteria for strength, structural details, location, and warants. The upgrading should be accomplished through a systematic program based on priorities by requiring low priority improvements to be a part of the RRR project. However, a RRR project can and should influence those priorities to a reasonable degree. The inclusion of priority safety upgrading work with a RRR project can be beneficial to both programs. For instance, the engineering and other project costs of separate projects may be reduced. For information in this area refer to the 1977 "Guide for Selecting, Locating, and Designing Traffic Barriers," and the 1975 "Standard Specifications for Structural Supports for Highway Signs, Luminaries, and Traffic Signals" by AASHTO.

OTHER

As noted in the introduction, there are numerous other design features, details, and components in planning and designing a RRR project which may or may not be appropriate. However, if some such items are included in the RRR project, they should be designed according to existing guidelines and criteria.

In some cases there are no alternatives to the inclusion of certain design features. The law imposes certain requirements. For instance, all Federal-aid projects that provide curbs shall include curb ramps at all pedestrian crosswalks, and other provisions as may be appropriate for physically handicapped persons. Also, all projects shall be signed and marked according to the MUTCD.

Other features such as landscaping, bikeways, rest areas or scenic overlooks are optional. A RRR project can be a good opportunity or a vehicle for implementation of an already identified need, such as a bikeway. The decision to include these types of work depends greatly on the local conditions, attitudes and needs and is left up to the individual highway designers and administrators.

APPENDICES

APPENDIX A—SUPERELEVATION AND MAXIMUM SAFE SPEED ON CURVES

The basic equation that relates to the vehicle operation on a curve is:

$$e+f=V^2/15R$$

where e=rate of roadway superelevation, foot per foot
f=side friction
v=vehicle speed, mph.
h=radius of curve in feet

The design assumptions for the side friction factor (f) are:

v	f
30	.16
40	.15
50	.14
60	.13
70	.12

Briefly, for a given curve to be safe according to the accepted design assumptions at a given speed, the sum of the actual superelevation rate and the corresponding assumed friction factor value must be equal to or exceed the value which can be determined by the basic equation above. More detailed discussions of the basic philosophy and assumptions for recommended superelevation design practice are contained in "A Policy on Geometric Design of Rural Highways," AASHO, 1965. Table 1 thru 5 give the design superelevation values based on maximum rates of 0.04, 0.06, 0.08, 0.10, and 0.12.

Figure 1 is intended as an operational design aid in lieu of a ball bank indicator. The safe speed can be determined simply by projecting horizontally from a known "e" value and vertically from the radius of curve. The intersection of these lines indicates the maximum safe speed.

The family of curves in Figure 1 is developed on the basis of the same basic rationale and assumptions as stated above and contained in the noted reference. The curves are the result of solving the basic equation for given conditions.

The curves represent the maximum degrees of curvature (or minimum radius) for various values of superelevation rate and vehicle speed. (These are the same values of curvature as contained in the boxes highlighted by heavy lines in Tables 1-5). It is emphasized that the curves represent maximum safe degrees of curve only and do not distribute an assumed maximum rate of superelevation throughout the range of intermediate degrees of curvature as do the Table (1 thru 5) for design values.

TABLE I

VALUES FOR DESIGN ELEMENTS
RELATED TO DESIGN SPEED AND HORIZONTAL CURVATURE

D	R	V = 30			V = 40			V = 50			V = 60		
		e	L		e	L		e	L		e	L	
			2-lane	4-lane		2-lane	4-lane		2-lane	4-lane		2-lane	4-lane
0° 15'	22918'	NC	0	0	NC	0	0	NC	0	0	NC	0	0
0° 30'	11459'	NC	0	0	NC	0	0	NC	0	0	RC	175	265
0° 45'	7639'	NC	0	0	NC	0	0	RC	150	225	.016	175	265
1° 00'	5730'	NC	0	0	RC	125	190	.016	150	225	.020	175	265
1° 30'	3820'	RC	100	150	.015	125	190	.020	150	225	.025	175	265
2° 00'	2865'	RC	100	150	.018	125	190	.023	150	225	.028	175	265
2° 30'	2292'	.015	100	150	.020	125	190	.026	150	225	.032	175	265
3° 00'	1910'	.016	100	150	.022	125	190	.028	150	225	.035	175	265
3° 30'	1637'	.017	100	150	.024	125	190	.030	150	225	.037	175	265
4° 00'	1432'	.018	100	150	.025	125	190	.033	150	225	.040	175	265
5° 00'	1146'	.021	100	150	.028	125	190	.036	150	225	D max. = 4.0°		
6° 00'	955'	.023	100	150	.031	125	190	.040	150	225			
7° 00'	819'	.024	100	150	.033	125	190	D max. = 6.0°					
8° 00'	716'	.026	100	150	.036	125	190						
9° 00'	637'	.028	100	150	.038	125	190						
10° 00'	573'	.029	100	150	.040	125	190						
11° 00'	521'	.031	100	150	D max. = 10.0°								
12° 00'	477'	.032	100	150									
13° 00'	441'	.033	100	150									
14° 00'	409'	.035	100	150									
16° 00'	358'	.037	100	150									
18° 00'	318'	.039	100	150									
		.040	100	150									
		D max. = 19.0°											

$e_{max} = 0.04$

D - Degree of curve
R - Radius of curve
V - Assumed design speed
e - Rate of superelevation
L - Minimum length of runoff or spiral curve
NC - Normal crown section
RC - Remove adverse crown, superelevate at normal crown slope
Spirals are desirable but not as essential above heavy line.
Lengths rounded in multiples of 25 or 50 feet permit simpler calculations.

TABLE II

VALUES FOR DESIGN ELEMENTS

RELATED TO DESIGN SPEED AND HORIZONTAL CURVATURE

D	R	V = 30 mph			V = 40			V = 50			V = 60			V = 65			V = 70			V = 75			V = 80 mph		
		e	L-Feet		e	L		e	L		e	L		e	L		e	L		e	L		e	L-Feet	
			2-lane	4-lane		2-lane	4-lane		2-lane	4-lane		2-lane	4-lane		2-lane	4-lane		2-lane	4-lane		2-lane	4-lane		2-lane	4-lane
0° 15'	22918'	NC	0	0	NC	0	0	NC	0	0	NC	0	0	NC	0	0	NC	0	0	NC	0	0	RC	240	240
0° 30'	11459'	NC	0	0	NC	0	0	NC	0	0	RC	175	175	RC	190	190	RC	200	200	.021	220	220	.023	240	240
0° 45'	7639'	NC	0	0	NC	0	0	RC	0	0	.021	175	175	.023	190	190	.026	200	200	.030	220	220	.033	240	240
1° 00'	5730'	NC	0	0	RC	125	125	.020	150	150	.027	175	175	.029	190	190	.033	200	200	.037	220	220	.041	240	240
1° 30'	3820'	RC	100	100	.020	125	125	.028	150	150	.036	175	175	.040	190	190	.044	200	200	.050	220	240	.053	240	260
2° 00'	2865'	RC	100	100	.026	125	125	.035	150	150	.044	175	180	.048	190	210	.052	200	230	.057	220	270	.059	240	290
2° 30'	2292'	.020	100	100	.031	125	125	.040	150	150	.050	175	200	.053	190	230	.057	200	260	.060	220	290	.060	240	300
3° 00'	1910'	.023	100	100	.035	125	125	.044	150	160	.054	175	220	.057	190	250	.060	200	270	.060	220	290	.060	240	300
3° 30'	1637'	.026	100	100	.038	125	125	.048	150	170	.057	175	230	.059	190	250	.060	200	270	D max = 2.5°			D max = 2.5°		
4° 00'	1432'	.029	100	100	.041	125	130	.051	150	180	.059	175	240	.060	190	260	D max = 3.0°								
5° 00'	1146'	.034	100	100	.046	125	140	.056	150	200	.060	175	240	.060	190	260									
6° 00'	955'	.038	100	100	.050	125	160	.059	150	210	D max = 4.5°			D max = 4.0°											
7° 00'	819'	.041	100	110	.054	125	170	.060	150	220															
8° 00'	716'	.043	100	120	.056	125	180	.060	150	220															
9° 00'	637'	.046	100	120	.058	125	180	D max = 7.0°																	
10° 00'	573'	.048	100	130	.059	125	190																		
11° 00'	521'	.050	100	140	.060	130	190																		
12° 00'	477'	.052	100	140	.060	130	190																		
13° 00'	441'	.053	100	140	D max = 11.5°																				
14° 00'	409	.055	100	150																					
16° 00'	358'	.058	100	160																					
18° 00'	318'	.059	110	160																					
20° 00'	286'	.060	110	160																					
		.060	110	160																					
		D max = 21.0°																							

$e_{max} = 0.06$

D -- Degree of curve
R -- Radius of curve
V -- Assumed design speed
e -- Rate of superelevation
L -- Minimum length of runoff of spiral curve
NC -- Normal crown section.
RC -- Remove adverse crown, superelevate at normal crown slope.
Spirals desirable but not as essential above heavy line.
Lengths rounded in multiples of 25 or 50 feet permit simpler calculations.

TABLE III

VALUES FOR DESIGN ELEMENTS
RELATED TO DESIGN SPEED AND HORIZONTAL CURVATURE

D	R	V = 30 mph			V = 40			V = 50			V = 60			V = 65			V = 70			V = 75			V = 80 mph		
		e	L-Feet		e	L		e	L		e	L		e	L		e	L		e	L		e	L	
			2-lane	4-lane		2-lane	4-lane		2-lane	4-lane		2-lane	4-lane		2-lane	4-lane		2-lane	4-lane		2-lane	4-lane		2-lane	4-lane
0° 15'	22918'	NC	0	0	NC	0	0	NC	0	0	NC	0	0	NC	0	0	NC	0	0	NC	0	0	RC	240	240
0° 30'	11459'	NC	0	0	NC	0	0	NC	0	0	RC	175	175	RC	190	190	RC	200	200	.022	220	220	.024	240	240
0° 45'	7639'	NC	0	0	NC	0	0	RC	150	150	.022	175	175	.025	190	190	.029	200	200	.032	220	220	.036	240	240
1° 00'	5730'	NC	0	0	RC	125	125	.021	150	150	.029	175	175	.033	190	190	.038	200	200	.043	220	220	.047	240	240
1° 30'	3820'	RC	100	100	.021	125	125	.030	150	150	.040	175	175	.046	190	200	.053	200	240	.060	220	290	.065	240	320
2° 00'	2865'	RC	100	100	.027	125	125	.038	150	150	.051	175	210	.057	190	250	.065	200	290	.072	230	340	.076	250	380
2° 30'	2292'	.021	100	100	.033	125	125	.046	150	170	.060	175	240	.066	190	290	.073	220	330	.078	250	370	.080	260	400
3° 00'	1910'	.025	100	100	.038	125	125	.053	150	190	.067	180	270	.073	210	320	.078	230	350	.080	250	380	.080	260	400
3° 30'	1637'	.028	100	100	.043	125	140	.058	150	210	.073	200	300	.077	220	330	.080	240	360	.080	250	380	D max = 2.5°		
4° 00'	1432'	.032	100	100	.047	125	150	.063	150	230	.077	210	310	.079	230	340	.080	240	360	D max = 3.0°					
5° 00'	1146'	.038	100	100	.055	125	170	.071	170	260	.080	220	320	.080	230	350	D max = 3.5°								
6° 00'	955'	.043	100	120	.061	130	190	.077	180	280	.080	220	320	D max 4.5°											
7° 00'	819'	.048	100	130	.067	140	210	.079	190	280	D max = 5.0°														
8° 00'	716'	.052	100	140	.071	150	220	.080	190	290															
9° 00'	637'	.056	100	150	.075	160	240	D max 7.5°																	
10° 00'	573'	.059	110	160	.077	160	240																		
11° 00'	521'	.063	110	170	.079	170	250																		
12° 00'	477'	.066	120	180	.080	170	250																		
13° 00'	441'	.068	120	180	.080	170	250																		
14° 00'	409'	.070	130	190	D max = 12.5°																				
16° 00'	358'	.074	130	200																					
18° 00'	318'	.077	140	210																					
20° 00'	286'	.079	140	210																					
22° 00'	260'	.080	140	220																					
		.080	140	220																					
		D max = 23.0°																							

$e_{max} = 0.08$

D -- Degree of curve
R -- Radius of curve
V -- Assumed design speed
e -- Rate of superelevation
L -- Minimum length of runoff of spiral curve
NC -- Normal crown section.
RC -- Remove adverse crown, superelevate at normal crown slope.
Spirals desirable but not as essential above heavy line.
Lengths rounded in multiples of 25 or 50 feet permit simpler calculations.

TABLE IV

VALUES FOR DESIGN ELEMENTS

RELATED TO DESIGN SPEED AND HORIZONTAL CURVATURE

D	R	V = 30 mph			V = 40			V = 50			V = 60			V = 65			V = 70			V = 75			V = 80 mph		
		e	L-Feet		e	L		e	L		e	L		e	L		e	L		e	L		e	L-Feet	
			2-lane	4-lane		2-lane	4-lane		2-lane	4-lane		2-lane	4-lane		2-lane	4-lane		2-lane	4-lane		2-lane	4-lane		2-lane	4-lane
0° 15'	22918'	NC	0	0	NC	0	0	NC	0	0	NC	0	0	NC	0	0	NC	0	0	NC	0	0	RC	240	240
0° 30'	11459'	NC	0	0	NC	0	0	NC	0	0	RC	175	175	RC	190	190	RC	200	200	.022	220	220	.024	240	240
0° 45'	7639'	NC	0	0	NC	0	0	RC	150	150	.024	175	175	.027	190	190	.029	200	200	.033	220	220	.036	240	240
1° 00'	5730'	NC	0	0	RC	125	125	.023	150	150	.032	175	175	.035	190	190	.039	200	200	.044	220	220	.048	240	240
1° 30'	3820'	RC	100	100	.021	125	125	.033	150	150	.046	175	190	.052	190	220	.058	200	260	.065	220	310	.071	240	350
2° 00'	2865'	RC	100	100	.028	125	125	.042	150	150	.058	175	230	.066	190	290	.074	220	330	.082	260	390	.089	290	440
2° 30'	2292'	.021	100	100	.034	125	125	.051	150	180	.069	190	280	.077	220	330	.086	260	390	.094	300	450	.099	330	490
3° 00'	1910'	.025	100	100	.040	125	125	.059	150	210	.079	210	320	.087	250	380	.094	280	420	.100	320	480	.100	330	500
3° 30'	1637'	.029	100	100	.046	125	140	.067	160	240	.087	230	350	.093	270	400	.099	300	450	.100	320	480	.100	330	500
4° 00'	1432'	.033	100	100	.051	125	160	.073	180	260	.093	250	380	.098	280	420	.100	300	450	D max = 3.0°			D max = 3.0°		
5° 00'	1146'	.040	100	110	.061	130	190	.084	200	300	.099	270	400	.100	290	430	.100	300	450						
6° 00'	955'	.046	100	120	.070	150	220	.092	220	330	.100	270	410	D max = 4.5°			D max = 4.0°								
7° 00'	819'	.053	100	140	.077	160	240	.098	240	350	D max = 5.5°														
8° 00'	716'	.059	110	160	.084	180	260	.100	240	360															
9° 00'	637'	.064	120	170	.089	190	280	.100	240	360															
10° 00'	573'	.068	120	180	.093	200	290	D max = 8.5°																	
11° 00'	521'	.073	130	200	.097	200	310																		
12° 00'	477'	.077	140	210	.099	210	310																		
13° 00'	441'	.080	140	220	.100	210	320																		
14° 00'	409'	.083	150	220	.100	210	320																		
16° 00'	358'	.089	160	240	D max = 13.5°																				
18° 00'	318'	.093	170	250																					
20° 00'	286'	.097	170	260																					
22° 00'	260'	.099	180	270																					
24° 00'	239'	.100	180	270																					
		.100	180	270																					
		D max = 25.0°																							

$e_{max} = 0.10$

D -- Degree of curve
R -- Radius of curve
V -- Assumed design speed
e -- Rate of superelevation
L -- Minimum length of runoff of spiral curve
NC -- Normal crown section.
RC -- Remove adverse crown, superelevate at normal crown slope.
Spirals desirable but not as essential above heavy line.
Lengths rounded in multiples of 25 or 50 feet permit simpler calculations.

TABLE V

VALUES FOR DESIGN ELEMENTS

RELATED TO DESIGN SPEED AND HORIZONTAL CURVATURE

D	R	V = 30 mph			V = 40			V = 50			V = 60			V = 65			V = 70			V = 75			V = 80 mph		
		e	L-Feet		e	L		e	L		e	L		e	L		e	L		e	L		e	L-Feet	
			2-lane	4-lane		2-lane	4-lane		2-lane	4-lane		2-lane	4-lane		2-lane	4-lane		2-lane	4-lane		2-lane	4-lane		2-lane	4-lane
0° 15'	22918'	NC	0	0	NC	0	0	NC	0	0	NC	0	0	NC	0	0	NC	0	0	NC	0	0	RC	240	240
0° 30'	11459'	NC	0	0	NC	0	0	NC	0	0	RC	175	175	RC	190	190	RC	200	200	.022	220	220	.024	240	240
0° 45'	7639'	NC	0	0	NC	0	0	RC	150	150	.024	175	175	.026	190	190	.029	200	200	.033	220	220	.036	240	240
1° 00'	5730'	NC	0	0	RC	125	125	.023	150	150	.031	175	175	.035	190	190	.039	200	200	.043	220	220	.048	240	240
1° 30'	3820'	RC	100	100	.022	125	125	.034	150	150	.047	175	190	.053	190	230	.059	200	270	.065	220	310	.072	240	360
2° 00'	2865'	RC	100	100	.030	125	125	.045	150	160	.062	175	250	.070	200	300	.078	230	350	.087	280	410	.095	310	470
2° 30'	2292'	.022	100	100	.037	125	125	.055	150	200	.076	210	310	.085	240	370	.095	290	430	.105	330	500	.113	370	560
3° 00'	1910'	.026	100	100	.044	125	140	.065	160	230	.088	240	360	.097	240	420	.108	320	490	.117	370	560	.120	400	600
3° 30'	1637'	.030	100	100	.050	125	160	.074	180	270	.098	260	400	.107	310	460	.116	350	520	.120	380	570	.120	400	600
4° 00'	1432'	.034	100	100	.057	125	180	.082	200	300	.106	290	430	.114	330	490	.120	360	540	.120	380	570	D max = 3.0°		
5° 00'	1146'	.042	100	110	.068	140	210	.096	230	350	.117	320	470	.120	350	520	.120	360	540	D max = 3.5°					
6° 00'	955'	.049	100	130	.079	170	250	.107	260	390	.120	320	490	.120	350	520	D max = 4.0°								
7° 00'	819'	.055	100	150	.088	180	280	.114	270	410	.120	320	490	D max = 5.0°											
8° 00'	716'	.062	110	170	.096	200	300	.119	290	430	D max = 6.0°														
9° 00'	637'	.068	120	180	.103	220	320	.120	290	430															
10° 00'	573'	.074	130	200	.108	230	340	.120	290	430															
11° 00'	521'	.079	140	210	.113	240	360	D max = 9.0°																	
12° 00'	477'	.084	150	230	.116	240	370																		
13° 00'	441'	.089	160	240	.119	250	370																		
14° 00'	409'	.093	170	250	.120	250	380																		
16° 00'	358'	.101	180	270	.120	250	380																		
18° 00'	318'	.108	190	290	D max = 14.5°																				
20° 00'	286'	.113	200	310																					
22° 00'	260'	.117	210	320																					
26° 00'	220'	.120	220	320																					
		.120	220	320																					
		D max = 26.5°																							

$e_{max} = 0.12$

D -- Degree of curve
R -- Radius of curve
V -- Assumed design speed
e -- Rate of superelevation
L -- Minimum length of runoff of spiral curve
NC -- Normal crown section.
RC -- Remove adverse crown, superelevate at normal crown slope.
Spirals desirable but not as essential above heavy line.
Lengths rounded in multiples of 25 or 50 feet permit simpler calculations.

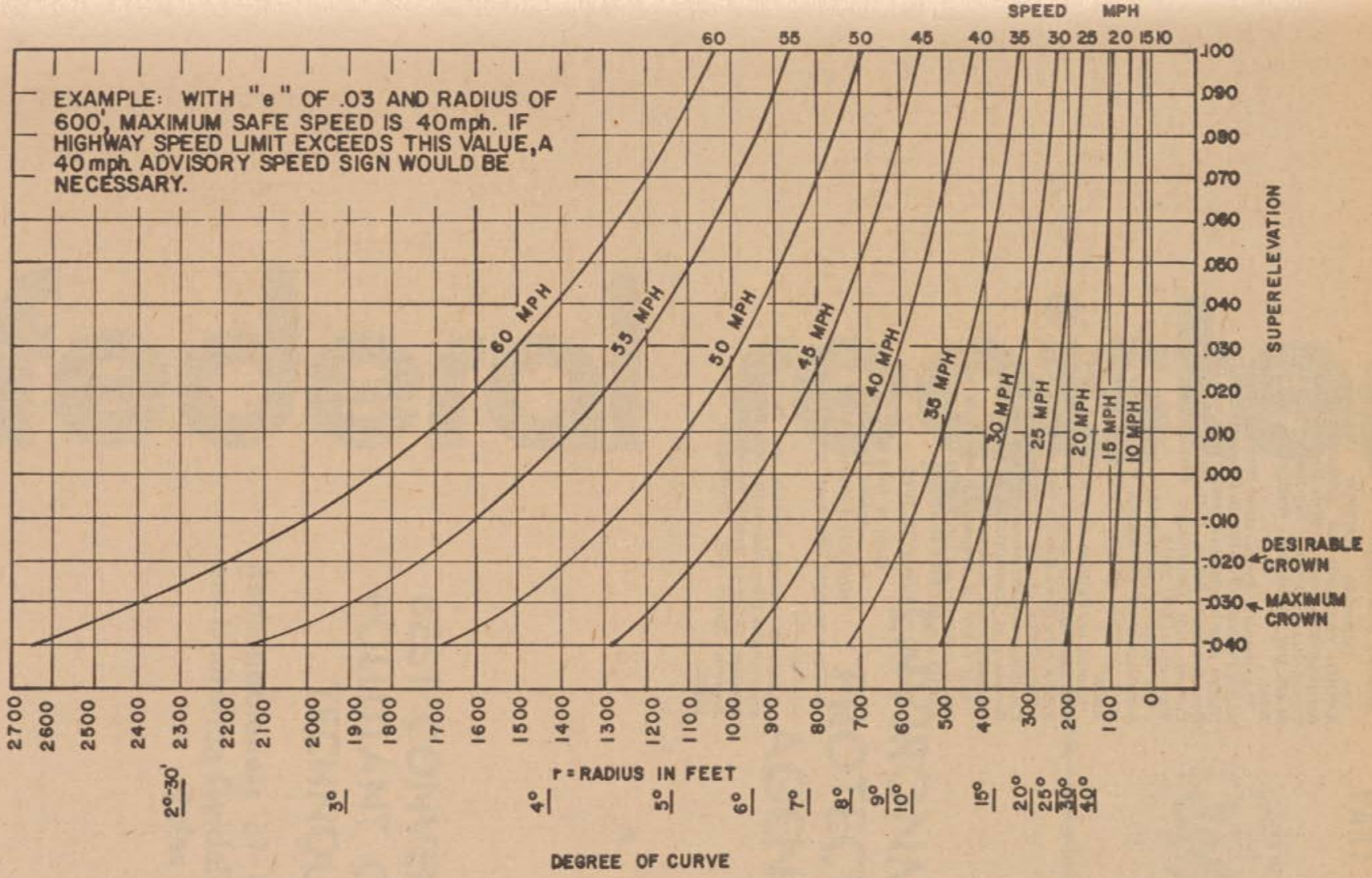

Figure I. Superelevation Chart for Determining Safe Speed for Signing Curves.

APPENDIX B—AVAILABILITY OF REFERENCES

The referenced AASHTO (formerly AASHO) documents are available from: American Association of State Highway and Transportation Officials, 444 North Capitol Street NW., Suite 225, Washington, D.C. 20001.

The National Cooperative Highway Research Program (NCHRP) Research Results Digests may be obtained from: Transportation Research Board, National Research Council, 2101 Constitution Avenue NW., Washington, D.C. 20418.

The following are available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402:

Manual on Uniform Traffic Control Devices (MUTCD) for Streets and Highways, FHWA 1971, Stock Number 5001-0021*

The Status of the Nation's Highways: Conditions and Performance, Report of the Secretary of Transportation to the United States Congress, September 1977.

This notice of Proposed Rulemaking is issued under the authority of 23 U.S.C. 109 and 315 and 49 CFR 1.48(b).

Issued on: August 15, 1978.

KARL S. BOWERS,
Acting Federal Highway Administrator.

[FR Doc. 78-23353 Filed 8-22-78; 8:45 am]

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*Addenda, Official Rulings, and Errata are available from Federal Highway Administration, Office of Traffic Operations, 400 Seventh Street SW., Washington, D.C. 20590.

federal register

WEDNESDAY, AUGUST 23, 1978
PART III

ENVIRONMENTAL PROTECTION AGENCY

■

BEST CONVENTIONAL POLLUTANT CONTROL TECHNOLOGY

Reasonableness of Existing Effluent Limitation Guidelines; Proposed Rules

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Parts 405, 406, 407, 408, 409, 411, 412, 418, 422, 424, 426, 427, 432]

BEST CONVENTIONAL POLLUTANT CONTROL TECHNOLOGY

Reasonableness of Existing Effluent Limitation Guidelines

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rules.

SUMMARY: EPA has reviewed certain existing effluent guideline limitations for best available technology economically achievable (BAT) which have been promulgated for conventional pollutants. These guidelines have been reviewed to determine if they are not only economically achievable, but are also reasonable. For those guidelines which are reasonable, EPA is proposing that the BAT control of conventional pollutants be redefined as best conventional pollutant control technology (BCT). For those guidelines which are unreasonable, EPA is proposing that the existing BAT controls for conventional pollutants be withdrawn, leaving best practicable control technology currently available (BPT) in place as the limitation of record until new BCT limitations are developed.

DATE: Comments must be received on or before October 23, 1978.

ADDRESS: Send comments on this proposal to: Mr. David Fege, Environmental Protection Agency, Office of Analysis and Evaluation (WH-586), 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Mr. David Fege, Water Economics Branch (WH-586), 401 M Street SW., Washington, D.C. 20460, phone 202-426-2617.

SUPPLEMENTARY INFORMATION

Background

Section 304(b)(4) of the Clean Water Act (the "Act") establishes "best conventional pollutant control technology" (BCT) for existing industrial point sources that discharge conventional pollutants. BCT is not an additional limitation but replaces "best available technology economically achievable" (BAT) for the control of conventional pollutants. BAT will remain in force for all nonconventional and toxic pollutants. The purpose of BCT is to add an additional test to the effluent limitation process. Whereas the Act previously required that BAT limitations be economically achievable, BCT also requires that the cost associated with the limitations be reasonable in relation to the effluent reductions.

In the determination of BCT for each point source subcategory the Act states that EPA must consider the:

> reasonableness of the relationship between the costs of attaining a reduction in effluents and the effluent reduction benefits derived, and the comparison of the cost and level of reduction of such pollutants from the discharge of publicly owned treatment works to the cost and level of reduction of such pollutants from a class or category of industrial sources, * * *

The Act also lists other considerations including, but not limited to, age of equipment, production processes, energy requirements, and other appropriate factors. The legislative language clearly indicates that final BCT effluent guidelines limitations cannot be more stringent than present BAT guidelines or less stringent than "best practicable control technology currently available" (BPT) guidelines.

In addition, section 73 of the Clean Water Act of 1977 directs the Agency to review, immediately, all existing final or interim final BAT effluent guidelines for conventional pollutants in those industries not covered in the consent agreement (*NRDC* v. *Train*, 8 ERC 2120 (D.D.C. 1976)). These industries are often referred to as "secondary industries." This review was to be completed within 90 days of enactment of the Act (March 27, 1978).

Industries Covered by This Review

As directed by Congress, in this review EPA has evaluated all BAT regulations for conventional pollutants which apply to industries not covered by the NRDC consent agreement (those not listed in table 2 of Committee Print No. 95-30 of the Committee on Public Works and Transportation of the Hosue of Representatives). Those 13 industries with final or interim final BAT guidelines which were studied are listed in tables 1 and 2. However, complete analysis has not been carried out on all of these industry subcategories. If BPT and BAT do not allow a discharge of process waste water, or BAT control is equivalent, to BPT, no change in limitations is proposed. Since BPT is the minimum limitation allowed, no analysis is required because BAT represents no further control past BPT. The subcategories which fell into this group are listed in table 1. The 93 subcategories in table 2 were studied further.

Due to the large number of effluent guidelines under review, and especially due to the congressional directives to perform a brief review, the Agency restricted its gathering of data for this review to the development documents and the economic analyses documents (see appendix A) which were published in support of the promulgation of the BAT guidelines for each industrial category.

Pollutants Covered by the Review

Section 304(a)(4) of the Act specifies that conventional pollutants should include, but not be limited to, biological oxygen demanding pollutants (BOD5), total suspended solids (TSS), fecal coliform, and pH. The Agency, in a separate action, is proposing that chemical oxygen demanding pollutants (COD), oil and grease, and total phosphorus be added to the conventional pollutant list. This review of BAT effluent guidelines assumes the addition of these pollutants to the conventional pollutant list and includes them in the analysis of reasonableness where appropriate. If, at any time, pollutants are added or deleted from the conventional pollutant list, the Agency will reevaluate all effluent guidelines affected by such revisions.

However, in the case of both fecal coliform and pH, the BAT regulations under review are always equivalent to BPT regulations. Therefore, no further analysis has been performed on these pollutants, and BCT controls of pH and fecal coliform are being proposed to be the same as BPT. Consequently, the pollutants considered in this review are BOD5, TSS, COD, oil and grease, and total phosphorus.

This review of BAT guidelines concentrates only on discharges of process waste water. BAT guidelines which refer to the control rainwater runoff (e.g., sizing of a treatment system to contain a 25-year storm or catastrophic event) are not included in the review because the Agency does not believe that this was the intent of Congress. The legislative history specifically indicates that BCT applies to the control of process waste water as the area of concern. Also, runoff regulations are not amenable to analysis using the BCT test called for in the legislation.

Methodology for Determining Reasonableness of BAT Regulations

The objective of this review is to evaluate existing BAT regulations to determine whether these regulations meet the reasonableness criteria for BCT limitations.

The Agency has developed a cost test which it believes is in keeping with the congressional mandate to establish BCT effluent limitations. The Act states that the EPA shall consider the "reasonableness of the relationship between the costs of attaining a reduction in effluents and the effluent reduction benefits derived." The legislative history indicates that the intent of the Congress was to find that point at which additional levels of control resulted in greatly increased costs with

only minor additional reductions in effluents. The history of the legislation further states that one method of determining the reasonableness of this relationship is the comparison of the cost and level of reduction of conventional pollutants from the discharge of publicly owned treatment works (POTW) to the cost and level of reduction of the same pollutants by industrial sources. Although one may interpret this to mean two cost tests, the legislative history supports the Agency's position that only one test is required. The history establishes the concept of reasonableness as a factor in the determination of BCT, and then states that a POTW comparison is a proper mechanism for determining reasonableness. Therefore, the Agency has developed a POTW cost comparison as a basis for determining the reasonableness of BCT limitations.

In summary, the BCT test compares the additional cost incurred by an industrial point source to remove an additional pound of conventional pollutants beyond BPT limitations, to the cost incurred by a POTW of a similar flow to remove an additional pound of conventional pollutants at a similar level of stringency. If the industrial cost is lower, the control of conventional pollutants for the BAT effluent guideline limitation is considered reasonable and the controls of conventional pollutants are being proposed as BCT limitations.

A second test is applied in those instances where the industrial cost is higher than the cost to a POTW of comparable flow. The final industrial effluent concentration of conventional pollutants is compared to the final effluent concentration of conventional pollutants in POTW's with secondary treatment. If the concentration of conventional pollutants is significantly higher for the industrial point source, the BAT effluent guidelines are considered reasonable, because the performance of the industrial plant should approach the technological performance of the POTW. If the industrial concentrations are not significantly higher, then the regulation is unreasonable because not only are the costs higher, but the performance is similar to that of a POTW. More explicitly, the evaluation was conducted in the following steps.

1. *Calculation of industrial costs.* The incremental annual costs are calculated by determining the difference between the annual costs for a model plant representing an industrial subcategory to achieve BPT and the annual costs to achieve BAT. Annual costs include operation and maintenance expenses, capital costs, and depreciation. These costs have been updated to 1976 dollars.

2. *Calculation of industrial pollutant removal.* The incremental removal of conventional pollutants is calculated by determining the difference between the annual removal of conventional pollutants after compliance with BPT and the annual removal of conventional pollutants after compliance with BAT. EPA has grouped conventional pollutants into three categories: Nutrients (phosphorus,), suspended solids (TSS), and oxygen-demanding substances (BOD5, COD and oil and grease). (For those industries under review, no regulation required increased controls of pH and fecal coliform, and therefore these pollutants were not considered in the review.) For the industrial subcategory, the incremental costs of removal attained from BPT to BAT are calculated using one pollutant from each group. If a group is not represented, then it is not included in the evaluation. Table 3 details which pollutants are used in the calculation depending on which are regulated.

3. *Calculation of the industrial ratio.* The ratio of incremental annual costs to incremental conventional pollutant removal is then calculated. That is:

(BAT annual costs−BPT annual costs)/(BAT pounds of conventional pollutants removed−BPT pounds of conventional pollutants removed)

This ratio represents the average annual incremental cost to remove a pound of conventional pollutants in terms of dollars per pound. It provides an idea of the "cost-effectiveness" of conventional pollutant removal beyond BPT.

4. *Calculation of POTW cost-effectiveness ratio.* A ratio similar to the industrial ratio is calculated to determine the average incremental annual cost to remove conventional pollutants from POTW's. (POTW costs have been updated to 1976 dollars.) The incremental cost of removing a pound of BOD5 and TSS when progressing from normal secondary treatment (effluent with 30 parts per million of BOD5 and TSS each) to better secondary treatment (effluent with 12 parts per million of BOD5 and TSS each) is computed for POTW's that are larger than 1 million gallons per day (GPD). For POTW's between 10,000 GPD and 1 million GPD, the difference of average annual costs to remove a pound of BOD5 and TSS between faculative lagoons (effluent of 30 parts per million of BOD5 and 60 parts per million of TSS) and package treatment plants (effluent of 25 parts per million of BOD5 and 25 parts per million of TSS) is determined. Different sized treatment plants are used because EPA generally does not require the same treatment level for small municipal treatment plants.

A separate calculation was made for removal of phosphorous in POTW's which is based on the costs and removals of a treatment system for phosphorous removal which is added to secondary treatment. Appendix B contains a more detailed discussion of the POTW cost ratio, while appendix C details the cost data used in making these decisions.

5. *Comparison of industrial and POTW ratios.* In order to determine whether or not the industrial regulation under review meets BCT requirements for reasonableness, the ratio for the industrial subcategory is compared to the POTW ratio for a POTW of the same flow. In this review, if the industrial ratio is less than the POTW ratio, then the BCT regulation is equated to BAT, and no further analysis is done.

6. *Concentration of conventional pollutants.* For those BAT regulations which have higher costs than POTW's, a second test is applied to assure that the final effluent concentrations of conventional pollutants are not significantly higher than those found in POTW's with normal secondary treatment. If the concentration of conventional pollutants is significantly larger, then this review is proposing that BCT be equivalent to existing BAT (i.e. the limitation is considered reasonable even though the costs are higher). The concentration test is used as a final check to insure that the industrial subcategory is not discharging at significantly higher concentration levels that a POTW, and also to give the Agency some guidance when the results of the cost test are close. It is not designed to be a rigid test, but rather, to be a flexible tool for those cases where the cost test does not give clear guidance on whether the regulation meets the BCT requirement.

Summary of Determinations

Table 4 summarizes the results of the review.

Based on this review the Agency has determined that the BAT control of conventional pollutants for 50 subcategories are reasonable and is proposing that BCT for the 50 subcategories be equal to the current BAT guidelines. Most of the reasonable regulations are comprised of subcategories from the following industries: Dairy products, fruit and vegetable processing, seafood processing, and grain milling industries.

Sixteen of the subcategory regulations are unreasonable, and consequently, the Agency is proposing to withdraw the BAT effluent guidelines for conventional pollutants until such time that proper levels of control can be determined. Regulations that are unreasonable are found in the glass manufacturing industry, the fruit and vegetable processing industry, the

grain milling industry, the ferroalloy manufacturing industry, and the cement industry. In the case of one subcategory in the fruit and vegetable industry (apple products), the BAT control is reasonable for the large model plant and unreasonable for the small model plant. Therefore the Agency is proposing to withdraw the regulations for all plants smaller than 100-ton-per-day plant. Similarly, for the crystalline cane sugar refining subcategory, the BAT control is reasonable for the large model plant and unreasonable for the small model plant. Therefore the Agency is proposing to withdraw the regulations for all plants producing less than 2,100 tons per day of melt. The Agency requests comments on this proposed split of these subcategories.

For 14 subcategories in the seafood processing industry the Agency has determined that it does not have sufficient data to properly assess the BAT guidelines and is proposing to withdraw the BAT control of conventional pollutants until further analysis can be performed.

For four meat processing subcategories, part of the BAT guidelines have been remanded by the courts. The Agency will evaluate the control of conventional pollutants when the analysis required by the remand is complete. In the interim, the Agency is proposing to suspend BAT control of conventional pollutants (except pH and fecal coliform which were not remanded) in these regulations.

Seven subcategories in the asbestos manufacturing industry were determined not to be part of this review, since the BAT control of zero discharge is designed to remove toxic pollutants.

For all other subcategories (see table 2), including these subcategories where pH or fecal coliform are controlled, the BAT control of conventional polutants is equal to the BPT control of conventional pollutants. Since the legislative history clearly indicates that BCT cannot be more stringent than BAT nor less stringent than BPT, further analysis is not required. Therefore, the Agency is proposing that the BCT control on conventional pollutants for these subcategories be equal to the present BAT control.

More detailed discussion of the proposed determinations for each industrial subcategory is presented in appendix D.

Issues Regarding BCT Evaluation

1. Nature of the POTW test. A major focus of concern is the BCT test itself. There are many types and variations of tests which can be defensibly employed. A methodology is being proposed here which is relatively simple and easy to apply, and which seems to result in sensible determinations.

The test compares the incremental costs per pound of pollutant removed between BPT and BAT to an incremental cost for POTW's at similar levels of stringincy. This approach determines the cost to remove the last few pounds of pollutants at either the POTW or industrial subcategory under consideration. The alternative approach would be to compare average costs per pound of pollutant removed from no control to BCT levels, or in the case of the POTW's, from no control to secondary treatment. This may result in more stringent BCT limitations. The primary reason that the incremental approach has been selected over the comparison of average costs is that the focus of BCT control should be to determine the appropriate amount of additional control beyond BPT. In fact, congressional intent is that there should not be a reevaluation of BPT or the costs associated with it since Congress specified that BCT should be more than or equal to BPT.

An additional issue involves the size of the POTW with which the model plant is being compared. The test proposed here compares the costs of an industrial plant with the costs for a POTW of the same flow. This approach determines whether the cost of industrial treatment compares favorably with the costs of a POTW treatment system of similar flow. An alternative approach is to compare the industrial costs to a single cost figure for a POTW of a "typical" size. The Agency has evaluated three potential typical sizes:

1. A small POTW (20,000 gallons per day).
2. A median size POTW (150,000 gallons per day).
3. An average size POTW (6 million gallons per day).

If a small POTW is used as the typical size, the POTW value to which all industrial model plants would be compared is $1.72 per pound of pollutant removed. This criteria would result in a more stringent BCT test with fewer unreasonable BAT regulations. Under this circumstance, BAT regulations for 11 complete subcategories would not meet the BCT test. These 11 subcategories also fail the BCT test using the proposed methodology. Parts of four other subcategories also would not pass the test. (For these four subcategories, some of the model plants in the specific subcategory pass while others fail, thus causing a "split" for that subcategory.)

If the median size POTW is used as the typical size, the POTW value would be $1.20 per pound, causing 13 subcategories to fail the test. A total of eight subcategories would be split.

An average size POTW cost is $0.82 per pound and BAT for 21 subcategories would be unreasonable; the 16 subcategories that are unreasonable using the present methodology are included in this total. Eight subcategories would be split.

The Agency has not used the "typical" POTW approach for two reasons. First, the selection of a "typical" size POTW is difficult. As can be seen from the examples above, there are several logical choices, each leading to different conclusions. Second, the comparison of model plants to POTW's of similar flows entails a comparison involving similar technical factors; however, it also compares the cost of the private sector to the cost that society is willing to pay to clean the same volume of effluent in municipal plants. The Agency believes that this comparison is in keeping with the intent of the Act.

2. *Calculation of pollutant removal.* When more than one pollutant from the same class (i.e. oxygen demanding, solids, or nutrients) are regulated in an industrial subcategory, the methodology considers at most one pollutant from each class. Thus, if BOD5 and COD were controlled, only the BOD5 would be used in the BCT test because if the pounds of BOD5 and COD removed were totaled, significant double-counting would occur, and the cost per pound for the subcategory would be lowered. This would result in more stringent BCT regulations than proposed. (See appendix B.)

3. *Ability of methodology to handle future additions to the conventional pollutant list.* A concern is whether the proposed BCT tests will be applicable for additions to the conventional pollutants list. Because it is impossible to predict which pollutants will be added in the future, and consequently, difficult to assess the suitability of the methodology, applicability of the test for additions to the list will be considered at the time that the pollutants are added. It is believed that the proposed methodology is flexible enough to handle the three proposed additions to the conventional pollutant list (under separate rulemaking) as well as any other possible addition.

4. *Applicability to regulations which control conventional, nonconventional, and toxic pollutants.* A problem that will occur, especially when the BCT evaluation is applied to primary industries, is the allocation of control costs for an industrial subcategory in which toxic or nonconventional pollutants are regulated in addition to conventional pollutants. In those cases, EPA may make an exception to the BCT test, and evaluate whether or not the BAT technology is required to control toxic and/or nonconventional pollutants, regardless of

coincident control of conventional pollutants. In these cases, the costs to control conventional pollutants can only be estimated. Comment is requested on this approach.

Economic Impact Analysis

Executive Order 12044, Improving Government Regulations, does not apply to this proposed action because this proceeding was pending at the time the order was issued. However, as called for in the Executive order, the Agency has examined a number of different alternatives to the proposed BCT test, and these are discussed in appendix E.

Because the proposed BAT guidelines will, in no instance, be more stringent than the previous BAT guidelines, no additional economic impact will occur. The economic impacts of the BAT regulations were already considered in the development of those regulations and were judged to be acceptable. Although waivers may not be obtained for BCT limits, all economic analysis of BAT limitations was performed under the assumption that no waivers would be granted. In those cases where BAT regulations are determined to be unreasonable, new BCT will be less stringent than the original BAT regulations, and thus will require less investment expenditures than were originally required. Until new BCT limitations are developed, however, investment savings will be unknown.

Comments Invited

The Agency urges interested individuals to submit comments on the methodological approach that was used to determine reasonableness and to define BCT. It must be emphasized that the methodology establishes the definition of reasonableness, and thus comments should focus on the appropriateness of the proposed methodology or alternative methodologies. All comments received by (60 days after publication) will be considered in the promulgation of BCT effluent limitation guidelines.

Information Available

Copies of this Federal Register notice can be obtained, without charge, by contacting: Anne Andrews, Environmental Protection Agency, 401 M Street SW. (WH-586), Washington, D.C. 20460, 202-426-2617.

The costs and pollutant removal data used in this review are taken from the development documents and economic analyses that were published in the development of BAT guidelines. These documents are available for public inspection at all EPA regional libraries and the EPA headquarters library in Washington, D.C. Also, a 200-page summary of cost and removal data is open to public inspection at the above libraries. Location of the regional and headquarters libraries are included in appendix F.

In consideration of the foregoing, effected 40 CFR Parts 400-469 are hereby proposed to be amended as set forth below.

Dated: August 10, 1978.

Douglas M. Costle,
Administrator.

Table 1.—*Industries and subcategories which did not require further analysis*

Grain mills (4)	
Normal wheat flour milling	Animal feed
Normal rice milling	Hot cereal
Cement manufacturing (2)	
Nonleaching	Materials storage piles, runoff
Feedlots (1)	
All subcategories except ducks	
Fertilizer (4)	
Phosphate	Ammonium sulfate production
Ammonia	Mixed and blend fertilizer production
Phosphate manufacturing (2)	
Deflourinated phosphate rock	Deflourinated phosphoric acid
Ferroalloys manufacturing (1)	
Other calcium carbide furnaces	
Glass manufacturing (2)	
Sheet glass manufacturing	Rolled glass manufacturing
Asbestos manufacturing (4)	
Asbestos millboard	Solvent recovery
Coating or finishing of asbestos textiles	Vapor absorption

Table 2.—*Industries and subcategories which were studied*

Dairy products processing (12)	
Receiving stations	Fluid mix for ice cream and other frozen desserts
Fluid products	Ice cream, frozen desserts novelties and other dairy desserts
Cultured products	Dry milk
Butter	Condensed whey
Cottage cheese and cultured cream cheese	Dry whey
Natural and processed cheese	Condensed milk
Grain mills (6)	
Corn wet milling	Parboiled rice processing
Corn dry milling	Ready-to eat cereal
Bulgur wheat flour milling	Wheat starch and gluten
Canned and preserved fruits and vegetables processing (8)	
Apple juice	Dehydrated potato products
Apple products	Canned and preserved fruits
Citrus products	Canned and preserved vegetables
Frozen potato products	Canned and miscellaneous specialties
Canned and preserved seafood processing (28)	
Farm raised catfish	Tuna processing
Conventional blue crab	Fish meal processing
Mechanized blue crab	West Coast hand butchered salmon processing
Nonremote Alaskan crab meat	West Coast mechanized salmon processing
Remote Alaskan crab meat	NonAlaskan conventional bottom fish
Nonremote Alaskan whole crab and crab section	NonAlaskan mechanized botton fish processing
NonAlaskan scallop processing	Hand-shucked clam processing
Remote Alaskan whole crab and crab section	Mechanized clam processing
Dungeness and tanner crab processing in the contiguous States	Pacific Coast hand-shucked oyster processing
Nonremote Alaskan shrimp	Atlantic and Gulf Coast hand-shucked oyster processing
Remote Alaskan Shrimp	Steamed and canned oyster processing
Northern shrimp processing in the contiguous States	Sardine processing
Southern nonbreaded shrimp processing in the contiguous States	NonAlaskan herring fillet processing
NonAlaskan whole crab and crab section processing	Abalone processing
Breaded shrimp processing in the contiguous States	
Sugar processing (3)	
Beat sugar processing	Liquid cane sugar refining
Crystalline cane sugar refining	
Cement manufacturing (1)	
Leaching	
Feedlots (1)	
Ducks	

TABLE 2.—*Industries and subcategories which were studied*—Continued

Phosphate manufacturing (1)

Sodium phosphates

Ferroalloys manufacturing (6)

Open electric furnaces with wet air pollution control devices
Covered electric furnaces and other smelting operations with wet air pollution control devices
Slag processing
Covered calcium carbide with wet air pollution control devices
Electrolytic manganese products
Electrolytic chromium

Glass manufacturing (10)

Electrolytic chromium

Glass manufacturing (10)

Insulation fiberglass
Plate glass manufacturing
Float glass manufacturing
Automotive glass tempering
Automotive glass laminating
Glass container manufacturing
Glass tubing (Danner) manufacturing
Television picture tube envelope manufacturing
Incandescent lamp envelope manufacturing
Hand pressed and blown glass manufacturing

Asbestos manufacturing (7)

Asbestos-cement pipe
Asbestos-cement sheet
Asbestos paper (starch binder)
Asbestos paper (elastomeric binder)
Asbestos roofing
Asbestos floor tile
Wet dust collection

Meat products (10)

Simple slaughterhouse
Complex slaughterhouse
Low processing packinghouse
High processing packinghouse
Small processor
Meat cutter
Sausage and luncheon meats processor
Ham processor
Canned meats processor
Renderer

TABLE 3

Pollutants regulated	Pollutants considered in calculation
BOD5	BOD5
BOD5 and TSS	BOD5 and TSS
BOD5, oil and grease	BOD5
TSS	TSS
TSS, oil and grease	TSS, oil and grease
BOD5, COD, TSS	BOD5, TSS
COD	COD
Oil and grease	Oil and grease

TABLE 4

Industry—Subcategory	(CFR Part)		(1) BCT=BAT	(2) BAT unreasonable, BAT suspended	(3) Insufficient data, BAT suspended	(4) Judicial remand, BAT suspended	(5) BAT analysis not required, no action
Dairy							
1. Receiving stations	(405.13)	X					
2. Fluid products	(405.23)	X					
3. Cultured products	(405.33)	X					
4. Butter	(405.43)	X					
5. Cottage, cream cheese	(405.53)	X					
6. Natural, processed cheese	(405.63)	X					
7. Fluid mix ice cream	(405.73)	X					
8. Ice cream, frozen desserts	(405.83)	X					
9. Condensed milk	(405.93)	X					
10. Dry milk	(405.103)	X					
11. Condensed whey	(405.113)	X					
12. Dry whey	(405.123)	X					
Grain mills							
13. Corn wet	(406.13)	X					
14. Corn dry	(406.23)	X					
15. Bulgar wheat	(406.43)			X			
16. Parboiled rice	(406.83)	X					
17. Ready-to-eat	(406.93)	X					
18. Wheat starch and gluten	(406.103)	X					
Canned and preserved fruits and vegetables							
19. Apple juice	(407.13)	X					
20. Apple products	(407.23)	*X		*X			
21. Citrus products	(407.33)	X					
22. Frozen potato	(407.43)	X					
23. Dehydrated potato	(407.53)	X					
24. Canned and preserved fruits **	(407.63)			X			
25. Canned and preserved vegetables **	(407.73)			X			
26. Canned and miscellaneous specialities	(407.83)			X			
Canned and preserved seafoods							
27. Farm raised catfish	(408.13)				X		
28. Conventional blue crab	(408.23)				X		
29. Mechanized blue crab	(408.33)				X		
30. Nonremote Alaskan crab	(408.43)				X		
31. Remote Alaskan crab	(408.53)				X		
32. Nonremote Alaskan whole crab	(408.63)				X		
33. Remote Alaskan whole crab	(408.73)				X		
34. Dungeness and Tanner crab	(408.83)				X		
35. Nonremote Alaskan shrimp	(408.93)				X		
36. Remote Alaskan shrimp	(407.103)				X		
37. Northern shrimp	(408.113)				X		
38. Southern nonbreaded shrimp	(408.123)				X		
39. Breaded shrimp	(408.133)				X		
40. Tuna	(408.143)				X		
41. Fish meat	(408.153)	X					
42. West coast butchered salmon	(408.183)	X					
43. West coast mechanized salmon	(408.193)	X					
44. Non-Alaskan conventional bottom fish	(407.213)	X					
45. Non-Alaskan mechanized bottom fish	(408.233)	X					
46. Hand-shucked clam	(408.243)	X					
47. Mechanized clam	(408.253)	X					
48. Pacific hand-shucked oyster	(408.263)	X					
49. Atlantic and Gulf hand-shucked oyster	(408.273)	X					
50. Steamed and canned	(408.283)	X					
51. Sardine	(408.293)	X					

TABLE 4—Continued

Industry—Subcategory	(CFR Part)	(1) BCT=BAT	(2) BAT unreasonable, BAT suspended	(3) Insufficient data, BAT suspended	(4) Judicial remand, BAT suspended	(5) BAT analysis not required, no action
Canned and preserved seafoods						
52. Non-Alaskan scallop	(408.303)	X				
53. Non-Alaskan herring fillet	(408.323)	X				
54. Abalone processing	(408.333)	X				
Sugar processing						
55. Beet sugar	(409.13)	X				
56. Crystalline cane sugar	(409.23)	***X	***X			
57. Liquid cane sugar	(409.33)	X				
Cement						
58. Leaching	(411.13)		X			
Feedlots						
59. Ducks	(412.23)	X				
Ferroalloys						
60. Open electric furnaces wet	(424.13)	X				
61. Covered electric and smelting wet	(424.23)	X				
62. Slag processed	(424.33)	X				
63. Covered calcium carbide wet	(424.43)		X			
64. Electrolytic manganese	(424.63)		X			
65. Electrolytic chromium	(424.73)		X			
Glass						
66. Insulated fiberglass	(426.13)	X				
67. Plate	(426.43)	X				
68. Float	(426.53)		X			
69. Auto tempering	(426.63)		X			
70. Auto laminating	(426.73)		X			
71. Container	(426.83)		X			
72. Tubing	(426.103)		X			
73. TV picture tube	(426.113)		X			
74. Incandescent	(426.123)		X			
75. Hand pressed and blown	(426.133)		X			
Asbestos						
76. Cement pipe	(427.13)					X
77. Cement sheet	(427.23)					X
78. Paper (starch binder)	(427.33)					X
79. Paper (elastomeric binder)	(427.43)					X
80. Roofing	(427.63)					X
81. Floor tile	(427.73)					X
						X
82. Wet dust collection	(427.113)					
Meat products						
83. Simple slaughterhouse	(432.13)				X	
84. Complex slaughterhouse	(432.23)				X	
85. Low processing packinghouse	(432.33)				X	
86. High processing packinghouse	(432.43)				X	
87. Small processing	(432.53)	X				
88. Meat cutter	(432.63)	X				
89. Sausage and luncheon	(432.73)	X				
90. Ham processor	(432.83)	X				
91. Canned meats	(432.93)	X				
92. Renderers	(432.103)	X				
Phosphates						
93. Sodium phosphates	(422.63)	X				

Column explanations: (1) BAT control of conventional pollutants has been determined to be reasonable. The Agency is proposing that BCT be equal to the BAT control of conventional pollutants. The Agency is also proposing that BAT control of conventional pollutants be withdrawan.

(2) The BAT control of conventional pollutants (except for pH) has been determined to be unreasonable. The Agency is proposing that the BAT control of conventional pollutants except for pH be withdrawn until such time that BCT standards can be developed. The Agency is also proposing that the BCT control of pH be equal to the BAT control.

(3) Sufficient data to determine reasonableness is not available. The Agency is proposing that the BAT control of conventional pollutants (except pH) be withdrawn. The agency is proposing that the BCT control of pH be equal to the BAT control.

(4) The BAT regulations for these subcategories are currently under judicial review. Consequently, the Agency is suspending the BAT control of conventional pollutants (except pH). The Agency is proposing that the BCT control of pH be equal to the BAT control.

(5) These BAT regulations were removed from the review because it was determined that the BAT limitation of zero discharge controlled toxic pollutants, not conventional pollutants.

* Apple Products—small plants (processing under 10 tons per day) were found to be unreasonable. Large plants (over 100 tons per day) were found reasonable. The proposed subcategory regulation has been rewritten to cover only those plants processing over 100 tons per day. Comments are invited on this size cutoff.

** BAT limitations for mushrooms and tomatoes are being proposed as BCt, while regulations for all other products in these subcategories are determined to be unreasonable.

*** Crystalline Cane Sugar—small plants (processing less than 600 tons per day) were found to be unreasonable. Large plants (over 2,100 tons per day) were found to be reasonable. The proposed subcategory regulation has been rewritten to cover only those plants processing over 2,100 tons per day. Comments are invited on this size cutoff.

40 CFR, Subchapter N, Part 405 for the dairy products processing industry point source category is proposed to be amended as follows:

PART 405—EFFLUENT LIMITATIONS GUIDELINES FOR STANDARDS OF PERFORMANCE AND PRETREATMENT STANDARDS FOR NEW SOURCES FOR THE DAIRY PRODUCTS PROCESSING INDUSTRY POINT SOURCE CATEGORY

1. (a) The sections listed below are redesignated as follows and the original section numbers reserved for future use.

Subcategory	Original section designation (40 CFR)	Revised section designation (40 CFR)
Receiving stations	405.13	405.17
Fluid products	405.23	405.27
Cultured products	405.33	405.37
Butter	405.43	405.47
Cottage, cream cheese	405.53	405.57
Natural, processed cheese	405.63	405.67
Fluid mix ice cream	405.73	405.77
Ice cream, frozen desserts, novelties, and other dairy desserts	405.83	405.87
Condensed milk	405.93	405.97
Dry milk	405.103	405.107
Condensed whey	405.113	405.117
Dry whey	405.123	405.127

(b) The title and first paragraph of the sections redesignated above are amended to read as follows:

Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

The following limitations establish the quantity or quality of pollutants or pollutant properties controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best conventional pollutant control technology.

* * * * *

PART 406—GRAIN MILLS POINT SOURCE CATEGORY

40 CFR, Subchapter N, Part 406 for the grain mills point source source category is proposed to be amended as follows:

1. (a) The sections listed below are redesignated as follows and the original section numbers reserved for future use.

Subcategory	Original section designation (40 CFR)	Revised section designation (40 CFR)
Corn wet milling	406.13	406.17
Corn dry milling	406.23	406.27
Parboiled rice processing	406.63	406.67
Ready-to-eat cereal	406.93	406.97
Wheat starch and gluten	406.103	406.107

(b) The title and first paragraph of the sections redesignated above are amended to read as follows:

Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

The following limitations establish the quantity or quality of pollutants or pollutant properties controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best conventional pollutant control technology.

* * * * *

2. The new sections listed below are added as follows:

Effluent limitations guidelines representing the degree of effluent reduction attainabale by the application of the best conventional pollutant control technology.

The following limitations establish the quantity or quality of pollutants or pollutant properties, which may be discharged by a point source subject to the provisions of this subpart after application of the best conventional pollutant control technology: There shall be no discharge of process waste water pollutants to navigable waters.

Subcategory	Section designation (40 CFR)
Normal wheat flour milling	406.37
Normal rice milling	406.57
Animal feed	406.77
Hot cereal	406.87

3. The following section is withdrawn and the section number reserved for future use.

Bulgar wheat flour milling	40 CFR 406.43

4. A new § 406.47 for the bulgar wheat flour milling subcategory is added as follows:

§ 406.47 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

The following limitations establish the quantity or quality of pollutants or pollutant properties controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best conventional pollutant control technology.

Effluent characteristic	Effluent limitations
pH	Within the range 6.0 to 9.0.

PART 407—CANNED AND PRESERVED FRUITS AND VEGETABLES PROCESSING POINT SOURCE CATEGORY

40 CFR, Subchapter N, Part 407 for the canned and preserved fruits and vegetables processing point source category is proposed to be amended as follows:

1. The sections listed below are withdrawn and the section numbers reserved for future use.

Subcategory	Section designation (40 CFR)
Apple products	407.23
Canned and preserved fruits	407.63
Canned and preserved vegetables	407.73
Canned and miscellaneous specialties	407.83

2. (a) The sections listed below are redesignated as follows and the original section numbers reserved for future use.

Subcategory	Original section designation (40 CFR)	Revised section designation (40 CFR)
Apple juice	407.13	407.17
Citrus products	407.33	407.37
Frozen potato products	407.43	407.47
Dehydrated potato products	407.53	407.57

(b) The title and first paragraph of the sections redesignated above are amended to read as follows:

Effluent limitations guidelines representing the degree of effluent reduction attainabale by the application of the best conventional pollutant control technology.

The following limitations establish the quantity or quality of pollutants or pollutant properties controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best conventional pollutant control technology.

* * * * *

3. A new § 407.27 is added to the apple products subcategory and reads as follows:

§ 407.27 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

(a) The following limitations apply to plants producing more than 100 tons per day of final product and establish the quantity or quality of pollutants or pollutant properties, which may be discharged by a point source subject to the provisions of this subpart after application of the best conventional pollutant control technology:

Effluent characteristics	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of raw material)	
BOD5	0.20	0.10
TSS	.20	.10
pH	Within the range 6.0 to 9.0	
	English units (pounds per 1,000 lb of raw material)	
BOD5	0.20	0.10
TSS	.20	.10
pH	Within the range 6.0 to 9.0	

(b) [Reserved]

4. A new § 407.67 is added to the canned and preserved fruits subcategory and reads as follows:

§ 407.67 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

(a) The following limitations establish the quantity of BOD5 controlled by this section, which may be discharged by an existing point source subject to the provisions of this subpart after application of the best conventional pollutant control technology. Any fruit processing plant which continuously or intermittently discharges process waste water during the processing season shall meet the annual average, maximum thirty day average, and maximum day BOD5 limitations. Fruit processing plants employing long-term waste stabilization, where all or a portion of the process waste water discharge is stored for the entire processing season and released at a controlled rate with state approval, shall meet only the annual average BOD5 limitations.

BOD5 Effluent Limitations

[Metric units, kg/kkg of raw material; English units, pounds per 1,000 lb of raw material]

Commodity (fruits)	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—	Annual average shall not exceed—
Tomatoes:			
Medium	0.524	0.378	0.173
Large	0.524	0.378	0.173

(b) The following limitations establish the quantity of TSS controlled by this section, which may be discharged by an existing point source subject to the provisions of this subpart after application of the best conventional pollutant control technology. Any fruit processing plant which continuously or intermittently discharges process waste water during the processing season shall meet the annual average, maximum 30-day average, and maximum day TSS limitations. Fruit processing plants employing long-term waste stabilization, where all or a portion of the process waste water discharge is stored for the entire processing season and released at a controlled rate with State approval, shall meet only the annual average TSS limitations.

TSS Effluent Limitations

[Metric units, kg/kkg of raw material; English units, pounds per 1,000 lb of raw material]

Commodity (fruits)	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—	Annual average shall not exceed—
Tomatoes:			
Medium	0.933	0.495	0.349
Large	0.524	0.378	0.173

(c) The following limitations establish the quality of pH controlled by this section, which may be discharged by a "medium" or "large" existing point source subject to the provisions of this subpart after application of the best conventional pollutant control technology.

Effluent characteristic	Effluent limitations
pH	At all times within the range 6.0 to 9.5.

5. A new § 407.77 is added to the canned and preserved vegetables subcategory and reads as follows:

§ 407.77 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

(a) The following effluent limitations establish the quantity of BOD5 controlled by this section, which may be discharged by an existing point source subject to the provisions of this subpart after application of the best conventional pollutant control technology. Any vegetable processing plant which continuously or intermittently discharges process waste water during the processing season shall meet the annual average, maximum 30-day average, and maximum day BOD5 limitations. Vegetable processing plants employing long-term waste stabilization, where all or a portion of the process waste water discharge is stored for the entire processing season and released at a controlled rate with State approval, shall meet only the annual average BOD5 limitations. The effluent limitations do not apply to single-commodity 100-percent canned corn processing plants of all sizes, and multicommodity 100-percent frozen vegetable processing plants with total annual raw material production less than 7,264 kkg (8,000 tons) per year.

BOD5 EFFLUENT LIMITATIONS

[Metric units, kg/kkg of raw material; English units, pounds per 1,000 lb of raw material]

Commodity (vegetables)	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—	Annual average shall not exceed—
Mushrooms:			
Medium	1.188	0.862	0.406
Large	1.188	0.862	0.406

(b) The following limitations establish the quantity of TSS controlled by this section, which may be discharged by any existing point source subject to the provisions of this subpart after application of the best conventional pollutant control technology. Any vegetable processing plant which continuously or intermittently discharges process waste water during the processing season shall meet the annual average, maximum 30-day average, and maximum day TSS limitations. Vegetable processing plants employing long-term waste stabilization, where all or a portion of the process waste water discharge is stored for the entire processing season and released at a controlled rate with state approval, shall meet only the annual average TSS limitations. The effluent limitations do not apply to single-commodity 100-percent canned corn processing plants of all sizes, and multicommodity 100-percent frozen vegetable processing plants with total annual raw material production less than 7,264 kkg (8,000 tons) per year.

TSS EFFLUENT LIMITATIONS

[Metric units, kg/kkg of raw material; English units, pounds per 1,000 lb of raw material]

Commodity (vegetables)	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—	Annual average shall not exceed—
Mushrooms:			
Medium	2.122	1.146	0.820
Large	1.188	0.862	0.406

(c) The following limitations establish the quality of pH controlled by this section, which may be discharged by a "medium" or "large" existing point source subject to the provisions of this subpart after application of the best conventional pollutant control technology. The effluent limitations do not apply to single-commodity 100-percent canned corn processing plants of all sizes, and multicommodity 100-percent frozen vegetable processing plants with total annual raw material production less than 7,264 kkg (8,000 tons) per year.

Effluent characteristic	Effluent limitations
pH	At all times within the range 6.0 to 9.5.

6. A new § 407.87 is added to the canned and miscellaneous Specialities Subcategory and reads as follows

(a) Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

(b) [Reserved]

(c) The following limitations establish the quality of pH controlled by this section, which may be discharged by a "medium" or "large" existing point source subject to the provisions of this subpart.

Effluent characteristic	Effluent limitations
pH	At all times within the range 6.0 to 9.5.

40 CFR, Subchapter N, Part 408 for the canned and preserved seafood processing point source category is proposed to be amended as follows:

PART 408—CANNED AND PRESERVED SEAFOOD PROCESSING POINT SOURCE CATEGORY

1. The sections listed below are withdrawn, and the section numbers reserved for future use.

Subcategory	Section designation (40 CFR)
Farm raised catfish processing	408.13
Conventional blue crab processing	408.23
Mechanized blue crab processing	408.33
Nonremote Alaskan crabmeat processing	408.43
Remote Alaskan crabmeat processing	408.53
Nonremote Alaskan whole crab and crab section processing	408.63
Remote Alaskan whole crab and crab section processing	408.73
Dungeness and tanner crab processing in the contiguous States	408.83
Nonremote Alaskan shrimp processing	408.93
Remote Alaskan shrimp processing	408.103
Northern shrimp processing in the contiguous States	408.113
Southern nonbreaded shrimp processing in the contiguous States	408.123
Breaded shrimp processing in the continguous States	408.133
Tuna processing	408.143

2. The new sections listed below are added as follows:

Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best conventional pollutant control technology.

Effluent characteristic	Effluent limitations
pH	Within the range 6.0 to 9.0.

Subcategory	Section designation
Farm raised catfish processing	408.17
Conventional blue crab processing	408.27
Mechanized blue crab processing	408.37
Nonremote Alaskan crabmeat processing	408.47
Remote Alaskan crab meat processing	408.57
Nonremote Alaskan whole crab and crab section processing	408.67
Remote Alaskan whole crab and crab section processing	408.77
Dungeness and tanner crab processing in the contiguous States	408.87
Nonremote Alaskan shrimp processing	408.97
Remote Alaskan shrimp processing	408.107
Northern shrimp processing in the contiguous states	408.117
Southern nonbreaded shrimp processing in the contiguous States	408.127
Breaded shrimp processing in the contiguous States	408.137
Tuna processing	408.147

3. (a) The sections listed below are redesignated as follows and the original section numbers reserved for future use.

Subcategory	Original section designation (40 CFR)	Revised section designation (40 CFR)
Fish meal processing	408.153	408.157
West coast hand-butchered salmon processing	408.183	408.187
West coast mechanized salmon processing	408.193	408.197
Non-Alaskan conventional bottom fish processing	408.213	408.217
Non-Alaskan mechanized bottom fish processing	408.223	408.227
Hand-shucked clams processing	408.233	408.237
Mechanized clam processing	408.243	408.247
Pacific coast hand-shucked oyster processing	408.253	408.257
Atlantic and Gulf hand-shucked oyster processing	408.263	408.267
Steamed and canned oyster processing	408.273	408.277
Sardine processing	408.283	408.287
Non-Alaskan scallop processing	408.303	408.307
Non-Alaskan herring fillet processing	408.323	408.327
Abalone processing	408.333	408.337

(b) The title and first paragraph of the sections redesignated above are amended to read as follows:

Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best conventional pollutant control technology.

PART 409—SUGAR PROCESSING POINT SOURCE CATEGORY

40 CFR Subchapter N, Part 409 for the Sugar Processing Point Source Category is proposed to be amended as follows:

§ 409.23 [Reserved]

1. (a) Section 409.23 of the Crystalline Cane Sugar Refining Subcategory is withdrawn and the section number is reserved for future use.

(b) A new § 409.27 is added to the Crystalline Cane Sugar Refining Subcategory and reads as follows:

§ 409.27 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

The following limitations apply only to those plants processing 2,100 tons per day of melt or over and establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best conventional pollutant control technology.

Effluent characteristics	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of melt)	
BOD5	0.18	0.09
TSS	.11	.035
pH	Within the range of 6.0 to 9.0	
	English units (pounds per ton of melt)	
BOD5	0.36	0.18
TSS	.21	.07
pH	Within the range of 6.0 to 9.0	

2. (a) The sections listed below are redesignated as follows and the original section numbers reserved for future use.

Subcategory	Original section designation	Revised section designation
Liquid cane sugar refining	409.33	409.37

(b) The title and first paragraph of the sections redesignated above are amended to read as follows:

Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best conventional pollutant control technology.

* * * * *

3. (a) The following § 409.13 of the Beet Sugar Processing Subcategory is amended to read as follows:

(a) * * * *

(1) The following limitations establish the maximum permissible discharge of process waste water pollutants when the process waste water discharge results from barometric condensing operations only.

Effluent characteristics	Effluent limitations
Temperature	Temperature not to exceed the temperature of cooled water acceptable for return to the heat producing process and in no event greater than 32° C (90° F).

(2) The following limitations establish the maximum permissible discharge of process waste water pollutants when the process waste water discharge results, in whole or in part, from barometric condensing operations and any other beet sugar processing operation.

Effluent characteristics	Effluent limitations
Temperature	Not to exceed 32° C (90° F).

4. A new § 409.17 is added to the Beet Sugar processing Subcategory and reads as follows:

§ 409.17 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties which may be discharged by a point source where the sugar beet processing capacity of the point source does not exceed 1,090 kkg (2,300 tons) per day of beets sliced or where the soil filtration rate, whether natural or by deliberate design, within the boundaries of all waste water treatment or retention facilities associated with the point source is less than or equal to 0.159 cm (1/16 in.) per day: *Provided, however,* That a discharge by a point source may be made in accordance with the limitations set forth in either paragraph (a) (1) exclusively, or paragraph (a) (2) of this section exclusively.

(1) The following limitations establish the maximum permissible discharge of process waste water pollutants when the process waste water discharge results from barometric condensing operations only.

Effluent characteristics	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kg/kkg of product)	
BOD5	2.0	1.3
pH	Within the range of 6.0 to 9.0	
	English units (lb/1,000 lb of product)	
BOD5	2.0	1.3
pH	Within the range of 6.0 to 9.0	

(2) The following limitations establish the maximum permissible discharge of process waste water pollutants when the process waste water discharge results, in whole or in part, from barometric condensing operations and any other beet sugar processing operation.

Effluent characteristics	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kg/kkg of product)	
BOD5	2.0	1.3
TSS	2.0	1.3
pH	Within the range of 6.0 to 9.0	
Fecal coliform	Not to exceed MPN of 400/100 ml at any time.	
	English units (lb/1,000 lb of product)	
BOD5	2.0	1.3
TSS	2.0	1.3
pH	Within the range of 6.0 to 9.0	
Fecal coliform	Not to exceed MPN of 400/100 ml at any time (not typically expressed in English units).	

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this regulation, which may be discharged by a point source in all instances not specified under the provisions of paragraph (a) of this section: There shall be no discharge of process waste water pollutants to navigable waters.

PART 411—CEMENT MANUFACTURING POINT SOURCE CATEGORY

40 CFR Subchapter N, Part 411, for the Cement Manufacturing Point Source Category is proposed to be amended as follows:

§§ 411.13 and 411.23 [Amended]

1. Section 411.13 of the Nonleaching Subcategory and section 411.23 of the Leaching Subcategory are amended to read as follows: Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable.

Effluent characteristics	Effluent limitations (maximum for any 1 day)
Temperature (heat)	Not to exceed 3° C rise above inlet temperature.

2. A new § 411.17 is added for the Nonleaching Subcategory and reads as follows:

§ 411.17 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best conventional pollutant control technology.

Effluent characteristics	Effluent limitations (maximum for any 1 day)
	Metric units (kg/kkg of product)
TSS	0.005
pH	Within the range 6.0 to 9.0
	English units (lb/1,000 lbs of product)
TSS	0.005
pH	Within the range 6.0 to 9.0

3. A new § 411.27 for the Leaching Subcategory is added as follows:

§ 411.27 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best conventional pollutant control technology.

Effluent characteristic	Effluent limitations
pH	Within the range 6.0 to 9.0.

4. (a) The section listed below is redesignated as follows and the original section number reserved for future use.

Subcategory	Original section designation	Revised section designation
Materials storage piles runoff.	411.33	411.37

(b) the title and first paragraph of the sections redesignated above are amended to read as follows:

Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best conventional pollutant control technology.

* * * * *

PART 412—FEEDLOTS POINT SOURCE CATEGORY

40 CFR Subchapter N, Part 412, for the Feedlots Point Source Category is proposed to be amended as follows:

1. The sections listed below are added as reads below:

Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

(a) Subject to the provisions of paragraph (b) of this section, the following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best conventional pollutant control technology. There shall be no discharge of process waste water pollutants to navigable waters.

(b) Process waste pollutants in the overflow may be discharged to navigable waters whenever rainfall events, either chronic or catastrophic, cause an overflow of process waste water from a facility designed, constructed and operated to contain all process generated waste waters plus the runoff from a 25 year, 24 hour rainfall event for the location of the point source.

Subcategory	Section designation
All subcategories except ducks	412.17
Ducks	412.27

PART 418—FERTILIZER MANUFACTURING POINT SOURCE CATEGORY

40 CFR Subchapter N, Part 418, for the Fertilizer Manufacturing Point Source Category is proposed to be amended as follows:

1. Section 418.13 of the Phosphate Subcategory is proposed to be amended as follows:

§ 418.13 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

* * * * *

(c) The concentration of pollutants discharged in process wastewater pursuant to the limitations of paragraph (b) of this section shall not exceed the values listed in the following table:

Effluent characteristics	Effluent limitations (mg/l) Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
Fluoride	75	25

The total suspended solid limitations set forth in this paragraph shall be waived for process wastewater from a calcium sulfate storage pile runoff facility, operated separately or in combination with a water recirculation system, which is chemically treated and then clarified or settled to meet the other pollutant limitations set forth in this paragraph.

(d) The concentration of pollutants discharged in contaminated non-process wastewater shall not exceed the values listed in the following table:

Effluent characteristics	Effluent limitations (mg/l) Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
Fluoride	75	25

2. A new § 418.17 for the Phosphate Subcategory is added as follows:

§ 418.17 Effluent limitations and guidelines representing the degree of effluent reduction attained by the application of the best conventional pollutant control technology.

The following limitations establish the quantity or quality of pollutants or pollutant properties which may be discharged by a point source subject to the provisions of this subpart after application of the best conventional pollutant control technology:

(a) Subject to the provision of paragaphs (b) and (c) of this section, the following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best conventional pollutant control technology: There shall be no discharge of process wastewater pollutants to navigable waters.

(b) Process wastewater pollutants from a calcium sulfate storage pile runoff facility operated separately or in combination with a water recirculation system designed, constructed and operated to maintain a surge capacity equal to the runoff from the 25-year, 24-hour rainfall event may be discharged, after treatment to the standards set forth in paragraph (c) of this section, whenever chronic or catastrophic precipitation events cause the water level to rise into the surge capacity. Process wastewater must be treated and discharged whenever the water level equals or exceeds the midpoint of the surge capacity.

(c) The concentration of pollutants discharged in process wastewater pursuant to the limitations of paragraph (b) of this section shall not exceed the values listed in the following table:

Effluent characteristics	Effluent limitations (mg/l) Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
Total phosphorus (as P)	105	35
TSS	150	50

The total suspended solid limitations set forth in this paragraph shall be waived for process wastewater from a calcium sulfate storage pile runoff facility, operated separately or in combination with a water recirculation system, which is chemically treated and then clarified or settled to meet the other pollutant limitations set forth in this paragraph.

(d) The concentration of pollutants discharged in contaminated non-process wastewater shall not exceed the values listed in the following table:

Effluent characteristics	Effluent limitations (mg/l) Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
Total phosphorus (as P)	105	35

3. A new § 418.27 for the Ammonia Subcategory is added as follows:

§ 418.27 Effluent limitations guidelnes representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best conventional pollutant control technology.

Effluent characteristic	Effluent limitations
pH	Within the range of 6.0 to 9.0

4. The sections listed below are added as follows:

Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

The following limitations establish the quantity or quality of pollutants or pollutant properties, which may be discharged by a point source subject to the provisions of this subpart after application of the best conventional pollutant control technology: There shall be no discharge of process waste water pollutants to navigable waters.

Subcategory	Section Designation
Ammonium sulfate production	418.67
Mixed and blend fertilizer production	418.77

PART 422—PHOSPHATE MANUFACTURING POINT SOURCE CATEGORY

40 CFR Subchapter N Part 422 for the phosphate Manufacturing Point Source Category is proposed to be amended as follows:

1. Section 422.43 of the Defluorinated Phosphate Rock Subcategory is proposed to be amended as follows:

§ 422.43 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

* * * * *

(c) the concentration of pollutants discharged in process waste water pursuant to the limitations of paragraph (b) of this section shall not exceed the values listed in the following table:

Effluent characteristics	Effluent limitations Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Milligrams per liter	
Fluoride (as F)	75	25

(d) The concentration of pollutants discharged in contaminated non-process wastewater shall not exceed the values listed in the following table:

Effluent characteristics	Effluent limitations (mg/l) Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
Fluoride	75	25

2. A new § 422.47 for the Defluorinated Phosphate Rock Subcategory is added as follows:

§ 422.47 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

The following limitations establish the quantity or quality of pollutants or pollutant properties, which may be discharged by a point source subject to the provisions of this subpart after application of the best conventional pollutant control technology:

(a) Subject to the provisions of paragraphs (b), (c), and (d) of this section, the following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best conventional pollutant control technology: There shall be no discharge of process waste water pollutants to navigable waters.

(b) Process waste water pollutants from a cooling water recirculation system designed, constructed and operated to maintain a surge capacity equal to the runoff from the 25-year, 24-hour rainfall event may be discharged, after treatment to the standards set forth in paragraph (c) of this section, whenever chronic or catastrophic precipitation events cause the water level in the pond to rise into the surge capacity. Process waste water must be treated and discharged whenever the water level equals or exceeds the mid-point of the surge capacity.

(c) The concentration of pollutants discharged in process waste water pursuant to the limitations of paragraph (b) of this section shall not exceed the values listed in the following table:

Effluent characteristics	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Milligrams per liter	
Total phosphorus (as P)	105	35
TSS	150	50
pH	Within the range of 6.0 to 9.5	

The total suspended solid limitation set forth in this paragraph shall be waived for process waste water from a calcium sulfate storage pile runoff facility, operated separately or in combination with a water recirculation system, which is chemically treated and then clarified or settled to meet the other pollutant limitations set forth in this paragraph.

(d) The concentration of pollutants discharged in contaminated non-process waste water shall not exceed the values listed in the following table:

Effluent characteristics	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Milligrams per liter	
Total phosphorus (as P)	105	35
pH	Within the range of 6.0 to 9.5	

3. Section 422.53 of the Defluorinated Phosphoric Acid Subcategory is proposed to be amended as follows:

§ 422.53 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

* * * * *

(c) The concentration of pollutants discharged in process waste water pursuant to the limitations of paragraph (b) of this section shall not exceed the values listed in the following table:

Effluent characteristics	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Milligrams per liter	
Fluoride (as F)	75	25

(d) The concentration of pollutants discharged in contaminated non-process wastewater shall not exceed the values listed in the following table:

Effluent characteristics	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Milligrams per liter	
Fluoride (as F)	75	25

4. A new § 422.57 for the Defluorinated Phosphoric Acid Subcategory is added as follows:

§ 422.57 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

The following limitations establish the quantity or quality of pollutants or pollutant properties, which may be discharged by a point source subject to the provisions of this subpart after application of the best conventional pollutant control technology:

(a) Subject to the provisions of paragraphs (b) (c), and (d) of this section, the following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best conventional pollutant control technology: There shall be no discharge of process waste water pollutants to navigable waters.

(b) Process waste water pollutants from a cooling water recirculation system designed, constructed and operated to maintain a surge capacity equal to the runoff from the 25-year, 24-hour rainfall event may be discharged, after treatment to the standards set forth in paragraph (c) of this section, whenever chronic or catastrophic precipitation events cause the water level in the pond to rise into the surge capacity. Process waste water must be treated and discharged whenever the water level equals or exceeds the mid-point of the surge capacity.

(c) The concentration of pollutants discharged in process waste water pursuant to the limitations of paragraph (b) of this section shall not exceed the values listed in the following table:

Effluent characteristics	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Milligrams per liter	
Total phosphorus (as P)	105	35
TSS	150	50
pH	Within the range 6.0 to 9.5	

The total suspended solid limitation set forth in this paragraph shall be waived for process waste water from a calcium sulfate storage pile runoff facility, operated separately or in combination with a water recirculation system, which is chemically treated and then clarified or settled to meet the other pollutant limitations set forth in this paragraph.

(d) The concentration of pollutants discharged in contaminated non-process waste water shall not exceed the values listed in the following table:

Effluent characteristics	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Milligrams per liter	
Total phosphorus (as P)	105	35
pH	Within the range 6.0 to 9.5	

5. Section 422.63 of the Sodium Phosphate Subcategory is proposed to be amended as follows:

§ 422.63 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

[Metric units, kg/kkg of product; English units, lb/1,000 lb of product]

Effluent characteristics	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
Fluoride (as F)	0.21	0.11

6. A new § 422.67 for the Sodium Phosphate Subcategory is added as follows:

§ 422.67 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best conventional pollutant control technology:

[Metric units, kg/kkg of finished product; English units, lb/1,000 lb of product]

Effluent characteristics	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
TSS	0.35	0.18
Total phosphorus (as P)	0.56	.28

[Metric units, kg/kkg of finished product; English units, lb/1,000 lb of product]

Effluent characteristics	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
pH	Within the range 6.0 to 9.5	

PART 424—FERROALLOY MANUFACTURING POINT SOURCE CATEGORY

40 CFR Subchapter N Part 424 for the Ferroalloy Manufacturing Point Source Category is proposed to be amended as follows:

1. Section 424.13 of the Open Electric Furnaces with Wet Air Pollution Control Devices Subcategory is proposed to be amended as follows:

§ 424.13 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

Effluent characteristics	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units, kg/Mwh	
Chromium total	.0008	.0004
Chromium VI	.00008	.00004
Manganese total	.008	.0039

2. A new § 424.17 for the Open Electric Furnaces with Wet Air Pollution Control Devices Subcategory is added as follows:

§ 424.17 Effluent limitations guidelines representing the degree effluent reduction attainable by the application of the best conventional pollutant control technology.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best conventional pollutant control technology:

Effluent characteristics	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units, kg/Mwh	
TSS	0.024	0.012
pH	Within the range 6.0 to 9.0	
	English units, lb/Mwh	
TSS	0.052	0.026
pH	Within the range 6.0 to 9.0	

3. Section 424.23 of the Covered Electric Furnaces and Other Smelting Operations with Wet Air Pollution Control Devices Subcategory is proposed to be amended as follows:

§ 424.23 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

Effluent characteristics	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units, kg/Mwh	
Chromium total	.001	.0005
Chromium VI	.0001	.00005
Manganese total	.011	.005
Cyanide total	.0005	.0003
Phenols	.0004	.0002
	English units, lb/Mwh	
Chromium total	.002	.0012
Chromium VI	.0002	.0001
Manganese total	.023	.012
Cyanide total	.001	.0006
Phenols	.0009	.0005

Provided, however, That for nonelectric furnace smelting processes, the units of effluent limitations set forth in this section shall be read as "kg/kkg of product" rather than "kg/Mwh," and the limitations (except for pH) shall be 3.3 times those listed in the table in this section (or, for English units, "lb/ton of product" rather than "lb/Mwh," and the limitations (except for pH) shall be three times those listed in the table).

4. A new § 424.27 for the Covered Electric Furnaces and Other Smelting Operations with Wet Air Pollution

Control Devices Subcategory is added as follows:

§ 424.27 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

The following limitations establish the quantity or quality of pollutants or pollutants properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best conventional pollutant control technology:

Effluent characteristics	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units, kg/Mwh	
TSS	0.032	0.016
pH	Within the range 6.0 to 9.0	
	English units, lb/Mwh	
TSS	0.071	0.035
pH	Within the range 6.0 to 9.0	

Provided, however, That for nonelectric furnace smelting processes, the units of effluent limitations set forth in this section shall be read as "kg/kkg of product" rather than "kg/Mwh," and the limitations (except for pH) shall be 3.3 times those listed in the table in this section (or, for English units, "lb/ton of product" rather than "lb/Mwh," and the limitations (except for pH) shall be three times those listed in the table).

5. Section 424.33 of the Slag Processing Subcategory is proposed to be amended as follows:

§ 424.33 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

Effluent characteristics	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units, kg/kkg processed	
Chromium total	.0054	.0027
Manganese total	.054	.027
	English units, lb/ton of raw material	
Chromium total	.011	.0054
Manganese total	.108	.054

6. A new § 424.37 for the Slag Processing Subcategory is added as follows:

§ 424.37 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best conventional pollutant control technology:

Effluent characteristics	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units, kg/Mwh	
TSS	0.271	0.136
pH	Within the range 6.0 to 9.0	
	English units, lb/Mwh	
TSS	0.542	0.271
pH	Within the range 6.0 to 9.0	

7. Section 424.43 of the Covered Calcium Carbide Furnaces with Wet Air Pollution Control Devices Subcategory is proposed to be amended as follows:

§ 424.43 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

Effluent characteristics	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units, kg/kkg of product	
Total cyanide	0.0056	0.0028
	English units, lb/1000 lb of product	
Total cyanide	0.0056	0.0028

8. A new § 424.57 for the Other Calcium Carbide Furnaces Subcategory is added as follows:

§ 424.57 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

The following limitations establish the quantity or quality of pollutants or pollutant properties, which may be discharged by a point source subject to the provisions of this subpart after application of the best conventional pollutant control technology: There shall be no discharge of process waste water pollutants to navigable waters.

9. Section 424.63 of the Electrolytic Manganese Products Subcategory is proposed to be amended as follows:

§ 424.63 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart producing electrolytic manganese after application of the best available technology economically achievable:

Effluent characteristics	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units, kg/kkg of product	
Manganese	0.678	0.339
Ammonia-N	6.778	3.389
	English units, lb/1000 lb of product	
Manganese	0.678	0.339
Ammonia-N	6.778	3.389

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to

the provisions of this subpart producing electrolytic manganese dioxide after application of the best available technology economically achievable:

Effluent characteristics	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units, kg/kkg of product	
Manganese	0.176	0.088
Ammonia-N	1.762	0.881
	English units, lb/1000 lb of product	
Manganese	0.176	0.088
Ammonia-N	1.762	0.881

10. Section 424.73 of the Electrolytic Chromium Subcategory is proposed to be amended as follows:

§ 424.73 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

Effluent characteristics	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units, kg/kkg of product	
Manganese	0.530	0.265
Chromium	0.053	0.027
Ammonia-N	5.297	2.649
	English units, lb/1,000 lb of product	
Manganese	0.530	0.265
Chromium	0.053	0.027
Ammonia-N	5.297	2.649

11. The new sections listed below are added as follows:

Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best conventional pollutant control technology.

Effluent characteristic	Effluent limitations
pH	Within the range 6.0 to 9.0

Subcategory	Section designation
Covered calcium carbide furnaces with wet air pollution control devices	424.47
Electrolytic manganese products	424.67
Electrolytic chromium	424.77

PART 426—GLASS MANUFACTURING POINT SOURCE CATEGORY

40 CFR Subchapter N Part 426 for the Glass Manufacturing Point Source Category is proposed to be amended as follows:

1. The sections listed below are added as follows:

Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

The following limitations establish the quantity or quality of pollutants or pollutant properties, which may be discharged by a point source subject to the provisions of this subpart after application of the best conventional pollutant control technology: There shall be no discharge of process waste water pollutants to navigable waters.

Subcategory	Section designation (40 CFR)
Insulation fiberglass	426.17
Sheet glass	426.27
Rolled glass manufacturing	426.37

§ 426.23 [Redesignated as § 426.47]

2. (a) Section 426.43 of the Plate Glass Manufacturing Subcategory is redesignated as § 426.47 and the original section number reserved for future use.

(b) The title and first paragraph of the section redesignated above is amended to read as follows:

Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best conventional pollutant control technology.

* * * * *

3. The regulations listed below are withdrawn and the section numbers reserved for future use.

Subcategory	Section designation (40 CFR)
Float glass manufacturing	426.53
Automotive glass tempering	426.63
Automotive glass laminating	426.73
Glass container manufacturing	426.83
Glass tubing (Danner) manufacturing	426.103

4. The regulations listed below are added as follows:

Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best conventional pollutant control technology.

Effluent characteristic	Effluent limitation
pH	Within the range 6.0 to 9.0

Subcategory	Section designation (40 CFR)
Float glass manufacturing	426.57
Automotive glass tempering	426.67
Automotive glass laminating	426.77
Glass container manufacturing	426.87
Glass tubing (Danner) manufacturing	426.107
Television picture tube envelope manufacturing	426.117
Incandescent lamp envelope manufacturing	426.127
Handpressed and blown glass manufacturing	426.137

(5) Section 426.113 of the Television Picture Tube Envelope Manufacturing Subcategory is proposed to be amended as follows:

§ 426.113 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable. These limitations are applicable to the abrasive polishing and acid polishing waste water streams.

Effluent characteristics	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units, g/kkg of furnace pull	
Fluoride	120.0	60.0
Lead	0.9	0.45
	English units, lb/1000 lb of furnace pull	
Fluoride	0.12	0.06
Lead	0.0009	0.00045

(6) Section 426.123 of the Incandescent Lamp Envelope Manufacturing Subcategory is proposed to be amended as follows:

§ 426.123 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

(a) Any manufacturing plant which frosts incandescent lamp envelopes shall meet the following limitations with regard to the finishing operations.

Effluent characteristics	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units, g/kkg of product frosted	
Fluoride	104.0	52.0
Ammonia	240.0	120.0
	English units, lb/1000 lb of product frosted	
Fluoride	0.104	0.052
Ammonia	0.24	0.12

7. Section 426.133 of the Hand Pressed and Blown Glass Manufacturing Subcategory is proposed to be amended as follows:

§ 426.133 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

(a) Any plant which melts raw materials, produces hand pressed or blown leaded glassware, discharges greater than 50 gallons per day of process waste water, and employs hydrofluoric acid finishing techniques shall meet the following limitations.

Effluent characteristics	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Milligrams per liter	
Lead	0.2	0.1
Fluoride	26.0	13.0

(b) Any plant which melts raw materials, produces non-leaded hand-pressed or blown glassware, discharges greater than 50 gallons per day of process waste water, and employs hydrofluoric acid finishing techniques shall meet the following limitations.

Effluent characteristics	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Milligrams per liter	
Fluoride	26.0	13.0

PART 427—ASBESTOS MANUFACTURING POINT SOURCE CATEGORY

40 CFR Subchapter N part 427 for the Asbestos Manufacturing Point Source Category is proposed to be amended as follows:

1. Section 427.93 of the Solvent Recovery Subcategory is amended to read as follows:

§ 427.93 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quanity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisons of this subpart afer application of the best best available technology economically achievable.

Effluent characteristics	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units, kg/kkg of finished asbestos products	
COD	0.30	0.15
TSS	0.18	0.09
	English units, lb/1000 lb of finished asbestos products	
COD	0.30	0.15
TSS	0.18	0.09

2. A new § 427.97 is added to the Solvent Recovery Subcategory as reads below:

§ 427.97 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best conventional pollutant control technology.

Effluent characteristic	Effluent limitations
pH	Within the range of 6.0 to 9.0.

PART 432—MEAT PRODUCTS POINT SOURCE CATEGORY

40 CFR Subchapter N part 432 for the Meat Products Point Source Category is proposed to be amended as follows:

1. The sections listed below are suspended.

Subcategory	Section designation (40 CFR)
Simple slaughterhouse	432.13
Complex slaughterhouse	432.23
Low-processing packinghouse	432.33
High-processing packinghouse	432.43

2. The new sections listed below are added as follows:

Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

(a) The following limitations establish the quantity or quality of pollutant properties, controlled by this section and attributable to on-site slaughter or subsequent meat, meat product or byproduct processing or carcasses of animals slaughtered on-site, which

may be discharged by a point source subject to the provisions of this subpart after application of the best conventional pollutant control technology.

Effluent characteristic	Effluent limitations
Fecal coliform	Maximum at any time 400 mpn/100 ml.
pH	Within the range of 6.0 to 9.0.

Subcategory	Section designation
Simple slaughterhouse	432.17
Complex slaughterhouse	432.27
Low-processing packinghouse	432.37
High-processing packinghouse	432.47

§ 432.53 [Redesignated as § 432.57]

3. (a) Section 432.53 of the Small Processor Subcategory is redesignated as § 432.57 and the original section numbers reserved for future use.

(b) The title and first paragraph of the section redesignated above is amended to read as follows:

Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best conventional pollutant control technology.

* * * * *

4. Section 432.63 of the Meat Cutter Subcategory is proposed to be amended as follows:

§ 432.63 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisons of this subpart after application of the best conventional available technology economically achievable:

Effluent characteristics	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Milligrams per liter—effluent	
Ammonia	8.0	4.0

5. A new § 432.67 for the Meat Cutter Subcategory is added as follows:

§ 432.67 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best conventional pollutant control technology:

Effluent characteristics	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units, kg/kkg of finished product	
BOD5	0.018	0.009
TSS	0.024	0.012
Oil and grease	0.012	0.006
	English units, lb/1,000 lb of finished product	
BOD5	0.018	0.009
TSS	0.024	0.012
Oil and grease	0.012	0.006
pH	Within the range 6.0 to 9.0.	
Fecal coliforms	Maximum at any time 400 mpn/100 ml.	

6. Section 432.73 of the Sausage and Luncheon Meats Processor Subcategory is proposed to be amended as follows:

§ 432.73 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically available.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

Effluent characteristics	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Milligrams per liter—effluent	
Ammonia	8.0	4.0

7. A new § 432.77 for the Sausage and Luncheon Meats Processor Subcategory is added as follows:

§ 432.77 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant technology.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best conventional control technology:

Effluent characteristics	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units, kg/kkg of finished product	
BOD5	0.28	0.14
TSS	0.38	0.19
Oil and grease	0.20	0.10
	English units, lb/1,000 lb of finished product	
BOD5	0.28	0.14
TSS	0.38	0.19
Oil and grease	0.20	0.10
pH	Within the range 6.0 to 9.0	
Fecal coliforms	Maximum at any time 400 mpn/100 ml.	

8. Section 432.83 of the Ham Processor Subcategory is proposed to be amended as follows:

432.83 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievalble.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

Effluent characteristics	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Milligrams per liter—effluent	
Ammonia	8.0	4.0

9. A new § 432.87 for the Ham Processor Subcategory is added as follows:

§ 432.87 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best conventional pollutant control technology:

Effluent characteristics	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units, kg/kkg of finished product	
BOD5	0.32	0.16
TSS	0.42	0.21
Oil and grease	0.22	0.11
	English units, lb/1,000 lb of finished product	
BOD5	0.32	0.16
TSS	0.42	0.21
Oil and grease	0.22	0.11
pH	Within the range 6.0 to 9.0	
Fecal coliforms	Maximum at any time 400 mpn/100 ml.	

10. Section 432.93 of the Canned Meats Processor Subcategory is proposed to be amended as follows:

§ 432.93 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

Effluent characteristics	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Milligrams per liter—effluent	
Ammonia	8.0	4.0

11. A new § 432.97 for the Canned Meats Processor Subcategory is added as follows:

§ 432.97 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best conventional pollutant control technology:

Effluent characteristics	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units, kg/kkg of finished product	
BOD5	0.34	0.17
TSS	0.44	0.22
Oil and grease	0.26	0.13
	English units, lb/1,000 lb of finished product	
BOD5	0.34	0.13
TSS	0.44	0.22
Oil and grease	0.26	0.13
pH	Within the range 6.0 to 9.0	
Fecal coliforms	Maximum at any time 400 mpn/100 ml	

12. Section 432.103 of the Renderer Subcategory is proposed to be amended as follows:

§ 432.103 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

(a) Subject to the provisions of paragraph (b) of this section, the following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

Effluent characteristics	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units, kg/kgg of raw material	
Ammonia	0.04 mg/l	0.02
	English units, lb/1,000 lb of raw material	
Ammonia	0.04	0.02

13. A new § 432.107 for the Renderer Subcategory is added as follows:

§ 432.107 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

(a) Subject to the provisions of paragraph (b) of this section, the following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best conventional pollutant control technology:

Effluent Characteristics	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units, kg/kkg of finished product	
BOD5	0.14	0.07
TSS	0.20	0.10
Oil and grease	0.10	0.05
pH	Within the range 6.0 to 9.0.	
Fecal coliforms	Maximum at any time 400 mpn/100 ml.	
	English units, lb/1,000 lb of finished product	
BOD5	0.14	0.07
TSS	0.20	0.10
Oil and grease	0.10	0.05
pH	Within the range 6.0 to 9.0.	
Fecal coliforms	Maximum at any time 400 mpn/100 ml.	

(b) The limitations given in paragraph (a) of this section for BOD5 and TSS are derived for a renderer which does no cattle hide curing as part of the plant activities. If a renderer does conduct hide curing, the following empirical formulas should be used to derive an additive adjustment to the effluent limitations for BOD5 and TSS:

$$\text{BOD}_5\ \text{Adjustment (kg/kkg RM)} = \frac{3.6 \times (\text{number of hides})}{\text{kg of raw material}}$$

$$\text{(lb/1,000 lb RM)} = \frac{7.9 \times (\text{number of hides})}{\text{lbs of raw material}}$$

$$\text{TSS Adjustment (kg/kkg RM)} = \frac{6.2 \times (\text{number of hides})}{\text{kg of raw material}}$$

$$\text{(lb/1,000 lb RM)} = \frac{13.6 \times (\text{number of hides})}{\text{lbs of raw material}}$$

APPENDIX A—DOCUMENTS USED IN THE ANALYSIS

The data for each of the industry categories were taken from the documents listed below:

1. Dairy Products

Dairy Products Processing, EPA 440/1-74-021-a.

2. Grain Mills

Grain Processing, EPA 440/1/74-028-a.
Animal Feed, Breakfast Cereal and Wheat Starch, EPA 440/1-74/039-a.
Corn Wet Milling, EPA 440/1-78/028-b, Supplement.

3. Fruits and Vegetables

Apple, Citrus and Potato Products, EPA 440/1-74-027-a.
Economic Analysis of the Fruits and Vegetables Category (Phase II), EPA 230/1-75-036, Supplement II, March 1977.

4. Seafood

Fish Meal, Salmon, Bottom Fish, Clam, Oyster, Sardine, Scallop, Herring, and Abalone, EPA 440/1-75/041-a.

5. Sugar Processing

Beet Sugar Processing, EPA 440/1-74-002-b.
Cane Sugar Processing, EPA 440/1-74-002-c.

6. Cement Manufacturing

Cement Manufacturing, EPA 440/1-74-005-a.

7. Feedlots

Feedlots, EPA 440/1-74/004-a.

8. Phosphate Manufacturing

Other Non-Fertilizer Phosphate Chemicals, EPA 440/1-75/043-a.

9. Ferroalloys

Smelting and Slag Processing, EPA 440/1-74/008-a.
Calcium Carbide, EPA 440/1-75/038.
Electrolytic Ferroalloys, EPA 440/1-75/038-a.

10. Glass Manufacturing

Pressed and Blown Glass, EPA 440/1-75-034-a.
Flat Glass, EPA 440/1-74/001-c.
Insulation Fiberglass, EPA 440/1-74-001-b.

11. Meat Products

Red Meat Processing, EPA 440/1-74-012-a.
Processor, EPA 440/1-74/031.
Independent Rendering, EPA 440/1-77/031-e, Supplement.

APPENDIX B—METHODOLOGY

One of the requirements that must be met in issuing a BCT effluent regulation is that it must meet the test of reasonableness. The Agency is proposing to judge reasonableness by the following methodology. The test has two basic elements:

(1) Compare the incremental costs of removal of conventional pollutants for an industrial discharger with removal costs at a model POTW; and if industrial costs are less than those at a POTW, the regulation is judged reasonable.

(2) Where the incremental costs for the industrial discharger exceed those at the model POTW, the concentrations of the conventional pollutant(s) are compared to concentration levels required of POTWs and if the industrial concentrations significantly exceed the POTW concentrations the regulation is judged reasonable.

The major concern is how the costs of POTWs and industrial subcategories are developed. a methodology is developed below that allows the Agency to make an appropriate comparison of these costs.

Incremental Costs. Economic theory supports the comparison of marginal costs to obtain an optimal utilization of resources. Society, if in economic equilibrium, will have best allocated its resources to obtain some level of pollution control where the marginal cost of removing a specified pollutant is the same wherever it is being removed. Based on the premise set forth by Congress that the current level of pollutant removal by POTWs is reasonable, the marginal cost of removal is reasonable. Thus, it is the marginal costs of industrial and municipal treatment that are compared, i.e., at the margin what is the cost to remove an additional pound of pollutant to meet secondary POTW or BCT requirements? Obtaining accurate estimates of marginal costs can be difficult and is usually approximated by the use of increments.

Estimation of the incremental costs for industry is relatively streightforward, since the increment between BPT and BAT (and in the future, BCT) is well-defined. The incremental cost of conventional pollutant removal by industry is calculated by dividing the additional total annual expense incurred to increase treatment from BPT to BAT/BCT by the additional mass of conventional pollutants removed.

Determination of the incremental cost for POTWs is more difficult, although the concept is similar. For larger POTWs (1 mgd and over), the additional cost to upgrade an activated sludge system that just meets secondary treatment requirements to an activated sludge system that has slightly longer retention time and can exceed secondary requirements is divided by the additional quantity of conventional pollutants removed. This represents as accurate a marginal cost as can be calculated with publicly available data. For other POTWs (less than 1 mgd) the incremental cost is calculated for upgrading a facultative lagoon to a package treatment system. These two systems are more commonly used for small POTWs and represent normal costs for those sizes.

Handling Various Combinations of Conventional Pollutants. The methodology for judging reasonableness compares the incremental cost of removal of conventional pollutants by an industrial source to the incremental cost of removal of conventional pollutants by a POTW of similar flow. The conventional pollutants listed in the Act are suspended solids, biological oxygen demand, pH, and fecal coliform, with the addition to the list of oil and grease, chemical oxygen demand, and total phosphorus imminent. These pollutants (except pH and coliform) fal into three sometimes overlapping categories, namely, solids, oxygen demanding substances, or nutrients. Normal secondary municipal treatment is designed to remove oxygen demand and solids. Oil and grease and chemical oxygen demand measure a pollutant problem somewhat different than bilogical oxygen demand, but in essence their removal still has the same effect on the nation's waterways, that is, to lessen oxygen demanding substances.

Based on this rationale, the comparison of incremental industrial costs of removal with incremental POTW costs of removal only considers biological oxygen demand and suspended solids. Adding BOD and TSS together is based on the premise that BOD and TSS are removed jointly in a POTW. By weighting BOD and TSS equally means that the cost of municipal treatment is being allocated equally to each pound of BOD or TSS being removed by the POTW. If BOD is not regulated in a particular industry either COD or oil and grease, if regulated, will be used to represent the oxygen demanding characteristics of the industrial wastestream. The removal of phosphorus from a wastestream can be handled in a somewhat different manner, since its removal at a POTW is primarily performed by a treatment techology separate from normal secondary treatment. Thus, phosphorus removal at a model POTW can be estimated independently of the other pollutants.

The POTW comparison number is calculated by dividing the additional cost of upgrading a POTW by the additional removal of conventional pollutants, where the sum of the pounds of BOD and TSS removed is used to represent the removal of conventional pollutants. By considering an activated sludge POTW and another somewhat better (longer retention time) activated sludge POTW, the difference in cost and removal of pollutants can be estimated.

The incremental cost of conventional pollutant removal by industry is calculated by dividing the additional total annual expense incurred when going to BAT/BCT from BPT by the additional pounds of BOD and TSS removed. This yields an incremental cost that is directly comparable to the incremental costs number developed for POTW's. A problem arises in the industrial calculation when either BOD or TSS is not regulated (and therefore no acceptable calculation for its removal is possible). In these cases the concept of conventional pollutants is used, since solids and oxygen demand are of primary interest. If BOD is not regulated, then pounds of COD, or oil and grease removed are substituted (in that order of priority). This approach approximates the incremental cost of removal for conventional pollutants as opposed to the incremental cost of removal of individual pollutants. For each industrial subcategory being analyzed

in this 'reasonableness' test there are 4 conventional pollutants which may enter into this POTW cost comparison calculation. Table B1 displays the possible combinations of those 4 pollutants and indicates for each combination which pollutant removals are used in the industrial cost calculation.

The reasonableness test for regulations requiring the removal of total phosphorus is parallel to that for the other conventional pollutants. The removal of total phosphorus by a municipal treatment system is generally achieved by the addition of alum to the wastewater, since secondary treatment generally achieves little phosphorus removal. This treatment is in addition to the normal secondary treatment, so the cost of removing total phosphorus can be isolated from the cost of removing other conventional pollutants. Thus, the incremental cost of removal of total phosphorus in a POTW can be estimated and used as a criteria for judging reasonableness. The cost of total phosphorus removal by industry can be estimated in those cases in which the costs of technology for total phosphorus removal can be isolated from the other costs. The industrial incremental cost of total phosphorus removal is then compared to the cost of removal by a POTW. If the cost of removal by industry is the same or lower than at a model POTW, the regulation controlling total phosphorus is judged to be reasonable. In those instances for which the cost of total phosphorus removal can not be isolated from the other treatment costs incurred by industry, all costs of threatment are allocated to the other conventional pollutants and no specific comparison of total phosphorus removal costs is made.

It is clear that the approach for testing the reasonableness of the total phosphorus regulations is somewhat different than for the other conventional pollutants. The reasonableness test for total phosphorus requires costs for an identifiable treatment for total phosphorus to be isolated from the treatment costs for other pollutants. For POTW's alum addition is considered to treat specifically for phosphorus and thus, all the additional costs for alum addition beyond normal seconday treatment can be allocated to total phosphorus removed. For industrial dischargers it is often much more difficult to allocate the costs of their more complex treatment systems, making cost comparisons difficult. Due to these particular problems, the Agency solicits your comments on the methodology for testing the reasonableness of total phosphorus regulations. If your comments include alternative methodologies be sure to include any documentation, data used, and same calculations.

The remaining two conventional pollutants, pH and fecal coliform are not being considered in the reasonableness test. For industries under review pH and fecal coliform regulations do not change from BPT to BCT/BAT.

Flow basis for comparison. The incremental cost of pollutant removal by industrial dischargers is estimated based on model plants that were used in the development of the regulations. These model plants were often based on various production levels and flows in order to represent a range of plants affected by the regulations. The incremental cost estimated for each of the models varies significantly depending on the flow. Since various flow size models are used for the estimation of the industrial cost of removal, it is necessary to consider POTW's of various flows in order to insure comparability of the incremental costs. Thus, this methodology compares the costs of removal based on industrial systems and POTW's of the same flow size.

Concentration test. In those cases in which a regulation is judged unreasonable based on the POTW comparison test, a second test compares the concentration of BOD and TSS in the effluent of a POTW at secondary treatment with the concentration of conventional pollutants from an industrial source after BAT/BCT is in place. This concentration test is a means to check the absolute level of performance of an industrial system with that of a municipal system. If the industry pollutant concentrations exceed those at a POTW, the Agency weighs this higher concentration against the magnitude by which the POTW cost criteria was surpassed. If the concentration is significantly higher than at a POTW and the POTW cost test was not failed by a great margin, the Agency judges the regulation reasonable.

TABLE B1—*Conventional pollutants to be included in the industrial cost of pollutant removal*

Pollutants being regulated	Pollutants to be included*			
	BOD	TSS	O&G	COD
BOD	X			
TSS		X		
O&G			X	
COD				X
BOD, TSS	X	X		
BOD, O&G	X			
BOD, COD	X			
TSS, O&G		X	X	
TSS, COD		X		X
O&G, COD				X
BOD, TSS, O&G	X	X		
BOD, TSS, COD	X	X		
BOD, O&G, COD	X			
TSS, O&G, COD		X		X
BOD, TSS, O&G, COD	X	X		

*Total phosphorus is being analyzed separately.

APPENDIX C—THE COST OF POLLUTANT REMOVAL BY PUBLICLY OWNED TREATMENT WORKS

Background. As part of determining the reasonableness of regulations for conventional pollutants, Congress suggested that the Agency compare the cost to remove pollutants by publicly owned treatment works (POTW's) with the cost of removing pollutants by industrial dischargers. The following material presents estimates of these costs for various types of POTWs. The POTW reasonableness criteria is based on the incremental cost of removal of conventional pollutants. In order to estimate these incremental removal costs, the total annual cost and the total pollutant removal of POTWs must be estimated. The incremental costs are then calculated by considering two different types of treatment systems that achieve a slightly different removal of pollutants. The POTW incremental costs are developed below in three steps. First the annual costs for municipal systems are estimated, and second the pollutant removal of the systems is calculated. The third step combines the cost and removal estimates to develop the incremental costs of pollutant removal.

Total annual POTW costs. The cost estimates are based primarily on public documents issued by the Agency. All cost estimates may be adjusted by use of the sewage treatment plant construction cost index as presented below.

Date	Cost Index
March 1976	256.7
June 1976	259.6
September 1976	262.5
December 1976	270.3
1976	262.2
March 1977	270.9
July 1977	273.8
September 1977	281.0

The capital costs for a POTW are annualized by the application of a capital recovery factor. The capital costs are annualized on the basis of 30 years at 10-percent interest (divide by 9.427) for activiated sludge systems, 50 years at 10-percent interest (divide by 9.915) for lagoons, and 9 years at 10-percent interest (divide by 5.759) for contact stabilization package plants. Three primary sources of information were used in developing the POTW costs. Each one of the reference sources uses slightly different techniques and assumptions to obtain the final cost, so each reference is discussed below. In each case, however, whenever cost estimates are made for an activiated sludge system a custom engineered and fabricated unit is being considered and whenever cost estimates are made for a contact stabilization system a package unit is being considered.

The "Areawide Assessment Procedures Manual, Appendix H, Point Source Control Alternatives" is compiled by the EPA Laboratory in Cincinnati, Ohio. The cost curves used from this reference include the equipment, labor, and miscellaneous structures needed to build the treatment system. For facultative lagoons though, the additional cost of the necessary miscellaneous structures must be added to the equipment costs. The cost of miscellaneous structures for facultative lagoons are estimated to be 50 percent of those presented in this reference, since smaller treatment systems do not require a full complement of miscellaneous structures. To these construction costs must be added the cost of site preparation, piping, electrical work, engineering supervision, and contingency costs which adds an additional 36.4 percent to the equipment costs. The operating and maintenance costs were taken directly from the operating and maintenance cost tables provided for each type of treatment system. The costs in this reference are in September 1976 dollars and are presented in Table C1 and C2.

TABLE C1.—*Cost of municipal treatment, based on areawide assessment manual*

[In millions of September 1976 dollars]

Treatment system	Flow, mgd	Equipment cost	Other construction cost	Total capital cost	Annualized capital cost	O. & M.	Total annual cost
Activated sludge	0.10	0.490	0.178	0.668	0.071	0.060	0.131
	.25	.700	.255	.955	.101	.073	.174
	.50	.940	.342	1.282	.136	.092	.228
	1.00	1.250	.455	1.705	.181	.130	.311
	20.00	9.000	3.276	12.276	1.302	.870	2.172
Activated sludge plus phosphorus removal	.10	.530	.193	.723	.077	.062	.139
	.25	.780	.284	1.064	.113	.078	.191
	.50	1.050	.382	1.432	.152	.105	.257
	1.00	1.500	.546	2.046	.217	.150	.367
	20.00	10.000	3.640	13.640	1.447	1.200	2.647
Contact stabilization (package system)	.1	.120	.044	.164	.028	.014	.042
	.15	.150	.055	.205	.036	.016	.052
	.25	.180	.066	.246	.043	.021	.064
	.50	.250	.091	.341	.059	.033	.092
	1.00	.320	.116	.436	.076	.050	.126

TABLE C2.—*Cost of facultative lagoons, based on areawide assessment manual*

[In millions of September 1976 dollars]

Flow, mgd	Equipment cost	Miscellaneous structures cost	Other construction cost	Total capital cost	Annualized capital cost	Total O. & M. cost	Total annual cost
0.10	0.078	0.014	0.033	0.125	0.013	0.012	0.025
.15	.110	.016	.046	.172	.017	.013	.030
.25	.150	.019	.062	.231	.023	.014	.037
.50	.250	.025	.100	.375	.038	.017	.055
1.00	.410	.035	.162	.607	.061	.021	.082

The "Technical Policy and Procedures 1978 Survey of Needs for Publicly Owned Wastewater Facilities" is another source from which cost estimates are obtained. The cost curves in this reference include all the capital costs related to construction. The operating and maintenance costs are estimated as 10 percent of the capital cost and are added to the annualized capital costs to obtain the total annual cost. The costs in this reference are in January 1978 dollars. The cost estimates obtained by using this reference are presented in Table C3.

TABLE C3.—*Costs of municipal treatment, based on the survey of needs*

[In millions of January 1978 dollars]

Treatment system	Total flow, mgd	Capital cost	Annualized capital cost	Total operating maintenance	Annual cost
Activated sludge	0.01	0.042	0.004	0.004	0.008
	.05	.175	.019	.018	.037
	.10	.330	.035	.033	.068
	.25	.740	.078	.074	.152
	.50	1.370	.145	.137	.282
	1.00	2.550	.270	.255	.525

"An Analysis of Construction Cost Experience for Wastewater Treatment Plant" dated February 1977 is printed by the Municipal Construction Division at EPA. The cost curves are used to estimate the capital cost of a POTW. The operating and maintenance costs are estimated as 10 percent of the capital cost and are added to the annualized capital costs to obtain the total annual cost. The cost estimates presented in this reference are in September 1976 dollars based on the sewage treatment plant index of 263. The cost estimates obtained by using this reference are presented in Table C4.

TABLE C4.—*Costs of municipal treatment, based on an analysis of construction cost experience*

[In million of September 1976 dollars]

Treatment system	Flow, mgd	Total capital cost	Annualized capital cost	O. & M. cost	Total annual cost
Activated sludge	0.01	0.051	0.005	0.005	0.010
	.10	.330	.035	.003	.038
	.15	.460	.049	.046	.095
	.25	.700	.074	.070	.144
	1.00	2.150	.228	.215	.443
	2.00	3.750	.398	.375	.773
	3.00	5.200	.552	.520	1.072
	18.00	22.750	2.413	2.275	4.688
	.01	.061	.006	.006	.012
	.10	.390	.041	.039	.080
With additional retention	.15	.550	.058	.055	.113
	.25	.820	.087	.082	.169
	1.00	2.500	.265	.250	.515
	2.00	4.425	.469	.443	.912
	3.00	6.200	.658	.620	1.278
	18.00	27.250	2.891	2.725	5.616

Pollution Removal by POTWs. The conventional pollutants under consideration are biological oxygen demand, suspended solids, pH, fecal coliform, chemical oxygen demand, oil and grease, and total phosphorus. Most municipal treatment systems remove or can be designed to remove these pollutants. Of these pollutants the removal of biological oxygen demand, suspended solids, and total phosphorus have been estimated, since the remaining conventional pollutants are not being directly considered in the POTW reasonableness criteria. The removal rate of a pollutant equals the flow of the POTW times the change in concentration of the pollutant as it passes through the system. For the calculations presented here the influent concentration is 210 mg/l for biological oxygen demand, 230 mg/l for suspended solids, and 11 mg/l for total phosphorus all based on the "Areawide Assessment Manual." Thus for a 1 mgd POTW that treats biological oxygen demand to 25 mg/l and suspended solids to 25 mg/l the calculation for removal is: Flow × change in concentration=(1 million gallons/day) × ((210+230)−(25+25)) mg/l=(1 million gallons/day) × (390 mg/l)=(1 million gallons/day) × (390 mg/l) × (365 days/year × 3.785 1/gallon × pound/454,000 mg)=1 mgd × 390 mg/1 × .00304=1.86 million pounds of BOD and TSS removed per year.

Removal of BOD and TSS is presented in Table C5 for several different levels of treatment.

TABLE C5.—*Removal of BOD and TSS by POTW's*

Effluent concentration mg/l of BOD plus TSS	Influent concentration mg/l of BOD plus TSS	Change in concentration mg/l of BOD plus TSS	Flow mgd	Removal, million pounds BOD plus TSS
90 (lagoon)	440	350	0.01	0.01064
			.10	.1064
			.15	.1596
			.25	.2660
			.50	.5320
			1.00	1.064
50 (activated sludge or contact stabilization)	440	390	.01	.01186
			.10	.1186
			.15	.1778
			.25	.2964
			1.00	1.186
			2.00	2.371
			3.00	3.557
			18.00	21.35
24 (activated sludge with additional retention)	440	416	.01	.01265
			.10	.1265
			.15	.1897
			.25	.3162
			1.00	1.265
			2.00	2.529
			3.00	3.794
			18.00	22.77

Removal of total phosphorus is estimated in the same manner as for BOD and TSS and is presented in Table C6. The removal rates are based on the "Areawide Assessment Procedures Manual."

TABLE C6.—*Removal of total phosphorus by POTW's*

Treatment system	Effluent concentration mg/l of P	Influent concentration mg/l of P	Change in concentration	Flow mgd	Removal, million pounds of P
Activated sludge	7	11	4	0.10	0.001216
				.25	.003040
				.50	.006080
				1.00	.01216
				20.00	.2432
Activated sludge plus alum	2	11	9	.10	.002736
				.25	.006840
				.50	.01368
				1.00	.02736
				20.00	.5472

Incremental Cost of Removal. The comparison of municipal and industrial costs of pollutant removal are being made on an incremental basis in an attempt to approximate the marginal cost of removal. Graphically this is done by plotting the total cost curve for a POTW of a given flow versus the quantity of pollutant removed, then measuring the slope of the curve for the quantity of pollutant removed that corresponds to secondary treatment. To approximate this marginal cost a small incremental change is used. The costs are in September 1976 dollars to insure comparability to the industrial costs.

The primary criteria for selecting the two treatment systems on which to base an incremental cost are that the two systems provide a small difference in removal rates (so it is an approximation of a marginal cost), that the two systems are similar to those used for sewage treatment by municipalities, that both systems have cost curves in one public reference source (so that the difference in cost is due to the differences in the systems, not in variations in cost estimating procedures), and that the systems are not specifically designed to remove pollutants other BOD and TSS (so the additional costs can accurately be applied to the removal of BOD and TSS). Using these four criteria has led to choosing two different activated sludge treatment systems for flows of 1 mgd and greater, and choosing a facultative lagoon and a contract stabilization package system as the treatment systems providing a basis for an incremental cost of removal for flows of 1 mgd and less. The first activated sludge system achieves an average effluent concentration of 25 mg/l each for both BOD and TSS, with the second system achieving an average effluent concentration of 12 mg/l each for BOD and TSS through the use of greater retention time. These systems are from "An Analysis of Construction Cost Experience for Wastewater Treatment Plants." For cities under 10,000 population the Agency makes an additional effort in finding cost effective methods of treating municipal wastes. Often for these smaller cities the permit requirements are loosened to allow the city to achieve compliance with the permit through the use of facultative lagoons. Thus, to approximate a marginal cost at lower flows the incremental cost of pollutant removal is estimated by going from a facultative lagoon achieving a BOD concentration of 30 mg/l and a TSS concentration of 60 mg/l to a package treatment system achieving a BOD and TSS concentration of 25 mg/l each. These systems are from the "Areawide Assessment Procedures Manual." A city of 10,000 population corresponds to a

flow of about 1 million gallons per day, so all marginal costs for under 1 mgd presented in Table C7 are based on facultative lagoons and package treatment systems. The incremental cost of removal for flows of .01 mgd to .10 mgd has been estimated by a linear extrapolation of the cost estimates developed for .10 mgd and .15 mgd POTWs. This extrapolation was necessary, since not all references used included cost estimates for .01 mgd systems. The results are presented in Table C7.

TABLE C7.—*Incremental removal costs of BOD and TSS by POTWs*

Flow, mgd	Change in cost [1]	Change in removal [2]	Incremental cost [3]
0.01	.....	.....	1.72
.10	0.017	0.0122	1.39
.15	.022	.0182	1.21
.25	.027	.0304	.89
.50	.037	.0608	.61
1.00	.044	.1220	.36
1.00	.072	.079	.91
2.00	.139	.158	.88
3.00	.206	.237	.87
18.00	.928	1.42	.65

[1] Million dollars.

[2] Million pounds per year.

[3] Dollars per pound.

The results of Table C7 were plotted on a graph and connected by straight lines. It was then possible to find the incremental removal cost of BOD and TSS by a POTW of any flow size. For convenience, the incremental costs for various flows are presented in tabular form in Table C8.

TABLE C8.—*Incremental cost of removing BOD and TSS by POTW's*

[In September 1976 dollars]

Flow, mgd	Incremental cost [1]	Flow, mgd	Incremental cost [1]	Flow, mgd	Incremental cost [1]	Flow, mgd	Incremental cost [1]
0.01	1.72	0.06	1.54	0.11	1.35	0.16	1.17
.02	1.68	.07	1.51	.12	1.32	.17	1.14
.03	1.64	.08	1.47	.13	1.28	.18	1.12
.04	1.60	.09	1.43	.14	1.25	.19	1.08
.05	1.58	.10	1.39	.15	1.20	.20	1.04
.21	1.01	.26	.88	.31	.81	.36	.75
.22	.98	.27	.87	.32	.80	.37	.74
.23	.94	.28	.86	.33	.79	.38	.73
.24	.92	.29	.84	.34	.78	.39	.72
.25	.89	.30	.82	.35	.77	.40	.71
.41	.70	.46	.65	.51	.60	.56	.58
.42	.69	.47	.64	.52	.60	.57	.58
.43	.68	.48	.63	.53	.60	.58	.57
.44	.67	.49	.62	.54	.59	.59	.57
.45	.66	.50	.61	.55	.59	.60	.56
.61	.56	.66	.53	.71	.51	.76	.47
.62	.55	.67	.53	.72	.50	.77	.47
.63	.54	.68	.52	.73	.49	.78	.46
.64	.54	.69	.52	.74	.48	.79	.46
.65	.53	.70	.51	.75	.48	.80	.46
.81	.45	.86	.43	.91	.40	.96	.38
.82	.45	.87	.42	.92	.40	.97	.37
.83	.44	.88	.42	.93	.39	.98	.37
.84	.44	.89	.41	.94	.39	.99	.36
.85	.43	.90	.41	.95	.38	1.00	.91
1.1	.90	1.6	.89	2.1	.88	2.6	.87
1.2	.90	1.7	.89	2.2	.88	2.7	.87
1.3	.90	1.8	.88	2.3	.87	2.8	.87
1.4	.90	1.9	.88	2.4	.87	2.9	.87
1.5	.89	2.0	.88	2.5	.87	3.0	.87
3.1	.87	3.6	.86	4.1	.85	4.6	.84
3.2	.86	3.7	.86	4.2	.85	4.7	.84
3.3	.86	3.8	.85	4.3	.85	4.8	.84
3.4	.86	3.9	.85	4.4	.85	4.9	.84
3.5	.86	4.0	.85	4.5	.85	5.0	.84
5.1	.84	5.6	.83	6.1	.82	6.6	.82
5.2	.84	5.7	.83	6.2	.82	6.7	.81
5.3	.83	5.8	.83	6.3	.82	6.8	.81
5.4	.83	5.9	.83	6.4	.82	6.9	.81
5.5	.83	6.0	.82	6.5	.82	7.0	.81
7.1	.81	7.6	.80	8.1	.79	8.6	.79
7.2	.81	7.7	.80	8.2	.79	8.7	.79
7.3	.80	7.8	.80	8.3	.79	8.8	.78
7.4	.80	7.9	.80	8.4	.79	8.9	.78
7.5	.80	8.0	.80	8.5	.79	9.0	.78
9.1	.78	9.6	.77	11	.75	16	.68
9.2	.78	9.7	.77	12	.74	17	.67
9.3	.78	9.8	.77	13	.72	18	.65
9.4	.77	9.9	.77	14	.71	.....	.....
9.5	.77	10	.77	15	.69	.....	.....

[1] Dollars per pound.

To determine the incremental removal cost of total phosphorus, data from the "Areawide Assessment Procedures Manual" was used. The activated sludge system achieves an effluent concentration of 7 mg/l total phosphorus, whereas, an activated sludge system with the addition of alum achieves an effluent concenatration of 2 mg/l total phosphorus. Using the change in costs and pollutant removal between these two systems allows the calculation of the incremental costs of removal as presented in Table C9.

TABLE C9.—*Incremental removal cost of total phosphorus by POTW's*

Flow, mgd	Change in cost [1]	Change in removal [2]	Incremental cost [3]
0.10	0.008	0.00152	5.26
.25	.017	.00380	4.47
.50	.029	.00760	3.82
1.00	.056	.0152	3.68
20.00	.475	.3040	1.56

[1] Million dollars per year.
[2] Million pounds per year.
[3] Dollars per pound.

Limitations of the Estimates. The primary limitation in the costs and removals estimated are that they are just that—estimates. The actual costs and removals actually experienced by any specific POTW may differ from the estimates. One of the references used was, however, an empirical study of bids submitted to build POTWs. The cost estimates do not include the cost of land or the cost of sewers; however, these have very little, if any, effect on incremental costs. POTW costs are not estimated for flows of less than .01 m.g.d., since data is generally not available for flows smaller than this. However, there are not a large number of POTWs smaller than .01 m.g.d.

One of the primary concerns with the estimation of the incremental costs has been to achieve a good approximation of marginal costs. Two factors that may have a substantial effect on the estimate are the size of the increment considered and the "location" of the increment (below secondary treatment, stradling secondary treatment, or beyond secondary treatment).

For flows of under 1 m.g.d. the increment ranges from less stringent than secondary treatment to about secondary treatment. For flows greater than 1 m.g.d. the increment ranges from about secondary treatment to beyond required secondary treatment. Since neither of these increments exactly stradles secondary treatment, the incremental costs of pollutant removal will be affected. The Agency believes that the slight shifting of the increments away from stradling secondary requirements for the over 1 m.g.d. systems does not materially affect the incremental cost estimates. In addition the Agency believes that utilizing smaller sized increments would have little effect on the incremental cost of removal estimates. Any comments concerning the size of the increments used or the "location" of the increments should be submitted to the Agency with supporting documentation, data, and calculations.

Another related issue regards the types of systems on which the incremental costs are based. For example, the incremental cost of pollutant removal for a 2 m.g.d. POTW could be based on a lagoon that achieves secondary requirements and a lagoon that exceeds secondary requirements, rather than on activated sludge systems. In other words, the treatment systems that are the basis for the total cost curves affect the slope of the total cost curves, and thus must affect the estimate of marginal costs (or in this case the estimated incremental costs). The analysis has been performed based on treatment systems that are most representative of those actually used for each particular flow, however, comments regarding the applicability of the systems are solicited. Along with your comments send any documentation, data, or calculations that support the comment.

APPENDIX D—INDUSTRIAL CATEGORY DISCUSSION SUMMARY TABLE OF DATA

Following is a category-by-category discussion of the analysis of each of the guidelines under review.

Following the discussion, Table D1 summarizes the data used in the determination of the reasonableness of the guidelines. The table lists the model plants that were considered for each subcategory for each industry in this review. Column 1 indicates the waste water flow of the model plant that was used for purposes of comparing costs of removal to a POTW of a similar flow. Column 2 shows the cost per pound of conventional pollutant removed, while column 3 shows the cost per pound for a POTW of comparable flow. Columns 4 and 5 show final effluent concentrations of conventional pollutants for the industrial dischargers and the POTW's, respectively.

DAIRY PRODUCTS PROCESSING (40 CFR PART 405)

Pollutants controlled. In all subcategories the only conventional pollutants controlled are BOD5, total suspended solids, and pH. Nonconventional and toxic pollutants are not controlled.

Methodology. Costs and pollutant removals for model plants in each subcategory were constructed from information contained in the development document. This information was based on production, waste water flow, waste loading, and waste load reduction at the BPT and BAT levels, and the costs to achieve those levels. In all of the subcategories, there are different limitations for small and large plants. The limitations for the small plants are less stringent than those for the large plants in the subcategory. Each set of model plants was constructed so as to test the two sets of limitations in each subcategory. The small plant was assumed to receive one-half the level of milk equivalent specified in each subcategory regulation, while the large plant was assumed to receive twice the level of milk equivalent specified in each subcategory regulation. For example, if the size cutoff specified between the different regulations in a subcategory was 100,000 pounds per day of milk equivalent, it was assumed that the small plant received 50,000 pounds per day and the large plant received 200,000 pounds per day.

Results. Controls of pH were reasonable because BAT guidelines do not require stricter control than what was required under BPT, therefore the pH level at BCT is being proposed equal to BPT control.

For all subcategories, controls of BOD5 and TSS are reasonable because the model plants exhibit lower costs than POTW's to remove a pound of BOD5 and TSS. Therefore, all 12 BAT regulations for the dairy products processing industry are being withdrawn and identical BCT limitations are being proposed.

For two subcategories, condensed milk (Subpart I) and condensed whey (Subpart K), discharges of barometric condenser water for small plants were allowed for BPT, while no discharge of barometric condenser water was assumed for BAT. For these subcategories the Agency does not have any cost data for recycle of barometric condenser water although the mass removal of BOD5 and TSS is known. The Agency believes that if the costs of recycling or treating barometric condenser water were available, the cost per pound would not be more than for POTW's of the same flow. Therefore the BAT regulations for these subcategories were determined to be reasonable.

GRAIN MILLS (40 CFR PART 406)

Pollutants controlled. In all subcategories, the only conventional pollutants controlled are BOD5, TSS, and pH. Nonconventional and toxic pollutants are not controlled.

Methodology. Data for all sizes of model plants used are taken from the development documents for the industry. This data includes plant costs to achieve those levels of control. The data are based on production, waste water flow, waste loading, and waste load reduction at the BPT and BAT levels of control and the costs to achieve those levels of control. In those instances where more than one model plant has been developed to represent the subcategory, cost tests are applied for all model plants.

Results. Controls of pH are reasonable because BAT guidelines do not require stricter control than what was required under BPT. Consequently, pH for all subcategories is being proposed equal to the pH control at BAT.

Four of the subcategories (normal wheat flour milling, normal rice milling, animal feed, and hot cereal) are subject to a BPT and BAT regulation of zero discharge and therefore do not require any further analysis. BCT will call for a zero-discharge limitation for these four subcategories. BAT is being kept in force because the zero-discharge limitations applies to all pollutants, not conventional pollutants.

Of the six remaining subcategories in this category, only one (bulgur wheat flour milling) is determined to be unreasonable. The cost per pound of BOD5 and TSS removed exceeds the costs of a POTW of the same size while the final effluent concentrations are significantly lower. The BAT control of BOD5 and TSS for this subcategory is being withdrawn while the BCT control of pH is proposed equal to BAT control of pH.

The remaining five subcategories have reasonable BAT limitations for conventional pollutants. Therefore, the Agency is proposing that the BCT effluent guidelines limitations for the remaining five subcategories (corn wet milling, corn dry milling, parboiled rice processing, ready-to-eat cereal, and wheat starch and gluten) be equal to the existing BAT effluent limitations guidelines for conventional pollutants.

CANNED AND PRESERVED FRUITS AND VEGETABLES PROCESSING (40 CFR PART 407)

Pollutants controlled. In all subcategories, BOD5, TSS, and pH are controlled. In one subcategory (canned and miscellaneous specialities) oil and grease are also controlled. Toxic and nonconventional pollutants are not controlled in any of the subcategories.

Methodology. Data for model plants in all of the subcategories is taken from the development document and economic analysis for the industry. This data includes information on production, waste water flow, pollutant load concentration, pollutant load reduction at the BPT, and BAT levels of control, and costs to achieve those levels of control.

Results. (1) Apple juice, citrus products, frozen potato products, dehydrated potato products: The limitation of pH is reasonable because it is the same at both BPT and BAT. Therefore, the BCT pH limitation is being proposed as equal to BPT. The BAT guidelines for all four of these subcategories for TSS and BOD5 are determined to be reasonable, although in one subcategory (citrus products) the small model plant exhibits a slightly higher cost than a comparable POTW. However, because the costs are so close, and because the large model plant costs are clearly reasonable, the BAT guidelines are judged to be reasonable.

(2) Apple products: Two model plants were tested in this subcategory. For the large model plant (100 tons per day), the costs per pound of conventional pollutant removed are $0.18 per pound as compared to $0.90 per pound for a POTW of a similar flow. However, for the small model plant (10 tons per day), the POTW cost is less. It was determined that the BAT effluent guideline for the large plant is reasonable, while the BAT effluent guideline for the small plant is unreasonable. However, since there are a number of industrial dischargers which have flows that range between the two sizes considered, the Agency feels uncertain about the proper size categorization. The Agency is proposing that, for all plants that have a production of at least 100 tons per day of raw material processed, the BCT limitation be equal to the existing BAT limitation. Additionally, the Agency is withdrawing the limitation for plants processing less than 100 tons per day of raw material. Comment is invited on the appropriate size cutoff.

(3) Canned and preserved fruits, canned and preserved vegetables, canned and miscellaneous specialties: The BAT limitations for these subcategories are on a product-by-product basis. The model plants that were considered in these three subcategories are multi-product plants which the Agency determined, in its analysis pursuant to the promulgation of BAT guidelines, to be the most common types of plants. Therefore, the limitations were not evaluated on a product-by-product basis. Products produced by model plants are believed to be representative of every product regulated in the guidelines, and the Agency believes that the model plants exhibit typical costs and removals experienced by plants in the industry. Because some of the model plants exhibit reasonable costs while other multi-product plants exhibit unreasonable costs, it is not clear which product limitations are unreasonable and which product limitations are reasonable. Therefore, the Agency is withdrawing the BAT regulations for these three subcategories.

However, the evaluation of these subcategories determined that the tomato product limitations in canned and preserved fruits subcategory and the mushroom product limitations in the canned and preserved vegetables subcategory are reasonable. These products are often processed as the only product in one plant. Therefore, the BCT limitations for mushrooms and tomatoes are proposed equal to BAT.

The pH limitation is being retained at BCT for all subcategories.

SUGAR PROCESSING (40 CFR PART 409)

Pollutants controlled. In all subcategories BOD5, TSS and pH are controlled. In the beet processing subcategory fecal coliform is also controlled. No non-conventional or toxic pollutants are controlled.

Methodology. Data for model plants in all of the subcategories are taken from the development documents published pursuant to the promulgation of BAT guidelines. This data includes information on production, waste water flow, pollutant load concentrations, pollutant load reduction at the BPT and BAT levels of control and the costs to achieve those levels of control.

The BAT effluent guideline limitation for the beet sugar processing subcategory requires a limitation of zero discharge for large plants. However, for large plants whose soil filtration rate is less than 1/16 inch per day, and for all small plants, a discharge was allowed. The zero-discharge limitation was tested and found reasonable. It is assumed that for plants which have an allowable discharge the costs are less, and therefore, reasonable.

For the liquid and crystalline cane sugar refining subcategories, the original analysis assumes a reduced flow to meet BAT. The plant flow, considered in comparison to the POTW of a similar flow, is the flow after the plant has complied with BPT limitations.

Results. Three subcategories are considered in this review: Beet sugar processing, crystalline cane sugar refining, and liquid cane sugar refining. The Hilo-Hamakua Coast of the Island of Hawaii raw cane sugar processing subcategory, the Louisiana raw cane sugar processing subcategory, and the Puerto Rican raw cane sugar processing subcategory do not have any BAT regulations in effect. The Florida and Texas raw cane sugar processing subcategory and the Hawaiian raw cane sugar processing subcategory have a BPT effluent limitation of zero discharge, consequently, no test of reasonableness is required.

For the three subcategories tested, controls of pH and fecal coliform are reasonable because the BAT guidelines do not require any additional control beyond BPT.

For two of the subcategories, beet sugar and liquid cane sugar refining, the BAT controls were found to be reasonable because the model plants exhibited lower costs than POTW's with similar flows. Therefore, for these subcategories, the Agency is proposing that the BCT limitations guidelines be equal to the BAT limitations guidelines.

The analysis of the crystalline cane sugar refining subcategory showed that the small model plant (600 tons per day of melt) has unreasonable costs while the large model plant (2100 tons per day of melt) has reasonable costs. Therefore, the Agency is proposing BCT limitations equal to BAT for those plants processing 2100 tons per day of melt or more and withdrawing the controls for plants processing less than 2100 tons per day of melt. Comments are invited on this size cutoff.

CANNED AND PRESERVED SEAFOODS (40 CFR PART 408)

Pollutants controlled. Total suspended solids and pH are controlled in all of the subcategories being tested. Most of the subcategories also have BAT controls in effect for BOD5, and oil and grease. There are no nonconventional or toxic pollutant controls.

Methodology. For each of the subcategories being tested, the data for small, large and, in some cases, medium-size model plants is taken from the development document for that subcategory. This data includes information on production, waste water flow, pollutant concentration, pollutant removals at both BPT and BAT levels of control, and the costs to achieve those levels of control.

Five subcategories are excluded from the analysis because they do not have BAT limitations in effect. Those subcategories are Alaskan hand-butchered salmon processing, Alaskan mechanized salmon processing, Alaskan bottom fish processing, Alaskan scallop processing, and Alaskan herring fillet processing.

Fourteen subcategories (A through N) are excluded from the analysis due to the fact that there is not enough data to perform the analysis. The regulations for these subcategories will be suspended until sufficient data is available to perform the reasonableness test.

Results. The limitations for pH are reasonable for all subcategories because they are equal at the BPT and BAT levels. All of the subcategories tested were found to have reasonable BAT limitations for conventional pollutants. In the analysis of subcategories O and AB, fish meal processing and sardine processing, the results show a split within the subcategories. In the sardine processing subcategory, one type of plant, using a dry transportation system from the sardine storage area in the plant to the processing area, has a stricter BPT limitation than those plants having a flume to transport the sardines. The BAT limitations for each type of plant are the same. As a result, the incremental pounds of pollutants removed from BPT levels to BAT levels were much lower for those plants with the dry transport system. Those plants with dry transport systems have a cost of removal which indicates that the conventional pollutant limitations are unreasonable for that process. The model plant cost for those plants with flume transport systems indicate that the conventional pollutant regulations are reasonable.

In the fish meal processing subcategory, those plants using a solubles plant to process bail and stick water can meet both BPT and BAT limitations through better housekeeping measures which involved minimal costs. Those plants without a solubles plant, however, are required to make a substantial investment to attain the BAT level of control through installation of a solubles plant. However, in both subcategories (fish meal processing and sardine processing) the conventional levels of TSS at the BAT levels for both plant types are far above those levels allowed a comparable POTW. Because these concentrations at the BAT level of control are still very high, the regulations are reasonable.

CEMENT MANUFACTURING (40 CFR PART 411)

Pollutants controlled. In all subcategories the conventional pollutants controlled are total suspended solids and pH. The non-leaching and leaching subcategories also have a temperature limitation.

Methodology. The data for the subcategory model plant is taken from the development document. The data includes information on production, waste water flow, pollutant loads and concentrations, pollutant load reduction at the BPT and BAT levels, and the costs to achieve those treatment levels.

Results. The leaching subcategory is the only subcategory which was tested and was found to have unreasonable limitations for TSS at the BAT level. The agency is suspending the BAT control of TSS for this subcategory, but is retaining the control for pH, redesignating that control as BCT.

The subcategories non-leaching and materials storage piles runoff were not tested because both are under a BPT and BAT limitation of zero discharge. The Agency is proposing that the BCT limitation be zero discharge; the BAT zero-discharge control is also being retained because it controls toxic and nonconventional pollutants.

FEEDLOTS (40 CFR PART 412)

Pollutants Controlled. The pollutants BOD5 and fecal coliform are controlled under BPT in the ducks subcategory, although the BAT limitation is no discharge of process wastewater. In the other subcategory (all subcategories except ducks) the BPT and BAT limitations were zero discharge. There are no nonconventional or toxic pollutant controls.

Methodology. The only subcategory which had a stricter limitation at BPT than at BAT (ducks) is not amenable to the tests that are applied to other subcategories in this review. Although a discharge of conventional pollutants was allowed at BPT, the recommended technology to meet the zero-discharge limit at BAT, is to install a confinement facility with a dry litter floor cover. Because the means to achieve the BAT limit of zero discharge is not the installation of a treatment technology, but a different method of raising ducks, a comparison to POTW costs and removals is not applicable. Because all other feedlots were required to achieve a zero-discharge limit at BPT, the Agency has determined that this regulation is reasonable.

Results. Subcategory A (all subcategories except ducks) is excluded from the analysis because it is under a BPT and BAT limitation of zero of process wastewater. This limitation will also be used as the BCT regulation.

The ducks subcategory was the only subcategory tested. It is found to have reasonable BAT limitations for process wastewater discharge. Therefore the Agency is proposing that the BCT limitation be equal to the existing BAT limitation. The other subcategory in this industry (all feedlots except ducks) already has a zero-discharge limitation for BPT.

Both subcategories have limits on overflow during rainfall events. The Agency believes that Congress did not intend overflow limitations to be considered as part of this review and therefore reasonableness tests are not applied.

FERTILIZER MANUFACTURING (40 CFR, PART 418)

The phosphate subcategory has zero-discharge limitations at both BPT and BAT. The effluent resulting from storm runoff also must be treated to certain levels of concentration. These concentration limits are equal at BPT and BAT. Therefore, the BCT limitation is being proposed equal to BAT.

The ammonium sulfate production and mixed and blend fertilizer production subcategories have zero-discharge limitations at BPT and BAT. This same limitation is being proposed for BCT.

The urea and ammonium nitrate subcategories have been analyzed before this study and the BCT limits have been proposed. The only conventional pollutant regulated at BAT was pH which had the same control as BPT, and is therefore proposed as BCT.

The nitric acid subcategory has no conventional pollutant limitations in effect. Therefore, no BCT limitation is being proposed at this time.

PHOSPHATE MANUFACTURING (40 CFR, PART 422)

Pollutants Controlled. Total suspended solids, total phosphorous, and pH are the controlled conventional pollutants in this point source category. Fluoride, a nonconventional pollutant, is also controlled.

Methodology. Model plant data for the sodium phosphates subcategory (the only subcategory tested) is taken from the development document. The data included information on production, waste water flow, pollutant loading, pollutant load reduction at the BPT and BAT levels, and the costs associated with achieving those levels of control.

Results. The sodium phosphates subcategory is found to have reasonable BAT limitations for conventional pollutants. Although the incremental costs to meet BAT are not specified, the costs are estimated to be less than 5 percent of the costs to comply with BPT. Based on this estimate the cost per pound of TSS removed, if all costs were applied to the removal of TSS, is less than the cost of removal for a comparable POTW. Phosphorus is also controlled. A similar estimate for phosphorus indicates that if all costs were allocated to the removal of phosphorus the cost of control would be less than a POTW at comparable flow. Therefore the BCT control of TSS, phosphorus, and pH is being proposed to be equated to BAT control.

The defluorinated phosphate rock and defluorinated phosphoric acid subcategories have BAT limitations which are equal to their BPT limitations. The Agency is proposing that the BCT limitations be equal to the BAT limitations for conventional pollutants. No other subcategories have regulations which are in effect.

FERROALLOY MANUFACTURING (40 CFR PART 424)

Pollutants Controlled. In all subcategories tested, the controlled conventional pollutants are total suspended solids and pH. Toxic pollutants, including chromium, manganese, cyanide, and phenols, are also controlled, in most subcategories.

Methodology. The data for a model plant for each subcategory is from the development documents. All data on model plant production, waste water flow, pollutant loading, and pollutant control levels is taken from those development documents.

Results. Of the six subcategories analyzed as to the reasonableness of their respective conventional pollutant BAT limitations, three are reasonable and three unreasonable. The three reasonable subcategories are: Subpart A, open electric furnaces and other smelting operations with wet air-pollution-control devices; Subpart B, covered electric furnaces and other smelting operations with wet air-pollution-control devices; and Subpart C, slag processing. The three unreasonable subcategories are: Subpart D, covered calcium carbide furnaces with wet air-pollution-control devices; Subpart F, electrolytic manganese products; and Subpart G, electrolytic chromium. Subpart E, other calcium carbide furnaces, has a BPT and BAT limitation of zero discharge and is, therefore, not included in the analysis. The BCT limitation is being proposed as zero discharge for this subcategory.

In subcategory B, covered electric furnaces and other smelting operations with wet air-pollution-control devices, the initial results show the conventional pollutant regulations to be unreasonable by a small amount, assuming all costs are allocated to conventional pollutants. However, further investigation shows a significant amount of the cost of the BAT limitations to be for the control of toxic pollutants (chromium, manganese, cyanide, and phenols). Allocating the total cost of control to conventional pollutants in this case is not realistic. The Agency believes that a reasonable allocation of costs between toxic and conventional pollutants would indicate that the resulting cost per pound of conventional pollutant removed would be reasonable. Therefore, the Agency is proposing that the BCT limitations for this subcategory be equal to the BAT limitations for conventional pollutants. The allocation of costs in subcategories D, F, and G is not possible with any confidence. Because of this, the regulations for conventional pollutants are declared unreasonable.

The EPA suspects that suspended solids in this industry may be an indicator of toxic pollutants. Because of this, a review of the suspended-solids limitations may take place to determine if there is sufficient data for control of toxic pollutants, possibly using solids as an indicator.

GLASS MANUFACTURING (40 CFR PART 426)

Pollutants Controlled. Total suspended solids and pH are controlled in all subcategories. Three subcategories have increased controls for oil, while one subcategory has increased controls of phosphorus. Additionally, Three subcategories control other pollutants such as fluoride and lead.

Methodology. Data for a model plant for each subcategory tested is from the industry development documents. This data includes information on production, waste water flow, pollutant concentrations, treatment costs to achieve the BPT and BAT limitations as well as the pollutant load reductions for each level of control.

Results. The BPT limitation for insulation fiberglass is zero discharge. However, a discharge is allowed for air-pollution-control devices where there are limitations for conventional pollutants and phenol (a toxic pollutant) in effect. The BAT limitation is zero discharge. Because toxics are controlled and the limitation is zero discharge, BCT is being proposed equal to BAT.

The sheet glass and rolled glass subcategories are not analyzed because the BPT limitation is zero discharge. BCT is being proposed as zero discharge for these subcategories.

The plate glass subcategory is the only subcategory of those tested to be found reasonable. The Agency is proposing that the

BCT control of conventional pollutants be equal to the BAT control of conventional pollutants.

All other subcategories (float glass manufacturing, automotive glass tempering, automotive glass laminating, glass container manufacturing, television picture tube envelope manufacturing, incandescent lamp envelope manufacturing, and hand-pressed and blown glass manufacturing) were found to be unreasonable, and it is being proposed that the BAT control of conventional pollutants be withdrawn. In the hand-pressed and blown glass subcategory no cost information was available for the analysis. However, the technology and pollutant loads are similar to the rest of the unreasonable subcategories. On that basis, it is assumed that costs would be similar, and unreasonable.

MEAT PRODUCTS (40 CFR PART 432)

Pollutants Controlled. In all subcategories tested the conventional pollutants controlled are TSS, BOD5, oil and grease, and pH. Ammonia, a non-conventional pollutant, is also controlled in all subcategories. However, the ammonia limitation has been remanded in the simple slaughterhouse, complex slaughterhouse, low processing packinghouse, and high processing packinghouse subcategories.

Methodology. The data for model plants for each subcategory is from the development documents for the regulations. The data includes information on production, waste water flow, pollutant concentrations, pollutant reductions at the BCT and BAT levels of control, and the costs to achieve those levels of control for each model plant. To properly determine the reasonableness of these regulations, the entire list of BAT limitations, and the necessary technologies and costs associated with them, must be taken into account as a whole. For Subparts A through D, part of the regulation (the limitations for ammonia) has been remanded to the agency for further study pursuant to the U.S. Court of Appeals for the 7th Circuit decision in "American Meat Institute v. EPA" (526 F. 2d 422). In these subcategories the Agency cannot properly determine the reasonableness of the regulations. Therefore, the Agency is proposing to suspend the conventional pollutant limitations at BAT. The reasonableness of these regulations will be determined in the work performed pursuant to the remand of the ammonia limitations. At the time of proposal of new ammonia limitations, the findings on the reasonableness of the conventional pollutant limitations will be presented.

Results. In the six subcategories tested, all were found to have reasonable conventional pollutant limitations at the BAT level of control. In subcategories E through J, which are examined as to reasonableness, the costs of BAT controls are totally attributable to the removal of ammonia, a non-conventional pollutant. Since the removal of ammonia requires that BOD5 and TSS also be reduced, there is no cost attributable to the removal of conventional pollutants. Therefore, the cost of conventional pollutant removal is zero and the limitations are reasonable. The Agency is proposing that the BCT limitations for subcategories E through J be equal to the BAT limitations.

Five additional subcategories have no regulations in effect and have been excluded from the analysis. They are the chicken, turkey, fowl, duck, and further processing subcategories.

OTHER INDUSTRIES

There are industrial categories and subcategories, other than those listed previously, that are not tested for reasonableness. These categories were excluded from the analysis because they do not have any regulations in effect, or have only BPT regulations in effect.

The industrial categories which have no regulations in effect are: Water Supply; Miscellaneous Foods and Beverages; Transportation; Fish Hatcheries and Farms; Steam Supply; Clay, Gypsum, Refractory, and Ceramic Production; Concrete Products; and Shore Receptors and Bulk Terminals.

Three additional industrial categories have in effect only the BPT limitations. These are Offshore Oil and Gas Extraction, Hospitals, and Mineral Mining and Processing. The Mineral Mining and Processing category also has some subcategories which have no limitations in effect.

The Asbestos industrial category has a BAT limitation of zero discharge in seven subcategories. These subcategories are not analyzed because the zero discharge limit is for the control of toxic pollutants and is not subject to review.

TABLE D1
SUMMARY OF DATA

COLUMN	1	2	3	4					5				
INDUSTRY Subcategory	Model Plant Flow (MGD)	Model Plant $/Lb.	Comparable POTW $/Lb.	BAT Model Plant Concentration (mg/l) BOD	TSS	O&G	P	COD	POTW Concentration (mg/l) BOD	TSS	O&G	P	COD
DAIRY													
1. Receiving Stations	s .01	.58	1.72	8				10					
	l .04	1.55	1.60	5				7					
2. Fluid Prod.	s .07	.12	1.51	12				15					
	l .30	.76	.82	8				10					
3. Cultured Prod.	s .02	.29	1.68	12				15					
	l .07	.99	1.51	8				10					
4. Butter	s .01	.26	1.72	13				16					
	l .04	.59	1.60	8				10					
5. Cottage, Cream Cheese	s .01	.35	1.72	13				16					
	l .06	1.06	1.54	8				10					
6. Natural, Proc. Cheese	s .01	.61	1.72	13				16					
	l .02	1.21	1.68	8				10					
7. Fluid Mix for Ice Cream	s .01	.38	1.72	15				19					
	l .05	.98	1.58	10				12					
8. Ice Cream, Frozen Desserts	s .03	.31	1.64	13				17					
	l .11	.92	1.35	9				11					
9. Condensed Milk	s .03	.35	1.64	13				16					
	l .11	1.09	1.35	8				10					
10. Dry Milk	s .02	1.63	1.68	13				16					
	l .08	1.05	1.47	8				10					
11. Condensed Whey	s .01	.76	1.72	14				17					
	l .04	1.38	1.60	9				11					
12. Dry Whey	s .01	.39	1.72	14				17					
	l .05	.80	1.58	9				11					
GRAIN MILLS													
	s 1.5	.13	.89	48				72					
13. Corn Wet Milling	m 3.0	.10	.87	48				72					
	l 4.5	.09	.85	48				72					
	s .07	.85	1.51	56				28					
14. Corn Dry Milling	l .13	.56	1.28	57				28					

COLUMN	1	2	3	4				5			
INDUSTRY Subcategory	Model Plant Flow (MGD)	Model Plant $/Lb.	Comparable POTW $/Lb.	BAT Model Plant Concentration (mg/l) BOD	TSS	O&G	P COD	POTW Concentration (mg/l) BOD	TSS	O&G	P COD
15. Bulgar Wheat Rice	.015	22.00	1.68	20	14			30	60		
16. Parboiled Rice	.13	1.02	1.28	52	21						
17. Ready-to-Eat	s .140	.76	1.25	34	26						
	m .350	.57	.77	34	26						
	l .440	.45	.67	34	26						
18. Wheat Starch and Gluten	.120	.20	1.32	50	40						
CANNED AND PRESERVED FRUITS & VEGETABLES											
19. Apple Juice	s .07	1.16	1.51	35	35						
	l .35	.62	.77	35	35						
20. Apple Products	s .13	1.79/3.74	1.28	19	19			30	60		
	l 1.29	.35	.90	19	19						
21. Citrus Products	s .97	.39	.37	7	10			30	60		
	l 9.7	.13	.77	7	10			30	30		
22. Frozen Potato	s 1.08	.15	.90	15	49						
	l 2.71	.12	.87	15	49						
23. Dehydrated Potato	s .42	.20	.69	20	63						
	l 1.26	.13	.90	20	63						
24. Canned & Pres. Fruits*											
25. Canned & Pres. Vegetables*											
Mushrooms	s .037	1.59	1.60	30	61						
	l .074	1.08	1.51	30	61						
Sauerkraut	s .014	6.18	1.72	36	73			30	60		
	l .022	4.38	1.68	36	73			30	60		
Tomatoes	s .147	.91	1.20	35	35						
	l .882	.40	.42	35	73						

*Model plants for subcategories 24 and 25 are multi-product plants which cover regulations from both of these subcategories.

COLUMN	1		2	3	4					5				
INDUSTRY Subcategory	Model Plant Flow (MGD)		Model Plant $/Lb.	Comparable POTW $/Lb.	BAT Model Plant Concentration (mg/l) BOD	TSS	O&G	P	COD	POTW Concentration (mg/l) BOD	TSS	O&G	P	COD
Corn, Peas	xs	.024	2.32	1.68	48	48				30	60			
	s	.095	1.44	1.41	48	48				30	60			
	m	.294	1.15	.83	48	48				30	60			
	l	.952	0.51	.38	48	48				30	60			
Corn, Peas, Green Beans, Carrots	s	.084	.98	1.47	40	40								
	m	.212	1.19	1.01	40	40				30	60			
	l	.424	.90	.69	40	40				30	60			
Frozen Corn, Peas, Green Beans, Carrots	xs	.092	.94	1.43	35	35								
	s	.165	1.65	1.14	35	35				30	60			
	m	.229	1.44	.94	35	35				30	60			
	l	.459	1.10	.65	35	35				30	60			
Brocolli, Spinach, Lima Bean, Cauliflower	s	.252	1.93	.89	14	26								
	m	.787	1.14	.46	14	14				30	60			
	l	1.259	.90	.90	31	31								
Tomato, Dry Bean	xs	.062	.75	1.54	32	64								
	s	.177	1.21	1.12	31	31				30	60			
	m	.619	.69	.55	31	31				30	60			
	l	1.106	.52	.90	31	31								
Cherry, Green Bean, Pear, Plum	s	.021	2.21	1.68	40	80				30	60			
	m	.066	.90	1.51	40	86				30	60			
	l	.120	2.07	1.32	40	86				30	60			
Cherry, Caneberry, Strawberry	s	.012	6.30	1.72	17	65				30	60			
	l	.029	1.40	1.64	32	65								
26. Canned & Misc. Specialities														
Potato Chips	xs	.039	2.67	1.60	10	31				30	60			
	s	.123	1.32	1.32	10	31								
	m	.200	1.38	1.04	10	31				30	60			
	l	.463	.86	.65	10	31				30	60			

COLUMN	1	2	3	4				5			
INDUSTRY Subcategory	Model Plant Flow (MGD)	Model Plant $/Lb.	Comparable POTW $/Lb.	RAT Model Plant Concentration (mg/l) BOD	TSS	O&G	P COD	POTW Concentration (mg/l) BOD	TSS	O&G	P COD
CANNED AND PRESERVED SEAFOODS											
27. Farm Raised Catfish											
28. Conv. Blue Crab											
29. Mech. Blue Crab											
30. Non-Remote Alaskan Crab											
31. Remote Alaskan Crab			DATA NOT AVAILABLE, REGULATIONS BEING SUSPENDED								
32. Non-Remote Alaskan Whole Crab											
33. Remote Alaskan Whole Crab											
34. Dungesness and Tanner Crab											
35. Non-Remote Ala. Shrimp											
36. Remote Ala. Shrimp											
37. Northern Shrimp											
38. Southern Non-Breaded Shrimp											
39. Breaded Shrimp											
40. Tuna											
41. Fish Meal w/out solubles plant		.13	1.17	1.28	1240	489	248				
42. West Coast Butchered Salmon	s	.009	1.58	1.72	333	39	5				
	l	.03	.70	1.64	333	39	5				
43. West Coast Mechanized Salmon	s	.068	.13	1.51	859	134					
	l	.179	.09	1.12	859	134					
44. Non-Alaskan Conv. Bottom Fish	s	.014	.34	1.72	122	126	7				
	m	.032	.24	1.64	122	126	7				
	l	.06	.15	1.54	122	126	7				
45. Non-Alaskan Mech. Bottom Fish	s	.024	.27	1.68	415	130	43				
	l	.087	.08	1.43	415	130	43				

COLUMN		1	2	3	4				5			
INDUSTRY Subcategory		Model Plant Flow (MGD)	Model Plant $/Lb.	Comparable POTW $/Lb.	BAT Model Plant Concentration (mg/l) BOD	TSS	O&G	P COD	POTW Concentration (mg/l) BOD	TSS	O&G	P COD
46. Hand-Shucked Clam		No costs (except housekeeping) associated with meeting BAT										
47. Mech. Clam	s	.13	.01	1.28	836	646	14					
	l	.43	.01	.68	836	646	14					
48. Pacific Hand-Shucked Oyster		No costs (except housekeeping) associated with meeting BAT										
49. Atlantic & Gulf Hand-Shucked Oyster		No costs (except housekeeping) associated with meeting BAT										
50. Steamed & Canned Oyster		.11	.03	1.35	272	624	8					
51. Sardine												
Dry Process	s	.029	7.84	1.64	1380	75			30	60		
	m	.077	4.79	1.47	1380	75			30	60		
	l	.116	3.96	1.32	1380	75			30	60		
Wet Process	s	.029	.83	1.64	1380	75						
	m	.077	.51	1.47	1380	75						
	l	.116	.42	1.32	1380	75						
52. Non-Alaskan Scallop		No costs (except housekeeping) associated with meeting BAT										
53. Non-Alaskan Herring Fillet		.37	.04	.73	709	206	83					
54. Abalone Proc.		No costs (except housekeeping) associated with meeting BAT										
SUGAR PROCESSING												
55. Beet Sugar		9.4	.03	.77	0	0						
56. Crystalline Cane Sugar	s	5.1	.91	.84	51	15						
	l	17.9	.58	.65	40	15						
57. Liquid Cane Sugar		2.3	.64	.87	75	15						
CEMENT MANUFACTURING												
58. Leaching		.13	4.49	1.28	Essentially Zero Discharge							
FEEDLOTS												
59. Ducks					(Not Amenable to Analysis)							

COLUMN	1	2	3	4				5			
INDUSTRY Subcategory	Model Plant Flow (MGD)	Model Plant $/Lb.	Comparable POTW $/Lb.	BAT Model Plant Concentration (mg/l) BOD	TSS	O&G	P	POTW Concentration (mg/l) COD	BOD	TSS	O&G	P COD
FERROALLOYS												
60. Open Electric Furnaces Wet	.123	.84	1.32	15								
61. Covered Electric & Smelting Wet	.365	.83	.74	15					30	60		
62. Slag Proc.	.250	.02	.89	25								
63. Covered Calcium Carbide Wet	1.1	1.58	.90	15					30	30		
64. Elect. Manganese	.65	1.45	.53	25					30	60		
65. Elect. Chromium	1.0	1.98	.91	25					30	30		
GLASS MANUFACTURING												
66. Ins. Fiberglass	BAT Technology applies to wastewater of wet scrubbers only, costs and removals not available											
67. Plate	7.3	.33	.80	30								
68. Float	.05	14.42	1.58	15	5				30	60		
69. Auto Tempering	.18	2.88	1.12	5	5				30	60		
70. Auto. Laminating	.14	5.58	1.25	5	5	1			30	60		
71. Container	.35	3.80	.77	25	25				30	60		
72. Tubing	.20	2.76	1.04	10					30	60		
73. TV Picture Tube	.82	8.56	.45	10	10				30	60		
74. Incandescent Lamp Envelope	.189	26.29	1.08	7	3				30	60		
75. Hand Pressed & Blown	Costs Unknown				10							
ASBESTOS												
76. Cement Pipe												
77. Cement Sheet												
78. Paper (Starch Binder)												
79. Paper (Elastomeric Binder)	Not part of BCT review because conventional pollutants are toxic indicators											
80. Roofing												
81. Floor Tile												
82. Wet Dust Col.												

COLUMN	1	2	3	4					5				
INDUSTRY Subcategory	Model Plant Flow (MGD)	Model Plant $/Lb.	Comparable POTW $/Lb.	BAT Model Plant Concentration (mg/l) -BOD	TSS	O&G	P	COD	POTW Concentration (mg/l) BOD	TSS	O&G	P	COD
MEAT PRODUCTS													
83. Simple Slaughterhouse													
84. Complex Slaughterhouse	Regulations remanded by courts												
85. Low Proc. Packinghouse													
86. High Proc. Packinghouse													
87. Small Proc.	No costs associated with meeting BAT												
88. Meat Cutter	Costs not available			30	40	20							
89. Sausage and Luncheon	.098	0	1.39	29	40	20			30	60			
90. Ham Proc.	.11	0	1.35	30	40	21			30	60			
91. Canned Meats	.24	0	.92	30	39	24			30	60			
92. Renderers	.08	0	1.47	28	34	15			30	60			
PHOSPHATES													
93. Sodium Phosphates	Minimal costs associated with meeting BAT.												

xs = Extra Small Size Model Plants
s = Small Size Model Plants
m = Medium Size Model Plants
l = Large Size Model Plants

APPENDIX E

The Agency considered other alternatives for determining reasonableness of BAT effluent limitation guidelines. The following is a discussion of these alternatives:

AVERAGE ANNUAL POLLUTION CONTROL COST PER POUND OF POLLUTANT REMOVED ($/LB.)

This alternative is identical to the one that was chosen except that an average cost to meet BAT is used. Instead of determining the cost of removal of the increment from BPT to BAT, the average cost of treatment from raw waste load to BAT is determined. The effect of this alternative is that in almost all cases the average cost would be less than the incremental cost because the cost of removing the last "expensive" pounds would be averaged with the cost of removing the first "cheap" pounds. In all other respects this approach is no different from the approach proposed. Therefore, more subcategories would be determined reasonable.

This alternative was rejected because the legislative history indicates the act's intent was not to review the reasonableness of BPT controls. The concept of reasonableness is limited to the incremental costs and reduction to achieve BAT. This is reinforced by the legislative history which specifies that under no circumstances should BCT be less stringent than BPT.

INCREMENTAL ANNUAL POLLUTION COST PER VOLUME UNIT OF DISCHARGE ($/1,000 GALLONS DISCHARGED)

This criterion was considered because it avoids the pollution cost allocation problem as discussed in the preamble. Because it measures volume rather than wasteload, it is independent of the number of types of wastes present in the discharge.

Although pollution investment costs are driven by discharge volume and this criterion links these two variables, the important measure of pollution reduction is not the volume of discharge treated but the amount (i.e. pounds) of waste abated. Clearly, incremental annual cost per volume unit of water treated does not provide this measure. For this reason, this criterion was rejected.

MEASURE OF THE PLANT POLLUTANT INCREMENTAL REDUCTION EFFICIENCY (PERCENT)

Pollutant reduction efficiency is a measure of the amount of pollutant removed from the waste. The increment in this criterion is from BPT to BAT. This criterion is a relative measure of pollution reduction and it is not dependent on firm size.

However, this criterion has one major drawback: It does not measure the actual amount of pollutant reduction and, therefore, can lead to wrong conclusions. While the increment in percentage pollution removal may be very large to meet BAT regulations for a plant, the actual amount of pollution removal may be small. The amount of reduction depends on the amount of waste in the discharge. Because this criterion does not measure the absolute amount of pollution, it was rejected as a criterion for reasonableness.

POLLUTION CONTROL INVESTMENT TO BOOK VALUE RATIO ($/$)

This criterion is formed from the ratio of pollutant investment costs to book value of the plant. (Book value is the cost of all existing investment less total depreciation.) This criterion, in a general way, measures the likelihood that the pollution-control equipment can be financed. In this respect then, it is another measure of the "economic achievability" of the regulation. This was already considered in the initial development and promulgation of the BAT regulation. For this reason, this alternative was rejected.

PLANT CLOSURES

Plant closures are not considered to be a reliable measure of all financial impacts of pollution control. Plants stay open until profitability is low enough to force closures. It is not a continuous function. Therefore a plant's financial condition can be seriously affected and it will still remain open until the threshold is reached.

Additionally, plants may remain open for other financial reasons. The plant may be a part of a larger firm which projects long-term profits. The plant may be a family business and also have the ability to absorb losses in the short term. The opportunity costs for using the fixed assets may be low and the plant may be better off remaining open.

Additionally, this criterion was considered in the promulgation of BAT guidelines, and the number of estimated closures was minimized. Many times, less costly regulations were promulgated due to the number of estimated plant closures projected as a result of the use of a higher-cost technology. For these reasons, this alternative was rejected as a factor in determination reasonableness.

AFTER TAX RETURN ON INVESTMENT (ROI); CHANGE IN ROI; PERCENT CHANGE IN ROI

Return on investment is the plant's profit (or net income) on each dollar of investment. Investment in water pollution-control equipment generally reduces the firm's ROI because there is no monetary "return" to the firm on this investment, although society as a whole receives a return which is manifested by clean water. ROI is reduced first by imposition of BPT, and again by the additional imposition of BAT controls. Therefore, ROI measures the change in the plant's profitability and is an indicator of the plant's financial ability to comply with pollution-control regulations. Unlike the closure criterion, it is a continuous function of financial impact. A unit change in ROI indicates a definite change in the financial position of the firm.

Most economic-impact criteria are in some manner reflections of changes in ROI. For example, only if ROI is severely impacted will plants be forced to close.

Although absolute changes in ROI indicate that the plant is being impacted, they do not measure the size of the impact on the plant. Two plants may experience a 5-percent decrease in ROI, but one plant may have initial ROI of 20 percent while the second may have an initial ROI of 10 percent. The first firm suffers relatively less change in profitability than the second.

In addition, looking only at ROI does not reflect the tradeoff between pollution reduction and economic impacts. Only if pollution-reduction measures (e.g. changes in concentration) are simultaneously considered will the economic impact (change in ROI) be compared to the benefits (changes in concentration) derived.

This alternative was considered, but was rejected for a number of reasons. The quality of data required to perform this analysis is not available or, in many cases, does not exist. Also, this test of reasonableness is a complex economic definition, and thus difficult to explain and apply. Additionally, there is no benchmark of reasonableness. Although other criteria exhibited this same characteristic, it can be solved by comparisons to POTW's. In addition, for this criterion, POTW's do not have an analagous return on investment. Lastly, economic impacts were already considered in the development of BAT guidelines.

ESTIMATED PRICE INCREASE NEEDED TO RECOVER ANNUAL POLLUTION INVESTMENT COSTS

This alternative was examined, but ultimately rejected. Price increases were considered in the development of BAT guidelines, they are a measure of consumer impact, not firm impact, and in many cases the stated price increases were trivial or zero.

POTW COMPARISONS

One of the criteria for determining reasonableness specifically suggested by Congress was the comparison of costs of pollutant removal by industry with costs of pollutant removal by municipal treatment systems. The underlying premise for an approach of this type is that municipal treatment systems being built with public funds remove conventional pollutants at a reasonable cost. If an industry removes pollutants at a similar or lower cost, then the pollutant removal required of industry will also be reasonable. The concept is straightforward enough, but the manner in which the industrial and municipal costs are developed and compared can vary significantly, depending on the approach used.

One of the major factors affecting a comparison of industrial treatment costs with those of a POTW is the type of cost that is compared. The most fundamental cost that might be compared is the average cost of removing pollutants. This cost is relatively simple to estimate by dividing the total annual cost of pollutant removal by the mass of pollutants removed. Although there is good data for these types of calculations and comparisons, there is little economic theory supporting decisions based on this type of comparison. Using average costs tends to cause more regulations to remain reasonable as compared to the incremental approach discussed below. Economic theory does, however, support the use of comparing marginal costs. Society, if in equilibrium, will have best allocated its resources to obtain some level of pollution control where the marginal cost of removing a specified pollutant is the same wherever it is being removed. Based on our premise that the cost of pollutant removal by POTW's is reasonable, the marginal cost of removal is also reasonable. Thus, it is the marginal cost of removal in both the industrial treatment systems and the POTW's that should be compared. Obtaining accurate estimates of marginal costs can be difficult and are usually approximated by the use of increments. This is, in fact, what has been done in this review. The expected incremental cost of removal by industry are compared to the incremental cost of removal by POTW's.

Another important factor affecting a comparison of industrial and POTW pollutant-removal costs is the type of POTW on which the costs are based. The incremental costs of pollutant removal generally decrease as the size of the POTW increases

due to economics of scale, so that the selection of the size is very critical in developing a criterion by which to judge reasonableness. One approach would be to estimate incremental costs of removal based on a POTW treating the mean flow of all POTW's. This approach yields an average marginal cost of pollutant removal from all sewage. Our original premise that POTW's generally remove pollutants at a reasonable cost would indicate, however, that many smaller POTW's are removing pollutants at reasonable, though higher, costs. Thus, a POTW of average flow does not provide a criterion for judging reasonableness. The same argument holds for POTW's of median flow size. The alternative that has been chosen is to develop the POTW incremental cost based on a POTW of the same flow as the industrial flow. This insures a degree of comparability in the incremental costs.

The third major factor in developing a POTW cost comparison to test for reasonableness is the degree of aggregation for which industrial incremental costs are developed. One extreme would be to estimate the incremental cost of pollutant removal for each plant covered by each regulation and compare that cost to the cost of pollutant removal at POTW's. The other end of the spectrum is to determine one incremental cost for all industries covered by this secondary industry review and compare that cost to the cost of pollutant removal by POTW's review. The problem with both of these levels of aggregation is that the costs would not correspond to any specific regulations under review. The level of aggregation that the Agency has chosen is to consider the incremental cost for the group of pollutants covered by model plants that were originally developed to evaluate the economic effects of the BAT regulations.

APPENDIX F—EPA REGIONAL AND HEADQUARTERS LIBRARIES

Region I
Library, Room 211-B, JFK Federal Building, Boston, Mass. 02203.
Region II
Library, 26 Federal Plaza, New York, N.Y. 10007.
Region III
Library, Curtis Building, 6th and Walnut Streets, Philadelphia, Pa. 19106.
Region IV
Library, 345 Courtland Street NE., Atlanta, Ga. 30308.
Region V
Library, 230 Dearborn Street, Room 1417, Chicago, Ill. 60604.
Region VI
Library, 1201 Elm Street, First International Building, Dallas, Tex. 75270.
Region VII
Library, 1735 Baltimore Avenue, Room 249, Kansas City, Mo. 64108.
Region VIII
Library, 8M-ASL, 1860 Lincoln Street, Denver, Colo. 80295.
Region IX
Library, 215 Fremont Street, San Francisco, Calif. 94105.
Region X
Library, 1200 Sixth Avenue, Seattle, Wash. 98101.
Headquarters Library, Room 2404 PM-213, 401 M Street SW., Washington D.C. 20460.

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federal register

WEDNESDAY, AUGUST 23, 1978
PART IV

ENVIRONMENTAL PROTECTION AGENCY

■

PESTICIDE REGISTRANT REPORTING REQUIREMENTS

Agency Interpretation and Revocation of Interpretative Rule

[6560-01]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL 952-2]

PART 162—REGULATIONS FOR THE ENFORCEMENT OF THE FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT

Revocation of Interpretative Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Revocation of interpretative rule.

SUMMARY: EPA revokes a regulation containing an Agency interpretation of the reporting requirement imposed on registrants by section 6(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (FIFRA). This revocation is issued because the Agency has concluded that the regulation inadequately expresses the Agency's interpretation of the requirement imposed by FIFRA section 6(a)(2).

EFFECTIVE DATE: August 23, 1978.

FOR FURTHER INFORMATION CONTACT:

Edward C. Gray, Office of General Counsel (A-132), U.S. Environmental Protection Agency, 401 M Street SW., Room 425 West Tower, Washington, D.C. 20460, telephone 202-755-0638.

SUPPLEMENTARY INFORMATION: The Agency has concluded that 40 CFR 162.8(d)(2) inadequately expresses the Agency's interpretation of the requirement imposed by FIFRA section 6(a)(2). The Agency's review was prompted by currently pending litigation seeking to have the regulation set aside (*Chemical Specialties Manufacturing Association and National Agricultural Chemicals Association* v. *EPA*, CA No. 77-1938, U.S. District Court for the District of Columbia).

The Agency's General Counsel recently issued a memorandum concerning the requirements of FIFRA section 6(a)(2), which the Agency has adopted as its interpretation of those requirements. That memorandum appears in this same separate part of the FEDERAL REGISTER.

Notice-and-comment procedures are not being used in connection with this action because (1) the regulation being revoked is an interpretative rule, (2) the public interest would be served by prompt revocation of an interpretation which inadequately reflects the Agency's views, and (3) the expeditious resolution of the previously-mentioned litigation depends on prompt revocation of the regulation. For the same reasons, the effective date of this action shall be August 23, 1978.

The U.S. Department of Agriculture has reviewed this regulation in accordance with FIFRA section 25(a)(2)(B). By letter dated July 31, 1978, the Department informed the Agency that it did not object to publication of the regulation, and that the reporting contemplated by the interpretative memorandum did not appear to be unreasonable. Copies of the regulation and accompanying memorandum also were submitted to the Senate Committee on Agriculture, pursuant to FIFRA section 25(a)(3). In accordance with FIFRA section 25(d), copies of the regulation and memorandum were furnished to the FIFRA Scientific Advisory Panel; by letter dated July 18, 1978, the Panel notified the Agency that it would not conduct scientific review and comment on the regulation.

The Agency has determined that this document is not a "significant" regulation under the Agency's criteria for implementing Executive Order 12044.

This action is authorized by FIFRA section 25(a), 7 U.S.C. 136w(a), and by 5 U.S.C. 552, 553.

Accordingly, Part 162, Chapter I, Title 40 of the Code of Federal Regulations, is hereby amended by deleting the text of section 162.8(d)(2) and by designating that paragraph as "Reserved."

Dated: August 14, 1978.

DOUGLAS M. COSTLE,
Administrator.

[FR Doc. 78-23552 Filed 8-22-78; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 952-3]

PESTICIDE REGISTRANT REPORTING REQUIREMENTS

Agency Interpretation of Requirements Imposed on Registrants by Section 6(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act

This notice sets forth the Environmental Protection Agency's interpretation of the reporting requirements imposed on registrants of pesticides by section 6(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (FIFRA), 7 U.S.C. 136d(a)(2). The memorandum of the Agency's General Counsel dated June 30, 1978, which is set forth below, is hereby adopted as the Agency's position.

Dated: August 14, 1978.

DOUGLAS M. COSTLE,
Administrator.

[Memorandum]

Subject: Nature of reporting requirement under FIFRA section 6(a)(2).
From: Joan Z. Bernstein, General Counsel (A-130).
To: The Administrator (A-100).
Through: AX (A-101).

JUNE 30, 1978.

BACKGROUND

This memorandum sets forth in detail this Office's views concerning the proper interpretation of the registrant reporting requirements imposed by Section 6(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (FIFRA). It responds to your May 10 directive that such a discussion be prepared. Since we merely state here what we believe the statute requires, publication of this memorandum would not by itself impose any new or additional requirements, but would constitute a statement of the Agency's position with respect to the matter.

QUESTION

What information must a registrant submit to EPA in order to comply with the requirement of FIFRA Section 6(a)(2)?

ANSWER

In our opinion, FIFRA Section 6(a)(2) imposes the following requirement:

A registrant must submit an item of information to EPA if:

(1) The registrant possesses the information and it pertains to a pesticide for which that registrant holds a registration under FIFRA; *and*

(2) The information, if true, would be relevant to an Agency decision regarding the risks and benefits of the pesticide, i.e., an Agency decision regarding the registrability of the pesticide or regarding the proper terms and conditions of the registration of the pesticide.

(b) Notwithstanding (a) above, information need not be submitted to the Agency to the extent that it consists solely of opinion(s) or conclusion(s) expressed by persons *other than* any person:

(1) who was employed or retained (directly or indirectly) by the registrant to express an opinion or conclusion which relates in any way to the pesticide's properties, effects, risks or benefits; *or*

(2) from whom the registrant requested the opinion(s) or conclusion(s) in question; *or*

(3) who by virtue of his knowledge, skill, experience, training or education would be permitted to testify to the opinion(s) or conclusion(s) under Rule 702 of the Federal Rules of Evidence.[1]

(c) Notwithstanding (a) and (b) above, information need not be submitted to the Agency if it has previously been submitted to the Agency in writing or if it has been accurately tabulated or summarized in a previous written submission to the Agency.

DISCUSSION

I. THE STRUCTURE OF FIFRA AND THE ROLE OF SECTION 6(a)(2)

The Federal Insecticide, Fungicide, and Rodenticide Act, as amended in 1972 by the Federal Environmental Pesticide Control Act (hereafter referred to as "FIFRA"), completely restructured the Federal pesticide regulatory scheme and redefined its thrust. FIFRA was changed "from a labeling law into a comprehensive regulatory statute that will henceforth more carefully control the manufacture, distribution, and use of pesticides."[2] As the House Committee on Agriculture summarized in its Committee Report:

> The Committee found the greatest need for revision of existing laws to be in the areas of strengthening regulatory controls on the uses and users of pesticides, speeding up procedures for barring pesticides found to be undesirable; streamlining procedures for making valuable new control measures, procedures, and materials broadly available; strengthening enforcement procedures to protect against misuse of these biologically effective materials; and creating an administrative and legal framework under which continued research can produce more knowledge about better ways to use existing pesticides as well as developing alternative materials and methods of pest control.[3]

It is clear that Congress' primary purpose in enacting the 1972 amendments was to insure that pesticicde use would be subject to a thorough environmental and human health hazard review.[4]

Under FIFRA, with certain exceptions no pesticide may be distributed, sold or otherwise placed in commerce unless it has been registered, FIFRA section 3(a), §12(a)(1)(A). Extensive information on the risks and benefits of using the pesticide must be submitted to the Administrator before it can be registered, FIFRA section 3(c). A pesticide is eligible for registration only if the Administrator determines that it will perform its intended function without "unreasonable adverse effects on the environment," particularly "when used in accordance with widespread and commonly recognized practice," and that it is otherwise effective and properly labelled, FIFRA section 3(c)(5).

If it appears to the Administrator that a registered pesticide no longer meets the registration requirements, he may initiate proceedings to either cancel the registration or change its classification if he finds that the pesticide "generally causes unreasonable adverse effects on the environment," FIFRA section 6(b). The Administrator also may suspend the registration of a pesticide pending completion of cancellation proceedings, if he finds that an "imminent hazard" exists, FIFRA section 6(c)(1). An immminent hazard is defined as "a situation which exists when the continued use of a pesticide during the time required for cancellation proceeding would be likely to result in unreasonable adverse effects on the environment or will involve an unreasonable hazard to the survival of * * * [an endangered species]." FIFRA section 2(l). In some cases of emergency, the Administrator may even issue a suspension order which takes effect immediately, prior to a hearing, FIFRA section 6(c)(3).

In each instance where a determination is required for registration, cancellation or suspension, the controlling standard is the same, i.e., whether the pesticide causes or is likely to cause "unreasonable adverse effects on the environment." A pesticide which was originally registered on the basis that it would perform its intended function without unreasonable adverse effects

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[1] Rule 702 provides: If scientific, technical, or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training, or education, may testify thereto in the form of an opinion or otherwise.

[2] House Committee on Agriculture, H. Rept. No. 92-511, 92d Cong., 1st sess. 4 (1971) (hereafter "House Report").

[3] House Report at 4.

[4] House Report at 13, 20, and Senate Committee on Agriculture and Forestry, S. Rept. No. 92-838, 92d Cong., 2d sess. 5 (1972) (hereafter "Senate Agriculture Report").

on the environment might subsequently be found to violate that standard if the registration was based on an incorrect evaluation of the information available at the time registration occurred or if new information raised questions about the continued registrability of the pesticide. The need for information relating to the risks and benefits of a pesticide after registration is, therefore, just as important for effective administration of FIFRA as the need for information to initially register a pesticide.

Accordingly, FIFRA provides the Administrator with a variety of tools to insure that he is kept current on information relating to the risks and benefits of registered pesticides. One of these is section 6(a)(2), which requires registrants to submit information after registration to the Administrator.[5] Since approximately 35,000 pesticide products are currently registered with EPA, it is not difficult to understand why Congress imposed such a duty to keep the Administrator informed on registrants. Section 6(a)(2) of FIFRA prescribes the registrant's responsibility as follows:

> Information—If at any time after the registration of a pesticide the registrant has additional factual information regarding unreasonable adverse effects on the environment of the pesticide, he shall submit such information to the Administrator.

It is an accepted canon of statutory construction to interpret the language of a statute in a manner which is consistent with the overall goals of the statute. The U.S. Court of Appeals for the District of Columbia, in interpreting a statute administered by the Federal Trade Commission, expressed this principle as follows:

> In determining the legislative intent, our duty is to favor an interpretation which would render the statutory design effective in terms of the policies behind its enactment and to avoid an interpretation which would make such policies more difficult of fulfillment, particularly where * * * that interpretation is consistent with the plain language of the statute. See *Bird* v. *United States*, 187 U.S. 118, 124, 23 S. Ct. 42, 47 L. Ed. 100 (1902); *United States* v. *Blasius*, 2d Cir., 397 F. 2d 203, 207 n. 9 (1968), cert. dismissed, 393 U.S. 1008, 89 S. Ct. 615, 21 L. Ed. 2d 557 (1969). "[I]n the absence of an unmistakable directive," we cannot "construe the Act in a manner which runs counter to the broad goals which Congress intended it to effectuate." *FTC* v. *Fred Meyer, Inc.*, 390 U.S. 341, 349, 88 S. Ct. 904, 908 19 L. Ed 2d 1222 (1968). *National Petroleum Refiners Association* v. *FTC*, 482 F. 2d 672, 689 (D.C. Cir. 1973).

From the plain language of section 6(a)(2) we know that the submission requirement of that section applies to persons holding registrations; that it refers to information concerning the registered pesticides; that if refers to "additional" information, i.e., information which has not previously been submitted to the Agency; and that it refers only to information which the registrant itself possesses. From there the inquiry must focus on the meaning of the terms "regarding unreasonable adverse effects on the environment" and "factual information."

II. WHAT IS "INFORMATION REGARDING UNREASONABLE ADVERSE EFFECTS ON THE ENVIRONMENT"?

Some registrants have argued for a restrictive interpretation of the section 6(a)(2) disclosure requirement by advancing the notion that the section leaves to the registrant the determination whether an item of information *shows* that the pesticide *causes* "unreasonable adverse effects on the environment." However, this position overlooks not only the plain language of section 6(a)(2) and its legislative history but also the role of section 6(a)(2) in the FIFRA statutory scheme.

The language of § 6(a)(2) plainly states that the information to be submitted is factual information "regarding" unreasonable adverse effects on the environment. In other words, to be covered by the requirement, the information need only *pertain* [6] or *relate* to unreasonable adverse effects on the environment; it does not have to indicate, establish, or prove the existence of such effects.

The statutory scheme clearly requires the determination of whether effects are unreasonably adverse to be made by the Administrator, not by the individual registrant. The term "unreasonable adverse effects on the environment" is defined in § 2(bb) of FIFRA as "any unreasonable risk to man or the environment, taking into account the economic, social, and environmental costs and benefits of the use of any pesticide." In other words, it calls for the Administrator to balance the benefits of use of a pesticide against the risks of its use.[7] Plainly there is no finite scale for measuring where the balance should be struck. In interpreting the Administrator's authority to conduct a risk-benefit assessment under FIFRA, the U.S. Court of Appeals for the District of Columbia has emphasized repeatedly that " 'FIFRA confers broad discretion' on the Administrator to find facts and 'to set policy in the public interest.' *Wellford* v. *Ruckelshaus*, 142 U.S. App. D.C. 88, 91, 439 F.2d 598, 601 (1971). See, also, *EDF* v. *EPA*, * * * 150 U.S. App. D.C. at 354, 465 F.2d at 534 (1972)." *Environmental Defense Fund* [hereafter "EDF"] v. *Environmental Protection Agency* [hereafter "EPA"], 510 F.2d 1292, 1297 (D.C. Cir. 1975; *EDF* v. *EPA*, 548 F.2d 998, 1005 (D.C. Cir. 1976); and see *EDF* v. *Ruckelshaus*, 439F. 2d 584 (D.C. Cir. 1971). This broad discretion is necessary in part because there is frequently great uncertainty concerning just what the risks and benefits are.[8] Even more important, however, is the fact that in balancing risks and benefits the Administrator is performing a task which is intrinsically policymaking in nature. In deciding, for example, whether a health risk should be borne by one group in order for another group to enjoy the benefits of a pesticide product, the Administrator is performing a public, official function which no private group is qualified to perform.[9]

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[5] The Administrator also has authority to require registrants to conduct studies relevant to assessing the risks and benefits of a pesticide, and to report the results thereof to the Agency. See 40 CFR 162.8(d)(1) and FIFRA section 6(b)(1). See also FIFRA section 20, which authorizes the Administrator to conduct research to carry out the purposes of the Act and to undertake monitoring.

[6] The legislative history is clear on this point. According to the Senate Committee on Commerce, "Paragraph (2) of subsection (a) requires a registrant to furnish information to the Administrator regarding unreasonable adverse effects on the environment after his pesticide is registered. While this provision allows the registrant to judge whether the information *pertains* to any unreasonable adverse effect, he will be subject to the penalties of section 14 should he possess such information and not make it available to the Administrator. Senate Committee on Commerce, S. Rept. No. 92-970, 92d Cong., 2d sess. 37 (1972) (hereafter "Senate Commerce Report")." A proposal by the National Agricultural Chemicals Association (NACA), which would have required the registrant to submit "factual information *indicating* that the registered pesticide *has* substantial adverse environmental or health effects," was adopted in one of the early House Committee prints but was later dropped in favor of the present "regarding" language. Committee Print No. 2, H.R. 4152 (June 22, 1971 (emphasis added). Had Congress adopted the NACA proposal, the restrictive interpretation of section 6(a)(2) advanced by some registrants would be more worthy of consideration.

[7] House Report at 14; and Senate Agriculture Report at 4.

[8] The Administrator must often rely on extrapolations from laboratory data, animal studies, and clinical studies in order to assess the risks, and he must rely on estimates of economic impact in order to assess the benefits. The risks and benefits (with their associated uncertainties) must then be balanced to arrive at a final decision.

[9] Various practical considerations also point out the fallacy of the idea that the individual registrant is to make a risk/benefit balancing decision in order to know whether an item of information the registrant possesses must be submitted under section 6(a)(2). For instance, if a registrant were required to submit information under section 6(a)(2) *only* if he had first concluded that the information showed that his pesticide caused unreasonable adverse effects on the environment, he would in effect be conceding that the pesticide should be cancelled, and there would be no need for further adversary proceedings of the type contemplated by section 6(b)-(d). Clearly the statute is not intended to function in this manner.

Moreover, pesticide regulatory decisions involve much more than whether or not a pesticide should be registered at all; the Administrator is required to make a number of decisions about the terms and conditions of registration which are not expressly stated in terms of "unreasonable adverse effects on the environment." Among these are decisions concerning the pesticide's labeling and packaging,[10] and decisions concerning whether additional restrictions beyond labeling should be imposed.[11] Decisions concerning these and other terms of registration must be made when the Administrator registers a pesticide product in the first instance. However, the Administrator has the option of changing some or all of these terms or conditions after registration, as remedies short of outright cancellation, in situations where he determines that without such changes, the pesticide would generally cause unreasonable adverse effects.[12]

It is in this context that the registrant must decide [13] whether to submit the information. If the information would be relevant to an *Agency* decision on the continued registrability of the pesticide or to the proper terms and conditions of the pesticide's registration, and the other requirements of section 6(a)(2) are satisfied, the registrant is required by section 6(a)(2) to submit the information to the Agency.[14] Naturally the registrant is under a duty to make such decisions about the relevance of the information in an objective manner and to be informed concerning the kinds of information upon which the Agency may wish to rely in making regulatory decisions.

A broad range of information normally would be relevant to the Administrator's decisions concerning the registrability of a pesticide product, including the terms and conditions of registration. As discussed above, the basic test of registrability under FIFRA is whether the pesticide causes "unreasonable adverse effects on the environment"—in other words, whether use of the pesticide poses risks which are greater than its benefits. Accordingly, any information on either risks or benefits relevant either to the terms and conditions of registration or to the question whether the pesticide should be registered at all is information "regarding unreasonable adverse effects" which must be submitted if the other requirements of section 6(a)(2) are satisfied.

III. WHAT IS "FACTUAL INFORMATION"?

This term is not defined in the Act, and its meaning must therefore be derived from ordinary usage in light of the broad goals which Congress intended to effectuate by passage of the 1972 amendments.

Unfortunately, the legislative history does not contribute much to the analysis. An early version of what eventually became section 6(a)(2) required the registrant to submit "any information." [15] Thereafter, the National Agricultural Chemicals Association sponsored an amendment changing the wording to "factual information." [16] This change was eventually adopted by the House without explanation,[17] and the entire section underwent further revision in other respects before enactment. Thus, there is no recorded legislative history that explains what Congress intended by the term "factual information."

The legislative history also does not indicate whether these changes were made in conjunction with changes in the companion provisions governing the preregistration disclosure requirements imposed on the registration applicant. Although the terms "information" and "scientific information" appear elsewhere in the Act, there is no indication that Congress attached any particular significance to the word "factual" in section 6(a)(2). Section 3(c), which prescribes procedures for registration, authorizes the Administrator to specify the kinds of "information" required to support registration and to require that "additional information" be submitted. Within 30 days after registration the Administrator must make public the data called for in the registration statement together with such other "scientific information" he deems relevant to his decision. Congress never discussed the wording differences in the two provisions, so there is no indication that it intended any significant distinction between the type of information the two provisions require. On the contrary, there are sound reasons for reading sections 3(c) and 6(a)(2) together. Congress clearly intended that the Administrator's evaluation of a pesticide's effects on the environment be a continuing process. The language of section 6(a)(2) emphasizes this by requiring the registrant to submit information "additional" to that previously submitted under section 3(c).

Nor is the dictionary of much assistance. One dictionary defines *factual* as "of or containing facts" and *information* as "something told; news; intelligence; word" or "knowledge acquired in any manner; facts; data; learning; lore." [18] *Fact*, itself is defined as "a thing that has actually happened or that is really true" or "the state of things as they are; reality; actuality; truth [*fact* as distinct from *fancy*]." [19] However, in the present context, these approaches are too abstract to provide meaningful distinctions between the information that must be submitted under section 6(a)(2) and the information that need not be. For example, some of these definitions might be interpreted as suggesting the exclusion of expert opinion from the scope of section 6(a)(2). However, since such opinions form a large part, if not the preponderance, of the information upon which EPA routinely relies in making regulatory decisions under FIFRA, such an interpretation is utterly implausible and clearly not intended by Congress.

Accordingly, the appropriate interpretation is one based upon the function of section 6(a)(2) in the context of the FIFRA regulatory scheme. The proper focus is not the scope of the phrase "factual information" as an abstract concept, but the informational needs of EPA in regulating pesticides to protect the public health and the environment. As a result, the standard stated in this memorandum defines the scope of section 6(a)(2) in terms of information which, either by itself or in conjunction with other information, might, be relevant and probative in regulatory decisionmaking. Since EPA considers a wide range of information and FIFRA provides a wide variety of regulatory options, the standard set forth above excludes only the unsolicited opinions of persons who are not employed or retained by the registrant to express the opinion and whose opinions would not be admissible under the Federal Rules of Evidence as "expert" opinion. This approach is premised on the fact that if a registrant solicits an opinion it may be entitled to some weight with respect to a regulatory decision. If the registrant employs or retains the person giving the opinion to express such an opinion, the same logic applies. Finally, if a person's opinion would be admissible under the Federal Rules of Evidence, it may pro-

[10] See, e.g., FIFRA sections 2(q), 3(c)(5)(B), and 25(c)(3).

[11] See FIFRA sections 3(d) and 4.

[12] See, e.g., FIFRA sections 3(d) and 6(d).

[13] See footnote 6, supra.

[14] This does not require a registrant to anticipate future advances in scientific knowledge, however. The relevance of information is to be assessed by contemporary standards. Nonetheless, an advance in scientific knowledge may require the submission under section 6(a)(2) of older information which was not previously relevant. For example, see hypothetical number 5, infra.

[15] H.R. 4152, 92d Cong., 1st sess., section 5(a) (1971) and S. 745, 92d Cong., 1st sess., section 5(d) (1971).

[16] Hearings on H.R. 26, H.R. 1077, H.R. 1722, H.R. 45152, H.R. 5182, H.R. 6576, and H.R. 6761 before the House Committee on Agriculture, 92d Cong., 1st sess., March 9, 1971, at 342.

[17] House Report at 53; 1170 Cong. Rec. H10674-10680, H10726-10774 (Nov. 8-9, 1971).

[18] Webster's New World Dictionary (Complete Reference Edition (1972)).

[19] Id.

vide an appropriate basis for regulatory decision by the Agency.

This approach requires the submission of information which EPA may ultimately determine to be insufficient, when considered in light of all other information bearing on risks and benefits, to warrant regulatory action. In this connection, it has been argued that the registrant should be permitted to delay submission until it has verified the accuracy or reliability of the information. That argument ignores a fundamental aspect of the regulatory scheme: the assessment of the accuracy or reliability of information as a basis for regulatory action is to be made by the Administrator, not the registrant.

Moreover, in providing procedures for the suspension and cancellation of pesticide registrations, Congress recognized that protection of the health of the public and the environment cannot wait until evidence of unreasonable adverse effects becomes conclusive or universally accepted. By granting the Administrator authority to suspend pesticide registrants to prevent an "imminent hazard", Congress clearly anticipated that the Administrator would have to act swiftly (either before a hearing or after an expedited hearing) upon new information, even before the information could be definitively evaluated. The Act defines an imminent hazard as a situation that "would be *likely* to result in unreasonable adverse effects", FIFRA sections 2(l) and 6(c), and the courts have repeatedly recognized that "the function of the suspension decision is to make a preliminary assessment of evidence, and probabilities, not an ultimate resolution of difficult issues". *EDF* v. *EPA*, 510 F. 2d at 1298, quoting *EDF* v. *EPA*, 465 F. 2d 528, 537 (D.C. Cir. 1972).

Congress imposed on registrants the responsibility to submit to the Administrator information he may need to prevent imminent hazards. The Act would be subverted if registants were permitted to withhold information merely because they doubted its validity, or because the information had not yet been verified to their own satisfaction, or because the information was contained in a "preliminary", "interim" or "partial" report.

The same principles apply to determinations the Administrator must make regarding cancellation. The Act does not permit the Administrator to wait until conclusive proof on adverse effects has been developed. Rather, cancellation proceedings (or hearings to determine whether a pesticide registration should be cancelled or changed) must be initiated "[i]f *it appears* to the Administrator that a pesticide generally causes unreasonable adverse effects on the environment," FIFRA, section 6(b). (Emphasis added).[21] Even after the conclusion of the cancellation proceedings, the Administrator may act on evidence that is disputed. *EDF* v. *EPA*, 489 F. 2d 1247, 1252 (D.C. Cir. 1973). The Act's adversary hearing provisions recognize that the accuracy or validity of information submitted will frequently be subject to vigorous dispute by the registrant. The purpose of the adversary hearings is to ventilate and resolve such disputes. But the hearing process would be undermined if registrants could unilaterally withhold from the Administrator information that he could properly consider at a hearing, merely because the information could be subject to legitimate dispute.[22]

IV. EXAMPLES OF INFORMATION WHICH MUST BE, AND INFORMATION WHICH NEED NOT BE, REPORTED UNDER SECTION 6(a)(2)

The following examples illustrate the foregoing discussion (these are only examples, and by no means constitute a complete listing of the kinds of information which must be reported):

1. The registrant receives a report that a degradation product of his registered pesticide causes an adverse health effect. This information must be reported, since it clearly pertains to the effects of the registered pesticide. Similar information concerning any impurity or metabolite of the pesticide would also have to be reported.

2. The registrant receives a report that an aerial applicator, contrary to label directions, applied registrant's contact herbicide in a manner that allowed the pesticide to drift onto adjacent fields, causing harm to the nontarget vegetation. This information must be reported.

3. The registrant learns that a person intentionally drank a pesticide in a suicide attempt, and suffered severe liver damage as a result. The fact that the ingestion resulted from the person's desire to commit suicide need not be disclosed, since the registrant could reasonably conclude that the Agency will not make regulatory decisions about pesticides on the basis of attempting to prevent persons from using pesticides to commit suicide. However, the information concerning the toxicological effects of the pesticide on the person must be reported, because information on a pesticide's toxicity to humans is relevant to regulatory decisionmaking. Such information can be utilized, for example, to verify the estimates of potential human toxicity derived from animal studies which supported the decision to register the pesticide. Moreover, the information could permit follow-up contacts with a treating physician who could provide information on the feasibility of treatment options.

4. It is well known that chemical X induces tumors in laboratory animals when the registrant becomes aware of new evidence which indicates, for the first time, that X may be a degradation product of pesticide A, for which he holds a registration. The registrant is not in violation of section 6(a)(2) for previously failing to submit the information regarding X with respect to this registration of A. However, once the relevance of that information is discovered, section 6(a)(2) requires the submission of all information regarding chemical X, including the information which indicates that it may be a degradation product of A.

5. The registrant receives an unsolicited report claiming that a man died of cancer as a result of being exposed to a pesticide three days earlier. The report was made by a relative with no pertinent scientific expertise. This incident does not have to be reported, the causal relationship between the exposure to the pesticide and the cancer death is the opinion of a person: (1) who is not retained or employed by the registrant; (2) from whom the registrant did not request the opinion; and (3) who lacks the knowledge, skill, experience, training and education which would entitle his opinion to be admissible under the Federal Rules of Evidence.

6. Two registrants jointly sponsor a study and each receives a copy of the final report; both recognize that the study is subject to the reporting requirement of section 6(a)(2). One registrant submits the final report to the appropriate official at EPA and sends a copy of the cover letter, which adequately identifies the study and report, to the second registrant. The second registrant need not submit the report, since it has been previously submitted; it is not "additional" information.

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[21] One of the most fundamental and well settled concepts in the FIFRA regulatory scheme is that the burden of proof of registrability always rests with the registrant, and not with the Agency. See, e.g., *EDF* v. *EPA*, 510 F. 2d at 1297.

[22] One reason some registrants may be reluctant to submit information under section 6(a)(2) is concern that the Agency may misinterpret it, or that actions may be taken by the Agency based on it, despite the fact the information has not yet been verified. A related concern is that the information may be disclosed under the Freedom of Information Act to the public, and that unwarranted conclusions about risks might be drawn by the public. It should be noted that any registrant with such concerns may submit, with the information, a statement describing his reservations concerning the information's validity or significance. The Administrator would take that statement into account in assessing the information. The statement of reservations would also be available for public disclosure.

V. INFORMATION THE AGENCY DETERMINES REGISTRANTS NEED NOT SUBMIT

The agency might conclude that although information of a certain kind is subject to the section 6(a)(2) reporting requirement (as interpreted by this memorandum), registrant reporting of that kind of information is not essential to the Agency's functions. (The Agency might, for instance, conclude that information of a certain kind available from sources other than registrants is sufficient for Agency decision-making, and thus that information of that kind which registrants may also possess is not needed by the Agency.) In such a case, it would be appropriate for the Agency to announce publicly (by FEDERAL REGISTER notice or otherwise) that it will not consider a registrant's failure to submit that kind of information to be an actionable violation of section 6(a)(2).

Of course, it is for the Agency, not the registrant, to decide that alternative information sources are adequate for the Agency's needs. Until the Agency announces that it will not seek to enforce its section 6(a)(2) right to obtain a particular kind of information, that information must be reported by registrants.

[FR Doc. 78-23553 Filed 8-22-78; 8:45 am]

federal register

WEDNESDAY, AUGUST 23, 1978
PART V

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

■

DIRECT, DISCRETIONARY GRANT PROGRAMS

Closing Dates for Transmittal of Applications For FY 1979

[4110-02]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

DIRECT, DISCRETIONARY GRANT PROGRAMS

Closing Dates for Transmittal of Applications for Fiscal Year 1979

The purpose of this notice is to inform potential applicants of closing dates for transmittal of applications for grants awarded by the U.S. Office of Education. This notice covers most programs for which grant applications are filed with the Office of Education. Closing dates are also included for the limited number of programs in which nonprocurement contracts are awarded on the basis of applications.

Closing dates for some programs listed in this notice have been published previously. These dates are republished without change so that potential applicants will be provided a single, comprehensive listing of as many program closing dates as possible. This notice contains three parts. Part I includes, in chronological order, the list of all closing dates covered by this notice. Programs that have previously published their closing dates are designated by an asterisk (*). Part III provides specific instructions related to each program closing date. Programs are listed in the same order as in Part I.

A limited number of discretionary grant programs are omitted from this notice:

(a) Some are omitted because regulations governing the award of grants are still being developed.

(b) Others are omitted because of changes to the programs proposed by the Education Amendments of 1978 passed by the House of Representatives or by the Senate Committee on Human Resources. If enacted provisions in these proposed amendments may require changes in particular program regulations governing applications in fiscal year 1979.

Part II lists programs in both of these situations. Closing dates for these programs will be published as soon as possible.

However, a number of programs that may be subject to changes as a result of the proposed Education Amendments of 1978 are covered by this notice. These include programs for which the proposed amendments would not take effect until fiscal year 1980. They also include programs for which the amendments would replace the existing statutory authority with a new statutory authority. For example, the community schools program currently is authorized under sections 402 and 405 of the Education Amendments of 1974. Both the House and Senate bills would repeal these sections. The House bill would enact a new Part E of Title VI of the Elementary and Secondary Education Act and the Senate bill, a new Title X of the Elementary and Secondary Education Act to authorize the community schools program.

Although either the House or Senate bill would make some of these new program authorities effective in fiscal year 1979, the new program authorities can take effect only if funds are appropriated to implement them. Appropriation requests for fiscal year 1979 are based upon the existing statutory authorities, not the proposed new authorities. Congress is reviewing the requests on this basis. We therefore assume that funds will be spent to implement these programs under the current regulations. The instructions for particular program closing dates, under Part III below, indicate which programs are in this situation.

Applicants who decide to apply under one or more programs covered by this notice should take care to follow the instructions set forth under the closing dates for those programs, under Part III below. Closing dates and specific procedures vary from program to program. The instructions under each program inform potential applicants of (1) the closing date for the transmittal of applications; (2) how to obtain application forms; (3) the regulations that govern the program; and (4) other procedures.

Applicants should also note that in each case the closing date applies to the date the application is mailed or hand-delivered. This is a change from prior Office of Education practice, which was to accept mailed applications for new awards only if they were received by the Office of Education on or before the closing date. Under the new procedure, a mailed application meets the requirement if it is mailed on or before the pertinent closing date and the required proof of mailing is provided.

The new policy for the transmittal of applications for new awards is as follows:

Applications Delivered by Mail: An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.557, Washington, D.C. 20202. Applications will be accepted only if they are mailed on or before the pertinent closing date and the following proof of mailing is provided.

Proof of mailing must consist of a legible U.S. Postal Service dated postmark or a legible mail receipt with the date of mailing stamped by the U.S. Postal Service. Private metered postmarks or mail receipts will not be accepted without a legible date stamped by the U.S. Postal Service.

NOTE.—The U.S. Postal Service does not uniformly provide a dated postmark. Applicants should check with their local post office before relying on this method.

Applicants are encouraged to use registered or at least first-class mail.

Each late applicant will be notified that its application will not be considered in the current competition.

Applications delivered by hand: An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, Seventh and D Streets SW., Washington, D.C.

The Application Control Center will accept hand-delivered applications between 8 a.m. and 4 p.m. (Washington, D.C., time) daily, except Saturdays, Sundays, and Federal holidays.

Applications for new awards that are hand delivered will not be accepted after 4 p.m. on the closing date.

I. New closing dates and closing dates previously announced.

CFDA No.	Program title	Closing date
*13.451	Handicapped Personnel Preparation:	
	(Noncompeting continuation)	Oct. 10, 1978.
	(New projects)	Oct. 24, 1978.
*13.443A	Student Research Program (First Cycle)	Oct. 16, 1978.
*13.444A	Handicapped Children's Early Education	Oct. 18, 1978.
*13.443	Field Initiated Research	Oct. 31, 1978.
13.586	Bilingual Vocational Instructor Training Program.	Nov. 1, 1978.
13.438, 439, 440, 441	Fulbright-Hays Training Grants	Nov. 3, 1978.
	Faculty Research Abroad	
	Foreign Curriculum Consultants	
	Group Projects Abroad	
	Doctoral Dissertation Research Abroad	
13.406	College Library Resources Program	Nov. 6, 1978.
13.565A, 13.565B	Women's Educational Equity Act Program	Nov. 17, 1978
13.566	Arts Education Program	Nov. 21, 1978
13.580	Graduate and Professional Opportunities Program.	Nov. 22, 1978.
13.482, 488, 492	Special Services for Disadvantaged Students Program.	Nov. 27, 1978.
	Talent Search	
	Upward Bound	
	(Noncompeting continuations)	
13.482, 488, 492	Special Services for Disadvantaged Students Program.	Do.
	Talent Search	
	Upward Bound	
	(New projects)	

CFDA No.	Program title	Closing date
13.543	Educational Opportunity Centers Program (New Projects).	Nov. 27, 1978.
13.543	Educational Opportunity Centers Program (Noncompeting continuations).	Do.
13.489D	Teacher Corps (New projects)	Nov. 30, 1978.
13.468	Library Training Program	Dec. 1, 1978.
13.558	Bilingual Vocational Training Program	Do.
13.525, 526, 528, 529, 532, 589, 590.	Emergency School Aid	Dec. 4, 1978.
13.444B	Handicapped Children's Early Education Program—Outreach (Noncompeting continuations).	Do.
13.475	Library Research and Demonstration Program	Dec. 11, 1978.
13.564	Consumers' Education Program	Dec. 15, 1978.
13.555	Public Service Education Program	Dec. 22, 1978.
13.433D	Model Programs for School Aged Handicapped Children (New projects).	Dec. 29, 1978.
13.560	Regional, Vocational Adult, and Post-Secondary Programs (Noncompeting continuations).	Do.
13.563	Community Education Program	Jan. 5, 1978.
13.435B	Graduate and Undergraduate International Studies Program (Noncompeting continuations).	Jan. 8, 1978.
13.436	Foreign Language and Area Studies Research Program.	Jan. 8, 1979.
13.562A	Program for the Gifted and Talented Assistance to State and Local Agencies.	Do.
13.562B	Program for the Gifted and Talented Leadership Personnel Training.	Do.
13.562C	Program for the Gifted and Talented Model Projects.	Do.
13.444A	Handicapped Children's Early Education Program Demonstration (Noncompeting continuations).	Jan. 10, 1979
13.561	Education for the Use of the Metric System of Measurement (Metric Education Program).	Jan. 12, 1979.
13.567	Domestic Mining and Mineral and Mineral Fuel Conservation Fellowships.	Do.
13.510	Cooperative Education Program	Jan. 15, 1979.
13.588	Contract Program for Indian Tribes and Indian Organizations.	Jan 30, 1979.
13.416	Teacher Centers Program (New projects)	To States: Jan. 31, 1979. To OE: Mar. 1, 1979.
13.416	Teacher Centers Program (Noncompeting continuations).	To States: Jan. 31, 1979. To OE: Mar. 1, 1979.
13.533E	National Reading Improvement Program—Reading Academy Program (New projects).	Jan. 31, 1979.
13.533G	National Reading Improvement Program—Reading Improvement Projects (New projects).	Do.
13.533G	National Reading Improvement Program—Reading Improvement Projects (Noncompeting continuations).	Do.
13.533B	National Reading Improvement Program—State Leadership and Training Program (New and Noncompeting continuations).	Feb. 27, 1979.
13.533E	National Reading Improvement Program—Reading Academy Program (Noncompeting continuations).	Do.
13.565A	Women's Educational Equity Act Program (Noncompeting continuations).	Feb. 28, 1979.
13.444D	Handicapped Children's Early Education Program—Model Outreach (New projects).	Mar. 1, 1979.
13.576	Strengthening Research Library Resources (New projects).	Do.
13.576	Strengthening Research Library Resources (Noncompeting continuations).	Do.
13.446	Media Research, Production, Distribution and Training Grant Program (New projects).	Mar. 5, 1979.
13.446	Media Research, Production, Distribution and Training Grant Program (Noncompeting continuations).	Do.
13.443C	Handicapped Research and Demonstration Field Initiated Research (Noncompeting contintuations).	Open.
13.443D	Model Program for School Aged Handicapped Children and CSDC's.	Mar. 13, 1979.
13.588	Contract Program for Indian Tribes and Indian Organizations (Noncompeting continuations).	Mar. 15, 1979.
13.443A	Handicapped Research and Demonstration Student Research (Second Cycle).	Mar. 16, 1979.
13.489C	Teacher Corps 2d year (Noncompeting continuations).	Apr. 2, 1979
13.444C	Handicapped Children's Early Education Program State Implementation (New projects).	Apr. 4, 1979.
13.444C	Handicapped Children's Early Education Program—State Implementation (Noncompeting continuations).	Do.
13.557	Community Service and Continuing Education—Special Projects Program (Noncompeting continuations).	Apr. 2, 1979.
13.557	Community Service and Continuing Education—Special Projects Program (New projects).	Apr. 6, 1979.

II. Programs omitted from this notice because of the development of regulations or because of proposed changes to the programs by the Education Amendments of 1978. Closing dates for these programs will be announced later.

CFDA No.	*Program Title*
13.403	Bilingual Education.
13.405	Desegregation of Public Education.
13.434	Foreign Language and Area Studies Fellowships (new projects).
13.435A	Graduate and Undergraduate International Studies and International Studies Centers (new projects).
13.534, 535, 536, 551, 569.	Indian Education.
13.420	Alcohol and Drug Abuse Education.
13.522	Environmental Education.
13.554	Career Education.
13.433	Follow Through.
13.454	Strengthening Developing Institutions.
13.530	Emergency School Aid—TV.
13.549	Ethnic Heritage.

III. Notices of closing dates for a majority of OE direct, discretionay grant programs.

13.451—Handicapped Personnel Preparation

CLOSING DATES—NONCOMPETING CONTINUATIONS—OCTOBER 10, 1978, NEW PROJECTS—OCTOBER 24, 1978

Notice is hereby given that, under the authority contained in sections 631, 632, and 634 of the Education of the Handicapped Act (20 U.S.C. 1431, 1432, and 1434), the U.S. Commissioner of Education has established a final closing date of October 10, 1978, for transmittal of continuation applications and October 24, 1978, for transmittal of new applications for the training of personnel in the education of the handicapped under Part D of the Act.

Applications must be mailed or hand delivered to the U.S. Office of Education, Application Control Center, on or before the above referenced dates.

The estimated total amount of funds available under this grant program for fiscal year 1979 is $55,375,000 ($29,375,000 for continuation applications and $26,000,000 for new applications). An estimated 1,000 grants will be awarded with an average grant totaling $55,000.

The funding level and distribution of funds are predicated upon the allotment of funds and may vary according to the final appropriation made available during the year.

A. *Applications delivered by mail:* An application sent by mail should be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.451, Washington, D.C. 20202.

Proof of mailing may consist of a legible U.S. Postal Service dated postmark or an insurance or registered mail receipt stamped by the U.S. Postal Service. Neither private metered postmarks nor certified mail receipts will be accepted.

NOTE.—The U.S. Postal Service does not uniformly provide a dated postmark. Applicants should check with their local post office before relying on this method.

The use of first class mail is recommended.

Each late applicant will be notified that its application will not be considered in the current competition.

B. *Applications delivered by hand:* An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, Seventh and D Streets SW., Washington, D.C.

The Application Control Center will accept hand-delivered applications between 8 a.m. and 4 p.m. (Washington, D.C., time) daily, except Saturdays, Sundays, or Federal holidays.

Applications will not be accepted after 4 p.m. on the closing date cited above.

C. *Program information and forms:* Information and applications may be obtained from the Division of Handicapped Personnel Preparation, Bureau of Education for the Handicapped, U.S. Office of Education, 400 Maryland Avenue SW., Washington, D.C. 20202.

D. *Applicable regulations:* Awards under the Handicapped Personnel Preparation program will be governed by the Office of Education General Provisions Regulations (45 CFR Parts 100, 100a) and the regulations which apply specifically to this program (45 CFR Parts 121 and 121f). Amendments to Part 121f were published in the FEDERAL REGISTER on April 19, 1977, 42 FR 20298-20300.

(20 U.S.C. 1431, 1432, and 1434)

13.443A—STUDENT RESEARCH PROGRAM

CLOSING DATE—FIRST CYCLE—OCTOBER 16, 1978

Notice is hereby given that, under the authority contained in sections 641 and 642 of Part E of Education of the Handicapped Act (20 U.S.C. 1441, 1442), applications are being accepted for support of research related to education of the handicapped. This announcement covers applications for new awards only for the student research program. Under this program, the Office of Education is interested in a broad range of research and research-related projects focusing on the education of handicapped children.

There are two closing dates for Student applications. Applications for the first cycle must be transmitted to the U.S. Office of Education Application Control Center on or before October 16, 1978. The deadline for the second cycle is planned for March 1979 and will be published in the FEDERAL REGISTER at a later date.

A. *Application forms and information:* Further information and application forms may be obtained from the Research Projects Branch, Bureau of Education for the Handicapped, Office of Education, 400 Maryland Avenue, SW., (Donohoe, 3165), Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

B. *Applications sent by mail:* An application sent by mail must be addressed as follows: U.S. Office of Education, Application Control Center, Washington, D.C. 20202. Attention: 13.443A.

Mailed applications must be postmarked on or before the closing date. Proof of timely mailing may consist of a legible U.S. Postal Service postmark or an insurance or registered mail receipt. Neither private metered postmarks nor certified mail receipts will be accepted.

NOTE.—The U.S. Postal Service does not uniformly provide a dated postmark. Applicants should check with their local post office before relying on this method.

The use of first-class mail is recommended. Each late applicant will be notified that its application will not be considered in the current competition.

C. *Hand-delivered applications:* An application to be hand-delivered must be taken to the U.S. Office of Education Application Control Center, Room 5673, Regional Office Building Three, Seventh and D Streets SW., Washington, D.C. Hand-delivered applications will be accepted daily between the hours of 8 a.m. and 4 p.m. (Washington, D.C. time) except Saturdays, Sundays, or Federal holidays. Applications will not be accepted after 4 p.m. on the closing date.

D. *Program information:*

(1) Availability of funds and estimated number and amount of awards.

The estimated total amount of funds available for support of new student research projects is $3,000,000. Based on a mean grant amount in recent years of approximately $90,000 we anticipate that about 33 new grants will be awarded. The range of funding for 1978 projects was from approximately $1,000 to $15,000 per year. However, the large majority of awards was under $10,000 per year.

(2) *Multiple year awards.* While there is no firm limit on the duration of projects, the vast majority of student research projects are for 1 to 3 years. In the event that assistance is provided for multiple year projects, grant awards will be made for a budget period of a single year's duration with continuation awards made on a noncompetitive basis subject to satisfactory performance as determined under 45 CFR 121h.4(b) and the availability of funds in future fiscal years.

E. *Applicable regulations:* The regulations applicable to this program include the Office of Education General Provisions Regulations (45 CFR Parts 100 and 100a) and the applicable program regulations (45 CFR Parts 121 and 121h).

A proposed revision to the program regulations (45 CFR Part 121h) was published on February 28, 1978 (43 FR 8228-8232). Applicants should submit applications based upon that notice of proposed rulemaking. Applicants will be permitted to amend their applications if the final regulations reflect changes in the requirements for the receipt of grant awards.

(20 U.S.C. 1441, 1442)

13.444A—HANDICAPPED CHILDREN'S EARLY EDUCATION PROGRAM

CLOSING DATE—OCTOBER 18, 1978

Notice is hereby given that, under the authority contained, in sections 623 and 624 of the Education of the Handicapped Act (20 U.S.C. 1423, 1424), the U.S. Commissioner of Education has established a closing date of October 18, 1978, for the transmittal of applications for new awards for demonstration centers projects.

Applications must be mailed or hand-delivered to the U.S. Office of Education, Application Control Center, on or before the above referenced date.

The funding level of the handicapped children's early education program in fiscal year 1979 is expected to be $22,000,000. These funds will be made available for new and noncompeting continuation demonstration projects, technical assistance support

activities, and model outreach projects. The approximate number of new demonstration awards is 40. During previous years of the program, funding for new demonstration projects has averaged between $60,000 and $70,000.

Projects approved for funding under this program will be for a 3 year period with annual review of progress. The funding level and distribution of project funds are predicated upon the allotment of funds and may vary according to the final appropriation made available during a specific year.

A. *Applications delivered by mail:* An application sent by mail should be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.444A, Washington, D.C. 20202.

Proof of mailing may consist of a legible U.S. Postal Service dated postmark or an insurance or registered mail receipt stamped by the U.S. Postal Service. Neither private metered postmarks nor certified mail receipts will be accepted.

NOTE.—The U.S. Postal Service does not uniformly provide a dated postmark. Applicants should check with their local post office before relying on this method.

The use of first-class mail is recommended.

Each late applicant will be notified that its application will not be considered in the current competition.

B. *Applications delivered by hand:* An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, Seventh and D Streets SW., Washington, D.C.

The Application Control Center will accept hand-delivered applications between 8 a.m. and 4 p.m. (Washington, D.C., time) daily, except Saturdays, Sundays, or Federal holidays.

Applications will not be accepted after 4 p.m. on the closing date cited above.

C. *Program information and forms:* Information and applications may be obtained from the Division of Innovation and Development, Bureau of Education for the Handicapped, U.S. Office of Education, Room 3100, Donohoe Building, 400 Maryland Avenue SW., Washington, D.C. 20202. Applications will be available on or about August 14, 1978.

D. *Applicable regulations:* The regulations applicable to this program include the Office of Education General Provisions Regulations (45 CFR Parts 100 and 100a) and the applicable program regulations (45 CFR Parts 121 and 121d).

(20 U.S.C. 1423, 1424)

13.443—FIELD INITIATED RESEARCH

CLOSING DATE—OCTOBER 31, 1978

Notice is hereby given that, under the authority contained in sections 641 and 642 of Part E of Education of the Handicapped Act (20 U.S.C. 1441, 1442), applications are being accepted for support of research related to education of the handicapped. This announcement covers applications for new awards only for the field initiated research program. Under this program, the Office of Education is interested in a broad range of research and research-related projects focusing on the education of handicapped children.

Applications must be transmitted to the U.S. Office of Education Application Control Center on or before October 31, 1978.

A. *Applications forms and information:* Further information and application forms may be obtained from the Research Projects Branch, Bureau of Education for the Handicapped, U.S. Office of Education, 400 Maryland Avenue SW. (Donohoe, 3165), Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

B. *Applications sent by mail:* An application sent by mail must be addressed as follows: U.S. Office of Education, Application Control Center, Washington, D.C. 20202. Attention: 13.443.

Mailed applications must be postmarked on or before the closing date. Proof of timely mailing may consist of a legible U.S. Postal Service postmark or an insurance or registered mail receipt. Neither private metered postmarks nor certified mail receipts will be accepted.

NOTE.—The U.S. Postal Service does not uniformly provide a dated postmark. Applicants should check with their local post office before relying on this method.

The use of first-class mail is recommended. Each late applicant will be notified that its application will not be considered in the current competition.

C. *Hand-delivered applications:* An application to be hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, Seventh and D Street SW., Washington, D.C. Hand-delivered applications will be accepted daily between the hours of 8 a.m. and 4 p.m. (Washington, D.C., time) except Saturdays, Sundays, or Federal holidays. Applications will not be accepted after 4 p.m on the closing date.

D. *Program information:*

(1) Availability of funds and estimated number and amount of awards.

The estimated total amount of funds available for support of new field initiated research projects is $3,000,000. Based on a mean grant amount in recent years of approximately $90,000 we anticipate that about 33 new grants will be awarded. The range of funding for 1978 projects was from approximately $10,000 to $150,000 per year. However, the large majority of awards was under $100,000 per year.

(2) *Multiple year awards.* While there is no firm limit on the duration of projects, the vast majority of Field Initiated projects is for 1 to three years. In the event that assistance is provided for multiple-year projects, grant awards will be made for a budget period of a single year's duration, with continuation awards made on a noncompetitive basis subject to satisfactory performance as determined under 45 CFR 121h.4(b) and the availability of funds in future fiscal years.

E. *Applicable Regulations.* The regulations applicable to this program include the Office of Education General Provisions Regulations (45 CFR Parts 100 and 100a) and the applicable program regulations (45 CFR Parts 121 and 121h).

A proposed revision to the program regulations (45 CFR Part 121h) was published on February 28, 1978 (43 FR 8228–8232). Applicants should submit applications based upon that notice of proposed rulemaking. Applicants will be permitted to amend their applications if the final regulations reflect changes in the requirements for the receipt of grant awards.

(20 U.S.C. 1441, 1442)

13.586—BILINGUAL VOCATIONAL INSTRUCTOR TRAINING PROGRAM

CLOSING DATE: NOVEMBER 1, 1978

Applications are invited for new projects under the Bilingual Vocational Instructor Training Program.

Authority for this program is contained in section 186 of the Vocational Education Act of 1963, as amended.

(20 U.S.C. 2416)

This program makes grants and awards assistance contracts to State agencies, public and private nonprofit educational institutions, and private for-profit educational institutions which are eligible only for contracts.

The purpose of the awards is to provide training programs for instructors possessing both the job knowledge and skills and the dual language capabilities required for instruction of persons of limited English-speaking ability.

Closing Date for Transmittal of Applications. Applications for awards must be mailed (postmarked) or hand delivered by November 1, 1978.

Applications Delivered by Mail. An application sent by mail must be ad-

dressed to the U.S. Office of Education, Application Control Center, Attention: 13.586, Washington, D.C. 20202.

Proof of mailing must consist of a legible U.S. Postal Service dated postmark or a legible mail receipt with the date of mailing stamped by the U.S. Postal Service. Private metered postmarks or mail receipts will not be accepted without a legible date stamped by the U.S. Postal Service.

NOTE: The U.S. Postal Service does not uniformly provide a date postmark. Applicants should check with their local post office before relying on this method.

Applicants are encouraged to use registered or at least first class mail.

Each late applicant will be notified that its application will not be considered in the current competition.

Applications Delivered by Hand. An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, Seventh and D Streets, SW., Washington, D.C.

The Application Control Center will accept hand-delivered applications between 8 a.m. and 4 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

Applications that are hand delivered will not be accepted after 4 p.m. on the closing date.

Program Information. Applications are being accepted for the Bilingual Vocational Instructor Training Program, which is authorized to make grants and award assistance contracts to:

(1) State agencies;

(2) Public and private nonprofit educational institutions; and

(3) Private for profit educational institution which are eligible only for contracts.

Twenty-five percent of the funds available under section 183 of the Act may be used by the Commissioner to award grants or contracts for the cost of operating programs designed to carry out the purposes set forth in section 186 of the Act.

All awards will be new; no funds are reserved for continuation awards. A request for funding by an applicant who has had a prior award should include an evaluation of the prior award.

Projects are normally one year in duration; the maximum awards will not exceed 12 months.

Available Funds. Approximately $700,000 is anticipated for the Bilingual Vocational Instructor Training Program for fiscal year 1979.

It is estimated that these funds could support three projects.

The anticipated award for projects will be between $175,000 and $233,000.

These estimates do not bind the U.S. Office of Education, except as may be required by the applicable statute and regulations.

Application Forms. Application forms and program information packages are available and may be obtained by writing to the Division of Research and Demonstration, Bilingual Vocational Instructor Training Program, the U.S. Office of Education, Room 5026, Regional Office Building 3, 400 Maryland Avenue SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

Applicable Regulations. The regulations applicable to this program are:

(a) Office of Education General Provisions Regulations (45 CFR Parts 100, 100a), and

(b) Bilingual Vocational Instructor Program Regulation (45 CFR Part 105, sections 611-617).

Further Information. For further information, contact Dr. Doris V. Gunderson, Program Specialist, U.S. Office of Education, Room 5026, Regional Office Building 3, 400 Maryland Avenue SW., Washington, D.C. 20202, telephone 202-245-2614. (20 U.S.C. 2416; 45 CFR Part 105, sections 611-617.)

FULBRIGHT-HAYS TRAINING GRANTS

13.438—FACULTY RESEARCH ABROAD PROGRAM
13.439—FOREIGN CURRICULUM CONSULTANTS PROGRAM
13.440—GROUP PROJECTS ABROAD PROGRAM
13.441—DOCTORAL DISSERTATION RESEARCH ABROAD PROGRAM

CLOSING DATE: NOVEMBER 3, 1978

Applications are invited for new projects under the Fulbright-Hays training grants—Faculty Research Abroad, Foreign Curriculum Consultants, Group Projects Abroad, and Doctoral Dissertation Research Abroad programs.

Authority for these programs is contained in section 102(b)(6) of the Mutual Educational and Cultural Exchange Act of 1961.

(22 U.S.C. 2452(b)(6))

Eligible applicants for Fulbright-Hays training awards are as follows:

A. For the Faculty Research Abroad program, accredited institutions of higher education;

B. For the Foreign Curriculum Consultants program, accredited institutions of higher education, State departments of education, local public school systems, private nonprofit educational organizations, and consortiums of such entities;

C. For the Group Projects Abroad program, accredited institutions of higher education, State departments of education, private nonprofit educational organizations, and consortiums of such entities;

D. For the Doctoral Dissertation Research Abroad program, accredited institutions of higher education which offer doctoral programs in the fields of foreign languages and area studies.

The purpose of the awards is to improve and develop modern foreign language and area studies in the educational structure of the United States.

Closing Date for Transmittal of Applications. Applications for awards must be mailed (postmarked) or hand delivered by November 3, 1978.

Applications Delivered by Mail. An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.438; 13.439; 13.440; or 13.441, Washington, D.C. 20202.

Proof of mailing must consist of a legible U.S. Postal Service dated postmark or legible mail receipt with the date of mailing stamped by the U.S. Postal Service. Private metered postmarks or mail receipts will not be accepted without a legible date stamped by the U.S. Postal Service.

NOTE.—The U.S. Postal Service does not uniformly provide a dated postmark. Applicants should check with their local post office before relying on this method.

Applicants are encouraged to use registered or at least first class mail.

Each late applicant will be notified that its application will not be considered in the current competition.

Applications Delivered by Hand. An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets SW., Washington, D.C.

The Application Control Center will accept hand-delivered applications between 8 a.m. and 4 p.m. (Washington, D.C., time) daily, except Saturdays, Sundays, and Federal holidays.

Applications that are hand delivered will not be accepted after 4 p.m. on the closing date.

Program Information. Priorities, evaluation criteria, and eligibility requirements for the Faculty Research Abroad, Foreign Curriculum Consultants, Group Projects Abroad, and Doctoral Dissertation Research Abroad programs were published in the FEDERAL REGISTER on March 9, 1976 (41 FR 10200).

Available Funds. Approximately $3,000,000 and $2,000,000 in special foreign currencies, is anticipated for the Faculty Research Abroad, Foreign Curriculum Consultants, Group Projects Abroad, and Doctoral Dissertation Research Abroad programs in fiscal year 1979.

It is estimated that these funds could support the following distribution of awards:

A. Seventy-six Faculty Research Abroad fellows at an average cost of approximately $10,215;

B. Twenty Foreign Curriculum Consultants at an average cost of approximately $15,000;

C. Forth-two Group Projects Abroad at an average cost of approximately $60,860;

D. Ninety-nine Doctoral Dissertation Research Abroad fellows at an average cost of approximately $13,392.

These estimates do not bind the U.S. Office of Education, except as may be required by the applicable statutes and regulations.

Application Forms. Application forms and program information packages are expected to be ready for mailing by August 23, 1978. They may be obtained by writing to the Division of International Education, U.S. Office of Education, Room 3923, Regional Office Building 3, 400 Maryland Avenue SW., Washington, D.C. 20202.

Applicable Regulations: The regulations applicable to these programs are:

(a) Office of Education General Provisions Regulations (45 CFR Parts 100 and 100a), and

(b) Regulations governing the Higher Education Programs in Modern Foreign Language Training and Area Studies (45 CFR Part 148).

Further Information. For further information contact Dr. Robert C. Suggs, Fulbright-Hays Training Grants, Division of International Education, ISB, U.S. Office of Education, Room 3923, Regional Office Building 3, 400 Maryland Avenue SW., Washington, D.C. 20202, telephone 202-245-2356.

(22 U.S.C. 2452(b)(6))

13.406—College Library Resources Program

CLOSING DATE: NOVEMBER 6, 1978

Applications are invited for basic grants under the College Library Resources Program.

Authority for this program is contained in sections 201-208 of the Higher Education Act of 1965, as amended.

(20 U.S.C. 1021-1028.)

This program issues awards to institutions of higher education (applying on their own behalf or on behalf of branches), combinations of those institutions, new institutions of higher education (as defined in 45 CFR Part 131.2), and other public and private nonprofit library agencies whose primary function is to provide library and information services to institutions of higher education of formal cooperative basis.

The purpose of the awards is to assist institutions of higher education in the acquisition of library materials.

Closing Date for Transmittal of Applications. Applications for awards must be mailed (postmarked) or hand delivered by November 6, 1978.

Applications Delivered by Mail. An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.406, Washington D.C. 20202.

Proof of mailing must consist of a legible U.S. Postal Service dated postmark or a legible mail receipt with the date of mailing stamped by the U.S. Postal Service. Private Metered postmarks or mail receipts will not be accepted without a legible date stamped by the U.S. Postal Service.

NOTE: The U.S. Postal Service does not uniformly provide a dated postmark. Applicants shoud check with their local post office before relying on this method.

Applicants are encouraged to use registered or at least first class mail.

Each late applicant will be notified that its application will not be considered in the current competition.

Applications Delivered by Hand. An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets SW., Washington, D.C.

The Application Control Center will accept hand-delivered applications between 8 a.m. and 4 p.m. (Washington, D.C., time) daily, except Saturdays, Sundays, and Federal holidays.

Applications that are hand delivered will not be accepted after 4 p.m. on the closing date.

Program Information. In light of the number of basic grant applications expected, it is anticipated that funds will not be available in fiscal year 1979 for supplemental and special purpose grants, which are also specified in 45 CFR Part 131. Basic grant requests may not exceed $5,000. To be considered for a basic grant, applicant institutions must be certified as eligible by the Office of Education's Division of Eligibility and Agency Evaluation and must meet the maintenance-of-effort requirements for both library materials and total library purposes, as set forth in 45 CFR Part 131.

Available Funds. Approximately $9,975,000 is anticipated for the College Library Resources Program in fiscal year 1979. It is also anticipated that approximately 2,600 awards will be made in the basic grant category, and that the average amount per award will be approximately $3,900. All of these will be new awards; no funds are reserved for continuation awards. Grants will support activities to be carried out in fiscal year 1980 (October 1, 1979-September 30, 1980).

These estimates do not bind the U.S. Office of Education, except as may be required by the applicable statute and regulations.

Application Forms. Application forms and program information packages are expected to be ready for mailing by September 22, 1978. They may be obtained by writing to the Library Education and Postsecondary Resources Branch, U.S. Office of Education, Room 3622, Regional Office Building 3, 400 Maryland Avenue SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

Applicable Regulations. The regulations applicable to this program are:

(a) Office of Education General Provisions Regulations (45 CFR Part 100 and 100a), and

(b) Regulations governing the college library resources program (45 CFR Part 131).

Further Information. For further information contact Frank A. Stevens, Chief, Library Education and Postsecondary Resources Branch, DLP, U.S. Office of Education, Room 3622, Regional Office Building 3, 400 Maryland Avenue SW., Washington, D.C. 20202, telephone 202-245-9530.

(20 U.S.C. 1021-1028.)

13.565A and 13.565B—Women's Educational Equity Act Program

CLOSING DATE: NOVEMBER 17, 1978

Applications are invited for new general (13.565A) and small (13.565B) grants under the Women's Educational Equity Act Program.

Authority for this program is contained in section 408 of the Education Amendments of 1974, as amended.

(20 U.S.C. 1866.)

This program issues awards to public agencies, private nonprofit organizations, and individuals.

The purpose of the awards is to develop educational materials and model programs designed to promote women's educational equity. The materials and programs are developed for replication throughout the United States.

Closing Date for Transmittal of applications. Applications for awards must be mailed (postmarked) or hand delivered by November 17, 1978.

Applications Delivered by Mail. An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center Attention: 13.565A for general grants and 13.565B for small grants, Washington, D.C. 20202.

Proof of mailing must consist of a legible U.S. Postal Service dated postmark or a legible mail receipt with the date of mailing stamped by the U.S. Postal Service. Private metered postmarks or mail receipts will not be accepted without a legible date stamped by the U.S. Postal Service.

NOTE.— The U.S. Postal Service does not uniformly provide a dated postmark. Applicants should check with their local post office before relying on this method.

Applicants are encouraged to use registered or at least first class mail.

Each late applicant will be notified that its application will not be considered in the current competition.

Applications Delivered by Hand. An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, Seventh and D Streets SW., Washington, D.C.

The Application Control Center will accept hand-delivered applications between 8 a.m. and 4 p.m. (Washington, D.C., time) daily, except Saturdays, Sundays, and Federal holidays.

Applications that are hand delivered will not be accepted after 4 p.m. on the closing date.

Program Information. The existing regulations for the Women's Educational Equity Act Program (WEEAP) do not specify priorities for funding. However, in the interest of assisting applicants desiring to participate in this program, the following comments are offered. In the past 3 years WEEAP has supported a variety of types of preservice and inservice training development projects for teachers and administrators at both the elementary and secondary level and the post secondary level.

Model programs have been developed for unemployed and underemployed adult women, women reentering education, and also women and girls in mathematics and engineering. This does not mean that WEEAP will not continue to support projects in these areas that present a new, difficult, or innovative approach but, rather, that it will hesitate to support identical projects.

The Second Annual Report on the WEEAP contains descriptions of all projects funded in fiscal year 1977. Copies are available from the Women's Program Staff, 400 Maryland Avenue SW, Washington, D.C., 20202.

No preapplication will be required for Fiscal Year 1979.

Available Funds. Approximately $4,100,000 is expected to be available for new grant awards under the WEEAP in fiscal year 1979.

It is estimated that these funds could support approximately 30-35 small grants ($15,000 or less) and 40-45 general grants.

The anticipated award for new general grants will be between $35,00 and $175,000.

These estimates do not bind the U.S Office of Education, except as may be required by the applicable statute and regulations.

Application Forms. Application forms and program information packages are expected to be ready for mailing by September 18, 1978. They will be sent directly to everyone on the Women's Educational Equity Act Program's mailing list. Persons not on the mailing list can obtain the material from the Women's Program Staff, U.S. Office of Education, Room 2147, 400 Maryland Avenue SW, Washington, D.C. 20202

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

Special procedures. Concurrently with the submission of its application to the Commissioner, a local educational agency (LEA) must provide a copy of its application to the State educational agency (SEA) of the State in which the LEA is located. For verification of submission to the SEA, the LEA applicant must enclose in its application to the Office of Education a copy of the dated cover letter used to forward a copy of its application to the SEA. An SEA wishing to submit advice and comment on any LEA application originating within its State may do so by forwarding the advice and comment to the Women's Program Staff, U.S. Office of Education, Room 2147, 400 Maryland Avenue SW., Washington, D.C. 20202. Advice and comments received from SEA's will be considered in reviewing these applications if they are received no later than December 1, 1978, regarding LEA applications for new general and small grants.

Applicable regulations. The regulations applicable to this program are:

(a) Office of Education General Provisions Regulations (45 CFR Parts 100 and 100a), and

(b) Regulations governing the Women's Educational Equity Act Program (45 CFR Part 160f).

Further information. For further information contact Dr. Joan E. Duval, Director, Women's Program Staff, U.S. Office of Education, Room 2147, 400 Maryland Avenue SW., Washington, D.C. 20202, telephone 202-245-2181.

(20 U.S.C. 1866.)

13.566—ARTS EDUCATION PROGRAM

CLOSING DATE: NOVEMBER 21, 1978

Applications are invited for new projects under the Arts Education Program.

Authority for this program is contained in section 409 of the Education Amendments of 1974, Pub. L. 93-380.

(20 U.S.C. 1867.)

This program issues awards to State educational agencies (SEA's) and to local educational agencies (LEA's) for projects in which the arts are an integral part of elementary and secondary school education.

Closing date for transmittal of applications. Applications for awards must be mailed (postmarked) or hand delivered by November 21, 1978.

Applications delivered by mail. An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13:566, Washington, D.C. 20202.

Proof of mailing must consist of a legible U.S. Postal Service dated postmark or a legible mail receipt with the date of mailing stamped by the U.S. Postal Service. Private metered postmarks or mail receipts will not be accepted without a legible date stamped by the U.S. Postal Service.

NOTE.—The U.S. Postal Service does not uniformly provide a dated postmark. Applicants should check with their local post office before relying on this method.

Applicants are encourged to use registered or at least first-class mail.

Each late applicant will be notified that its application will not be considered in the current competition.

Applications delivered by hand. An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, Seventh and D Streets SW., Washington, D.C.

The Application Control Center will accept hand-delivered applications between 8 a.m. and 4 p.m. (Washington, D.C., time) daily, except Saturdays, Sundays, or Federal holidays.

Applications will not be accepted after 4 p.m. on the closing date.

Program information. Under proposed amendments passed by the House of Representatives or the Senate Committee on Human Resources, the existing authority for the Arts Education Program (secs. 402 and 409 of the Education Amendments of 1974) would be replaced by a new statutory authority. Although one or both of these bills would make the new program authority effective in fiscal year 1979, the new authority can take effect only if funds are appropriated to implement it.

The 1979 appropriation request for the Arts Education Program is based upon the existing statutory authority for the program, not the proposed new authority. The request is being reviewed on the basis of the existing statutory authority. We therefore assume that funds will be appropriated for the Arts Education Program under its existing authority and that grants will be made in FY 1979 under the existing Arts Education regulation. Applications therefore are invited under the existing regulation.

Available funds. Fiscal year 1979 funds have not yet been appropriated; however, as provided by law a minimum of $750,000 will be available to the Arts Education Program.

The anticipated award for new projects will be between $5,000 and $10,000.

These estimates do not bind the U.S. Office of Education except as may be required by the applicable statute and regulations.

Application forms. Application forms and program information packages are expected to be ready for mailing by September 18, 1978. They may be obtained by writing to the Arts and Humanities Staff, U.S. Office of Education (Room 3728, Donohoe Building), 400 Maryland Avenue SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

Special procedures. A local educational agency must provide a copy of its application to the State educational agency of the State within which the applicant is located at the same time it submits an application to the Office of Education. The LEA applicant must include, in its application to the Commissioner, a statement that this has been accomplished. The State educational agency, in consultation with the State Alliance for Arts Education Committee, if any, has an opportunity to review and comment on the application. A State educational agency wishing to submit advice and comment on an LEA application originating within its State may do by forwarding such advice and comment to the Arts and Humanities Staff, U.S. Office of Education, 400 Maryland Avenue SW. (Room 3728, Donohoe Building), Washington, D.C. 20202.

Applicable regulations. The regulations applicable to this program are:

(a) Office of Education General Provisions Regulations which were published in the FEDERAL REGISTER on November 6, 1973, at 30653, as amended (45 CFR Parts 100, 100a, and appendices).

(b) The regulation for the Arts Education Program published in the FEDERAL REGISTER on April 26, 1976, at 17390 (45 CFR Part 160g).

(20 U.S.C. 1867.)

Further information. For further information contact the Arts and Humanities Staff, U.S. Office of Education (Room 3728, Donohoe Building), 400 Maryland Avenue SW., Washington, D.C. 20202, telephone 202-472-7793.

(20 U.S.C. 1867.)

13.580—GRADUATE AND PROFESSIONAL OPPORTUNITIES PROGRAM

CLOSING DATE: NOVEMBER 22, 1978

Applications are invited for new and continuation projects under the Graduate and Professional Opportunities program.

Authority for this program is contained in Title IX, Parts A and B of the Higher Education Act of 1965, as amended.

(20 U.S.C. 1134 et seq.)

This program issues awards to institutions or combinations of institutions of higher education.

The purpose of the awards is to develop training programs at institutions of higher education by providing fellowships for graduate and professional study to members of groups, particularly minorities and women, that have traditionally been underrepresented among recipients of graduate and professional degrees.

Closing date for transmittal of applications. Applications for awards must be mailed (postmarked) or hand delivered by November 22, 1978.

Applications delivered by mail. An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.580, Washington, D.C. 20202.

Proof of mailing must consist of a legible U.S. Postal Service dated postmark or a legible mail receipt with the date of mailing stamped by the U.S. Postal Service. Private metered postmarks or mail receipts will not be accepted without a legible date stamped by the U.S. Postal Service.

NOTE.—The U.S. Postal Service does not uniformly provide a dated postmark. Applicants should check with their local post office before relying on this method.)

Applicants are encouraged to use registered or at least first class mail.

Each late applicant will be notified that its application will not be considered in the current competition.

Applications delivered by hand. An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, Seventh and D Streets SW., Washington, D.C.

The Application Control Center will accept hand-delivered applications between 8 a.m. and 4 p.m. (Washington, D.C., time) daily, except Saturdays, Sundays, and Federal holidays.

Applications that are hand delivered will not be accepted after 4 p.m. on the closing date.

Program information. Preference will be given to training programs that speak directly to those academic or professional studies of high national priority in which minorities and women are underrepresented (except those, such as medicine, which receive substantial funding under other Federal programs). Generally, no fewer than three to five new fellowships will be allocated to each approved program; institutions may receive support in a total of no more than five such program areas. Institutional grant awards under Part A may be used in conjunction with fellowship awards to augment or provide special services in such related fields as recruitment, orientation programs before or during the academic year, and efforts at retention which include a variety of supportive services.

Available funds. Approximately $8 million is anticipated for the graduate and professional opportunities program during the academic year 1979-80.

It is estimated that these funds will provide support for those individuals in good standing to continue their studies, and for approximately 500 new fellowships. About $1.3 million will also support the continuation of some institutional grants and up to 50 new awards where evidence indicates strong ties with the fellowship program (under Part B), especially in such areas as recruitment and retention.

These estimates do not bind the U.S. Office of Education except as may be required by the applicable statute and regulations.

Application forms. Application forms and program information packages are expected to be ready for mailing by September 22, 1978. They may be obtained by writing to the Graduate Training Branch, U.S. Office of Education, (Room 3060, Regional Office Building 3), 400 Maryland Avenue SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

Special procedures. An application for an institutional grant shall provide assurance that the institution has notified the appropriate State Commission (established or designated under section 1202 of the Higher Education Act of 1965, as amended) and that the State commission has been given the

opportunity to offer recommendations on the application to the institution and to the Commissioner.

Applicable regulations. The regulations applicable to this program are:

(a) Office of Education General Provisions Regulations (45 CFR Parts 100 and 100a), and

(b) Regulations governing Graduate and Professional Study Fellowships and Institutional Grants (45 CFR Part 179), published on March 6, 1978 in the FEDERAL REGISTER and included in the application package.

For further information contact. Dr. Donald N. Bigelow, Graduate Training Branch, U.S. Office of Education, (Room 3060, Regional Office 3), 400 Maryland Avenue SW., Washington, D.C. 20202, telephone 202-245-2347.

(20 U.S.C. 1134 et seq.)

13.482—SPECIAL SERVICES FOR DISADVANTAGED STUDENTS PROGRAM

13.488—TALENT SEARCH PROGRAM

13.492—UPWARD BOUND PROGRAM

CLOSING DATE: NOVEMBER 27, 1978

Applications are invited for noncompeting continuation projects under the Special Services, Talent Search, and Upward Bound programs.

Authority for these programs is contained in section 417B of the Higher Education Act of 1965, as amended.

(20 U.S.C. 1070d-1070d-1)

These programs issue awards to institutions of higher education, combinations of institutions of higher education, and public and private agencies and organizations. In exceptional cases, the Upward Bound and Talent Search programs issue awards to secondary schools and secondary vocational schools.

The purpose of the awards is to assist applicants to carry out projects designed to identify students from low-income families, to prepare them for a program of postsecondary education, and to provide special services for those students who are pursuing programs of postsecondary education.

Closing date for transmittal of applications. To be assured of consideration for funding, applications for noncompeting continuation awards should be mailed or hand delivered by November 27, 1978.

If the application is late, the Office of Education may lack sufficient time to review it with other noncompeting continuation applications and decline to accept it.

Applications delivered by mail: An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.482 (for Special Services for Disadvantaged Students), 13.488 (for Talent Search), 13.492 (for Upward Bound), Washington, D.C. 20202. (Applications for National Demonstration projects use the suffix "A" with the appropriate number(s); all other applications should use the suffix "B".)

Applicants are encouraged to use registered or at least first class mail.

Applications delivered by hand: An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, Seventh and D Streets SW., Washington, D.C.

The Application Control Center will eccept hand-delivered applications between 8 a.m. and 4 p.m. (Washington, D.C., time) daily, except Saturdays, Sundays, and Federal holidays.

Available funds: It is anticipated that funds will be available for continuation of projects at the prior year level.

Applications forms: Application forms and programs information packages are expected to be ready for mailing by September 25, 1978.

They may be obtained by writing to the Division of Student Services and Veterans Programs, Information Systems and Program Support Branch, U.S. Office of Education (Room 3514, Regional Office Building 3), 400 Maryland Avenue SW., Washington, D.C. 20202

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

Applicable regulations: The regulations applicable to this program are:

(a) Office of Education General Provisions Regulations (45 CFR Parts 100 and 100a), and

(b) Regulations governing the Upward Bound program (45 CFR Part 155), the Talent Search program (45 CFR 159) and the Special Services for Disadvantaged Students program (45 CFR Part 157)

Further information: For further information contact Ms. Velma L. Monteiro, Chief, Program Development Branch, Division of Student Services and Veterans Programs, U.S. Office of Education (Room 3514, Regional Office Building 3), 400 Maryland Avenue SW., Washington, D.C. 20202, telephone 202-245-2511.

(20 U.S.C. 1070d-1070d-1)

13.482—SPECIAL SERVICES FOR DISADVANTAGED STUDENTS PROGRAM

13.488—TALENT SEARCH PROGRAM

13.492—UPWARD BOUND PROGRAM

CLOSING DATE: NOVEMBER 27, 1978

Applications are invited for new projects under the Special Services, Talent Search, and Upward Bound programs.

Authority for these programs is contained in section 417B of the Higher Education Act of 1965, as amended.

(20 U.S.C. 1070d-1070d-1)

These programs issue awards to institutions of higher education, combinations of institutions of higher education, and public and private agencies and organizations. In exceptional cases, the Upward Bound and Talent Search programs issue awards to secondary schools and secondary vocational schools.

The purpose of the awards is to assist applicants to carry out projects designed to identify qualified students from low-income families, to prepare them for a program of postsecondary education, and to provide special services for those students who are pursuing programs of postsecondary education.

Closing date for transmittal of applications: Applications for new awards must be mailed (postmarked) or hand-delivered by November 27, 1978.

Applications delivered by mail: An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.482 (for Special Services for Disadvantaged Students), 13.488 (for Talent Search), 13.492 (for Upward Bound), Washington, D.C. 20202. (Applications for National Demonstration projects use the suffix "A" with the appropriate number(s); all other applications should use the suffix "B".)

Proof of mailing must consist of a legible U.S. Postal Service dated postmark or a legible mail receipt with the date of mailing stamped by the U.S. Postal Service. Private metered postmarks or mail receipts will not be accepted without a legible date stamped by the U.S. Postal Service.

NOTE.—The U.S. Postal Service does not uniformly provide a dated postmark. Applicants should check with their local post office before relying this method.

Applicants are encouraged to use registered or at least first class mail.

Each late applicant will be notified that its application will not be considered in the current competition.

Applications delivered by hand: An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, Seventh and D Streets SW., Washington, D.C.

The Application Control Center will accept hand-delivered applications between 8 a.m. and 4 p.m. (Washington, D.C., time) daily, except Saturdays, Sundays, or Federal holidays.

Applications that are hand delivered will not be accepted after 4 p.m. on the closing date.

Program information: The applications for new grants will be evaluated competitively under the published funding criteria for new awards in each program (Upward Bond—45 CFR 155.8(c), Talent Search—45 CFR 159.7(c), and Special Services—45 CFR 157.6(c)).

Applicants may apply for only one year of funding since program year 1979–80 (fiscal year 1979) is the final year of the current authorization.

Application Preparation Workshops will be conducted this Fall. For the time and location of these workshops contact the Program Development Branch (see address in section on Further Information).

Available funds: Approximatey $140,000,000 is anticipated to be available for the Special Programs for Students from Disadvantaged Backgrounds in fisal year 1979. It is estimated that $115,000,000 will be committed to noncompeting continuation projects. The remaining $25,000,000 will support new grants for Upward Bound, Talent Search, Special Services for Disadvantaged Students, and Educational Opportunity Centerts (see separate Notice of Closing Date announcement). The breakdown for new awards is estimated to be: $10,800,000 for Upward Bound, with approximately 90 grants averaging $120,000; $2,800,000 for Talent Search, with approximately 36 grants averaging $77,000; and $9,800,000 for Special Services, with approximately 119 grants averaging $82,350.

The processing of applications for these new projects will be subject to the availability of funds. These estimates do not bind the U.S. Office of Education except as may be required by the applicable statute and regulations.

Application forms: Application forms and program information packages are expected to be ready for mailing by September 25, 1978. They may be obtained by writing to the Division of Student Services and Veterans Programs, Information Systems and Program Support Branch, U.S. Office of Education (Room 3514, Regional Office Building 3), 400 Maryland Avenue, SW., Washington, D.C. 20202.

Application must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

Applicable regulations: The regulations applicable to these programs are:

(a) Office of Education General Provisions Regulations (45 CFR Parts 100 and 100a), and

(b) Regulations governing the Upward Bound program (45 CFR Part 155), the Talent Search program (45 CFR Part 159), and the Special Services for Disadvantaged Students program (45 CFR Part 157).

Further information: For further information contact Ms. Velma L. Monteiro, Chief, Program Development Branch, Division of Student Services and Veterans Programs, U.S. Office of Education (Room 3514, Regional Office Building 3), 400 Maryland Avenue SW., Washington, D.C., 20202, telephone 202-245-2511.

(20 U.S.C. 1070d-1070d-1.)

13.543—Educational Opportunity Centers Program

CLOSING DATE: NOVEMBER 27, 1978

Applications are invited for new projects under the Educational Opportunity Centers Program.

Authority for this program is contained in section 417b of the Higher Education Act of 1965, as amended.

(20 U.S.C. 1070d-1070d-1.)

This program issues awards to institutions of higher education, combinations of institutions of higher education, public and private agencies and organizations, and, in exceptional cases, secondary schools and secondary vocational schools.

The purpose of the awards is to assist applicants to carry out projects that serve areas with major concentrations of low-income populations by providing, in coordination with other applicable programs and services: Information concerning financial and academic support for persons living in the area who desire to pursue a program of postsecondary education; counseling, tutorial, and other necessary services to such persons while attending postsecondary institutions; and, assistance in applying for admission to postsecondary institutions including assistance in preparing necessary applications for use by admission and financial aid officers.

Closing date for transmittal of applications. Applications for awards must be mailed (postmarked) or hand delivered by November 27, 1978.

Applications delivered by mail. An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.543, Washington, D.C. 20202.

Proof of mailing must consist of a legible U.S. Postal Service dated postmark or a legible mail receipt with the date of mailing stamped by the U.S. Postal Service. Private-metered postmarks or mail receipts will not be accepted without a legible date stamped by the U.S. Postal Service.

NOTE.—The U.S. Postal Service does not uniformly provide a dated postmark. Applicants should check with their local post office before relying on this method.

Applicants are encouraged to use registered or at least first class mail.

Each late applicant will be notified that its application will not be considered in the current competition.

Applications delivered by hand. An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, Seventh and D Streets, SW., Washington, D.C.

The Application Control Center will accept hand-delivered applications between 8 a.m. and 4 p.m. (Washington, D.C., time daily, except Saturdays, Sundays, or Federal holidays.

Applications that are hand delivered will not be accepted after 4 p.m. on the closing date.

Program information. The applications for new grants will be evaluated competitively under the published funding criteria for new awards—45 CFR 154.6(c).

Applicants may apply for only one year of funding since program year 1979–80 (fiscal year 1979) is the final year of the current authorization.

Application Preparation Workshops will be conducted this fall. For the time and location of these workshops, contact the Program Development Branch (see address in section on Further Information).

Available funds. Approximately $140,000,000 is anticipated to be available for the Special Programs for Students from Disadvantaged Backgrounds in fiscal year 1979. It is estimated that $115,000,000 will be committed to noncompeting continuation projects. The remaining $25,000,000 will support new grants for Upward Bound, Talent Search, and Special Services for Disadvantaged Students (see separate Notice of Closing Date announcement) and Educational Opportunity Centers. It is estimated that $1,200,000 will fund five to six new Educational Opportunity Center grants averaging $200,000–240,000.

The processing of applications for these new projects will be subject to the availability of funds. These estimates do not bind the U.S. Office of Education except as may be required by the applicable statute and regulations.

Application forms. Application forms and program information packages are expected to be ready for mailing by September 25, 1978. They may be obtained by writing to the Division of Student Services and Veterans Programs, Information Systems and Program Support Branch, U.S. Office of Education, (Room 3514, Regional Office Building 3), 400 Maryland Avenue SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

Applicable regulations. The regulations applicable to this program are:

(a) Office of Education General Provisions Regulations (45 CFR Parts 100 and 100a), and

(b) Regulations governing the Educational Opportunity Centers Program (45 CFR Part 154).

Further information. For further information contact Ms. Velma L. Monteiro, Chief, Program Development Branch, Division of Student Services and Veterans Programs, U.S. Office of Education (Room 3514, Regional Office Building 3), 400 Maryland Avenue SW., Washington, D.C. 20202, telephone 202-245-2511.

(20 U.S.C.—1070d—1070d-1).

13.543—Educational Opportunity Centers Program

CLOSING DATE: NOVEMBER 27, 1978

Applications are invited for noncompeting continuation projects under the Educational Opportunity Centers Program.

Authority for this program is contained in section 417B of the Higher Education Act of 1965, as amended.

(20 U.S.C. 1070d-1070d-1).

This program issues awards to institutions of higher education, combinations of institutions of higher education, public and private agencies, and organizations, and, in exceptional cases, secondary schools and secondary vocational schools.

The purpose of the awards is to assist applicants to carry out projects that serve areas with major concentrations of low-income populations by providing, in combination with other applicable programs and services: Information concerning financial and academic support for persons living in the area who desire to pursue a program of postsecondary education; counseling, tutorial, and other necessary services to such persons while attending postsecondary institutions; and assistance in applying for admission to postsecondary institutions including assistance in preparing necessary applications for use by admission and financial aid officers.

Closing date for transmittal of applications. To be assured of consideration for funding, applications for noncompeting continuation awards should be mailed or hand delivered by November 27, 1978.

If the application is late, the Office of Education may lack sufficient time to review it with other noncompeting continuation applications and may decline to accept it.

Applications delivered by mail. An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.543, Washington, D.C. 20202.

Applicants are encouraged to use registered or at least first class mail.

Applications delivered by hand. An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, Seventh and D Streets SW., Washington, D.C.

The Application Control Center will accept hand-delivered applications between 8 a.m. and 4 p.m. (Washington, D.C., time) daily except Saturdays, Sundays, and Federal holidays.

Available funds. It is anticipated that funds will be available for continuation of projects at the prior year level.

Application forms. Application forms and program information packages are expected to be ready for mailing by September 25, 1978. They may be obtained by writing to the Division of Student Services and Veterans Programs, Information Systems and Program Support Branch, U.S. Office of Education (Room 3514, Regional Office Building 3), 400 Maryland Avenue SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

Applicable regulations. The regulations applicable to this program are:

(a) Office of Education General Provisions Regulations (45 CFR Parts 100 and 100a), and

(b) Regulations governing the Educational Opportunity Centers Program (45 CFR Part 154).

Further information. For further information contact Ms. Velma L. Monteiro, Chief, Program Development Branch, Division of Student Services and Veterans Programs, U.S. Office of Education, (Room 3514, Regional Office Building 3), 400 Maryland Avenue SW., Washington, D.C. 20202, telephone: 202-245-2511.

(20 U.S.C. 1070d-1070d-1).

13.489D—Teacher Corps Program 79 (New Projects)

CLOSING DATE: NOVEMBER 30, 1978

Applications are invited for new projects under the Teacher Corps Program.

Authority for this program is contained in Title V-A of the Higher Education Act of 1965, as amended.

(20 U.S.C. 1101-1107a)

This program issues awards to institutions of higher education, local educational agencies and State educational agencies (and correctional facilities, in the case of "youth advocacy" projects) to develop and operate Teacher Corps projects.

The purpose of the awards under the Teacher Corps program is strengthening the educational opportunities available to children in areas having concentrations of low-income families, encouraging colleges and universities to broaden their programs of teacher preparation, and encouraging institutions of higher education and local educational agencies to improve programs of training and retraining for teachers, teacher aides, and other educational personnel.

Closing date for transmittal of applications: Applications for awards must be mailed (postmarked) or hand delivered by November 30, 1978.

Applications delivered by mail: An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.489D, Washington, D.C. 20202.

Proof of mailing must consist of a legible U.S. Postal Service dated postmark or a legible mail receipt with the date of mailing stamped by the U.S. Postal Service. Private metered postmarks or mail receipts will be accepted without a legible date stamped by the U.S. Postal Service.

NOTE:—The U.S. Postal Service does not uniformly provide a dated postmark. Applicants should check with their local post office before relying on this method.

Applicants are encouraged to use registered or at least first class mail.

Each late applicant will be notified that its application will not be considered in the current competition.

Applications delivered by hand: An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, Seventh and D Streets, SW., Washington, D.C.

The Application Control Center will accept hand-delivered applications between 8 a.m. and 4 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

Applications that are hand delivered will not be accepted after 4:00 p.m. on the closing date.

Available funds: It is anticipated that $6,000,000 will be available to fund approximately 40 new projects. The total amount awarded to each project will be limited to not more than $150,000.

These estimates do not bind the U.S. Office of Education except as may be required by the applicable statute and regulations.

Application forms: Application forms and program information packages are expected to be ready for mail-

ing by September 28, 1978. They may be obtained by writing to Teacher Corps, Operations Branch, U.S. Office of Education (Room 1725, Donohoe Building), 400 Maryland Avenue SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

Special procedures: Applicants must comply with the following procedures as well as those in the Teacher Corps regulation. These additional requirements were subjected to public comment as part of the notice of proposed rulemaking which preceded the final regulation, and were adopted after consideration of that public comment.

1. An application for the initial project year may not be more than 100 double-spaced typewritten pages. An application for continuation of funding after the initial project year is not subject to this limitation on length. An application must be signed by: (a) The president or other authorized official of each institution of higher education; (b) the superintendent or other authorized official of each local educational agency; (c) the chairperson of the community council; (d) if a State educational agency participates, the Chief State School Officer; and (e) in the case of an application for a youth advocacy project, the authorized official of each correctional facility.

2. To be considered for funding an application must be submitted to and approved by the State educational agency of the State in which the applicant is located. The State educational agency's approval must be in writing, signed by the Chief State School Officer, and attached to the application which is submitted to the U.S. Office of Education.

3. An application must describe the stipends and compensation (including insurance and travel expenses) which will be paid to: (a) Teacher-interns; (b) teachers; (c) volunteers; (d) other educational personnel; (e) project staff; and (f) the project director. An application must also describe the amount and proposed use of funds requested for training Teacher Corps members and for the secretarial and administrative expenses of the community council.

4. In satisfaction of the requirements in §§ 172.123(a)(1) and (2), 172.124(a), and 172.126 of the Teacher Corps regulation, applicants may submit catalogs or other descriptive material already developed for other purposes. If the information included in an initial application in response to §§ 172.122, 172.123, 172.124, 172.125, and 172.126 of the regulation remains unchanged, an application for continuation funding need not respond to these sections.

Applicable regulations: The regulations applicable to this program are:

(a) Office of Education General Provisions Regulations (45 CFR Parts 100 and 100a), and

(b) The regulation governing the Teacher Corps Program (45 CFR Part 172).

Further information: For further information contact Dr. Preston M. Royster, Chief, Operations Branch, Teacher Corps, U.S. Office of Education (Room 1725, Donohoe Building), 400 Maryland Avenue SW., Washington, D.C. 20202, telephone 202-245-8272.

13.468—Library Training Program

CLOSING DATE: DECEMBER 1, 1978

Applications are invited for new projects under the Library Training Program.

Authority for this program is contained in sections 201, 221, and 222 of the Higher Education Act of 1965, as amended.

(20 U.S.C. 1021, 1031, 1033.)

This program issues awards to institutions of higher education and other nonprofit library agencies and organizations.

The purpose of the awards is to assist in training persons in librarianship through the conduct of institutes, traineeships and fellowship programs.

Closing date for transmittal of applications: Applications for awards must be mailed (postmarked) or hand delivered by December 1, 1978.

Applications delivered by mail: An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.468, Washington, D.C. 20202.

Proof of mailing must consist of a legible U.S. Postal Service dated postmark or a legible mail receipt with the date of mailing stamped by the U.S. Postal Service. Private metered postmarks or mail receipts will not be accepted without a legible date stamped by the U.S. Postal Service.

NOTE.—The U.S. Postal Service does not uniformly provide a dated postmark. Applicants should check with their local post office before relying on this method.

Applicants are encouraged to use registered or at least first-class mail.

Each late applicant will be notified that its application will not be considered in the current competition.

Applications delivered by hand: An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, Seventh and D Streets SW., Washington, D.C.

The Application Control Center will accept hand-delivered applications between 8 a.m. and 4 p.m. (Washington, D.C., time) daily, except Saturdays, Sundays, and Federal holidays.

Applications that are hand delivered will not be accepted after 4 p.m. on the closing date.

Program information: Priorities for new awards in fiscal year 1979 are contained in §§ 132.10, 132.11, and 132.12 of the program regulations. (45 CFR Part 132.)

Available funds: Approximately $2,000,000 is anticipated for the Library Training Program in fiscal year 1979, at least 50 percent of which must be allocated for fellowship/traineeship grants.

It is estimated that these funds could support 50 new projects and 9 competing continuation projects.

The anticipated award for new projects will be $1,765,000.

These estimates do not bind the U.S. Office of Education except as may be required by the applicable statute and regulations.

Application forms: Application forms and program information packages are expected to be ready for mailing by September 25, 1978. They may be obtained by writing to the Library Education and Postsecondary Resources Branch, U.S. Office of Education (Room 3622, Regional Office Building 3), 400 Maryland Avenue SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions and forms included in the program information packages.

Applicable regulations: The regulations applicable to this program are: (a) Office of Education General Provisions Regulations (45 CFR Parts 100 and 100a), and

(b) Regulations governing the Library Training Program (45 CFR Part 132).

Further information: For further information contact Mr. Frank A. Stevens, Chief, Library Education and Postsecondary Resources Branch, U.S. Office of Education (Room 3622, Regional Office Building 3), 400 Maryland Avenue, Washington, D.C. 20202, telephone 202-245-9530.

(20 U.S.C. 1021, 1031, and 1033.)

13.558—Bilingual Vocational Training Program

CLOSING DATE: DECEMBER 1, 1978

Applications are invited for new projects under the Bilingual Vocational Training Program.

Authority for this program is contained in section 184 of the Vocational Education Act of 1963, as amended.

(20 U.S.C. 2414.)

This program makes grants or awards assistance contracts to local educational agencies, State agencies, postsecondary educational institutions, private nonprofit vocational training institutions; nonprofit educational or training organizations especially created to serve a group whose language as normally used is other than English, and private for profit agencies and organizations which are eligible only for contracts.

The purpose of the awards is to provide bilingual vocational training to persons of limited English-speaking ability who are unemployed or underemployed and who are unable to benefit from English vocational training.

Closing date for transmittal of applications: Applications for awards must be mailed (postmarked) or hand delivered by December 1, 1978.

Applications delivered by mail: An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.558, Washington, D.C. 20202.

Proof of mailing must consist of a legible U.S. Postal Service dated postmark or a legible mail receipt with the date of mailing stamped by the U.S. Postal Service. Private metered postmarks or mail receipts will not be accepted without a legible date stamped by the U.S. Postal Service.

NOTE.—The U.S. Postal Service does not uniformly provide a dated postmark. Applicants should check with their local post office before relying on this method.

Applicants are encouraged to use registered or at least first class mail.

Each late applicant will be notified that its application will not be considered in the current competition.

Application delivered by hand: An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, seventh and D Streets SW., Washington D.C.

The Application Control Center will accept hand-delivered applications between 8 a.m. and 4 p.m. (Washington, D.C., time) daily, except Saturdays, Sundays, and Federal holidays.

Applications that are hand delivered will not be accepted after 4 p.m. on the closing date.

Program information: Applications are being accepted for the Bilingual Vocational Training Program, which is authorized to make grants or award assistance contracts to:

(1) Local education agencies;

(2) State agencies;

(3) Postsecondary educational institutions;

(4) Private nonprofit vocational training institutions;

(5) Nonprofit educational or training organizations especially created to serve a group whose language as normally used is other than English; and

(6) Private for profit agencies and organizations which are eligible only for contracts.

Sixty-five percent of the funds available under section 183 of the Act may be used by the Commissioner to award grants or assistance contracts for the cost of operating programs designed to carry out the purposes set forth in section 184 of the Act.

Projects are normally 1 year in duration; the maximum awards will not exceed 12 months.

All awards will be new; no funds are reserved for continuation awards. A request for funding by an applicant who has had a prior award(s) should include an evaluation of the prior award(s).

Available funds: Approximately $1,820,000 is anticipated for the Bilingual Vocational Training Program in fiscal year 1979.

It is estimated that these funds could support 12 projects.

The anticipated award for new projects will be between $130,000 and $150,000.

These estimates do not bind the U.S. Office of Education except as may be required by the applicable statute and regulations.

Application forms: Application forms and program information packages are available and may be obtained by writing to the Division of Research and Demonstration, Bilingual Vocational Training Program, the U.S. Office of Education (Room 5026, Regional Office Building 3), 400 Maryland Avenue SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

Special procedures: An applicant must provide a copy of the application to the State board at the same time it is submitted to the Office of Education. The State board shall submit comments upon the application within thirty days after the closing date for applications.

Applicable regulations: The regulations applicable to this program are:

(a) Office of Education General Provisions Regulations (45 CFR Parts 100, 100a), and

(b) Regulations governing the Bilingual Vocational Training Program (45 CFR Part 105, sections 601-607).

Further information: For further information contact Dr. Doris V. Gunderson, Program Specialist, U.S. Office of Education, (Room 5026, Regional Office Building 3), 400 Maryland Avenue SW., Washington, D.C. 20202, telephone 202-245-2614.

(20 U.S.C. 2414; 45 CFR Part 105)

13.525, 13.526, 13.528, 13.529, 13.532, 13.589, and 13.590—EMERGENCY SCHOOL AID ACT

CLOSING DATE—DECEMBER 4, 1978

Applications are invited for new projects under the following Emergency School Aid Act programs:

1. Basic grants to local educational agencies under section 706(a) of the Act;

2. Pilot project grants to local educational agencies under section 706(b) of the Act;

3. Grants under section 708(b) of the Act to public or private nonprofit organizations other than local educational agencies;

4. Bilingual project grants to local educational agencies and private nonprofit organizations under section 708(c) of the Act;

5. Special project grants to local educational agencies under section 708(a) of the Act, to assist in implementing nonrequired plans described in section 706(a)(1)(D) of the Act and 45 CFR 185.11(b)(4), providing for the enrollment of nonresident children;

6. Special Project grants under section 708(a) of the Act to the central public education agencies in Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Marianna Islands, and the Trust Territories of the Pacific Islands;

7. Special arts project grants under section 708(a) of the Act to public agencies responsible for the administration of statewide arts programs;

8. Special compensatory project grants, described in section 704(a) of the Act, to local educational agencies;

9. Special mathematics project grants under section 708(a)(3) of the Act to private nonprofit agencies;

10. Special student concerns project grants under section 708(a) of the Act to public agencies other than local educational agencies;

11. Magnet School and University/Business Cooperation project grants, described in section 707(a) (13) and (14) of the Act, to local educational agencies; and

12. Neutral site planning project grants, described in section 707(a)(15) of the Act, to local educational agencies.

Authority for these programs is contained in Title VII of Pub. L. 92-318, as amended (20 U.S.C. 1601-1619).

The purpose of the Emergency School Aid Act is to provide assistance in connection with eliminating minority group isolation in public elementary and secondary schools and overcoming the effects of minority group isolation.

Closing date for transmittal of applications: Applications for awards must be mailed (postmarked) or hand delivered by December 4, 1978.

Applications delivered by mail: An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Washington, D.C. 20202. The address for applications should be marked as follows:

(1) Attention: 13.525A (for basic grants);

(2) Attention: 13.526A (for pilot projects);

(3) Attention: 13.529A (for nonprofit organization projects under section 708(b));

(4) Attention: 13.528A (for bilingual LEA projects);

(5) Attention: 13.528B (for bilingual nonprofit organization projects);

(6) Attention: 13.532K (for special projects under section 706(a)(1)(D) plans);

(7) Attention: 13,532C (for special projects in jurisdictions other than States);

(8) Attention: 13.532D (for special arts projects);

(9) Attention: 13.532H (for special compensatory projects);

(10) Attention: 13.532E (for special mathematics projects);

(11) Attention: 13.532F (for special student concerns projects);

(12) Attention: 13.589 For Magnet School-University/Business Cooperation projects);

(13) Attention: 13.590 (for neutral site planning projects).

Proof of mailing must consist of a legible U.S. Postal Service dated postmark or a legible mail receipt with the date of mailing stamped by the U.S. Postal Service. Private metered postmarks or mail receipts will not be accepted without a legible date stamped by the U.S. Postal Service.

NOTE.—The U.S. Postal Service does not uniformly provide a dated postmark. Applicants should check with their local post office before relying on this method.

Applicants are encouraged to use registered or at least first class mail.

Each late applicant will be notified that its application will not be considered in the current competition.

Applications delivered by hand: An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, Seventh and D Streets SW., Washington, D.C.

The Application Control Center will accept hand-delivered applications between 8 a.m. and 4 p.m. (Washington, D.C., time) daily, except Saturdays, Sundays, and Federal holidays.

Applications that are hand-delivered will not be accepted after 4 p.m. on the closing date.

Program information:

(1) The fiscal year 1979 appropriation level for various types of assistance has not yet been set. The amount of funds available for each type will be established after enactment of appropriation legislation.

(2) The following grants for the types of assistance described above were made from fiscal year 1977 appropriations:

(a) 430 basic grants, in an average amount of $307,580;

(b) 162 pilot project grants, in an average amount of $198,462;

(c) 205 grants to nonprofit agencies, in an average amount of $83,881;

(d) 24 bilingual project grants to local educational agencies, in an average amount of $338,520;

(e) Four special project grants to support nonrequired plans described in section 706(a)(1)(D) of the Act, in an average amount of $378,144;

(f) Five special project grants to public agencies in jurisdictions other than States, in an average amount of $560,000;

(g) Fifteen special arts project grants, in an average amount of $99,747;

(h) One special mathematics project grant, in the amount of $750,000;

(i) Seven special student concerns project grants, in an average amount of $205,403;

(j) Twelve Magnet School-University/Business Cooperation project grants, in an average amount of $416,666; and

(k) Four neutral site planning project grants, in an average amount of $105,269.

(3) Grant awards from fiscal year 1978 appropriations are not yet completed. From fiscal year 1977 to fiscal year 1978, the total amount appropriated under the Act increased from $257,500,000 to $300,500,000. This increase will be reflected in awards now being made.

(4) After the fiscal year 1979 appropriation level for Magnet School-University/Business Cooperation and neutral site planning project grants has been set, notice of the information described in 45 CFR 185.108 (relating to those grants) will be published in the FEDERAL REGISTER. However, applicants for these grants must file applications by the closing date set above.

Application forms: Application forms and program information packages are expected to be ready for mailing by October 4, 1978. They may be obtained by writing to the Division of Program Operations, Equal Education Opportunity Programs, U.S. Office of Education, 400 Maryland Avenue SW., Room 2007A, Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

Applicable information. The regulations applicable to this program are:

(1) Regulations relating only to assistance under the Emergency School Aid Act (45 CFR Part 185); and

(2) The Office of Education General Provisions Regulations (45 CFR Parts 100, 100a and appendices) except to the extent that these regulations are inconsistent with 45 CFR Part 185.

Further information: For further information contact Jesse Jordan, Division of Program Operations, Equal Educational Opportunity Programs, U.S. Office of Education, 400 Maryland Avenue SW., Room 2007A, Washington, D.C. 20202, telephone 202-245-7965.

(20 U.S.C. 1601-1619.)

13.444B—HANDICAPPED CHILDREN'S EARLY EDUCATION PROGRAM—OUTREACH

CLOSING DATE: DECEMBER 4, 1978

(Noncompeting Continuations)

Applications are invited for noncompeting continuation projects under the Handicapped Children's Early Education Program—Outreach.

Authority for this program is contained in sections 623 and 624 of the Education of the Handicapped Act.

(20 U.S.C. 1423, 1424.)

This program issues awards to local education agencies, private nonprofit agencies, and institutions of higher education which have completed one or more years of funding under the HCEEP—Outreach (13.444B).

The purpose of the awards is to assist other agencies in meeting the early educational needs of handicapped children.

Closing date for transmittal of applications: To be assured of consideration for funding, applications for noncompeting continuation awards should be mailed or hand delivered by December 4, 1978.

If the application is late, the Office of Education may lack sufficient time to review it with other noncompeting continuation applications and may decline to accept it.

Applications delivered by mail: An Application sent by mail must be addressed to the U.S. Office of Education, Application Control Center Attention: 13.444B, Washington, D.C. 20202.

Applicants are encouraged to use registered or at least first-class mail.

Applications delivered by hand: An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets SW., Washington, D.C.

The Application Control Center will accept hand-delivered applications between 8 a.m. and 4 p.m. (Washington, D.C., time) daily, except Saturdays, Sundays, or Federal holidays.

Available funds: The funding level for the Handicapped Children's Early Education program is expected to be approximately $22 million for fiscal year 1979. Funding for noncompeting continuation outreach projects has averaged between $50,000 and $150,000.

Application forms: Application forms and program information packages are expected to be ready for mailing by September 29, 1978. They may be obtained from the Division of Innovation and Development, Bureau of Education for the Handicapped, U.S. Office of Education (Room 3100, Donohoe Building), 400 Maryland Avenue SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

Applicable regulations: The regulations applicable to this program are:

(a) Office of Education General Provisions Regulations (45 CFR Parts 100 and 100a), and

(b) Program regulations (45 CFR Parts 121, 121d).

Further information: For further information contact Dr. William Swan, Project Officer, Early Childhood Program, U.S. Office of Education (Room 3100, Donohoe Building), 400 Maryland Avenue SW., Washington, D.C. 20202, telephone 202-245-9722.

(20 U.S.C. 1423, 1424.)

13.475—Library Research and Demonstration Program

CLOSING DATE: DECEMBER 11, 1978

Applications are invited for new projects under the Library Research and Demonstration program.

Authority for this program is contained in sections 201, 221 and 223 of Title II, Part B, of the Higher Education Act of 1965, as amended.

(20 U.S.C. 1021, 1031, and 1034)

This program issues awards to institutions of higher education and other public or private agencies, institutions and organizations that are nonprofit.

The purpose of the awards is to support research and demonstration projects relating to the improvement of libraries or the improvement of training in librarianship.

Closing date for transmittal of applications: Applications for awards must be mailed (postmarked) or hand delivered by December 11, 1978,

Applications delivered by mail: An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center Attention: 13.475, Washington, D.C. 20202.

Proof of mailing must consist of a legible U.S. Postal Service dated postmark or a legible mail receipt with the date of mailing stamped by the U.S. Postal Service. Private-metered postmarks or mail receipts will not be accepted without a legible date stamped by the U.S. Postal Service.

NOTE.—The U.S. Postal Service does not uniformly provide a dated postmark. Applicants should check with their local post office before relying on this method.

Applicants are encouraged to use registered or at least first-class mail.

Each late applicant will be notified that its application will not be considered in the current competition.

Application delivered by hand: An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets SW., Washington, D.C.

The Application Control Center will accept hand-delivered applications between 8 and 4 p.m. (Washington, D.C., time) daily, except Saturdays, Sundays, and Federal holidays.

Applications that are hand delivered will not be accepted after 4 p.m. on the closing date.

Program information: Priorities for new awards in fiscal year 1979 are set forth in 45 CFR Part 133. It is anticipated that grants will be made in all categories. Criteria for funding appear at 45 CFR Part 133, appendix A.

More specific information regarding these priorities is contained in the regulations and the program information package.

Available funds: It is anticipated that approximately $1,000,000 will be made available for the Library Research and Demonstration program in fiscal year 1979.

It is estimated that this amount will be used to support 10 to 12 new projects. The average award for new projects will be between $70,000 and $85,000. The range may vary between $10,000 and $250,000.

These estimates do not bind the U.S. Office of Education except as may be required by the applicable statute and regulations.

Application forms: Application forms and program information packages are expected to be ready for mailing by October 5, 1978. They may be obtained by writing to the Division of Library Programs, Office of Libraries and Learning Resources, U.S. Office of Education (Room 3319A, Regional Office Building 3), 400 Maryland Avenue SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

Applicable regulations: The regulations applicable to this program are:

(a) Office of Education General Provisions Regulations (45 CFR Parts 100 and 100a), and

(b) Regulations governing the Library Research and Demonstration program (45 CFR Part 133).

Further information: For further information contact Mr. Paul C. Janaske, Chief, Library Research and Demonstration Branch, U.S. Office of Education (Room 3124, Regional Office Building 3), 400 Maryland Avenue SW., Washington, D.C. 20202, telephone 202-245-9687.

(20 U.S.C 1021, 1031 and 1033)

13.564—Consumers' Education Program

CLOSING DATE: DECEMBER 15, 1978

Applications are invited for new projects under the Consumers' Education Program.

Authority for this program is contained in section 811 of the Elemenatary and Secondary Education Act of 1965 as enacted by section 505 of the Education Amendments of 1972 and as amended in 1974 by section 407 of the Special Projects Act (Pub. L. 93-380).

(20 U.S.C. 887d)

The program issues awards to State and local education agencies, institutions of higher education and public and private nonprofit agencies.

The purpose of the awards is to increase the capacity of organizations and institutions which educate consumers to prepare people for intelligent participation in the marketplace and in the economic system.

Closing date for transmittal of applications: Applications for awards must be mailed (postmarked) or hand delivered by December 15, 1978.

Applications delivered by mail: An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.564, Washington, D.C. 20202.

Proof of mailing must consist of a legible U.S. Postal Service dated postmark or a legible mail receipt with the date of mailing stamped by the U.S. Postal Service. Private-metered postmarks or mail receipts will not be accepted without a legible date stamped by the U.S. Postal Service.

NOTE.—The U.S. Postal Service does not uniformly provide a dated postmark. Applicants should check with their local post office before relying on this method.

Applicants are encouraged to use registered or at least first-class mail.

Each late applicant will be notifed that its application will not be considered in the current competition.

Applications Delivered by Hand. An application that is hand delivered must be taken to the U.S. Office of Education, Application Control

Center, Room 5673, Regional Office Building 3, Seventh and D Streets SW., Washington, D.C.

The Application Control Center will accept hand-delivered applications between 8 a.m. and 4 p.m. (Washington, D.C., time) daily, except Saturdays, Sundays, and Federal holidays.

Applications that are hand delivered will not be accepted after 4 p.m. on the closing date.

Program Information. Specific information regarding priorities is contained in the regulations and the program information packet. In general, priority is given to applications which are designed to serve as models or which build an organization's long-range capacity to provide consumers' education.

Under proposed amendments passed by the House of Representatives or the Senate Committee on Human Resources, the existing authority for the consumers' education program would be replaced by a new statutory authority. Although one or both of these bills would make the new program authority effective in fiscal year 1979, the new authority can take effect only if funds are appropriated to implement it.

The 1979 appropriation request for the consumers' education program is based on the existing statutory authority for the program, not the proposed new authority. The request is being reviewed by the Congress on the basis of the existing statutory authority. We therefore assume that funds will be appropriated for the consumers' education program under its existing authority and that grants will be made in fiscal year 1979 under the existing consumers' education regulations. Applications therefore are invited under the existing regulations.

Available Funds. Approximately $3.135 million is anticipated for the consumers' education program in fiscal year 1979.

It is estimated that these funds could support 55 or 60 projects.

The anticipated average award for projects will be approximately $45,000. No minimum or maximum amounts will be set.

These estimates do not bind the U.S. Office of Education, except as may be required by the applicable statute and regulations

Application Form. Application forms and program information packages are expected to be ready for mailing by October 12, 1978. They may be obtained by writing to the Office of Consumers' Education, U.S. Office of Education, Room 5624, Regional Office Building 3, 400 Maryland Avenue SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instruction, and forms included in the program information packages.

Special Procedures. A local education agency must provide a copy of its application to the appropriate State Education agency. Local education agencies must also certify that an open meeting has been held where members of the community have had and opportunity to comment on the contents of the application.

Applicable Regulations. The regulations applicable to this program are:

(a) Office of Education General Provisions Regulations (45 CFR parts 100 and 100a);

(b) Regulations governing the consumers' education program (45 CFR part 160e); and

(c) Regulations governing the Special Projects Act (45 CFR part 160).

Further Information. For further information, contact Dr. Dustin W. Wilson, Jr., Director, Consumers' Education Program, U.S. Office of Education, room 5624, Regional Office Building 3, 400 Maryland Avenue SW., Washington, D.C. 20202, telephone 202-245-0636

(20 U.S.C. 887d)

13.555—Public Service Education Program

CLOSING DATE: DECEMBER 22, 1978

Applications are invited for new and continuation projects under the public service education program.

Authority for this program is contained in title IX, parts A and C, of the Higher Education Act of 1965, as amended.

(20 U.S.C. 1134 et seq.)

This program issues awards to institutions of higher eduction.

The purpose of the awards is to develop training programs at institutions of higher education by providing fellowships and, in some instances, institutional grants (under part A), for graduate or professional study for persons who plan to pursue a career in public service, especially at the State and local levels.

Closing Date for Transmittal of Applications. Applications for awards must be mailed (postmarked) or hand delivered by December 22, 1978.

Applications Delivered by Mail. An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.555, Washington, D.C. 20202.

Proof of mailing must consist of a legible U.S. Postal Service dated postmark or a legible mail receipt with the date of mailing stamped by the U.S. Postal Service. Private metered postmarks or mail receipts will not be accepted without a legible date stamped by the U.S. Postal Service.

NOTE.—The U.S. Postal Service does not uniformly provide a dated postmark. Applicants should check with their local post office before relying on this method.

Applicants are encouraged to use registered or at least first class mail.

Each late applicant will be notified that its application will not be considered in the current competition.

Applications Delivered by Hand. An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, Seventh and D Streets SW., Washington, D.C.

The Application Control Center will accept hand-delivered application between 8 a.m. and 4 p.m. (Washington, D.C., time) daily, except Saturdays, Sundays, and Federal holidays.

Applications that are hand delivered will not be accepted after 4 p.m. on the closing date.

Program Information. The single application form and instructions pertaining to support under part C (for fellowships) and part A (for institutional grants) will be contained in the application package that will be sent to all interested applicants. This year, for the first time, no fewer than 6 and no more than 10 fellowships will be allocated to a successful applicant; additionally, highest priority will be given those individuals who presently hold a title IX fellowship, are in good standing, and who wish to continue their studies. Of the remaining funds (about $1 million), institutions may apply to continue projects commenced in 1977-78 or in 1978-79 or may apply for new projects which have a direct relationship to the fellowship program.

Available Funds. Approximately $4 million is anticipated for the public service education program during the academic year 1979-80.

It is estimated that these funds will provide support for those students in good standing to continue their studies and for approximately 300 new fellowships. The remaining amount would fund some 40 institutional grants at an average amount of about $25,000.

These estimates do not bind the U.S. Office of Education, except as may be required by the applicable statute and regulation.

Application Forms. Application forms and program information packages are expected to be ready for mailing by October 20, 1978. They may be obtained by writing to the Graduate Training Branch, U.S. Office of Education, Room 3060, Regional Office Building 3, 400 Maryland Avenue SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms in-

cluded in the program information packages.

Special Procedures. An application for an institutional grant shall provide assurance that the institution has notified the appropriate State commission (established or designated under section 1202 of the Higher Education Act of 1965, as amended) and that the State commission has been given the opportunity to offer recommendations on the application to the institution and to the Commissioner.

Applicable Regulations. The regulations applicable to this program are:

(a) Office of education general provisions regulations (45 CFR Parts 100 and 100a), and

(b) Regulations governing public service education programs (45 CFR part 194), published on August 9, 1977, in the FEDERAL REGISTER.

For Further Information Contact. Dr. Donald N. Bigelow, Graduate Training Branch, U.S. Office of Education, Room 3060, Regional Office 3, 400 Maryland Avenue SW., Washington, D.C. 20202, telephone 202-245-2347.

(20 U.S.C. 1134 et seq.)

13.443D—MODEL PROGRAMS FOR SCHOOL AGED HANDICAPPED CHILDREN

CLOSING DATE: DECEMBER 29, 1978

Applications are invited for new projects under the Model Programs for School Aged Handicapped Children.

Authority for this program is contained in section 641 of Part E of the Education of the Handicapped Act.

(20 U.S.C. 1441)

This program issues awards to States, State or local educational agencies, institutions of higher education, and other public and private nonprofit educational agencies.

The purpose of the awards is to develop and conduct model programs designed to meet the special educational needs of handicapped children.

Closing date for transmittal of applications: Applications for awards must be mailed (postmarked) or hand delivered by December 29, 1978.

Application delivered by mail: An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.443D, Washington, D.C. 20202.

Proof of mailing must consist of a legible U.S. Postal Service dated postmark or a legible mail receipt with the date of mailing stamped by the U.S. Postal Service. Private metered postmarks or mail receipts will not be accepted without a legible date stamped by the U.S. Postal Service.

NOTE.—The U.S. Postal Service does not uniformly provide a dated postmark. Applicants are encouraged to use registered or at least first-class mail.

Each late applicant will be notified that its application will not be considered in the current competition.

Applications delivered by hand: An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, Seventh and D Streets SW., Washington, D.C.

The Application Control Center will accept hand-delivered applications between 8 a.m. and 4 p.m. (Washington, D.C., time) daily, except Saturdays, Sundays, and Federal holidays.

Applications will not be accepted after 4 p.m. on the closing date.

Available funds: Approximately $3,000,000 is anticipated for the Model Programs for School Aged Handicapped children in fiscal year 1979.

It is estimated that these funds could support 25 new projects.

Application forms: Application forms and program information packages are expected to be ready for mailing by October 27, 1978. They may be otained by writing to the Elementary, Secondary, Post-Secondary, Program Development Branch, Bureau of Education for the Handicapped, U.S. Office of Education, Room 3129, Donohoe Building, 400 Maryland Avenue SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

Applicable regulations: The regulations applicable to this program are:

(a) Office of Education General Provisions Regulations (45 CFR Parts 100 and 100a), and

(b) Applicable program regulations (45 CFR Parts 121 and 121h).

Final regulations for part 121h were published in the FEDERAL REGISTER on August 18, 1978.

(20 U.S.C. 1441, 1442)

Further information: For further information contact Dr. William E. Johnston, Jr., Chief, Elementary, and Secondary, Post-Secondary Section, Program Development Branch, Division of Innovation and Development, (Room 3129, Donohoe Building), 400 Maryland Avenue SW., Washington, D.C. 20202, telephone 202-245-9722.

(20 U.S.C. 1441, 1442)

13.560—REGIONAL, VOCATIONAL ADULT, AND POST-SECONDARY PROGRAMS

CLOSING DATE: DECEMBER 29, 1978

Applications are invited for noncompeting continuation projects under the regional education program.

Authority for this program is contained in section 625 of the Education of the Handicapped Act.

(20 U.S.C. 1424a)

Eligible applicants are those awardees whose projects have completed one or more years of funding and whose approved project funding period has not expired. In formulating proposals, potential applicants should be aware of the amounts of funds available for the program for fiscal year 1979.

Closing date for transmittal of applications: To be assured of consideration for funding, applications for noncompeting continuation projects should be mailed or hand delivered by December 29, 1978.

If the application is late, the Office of Education may lack sufficient time to review it with other noncompeting continuation applications and may decline to accept it.

Applications delivered by mail: An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.560, Washington, D.C. 20202.

Applicants are encouraged to use registered or at least first-class mail.

Applications delivered by hand: An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, Seventh and D Streets SW., Washington, D.C.

The Application Control Center will accept hand-delivered applications between 8 a.m. and 4 p.m. (Washington, D.C., time) daily, except Saturdays, Sundays, and Federal holidays.

Available funds: It is anticipated that funds will be available for continuation projects at the prior year level.

Application forms: Application forms are expected to be ready for mailing by October 27, 1978. They may be obtained by writing to the Elementary, Secondary, Post-Secondary Section, Program Development Branch, Bureau of Education for the Handicapped, U.S. Office of Education (Room 3129, Donohoe Building), 400 Maryland Avenue SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions and forms included in the program information packages.

Applicable regulations: The regulations applicable to this program are: (a) Office of Education General Provisions Regulations (45 CFR Parts 100, 100a), and (b) applicable program regulations (45 CFR Parts 121 and 121k).

Further information: For further information contact Mel Ladson, Ele-

mentary, Secondary, Post-Secondary Section, Program Development Branch, Division of Innovation and Development, Bureau of Education for the Handicapped, U.S. Office of Education (Room 3121, Donohoe Buildings), 400 Maryland Avenue SW., Washington, D.C. 20202, telephone 202-245-9722.

(20 U.S.C. 1424a.)

13.563—COMMUNITY EDUCATION PROGRAM

CLOSING DATE: JANUARY 5, 1979

Applications are invited for new projects under the Community Education Program.

Authority for this program is contained in section 405 of the Education Amendments of 1974, Pub. L. 93-380.

(20 U.S.C. 1864)

This program is authorized to make grants to State educational agencies (SEA) and to local educational agencies (LEA) to pay the Federal share of the cost of establishing, expanding, and maintaining community education programs. The program is also authorized to make grants to institutions of higher education (IHE) to develop, establish, or expand programs which will train persons to plan and operate community education programs.

Closing date for transmittal of applications: Applications for awards must be mailed (postmarked) or hand delivered by January 5, 1979.

Applications delivered by mail: An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.563, Washington, D.C. 20202.

Proof of mailing must consist of a legible U.S. Postal Service dated postmark or a legible mail receipt with the date of mailing stamped by the U.S. Postal Service. Private metered postmarks or mail receipts will not be accepted without a legible date stamped by the U.S. Postal Service.

NOTE.—The U.S. Postal Service does not uniformly provide a dated postmark. Applicants should check with their local post office before relying on this method.

Applicants are encouraged to use registered or at least first class mail.

Each late applicant will be notified that its application will not be considered in the current competition.

Applications delivered by hand: An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, Seventh and D Streets SW., Washington, D.C.

The Application Control Center will accept hand-delivered applications between 8 a.m. and 4 p.m. (Washington, D.C., time) daily, except Saturdays, Sundays, or Federal holidays.

Applications will not be accepted after 4 p.m. on the closing date.

Preapplications: Preapplications will not be required for fiscal year 1979.

Program information: In formulating proposals, potential applicants should be aware of the amount of funds anticipated for the program for fiscal year 1979. Of the approximately $3,553,000 anticipated for the program for fiscal year 1979, $1,564,000 is available for grants to SEA's, $1,564,000 is available to grants to LEA's, and $425,000 is available for grants to institutions of higher education (IHE's). During the 1978 fiscal year, 273 applications were received from LEA's, 41 from SEA's, and 57 from IHE's. It is expected that approximately 85 grants will be awarded in fiscal year 1978: 45 to LEA's; 32 to SEA's; and, 8 to IHE's. The average grants are expected to be: in the LEA category, $34,755; in the SEA category, $48,875; and in the IHE category, $53,125. Applicants should be aware that funds are generally available only to cover leadership, administrative, and coordinating costs as specified in § 160c.10(c) and other sections of the regulations. All grants will be new awards, no funds are reserved for continuation awards. A current grantee may apply for a new award on the same basis as an applicant not previously funded. Projects are for 1 year in duration.

Under proposed amendments passed by the House of Representatives or the Senate Committee on Human Resources, the existing authority for the Community Schools Program (section 402 and 405 of the Education Amendments of 1974) would be replaced by a new statutory authority. Although one or both of these bills would make the new program authority effective in fiscal year 1979, the new authority can take effect only if funds are appropriate to implement it.

The 1979 appropriation request for the Community Schools program is based on the existing statutory authority for the program, not the proposed new authority. The request is being reviewed by the Congress on the basis of the existing statutory authority. We therefore assume that funds will be appropriated for the Community Schools program under its existing authority and that grants will be made in fiscal year 1979 under the existing Community Schools regulations. Applications therefore are invited under the existing regulations.

Available funds: Approximately $3,553,000 is anticipated for the grants to LEA's, $1,564,000 will be available from grants to SEA's, and $425,000 will be available for grants to IHE's.

Application forms: Application forms and program information packages are expected to be ready for mailing by October 16, 1978. They may be obtained by writing to the Community Education program, U.S. Office of Education (Room 5622, Regional Office Building 3), 400 Maryland Avenue SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

Special procedures: A local educational agency *must* provide a copy of its application to the State educational agency of the State within which the applicant is located concurrently with its submission of the application to the Office of Education. This information copy should be submitted to the State Coordinator for Community Education, as designated by the Chief State School Officer. For verification of submission to the SEA, the LEA applicant must enclose, in its application to the Commissioner, a copy of the dated cover letter used to forward a copy of its application to the SEA. State educational agencies wishing to submit advice and comments on any application originating within their State may do so by forwarding the advice and comments to the Community Education Program, U.S. Office of Education. (See address under Further Information.) Advice and comments received from SEA's no later than January 26, 1979, will be considered in reviewing applications.

Reference is made to the preamble to the Community Education Program Regulation, 40 FR 57926 (December 12, 1975), particularly pages 57927 through 57928 for the discussion of the term "local educational agency" as used in that regulation. An examination of this discussion may provide useful guidance to parties planning to file an application for assistance under the program.

Applicable regulations: The regulations applicable to this program are:

(a) Office of Education, General Provisions Regulations (45 CFR Parts 100 and 100a), and

(b) Regulations governing the Community Education Program (45 CFR Part 160c). These regulations are included in the application package.

Further information: For further information contact Julie Englund, Director, Community Education Program, U.S. Office of Education (Room 5622, Regional Office Building 3), 400 Maryland Avenue SW., Washington, D.C. 20202, telephone 202-245-0691.

(20 U.S.C. 1864)

13.435B—GRADUATE AND UNDERGRADUATE INTERNATIONAL STUDIES PROGRAMS

CLOSING DATE: JANUARY 8, 1979

Applications are invited for noncompeting continuation projects currently funded under the Graduate and Undergraduate International Studies program.

Authority for this program is contained in section 601(a) of the National Defense Education Act of 1958, as amended.

(20 U.S.C. 511(a))

This program issues awards to institutions or consortia of institutions of higher education.

The purpose of the awards is to assist institutions to initiate and develop international components for an instructional program.

Closing date for transmittal of applications: To be assured of consideration for funding, applications for noncompeting continuation awards should be mailed or hand delivered by January 8, 1979.

If the application is late, the Office of Education may lack sufficient time to review it with other noncompeting continuation applications and may decline to accept it.

Applications delivered by mail: An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.435B, Washington, D.C. 20202.

Applicants are encouraged to use registered or at least first class mail.

Applications delivered by hand: An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, Seventh and D Streets SW., Washington, D.C.

The Application Control Center will accept hand-delivered applications between 8 a.m. and 4 p.m. (Washington, D.C., time) daily, except Saturdays, Sundays, or Federal holidays.

Available funds: It is anticipated that funds will be available for continuation of projects at the prior year level.

A separate Notice of Closing Date for new awards under this program for fiscal year 1979 will be published at a later date.

Application forms: Application forms and program information packages are expected to be ready for mailing by September 18, 1978. They may be obtained by writing to the International Studies Branch, U.S. Office of Education (Room 3671, Regional Office Building 3), 400 Maryland Avenue SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

Applicable regulations: The regulations applicable to this program are:

(a) Office of Education General Provisions Regulations (45 CFR Parts 100 and 100a), and

(b) Regulations governing the Graduate and Undergraduate International Studies programs (45 CFR Part 146).

Further information: For further information, contact Mrs. Maria Elena Diago (for Graduate International Studies Programs) or Mrs. Susanna Easton (for Undergraduate International Studies Programs), International Studies Branch, DIE, U.S. Office of Education, Room 3671, Regional Office Building 3, 400 Maryland Avenue SW., Washington, D.C. 20202, telephone 202-245-9588.

(20 U.S.C. 511(a))

13.436—FOREIGN LANGUAGE AND AREA STUDIES RESEARCH PROGRAM

CLOSING DATE: JANUARY 8, 1979

Applications are invited for new and/or noncompeting continuation projects under the Foreign Language and Area Studies Research program.

Authority for this program is contained in Title VI, section 602, of the National Defense Education Act of 1958, as amended.

This program issues awards to qualified institutions, organizations and individuals.

The purpose of the awards is to assist researchers to conduct studies and surveys to determine the need for increased or improved instruction in modern foreign languages and related fields, to conduct research on training methods for use in such languages and fields, and to develop specialized materials for use in training students and language teachers.

Closing date for transmittal of applications: Applications for new awards must be mailed (postmarked) or hand delivered by January 8, 1979.

To be assured of consideration for funding, applications for noncompeting continuation awards should be mailed or hand delivered by January 8, 1979. If the application for a noncompeting continuation award is late, the Office of Education may lack sufficient time to review it with other noncompeting continuation applications and may decline to accept it.

Applications delivered by mail: All applications sent by mail must be addressed to the U.S. Office of Education, Application Control Center Attention: 13.436, Washington, D.C. 20202.

For new applications proof of mailing must consist of a legible U.S. Postal Service dated postmark or a legible mail receipt with the date of mailing stamped by the U.S. Postal Service. Private-metered postmarks or mail receipts will not be accepted without a legible date stamped by the U.S. Postal Service.

NOTE.—The U.S. Postal Service does not uniformly provide a dated postmark. Applicants should check with their local post office before relying on this method

Each applicant will be notified that its application will not be considered in the current competition.

All applicants are encouraged to use registered or at least first-class mail.

Applications delivered by hand: An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets SW., Washington, D.C.

The Application Control Center will accept hand-delivered applications between 8 a.m. and 4 p.m. (Washington, D.C., time) daily, except Saturdays, Sundays, and Federal holidays.

Applications for *new* awards that are hand delivered will not be accepted after 4 p.m. on the closing date.

Program information: Activities supported by this program may include the following:

(1) Studies and surveys, including conferences, to assess the state of the art of foreign language and international studies instruction in the United States, to determine new emphases needed, to identify priority needs for specialized materials, and to define and analyze national trends through, for example, surveys of enrollments, degree requirements, and newly developing types of training programs;

(2) Research in teaching methodology (a) which applies linguistic theories and concepts of modern language pedagogy to projects that can thereby be excepted to increase the understanding of second language acquisition and to improve teaching, and (b) which applies modern teaching approaches to international studies;

(3) The preparation of specialized instructional materials, particularly for modern foreign languages which are not widely taught in the United States and for which there is only a limited commercial market; and for international studies concerned with the non-Western world.

More specific information regarding these activities is contained in the regulations published in the FEDERAL REGISTER of May 23, 1977, and the program information package.

Available funds: Approximately $1,000,000 is anticipated for the research program in fiscal year 1979.

It is estimated that these funds could support approximately 30 new projects and 5 continuing projects.

The anticipated award for new projects is estimated at an average cost of $28,500 each. Projects which exceed 18 months should be planned and budgeted in yearly phases.

These estimates do not bind the U.S. Office of Education except as may be required by the applicable statute and regulations.

Application forms: Application forms and program information packages are expected to be ready for mailing by October 2, 1978. They may be obtained by writing to the Research Program, International Studies Branch, Division of International Education, U.S. Office of Education (Room 3671, Regional Office Building 3), 400 Maryland Avenue SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

Applicable regulations: The regulations applicable to this program are:

(a) Office of Education General Provisions Regulations (45 CFR Parts 100 and 100a), and

(b) Regulations governing the Foreign Language and Area Studies Research Program (45 CFR Part 146).

Further information: For further information contact Mrs. Julia A. Petrov, Chief, Research Program, ISB/DIE, U.S. Office of Education, (Room 3671, Regional Office Building 3), 400 Maryland Avenue SW., Washington, D.C. 20202, telephone 202-245-9819.

(20 U.S.C. 512)

13.562A—PROGRAM FOR THE GIFTED AND TALENTED ASSISTANCE TO STATE AND LOCAL AGENCIES

CLOSING DATE: JANUARY 8, 1979

Applications are invited for new projects under the Program for the Gifted and Talented.

Authority for this program is contained in section 404(c) and (d) of Pub. L. 93-380, the Education Amendments of 1974 (20 U.S.C. 1863 (c) and (d).)

This program issues awards to State and local educational agencies.

The purpose of the awards is (1) to assist State and local educational agencies in carrying out Statewide and locally based programs for gifted and talented children; and (2) to assist State education agencies in carrying out State personnel training projects.

Closing date for transmittal of applications: Applications for awards must be mailed (postmarked) or hand delivered by January 8, 1979.

Applications delivered by mail: An application sent by mail must be addressed to U.S. Office of Education, Application Control Center Attention: 13.562A, Washington, D.C. 20202.

Proof of mailing must consist of a legible U.S. Postal Service dated postmark or a legible mail receipt with the date of mailing stamped by the U.S. Postal Service. Private metered postmarks or mail receipts will not be accepted without a legible date stamped by the U.S. Postal Service.

NOTE.—The U.S. Postal Service does not uniformly provide a dated postmark. Applicants should check with their local post office before relying on this method.

Applicants are encouraged to use registered or at least first class mail.

Each late applicant will be notified that its application will not be considered in the current competition.

Applications delivered by hand: An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets SW., Washington, D.C.

The Application Control Center will accept hand-delivered applications between 8 a.m. and 4 p.m. (Washington, D.C., time) daily, except Saturdays, Sundays, and Federal holidays.

Applications that are hand delivered will not be accepted after 4 p.m. on the closing date.

Program information: Under pending legislation being considered by the Congress under S. 1753 and H.R. 15, the existing authority for the Gifted and Talented Program would be replaced by a new statutory authority. Although both bills would make the new program authority effective in fiscal year 1979, the new authority can take effect only if funds are appropriated to implement it.

The 1979 appropriation request for the Gifted and Talented Program is based on the existing statutory authority for the program, not the proposed new authority. The request is being reviewed by the Congress on the basis of the exising statutory authority. We therefore assume that funds will be appropriated for the Gifted and Talented Program under its existing authority and that grants will be made in fiscal year 1979 under the existing Gifted and Talented Program regulations. Applications therefore are invited under the existing regulations.

Available funds: It is anticipated that approximately $1,800,000 will be available for State and local projects under the Gifted and Talented Program in fiscal year 1979. It is estimated that these funds can support 35 State projects.

The anticipated award for State projects will be between $20,000 and $60,000. The anticipated award for local projects will be between $5,000 and $20,000. These estimates do not bind the U.S. Office of Education except as may be required by the applicable statute and regulations.

Application forms and program information packages are expected to be ready for mailing by November 6, 1978. They may be obtained by writing to the Office of Gifted and Talented, U.S. Office of Education (Donohoe Building, Room 3835), 400 Maryland Avenue SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

Applicable regulations: The regulations applicable to this program are:

(a) Office of Education General Provisions Regulations (45 CFR Parts 100 and 100a), and

(b) Regulations governing the Program for the Gifted and Talented, (45 CFR Part 160b, Subparts C and D).

Further information: For further information, contact The Office of Gifted and Talented, U.S. Office of Education (Donohoe Building, Room 3835), 400 Maryland Avenue SW., Washington, D.C. 20202.

13.562B—PROGRAM FOR THE GIFTED AND TALENTED LEADERSHIP PERSONNEL TRAINING

CLOSING DATE: JANUARY 8, 1979

Applications are invited for new projects under the Program for the Gifted Talented.

Authority for this program is contained in section 404(e) of Pub. L. 93-380, the Education Amendments of 1974 (20 U.S.C. 1863(e)).

This program issues awards to colleges and universities and other nonprofit institutions and agencies.

The purpose of the awards is to provide assistance for graduate programs for leadership personnel, for internships, and for training institutes.

Closing date for transmittal of applications: Applications for awards must be mailed (postmarked) or hand delivered by January 8, 1979.

Applications delivered by mail: An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center Attention: 13.562B, Washington, D.C. 20202.

Proof of mailing must consist of a legible U.S. Postal Service dated postmark or a legible mail receipt with the date of mailing stamped by the U.S. Postal Service. Private-metered postmarks or mail receipts will not be accepted without a legible date stamped by the U.S. Postal Service.

NOTE.—The U.S. Postal Service does not uniformly provide a dated postmark. Applicants should check with their local post office before relying on this method.

Applicants are encouraged to use registered or at least first class mail.

Each late applicant will be notified that its application will not be considered in the current competition.

Applications delivered by hand: An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets SW., Washington, D.C.

The Application Control Center will accept hand-delivered applications between 8 a.m. and 4 p.m. (Washington, D.C., time) daily, except Saturdays, Sundays, and Federal holidays.

Applications that are hand delivered will not be accepted after 4 p.m. on the closing date.

Program information: Under pending legislation being considered by the Congress under S.1753 and H.R. 15, the existing authority for the Gifted and Talented Program would be replaced by a new statutory authority. Although both bills would make the new program authority effective in fiscal year 1979, the new authority can take effect only if funds are appropriated to implement it.

The 1979 appropriation request for the Gifted and Talented Program is based on the existing statutory authority for the program, not the proposed new authority. The request is being reviewed by the Congress on the basis of the existing statutory authority. We therefore assume that funds will be appropriated for the Gifted and Talented Program under its existing authority and that grants will be made in fiscal year 1979 under the existing Gifted and Talented Program regulations. Applications therefore are invited under the existing regulations.

Available funds: It is anticipated that approximately $450,000 will be available for leadership training projects in fiscal year 1979. It is estimated that these funds could support three new projects. The anticipated award for new projects will be between $60,000 and $200,000.

These estimates do not bind the U.S. Office of Education except as may be required by the applicable statute and regulations.

Application forms: Application forms and program information packages are expected to be ready for mailing November 6, 1978. They may be obtained by writing to the Office of Gifted and Talented, U.S. Office of Education (Donohoe Building, Room 3835), 400 Maryland Avenue SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

Applicable regulations: The regulations applicable to this program are:

(a) Office of Education General Provisions Regulations (45 CFR Parts 100 and 100a), and

(b) Regulations governing the Program for the Gifted and Talented, (45 CFR Part 160b, Subpart E).

Further information: For further information contact: The Office of Gifted and Talented, U.S. Office of Education (Donohoe Building, Room 3835), 400 Maryland Avenue SW., Washington, D.C. 20202.

13.562C—Program for the Gifted and Talented Model Projects

CLOSING DATE: JANUARY 8, 1979

Applications are invited for new projects under the Program for the Gifted and Talented.

Authority for this program is contained in section 404(g) of Pub. L. 93-380, the Education Amendments of 1974 (20 U.S.C. 1863(g)).

This program issues awards to public and private agencies for the purpose of operating model projects.

Closing date for transmittal of applications: Applications for awards must be mailed (postmarked) or hand delivered by January 8, 1979.

Applications delivered by mail: An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.562C, Washington, D.C. 20202.

Proof of mailing must consist of a legible U.S. Postal Service dated postmark or a legible mail receipt with the date of mailing stamped by the U.S. Postal Service. Private metered postmarks or mail receipts will not be accepted without a legible date stamped by the U.S. Postal Service.

NOTE.—The U.S. Postal Service does not uniformly provide a dated postmark. Applicants should check with their local post office before relying on this method.

Applicants are encouraged to use registered or at least first-class mail.

Each late applicant will be notified that its application will not be considered in the current competition.

Applications delivered by hand: An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, Seventh and D Streets SW., Washington, D.C.

The Application Control Center will accept hand-delivered applications between 8 a.m. and 4 p.m. (Washington, D.C., time) daily, except Saturdays, Sundays, and Federal holidays.

Applications that are hand delivered will not be accepted after 4 p.m. on the closing date.

Program information: Under pending legislation being considered by the Congress under S. 1753 and H.R. 15, the existing authority for the Gifted and Talented Program would be replaced by a new statutory authority. Although both bills would make the new program authority effective in fiscal year 1979, the new authority can take effect only if funds are appropriated to implement it.

The 1979 appropriation request for the Gifted and Talented Program is based on the existing statutory authority for the program, not the proposed new authority. The request is being reviewed by the Congress on the basis of the existing statutory authority. We therefore assume that funds will be appropriated for the Gifted and Talented Program under its existing authority and that grants will be made in fiscal year 1979 under the existing Gifted and Talented Program regulations. Applications therefore are invited under the existing regulations.

Available funds: It is anticipated that approximately $200,000 will be available for model projects in fiscal year 1979. It is estimated that these funds could support five projects. The anticipated award for new projects will be between $30,000 and $50,000.

These estimates do not bind the U.S. Office of Education except as may be required by the applicable statute and regulations.

Application forms: Application forms and program information packages are expected to be ready for mailing November 6, 1978. They may be obtained by writing to the Office of Gifted and Talented, U.S. Office of Education (Donohoe Building, Room 3835), 400 Maryland Avenue SW., Washington, D.C. 20202.

Applications must be prepared and submitted in acordance with the regulations, instructions, and forms included in the program information packages.

Applicable regulations: The regulations applicable to this program are:

(a) Office of Education General Provisions Regulations (45 CFR Parts 100 and 100a), and

(b) Regulations governing the Program for the Gifted and Talented (45 CFR Part 160b, Subpart F).

Further information: For further information, contact: The Office of Gifted and Talented, U.S. Office of Education (Donohoe Building, Room 3835), 400 Maryland Avenue SW., Washington, D.C. 20202.

13.444A—Handicapped Children's Early Education Program—Demonstration

CLOSING DATE: JANUARY 10, 1979

(Noncompeting Continuations)

Applications are invited for noncompeting continuation projects under the Handicapped Children's Early Education Program—Demonstration.

Authority for this program is contained in sections 623 and 624 of the Education of the Handicapped Act.

(20 U.S.C. 1423, 1424.)

This program issues awards to local education agencies, private nonprivate agencies and institutions of higher education which have completed one or more years of funding under the HCEEP—Demonstration (13.444A).

The purpose of the awards is to assist in developing and implementing innovative and experimental programs for young handicapped children (ages birth to 8 years) and their families.

Closing date for transmittal of applications: To be assured of consideration for funding, applications for noncompeting continuation awards should be mailed or hand delivered by January 10, 1979.

If the application is late, the Office of Education may lack sufficient time to review it with other noncompeting continuation applications and may decline to accept it.

Applications delivered by mail: An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.444A, Washington, D.C. 20202.

Applicants are encouraged to use registered or at least first-class mail.

Applications Delivered by Hand. An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets SW., Washington, D.C.

The Application Control Center will accept hand-delivered applications between 8 a.m. and 4 p.m. (Washington, D.C., time) daily, except Saturdays, Sundays, and Federal holidays.

Available Funds. The funding level for the Handicapped Children's Early Education program is expected to be approximately $22 million for fiscal year 1979. During previous years of the program, funding for second and third year demonstration projects has averaged between $80,000 and $105,000.

Application Forms. Application forms and program information packages are expected to be ready for mailing by October 30, 1978. They may be obtained from the Division of Innovation and Development, Bureau of Education for the Handicapped, U.S. Office of Education, Room 3100, Donohoe Building, 400 Maryland Avenue SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

Applicable Regulations. The regulations applicable to this program are:

(a) Office of Education General Provisions Regulations (45 CFR Parts 100 and 100a), and

(b) Program regulations (45 CFR Parts 121, 121d).

Further Information. For further information contact Dr. William Swan, Project Officer, Early Childhood Program, U.S. Office of Education, Room 3100, Donohoe Building, 400 Maryland Avenue SW., Washington, D.C. 20202, telephone 202-245-9722.

(20 U.S.C. 1423, 1424)

13.561—EDUCATION FOR THE USE OF THE METRIC SYSTEM OF MEASUREMENT (METRIC EDUCATION PROGRAM)

CLOSING DATE: JANUARY 12, 1979

Applications are invited for new projects under the Education for the Use of the Metric System of Measurement (Metric Education Program)—Special Projects Act.

Authority for this program is contained in section 403 of Title IV (Part C) of Pub. L. 93-380, Education Amendments of 1974.

(20 U.S.C. 1862)

This program issues awards to State educational agencies, institutions of higher education, local educational agencies, and public and private nonprofit educational agencies, organizations, and institutions.

The purpose of the awards is to encourage educational agencies and institutions to prepare students to use the revised metric system of measurement (as opposed to the customary system used in the United States) with ease and facility as a part of the regular educational program through the development, continuation, and expansion of metric education projects.

Closing Date for Transmittal of Applications. Applications for awards must be mailed (postmarked) or hand delivered by January 12, 1979.

Applications Delivered by Mail. An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.561, Washington, D.C. 20202.

Proof of mailing must consist of a legible U.S. Postal Service dated postmark or a legible mail receipt with the date of mailing stamped by the U.S. Postal Service. Private metered postmarks or mail receipts will not be accepted without a legible date stamped by the U.S. Postal Service.

NOTE.—The U.S. Postal Service does not uniformly provide a dated postmark. Applicants should check with their local post office before relying on this method.

Applicants are encouraged to use registered or at least first class mail.

Each late applicant will be notified that its application will not be considered in the current competition.

Applications Delivered by Hand. An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets SW., Washington, D.C.

The Application Control Center will accept hand-delivered applications between 8 a.m. and 4 p.m. (Washington, D.C., time) daily, except Saturdays, Sundays, and Federal holidays.

Applications that are hand delivered will not be accepted after 4 p.m. on the closing date.

Program Information. The objectives of the Metric Education program are as follows:

(1) To increase the number of elementary and secondary school teachers and students (as well as parents and other adults) who are able to use the revised metric system;

(2) To provide for the development or further testing of promising metric education program models which possess potential for responding to the metric education needs of students;

(3) To increase the number of educational personnel who are qualified to teach the metric system of measurements through preservice and inservice education programs;

(4) To establish or increase interstate and/or interagency cooperation for the purposes of developing and expanding metric education programs;

(5) To develop and provide technical assistance to enhance and insure the quality of teacher-learner experiences in metric education;

(6) To develop Statewide and multi-State metric educational planning efforts designed to enhance or expand the metric education experience available to teachers, students, parents, and other adults;

(7) To support other public and private nonprofit educational agencies, organizations, and institutions in their efforts to develop and enhance the quality of metric education for students of all levels.

Review of applications will be based on the published seventeen (17) funding criteria, § 160a.25 of the FEDERAL REGISTER on April 21, 1976, at 41 FR 16766-16771 (45 CFR 160a) (20 U.S.C. 1862).

Available funds. It is anticipated that approximately $2,090,000 will be available for fiscal year 1979 which will award 66 to 76 new projects.

Processing of these applications will be subject to the availability of funds.

The anticipated award for new projects will be for the following categories:

(a) State and multi-State metric education planning (normally awarded to State educational agencies) will be in the range of $25,000-$40,000 and $50,000-$110,000, respectively.

(b) Preservice and inservice teacher development projects (normally awarded to institutions of higher education) will be $20,000–$30,000.

(c) School-based metric instructional pilot and model projects (normally awarded to local educational agencies) will be $25,000–$35,000.

(d) National technical support effort shall be to serve all of the following: (a) State and multi-State metric education planning projects; (b) preservice and inservice teacher development models for metric education; (c) school-based demonstration and pilot metric education planning projects; (d) to identify and dispatch metric education experts to agencies which are developing and implementing metric educational programs in response to stated needs; and (e) the development of mobile metric instructional laboratories. The technical assistance effort will be national in scope and, therefore, possibly only one will be funded in the range of $175,000–$225,000. All previously eligible State applicants may apply.

(e) Public and private nonprofit educational agencies, organizations and institutions are eligible to apply for any of the above. It is expected that training activities for this sector will be designed to effectively respond to constituency training needs and learning styles.

Application forms. Application forms and program information packages are expected to be ready for mailing by October 10, 1978. They may be obtained by writing to the Metric Education Program, U.S. Office of Education, Room 5640, Regional Office Building 3, 400 Maryland Avenue SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and the forms included in this closing date and program information packages.

Special procedures. Opporutunities for State educational agency comment: Concurrently with the submission of its application to the metric education program, a local eductional agency (LEA) must provide a copy of its application to the State education agency (SEA) of the State in which the LEA is located. For verification of submission to the SEA, the LEA applicant must enclose in its application to the metric education program a copy of the dated cover letter used to forward a copy of its application to the SEA. A SEA wishing to submit advice and comment on any LEA application originating within its State may do so by forwarding the advice and comment to the metric education program, U.S. Office of Education, Room 5640, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C. 20202. Advice and comments received from SEA's no later than 30 calendar days after the closing date will be considered in reviewing these applications.

Applicable regulations. The regulations applicable to this program are:

(a) Office of Education General Provisions Regulations (45 CFR Parts 100 and 100a).

(b) Regulations governing the Education fo the Use of the Metric System of Measurement (Metric Education Program) published in the FEDERAL REGISTER on April 21, 1976, at FR 41 16766-16771 (45 CFR Part 160a), and

(c) Regulations governing the Special Projects Act (45 CFR Part 160).

(20 U.S.C. 1862.)

13.567—DOMESTIC MINING AND MINERAL FUEL CONSERVATION FELLOWSHIPS

CLOSING DATE: JANUARY 12, 1979

Applications are invited for new and continuation projects under the domestic mining and mineral fuel conservation fellowship program.

Authority for this program is contained in Title IX, Part D of the Higher Education Act of 1965, as amended.

(20 U.S.C. 1134n-1134r.)

This program issues awards to institutions of higher education.

The purpose of the awards is to assist graduate students of exceptional ability who demonstrate a financial need for advanced study in domestic mining and mineral and mineral fuel conservation including oil, gas, oil shale, and uranium.

Closing date for transmittal of applications. Applications for awards must be mailed (postmarked) or hand delivered by January 12, 1979.

Applications delivered by mail. An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.567, Washington, D.C. 20202.

Proof of mailing must consist of a legible U.S. Postal Service dated postmark or a legible mail receipt with the date of mailing stamped by the U.S. Postal Service. Private metered postmarks or mail receipts will not be accepted without a legible date stamped by the U.S. Postal Service.

NOTE.—The U.S. Postal Service does not uniformly provide a dated postmark. Applicants should check with their local post office before relying on this method.

Applicants are encouraged to use registered or at least first class mail.

Each late applicant will be notified that its application will not be considered in the current competition.

Applications delivered by hand. An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, Seventh and D Streets SW., Washington, D.C.

The application control center will accept hand-delivered applications between 8 a.m. and 4 p.m. (Washington, D.C., time) daily, except Saturdays, Sundays, and Federal holidays.

Applications that are hand delivered will not be accepted after 4 p.m. on the closing date.

Program information. The single application form and instructions pertaining to support under Part D will be contained in the application package that will be sent to all interested applicants. An institution may make only one application and for not less than three new fellowships in an area specifically related to advanced study in domestic mining and mineral fuel conservation including oil, gas, coal, oil shale, and uranium. The emphasis of the study must be delineated; study that is only indirectly or tangentially related to the purposes of this program will not be supported. Priority will be given to those training programs that have a clear focus of study which can show how they select participants "who demonstrate a financial need." Students currently receiving assistance under Title IX and who are making satisfactory progress will be given highest priority for the continuation of their fellowships.

Available funds. Approximately $4.5 million is anticipated for the domestic mining and mineral and mineral fuel conservation fellowship program during the academic year 1979–80.

It is estimated that these funds will provide support for approximately 100 individuals who plan to continue their studies and for 400 new fellowships, of which 76 will be for 2 years and the balance for 1 year.

These estimates do not bind the U.S. Office of Education except as may be required by the applicable statute and regulations.

Application forms. Application forms and program information packages are expected to be ready for mailing by November 8, 1978. They may be obtained by writing to the Graduate Training Branch, U.S. Office of Education, Room 3060, Regional Office Building 3, 400 Maryland Avenue SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

Applicable regulations. The regulations applicable to this program are:

(a) Office of Education General Provisions Regulations (45 CFR Parts 100 and 100a), and

(b) Regulations governing domestic mining and mineral and mineral fuel conservation fellowships program (45

CFR Parts 196) published on August 3, 1977 in the FEDERAL REGISTER.

For further information contact Dr. Donald N. Bigelow, Graduate Training Branch, U.S. Office of Education, Room 3060, Regional Office 3, 400 Maryland Avenue SW., Washington, D.C. 20202, telephone 202-245-2347.

(20 U.S.C. 1134 et seq.)

13.510—COOPERATIVE EDUCATION PROGRAM

CLOSING DATE: JANUARY 15, 1979

Applications are invited for new projects under the cooperative education program.

Authority for this program is contained in Title VIII of the Higher Education Act of 1965, as amended.

(20 U.S.C. 1133-1133b.)

This program issues awards to institutions or combinations of institutions of higher education and to public or private nonprofit agencies for training, research, or demonstration projects.

The purpose of the awards is to assist institutions in carrying out programs of Cooperative Education wherein students alternate classroom study with periods of supervised related employment.

Closing date for transmittal of applications: Applications for awards must be mailed (postmarked) or hand delivered by January 15, 1979.

Applications delivered by mail: An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13:510, Washington, D.C. 20202.

Proof of mailing must consist of a legible U.S. Postal Service dated postmark or a legible mail receipt with the date of mailing stamped by the U.S. Postal Service. Private metered postmarks or mail receipts will not be accepted without a legible date stamped by the U.S. Postal Service.

NOTE.—The U.S. Postal Service does not uniformly provide a dated postmark. Applicants should check with their local post office before relying on this method.

Applicants are encouraged to use registered or at least first-class mail.

Each late applicant will be notified that its application will not be considered in the current competition.

Applications delivered by hand: An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, Seventh and D Streets SW., Washington, D.C.

The Application Control Center will accept hand-delivered applications between 8 a.m. and 4 p.m. (Washington, D.C., time) daily, except Saturdays, Sundays, and Federal holidays.

Applications that are hand delivered will not be accepted after 4 p.m. on the closing date.

Program information: Final regulations, including weighted funding criteria, were published in the FEDERAL REGISTER May 2, 1978.

NOTE.—The cooperative education program is not presently included under OMB Circular No. A-95, the regulations for coordinating planning under the Intergovernmental Cooperation Act of 1968; therefore clearinghouse notification is not mandated. However, some State laws require review of applications for Federal assistance under various programs not covered by Circular No. A-95. Applicants are urged to acquaint themselves with applicable State laws. Applicants are encouraged to check with the appropriate Federal regional office to obtain the name and address of the clearinghouses.

Available funds. Approximately $10 to $20 million is anticipated for the cooperative education program in fiscal year 1979 ($15 million was appropriated in fiscal year 1978).

It is estimated that these funds could support approximately 300 college and university co-op programs (of which nearly 250 have currently funded programs); 5 or 6 research or demonstration projects; and 15 training awards.

The anticipated average award for each administration project will be approximately $50,000.

These estimates do not bind the U.S. Office of Education except as may be required by the applicable statute and regulations.

Application forms. Application forms and program information packages are expected to be ready for mailing by November 13, 1978. They may be obtained by writing to the Cooperative Education Branch, Division of Training and Facilities, U.S. Office of Education, Room 3053, Regional Office Building 3, 400 Maryland Avenue SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

Applicable regulations. The regulations applicable to this program are:

(a) Office of Education General Provisions Regulations (45 CFR Parts 100 and 100a), and

(b) Regulations governing cooperative education program (45 CFR Part 182, published in the FEDERAL REGISTER, May 2, 1978).

For further information contact Dr. John L. Chase, Chief, Cooperative Education Branch, Division of Training and Facilities, U.S. Office of Education, Room 3053, Regional Office Building 3, 400 Maryland Avenue SW., Washington, D.C., telephone 202-245-2146 or 202-245-2484.

(20 U.S.C. 1133-1133b.)

13.588—CONTRACT PROGRAM FOR INDIAN TRIBES AND INDIAN ORGANIZATIONS

CLOSING DATE: JANUARY 30, 1979 (NEW PROJECTS)

Applications are invited for new projects under the contract program for Indian tribes and Indian organizations.

Authority for this program is contained in section 103 of the Vocational Education Act of 1963, as amended.

(20 U.S.C. 2303.)

This program issues assistance contacts to Indian tribal organizations or Indian tribes which are eligible to contract with the Secretary of the Interior for the administration of programs under the Indian Self-Determination and Education Assistance Act of 1975 or under the act of April 16, 1934.

The purpose of the awards is to provide opportunities in vocational education for Indian tribes and Indian organizations.

Closing date for transmittal of applications. Applications for awards must be mailed (postmarked) or hand delivered by January 30, 1979.

Applications delivered by mail. An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.588, Washington, D.C. 20202.

Proof of mailing must consist of a legible U.S. Postal Service dated postmark or a legible mail receipt with the date of mailing stamped by the U.S. Postal Service. Private metered postmarks or mail receipts will not be accepted without a legible date stamped by the U.S. Postal Service.

NOTE.—The U.S. Postal Service does not uniformly provide a dated postmark. Applicants should check with their local post office before relying on this method.

Applicants are encouraged to use registered or at least first-class mail.

Each late applicant will be notified that its application will not be considered in the current competition.

Applications delivered by hand. An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets SW., Washington, D.C.

The application control center will accept hand-delivered applications between 8 a.m. and 4 p.m. (Washington, D.C., time) daily, except Saturdays, Sundays, and Federal holidays.

Applications that are hand delivered will not be accepted after 4 p.m. on the closing date.

Program information. (1) An award will not exceed 3 fiscal years. Continuation funding is contingent upon satisfactory performance. Applications for multiyear awards shall have a detailed

budget for the current year and total budget figures for the subsequent years.

(2) A request for continuation of a project beyond the project period will be considered a new application and will be reviewed competitively with all other applications. In order for the Commissioner to make this determination, an applicant who has had a prior contract under this program shall include an evaluation of the previous project.

Available funds. Approximately $1,411,400 is anticipated for the contract program for Indian tribes and Indian organizations for fiscal year 1979.

It is estimated that these funds could support seven new projects.

The anticipated award for new projects will be $200,000.

These estimates do not bind the U.S. Office of Education except as may be required by the applicable statute and regulations.

Application forms. Application forms and program information packages are available and may be obtained by writing to the Division of Research and Demonstration, Contract Program for Indian Tribes and Indian Organizations, the U.S. Office of Education, Room 5026, Regional Office Building 3, 400 Maryland Avenue SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

Special procedures. An applicant shall submit a copy of the application directly to the Assistant Secretary—Indian Affairs and the State board for vocational education at the same time it submits an application to the Office of Education. The copy of the application to be sent to the Bureau of Indian Affairs should be sent to the following address: Director of Education Programs, Bureau of Indian Affairs, Main Interior Building, Room 3510, 1951 Constitution Avenue NW., Washington, D.C. 20245. A directory of State boards for vocational education in all States is included with the application package.

Applicable regulations. The regulations applicable to this program are:

(a) Office of Education general provisions regulations (45 CFR Parts 100, 100a), and

(b) Regulations governing the contract program for Indian tribes and Indian organizations (45 CFR Part 105, sections 201-214).

Further information: For further information contact Dr. Doris V. Gunderson, Program Specialist, U.S. Office of Education, Room 5026, Regional Office Building 3, 400 Maryland Avenue SW., Washington, D.C. 20202, telephone 202-245-2614.

(20 U.S.C. 2303; 45 CFR Part 105, secs. 201-214.)

13.416—Teacher Centers Program

CLOSING DATE

TO STATES: JANUARY 31, 1979

TO USOE: MARCH 1, 1979

Applications are invited for new projects under the teacher centers program.

Authority for this program is contained in section 532, title IV-B, of the Higher Education Act of 1965, as amended.

(20 U.S.C. 1119a.)

This program makes awards to local educational agencies and institutions of higher education.

The purpose of the awards is to assist local educational agencies in planning, establishing, and operating teacher centers and institutions of higher education in operating teacher centers.

Closing date for transmittal of applications to State educational agencies. Applications for awards must be mailed (postmarked) or hand delivered to the appropriate State educational agency by January 31, 1979.

All applications must be submitted to the State educational agency of the State in which the applicant is located, for review by that agency. The State educational agency must then transmit to the U.S. Office of Education those applications that it recommends for consideration and approval by the Commissioner of Education.

State educational agencies may set their own criteria for the review of applications which applicants may wish to take into consideration, in addition to responding to the application requirements and evaluation criteria contained in the teacher centers program regulation. The State criteria (if any) can be obtained by writing to the appropriate State educational agency (see the list of addresses of chief State school officers below).

Applications delivered by mail. An application that is sent by mail must be addressed with five copies (three for the U.S. Office of Education) to the chief State school officer of the appropriate State educational agency at the address below. The package in which the application is mailed should be clearly marked: Attention: CFDA 13.416—Teacher Centers Program Application. State review required.

Proof of mailing must consist of a legible U.S. Postal Service dated postmark or a legible mail receipt with the date of mailing stamped by the U.S. Postal Service. Private metered postmarks or mail receipts will not be accepted without a legible date stamped by the U.S. Postal Service. (Note.—The U.S. Postal Service does not uniformly provide a dated postmark. Applicants should check with their local post office before relying on this method.) Applicants are encouraged to use registered or at least first-class mail.

Applications delivered by hand. An application that is hand delivered must be taken to the office of the appropriate chief State school officer, during their regular business hours.

Closing date for transmittal of applications to USOE. Applications for awards must be mailed in three copies (postmarked) or hand delivered by March 1, 1979.

Applications delivered by mail. Applications sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.416, Washington, D.C. 20202.

Proof of mailing must consist of a legible U.S. Postal Service dated postmark or a legible mail receipt with the date of mailing stamped by the U.S. Postal Service. Private metered postmarks or mail receipts will not be accepted without a legible date stamped by the U.S. Postal Service. (Note.—The U.S. Postal Service does not uniformly provide a dated postmark. Applicants should check with their local post office before relying on this method.) Applicants are encouraged to use registered or at least first class mail.

Each late applicant will be notified that its application will not be considered in the current competition.

Applications delivered by hand. Applications that are hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, Seventh and D Streets SW., Washington, D.C.

The Application Control Center will accept hand-delivered applications between 8 a.m. and 4 p.m. (Washington, D.C., time) daily, except Saturdays, Sundays, and Federal holidays.

Applications that are hand delivered will not be accepted after 4 pm. on the closing date.

Appeals to the Commissioner. Applicants whose applications are not transmitted to the U.S. Office of Education by the appropriate State educational agency may appeal to the U.S. Commissioner of Education to request further consideration by the State educational agency. Such an appeal, signed by an authorized official for the applicant, must be received at the address given below under "further information" by March 9, 1979. Applicants who wish to appeal are encouraged to make their intent known by telephone at the number given below under "fur-

ther information" prior to submitting a written appeal. Applications which the State educational agency wishes to transmit to the U.S. Office of Education, as the result of reconsideration following an appeal, must be received by the U.S. Office of Education Application Control Center no later than March 15, 1979.

Available funds. It is anticipated that $1 million will be available to fund approximately eight new projects.

These estimates do not bind the U.S. Office of Education except as may be required by the applicable statute and regulations.

Application forms. Application forms and program information packages are expected to be ready for mailing by October 30, 1978. They may be obtained by writing to the Division of Educational Systems Development, U.S. Office of Education (Room 819, Riviere Building), 400 Maryland Avenue SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

Applicable regulations. The regulations applicable to this program are:

(a) Office of Education general provisions regulations (45 CFR Parts 100 and 100A), and

(b) The regulations governing the teacher centers program (45 CFR Part 197).

Further information. For information contact Dr. Allen Schmieder, Teacher Centers Program, Divsion of Educational Systems Development, U.S. Office of Education (Room 819, Riviere Building), 400 Maryland Avenue SW., Washington, D.C. 20202, telephone 202-653-5839.

(20 U.S.C. 1119a.)

ADDRESSES OF CHIEF STATE SCHOOL OFFICERS

Hon. Wayne Teague, Superintendent of Education, State Department of Education, Montgomery, Ala. 36130.

Hon. Marshall L. Lind, Commissioner of Education, State Department of Education, Juneau, Alaska 99801.

Hon. Carolyn Warner, Superintendent of Public Instruction, State Department of Education, Phoenix, Ariz. 85007.

Hon. A. W. Ford, Director of Education, State Department of Education, Little Rock, Ark. 72201.

Hon. Wilson Riles, Superintendent of Public Instruction and Director of Education, State Department of Education, Sacramento, Calif. 95814.

Hon. Calvin M. Frazier, Commissioner of Education, State Department of Education, Denver, Colo. 80203.

Hon. Mark R. Shedd, Commissioner of Education, State Department of Education, P.O. Box 2219, Hartford, Conn. 06115.

Hon. Kenneth C. Madden, Superintendent of Public Instruction, State Department of Education, Dover, Del. 19901.

Hon. Vincent E. Reed, Superintendent of Schools, Public Schools of the District of Columbia, 415 12th Street NW., Washington, D.C. 20004.

Hon. Ralph D. Turlington, Commissioner of Education, State Department of Education, Tallahassee, Fla. 32304.

Hon. Charles McDaniel, Superintendent of Schools, State Department of Education, Atlanta, Ga. 30334.

Hon. Charles G. Clark, Superintendent of Education, State Department of Education, P.O. Box 2360, Honolulu, Hawaii 96804.

Hon. Roy Truby, Superintendent of Public Instruction, State Department of Education, Boise, Idaho 83720.

Hon. Joseph M. Cronin, Superintendent of Education, Illinois Office of Education, Springfield, Ill. 62777.

Hon. Harold H. Negley, Superintendent of Public Instruction, State Department of Education, Indianapolis, Ind. 46204.

Hon. Robert D. Benton, Superintendent of Public Instruction, State Department of Education, Des Moines, Iowa 50319.

Hon. Merle R. Bolton, Commissioner of Education, State Department of Education, Topeka, Kans. 66612.

Hon. James B. Graham, Superintendent of Public Instruction, State Department of Education, Frankfort, Ky. 40601.

Hon. J. Kelly Nix, Superintendent of Education, State Department of Education, Baton Rouge, La. 70804.

Hon. H. Sawin Millett, Jr., Commissioner of Educational and Cultural Services, State Department of Educational and Cultural Services, Augusta, Maine 04333.

Hon. David W. Hornbeck, Superintendent of Schools, State Department of Education, Baltimore-Washington International Airport, P.O. Box 3717, Baltimore, Md. 21240.

Hon. Gergory R. Anrig, Commissioner of Education, State Department of Education, 31 St. James Ave., Boston, Mass. 02116.

Hon. John W. Porter, Superintendent of Public Instruction, State Department of Education, Lansing, Mich. 48909.

Hon. Howard B. Casmey, Commissioner of Education, State Department of Education, St. Paul, Minn. 55101.

Hon. Charles E. Holladay, Superintendent of Education, State Department of Education, Jackson, Miss. 39205.

Hon. Arthur L. Mallory, Commissioner of Education, State Department of Elementary and Secondary Education, Jefferson City, Mo. 65101.

Hon. Georgia R. Rice, Superintendent of Public Instruction, Office of the State Superintendent, State Capitol, Helena, Mont. 59601.

Hon. M. Anne Campbell, Commissioner of Education, State Department of Education, Lincoln, Nebr. 68509.

Hon. Ralph R. DiSibio, Superintendent of Public Instruction, State Department of Education, 400 West King St., Carson City, Nev. 89710.

Hon. Robert L. Brunelle, Commissioner of Education, State Department of Education Concord, N.H. 03301.

Hon. Fred G. Burke, Commissioner of Education, State Department of Education, Trention, N.J. 08625.

Hon. Leonard J. DeLayo, Superintendent of Public Instruction, State Department of Education, Santa Fe, N. Mex. 87503.

Hon. Gordon M. Ambach, Commissioner of Education, State Education Department, Albany, N.Y. 12234.

Hon. A. Craig Phillips, Superintendent of Public Instruction, State Department of Public Instruction, Raleigh, N.C. 27611.

Hon. Howard J. Snortland, Superintendent of Public Instruction, State Department of Public Instruction, Bismarck, N. Dak. 58505.

Hon. Franklin B. Walter, Superintendent of Public Instruction, State Department of Education, Columbus, Ohio 43215.

Hon. Leslie R. Fisher, Superintendent of Public Instruction, State Department of Education, Oklahoma City, Okla. 73105.

Hon. Verne A. Duncan, Superintendent of Public Instruction, State Department of Education, Salem, Oreg. 97310.

Hon. Caryl M. Kline, Secretary of Education, State Department of Education, Harrisburg, Pa. 17126.

Hon. Thomas C. Schmidt, Commissioner of Education, State Department of Education, Providence, R.I. 02908.

Hon. Cyril B. Busbee, Superintendent of Education, State Department of Education, Columbia, S.C. 29201.

Hon. Thomas C. Todd, State Superintendent of the Division of Elementary and Secondary Education, KNEIP Building, Pierre, S. Dak. 57501.

Hon. Samuel H. Ingram, Commissioner of Education, State Department of Education, Nashville, Tenn. 37219.

Hon. Marlin L. Brockette, Commissioner of Education, Texas Education Agency, Austin, Tex. 78701.

Hon. Walter D. Talbot, Superintendent of Public Instruction, State Board of Education, Salt Lake City, Utah 84111.

Hon. Robert A. Withey, Commissioner of Education, State Department of Education, Montpelier, Vt. 05602.

Hon. W. E. Campbell, Superintendent of Public Instruction, State Department of Education, Richmond, Va. 23216.

Hon. Frank B. Brouillet, Superintendent of Public Instruction, Office of the Superintendent of Public Instruction, Olympia, Wash. 98504.

Hon. Daniel B. Taylor, Superintendent of Schools, State Department of Education, Charleston, W.Va. 25305.

Hon. Barbara S. Thompson, Superintendent of Public Instruction, State Department of Public Instruction, Wisconsin Hall, 126 Langdon St., Madison, Wis. 53702.

Hon. Robert G. Schrader, Superintendent of Public Instruction, State Department of Education, Hathaway Building, Cheyenne, Wyo. 82002.

CHIEF STATE SCHOOL OFFICERS OF OUTLYING AREAS

Hon. Mere T. Betham, Director of Education, Department of Education, Pago Pago, Tutuila, American Samoa 96799.

Hon. David A. Speir, Superintendent of Schools, Canal Zone Government, Box M, Balboa Heights, C.Z.

Hon. Mary E. Cadigan, Director of Education, Department of Education, Argana, Guam 96910.

Hon. Carlos E. Chardon, Jr., Secretary of Education, Department of Education, Hato Rey, P.R. 00919.

Hon. David Ramarui, Director of Education, Department of Education, Saipan, Mariana Islands, Trust Territory of the Pacific Islands 96650.

Mr. Issac M. Calvo, Assistant Director of Education, Department of Education, Commonwealth of the Northern Mariana Islands, Saipan, Mariana Islands 96950.

Hon. Gwendolyn E. Kean, Commissioner of Education, Department of Education, Box 630, Charlotte Amalie, St. Thomas, V.I. 00801.

Mr. Donald J. Fosdick, Acting Director, Office of Indian Education Program, Bureau of Indian Affairs, 1951 Constitution Ave. NW., Washington, D.C.

13.416—Teacher Centers Program

CLOSING DATE

TO STATES: JANUARY 31, 1979

TO USOE: MARCH 1, 1979

Applications are invited for noncompeting continuation projects under the teacher centers program.

Authority for this program is contained in section 532, title IV-B, of the Higher Education Act of 1965, as amended.

(20 U.S.C. 1119a)

This program makes awards to local educational agencies and institutions of higher education.

The purpose of the awards is to assist local educational agencies in planning, establishing, and operating teacher centers and institutions of higher education in operating teacher centers.

Closing date for transmittal of applications to State educational agencies. To be assured of condsideration for funding, applications for noncompeting continuation awards should be mailed or hand delivered to the appropriate State educational agency by January 31, 1979.

If the application is late, the State educational agency may lack sufficient time to review it with other noncompeting continuation applications and may decline to accept it.

All applications must be submitted to the State educational agency of the State in which the applicant is located, for review by that agency. The State educational agency must then transmit to the U.S. Office of Education those applications that it recommends for consideration and approval by the Commissioner of Education. State educational agencies may set their own criteria for the review of applications which applicants may wish to take into consideration. The State criteria (if any) can be obtained by writing to the appropriate State educational agency (see the list of addresses of chief State school officers below.

Applications relivered by mail. An application that is sent by mail must be addressed with five copies (3 for the U.S. Office of Education) to the chief State school officer of the appropriate State educational agency at the address below. The package in which the application is mailed should be clearly marked: Attention: CFDA 12.416—Teacher centers program continuation application. State review requred.

Applications delivered by hand. An application that is hand delivered must be taken to the office of the appropriate chief State school officer, during their regular business hours.

Closing date for transmittal of applications to usoe. To be assured of consideration for funding, applications for noncompeting continuation awards should be mailed or hand delivered by March 1, 1979.

If the application is late, the Office Education may lack sufficient time to review it with other noncompeting continuation applications and may decline to accept it.

Applications delivered by mail. Applications sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.416, Washington, D.C. 20202.

Applicants are encouraged to use registered or at least first class mail.

Applications delivered by hand. Applications that are hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, Seventh and D Streets SW., Washington, D.C.

The Application Control Center will accept hand delivered applications between 8 a.m. and 4 p.m. (Washington, D.C., time) daily, except Saturdays, Sundays, and Federal holidays.

Appeals to the Commissioner: Applicants whose applications are not transmitted to the U.S. Office of Education by the appropriate State educational agency may appeal to the U.S. Commissioner of Education to request further consideration by the State educational agency. Such an appeal, signed by an authorized official for the applicant, must be received at the address given below under "Further Information" by March 9, 1979. Applicants who wish to appeal are encouraged to make their intent known by telephone at the number given below under "Further Information" prior to submitting a written appeal. Applications which the State educational agency wishes to transmit to the U.S. Office of Education, as the result of reconsideration following an appeal, must be received by the U.S. Office of Education, Application Control Center no later than March 15, 1979.

Available funds: It is anticipated that funds will be available for continuation of projects at approximately the same level as the prior year.

This estimate does not bind the U.S. Office of Education except as may be required by the applicable statute and regulations.

Application forms. Application forms and program information packages are expected to be ready for mailing by October 30, 1978. They may be obtained by writing to the Division of Educational Systems Development, U.S. Office of Education (Room 819, Riviere Building), 400 Maryland Avenue SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

Applicable regulations. The regulations applicable to this program are:

(a) Office of Education General Provisions Regulations (45 CFR Parts 100 and 100a), and

(b) The regulations governing the teacher centers program (45 CFR Part 197).

Further information. For further information contact Dr. Allen Schmieder, Teacher Centers Program, Division of Educational Systems Development, U.S. Office of Education (Room 819, Riviere Building), 400 Maryland Avenue SW., Washington, D.C. 20202, Telephone 202-653-5839.

Addresses of Chief State School Officers

Hon. Wayne Teague, Superintendent of Education, State Department of Education, Montgomery, Ala. 36130.

Hon. Marshall L. Lind, Commissioner of Education, State Department of Education, Juneau, Alaska 99801.

Hon. Carolyn Warner, Superintendent of Public Instruction, State Department of Education, Phoenix, Ariz. 85007.

Hon. A. W. Ford, Director of Education, State Department of Education, Little Rock, Ark. 72201.

Hon. Wilson Riles, Superintendent of Public Instruction and Director of Education, State Department of Education, Sacramento, Calif. 95184.

Hon. Calvin M. Frazier, Commissioner of Education, State Department of Education, Denver, Colo. 80203.

Hon. Mark R. Shedd, Commissioner of Education, State Department of Education, P.O. Box 2219, Hartford, Conn. 06115.

Hon. Kenneth C. Madden, Superintendent of Public Instruction, State Department of Public Instruction, Dover, Del. 19901

Hon. Vincent E. Reed, Superintendent of Schools, Public Schools of the District of Columbia, 415 12th Street NW., Washington, D.C. 20004.

Hon. Ralph D. Turlington, Commissioner of Education, State Department of Education, Tallahassee, Fla. 32304.

Hon. Charles McDaniel, Superintendent of Schools, State Department of Education, Atlanta, Ga. 30334.

Hon. Charles G. Clark, Superintendent of Education, P.O. Box 2360, Honolulu, Hawaii 96804.

Hon. Roy Truby, Superintendent of Public Instruction, State Department of Education, Boise, Idaho 83720.

Hon. Joseph M. Cronin, Superintendent of Education, Illinois Office of Education, Springfield, Ill. 62777.

Hon. Harold H. Negley, Superintendent of Public Instruction, Indianapolis, Ind. 46204.

Hon. Robert D. Benton, Superintendent of Public Instruction, Des Moines, Iowa 50319.

Hon. Merle R. Bolton, Commissioner of Education, State Department of Education, Topeka, Kans. 66612.

Hon. James B. Graham, Superintendent of Public Instruction, State Department of Education, Frankfort, Ky. 40601.

Hon. J. Kelly Nix, Superintendent of Education, State Department of Education, Baton Rouge, La. 70804.

Hon. H. Sawin Millett, Jr., Commissioner of Educational and Cultural Services. State Departement of Educational and Cultural Services, Augusta, Maine 04333.

Hon. David W. Hornbeck, Superintendent of Schools, State Department of Education, Baltimore-Washington International Airport, P.O. Box 8717, Baltimore, Md. 21240.

Hon. Gregory R. Anrig, Commissioner of Education, State Department of Education, 31 St. James Avenue, Boston, Mass. 02116.

Hon. John W. Porter, Superintendent of Public Instruction, State Department of Education, Lansing, Mich. 48909.

Hon. Howard B. Casmey, Commissioner of Education, State Department of Education, St. Paul, Minn. 55101.

Hon. Charles E. Holladay, Superintendent of Education, State Department of Education, Jackson, Miss. 39205.

Hon. Arthur L. Mallory, Commissioner of Education, State Department of Elementary and Secondary Education, Jefferson, City, Mo. 65101.

Hon. Georgia R. Rice, Superintendent of Public Instruction, Office of the State Superintendent, State Capitol, Helena, Mont. 59601.

Hon. M. Anne Campbell, Commissioner of Education, State Department of Education, Lincoln, Nebr. 68509.

Hon. Ralph R. DiSibio, Superintendent of Public Instruction, State Department of Education, 400 West King Street, Carson City, Nev. 89710.

Hon. Robert L. Brunelle, Commissioner of Education, State Department of Education, Concord, N.H. 03301.

Hon. Fred G. Burke, Commissioner of Education, State Department of Education, Trenton, N.J. 08625.

Hon. Leonard J. DeLayo, Superintendent of Public Instruction, State Department of Education, Santa Fe, N. Mex. 87503.

Hon. Gordon M. Ambach, Commissioner of Education, State Education Department, Albany, N.Y. 12234.

Hon. A. Craig Phillips, Superintendent of Public Instruction, State Department of Public Instruction, Raleigh, N.C. 27611.

Hon. Howard J. Snortland, Superintendent of Public Instruction, State Department of Public Instruction, Bismarck, N.Dak. 58505.

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Hon. Leslie R. Fisher, Superintendent of Public Instruction, State Department of Education, Oklahoma City, Okla. 73105.

Hon. Verne A. Duncan, Superintendent of Public Instruction, State Department of Education, Salem, Oreg. 97310.

Hon. Caryl M. Kline, Secretary of Education, State Department of Education, Harrisburg, Pa. 17126.

Hon. Thomas C. Schmidt, Commissioner of Education, State Department of Education, Providence, R.I. 02908.

Hon. Cyril B. Busbee, Superintendent of Education, State Department of Education, Columbia, S.C. 29201.

Hon. Thomas C. Todd, State Superintendent of the Division, of Elementary and Secondary Education, KNEIP Building, Pierre, S.Dak. 57501.

Hon. Samuel H. Ingram, Commissioner of Education, State Department of Education, Nashville, Tenn. 37219.

Hon. Marlin L. Brockette, Commissioner of Education, Texas Education Agency, Austin, Tex. 78701.

Hon. Walter D. Talbot, Superintendent of Public Instruction, State Board of Education, Salt Lake City, Utah 84111.

Hon. Robert A. Withey, Commissioner of Education, State Department of Education, Montpelier, Vt. 05602.

Hon. W. E. Campbell, Superintendent of Public Instruction, State Department of Education, Richmond, Va. 23216.

Hon. Frank B. Brouillet, Superintendent of Public Instruction, Office of the Superintendent of Public Instruction, Olympia, Wash. 98504.

Hon. Daniel B. Taylor, Superintendent of Schools, State Department of Education, Charleston, W. Va. 25305.

Hon. Barbara S. Thompson, Superintendent of Public Instruction, State Department of Public Instruction, Wisconsin Hall, 126 Langdon St., Madison, Wis. 53702.

Hon. Robert G. Schrader, Superintendent of Public Instruction, State Department of Education, Hathaway Building, Cheyenne, Wyo. 82002.

CHIEF STATE SCHOOL OFFICERS OF OUTLYING AREAS

Hon. Mere T. Betham, Director of Education, Department of Education, Pago Pago, Tutuila, American Samoa 96799.

Hon. David A. Speir, Superintendent of Schools, Canal Zone Government, Box M, Balboa Heights, Canal Zone.

Hon. Mary E. Cadigan, Director of Education, Department of Education, Agana, Guam 96910.

Hon. Carlos E. Chardon, Jr., Secretary of Education, Department of Education, Hato Rey, P. R. 00919.

Hon. David Ramarui, Director of Education, Department of Education, Saipan, Mariana Islands, Trust Territory of the Pacific Islands 96950.

Mr. Isaac M. Calvo, Assistant Director of Education, Department of Education, Commonwealth of the Northern Mariana Islands, Saipan, Mariana Islands 96950.

Hon. Gwendolyn E. Kean, Commissioner of Education, Department of Education, Box 630, Charlotte Amalie, St. Thomas, V.I. 00801.

Mr. Donald J. Fosdick, Acting Director, Office of Indian Education Program, Bureau of Indian Affairs, 1951 Constitution Avenue NW., Washington, D.C. 20245.

13.533E—NATIONAL READING IMPROVEMENT PROGRAM-READING ACADEMY PROGRAM

CLOSING DATE: JANUARY 31, 1979

Applications are invited for new projects under the national reading improvement program-reading academy program.

Authority for this program is contained in section 723 of the national reading improvement program, Title VII of the Education Amendments of 1974, Pub. L. 93-380, as amended by Pub. L. 94-194.

(20 U.S.C. 1963.)

This program issues awards to State educational agencies, local education agencies, institutions of higher education, community organizations and other nonprofit organizations.

The purpose of the awards is to furnish reading assistance and instruction to in-school as well as out-of-school youths and adults who do not otherwise receive such assistance and instruction.

Closing date for transmittal of applications. Applications for awards must be mailed (postmarked) or hand delivered by January 31, 1979.

Applications delivered by mail. An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center Attention: 13.533E, Washington, D.C. 20202.

Proof of mailing must consist of a legible U.S. Postal Service dated postmark or a legible mail receipt with the date of mailing stamped by the U.S. Postal Service. Private metered postmarks or mail receipts will not be accepted without a legible date stamped by the U.S. Postal Service.

NOTE.—The U.S. Postal Service does not uniformly provide a dated postmark. Applicants should check with their local post office before relying on this method.

Applicants are encouraged to use registered or at least first class mail.

Each late applicant will be notified that its application will not be considered in the current competition.

Applications delivered by hand. An application that is hand-delivered must be taken to the U.S. Office of Education, Application Control

Center, Room 5673, Regional Office Building 3, Seventh and D Streets SW., Washington, D.C.

The Application Control Center will accept hand-delivered applications between 8 a.m. and 4 p.m. (Washington, D.C., time) daily, except Saturdays, Sundays, or Federal holidays.

Applications will not be accepted after 4 p.m. on the closing date.

Program information. The Commissioner wishes to emphasize that an application requirement and evaluation criterion is demonstrated experience and capability in providing reading instruction to youths and adults (§§ 162.52(b) and 162.53(b)(5)). Another very important consideration is the ability of the applicant to provide support services and activities to the participants through an already established system which complements the literacy training (employment guidance and counseling, related vocational and technical training, social services referrals, etc.) More specifically, § 162.52(c)(5) requires that an application provide for utilization of materials suitable for youths and adults related to their expressed needs and interests, e.g., employment tasks, consumer information, helath and welfare services, and current events. Section 162.52(c)(6) requires that the application describe a strategy to involve community education (including adult education) and service organizations in the elimination of illiteracy in the service area. Section 162.53(b) indicates an important evaluation criterion is the extent the project is designed to achieve high quality. An additional criterion is the extent to which the applicant plans to develop materials and provide assistance designed to meet the individual needs of participants (§ 162.53(d)(2)).

The applicant will carry out the project in cooperation with other local programs concerned with adult education and, where appropriate, will utilize volunteers from such programs as VISTA, the retired senior citizens program, college work-study programs, and community service organizations (§ 162.53(d)(4)).

The applicant will establish working relationships with programs such as manpower programs under the Comprehensive Empolyment and Training Act of 1973 as part of its recruitment strategy (§ 162.53(d)(5)).

Thus, applicants which are currently providing literacy training and supportive services to youths and adults and which are capable of immediate implementation of a reading academy are likely to rate highest in the competition.

Since Right to Read's current authorization expires at the end of 1979, applicants are encouraged to prepare a single-year application. Applicants may prepare a multi-year application if they so desire, with the understanding that the new legislation may not provide for continuation in fiscal year 1980. Continuations of multi-year projects will be contingent upon the continued authorization of the program and the availablilty of funds.

Under proposed amendments passed by the House of Representatives or the Senate Committee on Human Resources, the existing authority for the national reading improvement program would be replaced by a new statutory authority. Although one or both of these bills would make the new program authority effective in fiscal year 1979, the new authority can take effect only if funds are appropriated to implement it.

The 1979 appropriation request for the national reading improvement program is based on the existing statutory authority of the program, not the proposed new authority. The request is being reviewed by the Congress on the basis of the existing statutory authority. We therefore assume that funds will be appropriated for the national reading improvement program under its existing authority and that grants will be made in fiscal year 1979 under the existing national reading improvement program regulations. Applications therefore are invited under the existing regulations.

Available funds. Approximately $4,530,000 is available for new Reading Academy projects in fiscal year 1979.

It is estimated that these funds could support 60 new projects.

The anticipated award for new projects will average approximately $75,000.

These estimates do not bind the U.S. Office of Education except as may be required by the applicable statute and regulations.

Application forms. Application forms and program information packages are expected to be ready for mailing by November 29, 1978. They may be obtained by writing to the Community Based Branch, Right to Read Office, U.S. Office of Education (Room 1171, Donohoe Building), 400 Maryland Avenue SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

Applicable regulations. The regulations applicable to this program are:

(a) Office of Education General Provisions Regulations (45 CFR Parts 100 and 100a), and

(b) Regulations governing the Reading Academy Program (45 CFR Part 162, Subpart E).

Further information. For further information contact Mr. Thomas R. Hill, Chief, Community Based Branch, Right to Read Program, U.S. Office of Education (Room 1171, Donohoe Building), 400 Maryland Avenue SW., Washington, D.C. 20202, Telephone, 202-245-8213.

(20 U.S.C. 1963.)

13.533G—National Reading Improvement Program—Reading Improvement Projects

CLOSING DATE: JANUARY 31, 1979

Applications are invited for new projects under the national reading improvement program—reading improvement projects.

Authority for this program is contained in section 705 of the national reading improvement program, Title VII of the Education Amendments of 1974, Pub. L. 93-380, as amended by Pub. L. 94-194.

(20 U.S.C. 1921.)

This program issues awards for elementary school projects to State educational agencies and local education agencies; and for preelementary school projects with SEAs, LEAs and nonprofit educational or child care institutions.

The purpose of the awards is to support projects to strengthen instructional programs in elementary schools having large numbers or a high percentage of children with reading deficiencies; and projects to establish and improve programs in language arts and reading in preelementary schools in areas where there are large numbers or a high percentage of elementary school children with reading deficiencies.

Closing date for transmittal of applications. Applications for awards must be mailed (postmarked) or hand delivered by January 31, 1979.

Applications delivered by mail. An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center Attention; 13.533G, Washington, D.C. 20202.

Proof of mailing must consist of a legible U.S. Postal Service dated postmark or a legible mail receipt with the date of mailing stamped by the U.S. Postal Service. Private metered postmarks or mail receipts will not be accepted without a legible date stamped by the U.S. Postal Service.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Applicants should check with their local post office before relying on this method.

Applicants are encouraged to use registered or at least first class mail.

Each late applicant will be notified that its application will not be considered in the current competition.

Applications delivered by hand. An application that is hand delivered

must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets SW., Washington, D.C.

The Application Control Center will accept hand-delivered applications between 8 a.m. and 4 p.m. (Washington, D.C., time) daily, except Saturdays, Sundays, or Federal holidays.

Applications will not be accepted after 4 p.m. on the closing date.

Program information. Applications are being accepted for new, competing grants under the right to read reading improvement program (45 CFR Part 162, Subpart B).

In accordance with § 162.11 of the program regulations, eligible applicants for elementary projects are local educational agencies, State educational agencies, or both. Eligible applicants for preelementary projects are local educational agencies, State educational agencies, and other nonprofit, educational, or child care institutions. Any current grantee under the program which is not eligible to receive a noncompeting, continuation grant may compete for a new grant award.

Current grantees are eligible to receive a noncompeting continuation award if their grant award in fiscal year 1978 indicated the Commissioner's intention to fund them for a 24-month project period. A notice of closing date for noncompeting, continuation applications is being published separately.

Section 162.15 of the program regulations provides that, in approving applications, the Commissioner will, to the maximum extent feasible, assure an equitable distribution of funds throughout the United States and among urban and rural areas.

As stated in § 162.18(a), it is anticipated that most preelementary grants will be awarded in the range between $5,000 and $25,000, with most of prospective applicants is directed to § 162.11(b)(1)(ii) of the program regulations which provides that Federal funds for preelementary projects will be awarded to schools located in geographic areas where there are elementary schools with large numbers or 50 percent or more of the students in grades two through eight in project schools or project classes reading one or more years below appropriate grade levels.

The Office of Education found, in reviewing applications in fiscal year 1978, that many applicants had failed to address, or address adequately, one or more of the requirements for grant awards, and their applications were disqualified. Therefore, the Office of Education cautions applicants to review carefully each of the requirements in the regulations and to address each in the application.

The Commissioner wants to bring special attention to the statement of objectives in the application. Applicants are strongly urged to see that each project objective specify (1) what is to be done, (2) how it is to be done, (3) who is to do it, (4) when it is to be done, and (5) how the activities will be measured. Also, applicants are urged, in accordance with the criterion in § 162.14(b)(2)(i), to carry out the program with existing staff rather than hiring additional staff members with Federal funds. The reason the Office of Education suggests this is that often, when Federal funds are withdrawn, the additional personnel are not continued with local funds, and the program is not carried on.

Since Right to Read's current authorization expires at the end of fiscal year 1979, applicants are encouraged to prepare a single-year application. Applicants may prepare a multi-year application if they so desire, with the understanding that the new legislation may not provide for continuation in fiscal year 1980. Continuations of multi-year projects will be contingent upon the continued authorization of the program and the availibility of funds.

Under proposed amendments passed by the House of Representatives or the Senate Committee on Human Resources, the existing authority for the national reading improvement program would be replaced by a new statutory authority. Although one or both of these bills would make the new program authority effective in fiscal year 1979, the new authority can take effect only if funds are appropriated to implement it.

The 1979 appropriation request for the national reading improvement program is based on the existing statutory authority for the program, not the proposed new authority. The request is being reviewed by the Congress on the basis of the existing statutory authority. We therefore assume that funds will be appropriated for the national reading improvement program under its existing authority and that grants will be made in fiscal year 1979 under the existing national reading program regulations. Applications therefore are invited under the existing regulations.

Guidance to applicants. Based upon the experience of the Office of Education in reviewing applications under this program in fiscal year 1978, special guidance has been given in this notice on the preparation and submission of applications and in their review by State education agencies. In particular, the attention of prospective applicants has been directed to application requirements in the program regulations which may not have been adequately addressed in a number of fiscal year 1978 applications.

However, this notice does not cover all application requirements in the regulations, nor does it state fully the specific regulation provisions which it does mention. Applicants are responsible for reading and complying with all requirements in the program regulation. Guidance in this notice relating to the regulation is given for the purpose of directing applicants to the regulation; not for the purpose of being used in place of the regulation.

Applicants and State educational agencies should also understand that provisions in this notice which involve suggestive language (e.g., "it is suggested," "applicants are urged") are only suggestions given for the purpose of guidance or to facilitate review of applications. These suggestive provisions are not requirements, and failure of an applicant or SEA to follow them will not in any way prejudice the application.

Special procedures. In accordance with § 162.13(b) of the program regulation, an applicant other than the State educational agency (SEA) must provide a copy of the completed application (and, it is suggested, two additional copies) to the State educational agency for the State within which the applicant agency is located on or before January 16, 1979. Unless the State educational agency has specified differently, it is suggested that these copies be submitted to the State right to read director's office within the respective State educational agency. For verification of submission to the SEA, the applicant agency is encouraged to submit a copy of the dated cover letter used to forward its application to the SEA or to submit some other piece of verification in its application to the SEA or to submit some other piece of verification in its application to the Commissioner. Under § 162.13, the Commissioner is not authorized to approve a reading improvement project application unless the State educational agency has (1) established an advisory council on reading, (2) authorized and provided the opportunity to the council to receive and designate priorities among applications for grants, and (3) first approved the application.

Section 162.13(c) provides that failure by the SEA to indicate its approval in writing to the Commissioner within a period specified by the Commissioner shall be deemed a disapproval of the application by the SEA, and the application will not be considered for funding by the Commissioner.

Cut-off date for receipt of SEA approval of applications. The cut-off date established for receipt by the Commissioner of written approval by the SEA's of applications within their State is February 12, 1979. These writ-

ten approvals should be forwarded to: Program Operations Branch, Right to Read Office, U.S. Office of Education, 400 Maryland Avenue SW., (Room 1158, Donohoe Building), Washington, D.C. 20202. In addition to the approval list, the SEA must also send by that date the information required by § 162.13(d)(2) (i) and (ii). In accordance with § 162.14(a)(11), the Commissioner may attribute as many as 50 points (out of 195 total points for elementary projects and 230 for preelementary projects) to the ranking of an application by the State advisory council. It should be made clear, however, that high rankings by the State advisory council do not assure an automatic selection for funding by the Commissioner.

It is suggested that SEA's judge and rank the prelementary applications separately from the elementary ones, and that they forward copies of any written reviews of the applications.

As indicated in § 162.13(e), State educational agencies are strongly urged to approve no more than 10 applications.

Available funds. Approximately $4,300,000 is available for the reading improvement projects in fiscal year 1979.

It is estimated that these funds could support 72 new projects.

The anticipated award for new projects will be between $15,000 and $125,000, with most of the awards made at the lower half of this range.

These estimates do not bind the U.S. Office of Education except as may be required by the applicable statute and regulations.

Application forms. Application forms and program information packages are expected to be ready for mailing by November 29, 1978. They may be obtained by writing to the Program Operations Branch, Right to Read Office, U.S. Office of Education (Room 1158), Donohoe Building), 400 Maryland Avenue SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

Applicable regulations. The regulations applicable to this program are:

(a) Office of Education General Provisions Regulations (45 CFR Parts 100 and 100a), and

(b) Regulations governing the Reading Improvement Projects (45 CFR Part 162, Subpart B).

Further information: For further information contact, Mr. Jack McCarthy, Chief, Program Operations Branch, Right to Read Program, U.S. Office of Education (Room 1158, Donohoe Building), 400 Maryland Avenue SW., Washington, D.C. 20202, telephone 202-245-7946.

(20 U.S.C. 1921)

13.533G—NATIONAL READING IMPROVEMENT PROGRAM—READING IMPROVEMENT PROJECTS

CLOSING DATE: JANUARY 31, 1979

Applications are invited for noncompeting continuation projects under the national reading improvement program—reading improvement projects.

Authority for this program is contained in section 705 of the national reading improvement program, Title VII of the Educational Amendments of 1974, Pub. L. 93-380, as amended by Pub. L. 94-194.

(20 U.S.C. 1921)

This program issues awards for elementary school projects to State educational agencies and local education agencies; and for preelementary school projects to SEAs, LEAs and nonprofit educational or child care institutions.

The purpose of the awards is to support projects to strengthen instructional programs in elementary schools having large numbers or a high percentage of children with reading deficiencies; and projects to establish and improve programs in language arts and reading in preelementary schools in areas where there are large numbers or a high percentage of elementary school children with reading deficiencies.

Closing date for transmittal of applications. To be assured of consideration for funding, applications for noncompeting continuation awards should be mailed or hand delivered by January 31, 1979.

If the application is late, the Office of Education may lack sufficient time to review it with other noncompeting continuation applications and may decline to accept it.

Applications delivered by mail. An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center Attention: 13.533G, Washington, D.C. 20202.

Applicants are encouraged to use registered or at least first class mail.

Applications delivered by hand. An application that is hand-delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building No. 3, 7th and D Streets SW., Washington, D.C.

The Application Control Center will accept hand-delivered applications between 8 a.m. and 4 p.m. (Washington, D.C., time) daily except Saturdays, Sundays, or Federal holidays.

Program information. Noncompeting applications are being accepted from current grantees who submitted applications for multi-year funding in fiscal year 1978 for continuation grants under the right to read reading improvement program.

In accordance with § 162.17(c) of the program regulations, subpart B of 45 CFR part 162, only those current grantees who in fiscal year 1978 received written notice on their notification of grant award to the effect that the Commissioner intended a 24-month project period may apply for a noncompeting continuation grant award.

Continuation grant awards will be made under this notice for projects commencing no earlier than July 1, 1979, and terminating no later than August 31, 1980. Since continuation applicants are applying for the last half of their 24-month project, applicants may apply for a noncompetitive continuation award for the indicated remaining project period of only 12 months.

Under proposed amendments passed by the House of Representatives or the Senate Committee on Human Resources, the existing authority for the national reading improvement program would be replaced by a new statutory authority. Although one or both of these bills would make the new program authority effective in fiscal year 1979, the new authority can take effect only if funds are appropriated to implement it.

The 1979 appropriation request for the national reading improvement program is based on the existing statutory authority for the program, not the proposed new authority. The request is being reviewed by the Congress on the basis of the existing statutory authority. We therefore assume that funds will be appropriated for the national reading improvement program under its existing authority and that grants will be made in fiscal year 1979 under the existing national reading improvement program regulations. Applications therefore are invited under the exisiting regulations.

Guidance to applicants. In particular, the attention of noncompeting applicants is directed to § 162.17(e) which describes the basis on which a continuation application will be reviewed.

State review and approval. In accordance with § 162.13(b) of the applicable regulation, an applicant other than the State educational agency (SEA) must provide a copy of the completed application (and, it is suggested, two additional copies) to the State educational agency for the State within which the applicant agency is located on or before January 16, 1979. Unless the State educational agency has specified differently, it is suggested that these copies be submitted to the State right to read director's office within the respective State educational agency. For verification of submission to the SEA, the applicant agency

is encouraged to submit a copy of the dated cover letter used to forward its application to the SEA or some other piece of verification in its application to the Commissioner.

Under § 162.13, the Commissioner is not authorized to approve a reading improvement project application unless the State education agency has (1) established an advisory council on reading, (2) authorized and provided the opportunity to the council to receive and designate priorities among applications for grants, and (3) first approved the application.

Section 162.13(c) provides that failure by the SEA to indicate its approval in writing to the Commissioner within a period specified by the Commissioner shall be deemed a disapproval of the application by the SEA, and the application will not be considered for funding by the Commissioner.

Cut-off date for receipt of SEA approval of applications. The cut-off date established for receipt by the Commissioner or written approval by the SEA's of applications within their State is February 12, 1979. These written approvals should be forwarded to: Program Operations Branch, Right to Read, U.S. Office of Education, 400 Maryland Avenue SW. (Room 1187, Donohoe Building, Washington, D.C. 20202. In addition to the approval list, the SEA must also send by that date the information required by 45 CFR 162.13(d)(2) (i) and (ii).

Available funds. It is anticipated that funds will be available for continuation of projects at the prior year level.

Application forms. Application forms and program information packages are expected to be ready for mailing by November 29, 1978. They may be obtained by writing to the Program Operations Branch, Right to Read Office, U.S. Office of Education (Room 1187, Donohoe Building), 400 Maryland Avenue SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

Applicable regulations. The regulations applicable to this program are:

(a) Office of Education General Provisions Regulations (45 CFR parts 100 and 100a), and

(b) Regulations governing the reading improvement projects (45 CFR part 162, subpart B).

Further information. For further information contact Mr. Jack McCarthy, Chief, Program Operations Branch, Right to Read Program, U.S. Office of Education (Room 1158, Donohoe Building), 400 Maryland Avenue SW., Washington, D.C. 20202, telephone, 202-245-7946.

(20 U.S.C. 1921)

13.533B—National Reading Improvement Program—State Leadership and Training Program

CLOSING DATE: FEBRUARY 27, 1979

Applications are invited for new and noncompeting continuation projects under the national reading improvement program—State leadership and training program.

Authority for this program is contained in section 724 of the national reading improvement program, title VII of the Education Amendments of 1974, Pub. L. 93-380, as amended by Pub. L. 94-194.

(20 U.S.C. 1964)

This program issues awards to State departments of education.

The purpose of the awards is to carry out by such agencies leadership and training activities designed to prepare personnel throughout the State to conduct projects which have been demonstrated in that State or other States to be effective in overcoming reading deficiencies.

Closing date for transmittal of applications. Applications for new awards must be mailed (postmarked) or hand-delivered by February 27, 1979.

To be assured of consideration for funding, applications for noncompeting continuation awards should be mailed or hand delivered by February 27, 1979.

If the continuation application is late, the Office of Education may lack sufficient time to review it with other noncompeting continuation applications and may decline to accept it.

Application delivered by mail. An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.533B, Washington, D.C. 20202.

On new applications, proof of mailing must consist of a legible U.S. Postal Service dated postmark or a legible mail receipt with the date of mailing stamped by the U.S. Postal Service. Private metered postmarks or mail receipts will not be accepted without a legible date stamped by the U.S. Postal Service.

NOTE: The U.S. Postal Service does not uniformly provide a dated postmark. Applicants should check with their local post office before relying on this method.

Applicants are encouraged to use registered or at least first class mail.

Each late applicant for a new project will be notified that its application will not be considered in the current competition.

Applications delivered by hand. An application that is hand-delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, Seventh and D Streets SW., Washington, D.C.

The Application Control Center will accept hand-delivered applications between 8 a.m. and 4 p.m. (Washington D.C. time) daily, except Saturdays, Sundays, or Federal holidays.

Applications for new projects will not be accepted after 4 p.m. on the closing date.

Program information. (1) *Competing new applications.*—To facilitate review of applications, applicants are encouraged to present information in the sequence of topics that are contained in § 162.61 (nature of projects; funding requirements) and § 162.62 (evaluation criteria) of the program regulation. The attention of applicants is particularly invited to § 162.61(b) of the regulation which requires each applicant to set forth a plan to provide for carrying out and integrating all activities in the State leadership and training program.

Since Right to Read's current authorization expires at the end of fiscal year 1979, applicants are encouraged to prepare a single-year application. Applicants can prepare a multiyear application if they so desire, with the understanding that the new legislation may not provide for continuation in fiscal year 1980. Continuations of multiyear projects will be contingent upon the continued authorizations of the program and the availability of funds.

(2) *Noncompeting continuation applications.* As provided under § 162.63(e) of the program regulation, a continuation application will be reviewed, in part, on the basis of the project's effectiveness to date, or any constructive changes proposed as a result of a grantee's ongoing evaluation. Applicants are encouraged to review their initial applications, as well as the requirements and criteria in §§ 162.61 and 162.62, in developing information on how they will conduct their projects in the next year.

The Office of Education stresses that State educational agency officials who have authority and responsibility to plan and implement this program realize the extent of the agency commitment that is needed and the need for high expectations for outcomes in the agency to carry out successfully State leadership and training projects. The Office of Education strongly encourages applicants to take particular care in defining clearly and sharply the objectives of the project in accordance with the specific requirements of § 162.61(c)(1) of the program regulations.

More specific information regarding these priorities is contained in the regulation and the program information package.

Under proposed amendments passed by the House of Representatives or the Senate Committee on Human Resources, the existing authority for the national reading improvement program would be replaced by a new statutory authority. Although one or both of these bills would make the new program authority effective in fiscal year 1979, the new authority can take effect only if funds are appropriated to implement it.

The 1979 appropriation request for the national reading improvement program is based on the existing statutory authority for the program, not the proposed new authority. The request is being reviewed by the Congress on the basis of the existing statutory authority. We therefore assume that funds will be appropriated for the national reading improvement program under its existing authority and the grants will be made in fiscal year 1979 under the existing national reading improvement regulations. Applications therefore are invited under the existing regulations,

Available funds. Approximately $6,400,000 is available for the State leadership and training program in fiscal year 1979.

It is estimated that these funds could support 46 new projects and 8 continuing projects.

The majority of grants are expected to range from $75,000 to $115,000.

These estimates do not bind the U.S. Office of Education except as may be required by the applicable statute and regulations.

Application forms. Application forms and program information packages are expected to be ready for mailing by November 29, 1978. They may be obtained by writing to the Program Operations Branch, Right to Read Office, U.S. Office of Education, Room 1158, Donohue Building, 400 Maryland Avenue SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

Applicable regulations. The regulations applicable to this program are:

(a) Office of Education General Provisions Regulations (45 CFR Parts 100 and 100a), and

(b) Regulations governing the State leadership and training program (45 CFR Part 162, Subpart F.)

Further information. For further information contact Mr. Sherwood Simons, Program Operations Branch, Right to Read Program, U.S. Office of Education (Room 1185, Donohue Building), 400 Maryland Avenue SW., Washington, D.C. 20202, Telephone 202-245-7946.

(20 U.S.C. 1964.)

13.533E—National Reading Improvement Program—Reading Academy Program

CLOSING DATE: FEBRUARY 27, 1979

Applications are invited for noncompeting continuation projects under the national reading improvement program—reading academy program.

Authority for this program is contained in section 723 of the national reading improvement program, title VII of the Education Amendments of 1974, Pub. L. 93-380, as amended by Pub. L. 94-194.

(20 U.S.C. 1963.)

This program issues awards to State educational agencies, local education agencies, institutions of higher education, community organizations and other nonprofit organizations.

The purpose of the awards is to furnish reading assistance and instruction to in-school as well as out-of-school youths and adults who do not otherwise receive such assistance and instructions.

Closing date for transmittal of applications. To be assured of consideration for funding, applications for noncompeting continuation awards should be mailed or hand-delivered by February 27, 1979.

If the application is late, the Office of Education may lack sufficient time to review it with other noncompeting continuation applications and may decline to accept it.

Applications delivered by mail. An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center Attention: 13.533E, Washington, D.C. 20202.

Applicants are encouraged to use registered or at least first class mail.

Applications delivered by hand. An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets SW., Washington, D.C.

The Application Control Center will accept hand-delivered applications between 8 a.m. and 4 p.m. (Washington, D.C. time) daily except Saturdays, Sundays, or Federal holidays.

Program information. Under proposed amendments passed by the House of Representatives or the Senate Committee on Human Resources, the existing authority for the national reading improvement program would be replaced by a new statutory authority. Although one or both of these bills would make the new program authority effective in fiscal year 1979, the new authority can take effect only if funds are appropriated to, implement it.

The 1979 appropriation request for the national reading improvement program is based on the existing statutory authority for the program, not the proposed new authority. The request is being reviewed by the Congress on the basis of the existing statutory authority. We therefore assume that funds will be appropriated for the national reading improvement program under its existing authority and that grants will be made in fiscal year 1979 under the existing national reading improvement program regulations. Applications therefore are invited under the existing regulations.

Available funds. It is anticipated that funds will be available for continuation of projects at the prior year level.

Application forms. Application forms and program information packages are expected to be ready for mailing by November 29, 1978. They may be obtained by writing to the Community Based Branch, Right to Read Office, U.S. Office of Education (Room 1171, Donohoe Building), 400 Maryland Avenue SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

Applicable regulations. The regulations applicable to this program are:

(a) Office of Education General Provisions Regulations (45 CFR Parts 100 and 100a), and

(b) Regulations governing the Reading Academy Program (45 CFR Part 162, Subpart E).

Further information. For further information contact Mr. Thomas R. Hill, Chief, Community Based Branch, Right to Read Program, U.S. Office of Education (Room 1171, Donohoe Building), 400 Maryland Avenue SW., Washington, D.C. 20202, Telephone, 202-245-8213.

(20 U.S.C. 1963.)

13.565A—Women's Educational Equity Act Program

CLOSING DATE: FEBRUARY 28, 1978

Applications are invited for noncompeting continuation projects under the women's educational equity act program.

Authority for this program is contained in section 408 of the Education Amendments of 1974, as amended.

(20 U.S.C. 1866.)

This program issues awards to public agencies, private nonprofit organizations, and individuals.

The purpose of the awards is to develop educational materials and model programs designed to promote women's educational equity. The ma-

terials and programs are developed for the replication throughout the United States.

Closing date for transmittal of applications. To be assured of consideration for funding, applications for noncompeting continuation awards should be mailed or hand delivered by February 28, 1979.

If the application is late, the Office of Education may lack sufficient time to review it with other noncompeting applications and may decline to accept it.

Applications delivered by mail. An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center Attention: 13.565, Washington, D.C. 20202.

Applicants are encouraged to use registered or at least first class mail.

Applications delivered by hand. An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets SW., Washington, D.C.

The Application Control Center will accept hand-delivered applications between 8 a.m. and 4 p.m. (Washington, D.C., time) daily, except Saturdays, Sundays, and Federal holidays.

Available funds. It is anticipated that funds will be available for continuation of projects at the continuation level requested in the initial application.

Application forms. Application forms and program information packages are expected to be ready for mailing by September 18, 1978. They will be sent directly to all grantees with noncompeting awards.

Special procedures. Concurrently with the submission if its application to the Commissioner, a local educational agency (LEA) must provide a copy of its application to the State educational agency (SEA) of the State in which the LEA is located. For verification of submission to the SEA, the LEA applicant must enclose in its application to the Office of Education a copy of the dated cover letter used to forward a copy of its application to the SEA. An SEA wishing to submit advice and comment on any LEA application originating within its State may do so by forwarding the advice and comment to the Women's Program Staff, U.S. Office of Education, Room 2147, 400 Maryland Avenue SW., Washington, D.C. 20202. Advice and comments received from SEA's will be considered in reviewing these applications if they are received no later than March 14, 1979, regarding LEA applications for continuation grants.

Applicable regulations. The regulations applicable to this program are:

(a) Office of Education General Provisions Regulations (45 CFR Parts 100 and 100a), and

(b) Regulations governing the Women's Educational Equity Act program (45 CFR Part 160f).

Further information. For further information contact Dr. Joan E. Duval, Director, Women's Program Staff, U.S. Office of Education, Room 2147, 400 Maryland Avenue SW., Washington, D.C. 20202, Telephone, 202-245-2181.

(20 U.S.C. 1866.)

13.444D—Handicapped Children's Early Education Program—Model-Outreach

CLOSING DATE: MARCH 1, 1979

(New Projects)

Applications are invited for new projects under the handicapped children's early education program—Model-Outreach.

Authority for this program is contained in sections 623 and 624 of the Education of the Handicapped Act.

(20 U.S.C. 1423, 1424.)

This program issues awards to local education agencies, private nonprofit agencies and institutions of higher education which have completed a 3-year demonstration phase under the HCEEP-demonstration and met eligibility requirements.

The purpose of the awards is to assist other agencies in meeting the early educational needs of handicapped children. Direct services provided by the project during the prior demonstration phase are to be continued by the applicant and supported from local funds other than funds from this program to meet the eligibility requirements for Outreach funding (13.444D).

Closing date for transmittal of applications. Applications for awards must be mailed (postmarked) or hand delivered by March 1, 1979.

Applications delivered by mail. An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.444D, Washington, D.C. 20202.

Proof of mailing must consist of legible U.S. Postal Service dated postmark or a legible mail receipt with the date of mailing stamped by the U.S. Postal Service. Private metered postmarks or mail receipts will not be accepted without a legible date stamped by the U.S. Postal Service.

NOTE.—The U.S. Postal Service does not uniformly provide a dated postmark. Applicants should check with their local post office before relying on this method.

Applicants are encouraged to use registered or at least first-class mail.

Each late applicant will be notified that its application will not be considered in the current competition.

Applications delivered by hand. An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, Seventh and D Streets SW., Washington, D.C.

The Application Control Center will accept hand delivered applications between 8 a.m. and 4 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

Applications that are hand delivered will not be accepted after 4 p.m. on the closing date.

Available funds. The funding level for the handicapped children's early education program is expected to be approximately $22 million for fiscal year 1979. There will be approximately 15 new Outreach project funded under this program. Funding for new Outreach projects has averaged between $50,000 and $150,000.

Application forms. Application forms and program information packages are expected to be ready for mailing by January 2, 1979. They may be obtained from the Division of Innovation and Development, Bureau of Education for the Handicapped, U.S. Office of Education, Room 3100, Donohoe Building, 400 Maryland Avenue SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

Applicable regulations. The regulations applicable to this program are:

(a) Office of Education General Provisions Regulations (45 CFR parts 100 and 100a), and

(b) Program regulations (45 CFR parts 121,121d).

Further information. For further information contact, Dr. William Swan, Project Officer, Early Childhood Program, U.S. Office of Education Room 3100, Donohoe Building, 400 Maryland Avenue SW., Washington, D.C. 20202, telephone 202-245-9722.

(20 U.S.C. 1423, 1424.)

13.576—Strengthening Research Library Resources

CLOSING DATE: MARCH 1, 1979

Applications are invited for new projects under the strengthening research library resources program.

Authority for this program is contained in sections 231-236 of Part C of Title II of the Higher Education Act of 1965, as amended by section 107 of the Education Amendments of 1976:

(20 U.S.C. 1041-1046.)

This program issues grants to public or private nonprofit institutions, including the library resources of institutions of higher education, independent research libraries, and State and other public libraries which serve as major research libraries as defined in § 136.04 of the regulations.

The purpose of these grants is to promote research and education of higher quality throughout the United States by providing financial aid to eligible major research libraries to help maintain and strengthen their collections, and to make these collections available to researchers and scholars beyond their primary users and to other libraries whose users have need for research materials.

Closing date for transmittal of applications. Applications for awards must be mailed (postmarked) or hand delivered by March 1, 1979.

Applications delivered by mail. An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center Attention: 13.576, Washington, D.C. 20202.

Proof of mailing must consist of a legible U.S. Postal Service dated postmark or a legible mail recipt with the date of mailing stamped by the U.S. Postal Service. Private metered postmarks or mail receipts will not be accepted without a legible date stamped by the U.S. Postal Service.

NOTE.—The U.S. Postal Service does not uniformly provide a dated postmark. Applicants should check with their local post office before relying on this method.

Applicants are encouraged to use registered or at least first-class mail.

Each late applicant will be notified that its application will not be considered in the current competition.

Applications delivered by hand. An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, Seventh and D Streets SW., Washington, D.C.

The Application Control Center will accept hand-delivered applications between 8 a.m. and 4 p.m. (Washington, D.C., time) daily, except Saturdays, Sundays, and Federal holidays.

Applications that are hand delivered will not be accepted after 4 p.m. on the closing date.

Program information. In formulating proposals for new projects, potential applicants should give special attention to § 136.04, which provides a definition of what constitutes a major research library and to § 136.06, which contains specific program funding criteria and the number of points attached to each.

Available funds. It is anticipated that approximately $5 million will be made available for the strengthening research library resources program in fiscal year 1979.

It is estimated that these funds could support approximately 11 new projects with approximately $2,750,000 and support 9 noncompeting continuation projects with approximately $2,250,000.

These estimates do not bind the U.S. Office of Education except as may be required by the applicable statute and regulations.

Application forms. Application forms and program information packages are expected to be ready for mailing by December 11, 1978. They may be obtained by writing to the Division of Library Programs, U.S. Office of Education, Room 3124, Regional Office Building 3, 400 Maryland Avenue SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

Applicable regulations. The regulations applicable to this program are:

(a) Office of Education General Provisions Regulations (45 CFR parts 100 and 100a), and

(b) Regulations governing the strengthening research library resources program (45 CFR part 136) published in the FEDERAL REGISTER on December 28, 1977. (42 FR 64840.)

Further information. For further information contact, Mr. Paul C. Janaske, Acting Director, Division of Library Programs, U.S. Office of Education, Room 3124, Regional Office Building 3, 400 Maryland Avenue SW., Washington, D.C. 20202, telephone 202-245-9687.

(20 U.S.C. 1041-1046.)

13.576—STRENGTHENING RESEARCH LIBRARY RESOURCES

CLOSING DATE: MARCH 1, 1979

Applications are invited for noncompeting continuation projects under the strengthening research library resources program.

Authority for this program is contained in sections 231-236 of Part C of Title II of the Higher Education Act of 1965, as amended by section 107 of the Education Amendments of 1976.

(20 U.S.C. 1041-1046)

This program issues grants to public or private nonprofit institutions, including the library resources of institutions of higher education, independent research libraries, and State and other public libraries which serve as major research libraries as defined in § 136.04 of the regulations.

The purpose of these grants is to promote research and education of higher quality throughout the United States by providing financial aid to eligible major research libraries to help maintain and strengthen their collections, and to make these collections available to researchers and scholars beyond their primary users and to other libraries whose users have need for research materials.

Closing date for transmittal of applications. To be assured of consideration for funding, applications for noncompeting continuation awards should be mailed or hand delivered by March 1, 1979.

If the application is late, the Office of Education may lack sufficient time to review it with other noncompeting continuation applications and may decline to accept it.

Applications delivered by mail. An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center Attention: 13.576, Washington, D.C. 20202.

Applicants are encouraged to use registered or at least first-class mail.

Applications delivered by hand. An application that is hand-delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building No. 3, 7th and D Streets SW., Washington, D.C.

The Application Control Center will accept hand-delivered applications between 8 a.m. and 4 p.m. (Washington, D.C., time) daily except Saturdays, Sundays, and Federal holidays.

Program information. In formulating proposals for noncompeting continuation projects, applicants should give special attention to section 136.10(d), which provides an explanation of the procedure to be used in evaluating such proposals.

Available funds. It is anticipated that approximately $5 million will be made available for the strengthening research library resources program in fiscal year 1979.

It is estimated that these funds could support approximately 11 new projects with approximately $2,750,000 and support 9 noncompeting continuation projects with approximately $2,250,000.

These estimates do not bind the U.S. Office of Education except as may be required by the applicable statute and regulations.

Application forms. Application forms and program information packages are expected to be ready for mailing by December 11, 1978. They may be obtained by writing to the Division of Library Programs, U.S. Office of Education (Room 3124, Regional Office Building 3), 400 Maryland Avenue SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms in-

cluded in the program information packages.

Applicable regulations. The regulations applicable to this program are:

(a) Office of Education General Provisions Regulations (45 CFR parts 100 and 100a), and

(b) Regulations governing the strengthening research library resources program (45 CFR part 136) published in the FEDERAL REGISTER on December 28, 1977 (42 FR 64840.)

Further information. For further information contact, Mr. Paul C. Janaske, Acting Director, Division of Library Programs, U.S. Office of Education (Room 3124, Regional Office Building 3), 400 Maryland Avenue SW., Washington, D.C. 20202, telephone 202-245-9687.

(20 U.S.C. 1041-1046)

13.446 MEDIA RESEARCH, PRODUCTION, DISTRIBUTION AND TRAINING GRANT PROGRAM

CLOSING DATE: MARCH 5, 1979

Applications are invited for new projects under the media research, production, distribution and training program.

Authority for this program is contained in sections 651 and 652 of the education for the Handicapped Act, as amended.

(20 U.S.C. 1451, 1452)

The purpose of the awards is to promote the advancement of handicapped persons through media by assisting research, production, distribution and training in the use of media.

Closing date for transmittal of applications. Applications for awards must be mailed (postmarked) or hand delivered by March 5, 1979.

Applications delivered by mail: An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center Attention: 13.446, Washington, D.C. 20202.

Proof of mailing must consist of a legible U.S. Postal Service dated postmark or a legible mail receipt with the date of mailing stamped by the U.S. Postal Service. Private metered postmarks or mail receipts will not be accepted without a legible date stamped by the U.S. Postal Service.

NOTE: U.S. Postal Service does not uniformly provide a dated postmark. Applicants should check with their local post office before relying on this method.

Applicants are encouraged to use registered or at least first-class mail.

Each late applicant will be notified that its application will not be considered in the current competition.

Applications delivered by hand. An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets SW., Washington, D.C.

The Application Control Center will accept hand-delivered applications between 8 a.m. and 4 p.m. (Washington, D.C., time) daily, except Saturdays, Sundays, and Federal holidays.

Applications that are hand delivered will not be accepted after 4 p.m. on the closing date.

Available funds. Approximately $5.5 million has been obligated to more than 50 new awards in the first 2 years of the program. The budget total for 1979 new awards has not yet been established but should equal and may well exceed the average for the first 2 years.

Previous first year awards for new projects have been between $25,000 and $190,000 with an average just over $100,000. It is anticipated that most new awards will fall in this range.

These estimates do not bind the U.S. Office of Education except as may be required by the applicable statute and regulations.

Application forms. Application forms and program information packages are expected to be ready for mailing by January 2, 1979. They may be obtained by writing to the Division of Media Services, Bureau of Education for the Handicapped, U.S. Office of Education (Room 4821, Donohoe Building), 400 Maryland Avenue SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

Special information. Applicants to this program are not subject to the State and areawide clearinghouse review procedures under OMB circular A-95.

Applicable regulations. The regulations applicable to this program are:

(a) Office of Education General Provisions Regulations (45 CFR parts 100 and 100a), and

(b) Regulations governing Instructional Media for the Handicapped (45 CFR part 121i).

(c) It is expected that the notice of proposed rulemaking for these programs will be published in the fall of 1978.

Further information. For further information contact Dr. Barry E. Katz, Grant Program Officer, Division of Media Services, BEH, U.S. Office of Education (Room 4819, Donohoe Building), 400 Maryland Avenue SW., Washington, D.C. 20202, telephone, 202-472-4640.

(20 U.S.C. 1451, 1452)

13.446—MEDIA RESEARCH, PRODUCTION, DISTRIBUTION, AND TRAINING GRANT PROGRAM

CLOSING DATE: MARCH 5, 1979

Applications are invited for noncompeting continuation projects under the media research, production, distribution, and training grant program.

Authority for this program is contained in sections 651 and 652 of the Education for the Handicapped Act, as amended.

(20 U.S.C. 1451, 1452.)

The purpose of the awards is to promote the advancement of handicapped persons through media by assisting research, production, distribution, and training in the use of media.

Closing date for transmittal of applications: To be assured of consideration for funding, applications for noncompeting continuation awards should be mailed or hand delivered by March 5, 1979.

If the application is late, the Office of Education may lack sufficient time to review it with other noncompeting continuation applications and may decline to accept it.

Applications delivered by mail. An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center Attention: 13.446, Washington, D.C. 20202.

Applicants are encouraged to use registered or at least first-class mail.

Application delivered by hand. An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, Seventh and D Streets SW., Washington, D.C.

The Application Control Center will accept hand-delivered applications between 8 a.m. and 4 p.m. (Washington, D.C. time) daily except Saturdays, Sundays, and Federal holidays.

Available funds. It is anticipated that funds will be available for continuation of projects at an appropriate funding level.

Application forms. Application forms and program information packages are expected to be ready for mailing by January 2, 1979. They may be obtained by writing to the Division of Media Services, Bureau of Education for the Handicapped, U.S. Office of Education (Room 4821, Donohoe Building), 400 Maryland Avenue SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

Special information. Applicants to this program are not subject to the

State and areawide clearinghouse procedure under OMB Circular A-95.

Applicable regulations. The regulations applicable to this program are:

(a) Office of Education general provisions regulations (45 CFR Parts 100 and 100a), and

(b) Regulations governing instructional media for the handicapped (45 CFR Part 121i).

(c) It is expected that the notice of proposed rulemaking to these programs will be published during the fall of 1978.

Further information. For further information contact Dr. Barry E. Katz, Grant Program Officer, Division of Media Services, BEH, U.S. Office of Education (Room 4819, Donohoe Building), 400 Maryland Avenue SW., Washington, D.C. 20202, Telephone 202-472-4640.

(20 U.S.C. 1451, 1452.)

13.443C—HANDICAPPED RESEARCH AND DEMONSTRATIONS FIELD INITIATED RESEARCH

CLOSING DATE: OPEN

Applications are invited for noncompeting continuation projects under handicapped research, field initiated studies.

Authority for this program is contained in sections 641 and 642 of the Education (20 U.S.C. 1441, 1442) of the Handicapped Act, as amended.

Under this program, the Office of Education is interested in a broad range of research and research-related projects focusing on the education of handicapped children.

Closing date for transmittal of applications. To be assured of consideration for funding, applications for noncompeting continuation awards should be mailed or hand delivered no later than 120 days prior to expiration date of the project.

If the application is late, the Office of Education may lack sufficient time to review it with other noncompeting continuation applications and may decline to accept it.

Applications delivered by mail. An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.443C, Washington, D.C. 20202.

Applicants are encouraged to use registered or at least first-class mail.

Applications delivered by hand. An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building, Seventh and D Streets SW., Washington, D.C.

The Application Control Center will accept hand-delivered applications between 8 a.m. and 4 p.m. (Washington, D.C., time) daily, except Saturdays, Sundays, and Federal holidays.

Available funds. It is anticipated that funds will be available for continuation of projects at the level projected in original applications.

Application forms. Application forms and program information packages are expected to be ready for mailing by November 1, 1978. They may be obtained by writing to the Research Projects Branch, U.S. Office of Education (Room 3165 Donohoe Building), 400 Maryland Avenue SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

Applicable regulations. The regulations applicable to this program are:

(a) Office of Education general provisions regulations (45 CFR Parts 100 and 100a), and

(b) Regulations governing the handicapped education program (45 CFR Parts 121 and 121h). Final regulations for part 121h were published in the FEDERAL REGISTER on August 18, 1978.

(20 U.S.C. 1441, 1442.)

Further information. For further information contact Dr. Max W. Mueller, Chief, Research Project Branch, U.S. Office of Education (Room 3165, Donohoe Building), 400 Maryland Avenue, SW., Washington, D.C. 20202, telephone 202-245-2275.

(20 U.S.C. 1441, 1442.)

13.443D—MODEL PROGRAMS FOR SCHOOL AGED HANDICAPPED CHILDREN AND CSDC's

CLOSING DATE: MARCH 13, 1979

Applications are invited for noncompeting continuation projects under model programs for school aged handicapped children and Child Service Demonstration Centers (CSCD's).

Authority for this program is contained in section 641 of part E of the Education of the Handicapped Act (20 U.S.C. 1441).

Eligible applicants are those awardees whose project has completed 1 or more years of funding and whose approved project funding period has not expired. In formulating proposals, potential applicants should be aware of the amounts of funds available for the program for fiscal year 1979.

The purpose of the award is to support projects which have the potential of serving as models for similar programs and which will desseminate and aid in the replication of successful project components.

Closing date for transmittal of applications. To be assured of consideration for funding, applications for noncompeting continuation projects should be mailed or hand delivered by March 13, 1979.

If the application is late, the Office of Education may lack sufficient time to review it with other noncompeting continuation applications and may decline to accept it.

Applications delivered by mail. An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention 13.443D, Washington, D.C. 20202.

Applicants are encouraged to use registed or at least first-class mail.

Applications delivered by hand. An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, Seventh and D Streets SW., Washington, D.C. 20202.

The Application Control Center will accept hand-delivered applications between 8 a.m. and 4 p.m. (Washington, D.C., time) daily, except Saturdays, Sundays, and Federal holidays.

Available funds. It is anticipated that funds will be available for continuation of project at the prior year level.

Application forms. Application forms are expected to be ready for mailing by January 12, 1979. They may be obtained by writing to the Elementary, Secondary, Post-Secondary Section, Program Development Branch, Bureau of Education for the Handicapped, U.S. Office of Education, Room 3129, Donohoe Building, 400 Maryland Avenue SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

Applicable regulations. The regulations applicable to this program are: (a) Office of Education general provisions regulations (45 CFR Parts 100 and 100a), and (b) applicable program regulations (45 CFR Part 121 and 121h). Final regulations for part 121h were published in the FEDERAL REGISTER on August 18, 1978.

(20 U.S.C. 1441, 1442.)

Further information. For further information contact Dr. William E. Johnston, Chief, Elementary, Secondary, Post-Secondary Section, Program Development Branch, Division of Innovation and Development, Bureau of Education for the Handicapped, U.S. Office of Education, Room 3123, Donohoe Building, 400 Maryland Avenue SW., Washington, D.C. 20202, telephone 202-245-9722.

(20 U.S.C. 1441, 1442.)

13.588—CONTRACT PROGRAM FOR INDIAN TRIBES AND INDIAN ORGANIZATIONS

CLOSING DATE: MARCH 15, 1979

CONTINUATIONS

Applications are invited for noncompeting continuation projects under the contract program for Indian Tribes and Indian Organizations.

Authority for this program is contained in section 103 of the Vocational Education Act of 1963, as amended.

(20 U.S.C. 2303.)

This program issues assistance contracts to Indian Tribal Organizations of Indian Tribes which are eligible to contract with the Secretary of the Interior for the administration of programs under the Indian Self-Determination and Education Assistance Act of 1975 or under the act of April 16, 1934.

The purpose of the awards is to provide opportunities in vocational education for Indian Tribes and Indian Organizations.

Closing date for transmittal of applications. To be assured of consideration for funding, applications for noncompeting continuation awards should be mailed or hand delivered by March 15, 1979.

If the application is late, the Office of Education may lack sufficient time to review it with other noncompeting continuation applications and may decline to accept it.

Applications delivered by mail. An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center Attention: 13.588, Washington, D.C. 20202.

Applicants are encouraged to use registered or at least first-class mail.

Applications delivered by hand. An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, Seventh and D Streets SW., Washington, D.C.

The Application Control Center will accept hand-delivered applications between 8 a.m. and 4 p.m. (Washington, D.C., time) daily, except Saturdays, Sundays, and Federal holidays.

Available funds. It is anticipated that funds will be available as projected in the original application.

Application forms. Application forms and program information packages are available and may be obtained by writing to the Division of Research and Demonstration, Contract Program for Indian Tribes and Indian Organizations, the U.S. Office of Education, Room 5026, Regional Office Building 3, 400 Maryland Avenue SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

Applicable regulations. The regulations applicable to this program are:

(a) Office of Education General Provisions Regulations (45 CFR Parts 100, 100a), and

(b) Regulations governing the contract program for Indian Tribes and Indian Organizations (45 CFR Part 105, Sections 201-214).

Further information. For further information contact Dr. Doris V. Gunderson, Program Specialist, U.S. Office of Education, Room 5026, Regional Office Building 3, 400 Maryland Avenue SW., Washington, D.C. 20202, telephone: 202-245-2614.

(20 U.S.C. 2303; 45 CFR Part 105, Sections 201-214.)

13.443A—HANDICAPPED RESEARCH AND DEMONSTRATION STUDENT RESEARCH

SECOND CYCLE

CLOSING DATE: MARCH 16, 1979

Applications are invited for new projects under handicapped research and demonstration student research program.

Authority for this program is contained in sections 641 and 642 of the Education of the Handicapped Act, as amended.

(20 U.S.C. 1441, 1442.)

This program supports research activities which deal with the education of handicapped children and which are initiated and directed by students. Awards are made to the student's institution.

Closing date for transmittal of applications. Applications for awards must be mailed (postmarked) or hand delivered by March 16, 1979.

Applications delivered by mail. An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.443A, Washington, D.C. 20202.

Proof of mailing must consist of a legible U.S. Postal Service dated postmark or a legible mail receipt with the date of mailing stamped by the U.S. Postal Service. Private metered postmarks or mail receipts that have not been date-stamped by the U.S. Postal Service will not be accepted.

NOTE.—The U.S. Postal Serice does not uniformly provide a dated postmark. Applicants should check with their local post office before relying on this method.

Applicants are encouraged to use registered or at least first-class mail.

Each late applicant will be notified that its application will not be considered in the current competition.

Applications delivered by hand. An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5637, Regional Office Building 3, Seventh and D Streets SW., Washington, D.C.

The Application Control Center will accept hand-delivered applications between 8 a.m. and 4 p.m. (Washington, D.C., time) daily, except Saturdays, Sundays, or Federal holidays.

Applications that are hand delivered will not be accepted after 4 p.m. on the closing date.

Program information. The purpose for this program of financial support for student research is multifold: (1) To stimulate new personnel to enter the field of research in education of the handicapped; (2) to assist students in obtaining a viable product; (3) to motivate research in the education of handicapped children; and (4) to encourage coordination and communication between university disciplines and departments.

Support can be provided for dissertations, these and other student initiated and directed projects. Consideration for support will be given to applications from all disciplines that can contribute significantly to the improvement of educational opportunities for the handicapped.

While there is no firm limit on the duration of projects, the vast majority of student research projects are for 1 year. In the event that assistance is provided for multiple-year projects, grant awards will be made for a budget period of a single year's duration with continuation awards made on a noncompetitive basis subject to satisfactory performance as determinted under 45 CFR 121h.4(b) and the availability of funds in future fiscal years.

Available funds. Approximately $250,000 is available for the student research program in fiscal year 1979.

It is estimated that these funds could support up to 35 projects.

The anticipated awards for new projects will be between $6,000 and $7,000.

These estimates do not bind the U.S. Office of Education except as may be required by applicable statute and regulations.

Application forms. Application forms and program information packages are available and may be obtained by writing to the Research Projects Branch, U.S. Office of Education, Room 3165, Donohoe Building, 400 Maryland Avenue, SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

Applicable regulations. The regulations applicable to this program are:

(a) Office of Education General Provisions Regulations (45 CFR Parts 100 and 100a), and

(b) Regulations governing the handicapped education program (45 CFR Parts 121 and 122h). Final regulations for Part 121h were published in the FEDERAL REGISTER on August 18, 1978.

Further information. For further information contact, Dr. Max W. Mueller, Chief, Research Projects Branch, U.S. Office of Education, Room 3165, Donohoe Building, 400 Maryland Avenue SW., Washington, D.C. 20202, telephone 202-245-2275.

(20 U.S.C. 1441, 1442.)

13.489C—TEACHER CORPS PROGRAM 78 (2D YEAR)

CLOSING DATE: APRIL 2, 1979

Applications are invited for noncompeting continuation grants for the second year of the Teacher Corps "Program 78" projects.

Authority for the teacher corps program is contained in title V-A of the Higher Education Act of 1965, as amended.

(20 U.S.C. 1101-1107a.)

This program issues awards to institutions of higher education, local educational agencies and State educational agencies to develop and operate teacher corps projects.

The purpose of the awards is strengthening the educational opportunities available to children in areas having concentrations of low-income families, encouraging colleges and universities to broaden their program of teacher preparation and encouraging institutions of higher education and local educational agencies to improve programs of training and retraining for teachers, teacher aides, and other educational personnel.

Closing date for transmittal of applications. To be assured of consideration for funding, applications for noncompeting continuation awards should be mailed or hand delivered by April 2, 1979.

If the application is late, the Office of Education may lack sufficient time to review it with other noncompeting continuation applications and may decline to accept it.

Applications delivered by mail. An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center Attention: 13.489C, Washington, D.C. 20202.

Applicants are encouraged to use registered or at least first-class mail.

Applications delivered by hand. An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets SW., Washington, D.C.

The application contol center will accept hand-delivered applications between 8 a.m. and 4 p.m. (Washington, D.C., time) daily except Saturdays, Sundays, and Federal holidays.

Available funds. It is anticipated that funds will be available for continuation of projects and that the total amount awarded to each project will be limited to approximately $275,000.

Application forms. Application forms and program information packages are expected to be ready for mailing by January 26, 1979. They may be obtained by writing to Teacher Corps, Operations Branch, U.S. Office of Education, Room 1725, Donohoe Building, 400 Maryland Avenue SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

Special procedures. Applicants must comply with the following procedures as well as those in the teacher corps regulation. These additional requirements were subjected to public comment as part of the notice of proposed rulemaking which preceded the final regulation, and were adopted after consideration of that public comment.

1. An application for continuation of funding must be signed by: (a) The president or other authorized official of each institution of higher education; (b) the superintendent of other authorized official of each local educational agency; (c) the chairperson of the community council; (d) if a State educational agency particiaptes, the chief State school officer; and (e) in the case of an application for a youth advocacy project, the authorized official of each correctional facility.

2. An application for continuation of funding must be submitted to and approved by the State educational agency of the State in which the application is located. The State educational agency's approval must be in writing, signed by the chief State school officer, and attached to the application which is submitted to the U.S. Office of Education.

3. An application must describe the stipends and compensation (including insurance and travel expenses) which will be paid to: (a) Teacher interns; (b) teachers; (c) volunteers; (d) other educational personnel; (e) project staff; and (f) the project director. An application must also describe the amount and proposed use of funds requested for training Teacher Corps members and for the secretarial and administrative expenses of the community council.

4. In satisfaction of the requirements in §§ 172.123(a) (1) and (2), 172.124(a), and 172.126 of the teacher corps regulations, applicants may submit catalogs or other descriptive material already developed for other purposes. If the information included in an initial application in response to §§ 172.122, 172.123, 172.124, 172.125, and 172.126 of the regulation remains unchanged, an application for continuation funding need not respond to these sections.

Applicable regulations. The regulations applicable to this program are:

(a) Office of Education General Provisions Regulations (45 CFR parts 100 and 100a), and (b) The regulation governing the Teacher Corps Program (45 CFR part 172).

Further information. For further information contact Dr. Preston M. Royster, Chief, Operations Branch, Teacher Corps, U.S. Office of Education, Room 1725, Donohoe Building, 400 Maryland Avenue SW., Washington, D.C. 20202, telephone, 202-245-8272.

13.444C—HANDICAPPED CHILDREN'S EARLY EDUCATION PROGRAM—STATE IMPLEMENTATION

CLOSING DATE: APRIL 4, 1979

(New Projects)

Applications are invited for new projects under the Handicapped Children's Early Education Program—State Implementation.

Authority for this program is contained in section 624 of the Education of the Handicapped Act.

(20 U.S.C. 1424.)

This program issues awards to State education agencies under the HCEEP—State Implementation (13.444C). Applicants must meet the requirements outlined in the regulation 45 CFR part 121d.

The purpose of the awards is to assist eligible parties in the implementation of State plans for preschool and early education for handicapped children and the accelerated provision of services for those children.

Closing date for transmittal of applications. Applications for awards must be mailed (postmarked) or hand delivered by April 4, 1979.

Applications delivered by mail. An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center Attention: 13.444C, Washington, D.C. 20202.

Proof of mailing must consist of legible U.S. Postal Service dated postmark or a legible mail receipt with the date of mailing stamped by the U.S. Postal Service. Private metered postmarks or mail receipts will not be ac-

cepted without a legible date stamped by the U.S. Postal Service.

NOTE.—The U.S. Postal Service does not uniformly provide a dated postmark. Applicants should check with their local post office before relying on this method.

Applicants are encouraged to use registered or at least first-class mail.

Each late applicant will be notified that its application will not be considered in the current competition.

Applications delivered by hand. An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, Seventh and D Streets SW., Washington, D.C.

The Application Control Center will accept hand-delivered applications between 8 a.m. and 4 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

Applications that are hand delivered will not be accepted after 4 p.m. on the closing date.

Available funds. The funding level for the Handicapped Children's Early Education program is expected to be approximately $22 million for fiscal year 1979. Funding for previous implementation grants has averaged between $50,000 and $100,000.

Application forms. Application forms and program information packages are expected to be ready for mailing by February 1, 1979. They may be obtained from the Division of Innovation and Development, Bureau of Education for the Handicapped, U.S. Office of Education, (room 3100, Donohoe Building), 400 Maryland Avenue SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

Applicable regulations. The regulations applicable to this program are:

(a) Office of Education General Provisions Regulations (45 CFR parts 100 and 100a), and

(b) Program regulations (45 CFR parts 121, 121d).

Further information. For further information contact Dr. William Swan, Project Officer, Early Childhood Program, U.S. Office of Education (Room 3100, Donohoe Building), 400 Maryland Avenue, S.W., Washington, D.C. 20202, Telephone, 202-245-9722.

(20 U.S.C. 1424.)

13.444C—HANDICAPPED CHILDREN'S EARLY EDUCATION PROGRAM—STATE IMPLEMENTATION

CLOSING DATE: APRIL 4, 1979

(Noncompeting Continuations)

Applications are invited for noncompeting continuation projects under the Handicapped Children's Early Education Program—State Implementation.

Authority for this program is contained in section 624 of the Education of the Handicapped Act.

(20 U.S.C. 1424.)

This program issues awards to State education agencies which have completed 1 year of a 2-year grant award under the HCEEP—State Implementation (13.444C).

The purpose of the awards is to assist eligible parties in the implementation of State plans for preschool and early education for handicapped children and the accelerated provision of services for those children.

Closing date for transmittal of applications. To be assured of consideration for funding, applications for noncompeting continuation awards should be mailed or hand delivered by April 4, 1979.

If the application is late, the Office of Education may lack sufficient time to review it with other noncompeting continuation applications and may decline to accept it.

Applications delivered by mail. An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center Attention: 13.444C, Washington, D.C. 20202.

Applicants are encouraged to use registered or at least first-class mail.

Applications delivered by hand. An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Builidng 3, Seventh and D Streets SW., Washington, D.C.

The Application Control Center will accept hand-delivered applications between 8 a.m. and 4 p.m. (Washington, D.C. time daily, except Saturdays, Sundays, and Federal holidays.

Available funds. The funding level for the handicapped children's early education program is expected to be approximately $22 million for fiscal year 1979. Funding for previous implementation grants has averaged between $50,000 and $100,000.

Application forms. Application forms and program information packages are expected to be ready for mailing by February 1, 1979. They may be obtained from the Division of Innovation and Development, Bureau of Education for the Handicapped, U.S. Office of Education (Room 3100, Donohoe Building), 400 Maryland Avenue SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

Applicable regulations. The regulations applicable to this program are:

(a) Office of Education General Provisions Regulations (45 CFR Parts 100 and 100a), and

(b) Program regulations (45 CFR Parts 121, 121d).

Further information. For further information contact Dr. William Swan, Project Officer, Early Childhood Program, U.S. Office of Education (Room 3100, Donohoe Building), 400 Maryland Avenue SW., Washington, D.C. 20202, Telephone, 202-245-9722.

(20 U.S.C. 1424.)

13.577—COMMUNITY SERVICE AND CONTINUING EDUCATION—SPECIAL PROJECTS PROGRAM

CLOSING DATE: APRIL 2, 1979

Applications are invited for noncompeting continuation projects under the Community Service and Continuing Education—Special Projects Program.

Authority for this program is contained in section 106 of the Higher Education Act of 1965, as amended.

(20 U.S.C. 1005a.)

This program issues awards to institutions or combinations of institutions of higher education.

The purpose of the awards is to assist institutions in carrying out special programs and projects of community service and continuing education related to technological, social, or environmental changes.

Closing date for transmittal of applications. To be assured of consideration for funding, applications for noncompeting continuation awards should be mailed or hand delivered by April 2, 1979.

If the application is late, the Office of Education may lack sufficient time to review it with other noncompeting continuation applications and may decline to accept it.

Applications delivered by mail. An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.557, Washington, D.C. 20202.

Applicants are encouraged to use registered or at least first class mail.

Applications delivered by hand. An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, Seventh and D Streets SW., Washington, D.C.

The Application Control Center will accept hand-delivered applications between 8 a.m. and 4 p.m. (Washington, D.C., time) daily except Saturdays, Sundays, or Federal holidays.

Available funds. It is anticipated that funds will be available for continuation projects supported in fiscal year 1978.

Application forms. Application forms and program information packages are expected to be ready for mailing by January 8, 1979. They may be obtained by writing to the Community Service and Continuing Education Branch, U.S. Office of Education (Room 3717, Regional Office Building 3), 400 Maryland Avenue, SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

Applicable regulations. The regulations applicable to this program are:

(a) Office of Education General Provisions Regulations (45 CFR Parts 100 and 100a), and

(b) Regulations governing the community service and continuing education program (45 CFR Part 173), published in the FEDERAL REGISTER on August 11, 1978.

Further information. For further information contact Dr. Edwin J. Neumann, Senior Program Officer, Special Projects Program, CSCE, U.S. Office of Education (Room 3717, Regional Office Building 3), 400 Maryland Avenue SW., Washington, D.C. 20202, telephone 202-245-9869.

(20 U.S.C. 1005a.)

13.577—COMMUNITY SERVICE AND CONTINUING EDUCATION—SPECIAL PROJECTS PROGRAM

CLOSING DATE: APRIL 6, 1979

Applications are invited for new projects under the community service and continuing education—special projects program.

Authority for this program is contained in section 106 of the Higher Education Act of 1965, as amended.

(20 U.S.C. 1005a.)

This program issues awards to institutions or combinations of institutions of higher education.

The purpose of the awards is to assist institutions in carrying out special programs and projects of community service and continuing education related to technological, social, or environmental changes.

Closing date for transmittal of applications. Applications for awards must be mailed (postmarked) or hand delivered by April 6, 1979.

Applications delivered by mail. An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.557, Washington, D.C. 20202.

Proof of mailing must consist of a legible U.S. Postal Service dated postmark or a legible mail receipt with the date of mailing stamped by the U.S. Postal Service. Private metered postmarks or mail receipts will not be accepted without a legible date stamped by the U.S. Postal Service.

NOTE.—The U.S. Postal Service does not uniformly provide a dated postmark. Applicants should check with their local post office before relying on this method.

Applicants are encouraged to use registered or at least first-class mail.

Each late applicant will be notified that its application will not be considered in the current competition.

Applications delivered by hand. An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, Seventh and D Streets SW., Washington, D.C.

The Application Control Center will accept hand-delivered applications between 8 a.m. and 4 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

Applications that are hand delivered will not be accepted after 4 p.m. on the closing date.

Program information. The priorities are listed below:

(1) Experimentation with programs of continuing education directed to the problems of regional or national water or energy conservation, land use planning, and/or environmental pollution.

(2) Demonstrations of effective linkages between institutions of higher education and management and/or organized labor in developing innovative continuing education programs to retrain workers whose jobs have been adversely affected by technological change.

(3) Planning and demonstration of resource sharing among institutions of higher education, agencies, and organizations, that expand continuing education opportunities for particular populations who have traditionally been underserved such as women, minorities, the handicapped, older adults, and parents/families.

(4) Demonstrations of new or improved professional development programs to meet the needs of individuals working in continuing education and postsecondary lifelong learning.

(5) Evaluations of selected nontraditional degree programs that meet the continuing education needs of adults particularly those that integrate liberal and experiential learning.

(6) Demonstrations of innovative State or local programs which provide effective linkages between postsecondary continuing education and State or local comprehensive manpower programs to enhance long-term employability.

More specific information regarding these priorities is contained in the regulations and the program information package.

Available funds. Approximately $900,000 is anticipated for the special project awards in fiscal year 1979.

It is estimated that these funds could support 11 or 12 new projects.

The anticipated award for new projects will be between $60,000 and $80,000.

These estimates do not bind the U.S. Office of Education except as may be required by the applicable statute and regulations.

Application forms. Application forms and program information packages are expected to be ready for mailing by January 8, 1979. They may be obtained by writing to the Community Service and Continuing Education Branch, U.S. Office of Education (Room 3717, Regional Office Building 3), 400 Maryland Avenue SW., Washington, D.C., 20202.

Special procedures. Every applicant is subject to both the State and areawide clearinghouse review procedures under OMB Circular A-95.

An applicant should check with the appropriate Federal regional office to obtain the name(s) and address(es) of the clearinghouse(s) in its State. OMB Circular A-95 requires the applicant to give the clearinghouse(s) at least 30 days' notice of intent to apply. The applicant must consider comments from the clearinghouse(s) before submitting the application to the Office of Education.

In its application each applicant must provide an assurance of compliance with clearinghouse review requirements. The assurance consists of:

(a) A State application identifier number obtained from the clearinghouse, and

(b) Clearinghouse comments.

However, an applicant may certify that either or both the State and areawide clearinghouses have been provided an opportunity to review the application and that no comments have been received.

Each applicant must provide an assurance that the State agency for the community service and continuing education program has been given an opportunity to comment on the proposed application. This comment period may be concurrent with the A-95 review process.

Applicable regulations. The regulations applicable to this program are:

(a) Office of Education general provisions regulations (45 CFR Parts 100 and 100a), and

(b) Regulations governing the community service and continuing education program (45 CFR Part 173), published in the FEDERAL REGISTER on August 11, 1978.

Further information. For further information contact Dr. Edwin J. Neumann, Senior Program Officer, Special Projects Program, CSCE, U.S. Office of Education (Room 3717, Regional Office Building 3), 400 Maryland Avenue SW., Washington, D.C. 20202, telephone 202-245-9869.

(20 U.S.C. 1005a.)

Dated: August 17, 1978.

ERNEST L. BOYER,
U.S. Commissioner of Education.

[FR Doc. 78-23550 Filed 8-22-78; 8:45 am]

Federal Register

WEDNESDAY, AUGUST 23, 1978
PART VI

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

■

DESERT TORTOISE AND THE BEAVER DAM SLOPE POPULATION OF THE DESERT TORTOISE

Review Status and Proposed Endangered Status and Critical Habitat

[4310-55]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 17]

ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Review of the Status of the Desert Tortoise, *Gopherus agassizii*

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Review of the status of the desert tortoise.

SUMMARY: The Service will review the status of the desert tortoise, *Gopherus agassizii*, to determine if it should be proposed for listing as an Endangered or Threatened species. Information is also solicited on areas which may be Critical Habitat should a proposal for listing be warranted. This action is being taken because a rapidly accumulating amount of information indicates that tortoise populations are declining throughout much of the known range, particularly as a result of overgrazing, which causes both direct harm to the tortoises as well as competition for forage, destruction of habitat for agriculture and off-road vehicle use, collection of individuals which may have seriously altered natural population structure, and killing and maiming by thoughtless individuals, particularly along highways. The information received as a result of this notice will be used to assist the service in determining the status of this species.

DATES: Information regarding the status of this species should be submitted on or before November 22, 1978.

ADDRESS: Comments on this notice of review should be submitted to the Director (OES), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Mr. Keith M. Schreiner, Associate Director—Federal Assistance, Fish and Wildlife Service, Washington, D.C. 20240, 202-343-4646.

SUPPLEMENTARY INFORMATION:

Background

The desert tortoise, *Gopherus agassizii*, is a long-lived inhabitant of the desert areas of the Southwestern United States (California, Nevada, Utah, and Arizona) and adjacent areas of Mexico as far south as southern Sonora. Few populations of this species have been extensively investigated, although the data presently available indicate that the species may be declining throughout significant portions of its range. Preliminary work in two areas in Arizona indicates that the tortoise is declining and that populations are not in good condition; and recently the Desert Tortoise Council petitioned the Fish and Wildlife Service to list the Beaver Dam Slope population in Utah as Endangered and presented substantial data in support of the petition. Extensive surveys by the Bureau of Land Management and Department of Fish and Game in California have also documented declines in certain populations. The chief threats to the tortoise appear to be from habitat destruction because of overgrazing and the extensive use of the desert by off-road vehicles (ORV's). In addition, cattle may be competing with the tortoise for forage, trampling burrows and cover, and stepping on young tortoises. In the past, collection of individuals for pets have been a severe problem.

All the States where the desert tortise is found now protect the species. The Service recognizes the efforts of the States on behalf of *Gopherus agassizii* but does feel that a comprehensive review of the status of this species throughout its range is warranted.

The Service is seeking the views of the Governors of Arizona, California, Nevada, and Utah, as well as the Government of Mexico, and is soliciting from them information on the status of this species within their jurisdictions. Other interested parties are invited to submit any factual information, especially publications and written reports, which is germane to this status review.

This notice of review was prepared by Dr. C. Kenneth Dodd, Jr., Office of Endangered Species, 202-343-7814.

NOTE: The Service has determined that this document does not contain a major action requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: August 11, 1978.

LYNN A. GREENWALT,
Director,
Fish and Wildlife Service.

[FR Doc. 78-23566 Filed 8-22-78; 8:45 am]

[4310-55]

[50 CFR Part 17]

ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Proposed Endangered Status and Critical Habitat for the Beaver Dam Slope Population of the Desert Tortoise

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to determine the Beaver Dam Slope population of the desert tortoise (*Gopherus agassizii*) to be an Endangered population and to identify Critical Habitat for this population. This action is being taken because the habitat where this population dwells is subject to intense alteration, and collection of individuals is a threat to the continued survival of this tortoise. The proposed action, if completed, would protect the population of this tortoise and its habitat. The Beaver Dam Slope is located in southwestern Utah.

DATES: Comments from the public must be received by October 23, 1978. Comments from the Governor of Utah must be received by November 22, 1978.

ADDRESSES: Submit comments to Director (OES), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

Comments and materials received will be available for public inspection during normal business hours at the Service's Office of Endangered Species, Suite 1100, 1612 K Street NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Mr. Keith M. Schreiner, Associate Director—Federal Assistance, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240, 202-343-7814.

SUPPLEMENTARY INFORMATION:

Background

On August 8, 1977, the U.S. Fish and Wildlife Service was petitioned by Dr. Glenn R. Steward, on behalf of the Desert Tortoise Council, to list the Utah desert tortoise population as Endangered under provisions of the Endangered Species Act of 1973. Included in the petition was a recommendation for Critical Habitat to include roughly a 50-square-mile section of southwestern Utah bordered by the State boundaries of Arizona to the south and Nevada to the west; various land sections form the boundaries to the north and east. The main threats to this unique population include competition from grazing animals, overgrazed habitat, and problems with collection of individuals.

After careful review of the petition by the Office of Endangered Species, the Director of the Service notified the Desert Tortoise Council on August 30, 1977, that the petition did indeed qualify as a formal petition.

Donald A. Smith, Director of the Utah Division of Wildlife Resources, responded for the State, acknowledging that the tortoise population is declining and took no exception to the

data presented in the petition. However, he did indicate that the State would object to listing the population at this time. Mr. Smith's main concern was that a Federal listing would prompt attempts to use the Act to eliminate or drastically reduce grazing and provide legal arguments against grazing adjustments. As such, the State would prefer to adopt a scientifically documented case for reduction of grazing which, while still allowing some grazing activity, would include an amount of forage sufficient to provide the year-round needs of the tortoise population. If these measures failed, then other measures (unspecified in his letter) would have to be taken, although it might take several years to document the efforts.

Mr. Smith objected to Dr. Stewart's comments on the undesirability of reintroducing individuals from Paradise Canyon and the St. George area to Beaver Dam Slope. The State would favor such reintroduction. Mr. Smith doubts that collecting would be much affected by listing the population under the Act, as Utah already protects the tortoise. Also, the recovery of the population hinges on the recovery of the habitat, and Mr. Smith doubts that Federal listing will hasten that recovery. Finally, Mr. Smith stated that the State will continue to work closely with BLM to insure a viable population of the desert tortoise within this portion of its range.

On April 4, 1978, personnel from the Fish and Wildlife Service visited the Beaver Dam Slope locality to look for tortoise and see the habitat. Two tortoises were found and the effects of cattle grazing on the area noted.

This proposal is based on the information contained in the Desert Tortoise Council's petition, additional information from the literature, reports from the Bureau of Land Management, and the on-site review of the Beaver Dam Slope by Fish and Wildlife Service personnel.

From 1936 to 1946, the Beaver Dam Slope population was studied by Drs. Angus M. Woodbury and Ross Hardy. While the whole Beaver Dam Slope was surveyed, Woodbury and Hardy concentrated their efforts in a two-square-mile area where they found the greatest concentration of tortoises. Some 270 tortoises were marked here. For many years, their study was the only source of detailed information on the ecology of wild desert tortoises. A few of the tortoises marked some 30 years ago still survive, making this one of the oldest marked populations of vertebrates anywhere in the world. Although 2,000 tortoises may have inhabited this area at one time, fewer than 350 are estimated to remain. The present average annual population loss from all causes is estimated to be seven percent. Natality is estimated at 1.5 percent. Thus, the population is declining at 5.5 percent. If this rate of decline continued for 40 years, there would be fewer than 40 remaining on Beaver Dam Slope. The recruitment to the population has lagged for many years and is evident from the population's age-class structure. The bulk of the population is composed of adults, many of them quite old.

Section 4(a) of the Act (16 U.S.C. 1531 et seq.) states:

"General.—(1) The Secretary shall by regulation determine whether any species is an endangered species or a threatened species because of any of the following factors:

(1) The present or threatened destruction, modification, or curtailment of its habitat or range;

(2) Overutilization for commercial, sporting, scientific, or educational purposes;

(3) Disease or predation;

(4) The inadequacy of existing regulatory mechanisms; or

(5) Other natural or manmade factors affecting its continued existence."

This authority has been delegated to the Director.

Summary of Factors Affecting the Species

These findings are summarized herein under each of the five criteria of section 4(a) of the act. These factors, and their application to the Beaver Dam Slope population of the desert tortoise, are as follows:

1. *The present or threatened destruction, modification, or curtailment of its habitat or range.*—The Beaver Dam Slope has had a long history of overgrazing. Although both sheep and cattle have grazed in the past, presently only cattle are using the range. Overgrazing has modified the habitat, especially by reduction of the availability of perennial grasses and destruction of native vegetation, especially creosote bush, around which tortoises construct their burrows. Livestock also caves in burrows, perhaps steps on young tortoises, and tramples forage.

2. *Overutilization for commercial, sporting, scientific, or educational purposes.*—Collection of individuals for pets is thought to have had severe effects on the population in the past, especially since females were collected more than males because they are sedentary and easier to find. Collection is probably not a major factor at present although any removal of individuals not in connection with conservation efforts would probably be detrimental.

3. *Disease or predation.*—Predation by natural or feral animals may be contributing to the decline of the population, especially as it affects eggs and young tortoises, both of which are very vulnerable.

4. *The inadequacy of existing regulatory mechanisms.*—Not applicable.

5. *Other natural or manmade factors affecting its continued existence.*—Competition for food items between tortoises and cattle may be contributing to a decline in this population, both directly (for food items) and indirectly (in terms of adequate diet needed for successful reproduction). Dietary overlap is as high as 37.5 percent between cattle and tortoises, based on fecal samples.

Critical Habitat

Section 7 of the act, entitled "Interagency Cooperation," states:

The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this act. All other Federal departments and agencies shall, in consultation with and with the assistance of the Secretary utilize their authorities in furtherance of the purposes of this act by carrying out programs for the conservation of endangered species and threatened species listed pursuant to section 4 of this act and by taking such action necessary to insure that actions authorized, funded, or carried out by them do not jeopardize the continued existence of such endangered species and threatened species or result in the destruction or modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with the affected States, to be critical.

A definition of the term "Critical Habitat" was published jointly by the Fish and Wildlife Service and the National Marine Fisheries Service in the Federal Register of January 4, 1978 (43 FR 870-876) and is reprinted below:

"Critical habitat" means any air, land, or water area (exclusive of those existing manmade structures or settlements which are not necessary to the survival and recovery of a listed species) and constituent elements thereof, the loss of which would appreciably decrease the likelihood of the survival and recovery of a listed species or a distinct segment of its population. The constituent elements of critical habitat include, but are not limited to: Physical structures and topography, biota, climate, human activity, and the quality and chemical content of land, water, and air. Critical habitat may represent any portion of the present habitat of a listed species and may include additional areas for reasonable population expansion.

As specified in the regulations for Interagency Cooperation as published in the January 4, 1978, Federal Register (43 FR 870), the Director will consider the physiological, behavioral, ecological, and evolutionary requirements for survival and recovery of listed species in determining what areas or parts of habitat are critical. These requirements include, but are not limited to:

(1) Space for individual and population growth and for normal behavior;

(2) Food, water, air, light, minerals, or other nutritional or physiological requirements;

(3) Cover or shelter;

(4) Sites for breeding, reproduction, or rearing of offspring; and, generally,

(5) Habitats that are protected from disturbances or are representative of the geographical distribution of listed species.

With respect to the Beaver Dam Slope population of the desert tortoise, the area proposed as Critical Habitat satisfies all known criteria for the evolutionary, ecological, behavioral, and physiological requirements of the species. Nesting and successful incubation of eggs apparently occurs, as young tortoises are occasionally encountered. Nesting often occurs at the mouths of hibernation dens. Shelter and hibernation dens are present both in the dry washes and on adjacent creosote flats. Forage plants, especially *Bromus rubens, Erodium cicutarium,* and *Muhlenbergia porteri,* are present in sufficient quantity to maintain the tortoise. The population inhabiting this locality is marginally self-sufficient and reproducing, but should recover especially if grazing pressure and associated habitat destruction are relaxed.

Critical Habitat of the Beaver Dam Slope population of the desert tortoise, exclusive of those existing manmade structures or settlements which are not necessary to the normal needs or survival of the population, is proposed as follows:

Utah, Washington County, E½ secs. 13 and 24, T. 43 S., R. 20 W.; S½ sec. 7, all of secs. 8 through 28, E½ sec. 29, SE¼ sec. 5, SW¼ sec. 4, T. 43 S., R. 19 W.; all of secs. 7 through 10, 15 through 22, 28 through 30, and W½ sec. 27, T. 43 S., R. 18 W.

The areas delineated do not necessarily include the entire Critical Habitat of this tortoise, and modifications to Critical Habitat descriptions may be proposed in the future. In accordance with section 7 of the act, all Federal departments and agencies would be required to insure that actions authorized, funded, or carried out by them do not result in the destruction or adverse modification of the Critical Habitat of the Beaver Dam Slope population of the desert tortoise.

There may be many kinds of actions which can be carried out within the Critical Habitat of a species which would not be expected to adversely affect that species.

This point has not been well understood by some persons. There has been widespread and erroneous belief that a Critical Habitat designation is something akin to establishment of a wilderness area or wildlife refuge, and automatically closes an area to most human uses. Actually, a Critical Habitat designation applies only to Federal agencies, and essentially is an official notification to these agencies that their responsibilities pursuant to section 7 of the act are applicable in a certain area.

A Critical Habitat designation must be based solely on biological factors. There may be questions of whether and how much habitat is critical, in accordance with the above interpretation, or how to best legally delineate this habitat, but any resultant designation must correspond with the best available biological data. It would not be in accordance with the law to involve other motives; for example, to enlarge a Critical Habitat delineation so as to cover additional habitat under section 7 provisions, or to reduce a delineation so that actions in the omitted area would not be subject to evaluation.

There may indeed be legitimate questions of whether, and to what extent, certain kinds of actions would adversely affect listed species. These questions, however, are not relevant to the biological basis of Critical Habitat delineations. Such questions should, and can more conveniently, be dealt with after Critical Habitat has been designated. All Federal departments and agencies shall, in accordance with section 7 of the act, consult with the Secretary of the Interior with respect to any action which is considered likely to affect Critical Habitat. Consultation pursuant to section 7 should be carried out using the procedures contained in the January 4, 1978, FEDERAL REGISTER (43 FR 870-876).

EFFECT OF THE RULEMAKING

In addition to the effects discussed above, the effects of these determinations and this rulemaking include, but are not necessarily limited to, those discussed below.

Endangered species regulations already published in Title 50 of the Code of Federal Regulations set forth a series of general prohibitions and exceptions which apply to all endangered species. All of those prohibitions and exceptions also apply to any threatened species unless a special rule pertaining to that threatened species has been published and indicates otherwise. The regulations referred to above, which pertain to endangered species, are found at § 17.21 of title 50, and are summarized below.

With respect to the Beaver Dam Slope population of the desert tortoise in the United States, all prohibitions of section 9(a)(1) of the act, as implemented by 50 CFR 17.21, would apply. These prohibitions, in part, would make it illegal for any person subject to the jurisdiction of the United States to take, import or export, ship in interstate commerce in the course of a commercial activity, or sell or offer for sale this species in interstate or foreign commerce. It also would be illegal to possess, sell, deliver, carry, transport, or ship any such wildlife which was illegally taken. Certain exceptions would apply to agents of the Service and State conservation agencies.

Regulations published in the FEDERAL REGISTER of September 26, 1975 (40 FR 44412) provided for the issuance of permits to carry out otherwise prohibited activities involving Endangered or Threatened species under certain circumstances. Such permits involving Endangered species are available for sicentific purposes or to enhance the propagation or survival of the species. In some instances, permits may be issued during a specified period of time to relieve undue economic hardship which would be suffered if such relief were not available.

Pursuant to section 4(b) of the Act, the Director will notify the Governor of Utah with respect to this proposal and request his comments and recommendations before making final determinations.

PUBLIC COMMENTS SOLICITED

The Director intends that the rules finally adopted will be as accurate and effective as possible in the conservation of any Endangered or Threatened species. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, private interests, or any other interested party concerning any aspect of these proposed rules are hereby solicited. Comments particularly are sought concerning:

(1) Biological or other relevant data concerning any threat (or the lack thereof) to the population included in this proposal;

(2) The location of, or the reasons why, any habitat of this population should or should not be determined to be Critical Habitat as provided for by section 7 of the Act;

(3) Additional information concerning the range and distribution of this population.

Final promulgation of the regulations on the Beaver Dam Slope population of the desert tortoise will take into consideration the comments and any additional information received by the Director, and such communications may lead him to adopt final regulations that differ from this porposal.

An environmental assessment has been prepared in conjunction with this proposal. It is on file in the Service's Office of Endangered Species, 1612 K Street NW., Washington, D.C., and may be examined during regular business hours. A determination will be made at the time of final rulemaking as to whether this is a major Federal action which would significantly affect the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969.

The primary author of this proposed rulemaking is Dr. C. Kenneth Dodd,

Jr., Office of Endangered Species, 202-343-7814.

REGULATIONS PROMULGATION

Accordingly, it is hereby proposed to amend Part 17, Subchapter B, of Chapter I, Title 50 of the Code of Federal Regulations, as set forth below:

1. It is proposed to amend § 17.11 by adding, in alphabetical order under REPTILES, the following to the list of animals:

§ 17.11 Endangered and threatened wildlife

Species			Range		Status	When listed	Special rules
Common name	Scientific name	Population	Known distribution	Portion endangered			
Reptiles:							
Tortoise, desert	*Gopherus agassizii*	Beaver Dam Slope	U.S.A. (Utah)	Entire	E		NA

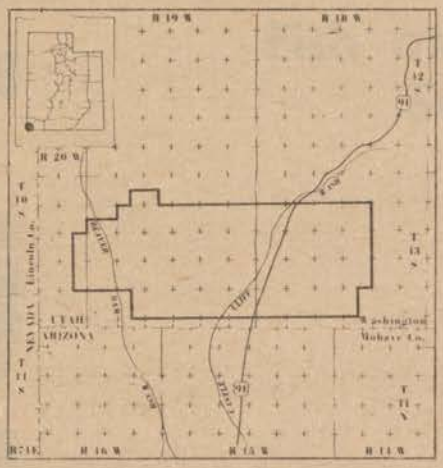
2. Also, The Service proposes to amend § 17.95(c) by adding Critical Habitat of the Beaver Dam Slope population of the desert tortoise after that of the Illinois mud turtle as follows:

(c) *Reptiles.* * * *

BEAVER DAM SLOPE POPULATION OF THE DESERT TORTOISE

(*Gopherus agassizii*)

Utah, Washington County, E½ secs. 13 and 24, T. 43 S., R. 20 W.; S½ sec. 7, all of secs. 8 through 28, E½ sec. 29, SE¼ sec. 5, SW¼ sec. 4, T. 43 S., R. 19 W.; all of secs. 7 through 10, 15 through 22, 28 through 30, and W½ sec. 27, T. 43 S., R. 18 W.



NOTE.—The 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: August 11, 1978.

LYNN A. GREENWALT,
Director,
Fish and Wildlife Service.

[FR Doc. 78-23567 Filed 8-22-78; 8:45 am]

federal register

WEDNESDAY, AUGUST 23, 1978
PART VII

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

■

VIRGIN RIVER CHUB

Proposed Endangered Status and Critical Habitat

[4310-55]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 17]

ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Proposed Endangered Status and Critical Habitat for the Virgin River Chub

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rulemaking.

SUMMARY: The Service proposes to determine the Virgin River chub (*Gila robusta seminuda*) to be an Endangered species and identify Critical habitat for this species. This action is being taken because of the decreased population levels and threatened modification of its habitat. This proposal would protect the populations of the Virgin River chub and its habitat. This species occurs in the Virgin River in Nevada, Arizona, and Utah.

DATES: All relevant comments and materials with regard to this proposed rulemaking received no later than November 22, 1978, will be considered.

ADDRESSES: Comments and materials concerning this proposed rulemaking, preferably in triplicate, should be sent to the Director (FWS/OES), U.S. Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240.

Comments and materials received will be available for public inspection during normal business hours at the Service's Office of Endangered Species, Suite 1100, 1612 K Street, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Mr. Keith M. Schreiner, Associate Director—Federal Assistance, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240 (202-343-4646).

SUPPLEMENTARY INFORMATION:

BACKGROUND

Section 4(a) of the Endangered Species Act of 1973 states:

> General.—(1) The Secretary shall by regulation determine whether any species is an endangered species or a threatened species because of any of the following factors:
>
> (1) The present or threatened destruction, modification, or curtailment of its habitat or range;
>
> (2) Overutilization for commercial, sporting, scientific, or educational purposes;
>
> (3) Disease or predation;
>
> (4) The inadequacy of existing regulatory mechanism; or
>
> (5) Other natural or manmade factors affecting its continued existence.

This authority has been delegated to the Director.

SUMMARY OF FACTORS AFFECTING THE SPECIES

These findings are summarized herein under each of the five criteria of section 4(a) of the Act. These factors, and their application to the Virgin River chub, are as follows:

1. *The present or threatened destruction, modification, or curtailment of its habitat or range.* The Virgin River chub, *Gila robusta seminuda*, is endemic to the Virgin River below La Verkin Springs downstream to the backwaters of Lake Mead, approximately 125 miles of river. The river in this section is usually very turbid, warm, highly salty, has a sand bottom, and is erratic in flow. These qualities are characteristics of desert streams, except for the high salinity caused by La Verkin Springs, which apparently forms a barrier to upstream movements by the Virgin River chub. This environment is extremely harsh and inhabited by a few, well adapted aquatic organisms. The Virgin River chub inhabits deeper runs and pools rather than shallower water and seldom ventures into tributaries. Morphologically, the chub is streamlined, but shows no other obvious phenotypic adaptions to its unique environment.

The filling of Lake Mead in the 1930's inundated the lower Virgin River, thus reducing the range of the chub. Other areas of the Virgin River have been dewatered by agricultural withdrawals. Presently, the Virgin River is intermittent over 50 percent of the native range of the chub, and in these areas, chub populations are either absent or reduced in numbers. Little quantitative data is available on population status in the early 1900's, but numbers were probably reduced as more and more water was diverted from the river. Populations in the 1960's appeared low and recent studies have confirmed this.

Habitat destruction caused by flooding (Lake Mead) and alteration by reduced flows appears to be the major factor shrinking the range and reducing population levels of Virgin River chubs. Present water quality conditions in several sections of the river may not be suitable for self-sustaining Virgin River chub populations. The Burean of Reclamation's proposed desalinization of La Verkin Springs may adversely affect habitat essential to the chub. Also, the proposed Warner Valley project will reduce typical winter flows from 150-200 cfs to 70-80 cfs in most of the remaining areas of chub habitat. Winter flows in other areas will be reduced from the present 60-90 cfs to intermittent flows. Any additional loss of flow or alteration of habitat in the Virgin River may result in the extinction of this species.

2. *Overutilization for commercial, sporting, scientific, or educational purposes.* Not applicable.

3. *Disease or predation.* Historically, the Virgin River chub was the top carnivore of the Virgin River ecosystem and faced little predation. The introduction of exotic species such as green sunfish, largemouth bass, and red shiner into portions of the Virgin River may have increased predation and may partially account for the loss of chubs from those reaches.

4. *The inadequacy of existing regulatory mechanisms.* Not applicable.

5. *Other natural or manmade factors affecting its continued existence.* Competition with introduced fishes may have been an important factor in the Virgin River chub decline in the lower Virgin River of Nevada. The introduction of several exotic species simultaneously with the disappearance of chub populations suggests cause and effect. Presently, red shiners have replaced the native fishes in the Virgin River below Mesquite, Nevada. This reach of river is severely disturbed by year-round flow depletions and is readily accessible to exotic fishes in Lake Mead. It appears that the combination habitat destruction and competition-predation with introduced fishes is the cause of the decline of Virgin River chubs in this area.

CRITICAL HABITAT

Section 7 of the Act, entitled "Interagency Cooperation," states:

> The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act. All other Federal departments and agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this Act by carrying out programs for the conservation of endangered species and threatened species listed pursuant to section 4 of this Act and by taking such action necessary to insure that actions authorized, funded, or carried out by them do not jeopardize the continued existence of such endangered species or result in the destruction or modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with the affected States, to be critical.

A definition of the term "Critical Habitat" was published jointly by the Fish and Wildlife Service and the National Marine Fisheries Service in the FEDERAL REGISTER of January 4, 1978 (43 FR 870-876) (to be codified as 50 CFR Part 402) and is reprinted below:

> "Critical Habitat" means any air, land, or water area (exclusive of those existing manmade structures or settlements which are not necessary to the survival and recovery of a listed species) and constituents elemenst thereof, the loss of which would appreciably decrease the likelihood of the survival and recovery of a listed species or a

distinct segment of its population. The constituent elements of Critical Habitat include, but are not limited to: Physical structures and topography, biota, climate, human activity, and the quality and chemical content of land, water, and air. Critical Habitat may represent any portion of the present habitat of a listed species and may include additional areas for reasonabler population expansion.

As specified in the regulations for Interagency Cooperation as published in the January 4, 1978, FEDERAL REGISTER (43 FR 870), the Director will consider the physiological, behavioral, ecological, and evolutionary requirements for survival and recovery of listed species in determining what areas or parts of habitat are critical. These requirements include, but are not limited to:

(1) Space for individual and population growth and for normal behavior;
(2) Food, water, air, light, minerals, or other nutritional or physiological requirements;
(3) Cover or shelter;
(4) Sites for breeding, reproduction, or rearing of offspring; and generally,
(5) Habitats that are protected from disturbances or are representative of the geographical distribution of listed species.

The application of these factors, based on data presently available, to the proposed critical habitat of the Virgin River chub, are discussed in the following paragraph.

The portion of the Virgin River proposed as critical habitat includes sufficient area for normal population growth and individual movements. The deeper runs and pools of the Virgin River provide habitat for the chub and its food organisms, aquatic insects and probably small fishes. Reproduction has not be observed but is presumed to occur in the proposed area since the fish is not known to occur outside the main channel of the river. The Virgin River is the only known habitat of the Virgin River chub.

The areas included in this proposal do not necessarily include the entire critical habitat of the Virgin River chub, and modifications of its critical habitat designations may be proposed in the future. In accordance with section 7 of the act, all Federal departments and agencies are required to insure that actions authorized, funded, or carried out by them would not result in the destruction or adverse modification of the critical habitat of the Virgin River chub.

There may be many kinds of actions which can be carried out within the critical habitat of a species which would not be expected to adversely affect that species. This point has not been well understood by some persons. There has been widespread and erroneous belief that a critical habitat designation is something akin to establishment of a wilderness area of wildlife refuge, and automatically closes an area to most human uses. Actually, a critical habitat designation applies only to Federal agencies, and essentially is an official notification to these agencies that their responsibilities pursuant to section 7 to the act are applicable in a certain area.

A critical habitat designation must be based solely on biological factors. There may be questions of whether and how much habitat is critical, in accordance with the above interpretation, or how to best legally delineate this habitat, but any resultant designation must correspond with the best available biological data. It would not be in accordance with the law to involve other motives, for example, to enlarge a critical habitat delineation so as to cover additional habitat under section 7 provisions, or to reduce a delineation so that actions in the omitted area would not be subject to evaluation.

There may indeed be legitimate questions of whether, and to what extent, certain kinds of actions would adversely affect listed species. These questions, however, are not relevant to the biological basis of critical habitat delineations. Such questions should, and can more conveniently, be dealt with after critical habitat has been designated. In this respect, the Service and the National Marine Fisheries Service, in cooperation with other Federal agencies, have drawn up regulations which, in part, establish a consultation and assistance process for helping to evaluate the possible effects of actions on critical habitat. Provisions for interagency cooperation were published on January 4, 1978, in the FEDERAL REGISTER. (43 FR 870–876) (to be codified as 50 CFR Part 402) to assist Federal agencies in complying with section 7 of the Endangered Species Act of 1973.

EFFECT OF THE RULEMAKING

The effects of these determinations and this rulemaking include, but are not necessarily limited to, those discussed below.

Endangered species regulations already published in Title 50 of the Code of Federal Regulations set forth a series of general prohibitions and exceptions which apply to all endangered species. All of those prohibitions and exceptions also apply to any threatened species unless a special rule pertaining to that threatened species has been published and indicated otherwise. The regulations referred to above, which pertain to endangered species, are found at § 17.21 of title 50 and are summarized below.

With respect to the Virgin River chub in the United States, all prohbitions of section 9(a)(1) of the act, as implemented by 50 CFR 17.21 would apply. These prohibitions, in part, would make it illegal for any person subject to the jursidiction of the United States to take, import or export, ship in interstate commerce in the course of a commercial activity, or sell or offer for sale in interstate or foreign commerce this species. It also would be illegal to possess, sell, deliver, carry, transport, or ship any such wildlife which was illegally taken. Certain exceptions would apply to agents of the Service and State conservation agencies.

Regulations published in the FEDERAL REGISTER of September 26, 1975 (40 FR 44412) codified in 50 CFR Part 17, provided for the issuance of permits to carry out otherwise prohibited activities involving endangered or threatened species under certain circumstances. Such permits involving endangered species are available for scientific purposes or to enhance the propagation or survival of the species. In some instances, permits may be issued during a specified period of time to relieve undue economic hardship which would be suffered if such relief were not available.

Pursuant to section 4(b) of the act, the Director will notify the Governors of Arizona, Nevada, and Utah, with respect to this proposal and request their comments and recommendations before making final determinations.

PUBLIC COMMENTS SOLICITED

The Director intends that the rules finally adopted will be as accurate and effective as possible in the conservation of any Endangered or Threatened species. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, private interests or any other interested party concerning any aspect of these proposed rules are hereby solicited. Comments particularly are sought concerning:

(1) Biological or other relevant data concerning any threat (or the lack thereof) to the Virgin River chub;
(2) The location of and reasons why any habitat of the Virgin River chub should or should not be determined to be critical habitat as provided for by section 7 of the Act;
(3) Additional information concerning the range and distribution of the Virgin River chub.

Final promulgation of the regulations on the Virgin River chub will take into consideration the comments and any additional information received by the Director and such communications may lead him to adopt final regulations that differ from this proposal.

An environmental assessment has been prepared in conjunction with this proposal. It is on file in the Service's Office of Endangered Species, 1612 K Street NW., Washington, D.C. 20240, and may be examined during regular business hours or can be obtained by mail. A determination will be made at the time of final rulemaking as to whether this is a major Federal action which would significantly affect the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969.

The primary author of this proposed rulemaking is Dr. James D. Williams, Office of Endangered Species, 202-343-7814.

REGULATIONS PROMULGATION

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, as set forth below:

1. It is proposed to amend § 17.11 by adding, in alphabetical order, under "Fishes", the following to the list of animals:

§ 17.11 Endangered and threatened wildlife

Species			Range				
Common name	Scientific name	Population	Known distribution	Portion of range where threatened or endangered	Status	When listed	Special rules
Fishes:							
Chub, Virgin River	*Gila robusta seminuda*	NA	U.S.A. (Utah, Arizona, and Nevada).	Entire	E	.....	NA

2. Also, the Service proposes to amend § 17.95(e) by adding critical habitat of the Virgin River chub after that of the slender chub as follows:

(e) *Fishes.*

* * * * *

VIRGIN RIVER CHUB

(*Gila robusta seminuda*)

Nevada. Clark County. Main channel of Virgin River from the backwaters of Lake Mead upstream to the Nevada-Arizona State line.

Arizona. Mohave County. Main channel of Virgin River from the Nevada-Arizona State line upstream to the Arizona-Utah State line.

Utah. Washington County. Main channel of Virgin River from the Arizona-Utah State line upstream to Utah Highway 15 crossing north of Hurricane, Utah.

VIRGIN RIVER CHUB

ARIZONA, NEVADA and UTAH

NOTE: The 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: August 18, 1978.

HARVEY K. NELSON,
Acting Director,
Fish and Wildlife Service.

[FR Doc. 78-23575 Filed 8-22-78; 8:45 am]

federal register

WEDNESDAY, AUGUST 23, 1978
PART VIII

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

■

LABELING AND ADVERTISING OF WINE

Appellation of Origin, Grape Type Designations, etc.

[4810-31]

Title 27—Alcohol, Tobacco Products and Firearms

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

[T.D. ATF-53]

PART 4—LABELING AND ADVERTISING OF WINE

Appellation of Origin, Grape-Type Designations, Etc.

AGENCY: Bureau of Alcohol, Tobacco and Firearms.

ACTION: Final rule.

SUMMARY: This rule amends certain regulations relating to the labeling and advertising of wine. These new regulations provide a comprehensive scheme for appellation of origin labeling; make more stringent varietal labeling requirements; and update certain regulations to meet current needs. This rule will result in more accurate information being provided to consumers about wine origin and variety. Although the new rules impose stricter standards on the wine industry regarding the use of descriptive terms, they should have minimal effect on industry costs and promote new markets for American wine.

DATE: These regulations are effective September 22, 1978.

FOR FURTHER INFORMATION CONTACT:

Thomas B. Busey, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue NW., Washington, D.C. 20226, 202-566-7626.

SUPPLEMENTARY INFORMATION: This Treasury decision is the result of four notices of proposed rulemaking, published on July 17, 1975 (Notice No. 280, 40 FR 30117), February 25, 1976 (Notice No. 290, 41 FR 8188), November 12, 1976 (Notice No. 304, 41 FR 50004), and June 15, 1977 (Notice No. 304 Amended, 42 FR 30517). Public hearings were held on these notices in Washington, D.C., and San Francisco, Calif., in April 1976, February 1977, and September (Washington) and November (San Francisco) 1977. The record on which this Treasury decision is based includes all written comments and testimony presented from July 17, 1975 to December 3, 1977.

Treasury's new regulations governing the labeling of wine are based on the consumer protection and information requirements set forth in section 5(e) of the Federal Alcohol Administration Act, as amended, 27 U.S.C. 205(e) and the Treasury's experience in administering labeling requirements over the past four decades. The adequacy of labeling information must be constantly reexamined as the result of changes in the wine industry and the nature of products produced and consumed.

For the past 2 years we have spent considerable time attempting to define terms which have been used with little or no definition for decades. We have listened to over 100 witnesses, and read hundreds of written comments. We have twice made significant changes to our proposals in response to comments from the public and industry, and further changes are made in this Treasury decision. We believe these regulations will inform wine consumers of those things which are useful to them, without burdening the wine industry with unnecessary paper work or significant added expense.

Because it is important that wine consumers are made fully aware of the new labeling requirements, we intend to publish and distribute a handbook of labeling terminology and otherwise publicize the new regulations.

Changes Made as a Result of Comments and Testimony

1. *Varietal wine.* In the most recent notice (No. 304 amended), it was proposed that wine labeled with a varietal designation be derived from not less than 75 percent of grapes of that variety (except in the case of *Vitis labrusca* varieties such as Concord, which would require only 51 percent). In addition, the proposal would have required that the minimum percentage of the named varietal be stated on the label in direct conjunction with the varietal designation.

Numerous comments from the wine industry, wine writers, and consumers suggested that the proposed requirement that the minimum percentage of the labeled variety be shown in direct conjunction with, and in the same size and style of type as the varietal name, is unnecessary. A number of other comments suggested that the percentage be retained, but that it be allowed to appear on any label in small type. There were also a few comments from consumers that the percentage of each variety used be shown on the label, and that the use of the varietal name alone should be allowed only if all the grapes used to make the wine are of the named variety. A few industry comments objected to the 75-percent minimum varietal content, advocating that the present 51 percent be retained, or increased to no more than 67 percent.

The 75-percent minimum varietal content has been retained in the final decision. The proposed requirement that the minimum qualifying percentage of the named varietal grape be shown on the label has been dropped for those varieties with a 75-percent minimum, but retained, in modified form, for varieties (presently *Vitis labrusca* varieties only) which are excepted from the 75-percent minimum because of the nature of the grapes involved. In addition, the Director has been given authority to except other varieties upon a showing that the wine is too strongly flavored at 75 percent.

Varietal labeling provides a more informative labeling designation than designations such as Chablis, Burgundy, or simply red table wine. Requiring 100 percent varietal content for these wines would discourage the use of these designations and not necessarily improve the product. Some varieties grown under certain soil and climatic conditions and with certain viticultural practices may make excellent wines at the 100-percent varietal requirement. However, more often some blending with other varieties is necessary to arrive at the best product. The amount of blending will vary among different varieties and different harvests. Because of these factors we believe a certain amount of flexibility is necessary.

We have determined, however, that the 51-percent requirement is too low for most varieties, and permits so much blending that the finished product may bear little or no resemblance to the grape variety used to designate the wine. Based upon all available evidence we have concluded that the 75-percent requirement allows sufficient opportunity for blending while maintaining the identity of the grape.

While we considered requiring a minimum percentage statement, we ultimately decided that such percentage figures would add little by way of useful information to the consumer. Comments and testimony indicated that percentage requirements might mislead the consumer to believe that the higher the varietal percentage, the better the wine. Additionally requiring a percentage statement for this item would logically result in percentage and definitional statements being required for all other labeling designations. This would produce an extremely cluttered label, cause cost problems, and be of uncertain assistance to consumers. The Bureau believes that there has been an insufficient showing of a misleading effect on the public to justify requiring all these percentages and definitions to appear on the label. Rather, the planned public information program discussed above seems sufficient at this time.

2. *Controlled appellations.* Numerous comments from the industry suggested that the term "controlled appellations," used in the proposal to cover viticultural areas and vineyards,

would be taken by consumers as a Government endorsement of quality. They suggested that viticultural areas and vineyards should be treated as any other appellations of origin. Because the Bureau did not intend to imply an indorsement of any type, the proposed term "controlled appellations" which covered viticultural areas and vineyards has been dropped from the regulations. Viticultural areas, defined generally as areas with distinguishable geographic characteristics, have been included in § 4.25a, Appellations of Origin.

This Treasury decision does not incorporate vineyard appellations, as originally proposed, into the overall "Appellation of origin" system. We concluded that we had an insufficient record to determine the impact of, and the need for, creating the vineyard appellation with the proposed 95-percent requirement, especially since this might require noncomplying brand names to use the word brand on their labels as described in paragraph 17 of this notice. Consequently, all references to vineyard appellations throughout the regulations have been deleted, and the Bureau plans no new notices on this point. If, however, industry or consumers believe further definition of the term vineyard is necessary, the Bureau will consider any petitions to do so.

3. *Multicounty and multistate appellations.* Comments from the wine industry suggested that two or three county/State appellations be allowed, on the basis that 95 percent or more of the product be derived from grapes grown in the named counties/States, with a formula for the minimum percentage to be required from each county/State.

The Bureau has decided to allow the use of two or three county or two or three State appellations in order to permit greater flexibility in appellation of origin labeling. However, all of the grapes must come from the named counties or from the named States, the percentage of grapes from each county or State must be shown, and the wine must conform to the laws and regulations governing the composition, method of manufacture, and designation of wines in all the States listed in the appellation.

4. *County appellations.* Although wine industry comments recommended that the word "county" be required only in those cases where the name of the county is also part of an approved viticultural area name, and that it then only be required to be half as large as the name of the county, the Bureau has decided to make no change in the proposed requirement that the word "county" be shown in the same size of type and in letters as conspicuous as the name of the county. This requirement is being imposed in order to avoid the possibility of consumers confusing a "political boundary" appellation of origin with an appellation of viticultural significance. Because all references to style of type have been eliminated, the provision that the type style for the word "County" be the same has been dropped.

5. *Viticultural area boundaries.* The industry suggested that all vineyards which presently supply grapes legally using a particular viticultural area description, or which were planted for that purpose, be "grandfathered" into the appropriate viticultural areas, whether or not they fit within the boundaries defined in future proceedings pursuant to these regulations. In order to establish rational and uniform viticultural area boundaries it was determined that no vineyards will be "grandfathered" into an area merely because they presently supply, or were planted to supply, grapes currently using a particular viticultural area description.

Shortly after the effective date of this Treasury decision, the Bureau intends, as soon as our budget permits, to begin holding hearings to determine the precise boundaries of viticultural areas.

6. *Applications for establishment of viticultural areas.* The industry suggested that only a bonded winery with landholdings within a proposed viticultural area, or a bonded winery in conjunction with a vineyard owner, should be permitted to apply for establishment of a viticultural area.

Viticultural areas will be established by regulations, and pursuant to the Administrative Procedure Act (5 U.S.C. 553(e)) any interested party can petition for the issuance, amendment or repeal of a regulation. Therefore, the new rules will permit any interested party to apply for the establishment of a viticultural area.

7. *Required percentage of grapes from viticultural area.* Wine industry comments suggested that the proposed requirement that 85 percent of the wine be derived from grapes grown in the labeled viticultural area is too restrictive, and that this percentage should be reduced to 75 percent. On the other hand, some consumers and grape growers suggested that the requirement should be 95 or 100 percent for any appellation.

Because the Bureau believes it is important that viticultural area appellations be held to a higher standard than the standard that exists for political subdivisions, and because the integrity of the smaller viticultural areas must be protected, no change has been made in the proposal that 85 percent of the wine be derived from grapes from a viticultural area when the wine is labeled with a viticultural area appellation.

8. *Estate bottled.* Industry and consumer comments strongly favored continued use of the labeling term "estate bottled" or some similar term, based on various definitions. There was very little support for our proposed ban on the use of the term after December 31, 1982. In view of a strong demand by industry and consumers for the continued use of the term "estate bottled," with a stricter definition, the Bureau has decided to permit the use of this term.

In general terms, "estate bottled" is defined to mean that the bottling winery grew all of the grapes used to make the wine on land which it owned or controlled within a viticultural area. In addition, the winery itself must be located within the labeled viticultural area. The requirement that the bottling winery be located in the same locale as the vineyards is based on the implication of the term "estate bottled"; that the wine is bottled on the estate. The requirement does not imply any loss of growing area character of the grapes if shipped for a limited distance.

9. *Vineyard descriptions.* The proposed requirement that a graphic or narrative description of the location of the vineyard be shown on the label of vineyard labeled wine was dropped since the vineyard appellation proposal, as discussed above, is not being implemented.

10. *Vintage requirements.* The current requirement for vintage wine is that 95 percent be harvested in the labeled year and in the labeled appellation area. The wine industry strongly recommended the present requirement that 95 percent of the grapes used to make a vintage wine must be grown in the labeled appellation area, be changed to 75 percent, as is the case for nonvintage wine. We concur that the two provisions should be divorced, and that vintage should refer only to the year of harvest. Accordingly, this Treasury decision requires that vintage wine be made from grapes no less than 95 percent of which were harvested in the labeled year. The percentage required to come from the labeled area of origin will vary with the type of appellation (85 percent for a viticultural area, 75 percent for a county or state or foreign equivalent, and 100 percent for a multicounty or multistate appellation).

11. *Origin statements on wine finished in a State other than the State of origin.* Grapes grown in one State and finished in another are presently not entitled to the appellation of the State in which grown. The only appellation to which such wine is entitled is "American." Comments received suggested that wine finished in a differ-

ent State than that in which the grapes are grown should be entitled to the appellation of the State of origin. Because of modern transportation, and particularly with the advent of field crushing, grapes grown in one place do not change character by being bottled in another location reasonably close by. We have therefore decided that wine finished in a State adjacent to the State of origin may be labeled with an appellation appropriate to the State in which the grapes were grown.

12. *Minimum varietal requirement of 51 percent for Vitis Rotundifolia varieties and other varieties considered by the Director to be unpalatable at 75 percent.* Wine industry comments recommended that the proposed exception to the 75 percent varietal requirement for Vitis Labrusca varieties should be expanded to cover Vitis Rotundifolia (Muscadine) varieties, and other varieties deemed by the Director to be unpalatable at 75 percent. The Bureau considers it probable that Vitis Rotundifolia varieties and some others may well have too strong a flavor to be marketable at a 75 percent varietal content. We will not make exceptions for these varieties, however, until convincing evidence is presented establishing the need for an exception. The regulations contain a provision allowing the Director to make exceptions to the 75 percent varietal requirement when he finds such exceptions are warranted.

13. *Two or three varieties.* The proposal that two or three varieties, when used as a type designation, must be labeled with a controlled appellation has been modified to allow the use of any appellation of origin in order to conform with our decision to drop the concept of controlled appellations. This was primarily done because the comments received indicated that this labeling requirement should not be limited to viticultural area designations but should be expanded to include and allow all appellations of origin. However, the percentage of each variety will have to be shown, and the total will have to be 100 percent. In the case of multicounty or multistate appellations, the percentage of each variety from each county or state will have to be shown.

14. *Winemaking terms.* The Bureau proposed to define the terms which may be used on a label to indicate the various winemaking functions performed in connection with the wine. The only terms which would have been allowed are: produced, prepared, blended, and manufactured. Under the proposal, the term "produced" was defined to mean 95 percent of the wine was fermented by the named person, as compared to 75 percent under existing regulations. the other terms would have covered the various wine making functions where the person did not qualify for "produced by". The industry comments suggested changes in the proposal. They suggested that the proposal to change the definition of "produced" from 75 percent to 95 percent fermented by the named person was unwarranted in light of current winemaking practices. They also proposed that the term "vinted" be substituted for the terms "prepared," "blended," and "manufactured."

After considering the comments and testimony, the Bureau has decided not to issue new regulations on the subject of winemaking terms at this time.

Since this Treasury decision does not incorporate new regulations on winemaking terms, it will not affect terms, such as vinted, currently being used on label approvals. The Bureau plans no new notice of proposed rulemaking on this point. If, however, industry or consumers believe further definition of this or other terms is necessary, the Bureau will consider any petitions to do so.

15. *Elimination of the term "domestic".* The industry suggested that the term "domestic" should be replaced by the term "American". The Bureau concurs with the industry recommendation that the term "American" has a more precise meaning. The change has been made in the sections affected by this Treasury decision, and will be made in other sections when the opportunity arises.

16. *Form of address.* Industry comments suggested that the proposed requirement that the actual address of the bottling premises be shown for all wine except that wine imported in bottles should be changed to allow the bottler's principal place of business to be shown. In addition, it was suggested the proposed requirement that the bottler's registry number be shown should be amended to require the number only when the operating name of the winery is not used. The Bureau is convinced that it is important that more precise information concerning who is responsible for bottling and where the bottling took place be used on wine labels. Therefore, this document adopts the form of address requirements as proposed.

17. *Names of geographical significance.* This Treasury decision prohibits the unrestricted use of specific geographical product names on products which cannot qualify for that specific geographical appellation of origin under § 4.25a. However, if the Director finds that because of long usage such names are recognized by consumers as fanciful product names and not representations of origin, he may permit continued use of the name, even though the product does not originate in the named geographical area, if the word "brand" is prominently displayed immediately following the product name. In addition, the Director may require that the label of such a product bear a statement disclaiming the geographical reference as a representation of the origin of the wine.

The new regulations will not affect the use of corporate or trade names and will affect brand names only to the extent that the brand name is misleading as to origin. As explained earlier, this Treasury decision also does not incorporate vineyard appellations, as previously proposed, into the overall "appellation of origin" system. Therefore, no regulations are being issued concerning the use of brand names containing the word vineyard.

Brand names that are misleading as to origin, however, will have to be qualified by the word "brand." Our most recent notice of proposed rulemaking on this subject, published on June 15, 1977, would have permitted such brand names to be qualified by the symbols (R) and (TM) as alternatives to "brand." After reviewing the record, we find that the symbols (R) and (TM) are not adequate alternatives to the word "brand" because (1) the symbol (R) is also used under the Lanham Act to designate certification marks which certify geographical origin, and (2) where the brand name has geographical significance, the use of (R) or (TM) is not adequate warning to the consumer that the wine did not come from the geographical area described.

18. *Percentage statements.* The regulations initially proposed referred to percentage by weight instead of by volume (as required by current regulations). This change was unintentional, as was explained by the Director at the beginning of each public hearing. Percent or percentage has been defined in this Treasury Decision to refer to volume throughout.

19. *Compliance dates.* Industry comments suggested that all amended regulations be phased in over a period of 5 production years and 8 bottling years. Comments from consumers and grape growers favored a phase in period of no more than 3 years. To allow for an orderly transition, the Bureau has decided that a period of approximately 5 years is warranted before full compliance with some of the new rules becomes mandatory. Those provisions not requiring mandatory compliance until January 1, 1983 are highlighted in the individual headings by the phrase "not mandatory before January 1, 1983". Mandatory compliance with all provisions is therefore scheduled for January 1, 1983. However, use of these provisions may be made before January 1, 1983. For example, an application (petition) for a viticultural area designation may be

made 30 days from date of publication of these regulations.

20. *Type size.* Industry comments suggested that minimum type sizes be specified in millimeters, that type styles be deregulated, and that statements required by new regulations be specified as "readily legible" with no mimimum size.

The Bureau concurs with industry comments that minimum type sizes should be specified in millimeters, and that we should deregulate type styles. We do not, however, agree with the concept of "readily legible" minimum sizes because no standard is set for what "readily legible" means. We have set a minimum type size of 1 millimeter for wine bottles of 187 milliliters or less. The minimum type size for larger bottles has been set at 2 millimeters. The effective date for compliance with type size requirements is January 1, 1980.

21. *Additional information on labels.* The wine industry and some consumers suggested that any truthful, accurate, and specific information be allowed on labels. Because of these comments, the Bureau has decided to relax the present prohibitions against certain age statements, provided that such statements are truthful, accurate, and specific, and are neither disparaging nor misleading. Relaxation of other prohibitions is under consideration, and may become the subject of a future rulemaking proceeding.

DRAFTING INFORMATION

The principal authors of this regulation were D. R. Royce, Thomas B. Busey, and Raymond F. Conrad, of the Regulations and Procedures Division of the Office of Regulatory Enforcement, Bureau of Alcohol, Tobacco and Firearms. However, personnel from other offices of the Bureau of Alcohol, Tobacco and Firearms and the Treasury Department participated in developing the regulations, both on matters of substance and style.

AUTHORITY CITATION

These regulations are issued under the provisions of Section 5 of the Federal Alcohol Administration Act (49 Stat. 981 as amended; 27 U.S.C. 205).

In view of the foregoing, the regulations in 27 CFR part 4 are amended as follows:

PARAGRAPH 1. Section 4.10 is amended by adding the new definitions "American" and "percent of percentage" and by deleting the term vintage wine. The definitions to be added to § 4.10 are as follows:

§ 4.10 Meaning of terms.

* * * * *

American. As used in this part, means the several States and Territories and the District of Columbia; the term "State" includes a Territory and the District of Columbia; and the term "Territory" means the Commonwealth of Puerto Rico.

* * * * *

Percent or percentage. As used in this part, means percent by volume.

* * * * *

PARAGRAPH 2. A new § 4.23a is added immediately following § 4.23 to read as follows:

§ 4.23a Varietal (grape type) labeling. (Not Mandatory before January 1, 1983)

(a) *General.* The names of one or more grape varieties may be used as the type designation of a grape wine only if the wine is also labeled with an appellation of origin, as defined in § 4.25a.

(b) *One variety.* The name of a single grape variety may be used as the type designation if not less than 75 percent of the wine is derived from grapes of that variety, the entire 75 percent of which was grown in the labeled appellation of origin area.

(c) *Exceptions.* (1) Wine made from any Vitis Labrusca variety (exclusive of hybrids with Labrusca parentage) may be labeled with the varietal name if: (i) Not less than 51 percent of the wine is derived from grapes of that variety; (ii) the statement "contains not less than 51 percent (name of variety)" is shown on the brand label, back label or a separate strip label (except that this statement need not appear if 75 percent or more of the wine is derived from grapes of the named variety); and (iii) the entire qualifying percentage of the named variety was grown in the labeled appellation of origin area. (2) Wine made from any variety of any species found by the Director upon appropriate application to be too strongly flavored at 75 percent minimum varietal content may be labeled with the varietal name if: (i) Not less than 51 percent of the wine is derived from grapes of that variety; (ii) the statement "contains not less than 51 percent (name of variety)" is shown on the brand label, back label or a separate strip label (except that this statement need not appear if 75 percent or more of the wine is derived from grapes of the named variety); and (iii) the entire qualifying percentage of the named variety was grown in the labeled appellation of origin area.

(d) *Two or three varieties.* The names of two or three grape varieties may be used as the type designation if: (1) All of the grapes used to make the wine are of the labeled varieties; (2) the percentage of the wine derived from each variety is shown on the label (with a tolerance of plus or minus 2 percent); (3) if labeled with a multicounty appellation, the percentage of the wine derived from each variety from each county is shown on the label; and (4) if labeled with a multistate appellation, the percentage of the wine derived from each variety from each state is shown on the label.

PARAGRAPH 3. A new § 4.25a is added immediately following § 4.25 to read as follows:

§ 4.25a Appellations of origin (Not Mandatory before January 1, 1983).

(a) *Definition.*—(1) *American wine.* An American appellation of origin is: (i) The United States; (ii) a State; (iii) two or no more than three States which are all contiguous; (iv) a county (which must be identified with the word "county", in the same size of type, and in letters as conspicuous as the name of the county); (v) two or no more than three counties in the same States; of (vi) a viticultural area (as defined in paragraph (e) of this section).

(2) *Imported wine.* An appellation of origin for imported wine is: (i) A county, (ii) a state, province, territory, or similar political subdivision of a country equivalent to a state or county; or (iii) a viticultural area.

(b) *Qualification.*—(1) *American wine.* An American wine is entitled to an appellation of origin other than a multicounty or multistate appellation, or a viticultural area, if: (i) At least 75 percent of the wine is derived from fruit or agricultural products grown in the appellation area indicated; (ii) it has been fully finished (except for cellar treatment pursuant to § 4.22(c), and blending which does not result in an alteration of class or type under § 4.22(b)) in the United States, if labeled "American"; or, if labeled with a State appellation, within the labeled State or an adjacent State; or if labeled with a county appellation, within the State in which the labeled county is located; and (iii) it conforms to the laws and regulations of the named appellation area governing the composition, method of manufacture, and designation of wines made in such place.

(2) *Imported wine.* An imported wine is entitled to an appellation of origin other than a viticultural area if: (i) At least 75 percent of the wine is derived from fruit or agricultural products grown in the area indicated by the appellation of origin; and (ii) the wine conforms to the requirements of the foreign laws and regulations governing the composition, method of production, and designation of wines made in such country, province, etc. as appropriate.

(c) *Multicounty appellations.* An appellation of origin comprising two or

no more than three counties in the same State may be used if all of the grapes were grown in the counties indicated, and the percentage of the wine derived from grapes grown in each county is shown on the label, with a tolerance of plus or minus 2 percent.

(d) *Multistate appellation.* An appelation of origin comprising two or no more than three States which are all contiguous may be used, if: (1) all of the grapes were grown in the States indicated, and the percentage of the wine derived from grapes grown in each State is shown on the label, with a tolerance of plus or minus 2 percent; (2) it has been fully finished (except for cellar treatment pursuant to § 4.22(c), and blending which does not result in an alteration of class or type under § 4.22(b)) in one of the labeled appellation States; (3) it conforms to the laws and regulations governing the composition, method of manufacture, and designation of wines in all the States listed in the appellation.

(e) *Viticultural area.*—(1) *Definition.*—(i) *American wine.* A delimited grape growing region distinguishable by geographical features, the boundaries of which have been recognized and defined in part 9 of this chapter.

(ii) *Imported wine.* A delimited place or region (other than an appellation defined in paragraphs (a)(2) (i) or (ii)) the boundaries of which have been recognized and defined by the country of origin for use on labels of wine available for home consumption.

(2) *Establishment of American viticultural areas.* Petitions for establishment of American viticultural areas may be made to the director by any interested party, pursuant to the provisions of § 71.41(c) of this title. The petition may be in the form of a letter, and should contain the following information: (i) Evidence that the name of the viticultural area is locally and/or nationally known as referring to the area specified in the application; (ii) historical or current evidence that the boundaries of the viticultural area are as specified in the application; (iii) evidence relating to the geographical features (climate, soil, elevation, physical features, etc.) which distinguish the viticultural features of the proposed area from surrounding areas; (iv) the specific boundaries of the viticultural area, based on features which can be found on U.S. Geological Survey (U.S.G.S.) maps of the largest applicable scale; and (v) a copy of the appropriate U.S.G.S. map with the boundaries prominently marked.

(3) *Requirements for use.* A wine may be labeled with a viticultural area appellation if: (i) The appellation has been approved under part 9 of this title or by the appropriate foreign government; (ii) not less than 85 percent of the wine is derived from grapes grown within the boundaries of the viticultural area; (iii) in the case of American wine, it has been fully finished within the State, or one of the States, within which the labeled viticultural area is located (except for cellar treatment pursuant to § 4.22(c), and blending which does not result in an alteration of class or type under § 4.22(b)); and (iv) it conforms to the laws and regulations of all the States contained in the viticultural area.

PARAGRAPH 4. A new section, § 4.26, is added immediately following § 4.25a. Section 4.26 reads as follows:

§ 4.26 Estate bottled (not mandatory before January 1, 1983).

(a) *Conditions for use.* The term "Estate bottled" may be used by a bottling winery on a wine label only if the wine is labeled with a viticultural area appellation of origin and the bottling winery: (1) Is located in the labeled viticultural area; (2) grew all of the grapes used to make the wine on land owned or controlled by the winery within the boundaries of the labeled viticultural area; (3) crushed the grapes, fermented the resulting must, and finished, aged, and bottled the wine in a continuous process (the wine at no time having left the premises of the bottling winery).

(b) *Special rule for cooperatives.* Grapes grown by members of a cooperative bottling winery are considered grown by the bottling winery.

(c) *Definition of "Controlled".* For purposes of this section, "Controlled by" refers to property on which the bottling winery has the legal right to perform, and does perform, all of the acts common to viticulture under the terms of a lease or similar agreement of at least 3 years duration.

(d) *Use of other terms.* No term other than "Estate bottled" may be used on a label to indicate combined growing and bottling conditions.

PARAGRAPH 5. A new § 4.27 is added immediately following § 4.26. Section 4.27 reads as follows:

§ 4.27 Vintage wine.

(a) *General.* Vintage wine is wine labeled with the year of harvest of the grapes and made in accordance with the standards prescribed in classes 1, 2, or 3 of § 4.21. At least 95 percent of the wine must have been derived from grapes harvested in the labeled calendar year, and the wine must be labeled with an appellation of origin other than a country (which does not qualify for vintage labeling). The appellation shall be shown in direct conjunction with the designation required by § 4.32(a)(2), in the same size of type, and in lettering as conspicuous as that designation. In no event may the quantity of wine removed from the producing winery, under labels bearing a vintage date, exceed the volume of vintage wine produced in that winery during the year indicated by the vintage date.

(b) *American wine.* A permittee who produced and bottled or packed the wine, or a person other than the producer who repackaged the wine in containers of 5 liters (or 1-gallon before January 1, 1979) or less may show the year of vintage upon the label if the person possesses appropriate records from the producer substantiating the year of vintage and the appellation of origin; and if the wine is made in compliance with the provisions of paragraph (a) of this section.

(c) *Imported wine.* Imported wine may bear a vintage date if: (1) It is made in compliance with the provisions of paragraph (a) of this section; (2) it is bottled in containers of 5 liters (or 1-gallon before January 1, 1979) or less prior to importation, or bottled in the United States from the original container of the product (showing a vintage date); (3) if the invoice is accompanied by, or the American bottler possesses, a certificate issued by a duly authorized official of the country of origin (if the country of origin authorizes the issuance of such certificates) certifying that the wine is of the vintage shown, that the laws of the country regulate the appearance of vintage dates upon the labels of wine produced for consumption within the country of origin, that the wine has been produced in conformity with those laws, and that the wine would be entitled to bear the vintage date if it had been sold within the country of origin.

PARAGRAPH 6. Section 4.32 is amended (1) by revising paragraph (c), and (2) by making editorial changes in paragraph (a). As amended, paragraphs (a) and (c) read as follows:

§ 4.32 Mandatory label information.

(a) Except as otherwise provided in paragraph (c) of this section, there shall be stated on the brand label:

* * * * *

(c) In the case of imported wine, the name and address of the importer (when required to be shown) need not be stated upon the brand label if it is stated upon any other label affixed to the container. In the case of American wine bottled or packed for a retailer or other person under a private brand, the name and address of the bottler or packer need not be stated upon the brand label if the name and address of the person for whom bottled or packed appears upon the brand label, and the name and address of the bottler or packer is stated upon any other label affixed to the container.

PARAGRAPH 7. Section 4.34(a) is editorially revised, § 4.34(b) is amended to add new requirements, and a new paragraph (c) is added. As amended, § 4.34 reads as follows:

§ 4.34 Class and type.

(a) The class of the wine shall be stated in conformity with subpart C of this part if the wine is defined therein, except that "table" ("light") and "dessert" wines need not be designated as such. In the case of still grape wine there may appear, in lieu of the class designation, any grape-type designation, semigeneric geographic type designation, or geographic destinctive designation, to which the wine may be entitled. In the case of champagne, or crackling wines, the type designation "champagne" or "crackling wine" ("petillant wine", "frizzante wine") may appear in lieu of the class designation "sparkling wine". In the case of wine which has a total solids content of more than 17 grams per 100 cubic centimeters the words "extra sweet", "specially sweetened", "specially sweet" or "sweetened with excess sugar" shall be stated as a part of the class and type designation. The last of these quoted phrases shall appear where required by part 240 of this title, on wines sweetened with sugar in excess of the maximum quantities specified in such regulations. If the class of the wine is not defined in subpart C, a truthful and adequate statement of composition shall appear upon the brand label of the product in lieu of a class designation. In addition to the mandatory designation for the wine, there may be stated a distinctive or fanciful name, or a designation in accordance with trade understanding. All parts of the designation of the wine, whether mandatory or optional, shall be in direct conjunction and in lettering substantially of the same size and kind.

(b) An appellation of origin, such as "American", "California", "Napa Valley", or "Chilean", disclosing the true place of origin of the wine, shall appear in direct conjunction with, in the same size of type, and in lettering as conspicuous as, the class and type designation if (1) a grape type (varietal) with geographical significance is used, or after December 31, 1982, any grape type used, under the provisions of § 4.23a; (2) a semigeneric type designation is employed as the type designation of the wine, pursuant to § 4.24(b); or (3) a brand name or product name qualified with the word "Brand" as required by the provisions of § 4.39 (i) or (j).

(c) Compliance with the provisions of paragraph (b)(3) of this section is not mandatory before January 1, 1983.

PARAGRAPH 8. Section 4.35(a) is editorially revised and amended, § 4.35(c) is amended to add a new requirement, and § 4.35(d) is amended by revising the paragraph and adding a new requirement. As amended, § 4.35 reads as follows:

§ 4.35 Name and address.

(a) *American wine.* On labels of containers of American wine, there shall be stated the name of the bottler or packer and the place where bottled or packed (or until January 1, 1983, in lieu of such place the principal place of business of the bottler or packer if in the same State where the wine was bottled or packed, and, if bottled or packed on bonded premises, the ATF registry number of such premises) immediately preceded by the words "bottled by" or "packed by" except that:

* * * * *

(c) *Form of address.* The "place" stated shall be the post office address (after December 31, 1982 the post office address shall be the address shown on the basic permit or other qualifying document of the premises at which the operations took place; and there shall be shown the address for each operation which is designated on the label. An example of such use would be "Produced at Gilroy, Calif., and bottled at San Mateo, Calif., by XYZ winery, BW-CA-10001."), except that the street address may be omitted. No additional places or addresses shall be stated for the same person unless (1) such person is actively engaged in the conduct of an additional bona fide and actual alcoholic beverage business at such additional place or address, and (2) the label also contains in direct conjunction therewith, appropriate descriptive material indicating the function occurring at such additional place or address in connection with the particular product.

(d) *Trade or operating names.* The trade or operating name of any person appearing upon any label shall be identical with a name appearing on his or her basic permit or notice. In addition, after December 31, 1982, the registry number of the American bonded winery, bonded wine cellar, taxpaid wine bottling house, or distilled spirits plant at which the wine was bottled shall be shown on the label in direct conjunction with the name and address of the bottler, in type as conspicuous as the name and address.

PARAGRAPH 9. Section 4.38 is completely amended, to read as follows:

§ 4.38 General requirements.

(a) *Legibility.* All labels shall be so designed that all the statements thereon required by §§ 4.30–4.39 are readily legible under ordinary conditions, and all such statement shall be on a contrasting background.

(b) *Size of type.* Unless otherwise provided in this paragraph, all statements required on labels by this part shall be in script, type, or printing not smaller than 2 millimeters (or 8-point gothic until January 1, 1980); except that if contained among other descriptive or explanatory reading matter, the script, type, or printing of all required material shall be of a size substantially more conspicuous than such other descriptive or explanatory reading matter. In the case of labels of containers having a capacity of 187 milliliters (or one-half pint until January 1, 1979) or less, such script, type, or printing need not be in 2-millimeter (or 8-point gothic until January 1, 1980) type but shall not be smaller than 1 millimeter (or 6-point gothic until January 1, 1980). Alcoholic content statements shall not appear in script, type, or printing larger or more conspicuous than 2 millimeters (or 8-point gothic until January 1, 1980) nor less than 1 millimeter (or 6-point gothic until January 1, 1980) on labels of containers having a capacity of 5 liters or less (or 1 gallon or less until January 1, 1979) and shall not be set off with a border or otherwise accentuated.

(c) *English language.* All mandatory label information shall be stated on labels in the English language, except that the brand name, the place of production, and the name of the manufacturer, producer, blender, bottler, packer, or shipper appearing on the label need not be in the English language if the words "product of" immediately precede the name of the country of origin stated in accordance with customs requirements. Additional statements in foreign languages may be made on labels, if they do not in any way conflict with, or contradict the requirements of §§ 4.30–4.39.

(d) *Location of label.* Labels shall not obscure Government stamps nor be obscured thereby.

(e) *Labels firmly affixed.* All labels shall be affixed to containers of wine in such manner that they cannot be removed without thorough application of water or other solvents.

(f) *Additional information on labels.* Labels may contain information other than the mandatory label information other then the mandatory label information required by §§ 4.30–4.39, if such information complies with the requirements of such sections and does not conflict with, nor in any manner qualify statements required by this part. In addition, information which is truthful, accurate, and specific, and which is neither disparaging nor misleading may appear on wine labels.

(g) *Representations as to materials.* If any representation (other than representations or information required by §§ 4.30–4.39 or percentage state-

ments required or permitted by this part) is made as to the presence, excellence, or other characteristic of any ingredient in any wine, or used in its production, the label containing such representation shall state, in print, type, or script, substantially as conspicuous as such representation, the name and amount in percent by volume of each such ingredient.

(h) *Statement of contents of containers.* Upon request of the Director, there shall be submitted a full and accurate statement of the contents of the containers to which labels are to be or have been affixed.

[T.D. 6521, 25 FR 13835, December 29, 1960, as amended by T.D. 7185, 37 FR 7976, April 22, 1972.]

PARAGRAPH 10. Section 4.39 is amended to (1) make an editorial change in paragraph (a)(2); (2) delete the footnote and incorporate its contents into paragraph (a)(5); (3) make an editorial change to paragraph (a)(9); (4) completely revise paragraph (b); (5) delete paragraph (d); (6) reletter paragraphs (e) through (i) as (d) through (h); and (7) add new paragraphs (i), (j), (k), and (l). As amended, § 4.39(a)(2), (a)(5), (a)(9), (b), (i), (j), (k), and (l) read as follows:

§ 4.39 Prohibited practices.

(a) *Statements on labels.* * * *

(2) Any statement that is disparaging of a competitor's products.

* * * * *

(5) Any statement, design, device, or representation of or relating to any guaranty, irrespective of falsity, which the Director finds to be likely to mislead the consumer. Enforceable money-back guarantees are not prohibited.

* * * * *

(9) Any word in the brand name or class and type designation which is the name of a distilled spirits product or which simulates, imitates, or created the impression that the wine so labeled is, or is similar to, any product customarily made with a distilled spirits base. Examples of such words are: "Manhattan," "Martini," and "Daquiri" in a class and type designation or brand name of a wine cocktail; "Cuba Libre," "Zombie," and "Collins" in a class and type designation or brand name of a wine specialty or wine highball; "creme," "cream," "de," or "of" when used in conjunction with "menthe," "mint," or "cacao" in a class and type designation or a brand name of a mint or chocolate flavored wine specialty.

(b) *Statement of age.* No statement of age or representation relative to age (including words or devices in any brand name or mark) shall be made, except (1) for vintage wine, in accordance with the provisions of § 4.27; (2) references relating to methods of wine production involving storage or aging in accordance with § 4.38(f); or (3) use of the word "old" as part of a brand name.

* * * * *

(i) *Geographical brand names (not mandatory before January 1, 1983).* A brand name of viticultural significance may not be used unless the bottling winery is located in the geographical area used in the brand name, and the wine meets the appellation of origin requirements for the geographical area named; or the brand name is qualified by the word "brand" immediately following the brand name in the same size of type and as conspicuous as the brand name itself. A name has viticultural significance when it is the name of a state or county (or the foreign equivalents), when approved as a viticultural area in part 9 of this chapter or by a foreign government, or when found to have viticultural significance by the Director.

(j) *Product names of geographical significance (not mandatory before January 1, 1983).* The use of product names with specific geographical significance is prohibited unless the Director finds that because of their long usage, such names are recognized by consumers as fanciful product names and not representations as to origin. In such cases the product names shall be qualified with the word "brand" immediately following the product name, in the same size of type, and as conspicuous as the product name itself. In addition, the label shall bear an appellation of origin under the provisions of § 4.34(b), and, if required by the Director, a statement disclaiming the geographical reference as a representation as to the origin of the wine.

(k) *Other indications of origin.* Other statements, designs, devices or representations which indicate or infer an origin other than the true place of origin of the wine are prohibited.

(l) *Foreign terms.* Foreign terms which: (1) Describe a particular condition of the grapes at the time of harvest (such as "Auslese," "Eiswein," and "Trockenbeerenauslese"); or (2) denote quality under foreign law (such as "Qualitatswein" and "Kabinett") may not be used on the labels of American wine.

PARAGRAPH 11. Section 4.64(c) is amended to agree with the provisions of § 4.39, and to agree with changed section numbers in other amended sections. Section 4.64(e) is deleted, and subsequent paragraphs are relettered as amended, § 4.64(c) reads as follows:

§ 4.64 Prohibited statements.

* * * * *

(c) *Statement of age.* No statement of age or representation relative to age (including words or devices in any brand name or mark) shall be made, except (1) for vintage wine, in accordance with the provisions of § 4.27; (2) references in accordance with § 4.38(f); or (3) use of the word "old" as part of a brand name.

* * * * *

Signed: August 10, 1978.

JOHN S. KROGMAN,
Acting Director.

Approved: August 16, 1978.

RICHARD J. DAVIS,
Assistant Secretary of the Treasury.

[FR Doc. 78-23688 Filed 8-22-78; 8:45 am]

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