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DoD: USAF Scientific Advisory Boards. 31980; 11-20-73

DOT: Great Lakes Pilotage Advisory Committee. 31329; 11-13-73

EPA: Petrochemical Industry Advisory Committee. 32289; 11-23-73

Federal Energy Regulation Study Team. 32168; 11-21-73

HEW: National Advisory Mental Health Council. 31354; 11-13-73

DIBA: Computer Systems Technical Advisory Committee. 32591; 11-27-73

Computer Systems Technical Advisory Committee's Safeguard Subgroup. 32591; 11-27-73

FCC: Panel 2 of the Cable Television Technical Advisory Committee. 32600; 11-27-73



HEW: National Advisory Council on Education Professions Development. 32594; 11-27-73

NASA: Medical Isotopes Advisory Subcommittee of the Johnson Space Center Radiation Safety Committee. 32612; 11-27-73

National Advisory Council on the Education of Disadvantaged Children. 32538; 11-26-73

National Foundation on the Arts and the Humanities: National Endowment for the Arts Music Advisory Panel. 32613; 11-27-73

HEW: U.S. National Committee on Vital and Health Statistics. 30765; 11-7-73

Interior Department: Dillon District Grazing Advisory Board. 27629; 10-5-73

Interior Department: Rawlins District Advisory Board. 32148; 11-21-73

Interior Department: Rock Springs District Advisory Board. 31546; 11-15-73

National Science Foundation: International Decade of Ocean Exploration Proposal Review Panel. 31714; 11-16-73

OSHA: Standards Advisory Committee on Heat Stress. 32297; 11-23-73

State Department: International Telegraph and Telephone Consultative Committee. 31980; 11-20-73

VA: Medical Research Service Merit Review Boards. 30797; 11-7-73

**DECEMBER 6**

Advisory Committee on Reactor Safeguards. 32279; 11-23-73

DOD: USAF Scientific Advisory Boards. 31980; 11-20-73

EPA: Antimicrobial Program Advisory Committee. 32288; 11-23-73

EPA: Petrochemical Industry Advisory Committee. 32289; 11-23-73

Federal Energy Regulation Study Team. 32168; 11-21-73

Interior: Arizona Strip District Advisory Board. 30752; 11-7-73

Interior: Colorado Grazing District Board. 30569; 11-6-73

National Credit Union: NCU Board quarterly meeting. 31210; 11-12-73

National Science Foundation: Advisory Committee for Research, Ad Hoc Task Group. 32179; 11-21-73

National Science Foundation: International Decade of Ocean Exploration Advisory Panel. 32019; 11-20-73

National Endowment for the Humanities: Museum Panel. 31873; 11-19-73

VA: Wage Committee. 29934; 10-30-73

HEW: National Advisory Council on Education Professions Development. 32594; 11-27-73

Labor Department: National Advisory Committee on Occupational Safety and Health. 32614; 11-27-73

National Advisory Council on the Education of Disadvantaged Children. 32538; 11-26-73

National Advisory Council on Supplementary Centers and Services. 32612; 11-27-73

President's Cancer Panel. 32594; 11-27-73

Transplantation and Immunology Committee. 32594; 11-27-73

**DECEMBER 7**

DOD: USAF Scientific Advisory Boards. 31981; 11-20-73

EPA: Antimicrobial Program Advisory Committee. 32288; 11-23-73

Federal Energy Regulation Study Team. 32168; 11-21-73

National Credit Union: NCU Board quarterly meeting. 31210; 11-12-73

National Endowment for the Humanities: Museum Panel. 31873; 11-19-73

National Endowment for the Humanities Advisory Committee, Humanist Fellowships Panel. 32178; 11-21-73

National Science Foundation: Advisory Committee for Research, Ad Hoc Task Group. 32179; 11-21-73

National Science Foundation: International Decade of Ocean Exploration Advisory Panel. 32019; 11-20-73

VA: Medical Research Service Merit Review Boards. 30797; 11-7-73

American Revolution Bicentennial Commission: Women's Participation Program Committee. 32595; 11-27-73

HEW: National Advisory Council on Education Professions Development. 32594; 11-27-73

National Advisory Council on Supplementary Centers and Services. 32612; 11-27-73

Transplantation and Immunology Committee. 32594; 11-27-73

**DECEMBER 8**

Advisory Committee on Reactor Safeguards. 32279; 11-23-73

Federal Energy Regulation Study Team. 32168; 11-21-73

National Endowment for the Humanities Advisory Committee, Humanist Fellowships Panel. 32178; 11-21-73

**Weekly List of Public Laws**

This is a listing of public bills enacted by Congress and approved by the President, together with the law number, the date of approval, and the U.S. Statutes citation. Subsequent lists will appear every Wednesday in the FEDERAL REGISTER, and copies of the laws may be obtained from the U.S. Government Printing Office.

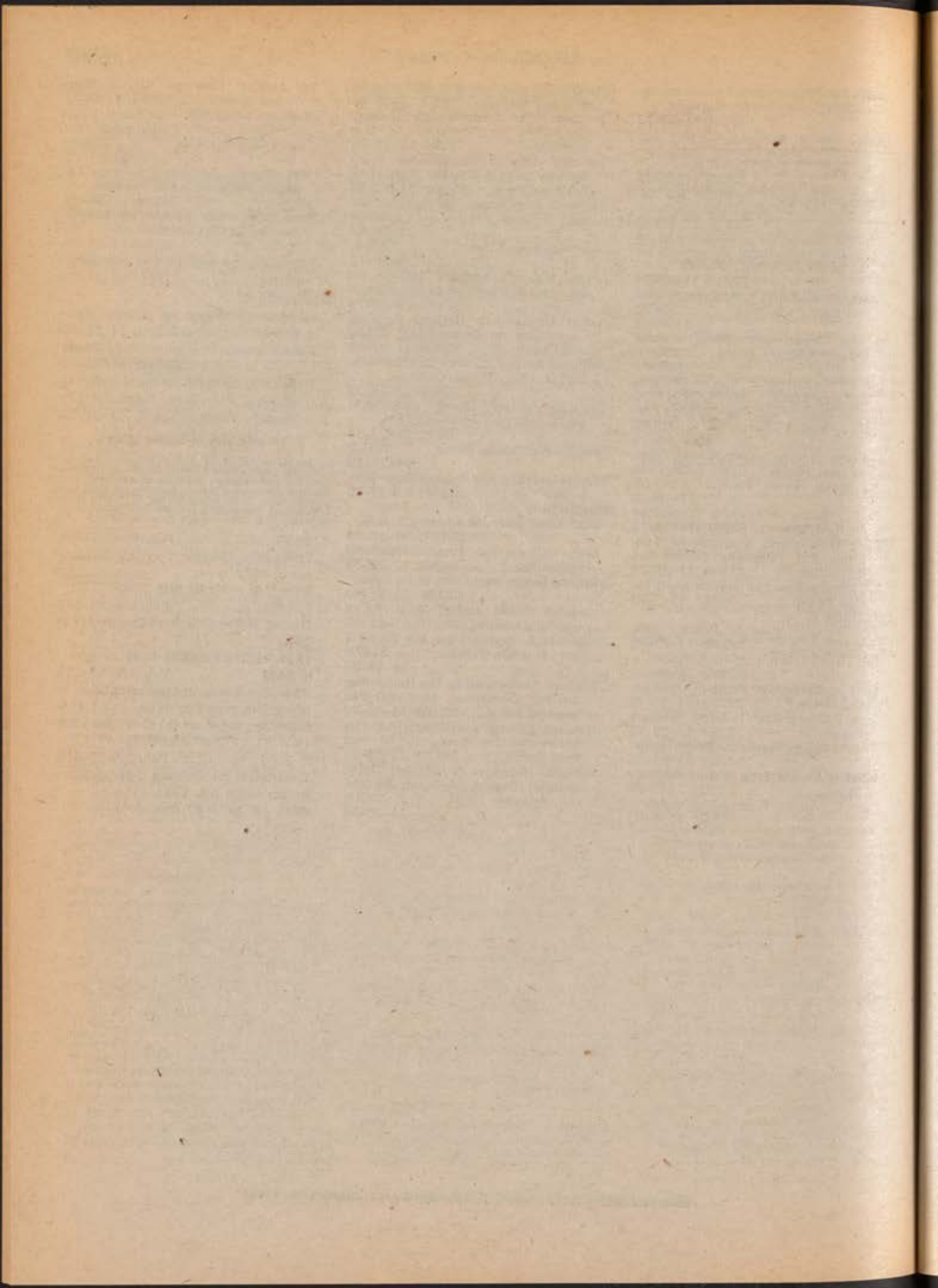
S. 2410..... Pub. Law 93-154  
Emergency Medical Services Systems Act of 1973  
(Nov. 16, 1973; 87 Stat. 594)

H.R. 4771..... Pub. Law 93-157  
District of Columbia Rent Control Act of 1973  
(Nov. 21, 1973; 87 Stat. 623)

H.R. 5692..... Pub. Law 93-156  
To amend title 5, United States Code, to revise the reporting requirement contained in subsection (b) of section 1308  
(Nov. 21, 1973; 87 Stat. 623)

H.R. 9286..... Pub. Law 93-155  
Department of Defense Appropriation Authorization Act, 1974  
(Nov. 16, 1973; 87 Stat. 605)







# Rules and Regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510. The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

## Title 5—Administrative Personnel CHAPTER I—CIVIL SERVICE COMMISSION PART 213—EXCEPTED SERVICE

### Department of Justice

Section 213.3310 is amended to show that one position of Deputy Director, National Institute of Law Enforcement and Criminal Justice, and one position of Special Assistant to the Director, National Institute of Law Enforcement and Criminal Justice, are expected under Schedule C.

Effective November 28, 1973, § 213.3310(a) (6) and § 213.3310(s) (7) are added as set out below.

### § 213.3310 Department of Justice.

(s) Law Enforcement Assistance Administration. \* \* \*

(6) One Deputy Director, National Institute of Law Enforcement and Criminal Justice.

(7) One Special Assistant to the Director, National Institute of Law Enforcement and Criminal Justice.

(5 U.S.C. secs. 3301, 3302; E.O. 10577, 3 CFR 1954-58 Comp. p. 219.)

### UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] JAMES C. SPRY,  
Executive Assistant  
to the Commissioners.

[FR Doc. 73-25230 Filed 11-27-73; 8:45 am]

## PART 213—EXCEPTED SERVICE

### Department of the Interior

Section 213.3312 is amended to reflect the following title change: from Special Assistant to the Director, National Park Service, to Staff Assistant to the Director, National Park Service.

Effective November 28, 1973, § 213.3312 (h) (3) is amended and § 213.3312(h) (5) is added as set out below.

### § 213.3312 Department of the Interior.

(h) National Park Service. \* \* \*

(3) Two Special Assistants to the Director.

(5) One Staff Assistant to the Director.

(5 U.S.C. secs. 3301, 3302; E.O. 10577, 3 CFR 1954-58 Comp. p. 218.)

### UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] JAMES C. SPRY,  
Executive Assistant  
to the Commissioners.

[FR Doc. 73-25229 Filed 11-27-73; 8:45 am]

## PART 213—EXCEPTED SERVICE

### Department of Labor

Section 213.3315 is amended to reflect the following title change: from Assistant to the Deputy Under Secretary for Legislative Affairs to Special Assistant to the Deputy Under Secretary for Legislative Affairs.

Effective November 28, 1973, § 213.3315 (a) (8) and § 213.3315(a) (29) are amended as set out below.

### § 213.3315 Department of Labor.

(a) Office of the Secretary. \* \* \*

(8) Three Assistants to the Deputy Under Secretary for Legislative Affairs.

(29) Two Special Assistants to the Deputy Under Secretary for Legislative Affairs.

(5 U.S.C. secs. 3301, 3302; E.O. 10577, 3 CFR 1954-58 Comp. p. 218.)

### UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] JAMES C. SPRY,  
Executive Assistant  
to the Commissioners.

[FR Doc. 73-25231 Filed 11-27-73; 8:45 am]

## PART 213—EXCEPTED SERVICE

### Department of Transportation

Section 213.3394 is amended to show that one position of Program Analysis Officer, National Transportation Safety Board, is excepted under Schedule C.

Effective November 28, 1973, § 213.3394 (b) (5) is added as set out below.

### § 213.3394 Department of Transportation.

(b) National Transportation Safety Board. \* \* \*

(5) One Program Analysis Officer.

(5 U.S.C. secs. 3301, 3302; E.O. 10577, 3 CFR 1954-58 Comp. p. 218.)

### UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] JAMES C. SPRY,  
Executive Assistant  
to the Commissioners.

[FR Doc. 73-25232 Filed 11-27-73; 8:45 am]

## PART 213—EXCEPTED SERVICE

### Department of Transportation

Section 213.3394 is amended to show that one position of Special Assistant to the Administrator, Federal Aviation Administration, is excepted under Schedule C.

Effective November 28, 1973, § 213.3394 (h) (2) is added as set out below.

### § 213.3394 Department of Transportation.

(h) Federal Aviation Administration.

(2) One Special Assistant to the Administrator.

(5 U.S.C. secs. 3301, 3302; E.O. 10577, 3 CFR 1954-58 Comp. p. 218.)

### UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] JAMES C. SPRY,  
Executive Assistant  
to the Commissioners.

[FR Doc. 73-25233 Filed 11-27-73; 8:45 am]

## Title 7—Agriculture

## CHAPTER I—AGRICULTURAL MARKETING SERVICE (STANDARDS, INSPECTIONS, MARKETING PRACTICES), DEPARTMENT OF AGRICULTURE

## PART 68—REGULATIONS AND STANDARDS FOR INSPECTION AND CERTIFICATION OF CERTAIN AGRICULTURAL COMMODITIES AND PRODUCTS THEREOF

### Fees and Charges for Federal Rice Inspection Services

The Agricultural Marketing Act of 1946 provides for the collection of fees equal as nearly as may be to the cost of the inspection services rendered under its provisions. This amendment adjusts the fee per 100 pounds, the minimum fee for appeal and original lot inspections, and the fee per sample for sample inspections and provides an hourly charge per man-hour for holiday, night or overtime for Federal rice inspection services under § 68.42c (7 CFR 68.42c). The cost of performing rice inspection services in recent months has exceeded the income. This has been the result, in part, of a decrease in the volume of inspections, recent general salary increases to Federal employees and increases in other costs.

The adjustments in the fees and charges include:

(1) An increase in the lot inspection fee per 100 pounds for sampling and inspection for quality from (a) \$0.0200 to \$0.0230 for packaged or bulk rice at rest; (b) \$0.0200 to \$0.0280 for bulk rice during movement to or from a waterborne or land carrier; (c) \$0.0250 to \$0.0350 for packaged rice during packaging or movement to or from a waterborne carrier, and (d) \$0.0275 to \$0.0385 for packaged rice during packaging or movement to or from a land carrier.



## RULES AND REGULATIONS

(2) An increase in the lot inspection fee per 100 pounds for sampling and inspection for quality when performed with certain special inspection services from \$0.0250, \$0.0275, \$0.0300, and \$0.0325 to \$0.0350, \$0.0385, \$0.0420, and \$0.0455, depending on the service requested.

(3) An increase in the lot inspection fee per 100 pounds for sampling and inspection for origin from \$0.0125 to \$0.0145.

(4) An increase in the fees per sample for sample inspection and the minimum fee per lot for lot inspections from \$7.20, \$6.00, and \$3.60 to \$8.30, \$6.90, and \$4.50 for milled, brown rice for processing and rough rice, respectively.

5. An additional \$3.60 per man-hour will be charged when lot inspection or special inspection services are performed on holiday, night, or overtime.

(6) A minimum charge of \$28.80 per inspection for special inspection services.

Pursuant to the authority of sections 203 and 205 of the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1622, 1624), § 68.42c is amended to read as follows:

**§ 68.42c Fees and charges for Federal rice inspection services.**

The following fees and charges apply to the Federal rice inspection services specified below:

| Service                                                                                                                                    | Fee or charge |
|--------------------------------------------------------------------------------------------------------------------------------------------|---------------|
| (a) Appeal inspection:                                                                                                                     |               |
| (1) Inspection for quality <sup>1</sup> —the applicable fees or charges which would be assessed if the inspection were not an appeal.      |               |
| (i) Basis original sample. See paragraphs (b) and (e) of this section.                                                                     |               |
| (ii) Basis new sample. See paragraphs (b), (d), and (f) of this section.                                                                   |               |
| (2) Special inspection services per lot. See paragraphs (b) and (f) of this section.                                                       |               |
| NOTE: No fees or charges shall be assessed if it is found that there was a material error in the inspection from which an appeal is taken. |               |
| (b) Extra copies of certificates: Per copy                                                                                                 | \$1.00        |
| (c) Interpretive line samples: Per set                                                                                                     | 50.00         |

NOTE: These interpretive line samples illustrate the lower limit for milling degrees only. Interpretive line samples are available for examination at, or may be purchased from, the Grain Inspection Branch, Grain Division, Agricultural Marketing Service, U.S. Department of Agriculture, 6525 Belcrest Road, Hyattsville, MD 20782. Interpretive line samples are also available for examination at selected field offices of the Grain Division. A list of these field offices may be obtained from the above address.

(d) Original lot inspection (see also paragraph (f) for additional hourly rates):

|                                                                                                                                                                                                                                                                                                                                                                                       |          |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|
| (1) For sampling and inspection for quality <sup>1</sup> and special inspection services, not provided for in subparagraphs (2), (3), and (4) of this paragraph, which can be performed at no additional cost to the Grain Division <sup>2</sup> —per 100 pounds:                                                                                                                     |          |
| (i) Packaged or bulk rice at rest                                                                                                                                                                                                                                                                                                                                                     | 0.0230   |
| (ii) Bulk rice during movement to or from a waterborne or land carrier                                                                                                                                                                                                                                                                                                                | 0.0280   |
| (iii) Packaged rice during packaging or movement to or from a waterborne carrier                                                                                                                                                                                                                                                                                                      | 0.0350   |
| (iv) Packaged rice during packaging or movement to or from a land carrier                                                                                                                                                                                                                                                                                                             | 0.0385   |
| (2) For sampling and inspection for quality <sup>1</sup> when performed concurrently with observation of loading and special inspection services, not provided for in subparagraphs (3) and (4) of this paragraph, which can be performed at no additional cost to the Grain Division <sup>2</sup> —per 100 pounds: Bulk rice during movement to or from a waterborne or land carrier | 0.0350   |
| (3) For sampling and inspection for quality <sup>1</sup> when performed concurrently with checkweighing, checkcounting, or condition examination—whether singly or combined; and special inspection services, not provided for in subparagraphs (2) and (4) of this paragraph, which can be performed at no additional cost to the Grain Division <sup>2</sup> —per 100 pounds:       |          |
| (i) Packaged rice at rest                                                                                                                                                                                                                                                                                                                                                             | \$0.0350 |
| (ii) Packaged rice during packaging or movement to or from a waterborne carrier                                                                                                                                                                                                                                                                                                       | 0.0385   |
| (iii) Packaged rice during packaging or movement to or from a land carrier                                                                                                                                                                                                                                                                                                            | 0.0420   |
| (4) For sampling and inspection for quality <sup>1</sup> when performed concurrently with checkweighing and checkloading or checkcounting only; and special inspection services, not provided for in subparagraphs (2) and (3) of this paragraph, which can be performed at no additional cost to the Grain Division <sup>2</sup> —per 100 pounds:                                    |          |
| (i) Packaged rice during packaging or movement to or from a waterborne carrier                                                                                                                                                                                                                                                                                                        | 0.0420   |
| (ii) Packaged rice during packaging or movement to or from a land carrier                                                                                                                                                                                                                                                                                                             | 0.0455   |
| (5) For sampling and inspection for origin per 100 pounds                                                                                                                                                                                                                                                                                                                             | 0.0145   |
| (6) For sampling and inspection for origin when performed concurrently with sampling and inspection for quality <sup>1</sup> per lot                                                                                                                                                                                                                                                  | 1.50     |
| (7) Minimum fee per lot:                                                                                                                                                                                                                                                                                                                                                              |          |
| (i) Rough rice                                                                                                                                                                                                                                                                                                                                                                        | 8.30     |
| (ii) Brown rice for processing                                                                                                                                                                                                                                                                                                                                                        | 6.90     |
| (iii) Milled rice                                                                                                                                                                                                                                                                                                                                                                     | 4.50     |

<sup>1</sup> Includes kind, class, grade, factor analyses, equal to type, milling yield, or any other quality designation as defined in the rice standards or instructions—whether singly or combined, except as provided for in paragraph (e).

(e) Sample inspection:

|                                                                                                                                                                                                                                                     |       |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------|
| (1) Inspection for quality <sup>1</sup> per sample:                                                                                                                                                                                                 |       |
| (i) Rough rice                                                                                                                                                                                                                                      | 8.30  |
| (ii) Brown rice for processing                                                                                                                                                                                                                      | 6.90  |
| (iii) Milled rice                                                                                                                                                                                                                                   | 4.50  |
| (2) Factor analysis for any single factor: Per factor                                                                                                                                                                                               | 2.00  |
| (f) Hourly rates per man-hour:                                                                                                                                                                                                                      |       |
| (1) Applicable to paragraph (d).                                                                                                                                                                                                                    |       |
| Holiday, night, or overtime                                                                                                                                                                                                                         | 3.60  |
| (2) Special inspection services: Includes, but is not limited to, checkcounting, checkloading, checkweighing, condition examination, facility examination, observing fumigation, observing loading or unloading and stowage or carrier examination. |       |
| NOTE: Only one fee will be charged for special inspection services per man-hour—whether performed singly or concurrently.                                                                                                                           |       |
| (1) Regular time* (normal office hours)                                                                                                                                                                                                             | 14.40 |
| (ii) Holiday, night, or overtime                                                                                                                                                                                                                    | 18.00 |
| (iii) Minimum fee per inspection                                                                                                                                                                                                                    | 24.80 |
| (3) Standing time:                                                                                                                                                                                                                                  |       |
| (i) Regular time (normal office hours)                                                                                                                                                                                                              | 14.40 |
| (ii) Holiday, night, or overtime                                                                                                                                                                                                                    | 18.00 |

The need for increases in the fees for services and the amount thereof are dependent upon facts within the knowledge of the Agricultural Marketing Service. Therefore, under the provisions of 5 U.S.C. 553, it is found that notice and other public procedures with respect to this amendment are impractical and unnecessary. It is to the benefit of the public that these amendments be made effective as soon as possible. Accordingly, it is found for good cause that these amendments be made effective less than 30 days after publication.

This amendment shall become effective December 9, 1973, with respect to all Federal rice inspection services performed on and after that date.

(Sec. 203, 205, 60 Stat. 1087, 1090, as amended; 7 U.S.C. 1622, 1624, 37 FR 28468, 28476.)

Done at Washington, D.C., on November 16, 1973.

E. L. PETERSON,  
Administrator,  
Agricultural Marketing Service.

[FR Doc. 73-25251 Filed 11-27-73; 8:45 am]

<sup>2</sup> Weights for billing purposes shall be based on weight tickets, or weight certificates, if available; otherwise, on the marked capacity of the carrier or container.

<sup>3</sup> No extra charge will be assessed except as provided for in paragraph (f) for special inspection services performed within a combined total of one hour before and after an inspection for quality: *Provided*, That only one hour shall be allowed per call out or inspection visit.

<sup>4</sup> Holiday shall mean the legal public holidays specified in paragraph (a) of section 6103, title 5, of the United States Code (5 U.S.C. 6103(a)): *Provided*, That, if the specified legal public holiday falls on a Saturday, the preceding Friday shall be deemed to be the holiday, or if the specified legal public holiday falls on a Sunday, the following Monday shall be deemed to be the holiday.



Title 9—Animals and Animal Products  
CHAPTER 1—ANIMAL AND PLANT HEALTH  
INSPECTION SERVICE, DEPARTMENT  
OF AGRICULTURE

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS; EXTRAORDINARY EMERGENCY REGULATION OF INTRASTATE ACTIVITIES

PART 73—SCABIES IN CATTLE

Release of Areas Quarantined

This amendment releases Castro and Deaf Smith Counties in Texas from the areas quarantined because of cattle scabies. Therefore, the restrictions pertaining to the interstate movement of cattle from quarantined areas contained in 9 CFR Part 73, as amended, will not apply to the excluded areas, but the restrictions pertaining to the interstate movement of cattle from nonquarantined areas contained in said Part 73 will apply to the excluded areas.

Pursuant to provisions of the Act of May 29, 1884, as amended, the Act of February 2, 1903, as amended, the Act of March 3, 1905, as amended, and the Act of July 2, 1962 (21 U.S.C. 111-113, 115, 117, 120, 121, 123-126, 134b, 134f), the provisions in Part 73, Title 9, Code of Federal Regulations, as amended, restricting the interstate movement of cattle because of scabies, are hereby amended as follows:

Section 73.1a is amended to read:

§ 73.1a Notice of quarantine.

Notice is hereby given that cattle in certain portions of the State of Texas are affected with scabies, a contagious, infectious, and communicable disease; and, therefore, the following areas in such State are hereby quarantined because of said disease:

- (1) Bailey County.
- (2) Hansford County.

(Secs. 4-7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791-792, as amended; secs. 1-4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111-113, 115, 117, 120, 121, 123-126, 134b, 134f; 37 FR 28464, 28477; 38 FR 19141.)

**Effective date.**—The foregoing amendment shall become effective on November 23, 1973.

The amendment relieves restrictions no longer deemed necessary to prevent the spread of cattle scabies and should be made effective promptly in order to be of maximum benefit to affected persons. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and unnecessary, and good cause is found for making the amendment effective less than 30 days after publication in the **FEDERAL REGISTER**.

Done at Washington, D.C., this 23d day of November 1973.

E. E. SAULMON,  
Deputy Administrator, Veteri-  
nary Services, Animal and  
Plant Health Inspection Serv-  
ice.

[FR Doc. 73-25255 Filed 11-27-73; 8:45 am]

PART 78—BRUCELLOSIS

Modified Certified Brucellosis Areas

This amendment deletes the following areas from the list of areas designated as Modified Certified Brucellosis Areas in 9 CFR 78.13 because it has been determined that such areas no longer come within the definition of § 78.1(i): Barton, Bates, and Taney Counties in Missouri; Beadle and Hutchinson Counties in South Dakota; and La Salle County in Texas.

The following counties were deleted from the list of Modified Certified Brucellosis Areas in 9 CFR 78.13 on the specified dates: Henry County in Missouri on October 4, 1973; Dewey County in Oklahoma on July 25, 1973; and Baylor, Bell, Cass, Henderson, Hidalgo, Leon, Mitchell, Navarro, San Saba, Tom Green, and Uvalde Counties in Texas on November 2, 1973. Since said dates, it has been determined that these counties again come within the definition of § 78.1(i); and therefore, they have been redesignated as Modified Certified Brucellosis Areas.

Pursuant to § 78.16 of the regulations (9 CFR 78.16) issued under provisions of the Act of May 29, 1884, as amended; the Act of February 2, 1903, as amended; the Act of March 3, 1905, as amended; and the Act of July 2, 1962 (21 U.S.C. 111-113, 114a-1, 115, 117, 120, 121, 125, 134b, 134f), § 78.13 of said regulations designating Modified Certified Brucellosis Areas is hereby revised to read as follows:

§ 78.13 Modified Certified Brucellosis Areas.

(a) All States of the United States are hereby designated as Modified Certified Brucellosis Areas except Missouri, South Dakota, and Texas.

(b) Each of the following States is hereby designated as a Modified Certified Brucellosis Area except for the counties named:

- (1) Missouri except Bates, Barton, Cape Girardeau, Henry, Sullivan, and Taney Counties.
- (2) South Dakota except Beadle, Hutchinson and Shannon Counties.
- (3) Texas except La Salle County.

(Secs. 4-7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791-792, as amended; sec. 3, 33 Stat. 1265, as amended; sec. 2, 65 Stat. 693; and secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111-113, 114a-1, 115, 117, 120, 121, 125, 134b, 134f; 37 FR 28464, 28477, 38 FR 19141, 9 CFR 78.16)

**Effective date.**—The foregoing amendment shall become effective November 28, 1973.

The amendment imposes certain restrictions necessary to prevent the spread of brucellosis in cattle and relieves certain restrictions presently imposed. It should be made effective promptly in order to accomplish its purpose in the public interest and to be of maximum benefit to persons subject to the restrictions which are relieved. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions of 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable, unnecessary, and contrary to the public interest, and good cause is found for making it effective less than 30 days after publication in the **FEDERAL REGISTER**.

Done at Washington, D.C., this 23d day of November 1973.

E. E. SAULMON,  
Deputy Administrator, Veteri-  
nary Services, Animal and  
Plant Health Inspection Serv-  
ice.

[FR Doc. 73-25256 Filed 11-27-73; 8:45 am]

PART 82—EXOTIC NEWCASTLE DISEASE; AND PSITTACOSIS OR ORNITHOSIS IN POULTRY

Area Released From Quarantine

This amendment excludes a portion of Montgomery County in Tennessee from the areas quarantined because of exotic Newcastle disease under the regulations in 9 CFR Part 82, as amended. Therefore, the restrictions pertaining to the interstate movement of poultry, mynah and psittacine birds, and birds of all other species under any form of confinement, and their carcasses and parts thereof, and certain other articles from quarantined areas, as contained in 9 CFR Part 82, as amended, will not apply to the excluded area. No area in Tennessee remains under quarantine.

Pursuant to provisions of the Act of March 3, 1905, as amended, the Act of February 2, 1903, as amended, the Act of May 29, 1884, as amended, and the Act of July 2, 1962 (21 U.S.C. 111, 112, 113, 115, 117, 120, 123, 124, 125, 126, 134b, 134f), Part 82, Title 9, Code of Federal Regulations, is hereby amended in the following respects:

In § 82.3, paragraph (a) (3) relating to the State of Tennessee is deleted.

(Secs. 4-7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791-792, as amended; secs. 1-4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111-113, 115, 117, 120, 123-126, 134b, 134f; 37 FR 28464, 28477; 38 FR 19141.)

**Effective date.**—The foregoing amendment shall become effective on November 23, 1973.

The amendment relieves certain restrictions no longer deemed necessary to prevent the spread of exotic Newcastle



disease, and must be made effective immediately to be of maximum benefit to affected persons. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department. Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and unnecessary, and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 23d day of November 1973.

E. E. SAULMON,  
Deputy Administrator, Veteri-  
nary Services, Animal and  
Plant Health Inspection Serv-  
ice.

[FR Doc. 73-25254 Filed 11-27-73; 8:45 am]

#### Title 10—Atomic Energy

#### CHAPTER I—ATOMIC ENERGY COMMISSION

#### PART 70—SPECIAL NUCLEAR MATERIAL CONDITIONS OF LICENSES

##### Correction

In FR Doc. 73-23552, appearing at page 30537, in the issue for Tuesday, November 6, 1973, the following changes should be made in § 70.32(f):

1. The word "license" in the first line should read "licensee".
2. The second reference to "U-235" in the tenth line should read "U-233".

#### PART 70—SPECIAL NUCLEAR MATERIAL

#### Revised Control and Accounting Requirements

##### Correction

In FR Doc. 73-23553 appearing at page 30542, in the issue for Tuesday, November 6, 1973, the following changes should be made in § 70.51:

1. In paragraph (a)(9) the word "paced" in the fifth line should read "placed".
2. In the second line of paragraph (e)(1)(i) the words "containing nuclear" should read "containing special nuclear".
3. In paragraph (e)(6) the word "passed" in the sixth line should read "based".

#### PART 70—SPECIAL NUCLEAR MATERIAL

#### PART 73—PHYSICAL PROTECTION OF SPECIAL NUCLEAR MATERIAL

#### Amended Requirements for Material in Transit

##### Correction

In FR Doc. 73-23551, appearing at page 30533 in the issue for Tuesday, November 6, 1973, in the paragraph following paragraph (10) in the second column on page 30534, the last line reading "as of March 8, 1973" should read "as of March 6, 1974".

#### Title 14—Aeronautics and Space

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

[Docket No. 11011; Amdt. No. 23-14]

#### PART 23—AIRWORTHINESS STANDARDS: NORMAL, UTILITY, AND ACROBATIC CATEGORY AIRPLANES

#### Type Certification Standards

##### Correction

In FR Doc. 73-24430 appearing at page 31816, in the issue for Monday, November 19, 1973, the following changes should be made in § 23.155:

1. In paragraph (b)(2) the reference reading "Vmo/mo" in the seventh line should read "Vmo/Mmo".
2. In paragraph (c) the words "stick force per gradient" in the fifth and sixth lines should read "stick force per g gradient".

[Airspace Docket No. 73-EA-98]

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

#### Alteration of Control Zone and Transition Area

The Federal Aviation Administration is amending §§ 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the Morgantown, W. Va., Control Zone (38 FR 403) and Transition Area (38 FR 538).

The name of Morgantown Municipal Airport has been changed to add the following:—William L. Hart Field. Thus the description of both the zone and area must be conformed accordingly.

Since the foregoing is editorial in nature, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

In view of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective on November 28, 1973, as follows:

1. Amend § 71.171 of Part 71, Federal Aviation Regulations so as to amend the text of the Morgantown, W. Va. Control Zone description by deleting, "Morgantown Municipal Airport," and substituting, "Morgantown Municipal Airport—William L. Hart Field" in lieu thereof.

2. Amend § 71.181 of Part 71, Federal Aviation Regulations so as to amend the text of the Morgantown, W. Va. 700-foot floor transition area by deleting, "Morgantown Municipal Airport," and substituting, "Morgantown Municipal Airport—William L. Hart Field" in lieu thereof.

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

Issued in Jamaica, N.Y., on November 9, 1973.

ROBERT H. STANTON,  
Director, Eastern Region.

[FR Doc. 73-25205 Filed 11-27-73; 8:45 am]

[Airspace Docket No. 73-EA-81]

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

#### Alteration of Transition Area

On page 27300 of the FEDERAL REGISTER for October 2, 1973, the Federal Aviation Administration published a proposed regulation which would alter the Sussex, N.J., Transition Area (38 FR 585).

Interested parties were given 30 days after publication in which to submit written data or views. No objections to the proposed regulation have been received.

In view of the foregoing, the proposed regulation is hereby adopted, effective 0901 G.m.t., January 31, 1974.

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

Issued in Jamaica, N.Y., on November 14, 1973.

ROBERT H. STANTON,  
Director, Eastern Region.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of the center, 41°12'00" N., 74°37'00" W., of Sussex Airport, Sussex, N.J., extending clockwise from a 005° bearing to a 074° bearing from the airport; within an 11.5-mile radius of the center of the airport, extending clockwise from a 074° bearing to a 197° bearing from the airport; within a 7.5-mile radius of the center of the airport, extending clockwise from a 197° bearing to a 234° bearing from the airport; within a 9.5-mile radius of the center of the airport, extending clockwise from a 234° bearing to a 269° bearing from the airport; within a 9.5-mile radius of the center of the airport, extending clockwise from a 269° bearing to a 329° bearing from the airport; and within a 12-mile radius of the center of the airport, extending clockwise from a 329° bearing to a 005° bearing from the airport. This transition area is effective from sunrise to sunset, daily.

[FR Doc. 73-25201 Filed 11-27-73; 8:45 am]

[Airspace Docket No. 73-EA-82]

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

#### Alteration of Transition Area

On page 27301 of the FEDERAL REGISTER for October 2, 1973, the Federal Aviation Administration published a proposed regulation which would alter the York, Pa., Transition Area (38 FR 604).

Interested parties were given 30 days after publication in which to submit written data or views. No objections to the proposed regulation have been received.

In view of the foregoing, the proposed regulation is hereby adopted, effective 0901 G.m.t., January 31, 1974.

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



Issued in Jamaica, N.Y., on November 14, 1973.

ROBERT H. STANTON,  
Director, Eastern Region.

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations by deleting the description of the York, Pa. transition area and by substituting the following in lieu thereof:

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center, 39°55'00" N., 76°52'30" W., of the York Airport, York, Pa.; within a 7-mile radius of the center of the airport, extending clockwise from a 069° bearing to a 205° bearing from the airport; within an 8.5-mile radius of the center of the airport, extending clockwise from a 205° bearing to a 244° bearing from the airport; within a 7-mile radius of the center of the airport, extending clockwise from a 244° bearing to a 271° bearing from the airport and within 3.5-miles each side of the 336° and 156° bearings from the Thomasville, Pa. RBN (39°58'39" N., 76°54'35" W.), extending from the 5-mile radius area to 11.5 miles north-west of the RBN.

[FR Doc.73-25202 Filed 11-27-73;8:45 am]

[Airspace Docket No. 73-EA-83]

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

## Alteration of Transition Area

On page 27301 of the FEDERAL REGISTER for October 2, 1973, the Federal Aviation Administration published a proposed regulation which would alter the Pottstown, Pa., Transition Area (38 FR 561).

Interested parties were given 30 days after publication in which to submit written data or views. No objections to the proposed regulation have been received.

In view of the foregoing, the proposed regulations is hereby adopted, effective 0901 G.m.t., January 31, 1974.

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

Issued in Jamaica, N.Y., on November 14, 1973.

ROBERT H. STANTON,  
Director, Eastern Region.

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations by deleting the description of the Pottstown, Pa., transition area and by substituting the following in lieu thereof:

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the center, 40°15'45" N., 75°40'00" W., of Pottstown Municipal Airport, Pottstown, Pa., extending clockwise from a 036° bearing to a 147° bearing from the airport; within a 6.5-mile radius of the center of the airport, extending clockwise from a 147° bearing to a 200° bearing from the airport; within an 8-mile radius of the center of the airport, extending clockwise from a 200° bearing to a 274° bearing from the airport; within a 6-mile radius of the center of the airport, extending clockwise from a 274° bearing to a 305° bearing from the airport; within an 8.5-

mile radius of the center of the airport, extending clockwise from a 305° bearing to a 036° bearing from the airport; within 6.5 miles northeast and 4.5 miles southwest of the Pottstown, Pa. VORTAC 294° and 114° radials, extending from 5.5 miles northwest of the VORTAC to 11.5 miles southeast of the VORTAC; within a 5-mile radius of the center, 40°14'15" N., 75°33'45" W. of Pottstown-Limerick Airport, Pottstown, Pa., extending clockwise from a 346° bearing to a 223° bearing from the airport; within a 5.5 mile radius of the center of the airport, extending clockwise from a 223° bearing to a 346° bearing from the airport; and within 9.5 miles west and 4.5 miles east of Pottstown, Pa. VORTAC 190° radial, extending from the VORTAC to 18.5 miles south of the VORTAC; within 5 miles each side of the Pottstown, Pa. VORTAC 086° radial, extending from the Pottstown, Pa. VORTAC to 18 miles east of the VORTAC; excluding the portion that coincides with the North Philadelphia, Pa. and Toughkenamon, Pa. transition areas.

[FR Doc.73-25203 Filed 11-27-73;8:45 am]

[Airspace Docket No. 73-EA-86]

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

## Alteration of Transition Area

On page 27301 of the FEDERAL REGISTER for October 2, 1973, the Federal Aviation Administration published a proposed regulation which would alter the St. Marys, Pa., Transition Area (38 FR 571).

Interested parties were given 30 days after publication in which to submit written data or views. No objections to the proposed regulation have been received.

In view of the foregoing, the proposed regulation is hereby adopted, effective 0901 G.m.t., January 31, 1974.

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

Issued in Jamaica, N.Y., on November 14, 1973.

ROBERT H. STANTON,  
Director, Eastern Region.

1. Amend Section 71.181 of Part 71 of the Federal Aviation Regulations by deleting the description of the St. Marys, Pa. transition area and by substituting the following in lieu thereof:

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the center 41°24'45" N., 78°30'20" W., of St. Marys Municipal Airport, St. Marys, Pa.; within 2.5 miles each side of the Slate Run, Pa. VORTAC 256° radial, extending from the 5.5-mile radius area to 22 miles west of the VORTAC.

[FR Doc.73-25204 Filed 11-27-73;8:45 am]

[Airspace Docket No. 73-SO-14]

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

## Alteration of Transition Area

On March 8, 1973, a notice of proposed rule making was published in the FED-

ERAL REGISTER (38 FR 6290), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation regulations that would alter the Chattanooga, Tenn., transition area.

Interested persons were afforded an opportunity to participate in the rule making through the submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation regulations is amended, effective 0901 G.m.t., January 31, 1974, as hereinafter set forth.

In § 71.181 (38 FR 435), the Chattanooga, Tenn., transition area is amended as follows: " \* \* \* 030° bearing from Lovell Field \* \* \* " is deleted and " \* \* \* 030° bearing from Lovell Field; within a 6.5-mile radius of Hardwick Field, Cleveland, Tenn. (Lat. 35°13'20" N, Long. 84°49'53" W); within 3 miles each side of the 221° bearing from Hardwick RBN (Lat. 35°09'13" N, Long. 84°54'21" W), extending from the 6.5-mile radius area to 8.5 miles southwest of the RBN \* \* \* " is substituted therefor.

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

Issued in East Point, Ga., on November 12, 1973.

PHILLIP M. SWATEK,  
Director, Southern Region.

[FR Doc.73-25200 Filed 11-27-73;8:45 am]

# Title 18—Conservation of Power and Water Resources

## CHAPTER I—FEDERAL POWER COMMISSION

[Order 491-C; Docket No. RM74-3]

## PART 2—GENERAL POLICY AND INTERPRETATIONS

# PART 157—APPLICATIONS FOR CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY AND FOR ORDERS PERMITTING AND APPROVING ABANDONMENT UNDER SECTION 7 OF THE NATURAL GAS ACT

Reliable and Adequate Service for the 1973-1974 Winter Heating Season; Denial of Rehearing and Stay

NOVEMBER 21, 1973.

In Order No. 491-B, issued November 2, 1973 (38 FR 31289, Nov. 13, 1973), we reaffirmed our extension of the term under which a pipeline experiencing a shortage on its system could make emergency purchases of natural gas without Commission certification, from 60 to 180 days. In addition, Order No. 491-B reinstated the provisions for issuance of limited term certificates with pregranted abandonment. On November 6, 1973, Consumer Federation of America, the American Public Gas Association, the American Public Power Association, and the National League of Cities—United States Conference of Mayors (hereinafter denominated "Consumer Federation") filed a joint application for rehearing and stay of Order No. 491-B.

Having reviewed the application, we conclude that no argument has been



presented which was not considered in previous orders in this docket, and that, accordingly, rehearing should be denied. Moreover, applicants have failed to demonstrate that a stay of Order No. 491 is appropriate in the light of the standards enunciated in *Virginia Petroleum Jobbers Association v. F.P.C.*, 104 U.S. App. D.C. 106, 259 F.2d 921 (1958). Utilizing those standards, a stay is not proper unless (1) petitioner has made a strong showing that it is likely to prevail on the merits of its appeal, (2) petitioner has shown that it will be irreparably injured without such relief, (3) the issuance of a stay would not substantially harm other parties interested in the proceeding, and (4) a stay is required by the public interest.

With regard to the first of these criteria, we are convinced that our extension of the exemption period from 60 to 180 days is both legal and required by the public interest. Accordingly, we deem it highly unlikely that Consumer Federation will prevail on the merits of their appeal now pending sub nom. *Consumer Federation of America, et al. v. F.P.C.*, D.C. Cir. No. 73-2009. In view of our discussion of the law in Order No. 491-B (mimeo at 10-17, 19), it is unnecessary to provide a lengthy refutation of Consumer Federation's argument that we are deregulating in defiance of our statutory mandate. It will suffice to state that we have acted only in accordance with our explicit authority under Section 7(c) of the Natural Gas Act to exempt "temporary acts or operations for which the issuance of a certificate will not be required in the public interest". 15 U.S.C. § 717(c). An exemption of 180 days is unquestionably temporary and, as more fully discussed in Order No. 491-B (mimeo at 4-9), it is most certainly required by the public interest to meet the pending crisis this winter.

The second and third criteria of *Virginia Petroleum Jobbers* require us to consider the harm that would result to Consumer Federation in the absence of a stay, as compared with the harm which would result to other parties from a grant of a stay. Once again, we think that Consumer Federation's showing is insufficient. Consumer Federation's fear of uncontrolled price increases is basically unfounded. As stated in Order No. 491-B (mimeo at 13):

... we will scrutinize the rates of all emergency purchases in the review of purchased gas costs in pipeline rate proceedings, including purchased gas [footnote omitted] adjustment clause increases. We will permit the pipeline to pass on to the consumer the rates of emergency purchases only when such rates can be shown to have been required by the public interest. Moreover, we intend to monitor closely the volumes and prices which are to be reported to us for all emergency sales. Such monitoring will provide additional consumer protection in two major respects. First, it will permit us to evaluate continuously the efficacy of the 180 day exemption procedure. Should it appear that the public interest is not being served, we can, of course, eliminate the procedure. Secondly, through continuous monitoring, we will be able to initiate such action as may be required with respect to specific sales which

appear to be inconsistent with the public interest.

Through these procedures, we will be able to afford the consumer complete rate protection and, thus, prevent the irreparable injury which Consumer Federation alleges. While no irreparable injury will result to the Consumer Federation from a denial of the stay, it is clear that the nation's consumers will be severely harmed if the exemption is not permitted to operate for the present winter, during which period the level of curtailment is projected to be .5 trillion cubic feet. As we noted in Order No. 491 (mimeo at 4), such curtailments will result in "severe economic and environmental consequences, resulting in the closing of schools and factories, the denial of utility service to new customers, the utilization by industry and electric utilities of alternate fuels which impact upon ambient air quality standards, and the transfer of unfulfilled demand to other fuels in short supply with the resultant upward price pressures". Given these circumstances, we believe that affirmative remedial action, such as a temporary exemption from the requirements of Section 7, is mandated.

In view of the foregoing and our discussion in Order No. 491-B (mimeo at 4-9), it is clear that Consumer Federation cannot demonstrate that a stay is required by the "public interest", the fourth criterion of *Virginia Petroleum Jobbers*. To the contrary, the public interest dictates that the application for stay be denied. If the American consumer is to be protected with an adequate and reliable supply of gas during the next few months, new deliveries under the emergency purchases exemption must commence immediately.

*The Commission finds:* Consumer Federation's application for rehearing and stay presents no facts or principles which would warrant any change or modification of Order No. 491-B. Additionally, Consumer Federation has failed to demonstrate that the issuance of a stay would be in the public interest.

*The Commission orders:* Consumer Federation's application for rehearing and stay is denied.

By the Commission.

[SEAL]

MARY B. KIDD,  
Acting Secretary.

[FR Doc.73-25222 Filed 11-27-73; 8:45 am]

#### Title 21—Food and Drugs

#### CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

##### SUBCHAPTER A—GENERAL

#### PART 1—REGULATIONS FOR THE ENFORCEMENT OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT AND THE FAIR PACKAGING AND LABELING ACT

##### Nutrition Labeling: Applicability to Fresh Fruits and Vegetables

In the FEDERAL REGISTER of March 14, 1973 (38 FR 6951), the Commissioner of Food and Drugs promulgated a new regulation, § 1.17 (21 CFR 1.17), prescribing

rules for the nutrition labeling of foods. On April 2, 1973, a Complaint attacking the regulation was filed in the United States District Court for the District of Columbia by Sunkist Growers, Inc., a corporation engaged in the promotion, marketing, and distribution of fresh citrus fruits and the United Fresh Fruit and Vegetable Association, a trade association for persons engaged in the growing, marketing, and distribution of fresh fruits and fresh vegetables. Civil Action No. 633-73. Among other matters, the plaintiffs raised a new legal issue, i.e., the effect of the regulation on retail marketing of fresh fruits and fresh vegetables in light of section 405 of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 345, which provides: "The Secretary shall promulgate regulations exempting from any labeling requirement of this chapter (1) small open containers of fresh fruits and fresh vegetables \* \* \*". This issue was not raised by any of the comments filed in response to the notice of proposed rulemaking or in response to the tentative order, and the Commissioner did not consider this issue in promulgating the final regulation. The plaintiffs also contended that the regulation failed to explain sufficiently the manner in which fresh fruits and fresh vegetables were to be labeled.

Upon further consideration, the Commissioner concludes that fresh fruits and fresh vegetables should not be subjected to nutrition labeling regulations without prior consideration and articulation of the proper effect of 21 U.S.C. 345 and specific labeling requirements applicable to these products. Accordingly, the Commissioner concludes that 21 CFR 1.17 should be revised to state that it will be inapplicable to fresh fruits and fresh vegetables until such further provisions are promulgated.

The Commissioner advises that he is presently preparing a notice of proposed rulemaking concerning nutrition labeling specifically of fresh fruits and fresh vegetables. Interested persons may submit any pertinent views.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 201(n), 403(a), 701(a), 52 Stat. 1041, 1047, 1055; 21 U.S.C. 321(n), 343(a), 371(a)) and under authority delegated to the Commissioner (21 CFR 2.120), Part 1 is amended in § 1.17(h) by adding thereto a new subparagraph (10), to read as follows:

#### § 1.17 Food; nutrition labeling.

(h) \* \* \*

(10) Fresh fruits and fresh vegetables, pending promulgation of specific labeling requirements for these products.

*Effective date.*—This order shall be effective November 28, 1973.

Pursuant to the Administrative Procedure Act, 5 U.S.C. 553(c), the Commissioner concludes that notice, public procedure and delayed effective date are unnecessary for the promulgation of this order since it does not impose a duty or



burden on any person but rather recognizes an exemption.

(Secs. 201(n), 403(a), 701(a), 52 Stat. 1041, 1047, 1055; 21 U.S.C. 321(n), 343(a), 371 (a).)

Dated: November 19, 1973.

SAM D. FINE,  
Associate Commissioner for  
Compliance.

[FR Doc. 73-25154 Filed 11-27-73; 8:45 am]

SUBCHAPTER B—FOOD AND FOOD PRODUCTS  
PART 15—CEREAL FLOURS AND  
RELATED PRODUCTS

Order To List Certain Optional Ingredients  
in Flour and To Require Label Declaration  
of All Optional Ingredients

In the matter of amending the standards of identity for:

(a) Flour, white flour, wheat flour, plain flour (21 CFR 15.1), and whole wheat flour, graham flour, entire wheat flour (21 CFR 15.80) to permit optional addition of harmless preparations of  $\alpha$ -amylase obtained from *Aspergillus oryzae* alone or in a suitable harmless carrier, and

(b) Flour, white flour, wheat flour, plain flour (21 CFR 15.1), self-rising flour, self-rising white flour, self-rising wheat flour (21 CFR 15.50), whole wheat flour, graham flour, entire wheat flour (21 CFR 15.80), and enriched farina (21 CFR 15.140) to require label declaration of all optional ingredients:

A notice of proposed rule making was published in the FEDERAL REGISTER of January 24, 1973 (38 FR 2334), based on a petition filed by Rohm and Haas Co., Independence Mall West, Philadelphia, PA 19105, and on a proposal on the initiative of the Commissioner of Food and Drugs.

Four letters were received in response to the proposal. One of these was a rebuttal to adverse comments in one of the other letters. In addition, the petitioner filed a rebuttal to some comments submitted in opposition to the proposal.

1. One comment favored the proposal, especially the part requiring label declaration of all optional ingredients.

2. Another comment recommended a more detailed nomenclature for declaration of  $\alpha$ -amylase, such as:

$\alpha$ -Amylase (a starch-splitting enzyme) obtained from bran mold (*Aspergillus oryzae*) added as a dough conditioner. Where the mold is grown on substances other than bran, the name of the other substance will be substituted.

The petitioner rebutted this comment on the grounds that the lay public usually has a prejudiced attitude toward the word "mold" and that, although the addition of mold to bread is implied in the recommended statement, this is not the case since the enzyme is produced in accordance with good manufacturing practice and is completely separated from the mold during the manufacturing process.

The Commissioner believes that such a long nomenclature is not necessary and that it might even be confusing to

the consumer. He is of the opinion that a declaration by the common name " $\alpha$ -amylase obtained from *Aspergillus oryzae*" is sufficiently informative to consumers including those who may have a sensitivity to fungal products.

3. One comment opposed the use of  $\alpha$ -amylase as an additive to flour on the grounds that an economic need does not exist since natural enzyme supplements in the form of malted wheat and malted barley are currently available in ample quantities.

This comment was rebutted with the statement that although malted wheat flour and malted barley flour are available in ample quantities, fungal  $\alpha$ -amylase is also widely available and is used by a large number of millers in England, Canada, Latin America, and elsewhere. The rebuttal further stated that fungal  $\alpha$ -amylase is attested to as a conditioning agent by a substantial number of bakers in the United States who should not be denied the advantages accruing from the addition of the enzyme preparation to flour at the mill. The rebuttal further stated that fungal  $\alpha$ -amylase made by extraction and concentration from a wort and by drying is less vulnerable to insect infestation than malt flours, especially under warm conditions.

The Commissioner is of the opinion that even though malted wheat products and malted barley products are available in ample quantities, use of additional safe and suitable dough conditioners should be permitted on an optional basis by flour millers who desire to use them. Since  $\alpha$ -amylase obtained from *Aspergillus oryzae* is permitted in bread as an optional ingredient, there appears to be no reason why the enzyme should not be added to flour at the mill if the millers and bakers so desire.

4. A comment stated that any conditioning effect of fungal  $\alpha$ -amylase is not proven and, though the presence of the enzyme may well produce sugars, before baking, which are desirable for developing crust color during the baking process, the inactivation temperature of the fungal  $\alpha$ -amylase is such that no conversion of starch to sugar occurs during the baking process.

Rebuttals pointed out that the conditioning effect of  $\alpha$ -amylase is well established through its widespread use. They also stated that while it is true that fungal  $\alpha$ -amylase is inactivated by heat at a lower temperature than is required to inactivate  $\alpha$ -amylase in malt, that is the reason that overtreatment of flour with fungal  $\alpha$ -amylase does not cause deleterious alterations in bread. It was also indicated that the most noticeable defect of cereal amylase is its low tolerance to overtreatment resulting in continued digestion of starch in the oven.

The Commissioner feels that any difference between the inactivation temperatures of fungal  $\alpha$ -amylase and cereal  $\alpha$ -amylase does not provide a basis for restricting the use of either preparation. The Commissioner's opinion, expressed in comment 3 above, that additional safe and suitable dough conditioners should be permitted on an optional basis in

flour has special pertinence for those materials which have unique properties that millers and bakers may desire. The miller who adds the  $\alpha$ -amylase to the flour should know the intended use of such flour and, accordingly, should know which type of enzyme preparation will best suit the need.

5. The proposal to permit the addition of  $\alpha$ -amylase to flour was opposed by a respondent because it was claimed that there is presently no reliable, reasonably rapid test which can be used in a quality assurance laboratory to verify treatment rates or  $\alpha$ -amylase activity levels in finished flour products.

Rebuttals pointed out that the Haral Perten, International Association for Cereal Chemistry, Colorimetric Method for the Determination of  $\alpha$ -Amylase Activity (Cereal Chemistry, May 1966, pp. 336-342) is the most accurate and reliable method available for determining the amount of  $\alpha$ -amylase present in flour, that it works equally well for cereal, fungal, and bacterial  $\alpha$ -amylase, and that more tests can be run by the Perten method in a 4-hour period after the equipment has been set up than by most of the other methods presently used.

The Commissioner concurs that reasonably reliable tests such as represented by the Perten method for verifying treatment rates of  $\alpha$ -amylase activity in the finished flour products are available to those who desire to use them.

6. A comment urged that the label exemptions granted by § 1.10a (21 CFR 1.10a) for processing aids and incidental additives apply to both standardized and nonstandardized foods. On this basis the respondent recommended that label declaration of added malted wheat, malted wheat flour and malted barley flour not be required. The grounds for the recommendation were that, since the substances are added merely to bring to normal level the amylase of the flour, they should be treated as processing aids and be entitled to the label declaration exemption granted by the proposed § 1.10a(a)(4)(ii)(b) published in the FEDERAL REGISTER of January 19, 1973 (38 FR 2141), for processing aids added to fabricated foods. (An order ruling on the proposal was published in the FEDERAL REGISTER of August 2, 1973 (38 FR 20704). In the final order, the referenced paragraph is designated as § 1.10a(a)(3)(ii)(b).) The comment also stated that optional bleaching agents permitted by § 15.1 should be treated as processing aids and granted an exemption pursuant to the proposed § 1.10a(a)(4)(ii)(c). (In the final order published on August 2, 1973 (38 FR 20704), the referenced paragraph is designated as § 1.10a(a)(3)(ii)(c).) The comment added that, if deemed desirable by the Commissioner, continued use of the word "Bleached", as required by the present standards, would not be objectionable.

In the preamble to the order establishing § 1.10a published in the FEDERAL REGISTER of August 2, 1973 (38 FR 20704), the Commissioner ruled that the regulation applied to all foods including standardized foods. However, since the malted



wheat, malted wheat flour, and malted barley flour are not functional in the flour at the time of milling but do become functional at the time of doughmaking and since they may be added in such quantity as to increase significantly the amount of  $\alpha$ -amylase naturally present in the food, the Commissioner does not consider them to be processing aids and thus exempt from label declaration by the new regulation § 1.10a(a) (3) (ii) (b). The Commissioner will consider the optional bleaching agents permitted by §§ 15.1 and 15.80 to be exempt from label declaration in accordance with the new § 1.10a(a) (3) (ii) (c) for processing aids added to fabricated foods if it can be established that the bleaching agents are no longer present in the finished food at more than insignificant levels. However, the word "Bleached" will continue to appear on the label in accordance with the requirements of § 15.1(b) (2) (21 CFR 15.1(b) (2)) of the regulation, as revised herein.

7. A comment stated that the unqualified declaration of ascorbic acid or vitamin C might mislead the consumer into believing that the flour provides a sufficient amount of vitamin C to meet nutritional needs and asserted that the label declaration "Ascorbic acid added as a dough conditioner", as now required by the standard, is accurate, informative, and not misleading.

The Commissioner did not propose to delete the established requirement that the declaration of ascorbic acid be qualified with the statement "added as a dough conditioner". That requirement is retained in the standard.

On the basis of the information given in the proposal, the comments received, and other relevant information, the Commissioner concludes that it will promote honesty and fair dealing in the interest of consumers to adopt the proposal as published.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1046, 1055-1056, as amended by 70 Stat. 919 and 72 Stat. 948; 21 U.S.C. 341, 371) and under authority delegated to the Commissioner (21 CFR 2.120): It is ordered, That Part 15 be amended as follows:

1. In § 15.1 by revising the introductory text of paragraph (a), and paragraph (b) in its entirety, to read as follows:

§ 15.1 Flour, white flour, wheat flour, plain flour; identity; label statement of optional ingredients.

(a) Flour, white flour, wheat flour, plain flour, is the food prepared by grinding and bolting cleaned wheat, other than durum wheat and red durum wheat. To compensate for any natural deficiency of enzymes, malted wheat, malted wheat flour, malted barley flour, or any combination of two or more of these, may be used; but the quantity of malted barley flour so used is not more than 0.75 percent. Harmless preparations of  $\alpha$ -amylase obtained from *Aspergillus oryzae*, alone or in a safe and suitable carrier, may be used. When tested for granulation as prescribed in

paragraph (c) (4), not less than 98 percent of the flour passes through a cloth having openings not larger than those of woven wire cloth designated "212  $\mu$ m (No. 70)" in Table I of "Annual Book of ASTM Standards, Part 30" published in 1972 by the American Society for Testing and Materials.<sup>1</sup> The flour is freed from bran coat, or bran coat and germ, to such extent that the percent of ash therein, calculated to a moisture-free basis, is not more than the sum of 1/20 of the percent of protein therein, calculated to a moisture-free basis, plus 0.35. Its moisture content is not more than 15 percent. It may contain ascorbic acid in a quantity not to exceed 200 parts per million as a dough conditioner. Unless such addition conceals damage or inferiority or makes the flour appear to be better or of greater value than it is, one or any combination of two or more of the following optional bleaching ingredients may be added in a quantity not more than sufficient for bleaching or, in case such ingredient has an artificial aging effect; in a quantity not more than sufficient for bleaching and such artificial aging effect:

(b) (1) All optional ingredients used in the food shall be declared on the label as required by the applicable sections of 21 CFR Part 1.

(2) When ascorbic acid is added, the label shall bear the statement "Ascorbic acid added as a dough conditioner". When the optional ingredient " $\alpha$ -amylase obtained from *Aspergillus oryzae*" is used, it shall be declared in the list of ingredients by that name. When any optional bleaching ingredient is used, the label shall bear the word "Bleached". Wherever the name of the food appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the word "Bleached" shall immediately and conspicuously precede or follow such name, without intervening written, printed, or graphic matter; except that where such name is a part of a trademark or brand, other written, printed or graphic matter, which is also a part of such trademark or brand, may so intervene if the word "Bleached" is in such juxtaposition with such trademark or brand as to be conspicuously related to such name.

2. In § 15.50 by revising paragraph (b) to read as follows:

§ 15.50 Self-rising flour, self-rising white flour, self-rising wheat flour; identity; label statement of optional ingredients.

(b) All optional ingredients in self-rising flour, including any contributed by the flour used, shall be declared on the label as required by the applicable

sections of Part 1 of this chapter and § 15.1(b) (2), as appropriate.

3. In § 15.80 by revising paragraphs (a) and (b) to read as follows:

§ 15.80 Whole wheat flour, graham flour, entire wheat flour; identity; label statement of optional ingredients.

(a) Whole wheat flour, graham flour, entire wheat flour is the food prepared by so grinding cleaned wheat, other than durum wheat and red durum wheat, that when tested by the method prescribed in paragraph (c) (2) of this section, not less than 90 percent passes through a 2.36 mm (No. 8) sieve and not less than 50 percent passes through a 850  $\mu$ m (No. 20) sieve. The proportions of the natural constituents of such wheat, other than moisture, remain unaltered. To compensate for any natural deficiency of enzymes, malted wheat, malted wheat flour, malted barley flour, or any combination of two or more of these, may be used; but the quantity of malted barley flour so used is not more than 0.75 percent. It may contain harmless preparations of  $\alpha$ -amylase obtained from *Aspergillus oryzae*, alone or in a safe and suitable carrier. The moisture content of whole wheat flour is not more than 15 percent. It may contain ascorbic acid in a quantity not to exceed 200 parts per million as a dough conditioner. Unless such addition conceals damage or inferiority or makes the whole wheat flour appear to be better or of greater value than it is, the optional bleaching ingredient azodicarbonamide (complying with the requirements of § 121.1085 of this chapter, including the quantitative limit of not more than 45 parts per million) or chlorine dioxide, or chlorine, or a mixture of nitrosyl chloride and chlorine, may be added in a quantity not more than sufficient for bleaching and artificial aging effects.

(b) (1) All optional ingredients used in the food shall be declared on the label as required by the applicable sections of Part 1 of this Chapter.

(2) When ascorbic acid is added, the label shall bear the statement "Ascorbic acid added as a dough conditioner". When the optional ingredient " $\alpha$ -amylase obtained from *Aspergillus oryzae*" is used, it shall be declared by that name in the list of ingredients. When any optional bleaching ingredient is used, the label shall bear the word "Bleached". Wherever the name of the food appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the word "Bleached" shall immediately and conspicuously precede or follow such name, without intervening written, printed, or graphic matter; except that where such name is a part of a trademark or brand, other written, printed, or graphic matter, which is also a part of such trademark or brand, may so intervene if the word "Bleached" is in such juxtaposition with such trademark or brand as to be conspicuously related to such name.

<sup>1</sup> Copies may be obtained from: American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103.



4. In § 15.140 by revising paragraph (b) to read as follows:

§ 15.140 Enriched farina; identity; label statement of optional ingredients.

(b) (1) All optional ingredients used in the food shall be declared on the label as required by the applicable sections of Part 1 of this Chapter.

(2) (i) When the optional ingredient disodium phosphate is used, the label shall bear the statement "Disodium phosphate added for quick cooking".

(ii) When the proteinase enzyme treatment is used, the label shall bear the statement "Enzyme treated for quicker cooking".

(3) Wherever the name of the food appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the statements prescribed by paragraph (b) (2) of this section shall immediately and conspicuously precede or follow such name without intervening written, printed, or graphic matter; except that where the name of the food is a part of a trademark or brand, then other written, printed, or graphic matter that is also a part of the trademark or brand may so intervene, if such statement is in such juxtaposition with the trademark or brand as to be conspicuously related to the name of the food.

Due to cross-references, these amendments to the standards for flour (§ 15.1) and whole wheat flour (§ 15.80), upon becoming effective will make harmless preparations of  $\alpha$ -amylase obtained from *Aspergillus oryzae*, alone or in a safe and suitable carrier, a permitted ingredient in §§ 15.10, 15.20, 15.30, 15.70, 15.75, 15.90, and 15.100.

As self-rising flour (§ 15.50) is a mixture of flour and other ingredients, this amendment to the standard for flour (§ 15.1) upon becoming effective will make harmless preparations of  $\alpha$ -amylase obtained from *Aspergillus oryzae*, alone or in a safe and suitable carrier, a permitted ingredient in self-rising flour (§ 15.50) and by cross-referencing in enriched self-rising flour (§ 15.60).

Due to cross-referencing, these amendments to the standards for flour (§ 15.1), self-rising flour (§ 15.50), and whole wheat flour (§ 15.80), upon becoming effective will also make label declaration of all optional ingredients mandatory in §§ 15.10, 15.20, 15.30, 15.60, 15.70, 15.75, 15.90, and 15.100.

Any person who will be adversely affected by the foregoing order may at any time on or before December 28, 1973 file with the Hearing Clerk, Food and Drug Administration, Room 6-86, 5600 Fishers Lane, Rockville, Md. 20852, written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order, specify with particularity the provisions of the order deemed objectionable, and state the grounds for the objections. If a hearing is requested, the objections shall state the issues for the hearing, shall be supported by grounds factually and legally sufficient to justify the relief sought, and shall include a detailed description and analysis of the factual information intended to be presented in support of the objections in the event that a hearing is held. Objections may be accompanied by a memorandum or brief in support thereof. Six copies of all documents shall be filed. Received objections may be seen in the above office during working hours, Monday through Friday.

**Effective date.** Compliance with this order, which shall include any labeling changes required, may begin on January 28, 1973, and all labeling ordered after April 15, 1974, and all products shipped in interstate commerce after December 31, 1974, shall comply with these regulations except as to any provisions that may be stayed by the filing of proper objections. Notice of the filing of objections or lack thereof will be published in the FEDERAL REGISTER.

(Secs. 401, 701, 52 Stat. 1046, 1055-1056 as amended by 70 Stat. 919 and 72 Stat. 948; 21 U.S.C. 341, 371.)

Dated: November 19, 1973.

SAM D. FINE,  
Associate Commissioner for  
Compliance,

[FR Doc. 73-25155 Filed 11-27-73; 8:45 am]

#### Title 42—Public Health

### CHAPTER I—PUBLIC HEALTH SERVICE, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

#### PART 100—COST CONTAINMENT AND QUALITY CONTROL

##### Limitation on Federal Participation for Capital Expenditures

###### Correction

In FR Doc. 73-23947, appearing at page 31380 in the issue for Tuesday, No-

vember 13, 1973, in § 100.106(c) (2), in the 8th line, between the words "and" and "agency" insert the words "by such".

#### Title 49—Transportation

### CHAPTER III—FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

#### Subchapter B—Motor Carrier Safety Regulations

[Docket No. MC-22; Notice No. 73-27]

### PART 393—PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATION

#### Vehicle Interior Noise Levels

##### Correction

In FR Doc. 73-23768, appearing at page 30880 in the issue for Thursday, November 8, 1973, in the second line of the third column of this page the reference to "828" should read "88".

#### Title 50—Wildlife and Fisheries

### CHAPTER I—BUREAU OF SPORT FISHERIES AND WILDLIFE, FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

#### PART 32—HUNTING

##### Malheur National Wildlife Refuge, Oreg.

##### Correction

FR Doc. 73-19701, appearing at page 25992 in the issue of Monday, September 17, 1973, issued special regulations for certain national wildlife refuges in Oregon under § 32.12 *Special regulations; migratory game birds; for individual wildlife refuge areas* and § 32.22 *Special regulations; upland game; for individual wildlife refuge areas*.

A subsequent document, FR Doc. 73-22708 (38 FR 24972, October 25, 1973), incorrectly amended FR Doc. 73-19701 by deleting all special conditions under Malheur National Wildlife Refuge. Only those conditions for this refuge issued under § 32.22 should be deleted, while those under § 32.12 remain in effect.



## RULES AND REGULATIONS

Title 24—Housing and Urban Development  
 CHAPTER X—FEDERAL INSURANCE ADMINISTRATION  
 SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI-255]

## PART 1915—IDENTIFICATION OF SPECIAL HAZARD AREAS

## List of Communities With Special Hazard Areas

The Federal Insurance Administrator finds that comment and public procedure and the use of delayed effective dates in identifying the areas of communities which have special flood or mudslide hazards, in accordance with 24 CFR Part 1915, would be contrary to the public interest. The purpose of such identifications is to guide new development away from areas threatened by flooding, a purpose which is accomplished pursuant to statute by denying subsidized flood insurance to structures thereafter built within such areas. The practice of issuing proposed identifications for comment or of delaying effective dates would tend to frustrate this purpose by permitting imprudent or unscrupulous builders to start construction within such hazardous areas before the official identification became final, thus increasing the communities' aggregate exposure to loss of life and property and the agency's financial exposure to flood losses, both of which are contrary to the statutory purposes of the program. Accordingly, the Department is not providing for public comment in issuing this amendment and it will become effective November 28, 1973.

Section 1915.3 is amended by adding in alphabetical sequence a new entry to the table, which entry reads as follows:

## § 1915.3 List of communities with special hazard areas.

| State       | County            | Location             | Map No.                                      | State map repository                                                                                                                                                                                                                                                      | Local map repository                                                            | Effective date of identification of areas which have special flood hazards |
|-------------|-------------------|----------------------|----------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------|----------------------------------------------------------------------------|
| Arkansas    | Faulkner          | Mayflower, City of   | H 05 045 2600 01 through<br>H 05 045 2600 02 | Division of Soil & Water Resources, State Department of Commerce, 1920 West Capitol Ave., Little Rock, Ark. 72201.<br>Arkansas Insurance Department, 400 University Tower Bldg., Little Rock, Ark. 72204.                                                                 | Mayor, City of Mayflower, P.O. Box 122, Mayflower, Ark. 72100.                  | Nov. 23, 1973.                                                             |
| Indiana     | Elkhart           | Goshen, City of      | H 18 039 1830 01 through<br>H 18 039 1830 05 | Division of Water, Department of Natural Resources, 608 State Office Bldg., Indianapolis, Ind. 46204.<br>Indiana Insurance Department, 500 State Office Bldg., Indianapolis, Ind. 46204.                                                                                  | Goshen City Planning Commission, Elkhart County Courthouse, Goshen, Ind. 46526. | Do.                                                                        |
| Kansas      | Leavenworth       | Leavenworth, City of | H 20 103 3020 01 through<br>H 20 103 3020 07 | Division of Water Resources, State Board of Agriculture, Topeka, Kans. 66612.<br>Kansas Insurance Department, 1st Floor, Statehouse, Topeka, Kans. 66612.                                                                                                                 | City Engineer's Office, City Hall, Leavenworth, Kans. 66048.                    | Do.                                                                        |
| Louisiana   | Allen Parish      | Oakdale, City of     | H 22 003 1740 01 through<br>H 22 003 1740 02 | State Department of Public Works, P.O. Box 44153, Capitol Station, Baton Rouge, La. 70804.<br>Louisiana Insurance Department, Box 4214, Capitol Station, Baton Rouge, La. 70804.                                                                                          | Mayor, City of Oakdale, City Hall, Oakdale, La. 71463.                          | Do.                                                                        |
| Do.         | Terrebonne Parish | Houma, City of       | H 22 109 1070 01 through<br>H 22 109 1070 05 | do.                                                                                                                                                                                                                                                                       | City Hall, City of Houma, 500 East Main St., Houma, La. 70360.                  | Do.                                                                        |
| Mississippi | Grenada           | Grenada, City of     | H 28 043 1010 01 through<br>H 28 043 1010 05 | Mississippi Research and Development Center, P.O. Drawer 2470, Jackson, Miss.<br>Commissioner of Insurance, State of Mississippi, Jackson, Miss. 39205.                                                                                                                   | Grenada City Hall, Main Street, Grenada, Miss. 38901.                           | Do.                                                                        |
| New York    | Cayuga            | Auburn, City of      | H 36 011 0310 01 through<br>H 36 011 0310 04 | New York State Department of Environmental Conservation, Division of Resources Management Services, Bureau of Water Management, Albany, N.Y. 12201.<br>New York State Insurance Department, 123 William St., New York, N.Y. 10038, and 324 State St., Albany, N.Y. 12201. | City Engineer, Memorial City Hall, 24 South St., Auburn, N.Y. 13021.            | Do.                                                                        |
| Minnesota   | Hennepin          | Dayton, Village of   | H 27 053 1680 01 through<br>H 27 053 1680 08 | Division of Waters, Soils, and Minerals, Department of Natural Resources, Centennial Office Bldg., St. Paul, Minn. 55101.<br>Minnesota Division of Insurance, R-210 State Office Bldg., St. Paul, Minn. 55101.                                                            | Mayor, Village of Dayton, Dayton, Minn. 55327.                                  | Do.                                                                        |
| Mississippi | Grenada           | Grenada, City of     | H 28 043 1010 01 through<br>H 28 043 1010 05 | Mississippi Research and Development Center, P.O. Drawer 2470, Jackson, Miss.<br>Commissioner of Insurance, State of Mississippi, Jackson, Miss. 39205.                                                                                                                   | Grenada City Hall, Main St., Grenada, Miss. 38901.                              | Do.                                                                        |
| New York    | Cayuga            | Auburn, City of      | H 36 011 0310 01 through<br>H 36 011 0310 04 | New York State Department of Environmental Conservation, Division of Resources Management Services, Bureau of Water Management, Albany, N.Y. 12201.<br>New York State Insurance Department, 123 William St., New York, N.Y. 10038, and 324 State St., Albany, N.Y. 12201. | City Engineer, Memorial City Hall, 24 South St., Auburn, N.Y. 13021.            | Do.                                                                        |



| State        | County     | Location                   | Map No.                                      | State map repository                                                                                                                                                                    | Local map repository                                                                                          | Effective date of identification of areas which have special flood hazards |
|--------------|------------|----------------------------|----------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------|
| Ohio         | Licking    | Newark, City of            | H 39 089 5570 01 through<br>H 39 089 5570 08 | Ohio Department of Natural Resources, Fountain Square, Columbus, Ohio 43224.<br>Ohio Insurance Department, 115 East Rich St., Columbus, Ohio 43215.                                     | City Engineer, 40 West Main St., Newark, Ohio 43065.                                                          | Do.                                                                        |
| Oklahoma     | Murray     | Sulphur, City of           | H 40 009 4560 01 through<br>H 40 009 4560 02 | Oklahoma Water Resources Board, 2241 Northwest 49th St., Oklahoma City, Okla. 73112.<br>Oklahoma Insurance Department, Room 408 Will Rogers Memorial Bldg., Oklahoma City, Okla. 73105. | City Council, City of Sulphur, Sulphur, Okla. 73086.                                                          | Do.                                                                        |
| Pennsylvania | Cumberland | Monroe, Township of        | H 42 041 5406 01 through<br>H 42 041 5406 08 | Department of Community Affairs, Commonwealth of Pennsylvania, Harrisburg, Pa. 17120.<br>Pennsylvania Insurance Department, 108 Finance Bldg., Harrisburg, Pa. 17120.                   | Township Supervisor, Township of Monroe, Route Number 174, Rural Delivery Number 1, Mechanicsburg, Pa. 17055. | Do.                                                                        |
| Do.          | Dauphin    | Middle Paxton, Township of | H 42 043 5124 01 through<br>H 42 043 5124 14 | do.                                                                                                                                                                                     | Office of the Secretary, Middle Paxton Township, P.O. Box 46, Dauphin, Pa. 17018.                             | Do.                                                                        |

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (secs. 408-410, Public Law 91-152, Dec. 24, 1969) (42 U.S.C. 4001-4127); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969.)

Issued: November 14, 1973.

GEORGE K. BERNSTEIN,  
Federal Insurance Administrator.

[FR Doc. 73-25040 Filed 11-27-73; 8:45 am]

**Title 26—Internal Revenue**  
**CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY**  
**SUBCHAPTER A—INCOME TAX**  
[T.D. 7293]

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

**SUBCHAPTER F—PROCEDURE AND ADMINISTRATION**

**PART 301—PROCEDURE AND ADMINISTRATION**

**Imposition of Tax on Foreign Corporations; Return Requirements; Income Affected by Treaty**

By a notice of proposed rulemaking appearing in the *FEDERAL REGISTER* for March 25, 1972 (37 FR 6193), amendments to the Income Tax Regulations (26 CFR Part 1) and the regulations on Procedure and Administration (26 CFR Part 301) were proposed in order to conform such regulations to the amendments of the Internal Revenue Code of 1954 made by sections 104 (exclusive of subsections (c), (g), (h), (i), and (j) thereof) and 105 (exclusive of subsections (e) and (f) thereof) of the Foreign Investors Tax Act of 1966 (80 Stat. 1555-1559, 1562-1565). The amendments are effective for taxable years beginning after December 31, 1966, except that the amendment of section 1248(d) of the Code made by section 104(k) of the Act applies to sales or exchanges occurring after December 31, 1966.

Section 104 (a) and (b) of the Act amends sections 881 and 882 of the Code to substantially revise the income tax treatment of foreign corporations. Under the new provisions the income of a foreign corporation which is effectively connected with the conduct of a U.S. business is taxed at the regular corporate rates, and certain income from U.S. sources which is not so connected is

taxed at a flat 30-percent rate. An election is provided which allows a foreign corporation to treat income from real property as income which is effectively connected with the conduct of a U.S. business. In addition, interest on U.S. obligations held by a corporation created in a U.S. possession and carrying on a banking business is to be treated as income which is effectively connected with the conduct of a U.S. business. A new rule provides that the gross income of a foreign corporation includes only that income from U.S. sources which is not effectively connected with the conduct of a U.S. business and all income (whether or not derived from U.S. sources) which is effectively connected with the conduct of a U.S. business. The provision disallowing deductions to a foreign corporation not filing an income tax return is extended to credits against the tax (other than credits allowable under sections 32 and 39) but is made inapplicable to the personal holding company tax imposed by section 541.

Section 104(d) of the Act conforms the dividends-received deduction under section 245(a) of the Code to the effectively connected income concept adopted by the Act. This is done by eliminating references to U.S. source income and substituting references to effectively connected income and by providing a transitional rule for pre-1967 taxable years which equates U.S. source income with income effectively connected with the conduct of a U.S. business.

Section 104(e) of the Act adds to the Code a new section 245(b) which permits, in certain situations, a 100 percent dividends-received deduction to a domestic corporation for dividends received from a wholly-owned foreign subsidiary all of whose income is effectively connected with the conduct of a U.S. business. A transitional rule is also pro-

vided for pre-1967 taxable years which equates U.S. source income with income effectively connected with the conduct of a U.S. business.

Section 104(f) of the Act amends section 301(b)(1)(C) of the Code to conform the rules on distributions of property by a foreign corporation to the effectively connected income concept adopted by the Act. This is done by eliminating references to U.S. source income and substituting references to effectively connected income, by eliminating references to income from sources without the United States and substituting references to noneffectively connected income, and by providing a transitional rule for pre-1967 taxable years which equates U.S. source income with effectively connected income and income from sources without the United States with noneffectively connected income.

Section 104(j) of the Act amends section 952(b) of the Code to conform the provision with the newly adopted effectively connected income concept and to clarify the law with respect to income affected by treaties. The amendment provides that in determining subpart F income there is to be excluded only those items of income effectively connected with the conduct by a foreign corporation of U.S. business. The amendment also makes it clear that the exclusion does not apply to income exempt from U.S. tax, or subject to a reduced rate of U.S. tax, under a tax treaty.

Section 104(k) of the Act amends section 1248(d)(4) of the Code to conform the provision with the newly adopted effectively connected income concept and to clarify the law with respect to income affected by treaties. The amendment provides that the earnings and profits of a foreign corporation (for purposes of section 1248) do not include income effectively connected with the conduct of a



U.S. business. In addition, the amendment makes it clear that the exclusion does not apply to income which is exempt from U.S. tax, or subject to a reduced rate of U.S. tax, under a tax treaty.

Section 105(a) of the Act amends section 894 of the Code by adding a new subsection (b), which provides that a nonresident alien individual or foreign corporation engaged in a U.S. business is deemed not to have a permanent establishment in the United States for purposes of apply any exemption from, or reduction in the rate of, U.S. tax provided by a U.S. treaty with respect to income not effectively connected with the conduct of a U.S. business. Thus, the treaty benefit applies to such noneffectively connected income even though the taxpayer has a permanent establishment in the United States.

Section 105(b) of the Act adds a new section 896 to the Code. The new section is designed to prevent a deterioration in the U.S. position in negotiating tax treaties with other countries which might otherwise come about by the unilateral revision under the Foreign Investors Tax Act of 1966 of the statutory pattern of taxing nonresident aliens and foreign corporations and granting of favorable tax treatment to such persons. The section generally grants to the President the authority to apply the income tax law without regard to the amendments which the 1966 Act or later Acts make to the provisions relating to the taxation of such persons in the case of any country which imposes more burdensome taxes on U.S. citizens and corporations than the United States does on nonresident aliens and foreign corporations.

In addition to conforming the regulations to the changes made by the Foreign Investors Tax Act of 1966, certain other changes are made in the regulations. Thus, § 1.6012-2(g) of the Income Tax Regulations contains revised return requirements of foreign corporations. One significant change is that with certain exceptions every foreign corporation which is engaged in trade or business in the United States at any time during a taxable year is required to make a return of income. Another change provides that a foreign corporation may elect to limit the balance sheets and reconciliation of income on its tax return to its U.S. assets used in its U.S. business and to its effectively connected income and U.S. source noneffectively connected income. Revised rules involving claims for refunds of tax by nonresident alien individuals and foreign corporations are also added to the Regulations on Procedure and Administration.

In order to avoid confusion in making such amendments to the Income Tax Regulations as were necessary to conform to the significant changes made by the 1966 Act, the decision was reached to replace the pertinent regulations with completely new regulations applicable only to taxable years beginning after December 31, 1966, and to refer to those sections in the Code of Federal Regulations (Revised as of January 1, 1971)

where the corresponding rules for taxable years beginning before January 1, 1967, may be found.

The proposed regulations relating to deductions of foreign corporations will be published at a later date with notice of proposed rule making.

After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed on March 25, 1972, the amendments of the regulations as so proposed are hereby adopted, subject to the changes set forth below:

PARAGRAPH 1. Section 1.881-1 of 26 CFR Part 1, as set forth in paragraph 7 of the notice of proposed rule making, is changed by revising paragraph (d) (1) to read as set forth below.

PAR. 2. Section 1.882-1, as set forth in paragraph 10 of the notice of proposed rule making, is changed by revising paragraph (d) to read as set forth below:

PAR. 3. Section 1.883-1, as set forth in paragraph 13 of the notice of proposed rule making, is changed by revising paragraph (b) to read as set forth below.

PAR. 4. Section 1.894-1, as set forth in paragraph 16 of the notice of proposed rule making, is changed by revising paragraphs (a) and (b) (1) to read as set forth below:

PAR. 5. Section 1.952-1, as set forth in paragraph 19 of the notice of proposed rulemaking, is changed by revising paragraph (b) (1) to read as set forth below:

PAR. 6. The amendments to § 1.1248, as set forth in paragraph 24 of the notice of proposed rulemaking, is changed by revising the historical note to read as set forth below:

PAR. 7. Section 1.6012-2, as set forth in paragraph 29 of the notice of proposed rulemaking, is changed by revising paragraph (g) (1) (i) to read as set forth below:

PAR. 8. Section 1.6016 is amended by redesignating subsection (f) of section 6016 as subsection (g), by adding a new subsection (f) to section 6016, and by revising the historical note, as set forth below.

PAR. 9. Section 301.6016 of 26 CFR Part 301 is amended by redesignating subsection (f) of section 6016 as subsection (g), by revising subsection (g) as so redesignated, by adding a new subsection (f) to section 6016, and by adding a historical note, as set forth below.

(Sec. 7805, Internal Revenue Code of 1954, 68A Stat. 917 (26 U.S.C. 7805).)

[SEAL] DONALD C. ALEXANDER,  
Commissioner of Internal Revenue.

Approved: November 21, 1973.

FREDERIC W. HICKMAN,  
Assistant Secretary of the  
Treasury.

Parts 1 and 301 of 26 CFR Chapter I are amended as set forth below:

PARAGRAPH 1. Section 1.11-1 is amended by revising paragraph (a) to read as follows:

§ 1.11-1 Tax on corporations.

(a) Every corporation, foreign or domestic, is liable to the tax imposed under

section 11 except (1) corporations specifically excepted under such section from such tax; (2) corporations expressly exempt from all taxation under subtitle A of the Code (see section 501); and (3) corporations subject to tax under section 511(a). For taxable years beginning after December 31, 1966, foreign corporations engaged in trade or business in the United States shall be taxable under section 11 only on their taxable income which is effectively connected with the conduct of a trade or business in the United States (see section 882(a)(1)). For definition of the terms "corporations," "domestic," and "foreign," see section 7701(a) (3), (4), and (5), respectively. It is immaterial that a domestic corporation, and for taxable years beginning after December 31, 1966, a foreign corporation engaged in trade or business in the United States, which is subject to the tax imposed by section 11 may derive no income from sources within the United States. The tax imposed by section 11 is payable upon the basis of the returns rendered by the corporations liable thereto, except that in some cases a tax is to be paid at the source of the income. See subchapter A (sections 6001 and following), chapter 61 of the Code, and section 1442.

PAR. 2. Section 1.245 is amended by revising subsection (a) of section 245, by redesignating subsection (b) of such section as subsection (c) and by revising such subsection, by adding after subsection (a) of such section a new subsection (b), and by revising the historical note, to read as follows:

§ 1.245 Statutory provisions: dividends received from certain foreign corporations.

SEC. 245. Dividends received from certain foreign corporations.—(a) General rule. In the case of dividends received from a foreign corporation (other than a foreign personal holding company) which is subject to taxation under this chapter, if, for an uninterrupted period of not less than 36 months ending with the close of such foreign corporation's taxable year in which such dividends are paid (or, if the corporation has not been in existence for 36 months at the close of such taxable year, for the period the foreign corporation has been in existence as of the close of such taxable year) such foreign corporation has been engaged in trade or business within the United States and if 50 percent or more of the gross income of such corporation from all sources for such period is effectively connected with the conduct of a trade or business within the United States, there shall be allowed as a deduction in the case of a corporation—

(1) An amount equal to the percent (specified in section 243 for the taxable year) of the dividends received out of its earnings and profits specified in paragraph (2) of the first sentence of section 316(a), but such amount shall not exceed an amount which bears the same ratio to such percent of such dividends received out of such earnings and profits as the gross income of such foreign corporation for the taxable year which is effectively connected with the conduct of a trade or business within the United States bears to its gross income from all sources for such taxable year, and

(2) An amount equal to the percent (specified in section 243 for the taxable year) of



the dividends received out of that part of its earnings and profits specified in paragraph (1) of the first sentence of section 316(a) accumulated after the beginning of such uninterrupted period, but such amount shall not exceed an amount which bears the same ratio to such percent of such dividends received out of such accumulated earnings and profits as the gross income of such foreign corporation, which is effectively connected with the conduct of a trade or business within the United States, for the portion of such uninterrupted period ending at the beginning of such taxable year bears to its gross income from all sources for such portion of such uninterrupted period.

For purposes of this subsection, the gross income of the foreign corporation for any period before the first taxable year beginning after December 31, 1966, which is effectively connected with the conduct of a trade or business within the United States is an amount equal to the gross income for such period from sources within the United States. For purposes of paragraph (2), there shall not be taken into account any taxable year within such uninterrupted period if, with respect to dividends paid out of the earnings and profits of such year, the deduction provided by subsection (b) would be allowable.

(b) *Certain dividends received from wholly owned foreign subsidiaries.*—(1) *In general.* In the case of dividends described in paragraph (2) received from a foreign corporation, for its taxable year in which such dividends are received, owns (directly or indirectly) all of the outstanding stock of such foreign corporation, there shall be allowed as a deduction (in lieu of the deduction provided by subsection (a)) an amount equal to 100 percent of such dividends.

(2) *Eligible dividends.* Paragraph (1) shall apply only to dividends which are paid out of the earnings and profits of a foreign corporation for a taxable year during which—

(A) All of its outstanding stock is owned (directly or indirectly) by the domestic corporation to which such dividends are paid; and

(B) All of its gross income from all sources is effectively connected with the conduct of a trade or business within the United States.

(3) *Exception.* Paragraph (1) shall not apply to any dividends if an election under section 1562 is effective for either—

(A) The taxable year of the domestic corporation in which such dividends are received, or

(B) The taxable year of the foreign corporation out of the earnings and profits of which such dividends are paid.

(c) *Property distributions.* For purposes of subsections (a) and (b), the amount of any distribution of property other than money shall be the amount determined by applying section 301(b)(1)(B).

[Sec. 245 as amended by sec. 5(c), Rev. Act 1962 (76 Stat. 977); sec. 104 (d) and (e), Foreign Investors Tax Act 1966 (80 Stat. 1558).]

PAR. 3. Section 1.245-1 is amended by revising so much thereof as precedes the examples in paragraph (d) to read as follows:

§ 1.245-1 Dividends received from certain foreign corporations.

(a) *General rule.* (1) A corporation is allowed a deduction under section 245(a) for dividends received from a foreign corporation (other than a foreign per-

sonal holding company as defined in section 552) which is subject to taxation under chapter 1 of the Code if, for an uninterrupted period of not less than 36 months ending with the close of the foreign corporation's taxable year in which the dividends are paid, (i) the foreign corporation is engaged in trade or business in the United States, and (ii) 50 percent or more of the foreign corporation's entire gross income is effectively connected with the conduct of a trade or business in the United States by that corporation. If the foreign corporation has been in existence less than 36 months as of the close of the taxable year in which the dividends are paid, then the applicable uninterrupted period to be taken into consideration in lieu of the uninterrupted period of 36 or more months is the entire period such corporation has been in existence as of the close of such taxable year. An uninterrupted period which satisfied the twofold requirement with respect to business activity and gross income may start at a date later than the date on which the foreign corporation first commenced an uninterrupted period of engaging in trade or business within the United States, but the applicable uninterrupted period is in any event the longest uninterrupted period which satisfies such twofold requirement. The deduction under section 245(a) is allowable to any corporation, whether foreign or domestic, receiving dividends from a distributing corporation which meets the requirements of that section.

(2) Any taxable year of a foreign corporation which falls within the uninterrupted period described in section 245(a)(2) shall not be taken into account in applying section 245(a)(2) and this paragraph if the 100 percent dividends received deduction would be allowable under paragraph (b) of this section, whether or not in fact allowed, with respect to any dividends payable, whether or not in fact paid, out of the earnings and profits of such foreign corporation for that taxable year. Thus, in such case the foreign corporation shall be treated as having no earnings and profits for that taxable year for purposes of determining the dividends received deduction allowable under section 245(a) and this paragraph. However, that taxable year may be taken into account for purposes of determining whether the foreign corporation meets the requirements of section 245(a) that, for the uninterrupted period specified therein, the foreign corporation is engaged in trade or business in the United States and meets the 50 percent gross income requirement.

(b) *Dividends from wholly owned foreign subsidiaries.* (1) A domestic corporation is allowed a deduction under section 245(b) for any taxable year beginning after December 31, 1966, for dividends received from a foreign corporation (other than a foreign personal holding company as defined in section 552) which is subject to taxation under chapter 1 of the Code if—

(i) The domestic corporation owns either directly or indirectly all of the

outstanding stock of the foreign corporation during the entire taxable year of the domestic corporation in which the dividends are received, and

(ii) The dividends are paid out of earnings and profits of a taxable year of the foreign corporation during which (a) the domestic corporation receiving the dividends owns directly or indirectly throughout such year all of the outstanding stock of the foreign corporation, and (b) all of the gross income of the foreign corporation from all sources is effectively connected for that year with the conduct of a trade or business in the United States by that corporation.

(2) The deduction allowed by section 245(b) does not apply if an election under section 1562, relating to the privilege of a controlled group of corporations to elect multiple surtax exemptions, is effective for either the taxable year of the domestic corporation in which the dividends are received or the taxable year of the foreign corporation out of the earnings and profits of which the dividends are paid.

(c) *Rules of application.* (1) Except as provided in section 246, the deduction provided by section 245 for any taxable year is the sum of the amounts computed under paragraphs (1) and (2) of section 245(a) plus, in the case of a domestic corporation for any taxable year beginning after December 31, 1966, the sum of the amounts computed under section 245(b)(2).

(2) To the extent that a dividend received from a foreign corporation is treated as a dividend from a domestic corporation in accordance with section 243(d) and § 1.243-3, it shall not be treated as a dividend received from a foreign corporation for purposes of this section.

(3) For purposes of section 245(a) and (b), the amount of a distribution shall be determined under subparagraph (B) (without reference to subparagraph (C)) of section 301(b)(1).

(4) In determining from what year's earnings and profits a dividend is treated as having been distributed for purposes of this section, the principles of paragraph (a) of § 1.316-2 shall apply. A dividend shall be considered to be distributed, first, out of the earnings and profits of the taxable year which includes the date the dividend is distributed, second, out of the earnings and profits accumulated for the immediately preceding taxable year, third, out of the earnings and profits accumulated for the second preceding taxable year, etc. A deficit in an earnings and profits account for any taxable year shall reduce the most recently accumulated earnings and profits for a prior year in such account. If there are no accumulated earnings and profits in an earnings and profits account because of a deficit incurred in a prior year, such deficit must be restored before earnings and profits can be accumulated in a subsequent accounting year. See also paragraph (c) of § 1.243-3 and paragraph (a)(6) of § 1.243-4.



(5) For purposes of this section the gross income of a foreign corporation for any period before its first taxable year beginning after December 31, 1966, which is from sources within the United States shall be treated as gross income which is effectively connected for that period with the conduct of a trade or business in the United States by that corporation.

(6) For the determination of the source of income and the income which is effectively connected with the conduct of a trade or business in the United States, see sections 861 through 864, and the regulations thereunder.

(d) *Illustrations.* The application of this section may be illustrated by the following examples:

PAR. 4. Section 1.301 is amended by redesignating subsection (f) of section 301 as subsection (g) and adding a new subsection (f) after subsection (e) of such section, by revising section 301(b) (1) (C), and by revising the historical note, to read as follows:

**§ 1.301 Statutory provisions; distributions of property.**

Sec. 301. Distributions of property. \* \* \*

(b) Amount distributed—(1) General rule. \* \* \*

(C) *Certain corporate distributees of foreign corporation.* Notwithstanding subparagraph (B), if the shareholder is a corporation and the distributing corporation is a foreign corporation, the amount taken into account with respect to property (other than money) shall be the fair market value of such property; except that if any deduction is allowable under section 245 with respect to such distribution, then the amount taken into account shall be the sum (determined under regulations prescribed by the Secretary or his delegate) of—

(i) The proportion of the adjusted basis of such property (or, if lower, its fair market value) properly attributable to gross income which is effectively connected with the conduct of a trade or business within the United States; and

(ii) The proportion of the fair market value of such property properly attributable to gross income which is not effectively connected with the conduct of a trade or business within the United States.

For purposes of clause (i), the gross income of a foreign corporation for any period before its first taxable year beginning after December 31, 1966, which is effectively connected with the conduct of a trade or business within the United States is an amount equal to the gross income for such period from sources within the United States. For purposes of clause (ii), the gross income of a foreign corporation for any period before its first taxable year beginning after December 31, 1966, which is not effectively connected with the conduct of a trade or business within the United States is an amount equal to the gross income for such period from sources without the United States.

(f) *Special rules for distributions of antitrust stock to corporations.*—(1) *Definition of antitrust stock.* For purposes of this subsection, the term "antitrust stock" means stock received, by a corporation which is a party to a suit described in section 1111(d) (relating to definition of antitrust order), in a distribution made after September 8, 1961, either pursuant to the terms of, or in

anticipation of, an antitrust order (as defined in subsection (d) of section 1111).

(2) *Amount distributed.* Notwithstanding subsection (b) (1) (but subject to subsection (b) (2)), for purposes of this section the amount of a distribution of antitrust stock received by a corporation shall be the fair market value of such stock.

(3) *Basis.* Notwithstanding subsection (d), the basis of antitrust stock received by a corporation in a distribution to which subsection (a) applies shall be the fair market value of such stock decreased by so much of the deduction for dividends received under the provisions of section 243, 244, or 245 as is, under regulations prescribed by the Secretary or his delegate, attributable to the excess, if any, of—

(A) The fair market value of the stock, over

(B) The adjusted basis (in the hands of the distributing corporation immediately before the distribution) of the stock, increased by the amount of gain which is recognized to the distributing corporation by reason of the distribution.

(g) *Special rules.* (1) For distributions in redemption of stock, see section 302.

(2) For distributions in partial or complete liquidation, see part II (sec. 331 and following).

(3) For distributions in corporate organizations and reorganizations, see part III (sec. 331 and following).

(4) For partial exclusion from gross income of dividends received by individuals, see section 116.

[Sec. 301 as amended by sec. 2, Act of Feb. 2, 1962 (Public Law 87-403, 76 Stat. 5); sec. 5 (a) and (b) and 13(f) (2), Rev. Act 1962 (76 Stat. 977, 1035); sec. 231(b) (2), Rev. Act 1964 (78 Stat. 105); sec. 1(b) (1), Act of Aug. 22, 1964 (Public Law 88-484, 78 Stat. 597); sec. 1(b) (2), Act of Sept. 12, 1966 (Public Law 89-570, 80 Stat. 762); and sec. 104(f), Foreign Investors Tax Act 1966 (80 Stat. 1559); sec. 211(b) (1) and (2), and 905(b) (2), Tax Reform Act 1969 (83 Stat. 570, 714)]

PAR. 5. Section 1.301-1 is amended by revising subparagraphs (3) and (5) of paragraph (n) to read as follows:

**§ 1.301-1 Rules applicable with respect to distributions of money and other property.**

(n) *Distributions of certain property by foreign corporations to corporate shareholders.* \* \* \*

(3) The amount taken into account under section 301(c) shall be the sum of—

(i) The portion computed under subparagraph (2) (i) of this paragraph, multiplied by the ratio which the gross income of the distributing corporation for the taxable year which is effectively connected for the taxable year with the conduct of a trade or business in the United States by that corporation bears to its entire gross income for such taxable year,

(ii) The portion computed under subparagraph (2) (ii) of this paragraph, multiplied by the ratio which the gross income of the distributing corporation which is effectively connected, for the portion of the uninterrupted period described in section 245(a) which ends at the beginning of the taxable year, with the conduct of a trade or business in the United States by that corporation bears

to its entire gross income for such portion of such uninterrupted period;

(iii) The proportionate part of the fair market value of the property attributable to the portion of the adjusted basis computed under subparagraph (2) (i) of this paragraph, multiplied by the ratio which the gross income of the distributing corporation for the taxable year which is not effectively connected for the taxable year with the conduct of a trade or business in the United States by that corporation bears to its entire gross income for such taxable year,

(iv) The proportionate part of the fair market value of the property attributable to the portion of the adjusted basis computed under subparagraph (2) (ii) of this paragraph, multiplied by the ratio which the gross income of the distributing corporation which is not effectively connected, for the portion of the uninterrupted period described in section 245(a) which ends at the beginning of the taxable year, with the conduct of a trade or business in the United States by that corporation bears to its entire gross income for such portion of such uninterrupted period; and

(v) The proportionate part of the fair market value of the property attributable to the portion of the adjusted basis computed under subparagraph (2) (iii) of this paragraph.

For purposes of subdivisions (i) and (ii) of this subparagraph, the gross income of the distributing corporation for any period before its first taxable year beginning after December 31, 1966, which is from sources within the United States shall be treated as gross income which is effectively connected for that period with the conduct of a trade or business in the United States by that corporation. For purposes of subdivisions (iii) and (iv) of this subparagraph, the gross income of the distributing corporation for any period before its first taxable year beginning after December 31, 1966, which is from sources without the United States shall be treated as gross income which is not effectively connected for that period with the conduct of a trade or business in the United States by that corporation. For the determination of the source of income and the income which is effectively connected with the conduct of a trade or business in the United States, see sections 861 through 864, and the regulations thereunder.

(5) The application of this paragraph may be illustrated by the following examples:

*Example (1).* Corporation A (a foreign corporation filing its income tax returns on a calendar year basis) whose stock is 100 percent owned by corporation B (a domestic corporation filing its income tax returns on a calendar year basis) for the first time engaged in trade or business in the United States on January 1, 1966, and qualifies under section 245(a) for the entire period beginning on that date and ending on December 31, 1970. During the period January 1, 1966, through December 31, 1969, 80 percent of corporation A's gross income is treated as effectively connected for that period with



the conduct of a trade or business in the United States by that corporation, and for 1970, 90 percent of corporation A's gross income is treated as effectively connected for that year with the conduct of a trade or business in the United States by that corporation. As of December 31, 1969, A has earnings and profits of \$50,000 accumulated during the period January 1, 1966, through December 31, 1969, and for the year 1970 A has earnings and profits of \$10,000. On December 31, 1970, corporation A distributes to corporation B 100 shares of stock in domestic corporation C which have an adjusted basis of \$40,000 in A's hands and a fair market value of \$100,000. Corporation A makes no other distribution during 1970. Since a deduction is allowable to B under section 245(a) with respect to the distribution, and since the fair market value of the property (\$100,000) exceeds the adjusted basis of the property in A's hands (\$40,000), the amount of the distribution taken into account under section 301(c) is \$50,500, which is the sum of—

(i) \$9,000, i.e., \$10,000 (the portion of the adjusted basis of the property which is out of earnings and profits for 1970), multiplied by 90 percent (the ratio which the gross income of A which is effectively connected for 1970 with the conduct of a trade or business in the United States by A bears to A's entire gross income for 1970),

(ii) \$24,000, i.e., \$30,000 (the portion of the adjusted basis of property which is out of earnings and profits accumulated during the period January 1, 1966, through December 31, 1969), multiplied by 80 percent (the ratio which the gross income of A which is effectively connected for that period with the conduct of a trade or business in the United States by A bears to A's entire gross income for that period),

(iii) \$2,500, i.e., \$25,000 (the proportionate part of the fair market value of the property attributable to the portion of the adjusted basis which is out of earnings and profits for 1970 (\$100,000 multiplied by \$10,000/\$40,000)), multiplied by 10 percent (the ratio which the gross income of A for 1970 which is not effectively connected for that year with the conduct of a trade or business in the United States by A bears to A's entire gross income for 1970), and

(iv) \$15,000, i.e., \$75,000 (the proportionate part of the fair market value of the property attributable to the portion of the adjusted basis which is out of earnings and profits accumulated during the period January 1, 1966, through December 31, 1969 (\$100,000 multiplied by \$30,000/\$40,000)), multiplied by 20 percent (the ratio which the gross income of A for that period which is not effectively connected for that period with the conduct of a trade or business in the United States by A bears to A's entire gross income for that period).

**Example (2).** Assume the same facts as in example (1) except that as of December 31, 1969, A has earnings and profits of \$20,000 accumulated during the period January 1, 1966, through December 31, 1969. Since a deduction is allowable to B under section 245(a) with respect to the distribution and since the fair market value of the property (\$100,000) exceeds the adjusted basis of the property in A's hands (\$40,000), the amount of the distribution taken into account under section 301(c) is \$62,500, which is the sum of—

(i) \$9,000, i.e., \$10,000 (the portion of the adjusted basis of the property which is out of earnings and profits for 1970), multiplied by 90 percent (the ratio which the gross income of A which is effectively connected for 1970 with the conduct of a trade or business in the United States by A bears to A's entire gross income for such year),

(ii) \$16,000, i.e., \$20,000 (the portion of the adjusted basis of the property which is out of earnings and profits accumulated during the period January 1, 1966, through December 31, 1969), multiplied by 80 percent (the ratio which the gross income of A which is effectively connected for that period with the conduct of a trade or business in the United States by A bears to A's entire gross income for that period),

(iii) \$2,500, i.e., \$25,000 (the proportionate part of the fair market value of the property attributable to the portion of the adjusted basis which is out of earnings and profits for 1970 (\$100,000 multiplied by \$10,000/\$40,000)), multiplied by 10 percent (the ratio which the gross income of A for 1970 which is not effectively connected for that year with the conduct of a trade or business in the United States by A bears to A's entire gross income for 1970),

(iv) \$10,000, i.e., \$50,000 (the proportionate part of the fair market value of the property attributable to the portion of the adjusted basis which is out of earnings and profits accumulated during the period January 1, 1966, through December 31, 1969 (\$100,000 multiplied by \$20,000/\$40,000)), multiplied by 20 percent (the ratio which the gross income of A for that period which is not effectively connected for that period with the conduct of a trade or business in the United States by A bears to A's entire gross income of that period), and

(v) \$25,000, the proportionate part of the fair market value of the property attributable to the portion of the adjusted basis which is out of sources other than earnings and profits for 1970 and earnings and profits accumulated during the uninterrupted period described in section 245(a) (\$100,000 multiplied by \$10,000/\$40,000).

**PAR. 6.** Section 1.881 is amended by revising section 881 and by adding a historical note, as follows:

**§ 1.881 Statutory provisions; tax on income of foreign corporations not connected with United States business.**

**Sec. 881. Tax on income of foreign corporations not connected with U.S. business—(a) Imposition of tax.** There is hereby imposed for each taxable year a tax of 30 percent of the amount received from sources within the United States by a foreign corporation as—

(1) Interest, dividends, rents, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, and other fixed or determinable annual or periodical gains, profits, and income,

(2) Gains described in section 631 (b) or (c).

(3) In the case of bonds or other evidences of indebtedness issued after September 28, 1965, amounts which under section 1232 are considered as gains from the sale or exchange of property which is not a capital asset, and

(4) Gains from the sale or exchange after October 4, 1966, of patents, copyrights, secret processes and formulas, good will, trademarks, trade brands, franchises, and other like property, or any interest in any such property, to the extent such gains are from payments which are contingent on the productivity, use, or disposition of the property or interest sold or exchanged, or from payments which are treated as being so contingent under section 871(e), but only to the extent the amount so received is not effectively connected with the conduct of a trade or business within the United States.

(b) **Doubling of tax.** For doubling of tax on corporations of certain foreign countries, see section 891.

[Sec. 881 as amended by sec. 104(a), Foreign Investors Tax Act 1966 (80 Stat. 1555)]

**PAR. 7.** Section 1.881-1 is amended to read as follows:

**§ 1.881-1 Manner of taxing foreign corporations.**

(a) **Classes of foreign corporations.** For purposes of the income tax, foreign corporations are divided into two classes, namely, foreign corporations which at no time during the taxable year are engaged in trade or business in the United States and foreign corporations which, at any time during the taxable year, are engaged in trade or business in the United States.

(b) **Manner of taxing—(1) Foreign corporations not engaged in U.S. business.** A foreign corporation which at no time during the taxable year is engaged in trade or business in the United States is taxable, as provided in § 1.881-2, on all income received from sources within the United States which is fixed or determinable annual or periodical income and on other items of income enumerated under section 881(a). Such a foreign corporation is also taxable on certain income from sources within the United States which, pursuant to § 1.882-2, is treated as effectively connected for the taxable year with the conduct of a trade or business in the United States.

(2) **Foreign corporations engaged in U.S. business.** A foreign corporation which at any time during the taxable year is engaged in trade or business in the United States is taxable, as provided in § 1.882-1, on all income from whatever source derived, whether or not fixed or determinable annual or periodical income, which is effectively connected for the taxable year with the conduct of a trade or business in the United States. Such a foreign corporation is also taxable, as provided in § 1.882-1, on income received from sources within the United States which is not effectively connected for the taxable year with the conduct of a trade or business in the United States and consists of (i) fixed or determinable annual or periodical income, or (ii) other items of income enumerated in section 881(a). A foreign corporation which at any time during the taxable year is engaged in trade or business in the United States is also taxable on certain income from sources within the United States which, pursuant to § 1.882-2, is treated as effectively connected for the taxable year with the conduct of a trade or business in the United States.

(c) **Meaning of terms.** For the meaning of the term "engaged in trade or business in the United States," as used in this section, see section 864(b) and the regulations thereunder. For determining when income, gain, or loss of a foreign corporation for the taxable year is effectively connected for that year with the conduct of a trade or business in the United States, see section 864(c) and the regulations thereunder, and § 1.882-2. For the definition of the term "foreign corporation," see section 7701(a) (3) and (5).



(d) *Rules applicable to foreign insurance companies.*—(1) *Corporations qualifying under subchapter L.* A foreign corporation carrying on an insurance business in the United States at any time during the taxable year, which, without taking into account its income not effectively connected for the taxable year with the conduct of a trade or business in the United States, would qualify for the taxable year under part I, II, or III of subchapter L if it were a domestic corporation, shall be taxable for such year under that part on its entire taxable income (whether derived from sources within or without the United States) which is, or which pursuant to section 882 (d) or (e) and § 1.882-2 is treated as, effectively connected for the taxable year with the conduct of a trade or business (whether or not its insurance business) in the United States. Any income derived by that foreign corporation from sources within the United States which is not effectively connected for the taxable year with the conduct of a trade or business in the United States is taxable as provided in section 881(a) and § 1.882-1. See sections 842 and 861 through 864, and the regulations thereunder.

(2) *Corporations not qualifying under subchapter L.* A foreign corporation which carries on an insurance business in the United States at any time during the taxable year, and which, without taking into account its income not effectively connected for the taxable year with the conduct of a trade or business in the United States, would not qualify for the taxable year under part I, II, or III of subchapter L if it were a domestic corporation, and a foreign insurance company which does not carry on an insurance business in the United States at any time during the taxable year, shall be taxable—

(i) Under section 881(a) and § 1.882-2 or § 1.882-1 on its income from sources within the United States which is not effectively connected for the taxable year with the conduct of a trade or business in the United States,

(ii) Under section 882(a)(1) and § 1.882-1 on its income (whether derived from sources within or without the United States) which is effectively connected for the taxable year with the conduct of a trade or business in the United States, and

(iii) Under section 882(a)(1) and § 1.882-1 on its income from sources within the United States which pursuant to section 882 (d) or (e) and § 1.882-2, is treated as effectively connected for the taxable year with the conduct of a trade or business in the United States.

(e) *Other provisions applicable to foreign corporations.*—(1) *Accumulated earnings tax.* For the imposition of the accumulated earnings tax upon the accumulated taxable income of a foreign corporation formed or availed of for tax avoidance purposes, whether or not such corporation is engaged in trade or business in the United States, see section 532 and the regulations thereunder.

(2) *Personal holding company tax.* For the imposition of the personal holding company tax upon the undistributed personal holding company income of a foreign corporation which is a personal holding company, whether or not such corporation is engaged in trade or business in the United States, see sections 541 through 547, and the regulations thereunder. Except in the case of a foreign corporation having personal service contract income to which section 543(a) (7) applies, a foreign corporation is not a personal holding company if all of its stock outstanding during the last half of the taxable year is owned by non-resident alien individuals, whether directly or indirectly through foreign estates, foreign trusts, foreign partnerships, or other foreign corporations. See section 542(c) (7).

(3) *Foreign personal holding companies.* For the mandatory inclusion in the gross income of the United States shareholders of the undistributed foreign personal holding company income of a foreign personal holding company, see section 551 and the regulations thereunder.

(4) *Controlled foreign corporations.*—(i) *Subpart F income and increase of earnings invested in U.S. property.* For the mandatory inclusion in the gross income of the U.S. shareholders of the subpart F income, of the previously excluded subpart F income withdrawn from investment in less developed countries, and of the increase in earnings invested in U.S. property, of a controlled foreign corporation, see sections 951 through 964, and the regulations thereunder.

(ii) *Certain accumulations of earnings and profits.* For the inclusion in the gross income of U.S. persons as a dividend of the gain recognized on certain sales or exchanges of stock in a foreign corporation, to the extent of certain earnings and profits attributable to the stock which were accumulated while the corporation was a controlled foreign corporation, see section 1248 and the regulations thereunder.

(5) *Changes in tax rate.* For provisions respecting the effect of any change in rate of tax during the taxable year on the income of a foreign corporation, see section 21 and the regulations thereunder.

(6) *Consolidated returns.* Except in the case of certain corporations organized under the laws of Canada or Mexico and maintained solely for the purpose of complying with the laws of that country as to title and operation of property, a foreign corporation is not an includible corporation for purposes of the privilege of making a consolidated return by an affiliated group of corporations. See section 1504 and the regulations thereunder.

(7) *Adjustment of tax of certain foreign corporations.* For the application of pre-1967 income tax provisions to corporations of a foreign country which imposes a more burdensome income tax than the United States, and for the adjustment of the income tax of a corpora-

tion of a foreign country which imposes a discriminatory income tax on the income of citizens of the United States or domestic corporations, see section 896.

(f) *Effective date.* This section applies for taxable years beginning after December 31, 1966. For corresponding rules applicable to taxable years beginning before January 1, 1967, see 26 CFR 1.881-1 (Rev. as of Jan. 1, 1971).

PAR. 8. Section 1.881-2 is amended to read as follows:

§ 1.881-2 Taxation of foreign corporations not engaged in U.S. business.

(a) *Imposition of tax.* (1) This section applies for purposes of determining the tax of a foreign corporation which at no time during the taxable year is engaged in trade or business in the United States. However, see also § 1.882-2 where such corporation has an election in effect for the taxable year in respect to real property income or receives interest on obligations of the United States. Except as otherwise provided in § 1.871-12, a foreign corporation to which this section applies is not subject to the tax imposed by section 11 or section 1201(a) but, pursuant to the provisions of section 881(a), is liable to a flat tax of 30 percent upon the aggregate of the amounts determined under paragraphs (b) and (c) of this section which are received during the taxable year from sources within the United States. Except as specifically provided in such paragraphs, such amounts do not include gains from the sale or exchange of property. To determine the source of such amounts, see sections 861 through 863, and the regulations thereunder.

(2) The tax of 30 percent is imposed by section 881(a) upon an amount only to the extent the amount constitutes gross income.

(3) Deductions shall not be allowed in determining the amount subject to tax under this section.

(4) Except as provided in § 1.882-2, a foreign corporation which at no time during the taxable year is engaged in trade or business in the United States has no income, gain, or loss for the taxable year which is effectively connected for the taxable year with the conduct of a trade or business in the United States. See section 864(c)(1)(B) and § 1.864-3.

(5) Gains and losses which, by reason of section 882(d) and § 1.882-2, are treated as gains or losses which are effectively connected for the taxable year with the conduct of a trade or business in the United States by such a foreign corporation shall not be taken into account in determining the tax under this section. See, for example, paragraph (c) (2) of § 1.871-10.

(b) *Fixed or determinable annual or periodical income.* The tax of 30 percent imposed by section 881(a) applies to the gross amount received from sources within the United States as fixed or determinable annual or periodical gains, profits, or income. Specific items of fixed



or determinable annual or periodical income are enumerated in section 881(a) (1) as interest, dividends, rents, salaries, wages, premiums, annuities, compensations, remunerations, and emoluments, but other items of fixed or determinable annual or periodical gains, profits, or income are also subject to the tax as, for instance, royalties, including royalties for the use of patents, copyrights, secret processes and formulas, and other like property. As to the determination of fixed or determinable annual or periodical income, see paragraph (a) of § 1.1441-2. For special rules treating gain on the disposition of section 306 stock as fixed or determinable annual or periodical income for purposes of section 881(a), see section 306(f) and paragraph (h) of § 1.306-3.

(c) *Other income and gains*—(1) *Items subject to tax.* The tax of 30 percent imposed by section 881(a) also applies to the following gains received during the taxable year from sources within the United States:

(i) Gains described in section 631 (b) or (c), relating to the treatment of gain on the disposal of timber, coal, or iron ore with a retained economic interest;

(ii) [Reserved]

(iii) Gains from the sale or exchange after October 4, 1966, of patents, copyrights, secret processes and formulas, goodwill, trademarks, trade brands, franchises, or other like property, or of any interest in any such property, to the extent the gains are from payments (whether in a lump sum or in installments) which are contingent on the productivity, use, or disposition of the property or interest sold or exchanged, or from payments which are treated under section 871(e) and § 1.871-11 as being so contingent.

(2) *Determination of amount of gain.* The tax of 30 percent imposed upon the gains described in subparagraph (1) of this paragraph applies to the full amount of the gains and is determined (i) without regard to the alternative tax imposed by section 1201(a) upon the excess of net long-term capital gain over the net short-term capital loss; (ii) without regard to section 1231, relating to property used in the trade or business and involuntary conversions; and (iii) except in the case of gains described in subparagraph (1) (ii) of this paragraph, whether or not the gains are considered to be gains from the sale or exchange of property which is a capital asset.

(d) *Credits against tax.* The credits allowed by section 32 (relating to tax withheld at source on foreign corporations), by section 39 (relating to certain uses of gasoline and lubricating oil), and by section 6402 (relating to overpayments of tax) shall be allowed against the tax of a foreign corporation determined in accordance with this section.

(e) *Effective date.* This section applies for taxable years beginning after December 31, 1966. For corresponding rules applicable to taxable years beginning before January 1, 1967, see 26 CFR 1.881-2 (Rev. as of Jan. 1, 1971).

PAR. 9. Section 1.882 is amended by revising section 882 and by adding a historical note, as follows:

**§ 1.882 Statutory provisions; tax on income of foreign corporations connected with United States business.**

Sec. 882. *Tax on income of foreign corporations connected with United States business*—(a) *Normal tax and surtax*—(1) *Imposition of tax.* A foreign corporation engaged in trade or business within the United States during the taxable year shall be taxable as provided in section 11 or 1201(a) on its taxable income which is effectively connected with the conduct of a trade or business within the United States.

(2) *Determination of taxable income.* In determining taxable income for purposes of paragraph (1), gross income includes only gross income which is effectively connected with the conduct of a trade or business within the United States.

(b) *Gross income.* In the case of a foreign corporation, gross income includes only—

(1) Gross income which is derived from sources within the United States and which is not effectively connected with the conduct of a trade or business within the United States; and

(2) Gross income which is effectively connected with the conduct of a trade or business within the United States.

(c) *Allowance of deductions and credits*—

(1) *Allocation of deductions*—(A) *General rule.* In the case of a foreign corporation, the deductions shall be allowed only for purposes of subsection (a) and (except as provided by subparagraph (B)) only if and to the extent that they are connected with income which is effectively connected with the conduct of a trade or business within the United States; and the proper apportionment and allocation of the deductions for this purpose shall be determined as provided in regulations prescribed by the Secretary or his delegate.

(B) *Charitable contributions.* The deduction for charitable contributions and gifts provided by section 170 shall be allowed whether or not connected with income which is effectively connected with the conduct of a trade or business within the United States.

(2) *Deductions and credits allowed only if return filed.* A foreign corporation shall receive the benefit of the deductions and credits allowed to it in this subtitle only by filing or causing to be filed with the Secretary or his delegate a true and accurate return, in the manner described in subtitle F, including therein all the information which the Secretary or his delegate may deem necessary for the calculation of such deductions and credits. The preceding sentence shall not apply for purposes of the tax imposed by section 541 (relating to personal holding company tax), and shall not be construed to deny the credit provided by section 32 for tax withheld at source or the credit provided by section 39 for certain uses of gasoline and lubricating oil.

(3) *Foreign tax credit.* Except as provided by section 906, foreign corporations shall not be allowed the credit against the tax for taxes of foreign countries and possessions of the United States allowed by section 901.

(4) *Cross reference.* For rule that certain foreign taxes are not to be taken into account in determining deduction or credit, see section 906(b) (1).

(d) *Election to treat real property income as income connected with U.S. business*—(1) *In general.* A foreign corporation which during the taxable year derives any income—

(A) From real property located in the United States, or from any interest in such real property, including (i) gains from the sale or exchange of real property or an

interest therein, (ii) rents or royalties from mines, wells, or other natural deposits, and (iii) gains described in section 631 (b) or (c), and

(B) Which, but for this subsection would not be treated as income effectively connected with the conduct of a trade or business within the United States,

may elect for such taxable year to treat all such income as income which is effectively connected with the conduct of a trade or business within the United States. In such case, such income shall be taxable as provided in subsection (a) (1) whether or not such corporation is engaged in trade or business within the United States during the taxable year. An election under this paragraph for any taxable year shall remain in effect for all subsequent taxable years, except that it may be revoked with the consent of the Secretary or his delegate with respect to any taxable year.

(2) *Election after revocation, etc.* Paragraphs (2) and (3) of section 871(d) shall apply in respect of elections under this subsection in the same manner and to the same extent as they apply in respect of elections under section 871(d).

(e) *Interest on U.S. obligations received by banks organized in possessions.* In the case of a corporation created or organized in, or under the law of, a possession of the United States which is carrying on the banking business in a possession of the United States, interest on obligations of the United States shall—

(1) For purposes of this subpart, be treated as income which is effectively connected with the conduct of a trade or business within the United States; and

(2) Shall be taxable as provided in subsection (a) (1) whether or not such corporation is engaged in trade or business within the United States during the taxable year.

(f) *Returns of tax by agent.* If any foreign corporation has no office or place of business in the United States but has an agent in the United States, the return required under section 6012 shall be made by the agent.

[Sec. 882 as amended by sec. 104(b) (1), Foreign Investors Tax Act 1966 (80 Stat. 1555)]

PAR. 10. Section 1.882-1 is amended to read as follows:

**§ 1.882-1 Taxation of foreign corporations engaged in U.S. business or of foreign corporations treated as having effectively connected income.**

(a) *Segregation of income.* This section applies for purposes of determining the tax of a foreign corporation which at any time during the taxable year is engaged in trade or business in the United States. It also applies for purposes of determining the tax of a foreign corporation which at no time during the taxable year is engaged in trade or business in the United States but has for the taxable year real property income or interest on obligations of the United States which, by reason of section 882 (d) or (e) and § 1.882-2, is treated as effectively connected for the taxable year with the conduct of a trade or business in the United States by that corporation. A foreign corporation to which this section applies must segregate its gross income for the taxable year into two categories, namely, the income which is effectively connected for the taxable year with the conduct of a trade or business in the United States by that corporation and the income which is not effectively connected for the



taxable year with the conduct of a trade or business in the United States by that corporation. A separate tax shall then be determined upon each such category of income, as provided in paragraph (b) of this section. The determination of whether income or gain is or is not effectively connected for the taxable year with the conduct of a trade or business in the United States by the foreign corporation shall be made in accordance with section 864(c) and §§ 1.864-3 through 1.864-7. For purposes of this section income which is effectively connected for the taxable year with the conduct of a trade or business in the United States includes all income which is treated under section 882 (d) or (e) and § 1.882-2 as income which is effectively connected for the taxable year with the conduct of a trade or business in the United States by the foreign corporation.

(b) *Imposition of tax*—(1) *Income not effectively connected with the conduct of a trade or business in the United States.* If a foreign corporation to which this section applies derives during the taxable year from sources within the United States income or gains described in section 881 (a) and paragraph (b) or (c) of § 1.881-2 which are not effectively connected for the taxable year with the conduct of a trade or business in the United States by that corporation, such income or gains shall be subject to a flat tax of 30 percent of the aggregate amount of such items. This tax shall be determined in the manner, and subject to the same conditions, set forth in § 1.881-2 as though the income or gains were derived by a foreign corporation not engaged in trade or business in the United States during the taxable year, except that in applying paragraph (c) of such section there shall not be taken into account any gains which are taken into account in determining the tax under section 882(a) (1) and subparagraph (2) of this paragraph.

(2) *Income effectively connected with the conduct of a trade or business in the United States*—(i) *In general.* If a foreign corporation to which this section applies derives income or gains which are effectively connected for the taxable year with the conduct of a trade or business in the United States by that corporation, the taxable income or gains shall, except as provided in § 1.871-12, be taxed in accordance with section 11 or, in the alternative, section 1201(a). See sections 11(f) and 882(a) (1). Any income of the foreign corporation which is not effectively connected for the taxable year with the conduct of a trade or business in the United States by that corporation shall not be taken into account in determining either the rate or amount of such tax.

(ii) *Determination of taxable income.* The taxable income for any taxable year for purposes of this subparagraph consists only of the foreign corporation's taxable income which is effectively connected for the taxable year with the conduct of a trade or business in the United States by that corporation; and, for this purpose, it is immaterial that the trade

or business with which that income is effectively connected is not the same as the trade or business carried on in the United States by that corporation during the taxable year. See example (2) in § 1.864-4(b). In determining such taxable income all amounts constituting, or considered to be, gains or losses for the taxable year from the sale or exchange of capital assets shall be taken into account if such gains or losses are effectively connected for the taxable year with the conduct of a trade or business in the United States by that corporation.

(iii) *Cross references.* For rules for determining the gross income and deductions for the taxable year, see section 882 (b) and (c) (1) and the regulations thereunder.

(c) *Change in trade or business status.* The principles of paragraph (c) of § 1.871-8 shall apply to cases where there has been a change in the trade or business status of a foreign corporation.

(d) *Credits against tax.* The credits allowed by section 32 (relating to tax withheld at source on foreign corporations), section 33 (relating to the foreign tax credit), section 38 (relating to investment in certain depreciable property), section 39 (relating to certain uses of gasoline and lubricating oil), section 40 (relating to expenses of work incentive programs), and section 6042 (relating to overpayments of a tax) shall be allowed against the tax determined in accordance with this section. However, the credits allowed by sections 33, 38, and 40 shall not be allowed against the flat tax of 30 percent imposed by section 881(a) and paragraph (b) (1) of this section. For special rules applicable in determining the foreign tax credit, see section 906(b) and the regulations thereunder. For the disallowance of certain credits where a return is not filed for the taxable year see section 882(c) (2) and the regulations thereunder.

(e) *Payment of estimated tax.* Every foreign corporation which for the taxable year is subject to tax under section 11 or 1201(a) and this section must make payment of its estimated tax in accordance with section 6154 and the regulations thereunder. In determining the amount of the estimated tax the foreign corporation must treat the tax imposed by section 881 (a) and paragraph (b) (1) of this section as though it were a tax imposed by section 11.

(f) *Effective date.* This section applies for taxable years beginning after December 31, 1966. For corresponding rules applicable to taxable years beginning before January 1, 1967, see 26 CFR 1.882-1 (Rev. as of Jan. 1, 1971).

PAR. 11. Section 1.882-2 is amended to read as follows:

§ 1.882-2 *Income of foreign corporation treated as effectively connected with U.S. business.*

(a) *Election as to real property income.* A foreign corporation which during the taxable year derives any income from real property which is located in the United States, or derives income from any interest in any such real property,

may elect, pursuant to section 882(d) and § 1.871-10, to treat all such income as income which is effectively connected for the taxable year with the conduct of a trade or business in the United States by that corporation. The election may be made whether or not the foreign corporation is engaged in trade or business in the United States during the taxable year for which the election is made or whether or not the corporation has income from real property which for the taxable year is effectively connected with the conduct of a trade or business in the United States, but it may be made only with respect to income from sources within the United States which, without regard to section 882(d) and § 1.871-10, is not effectively connected for the taxable year with the conduct of a trade or business in the United States by that corporation. The income to which the election applies shall be determined as provided in paragraph (b) of § 1.871-10 and shall be subject to tax in the manner, and subject to the same conditions, provided by section 882(a) (1) and paragraph (b) (2) of § 1.882-1. Section 871 (d) (2) and (3) and the provisions of § 1.871-10 thereunder shall apply in respect of an election under section 882(d) in the same manner and to the same extent as they apply in respect of elections under section 871 (d).

(b) *Interest on U.S. obligations received by banks organized in possessions.* Interest received from sources within the United States during the taxable year on obligations of the United States by a foreign corporation created or organized in, or under the law of, a possession of the United States and carrying on the banking business in a possession of the United States during the taxable year shall be treated, pursuant to section 882 (e) and this paragraph, as income which is effectively connected for the taxable year with the conduct of a trade or business in the United States by that corporation. Any interest to which this paragraph applies shall be subject to tax in the manner, and subject to the same conditions, provided by section 882(a) (1) and paragraph (b) (2) of § 1.882-1. To the extent that deductions are connected with interest to which this paragraph applies, they shall be treated for purposes of section 882(c) (1) and the regulations thereunder as connected with income which is effectively connected for the taxable year with the conduct of a trade or business in the United States by the foreign corporation. An election by the taxpayer is not required in respect of the income to which this paragraph applies. For purposes of this paragraph the term "possession of the United States" includes Guam, the



Midway Islands, the Panama Canal Zone, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, and Wake Island.

(c) *Treatment of income.* Any income in respect of which an election described in paragraph (a) of this section is in effect, and any interest to which paragraph (b) of this section applies, shall be treated, for purposes of paragraph (b) (2) of § 1.882-1 and paragraph (a) of § 1.1441-4, as income which is effectively connected for the taxable year with the conduct of a trade or business in the United States by the foreign corporation. A foreign corporation shall not be treated as being engaged in trade or business in the United States merely by reason of having such income for the taxable year.

(d) *Effective date.* This section applies for taxable years beginning after December 31, 1966. There are no corresponding rules in this part for taxable years beginning before January 1, 1967.

PAR. 12. Section 1.882-3 is amended to read as follows:

§ 1.882-3 Gross income of a foreign corporation.

(a) *In general.*—(1) *Inclusions.* The gross income of a foreign corporation for any taxable year includes only (i) the gross income which is derived from sources within the United States and which is not effectively connected for the taxable year with the conduct of a trade or business in the United States by that corporation, and (ii) the gross income, irrespective of whether such income is derived from sources within or without the United States, which is effectively connected for the taxable year with the conduct of a trade or business in the United States by that corporation. For the determination of the sources of income, see sections 861 through 863, and the regulations thereunder. For the determination of whether income from sources within or without the United States is effectively connected for the taxable year with the conduct of a trade or business in the United States, see sections 864(c) and 882 (d) and (e), §§ 1.864-3 through 1.864-7, and § 1.882-2.

(2) *Exchange transactions.* Even though a foreign corporation which effects certain transactions in the United States in stocks, securities, or commodities during the taxable year may not, by reason of section 864(b) (2) and paragraph (c) or (d) of § 1.864-2, be engaged in trade or business in the United States during the taxable year through the effecting of such transactions, nevertheless it shall be required to include in gross income for the taxable year the gains and profits from those transactions to the extent required by paragraph (c) of § 1.882-2 or by paragraph (a) of § 1.882-1.

(3) *Exclusions.* For exclusions from gross income of a foreign corporation, see § 1.882-1.

(b) *Foreign corporations not engaged in U.S. business.* In the case of a foreign corporation which at no time during the taxable year is engaged in trade or busi-

ness in the United States the gross income shall include only (1) the gross income from sources within the United States which is described in section 881 (a) and paragraphs (b) and (c) of § 1.881-2, and (2) the gross income from sources within the United States which, by reason of section 882 (d) or (e) and § 1.882-2, is treated as effectively connected for the taxable year with the conduct of a trade or business in the United States by that corporation.

(c) *Foreign corporations engaged in U.S. business.* In the case of a foreign corporation which is engaged in trade or business in the United States at any time during the taxable year, the gross income shall include (1) the gross income from sources within and without the United States which is effectively connected for the taxable year with the conduct of a trade or business in the United States by that corporation, (2) the gross income from sources within the United States which, by reason of section 882 (d) or (e) and § 1.882-2, is treated as effectively connected for the taxable year with the conduct of a trade or business in the United States by that corporation, and (3) the gross income from sources within the United States which is described in section 881(a) and paragraphs (b) and (c) of § 1.881-2 and is not effectively connected for the taxable year with the conduct of a trade or business in the United States by that corporation.

(d) *Effective date.* This section applies for taxable years beginning after December 31, 1966. For corresponding rules applicable to taxable years beginning before January 1, 1967, see 26 CFR 1.882-2 (Rev. as of Jan. 1, 1971).

PAR. 13. Section 1.883-1 is amended by revising paragraphs (b) and (c), and by adding new paragraph (d), as follows:

§ 1.883-1 Exclusions from gross income of foreign corporations.

(b) *Income tax conventions.* Generally, income of any kind which is exempt, under the provisions of an income tax convention to which the United States is a party, from any tax imposed by subtitle A (relating to income taxes) is not included in the gross income of a foreign corporation. However, see paragraph (a) of § 1.894-1 for certain exceptions to this rule. Income on which imposed by such subtitle is limited by an income tax convention is included in the gross income of a foreign corporation if it is not otherwise excluded from gross income. For the determination of the tax when the taxpayer has income upon which the tax is limited by an income tax convention, see § 1.871-12.

(c) *Other exclusions.* Income which is from sources without the United States, as determined under the provisions of sections 861 through 863 and the regulations thereunder, is not included in the gross income of a foreign corporation unless such income is effectively connected for the taxable year with the conduct of a trade or business in the United States by that corporation. To

determine specific exclusions in the case of other items which are from sources within the United States, see the applicable sections of the Code. For special rules under a tax convention for determining the sources of income and for excluding, from gross income, income from sources without the United States which is effectively connected with the conduct of a trade or business in the United States, see the applicable tax convention. For determining which income from sources without the United States is effectively connected with the conduct of a trade or business within the United States see section 864(c) (4) and § 1.864-5.

(d) *Effective date.* This section applies for taxable years beginning after December 31, 1966. For corresponding rules applicable to taxable years beginning before January 1, 1967, see 26 CFR 1.883-1 (Rev. as of Jan. 1, 1971).

PAR. 14. Section 1.884 is amended by revising section 884 and by adding an historical note, as follows:

§ 1.884 Statutory provisions; cross references.

Sec. 894. Cross references. (1) For special provisions relating to foreign corporations carrying on an insurance business within the United States, see section 842.

(2) For rules applicable in determining whether any foreign corporation is engaged in trade or business within the United States, see section 864(b).

(3) For adjustment of tax in case of corporations of certain foreign countries, see section 896.

(4) For allowance of credit against the tax in case of a foreign corporation having income effectively connected with the conduct of a trade or business within the United States, see section 906.

(5) For withholding at source of tax on income of foreign corporations, see section 1442.

[Sec. 884 as amended by sec. 104(m), Foreign Investors Tax Act 1966 (80 Stat. 1563); sec. 101(j) (21), Tax Reform Act 1969 (83 Stat. 528).]

PAR. 15. Section 1.894 is amended by revising section 894 and by adding an historical note, as follows:

§ 1.894 Statutory provisions; income affected by treaty.

Sec. 894. Income affected by treaty.—(a) *Income exempt under treaty.* Income of any kind, to the extent required by any treaty obligation of the United States, shall not be included in gross income and shall be exempt from taxation under this subtitle.

(b) *Permanent establishment in United States.* For purposes of applying any exemption from, or reduction of, any tax provided by any treaty to which the United States is a party with respect to income which is not effectively connected with the conduct of a trade or business within the United States, a nonresident alien individual or a foreign corporation shall be deemed not to have a permanent establishment in the United States at any time during the taxable year. This subsection shall not apply in respect of the tax computed under section 877(b).

[Sec. 894 as amended by sec. 105(a), Foreign Investors Tax Act 1966 (80 Stat. 1563).]

PAR. 16. Section 1.894-1 is amended to read as follows:



# § 1.894-1 Income affected by treaty.

(a) *Income exempt under treaty.* Income of any kind is not included in gross income and is exempt from tax under subtitle A (relating to income taxes), to the extent required by any income tax convention to which the United States is a party. However, unless otherwise provided by an income tax convention, the exclusion from gross income under section 894(a) and this paragraph does not apply in determining the accumulated taxable income of a foreign corporation under section 535 and the regulations thereunder or the undistributed personal holding company income of a foreign corporation under section 545 and the regulations thereunder. Moreover, the distributable net income of a foreign trust is determined without regard to section 894 and this paragraph, to the extent provided by section 643(a) (6) (B). Further, the compensating tax adjustment required by section 819(a) (3) in the case of a foreign life insurance company is to be determined without regard to section 894 and this paragraph, to the extent required by section 819(a) (3) (A). See § 1.871-12 for the manner of determining the tax liability of a nonresident alien individual or foreign corporation whose gross income includes income on which the tax is reduced under a tax convention.

(b) *Taxpayer treated as having no permanent establishment in the United States—(1) In general.* A nonresident alien individual or a foreign corporation, that is engaged in trade or business in the United States through a permanent establishment located therein at any time during a taxable year beginning after December 31, 1966, shall be deemed not to have a permanent establishment in the United States at any time during that year for purposes of applying any exemption from, or reduction in the rate of, any tax under subtitle A of the Code which is provided by any income tax convention with respect to income which is not effectively connected for that year with the conduct of a trade or business in the United States by the taxpayer. This paragraph applies to all treaties or conventions entered into by the United States, whether entered into before, on, or after November 13, 1966, the date of enactment of the Foreign Investors Tax Act of 1966 (80 Stat. 1539). This paragraph is not considered to be contrary to any obligation of the United States under an income tax convention to which it is a party. The benefit granted under section 894(b) and this paragraph applies only to those items of income derived from sources within the United States which are subject to the tax imposed by section 871(a) or 881(a), and section 1441, 1442, or 1451, on the noneffectively connected income received from sources within the United States by a nonresident alien individual or a foreign corporation. The benefit does not apply to any income from real property in respect of which an election is in effect for the taxable year under § 1.871-10 or in determining under section 877(b) the tax of a

nonresident alien individual who has lost United States citizenship at any time after March 8, 1965. The benefit granted by section 894(b) and this paragraph is not elective.

(2) *Illustrations.* The application of this paragraph may be illustrated by the following examples:

*Example (1).* M, a corporation organized in foreign country X, uses the calendar year as the taxable year. The United States and country X are parties to an income tax convention which provides in part that dividends received from sources within the United States by a corporation of country X not having a permanent establishment in the United States are subject to tax under chapter 1 of the Code at a rate not to exceed 15 percent. During 1967, M is engaged in business in the United States through a permanent establishment located therein and receives \$100,000 in dividends from domestic corporation B, which under section 861(a) (2) (A) constitute income from sources within the United States. Under section 864(c) (2) and § 1.864-4(c), the dividends received from B are not effectively connected for 1967 with the conduct of a trade or business in the United States by M. Although M has a permanent establishment in the United States during 1967, it is deemed, under section 894(b) and this paragraph, not to have a permanent establishment in the United States during that year with respect to the dividends. Accordingly, in accordance with paragraph (c) (3) of § 1.871-12 the tax on the dividends is \$15,000, that is, 15 percent of \$100,000, determined without the allowance of any deductions.

*Example (2).* T, a corporation organized in foreign country X, uses the calendar year as the taxable year. The United States and country X are parties to an income tax convention which provides in part that an enterprise of country X is not subject to tax under chapter 1 of the Code in respect of its industrial or commercial profits unless it is engaged in trade or business in the United States during the taxable year through a permanent establishment located therein and that, if it is so engaged, the tax may be imposed upon the entire income of that enterprise from sources within the United States. The convention also provides that the tax imposed by chapter 1 of the Code on dividends received from sources within the United States by a corporation of X which is not engaged in trade or business in the United States through a permanent establishment located therein shall not exceed 15 percent of the dividend. During 1967, T is engaged in a business (business A) in the United States which is carried on through a permanent establishment in the United States; in addition, T is engaged in a business (business B) in the United States which is not carried on through a permanent establishment. During 1967, T receives from sources within the United States \$60,000 in service fees through the operation of business A and \$10,000 in dividends through the operation of business B, both of which amounts are, under section 864(c) (2) (B) and § 1.864-4 (c) (3), effectively connected for that year with the conduct of a trade or business in the United States by that corporation. The service fees are considered to be industrial or commercial profits under the tax convention with country X. Since T has no income for 1967 which is not effectively connected for that year with the conduct of a trade or business in the United States by that corporation, section 894(b), this paragraph, and § 1.871-12 do not apply. Accordingly, for 1967 T's entire income of \$70,000 from sources within the United States is subject to tax, after allowance of deductions, in accordance

with section 882(a) (1) and paragraph (b) (2) of § 1.882-1.

*Example (3).* S, a corporation organized in foreign country W, uses the calendar year as the taxable year. The United States and country W are parties to an income tax convention which provides in part that a corporation of country W is not subject to tax under chapter 1 of the Code in respect of its industrial or commercial profits unless it is engaged in trade or business in the United States during the taxable year through a permanent establishment located therein and that, if it is so engaged, the tax may be imposed upon the entire income of that corporation from sources within the United States. The convention also provides that the tax imposed by chapter 1 of the Code on dividends received from sources within the United States by a corporation of country W which is not engaged in trade or business in the United States through a permanent establishment located therein shall not exceed 15 percent of the dividend. During 1967, S is engaged in business in the United States through a permanent establishment located therein and derives from sources within the United States \$100,000 in service fees which, under section 864(c) (2) (B) and § 1.864-4(c) (3), are effectively connected for that year with the conduct of a trade or business in the United States by S and which are considered to be industrial or commercial profits under the tax convention with country W. During 1967, S also derives from sources within the United States, through another business it carries on in foreign country X, \$10,000 in sales income which, under section 864(c) (3) and § 1.864-4(b), is effectively connected for that year with the conduct of a trade or business in the United States by S and \$5,000 in dividends which, under section 864(c) (2) (A) and § 1.864-4(c) (2), are not effectively connected for that year with the conduct of a trade or business in the United States by S. The sales income is considered to be industrial or commercial profits under the tax convention with country W. Although S is engaged in a trade or business in the United States during 1967 through a permanent establishment located therein, it is deemed, under section 894(b) and this paragraph, not to have a permanent establishment therein with respect to the \$5,000 in dividends. Accordingly, in accordance with paragraph (c) of § 1.871-12, for 1967 S is subject to a tax of \$750 on the dividends (\$5,000 × .15) and a tax, determined under section 882(a) and § 1.882-1, on its \$110,000 industrial or commercial profits.

*Example (4).* (a) N, a corporation organized in foreign country Z, uses the calendar year as the taxable year. The United States and country Z are parties to an income tax convention which provides in part that the tax imposed by chapter 1 of the Code on dividends received from sources within the United States by a corporation of country Z shall not exceed 15 percent of the amount distributed if the recipient does not have a permanent establishment in the United States or, where the recipient does have a permanent establishment in the United States, if the shares giving rise to the dividends are not effectively connected with the permanent establishment. The tax convention also provides that if a corporation of country Z is engaged in industrial or commercial activity in the United States through a permanent establishment in the United States, income tax may be imposed by the United States on so much of the industrial or commercial profits of such corporation as are attributable to the permanent establishment in the United States.

(b) During 1967, N is engaged in a business (business A) in the United States which is not carried on through a permanent establishment in the United States. In addition, N



has a permanent establishment in the United States through which it carries on another business (business B) in the United States. During 1967, N holds shares of stock in domestic corporation D which are not effectively connected with N's permanent establishment in the United States. During 1967, N receives \$100,000 in dividends from D which, pursuant to section 864(c)(2)(A) and § 1.864-4(c)(2), are effectively connected for that year with the conduct of business A. Under section 861(a)(2)(A) these dividends are treated as income from sources within the United States. In addition, during 1967, N receives from sources within the United States \$150,000 in sales income which, pursuant to section 864(c)(3) and § 1.864-4(b), is effectively connected with the conduct of a trade or business in the United States and which is considered to be industrial or commercial profits under the tax convention with country Z. Of these total profits, \$70,000 is from business A and \$80,000 is from business B. Only the \$80,000 of industrial or commercial profits is attributable to N's permanent establishment in the United States.

(c) Since N has no income for 1967 which is not effectively connected for that year with the conduct of a trade or business in the United States by that corporation, section 894(b) and this paragraph do not apply. However, N is entitled to the reduced rate of tax under the tax convention with country Z with respect to the dividends because the shares of stock are not effectively connected with N's permanent establishment in the United States. Accordingly, assuming that there are no deductions connected with N's industrial or commercial profits, the tax for 1967, determined as provided in paragraph (c) of § 1.871-12, is \$46,900 as follows:

|                                   |          |
|-----------------------------------|----------|
| Tax on nontreaty income:          |          |
| \$80,000 × .48                    | \$38,400 |
| Less \$25,000 × .26               | 6,500    |
|                                   | 31,900   |
| Tax on treaty income:             |          |
| \$100,000 (gross dividends) × .15 | 15,000   |
| Total tax                         | 46,900   |

Example (5). M, a corporation organized in foreign country Z, uses the calendar year as the taxable year. The United States and country Z are parties to an income tax convention which provides in part that a corporation of country Z is not subject to tax under chapter 1 of the Code in respect of its commercial and industrial profits except such profits as are allocable to its permanent establishment in the United States. The regulations in this chapter under the tax convention with country Z provide that a corporation of country Z having a permanent establishment in the United States is subject to U.S. tax upon its industrial and commercial profits from sources within the United States and that its industrial and commercial profits from such sources are deemed to be allocable to the permanent establishment in the United States. During 1967, M is engaged in a business (business A) in the United States which is carried on through a permanent establishment in the United States; in addition, M is engaged in a business (business B) in foreign country X and none of such business is carried on in the United States. During 1967, M receives from sources within the United States \$40,000 in sales income through the operation of business A and \$10,000 in sales income through the operation of business B, both of which amounts are, under section 864(c)(3) and § 1.864-4(b), effectively connected for that year with the conduct of a trade or business in the United States by that corporation. The sales income is considered to be industrial and commercial profits under the tax con-

vention with country Z. Since M has no income for 1967 which is not effectively connected for that year with the conduct of a trade or business in the United States by that corporation, section 894(b) and this paragraph do not apply. Accordingly, for 1967 M's entire income of \$50,000 from sources within the United States is subject to tax, after allowance of deductions, in accordance with section 882(a)(1) and paragraph (b)(2) of § 1.882-1.

(c) *Effective date.* This section applies for taxable years beginning after December 31, 1966. For corresponding rules applicable to taxable years beginning before January 1, 1967, see 26 CFR 1.894-1 (Rev. as of Jan. 1, 1971).

PAR. 17. The following new section is inserted immediately after § 1.895-1:

**§ 1.896 Statutory provisions; adjustment of tax on nationals, residents, and corporations of certain foreign countries.**

Sec. 896. *Adjustment of tax on nationals, residents, and corporations of certain foreign countries.*—(a) *Imposition of more burdensome taxes by foreign country.* Whenever the President finds that—

(1) Under the laws of any foreign country, considering the tax system of such foreign country, citizens of the United States not residents of such foreign country or domestic corporations are being subjected to more burdensome taxes, on any item of income received by such citizens or corporations from sources within such foreign country, than taxes imposed by the provisions of this subtitle on similar income derived from sources within the United States by residents or corporations of such foreign country,

(2) Such foreign country, when requested by the United States to do so, has not acted to revise or reduce such taxes so that they are no more burdensome than taxes imposed by the provisions of this subtitle on similar income derived from sources within the United States by residents or corporations of such foreign country, and

(3) It is in the public interest to apply pre-1967 tax provisions in accordance with the provisions of this subsection to residents or corporations of such foreign country, the President shall proclaim that the tax on such similar income derived from sources within the United States by residents or corporations of such foreign country shall, for taxable years beginning after such proclamation, be determined under this subtitle without regard to amendments made to this subchapter and chapter 3 on or after the date of enactment of this section [November 13, 1966].

(b) *Imposition of discriminatory taxes by foreign country.* Whenever the President finds that—

(1) Under the laws of any foreign country, citizens of the United States or domestic corporations (or any class of such citizens or corporations) are, with respect to any item of income, being subjected to a higher effective rate of tax than are nationals, residents, or corporations of such foreign country (or a similar class of such nationals, residents, or corporations) under similar circumstances;

(2) Such foreign country, when requested by the United States to do so, has not acted to eliminate such higher effective rate of tax; and

(3) It is in the public interest to adjust, in accordance with the provisions of this subsection, the effective rate of tax imposed by this subtitle on similar income of nationals, residents, or corporations of such

foreign country (or such similar class of such nationals, residents, or corporations), the President shall proclaim that the tax on similar income of nationals, residents, or corporations of such foreign country (or such similar class of such nationals, residents, or corporations) shall, for taxable years beginning after such proclamation, be adjusted so as to cause the effective rate of tax imposed by this subtitle on such similar income to be substantially equal to the effective rate of tax imposed by such foreign country on such item of income of citizens of the United States or domestic corporations (or such class of citizens or corporations). In implementing a proclamation made under this subsection, the effective rate of tax imposed by this subtitle on an item of income may be adjusted by the disallowance, in whole or in part, of any deduction, credit, or exemption which would otherwise be allowed with respect to that item of income or by increasing the rate of tax otherwise applicable to that item of income.

(c) *Alleviation of more burdensome or discriminatory taxes.* Whenever the President finds that—

(1) The laws of any foreign country with respect to which the President has made a proclamation under subsection (a) have been modified so that citizens of the United States not residents of such foreign country or domestic corporations are no longer subject to more burdensome taxes on the item of income derived by such citizens or corporations from sources within such foreign country, or

(2) The laws of any foreign country with respect to which the President has made a proclamation under subsection (b) have been modified so that citizens of the United States or domestic corporations (or any class of such citizens or corporations) are no longer subject to a higher effective rate of tax on the item of income,

he shall proclaim that the tax imposed by this subtitle on the similar income of nationals, residents, or corporations of such foreign country shall, for any taxable year beginning after such proclamation, be determined under this subtitle without regard to such subsection.

(d) *Notification of Congress required.* No proclamation shall be issued by the President pursuant to this section unless, at least 30 days prior to such proclamation, he has notified the Senate and the House of Representatives of his intention to issue such proclamation.

(e) *Implementation by regulations.* The Secretary or his delegate shall prescribe such regulations as he deems necessary or appropriate to implement this section.

[Sec. 896 as added by sec. 105(b), Foreign Investors Tax Act 1966 (80 Stat. 1563)]

PAR. 18. Section 1.952 is amended by revising subsection (b) of section 952 and the historical note to read as follows:

**§ 1.952 Statutory provision; subpart F income defined.**

Sec. 952. *Subpart F income defined.* . . .

(b) *Exclusion of United States income.* In the case of a controlled foreign corporation, subpart F income does not include any item of income from sources within the United States which is effectively connected with the conduct by such corporation of a trade or business within the United States unless such item is exempt from taxation (or is subject to a reduced rate of tax) pursuant to a treaty obligation of the United States.



[Sec. 952 as added by sec. 12(a), Rev. Act 1962 (76 Stat. 1006); and amended by sec. 104(j), Foreign Investors Tax Act 1966 (80 Stat. 1562)]

PAR. 19. Section 1.952-1 is amended by revising paragraph (b) to read as follows:

**§ 1.952-1 Subpart F income defined.**

(b) *Exclusion of U.S. income*—(1) *Taxable years beginning before January 1, 1967*—(i) *In general*. Notwithstanding paragraph (a) of this section and except as provided in subdivision (ii) of this subparagraph, a controlled foreign corporation's subpart F income for any taxable year beginning before January 1, 1967, shall not include any item of income which is includible in the gross income of such corporation for such year under provisions (other than sections 951 through 964) of chapter 1 of the Code as income derived from sources within the United States if for the taxable year a tax is imposed with respect to such income in accordance with section 882(a). The deductions attributable to such items of gross income shall not be taken into account for purposes of section 952. Any item which is required to be excluded from gross income or which is taxed at a reduced rate under an applicable treaty obligation of the United States shall not be excluded from the gross income of a controlled foreign corporation under this subdivision. See section 952(b).

(ii) *Treatment of U.S. income of foreign insurance companies*. The subpart F income for any taxable year of a controlled foreign corporation beginning before January 1, 1967, which is a foreign insurance company, shall not include any item of income which is includible in the gross income of such corporation for such year under provisions (other than sections 951 through 964) of chapter 1 of the Code as income derived from sources within the United States if such income is described in section 819(a), 822(e), or 832(d) and, for such taxable year, a tax is imposed with respect to such income in accordance with section 802(a), 821(a), or 831(a), as the case may be. The deductions attributable to such items of gross income shall not be taken into account for purposes of section 952. See paragraph (d) of § 1.953-4 and section 11(e) (2).

(2) *Taxable years beginning after December 31, 1966*. Notwithstanding paragraph (a) of this section, a controlled foreign corporation's subpart F income for any taxable year beginning after December 31, 1966, shall not include any item of income from sources within the United States which is effectively connected for that year with the conduct by such corporation of a trade or business in the United States unless, pursuant to a treaty to which the United States is a party, such item of income either is exempt from the income tax imposed by chapter 1 (relating to normal taxes and surtaxes) of the Code or is subject to such tax at a reduced rate.

Thus, for example, dividends received from sources within the United States by a foreign corporation engaged in business in the United States during the taxable year, which are not effectively connected for that year with the conduct of a trade or business in the United States by that corporation, shall not be excluded from subpart F income under section 952(b) and this subparagraph even though such dividends are subject to the tax of 30 percent imposed by section 881 (a). Also, for example, if, by reason of an income tax convention to which the United States is a party, an amount of interest from sources within the United States which is effectively connected for the taxable year with the conduct of a business in the United States by a foreign corporation is subject to tax under chapter 1 at a flat rate of 15 percent, as provided in § 1.871-12, such interest is not excluded from subpart F income under section 952(b) and this subparagraph. The deductions attributable to items of income which are excluded from subpart F income under this subparagraph shall not be taken into account for purposes of section 952.

(3) *Rule applicable under section 956* (b) (2). For purposes only of paragraph (b) (1) (viii) of § 1.956-2, an item of income derived by a controlled foreign corporation from sources within the United States with respect to which for the taxable year a tax is imposed in accordance with section 882(a) shall be considered described in section 952(b) whether or not such item of income would have constituted subpart F income for such year.

PAR. 20. Section 1.953 is amended by revising section 953(b) (3) (F) and the historical note to read as follows:

**§ 1.953 Statutory provisions: income from insurance of United States risks.**

SEC. 953. *Income from insurance of U.S. risks.*

(b) *Special rules.*

(3) (F) Section 832(c) (5) (certain capital losses).

[Sec. 953 as added by sec. 12(a), Rev. Act 1962 (76 Stat. 1006); as amended by sec. 104 (m) (2), Foreign Investors Tax Act 1966 (80 Stat. 1563)]

PAR. 21. Section 1.954-1 is amended by revising paragraph (c) to read as follows:

**§ 1.954-1 Foreign base company income.**

(c) *Gross income and deductions to be taken into account*. For purposes of section 954 and this section, foreign personal holding company income as defined in § 1.954-2, foreign base company sales income as defined in § 1.954-3, and foreign base company services income as defined in § 1.954-4 shall be taken into account in determining foreign base company income after allowance for deductions properly allocable to such categories of income. For determination of gross in-

come and deductions for purposes of section 954, see section 952 and the regulations thereunder. For purposes of this section, expenses, taxes, and other deductions shall first be allocated to items or categories of gross income to which they directly relate; then, expenses, taxes, and other deductions which cannot definitely be allocated to some item or category of gross income shall be ratably apportioned among all items or categories of gross income, except that no expense, tax, or other deduction shall be allocated to an item or category of income to which it clearly does not apply. However, if the foreign base company income of a controlled foreign corporation exceeds 70 percent (as determined under paragraph (d) of this section) of gross income, the entire expenses, taxes, and other deductions shall be taken into account, except expenses, taxes, and other deductions properly allocable to amounts excluded from foreign base company income under the provisions of paragraphs (1), (2), and (4) of section 954(b) and paragraph (b) of this section and expenses, taxes, and other deductions allowable to such controlled foreign corporation under section 882(c) and the regulations thereunder.

PAR. 22. Section 1.970-1 is amended by revising paragraph (b) (3) to read as follows:

**§ 1.970-1 Export trade corporations.**

(b) *Amount by which export trade income shall reduce subpart F income.*

(3) *Determination of export promotion expense limitation*. For purposes of determining the limitation contained in subparagraph (2) (i) of this paragraph for any taxable year of the export trade corporation, there shall be taken into account with respect to those items or categories of export trade income which constitute foreign base company income the entire amount of those export promotion expenses which are directly related to such items or categories of income and a ratable part of any other export promotion expenses which are indirectly related to such items or categories of income, except that no export promotion expense shall be allocated to an item or category of income to which it clearly does not apply and no deduction allowable to such corporation under section 882(c) and the regulations thereunder shall be taken into account.

PAR. 23. Section 1.971-1 is amended by revising paragraph (b) (1) (viii) to read as follows:

**§ 1.971-1 Definitions with respect to export trade corporations.**

(b) *Export trade income*—(1) *General rule.*

(viii) *Deductions to be taken into account*. Export trade income of a controlled foreign corporation for any taxable year shall be the amount determined by deducting from the items or



categories of gross income described in subdivisions (i) through (vii) of this subparagraph the entire amount of those expenses, taxes, and other deductions properly allocable to such items or categories of income. For purposes of this section, expenses, taxes, and other deductions shall first be allocated to items or categories of gross income to which they directly relate; then, expenses, taxes, and other deductions which cannot definitely be allocated to some item or category of gross income shall be ratably apportioned among all items or categories of gross income, except that no expense, tax, or other deduction shall be allocated to an item or category of income to which it clearly does not apply and no deduction allowable to such controlled foreign corporation under section 882(c) and the regulations thereunder shall be taken into account.

PAR. 24. Section 1.1248 is amended by revising subsection (d) (4) of section 1248 and the historical note to read as follows:

**§ 1.1248 Statutory provisions; gain from certain sales or exchanges of stock in certain foreign corporations.**

Sec. 1248. Gain from certain sales or exchanges of stock in certain foreign corporations.

(d) Exclusions from earnings and profits.

(4) U.S. income. Any item includible in gross income of the foreign corporation under this chapter—

(A) For any taxable year beginning before January 1, 1967, as income derived from sources within the United States of a foreign corporation engaged in trade or business within the United States, or

(B) For any taxable year beginning after December 31, 1966, as income effectively connected with the conduct by such corporation of a trade or business within the United States.

This paragraph shall not apply with respect to any item which is exempt from taxation (or is subject to a reduced rate of tax) pursuant to a treaty obligation of the United States.

[Sec. 1248 as added by sec. 15, Rev. Act 1962 (72 Stat. 1041); and amended by sec. 104(k), Foreign Investors Tax Act 1966 (80 Stat. 1562), sec. 442(b) (2), Tax Reform Act 1969 (83 Stat. 628).]

PAR. 25. Section 1.1248-2 is amended by revising paragraph (d) (2) (i) to read as follows:

**§ 1.1248-2 Earnings and profits attributable to a block of stock in simple cases.**

(d) Earnings and profits accumulated for a taxable year.

(2) Special rules. (i) The earnings and profits of the corporation accumulated—

(a) For any taxable year beginning before January 1, 1967 (computed without any reduction for distributions), shall not include the excess of any item includible in gross income of the foreign corporation under section 882(b) as gross income derived from sources within the United States, and

(b) For any taxable year beginning after December 31, 1966 (computed without any reduction for distributions), shall not include the excess of any item includible in gross income of the foreign corporation under section 882(b) (2) as income effectively connected for that year with the conduct by such corporation of a trade or business in the United States, whether derived from sources within or from sources without the United States,

over any deductions allocable to such item under section 882(c). However, if the sale or exchange of stock in the foreign corporation by the United States person occurs before January 1, 1967, the provisions of (a) of this subdivision apply with respect to such sale or exchange even though the taxable year begins after December 31, 1966. See section 1248(d) (4). Any item which is required to be excluded from gross income, or which is taxed at a reduced rate, under an applicable treaty obligation of the United States shall not be excluded under this subdivision from earnings and profits accumulated for a taxable year (computed without any reduction for distributions).

PAR. 26. Section 1.1248-3 is amended by revising paragraph (b) (2) (i) to read as follows:

**§ 1.1248-3 Earnings and profits attributable to stock in complex cases.**

(b) Earnings and profits accumulated for a taxable year.

(2) Special rules. (i) The earnings and profits of the corporation accumulated—

(a) For any taxable year beginning before January 1, 1967, shall not include the excess of any item includible in gross income of the foreign corporation under section 882(b) as gross income derived from sources within the United States, and

(b) For any taxable year beginning after December 31, 1966, shall not include the excess of any item includible in gross income of the foreign corporation under section 882(b) (2) as income effectively connected for that year with the conduct by such corporation of a trade or business in the United States, whether derived from sources within or from sources without the United States,

over any deductions allocable to such item under section 882(c). However, if the sale or exchange of stock in the foreign corporation by the U.S. person occurs before January 1, 1967, the provisions of (a) of this subdivision apply with respect to such sale or exchange even though the taxable year begins after December 31, 1966. See section 1248(d) (4). Any item which is required to be excluded from gross income, or which is taxed at a reduced rate, under an applicable treaty obligation of the United States shall not be excluded under this subdivision from earnings and profits accumulated for a taxable year.

PAR. 27. Section 1.1249 is amended by revising section 1249(a) and the historical note to read as follows:

**§ 1.1249 Statutory provisions; gain from certain sales or exchanges of patents, etc., to foreign corporations.**

Sec. 1249. Gain from certain sales or exchanges of patents, etc., to foreign corporations—(a) General rule. Gain from the sale or exchange after December 31, 1962, of a patent, an invention, model, or design (whether or not patented), a copyright, a secret formula or process, or any other similar property right to any foreign corporation by any United States person (as defined in section 7701(a) (30)) which controls such foreign corporation shall, if such gain would (but for the provisions of this subsection) be gain from the sale or exchange of a capital asset or of property described in section 1231, be considered as gain from the sale or exchange of property which is neither a capital asset nor property described in section 1231.

[Sec. 1249 as added by sec. 16, Revenue Act 1962 (76 Stat. 1045); as amended by sec. 104(m) (3), Foreign Investors Tax Act 1966 (80 Stat. 1563).]

PAR. 28. Section 1.1563-1 is amended by revising paragraph (b) (2) (ii) (b) to read as follows:

**§ 1.1563-1 Definition of controlled group of corporations and component members.**

(b) Component members.

(2) Excluded members.

(ii) (b) A foreign corporation not subject to taxation under section 882(a) for the taxable year.

PAR. 29. Section 1.6012-2 is amended by revising paragraph (g) to read as follows:

**§ 1.6012-2 Corporations required to make returns of income.**

(g) Returns by foreign corporations—

(1) Requirement of return—(i) In general. Except as otherwise provided in subparagraph (2) of this paragraph, every foreign corporation which is engaged in trade or business in the United States at any time during the taxable year or which has income which is subject to taxation under subtitle A of the Code (relating to income taxes) shall make a return on Form 1120-F. Thus, for example, a foreign corporation which is engaged in trade or business in the United States at any time during the taxable year is required to file a return on Form 1120-F even though (a) it has no income which is effectively connected with the conduct of a trade or business in the United States, (b) it has no income from sources within the United States, or (c) its income is exempt from income tax by reason of an income tax convention or any section of the Code. However, if the foreign corporation has no gross income for the taxable year, it is not required to complete the return schedules but must attach a statement to the return indicating the nature of any exclusions claimed and the amount of such exclusions to the extent such amounts are readily determinable.

(ii) Treaty income. If the gross income of a foreign corporation includes treaty



income, as defined in paragraph (b)(1) of § 1.871-12, a statement shall be attached to the return on Form 1120-F showing with respect to that income—

- (a) The amounts of tax withheld,
- (b) The names and post office addresses of withholding agents, and
- (c) Such other information as may be required by the return form or by the instructions issued with respect to the form, to show the taxpayer's entitlement to the reduced rate of tax under the tax convention.

(iii) *Balance sheet and reconciliation of income.* At the election of the taxpayer, the balance sheets and reconciliation of income, as shown on Form 1120-F, may be limited to—

- (a) The assets of the corporation located in the United States and to its other assets used in the trade or business conducted in the United States, and
- (b) Its income effectively connected with the conduct of a trade or business in the United States and its other income from sources within the United States.

(2) *Exceptions.*—(i) *Return not required when tax is fully paid at source.*

(a) *In general.* A foreign corporation which at no time during the taxable year is engaged in a trade or business in the United States is not required to make a return for the taxable year if its tax liability for the taxable year is fully satisfied by the withholding of tax at source under chapter 3 of the Code. For purposes of this subdivision, some of the items of income from sources within the United States upon which the tax liability will not have been fully satisfied by the withholding of tax at source under chapter 3 of the Code are:

(1) Interest upon so-called tax-free covenant bonds upon which, in accordance with section 1451 and § 1.1451-1, a tax of only 2 percent is required to be withheld at source,

(2) In the case of bonds or other evidence of indebtedness issued after September 25, 1965, amounts described in section 881(a)(3),

(3) Accrued interest received in connection with the sale of bonds between interest dates, which, in accordance with paragraph (h) of § 1.1441-4, is not subject to withholding of tax at source.

(b) *Corporations not included.* This subdivision (i) shall not apply—

(1) To a foreign corporation which has income for the taxable year which is treated under section 882(d) or (e) and § 1.882-2 as income which is effectively connected for the taxable year with the conduct of a trade or business in the United States by that corporation,

(2) To a foreign corporation making a claim under § 301.6402-3 of this chapter (Procedure and Administration Regulations) for the refund of an overpayment of tax for the taxable year, or

(3) To a foreign corporation described in paragraph (c)(2)(i) of § 1.532-1 whose accumulated taxable income for the taxable year is determined under paragraph (b)(2) of § 1.535-1.

(ii) *Beneficiaries of estates or trusts.* A foreign corporation which is a beneficiary of an estate or trust which is

engaged in trade or business in the United States is not required to make a return for the taxable year merely because it is deemed to be engaged in trade or business within the United States under section 875(2). However, such foreign corporation will be required to make a return if it otherwise satisfies the conditions of subparagraph (1)(i) of this paragraph for making a return.

(iii) *Special returns and schedules.* The provisions of paragraphs (b) through (f) of this section shall apply to a foreign corporation except that a foreign corporation which is an insurance company to which paragraph (c)(3) of this section applies shall make a return on Form 1120-F and not on Form 1120. If a foreign corporation which is an insurance company to which paragraph (c)(1) or (2) of this section applies has income for the taxable year from sources within the United States which is not effectively connected for that year with the conduct of a trade or business in the United States by that corporation, the corporation shall attach to its return on Form 1120L or 1120M, as the case may be, a separate schedule showing the nature and amount of the items of such income, the rate of tax applicable thereto, and the amount of tax withheld therefrom under chapter 3 of the code.

(3) *Representative or agent for foreign corporation.*—(i) *Cases where power of attorney is not required.* The responsible representative or agent within the United States of a foreign corporation shall make on behalf of his principal a return of, and shall pay the tax on, all income coming within his control as representative or agent which is subject to the income tax under subtitle A of the code. The agency appointment will determine how completely the agent is substituted for the principal for tax purposes. Any person who collects interest or dividends on deposited securities of a foreign corporation, executes ownership certificates in connection therewith, or sells such securities under special instructions shall not be deemed merely by reason of such acts to be the responsible representative or agent of the foreign corporation. If the responsible representative or agent does not have a specific power of attorney from the foreign corporation to file a return in its behalf, the return shall be accompanied by a statement to the effect that the representative or agent does not possess specific power of attorney to file a return for such corporation but that the return is being filed in accordance with the provisions of this subdivision.

(ii) *Cases where power of attorney is required.* Whenever a return of income of a foreign corporation is made by an agent acting under a duly authorized power of attorney for that purpose, the return shall be accompanied by the power of attorney in proper form, or a copy thereof specifically authorizing him to represent his principal in making, executing, and filing the income tax return. Form 2848 may be used for this purpose. The agent, as well as the taxpayer, may incur liability for the penalties provided for erroneous, false, or fraudulent re-

turns. For the requirements regarding signing of returns, see § 1.6062-1. The rules of paragraph (c) of § 601.504 of this chapter (Statement of Procedural Rules) shall apply under this subparagraph in determining whether a copy of a power of attorney must be certified.

(iii) *Limitation.* A return of income shall be required under this subparagraph only if the foreign corporation is otherwise required to make a return in accordance with this paragraph.

(4) *Disallowance of deductions and credits.* For provisions disallowing deductions and credits when a return of income has not been filed by or on behalf of a foreign corporation, see section 882(c)(2) and the regulations thereunder, and paragraph (b)(2) and (3) of § 1.535-1.

(5) *Effective date.* This paragraph applies for taxable years beginning after December 31, 1966. For corresponding rules applicable to taxable years beginning before January 1, 1967, see 26 CFR 1.6012-2(g) (Rev. as of Jan. 1, 1971).

PAR. 30. Section 1.6062-1 is amended by revising paragraph (a)(3) to read as follows:

§ 1.6062-1 *Signing of returns, statements, and other documents made by corporations.*

(a) *Returns.* \* \* \*

(3) *By agents.* A return with respect to income required to be made by an agent for a foreign corporation shall be signed by such agent. See paragraph (g) of § 1.6012-2.

PAR. 31. Section 1.6302-1 is amended by revising paragraph (a) to read as follows:

§ 1.6302-1 *Use of Government depositaries in connection with corporation income and estimated income taxes.*

(a) *Requirement.* For taxable years ending on or after December 31, 1967, a corporation shall deposit with a Federal Reserve bank all payments of tax imposed by chapter 1 of the Code (including any payments of estimated tax) on or before the date otherwise prescribed for paying such tax. For taxable years ending after December 31, 1971, this paragraph does not apply to a foreign corporation which has no office or place of business in the United States. For taxable years ending before January 1, 1972, and on or after December 31, 1968, this paragraph does not apply to a foreign corporation which at no time during the taxable year is engaged in a trade or business in the United States. For taxable years ending before December 31, 1968, this paragraph does not apply to a foreign corporation.

PAR. 32. Section 301.6402-3 is amended by adding a new paragraph (e) to read as follows:

§ 301.6402-3 *Special rules applicable to income tax.*

(e) In the case of a nonresident alien individual or a foreign corporation the



claim for refund must show the taxpayer's entire income subject to tax, whether or not the tax has been fully satisfied at the source upon a portion of such income. If the overpayment has resulted from the withholding of tax at source under chapter 3 of the Code, a statement shall be attached to the claim for refund declaring that the person making the claim is the beneficial owner of the income and showing (1) the amounts of tax withheld, with the names and post office addresses of withholding agents, (2) the name in which the tax was withheld if other than that of the taxpayer, and, if applicable, (3) facts sufficient to show that, at the time the income was derived, the taxpayer was entitled to the benefit of a reduced rate of, or exemption from, tax with respect to that income under the provisions of an income tax convention to which the United States is a party. Upon request of the Director of International Operations the taxpayer shall also submit such evidence as may be required to show that the taxpayer is the beneficial owner of the income. In no case may a claim for refund of overwithheld tax be made by a nonresident alien individual or foreign corporation if the taxpayer has received a repayment or reimbursement of such tax in accordance with paragraph (a) of § 1.1461-4 of this chapter (Income Tax Regulations). See also § 1.1464-1 of this chapter.

**§ 1.6016 Statutory provisions; declarations of estimated income tax by corporations.**

**Sec. 6016. Declarations of estimated income tax by corporations—(a) Requirement of declaration.** Every corporation subject to taxation under section 11 or 1201(a), or subchapter L of chapter 1 (relating to insurance companies), shall make a declaration of estimated tax under chapter 1 for the taxable year if its income tax imposed by section 11 or 1201(a), or such subchapter L, for such taxable year, reduced by the credits against tax provided by part IV of subchapter A of chapter 1, can reasonably be expected to exceed \$100,000.

**(b) Estimated tax.** For purposes of this title, in the case of a corporation, the term "estimated tax" means the excess of—

(1) The amount which the corporation estimates as the amount of the income tax imposed by section 11 or 1201(a), or subchapter L of chapter 1, whichever is applicable, over

(2) the sum of—  
(A) \$100,000, and

(B) The amount which the corporation estimates as the sum of any credits against tax provided by part IV of subchapter A of chapter 1.

**(c) Contents of declaration.** The declaration shall contain such pertinent information as the Secretary or his delegate may by forms or regulations prescribe.

**(d) Amendment of declaration.** A corporation may make amendments of a declaration filed during the taxable year under regulations prescribed by the Secretary or his delegate.

**(e) Short taxable year.** A corporation with a taxable year of less than 12 months shall make a declaration in accordance with regulations prescribed by the Secretary or his delegate.

**(f) Certain foreign corporations.** For purposes of this section and section 6655, in the case of a foreign corporation subject to taxation under section 11 or 1201(a), or under subchapter L of chapter 1, the tax imposed by section 881 shall be treated as a tax imposed by section 11.

**(g) Cross reference.** For provisions relating to the number of amendments which must be filed, see section 6074(b). [Sec. 6016 as amended by sec. 122(d), Rev. Act 1964 (78 Stat. 29); sec. 104(1), Foreign Investors Tax Act 1966 (80 Stat. 1563); as in effect before repeal by sec. 103(a), Revenue and Expenditure Control Act 1968 (82 Stat. 260).]

**§ 301.6016 Statutory provisions; declarations of estimated income tax by corporations.**

**Sec. 6016. Declarations of estimated income tax by corporations—(a) Requirement of declaration.** Every corporation subject to taxation under section 11 or 1201(a), or subchapter L of chapter 1 (relating to insurance companies), shall make a declaration of estimated tax under chapter 1 for the taxable year if its income tax imposed by section 11 or 1201(a), or such subchapter L, for such taxable year, reduced by the credits against tax provided by part IV of subchapter A of chapter 1, can reasonably be expected to exceed \$100,000.

**(b) Estimated tax.** For purposes of this title, in the case of a corporation, the term "estimated tax" means the excess of—

(1) The amount which the corporation estimates as the amount of the income tax imposed by section 11 or 1201(a), or subchapter L of chapter 1, whichever is applicable, over

(2) The sum of—  
(A) \$100,000, and

(B) The amount which the corporation estimates as the sum of any credits against tax provided by part IV of subchapter A of chapter 1.

**(c) Contents of declaration.** The declaration shall contain such pertinent information as the Secretary or his delegate may by forms or regulations prescribe.

**(d) Amendment of declaration.** A corporation may make amendments of a declaration filed during the taxable year under regulations prescribed by the Secretary or his delegate.

**(e) Short taxable year.** A corporation with a taxable year of less than 12 months shall make a declaration in accordance with regulations prescribed by the Secretary or his delegate.

**(f) Certain foreign corporations.** For purposes of this section and section 6655, in the case of a foreign corporation subject to taxation under section 11 or 1201(a), or under subchapter L of chapter 1, the tax imposed by section 881 shall be treated as a tax imposed by section 11.

**(g) Cross reference.** For provisions relating to the number of amendments which must be filed, see section 6074(b).

(Sec. 6016 as amended by sec. 122(d), Rev. Act 1964 (78 Stat. 29); sec. 104(1), Foreign Investors Tax Act 1966 (80 Stat. 1563); as in effect before repeal by sec. 103(a), Revenue and Expenditure Control Act 1968 (82 Stat. 260).)

[FR Doc.73-25258 Filed 11-27-73;8:45 am]

**Title 28—Judicial Administration  
CHAPTER I—DEPARTMENT OF JUSTICE  
[Order 554-73]**

**PART 0—ORGANIZATION OF THE  
DEPARTMENT OF JUSTICE  
Subpart G-1—Office of Watergate Special  
Prosecution Force**

By virtue of the authority vested in me by 28 U.S.C. 509, 510 and 5 U.S.C. 301, the last sentence of the fourth paragraph of the Appendix to Subpart G-1 is amended to read as follows:

In accordance with assurances given by the President to the Attorney General that the President will not exercise his Constitutional powers to effect the discharge of the Special Prosecutor or to limit the independence that he is hereby given, (1) the Special Prosecutor will not be removed from his duties except for extraordinary improprieties on his part and without the President's first consulting the Majority and the Minority Leaders and Chairmen and ranking Minority Members of the Judiciary Committees of the Senate and House of Representatives and ascertaining that their consensus is in accord with his proposed action, and (2) the jurisdiction of the Special Prosecutor will not be limited without the President's first consulting with such Members of Congress and ascertaining that their consensus is in accord with his proposed action.

Dated: November 19, 1973.

ROBERT H. BORK,  
Acting Attorney General.

[FR Doc.73-25145 Filed 11-27-73;8:45 am]

[Order 555-73]

**PART 0—ORGANIZATION OF THE  
DEPARTMENT OF JUSTICE  
Subpart I—Civil Division**

**INTERNATIONAL JUDICIAL ASSISTANCE**

This order centralizes in the Civil Division functions relating to processing requests for international judicial assistance. Its purpose is to formalize and publish the existing practice of referring such requests to the Civil Division for processing.

By virtue of the authority vested in me by 5 U.S.C. 301 and 28 U.S.C. 509, 510, and 515-519, Executive Order No. 11698 of January 19, 1973, and Executive Order No. 11471 of May 28, 1969, as modified by the Secretary of State on October 18, 1973 to effect the designation of the Department of Justice as "Central Authority" under the Convention on the Service Abroad of Judicial and Extrajudicial Documents, a new § 0.49 is added to Subpart I of Part 0 of 28 CFR Chapter I to read as follows:

**§ 0.49 International Judicial Assistance.**

The Assistant Attorney General in charge of the Civil Division shall direct and supervise the following functions:



(a) The functions of the "Central Authority" under the Convention between the United States and other Governments on the Taking of Evidence Abroad in Civil and Commercial Matters, TIAS 7444, which entered into force on October 7, 1972.

(b) The functions of the "Central Authority" under the Convention between the United States and other Governments on the Service Abroad of Judicial and Extrajudicial Documents, TIAS 6638, which entered into force on February 10, 1969.

(c) To receive letters of requests issued by foreign and international judicial authorities which are referred to the Department of Justice through diplomatic or other governmental channels, and to transmit them to the appropriate courts or officers in the United States for execution.

(d) To receive and transmit through proper channels letters of request addressed by courts in the United States to foreign tribunals in connection with litigation to which the United States is a party.

Dated: November 19, 1973.

ROBERT H. BORK,  
Acting Attorney General.

[FR Doc. 73-25146 Filed 11-27-73; 8:45 am]

[Order 556-73]

#### PART 16—PRODUCTION OR DISCLOSURE OF MATERIAL OR INFORMATION

##### Subpart C—Production of FBI Identification Records in Response to Written Requests by Subjects Thereof

By order dated September 24, 1973, the Attorney General of the United States directed that the Federal Bureau of Investigation, hereinafter referred to as the FBI, publish rules for the dissemination of arrest and conviction records to the subjects of such records upon request. This order resulted from a determination that 28 U.S.C. 534 does not prohibit the subjects of arrest and conviction records from having access to those records. In accordance with the Attorney General's order, the FBI will release to the subjects of identification records copies of such records upon submission of a written request, satisfactory proof of identity of the person whose identification record is requested and a processing fee of five dollars.

Since the FBI Identification Division is not the source of the data appearing in identification records, and obtains all data thereon from fingerprint cards or related identification forms submitted to the FBI by local, state, and Federal agencies, the responsibility for authentication and correction of such data rests upon the contributing agencies. Therefore, the rules set forth for changing, correcting or updating such data require that the subject of an identification record make application to the original contributing agency in order to correct the deficiency complained of.

The relevant provisions of the Administrative Procedure Act (5 U.S.C. 553)

requiring notice of proposed rule making, opportunity for public participation and delay in effective date are inapplicable because the material contained herein relates to the interpretation of 28 U.S.C. 534 as allowing the granting of an exemption to subjects of identification records and relief of prior administrative restrictions on dissemination of such records to them. Furthermore, it is deemed in the public interest that there be no delay in effective date of availability of identification records to the subjects thereof.

By virtue of the order of the Attorney General, dated September 24, 1973, and pursuant to the authority delegated to the Director, FBI by 28 CFR 0.85(b), Part 16 of 28 CFR Chapter I, is amended by adding the following new Subpart C:

##### § 16.30 Purpose and scope.

This subpart contains the regulations of the Federal Bureau of Investigation, hereafter referred to as the FBI, concerning procedures to be followed when the subject of an identification record requests production thereof. It also contains the procedures for obtaining any change, correction or updating of such record.

##### § 16.31 Definition of identification record.

An FBI identification record, often referred to as a "rap sheet," is a listing of fingerprints submitted to and retained by the FBI in connection with arrests and, in certain instances, fingerprints submitted in connection with employment, naturalization or military service. The identification record includes the name of the agency or institution which submitted the fingerprints to the FBI. If the fingerprints submitted to the FBI concern a criminal offense, the identification record includes the date arrested or received, arrest charge information and disposition data concerning the arrest if known to the FBI. All such data included in an identification record are obtained from the contributing local, State and Federal agencies. The FBI Identification Division is not the source of such data reflected on an identification record.

##### § 16.32 Procedure to obtain an identification record.

The subject of an identification record may obtain a copy thereof by submitting a written request via the United States mails directly to the FBI, Identification Division, Washington, D.C. 20537, or may present his written request in person during regular business hours to the FBI Identification Division, Second and D Streets SW., Washington, D.C. Such request must be accompanied by satisfactory proof of identity, which shall consist of name, date and place of birth and a set of rolled-in inked fingerprint impressions taken upon fingerprint cards or forms commonly utilized for applicant or law enforcement purposes by law enforcement agencies.

##### § 16.33 Fee for provision of identification record.

Each written request for production of an identification record must be accom-

panied by a fee of five dollars (\$5.00) in the form of a certified check or money order, payable to the Treasurer of the United States. This fee is established pursuant to the provisions of 31 U.S.C. 483a and is based upon the clerical time beyond the first quarter hour to be spent in searching, identifying and reproducing each identification record requested, at the rate of \$1.25 per quarter hour, as specified in § 16.9. Any request for waiver of fee shall accompany the original request for the identification record and shall include a claim and proof of indigency. Consideration will be given to waiving the fee in such cases.

##### § 16.34 Procedure to obtain change, correction or updating of identification records.

If, after reviewing his identification record, the subject thereof believes that it is incorrect or incomplete in any respect and wishes changes, correction or updating of the alleged deficiency, he must make application directly to the contributor of the questioned information. Upon the receipt of an official communication directly from the agency which contributed the original information the FBI Identification Division will make any changes necessary in accordance with the information supplied by the agency.

CLARENCE M. KELLEY,  
Director,  
Federal Bureau of Investigation.

NOVEMBER 21, 1973.

[FR Doc. 73-25198 Filed 11-27-73; 8:45 am]

#### Title 40—Protection of Environment

##### CHAPTER 1—ENVIRONMENTAL PROTECTION AGENCY

##### PART 5—TUITION FEES FOR DIRECT TRAINING

This document announces a revision in policy of charging tuition fees for attendance at technical and managerial training courses conducted by the Environmental Protection Agency under its programs in air, water, water hygiene, solid wastes, radiation, and pesticides. (See 37 FR 11059, June 2, 1972.) Inasmuch as this revision relates to agency management and in view of the subject matter, notice of proposed rulemaking and public comment were considered unnecessary.

##### Sec.

- 5.1 Establishment of fees.
- 5.2 Definitions.
- 5.3 Schedule of fees.
- 5.4 Registration of offices.
- 5.5 Procedure for payment.
- 5.6 Refunds.
- 5.7 Waivers.
- 5.8 Appeal of waiver denial.

AUTHORITY: Title V, 65 Stat. 290 (31 U.S.C. 483a).

##### § 5.1 Establishment of fees.

The Environmental Protection Agency shall charge the revised schedule of tuition fees for all persons attending EPA direct training courses which commence on or after January 1, 1974.



# § 5.2 Definitions.

"Direct Training" means all technical and managerial training conducted directly by EPA for personnel of State and local governmental agencies, other Federal agencies, private industries, universities, and other non-EPA agencies and organizations.

"Registration office" means any of the several offices in EPA which have been designated to receive applications for attendance at direct training courses. (See § 5.4 for a listing of such courses.)

# § 5.3 Schedule of fees.

Tuition fees for direct training will be established within the range of \$15 to \$70 per training day depending upon whether the course is predominantly a laboratory, lecture, or survey course, or a course with other similar variables. Each cognitive program and regional office will announce the tuition fee at the time the date for offering the course is announced. As a transition easement, tuition fees for all State and local government employees are established at a maximum of \$25 per training day regardless of type of course until July 1, 1974. After that date they are to pay the full fee. Charges for field courses taught by EPA instructors are for actual expenses on a per course basis. Complete tuition fee schedules may be obtained from the registration offices listed in § 5.4. Tuition fees will be subject to change either upward or downward, based on actual experience under the system.

# § 5.4 Registration offices.

Direct training programs are offered by both EPA national program offices and regional EPA offices. Listed in this Section are the EPA national program offices and regional offices to which applications are to be sent. The proper registration office may be determined from the specific course announcement.

## NATIONAL PROGRAM OFFICES

### AIR PROGRAM

Direct Training Registration Office, Office of Air Programs, Research Triangle Park, North Carolina 27717.

### WASTE WATER TREATMENT PROGRAM

Direct Training Registration Office, National Training Center, Robert A. Taft Sanitary Engineering Center, Environmental Protection Agency, 4676 Columbia Parkway, Cincinnati, Ohio 45226.

### WATER SUPPLY TREATMENT PROGRAM

Direct Training Registration Office, Environmental Protection Agency, 4676 Columbia Parkway, Cincinnati, Ohio 45226.

### SOLID WASTE MANAGEMENT PROGRAM

U.S. Environmental Protection Agency, Office of Solid Waste Management Programs, Washington, D.C. 20460.

### RADIATION PROGRAM

U.S. Environmental Protection Agency, Office of Radiation Programs, Washington, D.C. 20460.

### PESTICIDES PROGRAM

U.S. Environmental Protection Agency, Office of Pesticides Programs, Washington, D.C. 20460.

## REGIONAL EPA OFFICES

EPA, Regional Manpower Office, Region I, JFK Federal Building—Room 2303, Boston, Massachusetts 02203.

EPA, Regional Manpower Office, Region II, 26 Federal Plaza, Room 845D, New York, New York 10007.

EPA, Regional Manpower Office, Region III, Sixth and Walnut Streets, Philadelphia, Pennsylvania 19106.

EPA, Regional Manpower Office, Region IV, 1421 Peachtree Street, NE, 4th floor, Atlanta, Georgia 30309.

EPA, Regional Manpower Office, Region V, 1 North Wacker Drive, Chicago, Illinois 60606.

EPA, Regional Manpower Office, Region VI, 1600 Patterson, Suite 1100, Dallas, Texas 75201.

EPA, Regional Manpower Office, Region VII, Room 249, 1735 Baltimore Avenue, Kansas City, Missouri 64108.

EPA, Regional Manpower Office, Region VIII, Suite 900, 1860 Lincoln Street, Denver, Colorado 80203.

EPA, Regional Manpower Office, Region IX, 100 California Street, San Francisco, California 94111.

EPA, Regional Manpower Office, Region X, 1200 Sixth Avenue, Seattle, Washington 98101.

# § 5.5 Procedure for payment.

Applications for direct training courses shall be completed and submitted in accordance with the instructions issued by the respective national program and/or regional offices. Fee payment in the amount indicated by the course announcement shall accompany completed applications (except in the case of waiver requests as described in § 5.7). All applications for field courses will be submitted in a timely manner by the sponsoring agency. Expenses will be noted and charges assessed the sponsoring agency after the course is conducted. The charge will be payable upon submission. All applicants shall make payment by check, payable to the U.S. Environmental Protection Agency, except applicants from Federal, State, and local agencies may send a purchase order of other acceptable financial commitment. Such financial commitment statements shall include information as to the agency and account number to be charged and other necessary information for billing purposes.

# § 5.6 Refunds.

An applicant may withdraw his application and receive full reimbursement of his fee provided that he notifies the appropriate registration office in writing no later than 10 days before commencement of the course for which he has registered.

# § 5.7 Waiver of fee.

Waivers of the full tuition fee may be granted on a limited basis. Each waiver request must be justified and considered by cognitive EPA units on: (1) severity of the pollution problem in the area in which the applicant employee is working; (2) bona-fide administrative or legal constraints of the applicant agency to pay the reduced fee; (3) service, resulting from the training that will be provided as a benefit to the Federal Government. No waivers will be granted for field courses. Waivers are provided as a tran-

sitional easement for exceptional cases and will not be granted after July 1, 1975.

# § 5.8 Appeal of waiver denial.

Waiver denials may be appealed to the Office of Education and Manpower Planning, Washington, D.C. 20460, to adjudicate and expedite agency review. Appeal submissions should include copies of original application and justification for waiver, EPA registration office denial correspondence, and other pertinent information supporting the request for waiver.

Effective date.—January 1, 1974.

Dated: November 19, 1973.

JOHN QUARLES,  
Acting Administrator.

[FR Doc.73-25109 Filed 11-27-73; 8:45 am]

## SUBCHAPTER C—AIR PROGRAMS PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

### Approval of Plan Revision for Massachusetts

On May 31, 1972 (37 FR 10432), pursuant to section 110 of the Clean Air Act and 40 CFR Part 51, the Administrator approved portions of a State plan for implementation of the National Ambient Air Quality Standards in the State of Massachusetts. This publication contains the Administrator's approval of a revision to that plan.

Massachusetts, after notice and public hearing, submitted a proposed revision to its implementation plan in the Metropolitan Boston Intrastate Air Quality Control Region which will allow the use of 1% sulfur content fuel at thirteen facilities operated by the Boston Housing Authority from November 15, 1973, to May 15, 1974. It has been estimated that about 220,000 barrels of this fuel will be required to heat these facilities, and the Boston Housing Authority has been unsuccessful in obtaining conforming fuel for these locations beyond November 15, 1973.

The Administrator has determined that this revision is consistent with the requirements of the Clean Air Act and 40 CFR Part 51. Accordingly it is approved in the table below. It is the Administrator's understanding that the Boston Housing Authority will submit an acceptable energy conservation program to the Massachusetts Department of Public Health within thirty days from the effective date of this approval, that this program will be included within the variance approved below, and that as such it will be an enforceable portion of the Massachusetts implementation plan. The approval below is effective on November 15, 1973.

The Agency finds that good cause exists for not publishing the actions as a notice of proposed rule making and for making them effective immediately for the following reasons:

1. The emergency nature of the current fuel shortage requires that the affected source know immediately the fuel restrictions applicable to it under the Massachusetts implementation plan so



that it may make arrangements to obtain the appropriate fuel.

2. The implementation plan revision was adopted in accordance with procedural requirements of State and Federal laws, which provided for an adequate public hearing and comment, and further participation would be impracticable.

(42 U.S.C. 1857c-5)

Dated: November 21, 1973.

RUSSELL E. TRAIN,  
Administrator.

| Source                   | Location | Regulations Involved | Date of adoption | Effective date | Final compliance date |
|--------------------------|----------|----------------------|------------------|----------------|-----------------------|
| Boston Housing Authority | Boston   | 5.1.1                | Nov. 2, 1973     | Nov. 15, 1973  | Nov. 15, 1974         |

[FR Doc. 73-25110 Filed 11-27-73; 8:45 am]

# **Title 41—Public Contracts and Property Management**

## **CHAPTER 1—FEDERAL PROCUREMENT REGULATIONS**

[FPR Amdt. 121]

### **NOVATION AND CHANGE OF NAME AGREEMENTS**

This amendment of the Federal Procurement Regulations adds a new Part 1-26, Contract Modifications, and a new Subpart 1-26.4, Novation and Change of Name Agreements, prescribing policies and procedures for recognition of successors in interest to Government contracts and for recognition of successors in corporate names. The amendment prescribes formats for novation and change of name agreements. In addition, the amendment prescribes a procedure for handling bids when the bidder's assets are transferred after bid opening but before award.

The table of parts is amended to add the following entry:

1-26 Contract modifications.

## **PART 1-2—PROCUREMENT BY FORMAL ADVERTISING**

### **Subpart 1-2.4—Opening of Bids and Award of Contract**

Section 1-2.404-2 is amended to add paragraph (h) which reads as follows:

§ 1-2.404-2 Rejection of individual bids.

(h) After submitting a bid, if a bidder transfers all of his assets or that part of his assets related to the bid during the period between the bid opening and the award, the transferee may not take over the bid. Accordingly, the contracting officer shall reject the bid (see Comptroller General decision B-171959, September 3, 1971).

## **PART 1-26—CONTRACT MODIFICATIONS**

New Part 1-26 is added which reads as follows:

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

### **Subpart W—Massachusetts**

1. Section 52.1125 is amended by adding new lines to the table in paragraph (b) as follows:

### **§ 52.1125 Compliance schedules.**

(b) \* \* \*

agreements after bid opening but before award). Examples include, but are not limited to:

(1) Sale of such assets, with appropriate provision for assumption of liabilities;

(2) Transfer of such assets pursuant to a merger or a consolidation of a corporation; and

(3) Incorporation of a proprietorship or partnership, or formation of a partnership.

The portion of the Act which prohibits the transfer of contracts is intended for the Government's protection, thus giving an agency discretion in acting to ensure that protection. The Government is generally not so much interested in what assets are transferred or in what manner the transfer of property or interest therein is accomplished. When requested to concur in a novation agreement, the Government's main concerns are (1) whether the proposed transferee is, in fact, a successor in interest to the Government contract, and (2) whether it is consistent with the Government's interest to concur in the novation agreement. Accordingly, the Government has the discretion to either (a) treat the contract as annulled by the assignment or (b) recognize the assignment if it is in the Government's best interests (see Comptroller General decision B-174314, August 28, 1973).

(b) A novation agreement is the legal instrument executed by the contractor (transferor), the successor in interest (transferee), and the Government by which, among other things, the transferor guarantees performance of the contract, the transferee assumes all obligations under the contract, and the Government recognizes the transfer of assets. The Government's recognition of a third party as the successor in interest to a Government contract is signified by the contracting officer's execution of the novation agreement which sets forth the obligations of the parties as the result of transferring the assets related to the Government contract. The transferee's assumption of the obligation to perform a given contract is further set forth in a supplemental agreement to that contract.

(c) When a contractor requests that the Government recognize a successor in interest, the contractor shall be required to provide three signed copies of the proposed novation agreement to the agency and one copy of any of the following that the contracting officer deems appropriate:

(1) A properly authenticated copy of the instrument by which the transfer of assets was effected; for example, bill of sale, certificate of merger, indenture of transfer, or court decree;

(2) A list of all affected contracts and purchase orders which have not been finally settled between the transferor and the Government, showing the contract number, the name and address of the procuring activity involved, the total dollar value of each contract as amended,

### **Subpart 1-26.1 [Reserved] Subpart 1-26.2 [Reserved] Subpart 1-26.3 [Reserved] Subpart 1-26.4—Novation and Change of Name Agreements**

Sec.  
1-26.400 Scope of subpart.  
1-26.401 [Reserved]  
1-26.402 Agreement to recognize a successor in interest.  
1-26.403 Agreement to recognize change of name of contractor.  
1-26.404 Processing novation and change of name agreements.

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

### **Subpart 1-26.1 [Reserved]**

### **Subpart 1-26.2 [Reserved]**

### **Subpart 1-26.3 [Reserved]**

### **Subpart 1-26.4—Novation and Change of Name Agreements**

#### **§ 1-26.400 Scope of subpart.**

This subpart prescribes the policies and procedures for (a) recognition of a successor in interest to a Government contract or contracts when such interests are acquired as the result of a transfer of all the assets of a contractor or of such part of his assets as may be involved in the performance of the contract or contracts, and (b) a change of name of a contractor.

#### **§ 1-26.401 [Reserved]**

#### **§ 1-26.402 Agreement to recognize a successor in interest.**

(a) The transfer of a Government contract is prohibited by law (41 U.S.C. 15). However, the Government may, if it is in its best interest, recognize a third party as the successor in interest to a Government contract when the third party's interest in the contract arises out of the transfer either of all the assets of the contractor or of all of that part of the contractor's assets involved in the performance of the contract (see § 1-2.404-2(h) regarding the effect of novation



the type of contract involved, and the balance remaining unpaid;

(3) A certified copy of the resolutions of each of the boards of directors of the corporate parties authorizing the transfer of assets;

(4) A certified copy of the minutes of any stockholders' meetings of the corporate parties necessary to approve the transfer of assets;

(5) A properly authenticated copy of the certificate and articles of incorporation of the transferee if such corporation was formed for the purpose of receiving the assets involved in the performance of the Government contracts;

(6) Opinion of legal counsel for the transferor and transferee that the transfer was properly effected in accordance with applicable law and the effective date of transfer;

(7) Evidence of the capability of the transferee to perform the contracts;

(8) Balance sheets, reflecting independent certifications of accuracy, of the transferor and the transferee as of dates immediately prior to and after the transfer of assets;

(9) Evidence of security clearance requirement;

(10) Consent of sureties on all the contracts listed under subparagraph (2) of this paragraph (c) where bonds have been furnished or a statement from the transferor that no bond is required; and

(11) In the case of construction contracts, releases and waivers of liens by subcontractors.

(d) When it is consistent with the Government's interest to recognize a successor in interest to a Government contract, the contracting officer concerned shall execute an agreement with the transferor and the transferee which shall ordinarily provide in part that:

(1) The transferee assumes all the transferor's obligations under the contract;

(2) The transferor waives all rights under the contract as against the Government;

(3) The transferor guarantees performance of the contract by the transferee (a satisfactory performance bond may be accepted in lieu of such guarantee); and

(4) Nothing in the agreement shall relieve the transferor or the transferee from compliance with any Federal law.

(e) A form for such an agreement for use when the transferor and transferee are corporations and all the assets of the transferor are transferred is set forth in this paragraph (e). This form may be adapted to fit specific cases and may be used as a guide in preparing similar agreements for use in other situations.

# AGREEMENT

This Agreement entered into as of (date upon which the transfer of assets became effective pursuant to applicable State law), by and between the ABC CORPORATION, a corporation duly organized and existing under the laws of the State of \_\_\_\_\_ with its principal office in the City of \_\_\_\_\_ (hereinafter referred to as the "Transferor"); the XYZ CORPORATION, (add, if appropriate, "formerly known as the

EFG Corporation") a corporation duly organized and existing under the laws of the State of \_\_\_\_\_ with its principal office in the City of \_\_\_\_\_ (hereinafter referred to as the "Transferee"); and the UNITED STATES OF AMERICA (hereinafter referred to as the "Government").

## WITNESSETH THAT

1. WHEREAS, the Government, represented by various Contracting Officers of (insert name of agency) has entered into certain contracts and purchase orders with the Transferor namely (insert contract or purchase order description or "as set forth in the attached list marked 'Exhibit A' to this Agreement") and herein incorporated by reference; and the term "the contracts" as hereafter used means the above contracts and purchase orders, and all other contracts and purchase orders, including modifications thereto, heretofore made between the Government, represented by various Contracting Officers of the above-named agency and the Transferor (whether or not performance and payment have been completed and releases executed, if the Government or the Transferor has any remaining rights, duties, or obligations thereunder), and including modifications thereto hereafter made in accordance with the terms and conditions of such contracts and purchase orders between the Government and the Transferee;

2. WHEREAS, as of \_\_\_\_\_, 19\_\_\_\_, the Transferor assigned, conveyed, and transferred to the Transferee all the assets of the Transferor by virtue of a (term descriptive of the legal transaction involved) between the Transferor and the Transferee;

3. WHEREAS, as of \_\_\_\_\_, 19\_\_\_\_, the Transferee, by virtue of said assignment, conveyance, and transfer, has acquired all the assets of the Transferor;

4. WHEREAS, by virtue of said assignment, conveyance, and transfer, the Transferee has assumed all the duties, obligations, and liabilities of the Transferor under the contracts;

5. WHEREAS, the Transferee is in a position fully to perform the contracts and such duties and obligations as may exist under the contracts;

6. WHEREAS, it is consistent with the Government's interest to recognize the Transferee as the successor party to the contracts;

7. WHEREAS, there has been filed with the Government evidence of said assignment, conveyance, or transfer.

(Where a change of name is also involved, such as prior or concurrent change of name of the Transferee, an appropriate recital shall be used, for example:

8. WHEREAS, there has been filed with the Government a certificate dated \_\_\_\_\_, 19\_\_\_\_, signed by the Secretary of the State of \_\_\_\_\_ to the effect that the corporate name of EFG CORPORATION was changed to XYZ CORPORATION on \_\_\_\_\_, 19\_\_\_\_.)

NOW THEREFORE, in consideration of these premises, the parties hereto agree as follows:

1. The Transferor hereby confirms said assignment, conveyance, and transfer to the Transferee and does hereby release and discharge the Government from, and does hereby waive, any and all claims, demands, and rights against the Government which it now has or may hereafter have in connection with the contracts.

2. The Transferee hereby assumes, agrees to be bound by, and undertakes to perform each and every one of the terms, covenants, and conditions contained in the contracts. The Transferee further assumes all obligations and liabilities of and all claims and demands against the Transferor under the contracts, in all respects as if the Transferee were the original party to the contracts.

3. The Transferee hereby ratifies and confirms all actions heretofore taken by the Transferor with respect to the contracts with the same force and effect as if the action had been taken by the Transferee.

4. The Government hereby recognizes the Transferee as the Transferor's successor in interest in and to the contracts. The Transferee hereby becomes entitled to all right, title, and interest of the Transferor in and to the contracts in all respects as if the Transferee were the original party to the contracts. The term "Contractor" as used in the contracts shall be deemed to refer to the Transferee rather than to the Transferor.

5. Except as expressly provided herein, nothing in this Agreement shall be construed as a waiver of any rights of the Government against the Transferor.

6. Notwithstanding the foregoing provisions, all payments and reimbursements heretofore made by the Government to the Transferor and all other actions heretofore taken by the Government pursuant to its obligations under any of the contracts shall be deemed to have discharged pro tanto the Government's obligations under the contracts. All payments and reimbursements made by the Government after the date of this Agreement in the name of or to the Transferor shall have the same force and effect as if made to said Transferee and shall constitute a complete discharge of the Government's obligations under the contracts, to the extent of the amounts so paid or reimbursed.

7. The Transferor and the Transferee hereby agree that the Government shall not be obligated to pay or reimburse either of them for, or otherwise give effect to, any costs, taxes, or other expenses, or any increases therein, directly or indirectly arising out of or resulting from (a) said assignment, conveyance, and transfer or (b) this Agreement, other than those which the Government, in the absence of said assignment, conveyance, and transfer, or this Agreement, would have been obligated to pay or reimburse under the terms of the contracts.

8. The Transferor hereby guarantees payment of all liabilities and the performance of all obligations which the Transferee (a) assumes under this Agreement or (b) may hereafter undertake under the contracts as they may hereafter be amended or modified in accordance with the terms and conditions thereof, and the Transferor hereby waives notice of and consents to any such amendment or modification.

9. Except as herein modified, the contracts shall remain in full force and effect.

IN WITNESS WHEREOF, each of the parties hereto has executed this Agreement as of the day and year first above written.

UNITED STATES OF AMERICA,

By \_\_\_\_\_

Title \_\_\_\_\_

ABC CORPORATION,

By \_\_\_\_\_

Title \_\_\_\_\_

[CORPORATE SEAL]

XYZ CORPORATION,

By \_\_\_\_\_

Title \_\_\_\_\_

[CORPORATE SEAL]

## CERTIFICATE

I, \_\_\_\_\_, certify that I am the Secretary of ABC CORPORATION, named above; that \_\_\_\_\_ who signed this Agreement on behalf of said corporation, was then \_\_\_\_\_ of said corporation; and that this Agreement was duly signed for and in behalf of said corporation by authority of its governing body and within the scope of its corporate powers.



Witness my hand and the seal of said corporation this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

By \_\_\_\_\_

[CORPORATE SEAL]

#### CERTIFICATE

I, \_\_\_\_\_, certify that I am the Secretary of XYZ CORPORATION, named above; that \_\_\_\_\_ who signed this Agreement on behalf of said corporation, was then \_\_\_\_\_ of said corporation; and that this Agreement was duly signed for and in behalf of said corporation by authority of its governing body and within the scope of its corporate powers.

Witness my hand and the seal of said corporation this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

By \_\_\_\_\_

[Corporate Seal]

#### § 1-26.403 Agreement to recognize change of name of contractor.

(a) When only a change of name is involved so that the rights and obligations of the parties remain unaffected, an agreement shall be executed between the parties to reflect the contractor's change of name. Three signed copies of the Change of Name Agreement and one copy of each of the following shall be forwarded by the contractor to the agency:

(1) A copy of the instrument by which the change of name was effected, authenticated by a proper official of the State having jurisdiction;

(2) Opinion of legal counsel for the contractor regarding the effective date of the change of name and that the change of name was properly effected in accordance with applicable law; and

(3) A list of all contracts and purchase orders which have not been finally settled between the Government and the transferor, showing the contract number, the name and address of the procuring activity involved, the total dollar value of each contract, as amended, and the balance remaining unpaid.

(b) A format for such an agreement which may be used or adapted for specific cases is set forth below:

#### AGREEMENT

This Agreement entered into as of (date upon which the change of name became effective pursuant to applicable State law), by and between the ABC CORPORATION (hereinafter sometimes referred to as the "Contractor"), a corporation duly organized and existing under the laws of the State of \_\_\_\_\_ and the UNITED STATES OF AMERICA (hereinafter referred to as the "Government").

#### WITNESSETH THAT

1. WHEREAS, the Government, represented by various Contracting Officers of the (insert name of agency) has entered into certain contracts and purchase orders with the XYZ CORPORATION, namely (insert contract or purchase order description or "as set forth in the attached list marked 'Exhibit A' to this Agreement and herein incorporated by reference") and the term "the contracts" as hereinafter used means the above contracts and purchase orders, and all other contracts and purchase orders, including modifications thereto, entered into between the Government, represented by various Contracting Officers of (insert name of agency) and the Contractor whether or not performance and payment have been completed and releases executed, if the Gov-

ernment or the Contractor has any remaining rights, duties, or obligations thereunder;

2. WHEREAS, the XYZ CORPORATION, by an amendment to its certificate of incorporation, dated \_\_\_\_\_, has changed its corporate name to ABC CORPORATION;

3. WHEREAS, a change of corporate name only is accomplished by said amendment, so that rights and obligations of the Government and of the Contractor under the contracts are unaffected by said change; and

4. WHEREAS, there has been filed with the Government documentary evidence of said change in corporate name.

NOW THEREFORE, in consideration of the premises, the parties hereto agree that the contracts covered by this Agreement are hereby amended by deleting therefrom the name "XYZ CORPORATION" wherever it appears in the contracts and substituting therefor the name "ABC CORPORATION."

IN WITNESS WHEREOF, each of the parties hereto has executed this Agreement as of the day and year first above written.

UNITED STATES OF AMERICA,

By \_\_\_\_\_

Title \_\_\_\_\_

ABC CORPORATION,

By \_\_\_\_\_

Title \_\_\_\_\_

[CORPORATE SEAL]

#### CERTIFICATE

I, \_\_\_\_\_, certify that I am the Secretary of ABC CORPORATION, named above, that \_\_\_\_\_ who signed this Agreement on behalf of said corporation was then \_\_\_\_\_ of said corporation and that this Agreement was duly signed for and in behalf of said corporation by authority of its governing body and is within the scope of its corporate powers.

Witness my hand and the seal of said corporation this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

By \_\_\_\_\_

[CORPORATE SEAL]

#### § 1-26.404 Processing novation and change of name agreements.

(a) When a firm performing a Government contract wishes the Government to recognize a successor in interest to that contract, the contractor shall submit to the administering contracting officer all the documents required by § 1-26.402(c).

(b) The contracting officer shall determine whether it is in the best interest of the Government to recognize the proposed successor in interest on the basis of the following:

(1) The concurrence of the technical manager of the contract;

(2) His own determination that the proposed successor in interest is responsible in accordance with Subpart 1-1.12; and

(3) The legal sufficiency of the documents involved prior to execution as established by the review of counsel in accordance with agency procedures.

(c) A signed copy of the executed novation or change of name agreement shall be forwarded to the contractor, a signed copy shall be retained in the procuring agency executing the agreement, and where more than one procuring agency or activity is involved, a copy shall be sent by the executing agency to each agency or activity involved.

(d) After execution and distribution of the agreement to all parties involved, each contract affected thereby shall be appropriately modified by the respon-

sible contracting officer and a copy of the modification shall be distributed to all parties who received the basic contract.

(e) To preclude unnecessary duplications of effort and in the interest of economy and efficiency, the contracting officer administering the largest contract being performed by the firm which wishes to transfer its contracts is encouraged to contact other contracting officers administering contracts with that firm to ascertain whether they are interested in having him act as their representative in (1) determining whether it is in the Government's interest to recognize the proposed successor in interest, and (2) executing a novation agreement covering their respective contracts.

#### PART 1-30—CONTRACT FINANCING

##### Subpart 1-30.7—Assignment of Claims

Section 1-30.710 is revised to read as follows:

#### § 1-30.710 Transfer of businesses and corporate mergers.

Transfers of an entire business, corporate mergers, and assignments by operation of law, each of which may affect the assignment of claims under a contract, are not prohibited by the Federal statutes and hence do not depend upon the Assignment of Claims Act of 1940, as amended, for their validity. However, in the case of transfers of a business or corporate mergers, notices of assignment of claims under the contract made by the transferee or successor corporation should not be acknowledged until the transferee or successor corporation involved has been recognized by the procuring agency as the lawful successor in interest to the Government contract. Similarly, before acknowledging an assignment made by a party who is a transferee by operation of law, the contracting officer should require the submission of a certified copy of the document evidencing the transfer by operation of law. Detailed procedures covering novation agreements are set forth in Subpart 1-26.4.

**Effective date.** This regulation is effective December 31, 1973, but may be observed earlier.

Dated: November 21, 1973.

ARTHUR F. SAMPSON,  
Administrator of General Services.

[FR Doc.73-25223 Filed 11-27-73; 8:45 am]

#### Title 6—Economic Stabilization

##### CHAPTER 1—COST OF LIVING COUNCIL PART 150—COST OF LIVING COUNCIL PHASE IV PRICE REGULATIONS

#### Product Mix Changes

##### Correction

In FR Doc. 73-23358, appearing at page 30097, in the issue for Thursday, November 1, 1973, the 13th line of the second paragraph in the first column of page 30098 should be deleted.



**PART 150—PHASE IV PRICE REGULATIONS**

**Miscellaneous Amendments**

1. Section 150.54 is amended to add a new paragraph (r) which exempts from Phase IV controls the prices charged for products and services procured by the Federal Government from workshops for the blind and other severely handicapped individuals under P.L. 92-28 (85 Stat. 77, 41 U.S.C. 46-48).

The affected workshops sell products and services to the Federal Government according to prices established by a committee of the Federal Government, the President's Committee for Purchase of Products and Services of the Blind and Other Severely Handicapped. The prices are fully cost justified in accordance with standards which are similar to those of the Economic Stabilization Program. However, new prices for certain items, although cost justified, may not be authorized under Phase IV because of restrictive cost reach back provisions in the regulations. The workshops are non-profit organizations and are unable to sell at loss for an extended period of time.

The Cost of Living Council has determined that exemption is justified in order to maintain full employment of the approximately 5,000 persons employed in these workshops. Adequate price control is exercised by the Committee setting prices for these products so that continuation of coverage under the Phase IV program would only result in duplication of controls.

2. Under existing Phase IV regulations, base cost for all costs other than labor costs is the rate at which those costs were being incurred on the first full day of business of the base cost period and current cost for all costs other than labor costs is measured as of the last full day of business of the current cost period. As an alternative, base and current cost may also be computed on the basis of the average cost for each period. However, the regulations prior to this amendment did not make clear whether, under the alternative method, the average was to be computed by the input method or the output method. This amendment clarifies the choices available by modifying the language of §§ 150.132(c) and 150.133(c).

Specifically, language has been added to the existing regulations to make clear the Council's policy of allowing firms a choice among two methods of input cost justification and the output method of cost justification. The method selected by most firms should continue to be the comparison, on an input basis, of base cost as of the first full day of the base cost period and current cost as of last full day of the current cost period. When costs cannot reasonably be determined by that method a firm may use average base and current costs computed by the input method. The output method may be used when neither of the input methods produce a reasonable determination of costs.

Sections 150.132(c) and 150.133(c) are further amended by adding new subparagraphs (2). The new subparagraphs add language making clear the authority of the Council to require a firm to compute costs by a particular method when necessary to reflect accurately the firm's cost position.

A change in the methods or technology of production, product mix, market conditions or other distortion may make the comparison of base cost and current cost inaccurate under one of the methods of cost justification permitted under §§ 150.132(c)(1) or 150.133(c)(1). To prevent a windfall and to assure that cost information reflects a firm's actual cost experience, the Council may, under the amended regulations §§ 150.132(c)(2) or 150.133(c)(2), require a firm to compute costs in accordance with another of the methods set forth in subparagraphs (1) of those sections. The alternatives in subparagraphs (1) are presented only so that a firm may show most accurately its cost experience. The addition of subparagraphs (2) makes clear the Council's authority to review a firm's choice of methods of cost justification and require a change under some circumstances.

3. Section 150.206(c)(1) is amended by deleting the reference to January 1, 1974. The section was based upon the provisions of § 150.76 which, until the amendment of November 2, 1973 (38 FR 30266), included a reference to January 1, 1974. This change is made in order to conform § 150.206(c)(1)(i) to the current language of § 150.76.

Because the purpose of these amendments is to make technical corrections and to provide immediate guidance and information with respect to the decisions of the Council, the Council finds that publication in accordance with normal rulemaking procedure is impracticable and that good cause exists for making these amendments effective in less than 30 days. Interested persons may submit written comments regarding these regulations. Communications should be addressed to the Office of the General Counsel, Cost of Living Council, 2000 M Street NW., Washington, D.C. 20508.

(Economic Stabilization Act of 1970, as amended, Pub. L. 92-210, 85 Stat. 743; Pub. L. 93-28, 87 Stat. 27; E.O. 11695, 38 FR 1473; E.O. 11730, 38 FR 19345; Cost of Living Council Order No. 14, 38 FR 1489)

In consideration of the foregoing, Part 150 of Title 6 of the Code of Regulations is amended as set forth herein, effective November 26, 1973.

Issued in Washington, D.C. on November 26, 1973.

JAMES W. McLANE,  
Deputy Director,  
Cost of Living Council.

1. Section 150.54 is amended by adding paragraph (r) to read as follows:

**§ 150.54 Certain price adjustments.**

(r) *Workshops for the blind and other severely handicapped individuals.* Prices charged for any product or service procured by the Federal government from

a workshop for the blind or other severely handicapped individuals under the provisions of Public Law 92-28 (75 Stat. 77, 41 U.S.C. 46-48) are exempt.

2. Section 150.132(c) is amended to read as follows:

**§ 150.132 Base cost.**

(c) *All other costs.* (1) The base cost with respect to all costs other than labor costs is the rate at which those costs were being incurred on the first full day of business in the base cost period, calculated by the input method, or the average cost incurred throughout the base cost period, calculated by the input method. However, if the base cost with respect to all costs other than labor costs cannot reasonably be determined by the methods prescribed in the preceding sentence, that base cost may be determined by the output method of cost justification in accordance with instructions which accompany forms issued pursuant to Subpart H of this part.

(2) The Council may, at its discretion, require a firm to compute the base cost with respect to all costs other than labor costs according to any of the methods set forth in paragraph (c)(1) of this section when such computation is necessary to represent accurately the firm's base cost.

Section 150.133(c) is amended to read as follows:

**§ 150.133 Current cost.**

(c) *All other costs.* (1) The current cost with respect to all costs other than labor costs is the rate at which those costs were being incurred on the last full day of business in the current cost period, calculated by the input method, or the average cost incurred throughout the current cost period, calculated by the input method. However, if the current cost with respect to all costs other than labor costs cannot reasonably be determined by the methods prescribed in the preceding sentence, that current cost may be determined by the output method of cost justification in accordance with instructions which accompany forms issued pursuant to Subpart H of this part.

(2) The Council may, at its discretion, require a firm to compute current cost with respect to all costs other than labor costs according to any of the methods set forth in paragraph (c)(1) of this section when such computation is necessary to represent accurately the firm's current cost.

3. Section 150.206(c)(1)(i) is amended to read as follows:

**§ 150.206 Broadcasting.**

(c) *General rules.* (1) Except as provided in paragraph (c)(1)(ii) of this section the price or prices specified in a contract for the sale of a unit of advertising entered into before 9 p.m., e.s.t., June 13, 1973, with respect to any performance occurring after August 12, 1973 shall be allowable; and

[FR Doc. 73-25373 Filed 11-27-73; 10:11 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 rulemaking prior to the adoption of the final rules.

## DEPARTMENT OF THE TREASURY

Internal Revenue Service

[ 26 CFR Part 301 ]

### DESIGNATION BY INDIVIDUALS TO PRESIDENTIAL ELECTION CAMPAIGN FUND

#### Procedure and Administration

Notice is hereby given that the regulations with respect to designations by individuals to the Presidential Election Campaign fund proposed to be prescribed under section 6096 of the Internal Revenue Code of 1954 which were published in tentative form with a notice of proposed rulemaking in the FEDERAL REGISTER for May 31, 1973 (38 FR 14287) are withdrawn and that the regulations set forth in tentative form in the attached appendix are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing (preferably six copies) to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, by December 27, 1973. Written comments or suggestions which are not exempt from disclosure by the Internal Revenue Service may be inspected by any person upon compliance with 26 CFR 601.702(d) (9). The provisions of 26 CFR 601.601(b) shall apply with respect to the designation of portions of comments or suggestions as exempt from disclosure. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner by December 27, 1973. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER, unless the person or persons who have requested a hearing withdraw their requests for a hearing before notice of the hearing has been filed with the Office of the Federal Register. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL] DONALD C. ALEXANDER,  
Commissioner of Internal Revenue.

This document contains proposed amendments to the Regulations on Procedure and Administration (26 CFR Part 301) relating to the Presidential Election Campaign Fund. The proposed regula-

tions provide that designations to the Presidential Election Campaign Fund, if made at the time of filing the tax return, shall be made on either the first page of the return or on the page bearing the taxpayer's signature, in accordance with the applicable instructions.

The proposed regulations reflect the legislative changes in section 6096 of the Internal Revenue Code of 1954, as amended by section 802(a) of the Revenue Act of 1971 and by section 6(a) of the Act of July 1, 1973 (87 Stat. 135).

Proposed amendments to the regulations. The regulations on procedure and administration (26 CFR Part 301) are amended as follows. Section 12.6 of the temporary Income Tax Regulations under the Revenue Act of 1971 (26 CFR Part 12) is superseded.

PARAGRAPH 1. The following new sections are added immediately after § 301.6091-1:

#### § 301.6096 Statutory provisions; designation by individuals.

Sec. 6096. Designation by individuals—(a) *In General.* Every individual (other than a nonresident alien) whose income tax liability for any taxable year is \$1 or more may designate that \$1 shall be paid over to the Presidential Election Campaign Fund in accordance with the provisions of section 9006(a). In the case of a joint return of husband and wife having an income tax liability of \$2 or more, each spouse may designate that \$1 shall be paid to the fund.

(b) *Income tax liability.* For purposes of subsection (a), the income tax liability of an individual for any taxable year is the amount of the tax imposed by chapter 1 on such individual for such taxable year (as shown on his return), reduced by the sum of the credits (as shown on his return) allowable under sections 33, 37, 38, 40 and 41.

(c) *Manner and time of designation.* A designation under subsection (a) may be made with respect to any taxable year—

(1) At the time of filing the return of the tax imposed by chapter 1 for such taxable year; or

(2) At any other time (after the time of filing the return of the tax imposed by chapter 1 for such taxable year) specified in regulations prescribed by the Secretary or his delegate.

Such designation shall be made in such manner as the Secretary or his delegate prescribes by regulations except that, if such designation is made at the time of filing the return of the tax imposed by chapter 1 for such taxable year such designation shall be made either on the first page of the return or on the page bearing the taxpayer's signature.

(Sec. 6096 added by sec. 302, Foreign Investors Tax Act 1966 (80 Stat. 1587); amended by sec. 802 (a) and (b) (2), Rev. Act 1971 (85 Stat. 573) and by sec. 6(a) of the Act of July 1, 1973. (87 Stat. 135).)

#### § 301.6096-1 Designation by individuals for taxable years beginning after December 31, 1972.

(a) *In general.* Every individual (other than a nonresident alien) whose income tax liability, as defined in paragraph (b) of this section, is one dollar or more may, at his option, designate that one dollar shall be paid over to the Presidential Election Campaign Fund, in accordance with the provisions of section 9006. In the case of a joint return of a husband and wife, each spouse may designate that one dollar be paid to the fund as provided in this paragraph only if the joint income tax liability of the husband and wife is two dollars or more.

(b) *Income tax liability.* For purposes of paragraph (a) of this section, the income tax liability of an individual for any taxable year is the amount of the tax imposed by chapter 1 on such individual for such taxable year (as shown on his return), reduced by the sum of the credits (as shown on his return) allowable under sections 33, 37, 38, 40 and 41.

(c) *Manner and time of designation.* (1) A designation under paragraph (a) of this section may be made with respect to any taxable year at the time of the filing of the return of the tax imposed by chapter 1 for such taxable year, and shall be made either on the first page of the return or on the page bearing the taxpayer's signature, in accordance with the instructions applicable thereto.

(2) With respect to any taxable year beginning after December 31, 1972 for which no designation was made under paragraph (c) (1) of this section, a designation may be made on the form furnished by the Internal Revenue Service for such purpose, filed within 20 and one half months after the due date for the original return for such taxable year. In the case of a joint return where neither spouse made a designation or where only one spouse made a designation, a designation may be made, as provided in this subparagraph, by the spouse or spouses who had not previously made a designation.

(3) A designation once made, whether by an original return or otherwise, may not be revoked.

(d) *Effective date.* This section shall apply to taxable years beginning after December 31, 1972.

#### § 301.6096-2 Designation by individuals for taxable years ending on or after December 31, 1972 and beginning before January 1, 1973.

(a) *In general.* (1) For taxable years ending on or after December 31, 1972 and beginning before January 1, 1973, every individual (other than a non-resident



alien) whose income tax liability, as defined in paragraph (b) of this section, is one dollar or more, may, at his option, designate that one dollar shall be paid over to the Presidential Election Campaign Fund, referred to in § 301.6096-1 (a). Where in accordance with prior law, such a designation was made for the account of any candidate of any specified political party, or for a general account for all candidates for election to the offices of President and Vice President of the United States, such a designation shall be treated solely as a designation to such fund.

(2) In the case of a joint return of a husband and wife, each spouse may designate that one dollar be paid to the fund as provided in paragraph (a) (1) of this section only if the joint income tax liability of the husband and wife is two dollars or more.

(b) *Income tax liability.* For purposes of paragraph (a) of this section, the income tax liability of an individual for any taxable year is the amount of the tax imposed by chapter 1 on such individual for such taxable year (as shown on his return), reduced by the sum of the credits (as shown on his return).

(c) *Manner and time of designation.* (1) A designation under paragraph (a) of this section may be made with respect to any such taxable year at the time of the filing of the return of the tax imposed by chapter 1 for such taxable year. If such designation is made at the time of filing the original return for such year, it shall be made by the individual on the form furnished by the Internal Revenue Service for such purpose in accordance with the instructions applicable thereto.

(2) With respect to any taxable year ending on or after December 31, 1972 and beginning before January 1, 1973, for which no designation was made under paragraph (c) (1) of this section, a designation may be made on the form furnished by the Internal Revenue Service for such purpose, filed within 20 and one half months after the due date for the original return for such taxable year. In the case of a joint return where neither spouse made a designation or where only one spouse made a designation, a designation may be made, as provided in this subparagraph, by the spouse or spouses who had not previously made a designation.

(3) A designation once made, whether by an original return or otherwise, may not be revoked.

[FR Doc.73-25259 Filed 11-27-73; 8:45 am]

## DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 947]

[947.332 Amdt. 1]

### IRISH POTATOES GROWN IN MODOC AND SISKIYOU COUNTIES IN CALIFORNIA AND IN ALL COUNTIES IN OREGON EXCEPT MALHEUR COUNTY

#### Handling Regulation

Consideration is being given to a proposed amendment of the handling regulation

(38 FR 19009) hereinafter set forth, which was recommended by the Oregon-California Potato Committee, established pursuant to Marketing Agreement No. 114 and Order No. 947, both as amended (7 CFR Part 947), regulating the handling of Irish potatoes grown in the designated production area. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

This notice is based on the recommendations and information submitted by the Oregon-California Potato Committee at its September 26, 1973, meeting and other available information. The recommendations of the committee reflect its reappraisal of the composition of the 1973 crop and of the marketing prospects for production area potatoes the balance of this season.

The grade, size, quality, maturity and pack requirements as provided herein continue to be necessary to prevent potatoes of low quality, or undesirable sizes from being distributed to fresh market channels. However, after operating with these handling regulations since July 18, 1973, the committee recommends the following change:

That small potatoes for export should no longer be required to meet U.S. No. 1 grade. The committee feels that exported potatoes do not compete with shipments to the domestic market; also that importers are best qualified to determine which grade is needed, and no purpose is served by requiring U.S. No. 1 grade.

The committee also recommended that shipments of potatoes grown in District 5 to certain designated counties in Washington and to Malheur County, Oregon, be permitted without requiring that such potatoes be subject to safeguard provisions of the order. Under such handling, Oregon potatoes would continue to be subjected to virtually the same quality and inspection requirements now in effect but handlers would be relieved of substantial paperwork.

The committee also recommends the deletion of subparagraph (1) (2) exempting from the inspection requirements potato shipments originating from points in Modoc and Siskiyou Counties of California over 40 airline miles from Merrill, Oregon. Although all such potatoes have been shipped for this season the committee has asked that this exemption be deleted now to forewarn shippers that the committee may recommend that this exemption not be allowed next season.

All persons who desire to submit written data, views, or arguments in connection with this proposal should file the same in quadruplicate with the Hearing Clerk, Room 112-A, U.S. Department of Agriculture, Washington, D.C. 20250, no later than December 10, 1973. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

It is recommended that this proposal become effective December 31, 1973. Paragraph (b); the first sentence and paragraph (f) (4) (iii); paragraph (g) (2)

and paragraph (1) (1) is amended, (1) (2) is deleted, and (1) (3) and (1) (4) redesignated as (1) (2) and (1) (3) respectively, to read as follows:

#### § 947.332 Handling regulation.

(b) *Size requirements.* All varieties—2 inches minimum diameter, or 4 ounces minimum weight: *Provided*, That potatoes for export may be 1½ inches minimum diameter.

(f) *Special purpose shipments.* The minimum grade, size, cleanliness, pack, maturity and inspection requirements set forth in paragraphs (a), (b), (c), (d), (e), and (1) of this section shall not be applicable to shipments of potatoes for any of the following purposes.

(4) . . . . .  
(iii) Potatoes grown in District No. 5 may be shipped for grading and storing to points in the Counties of Adams, Benton, Franklin and Walla Walla in the State of Washington, or to Malheur County, Oregon, without regard to the safeguard requirements of paragraph (g) of this section.

(g) *Safeguards.* (1) . . . . .  
(2) Each handler making shipments of potatoes pursuant to paragraph (f) (2), (4) (1) and (5) of this section shall obtain a Certificate of Privilege from the committee, and shall:

(i) *Inspection.* (1) Except when relieved by paragraphs (f) or (h) of this section, no person shall handle potatoes without first obtaining inspection from an authorized representative of the Federal-State Inspection Service.

Dated: November 23, 1973.

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

[FR Doc.73-25252 Filed 11-27-73; 8:45 am]

### Animal and Plant Health Inspection Service

[9 CFR Part 381]

### LABELING AND OFFICIAL MARKS OF INSPECTION

#### Extension of Time for Comments

On September 21, 1973, there was published in the FEDERAL REGISTER (38 FR 26455-26459) a notice proposing to amend the poultry products inspection regulations to establish procedures for the approval of labeling, marking devices, and containers for use with poultry products; provide criteria for manufacturers to print labels or other devices bearing the marks of inspection; permit inspectors to approve certain modifications of labels previously approved; and establish equitable procedures for processing label approval applications in the Washington office. Interested persons were given until November 30, 1973, to comment.



Because of public interest and requests for additional time for considering and commenting on the proposal, the Department is extending the time originally allotted for filing comments or presenting oral views. Accordingly, any person who wishes to submit written data, views, or arguments concerning the proposed amendment may do so by filing them in duplicate with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, by January 25, 1974. In all other respects, the procedure specified in the proposal as published on September 21, 1973, shall continue to apply to this rulemaking proceeding. Also, the period for oral presentation of views is extended to January 25, 1974. Persons desiring opportunity for oral presentation of views should address such requests to the Labels and Packaging Staff, Scientific and Technical Services, Meat and Poultry Inspection Program, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250, so that arrangements may be made for presentation of such views by January 25, 1974.

Done at Washington, D.C., on November 21, 1973.

F. J. MULHERN,  
Administrator, Animal and Plant  
Health Inspection Service.

[FR Doc. 73-25159 Filed 11-27-73; 8:45 am]

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### Fund for Improvement of Postsecondary Education

#### [ 45 CFR Part 1501 ]

### POSTSECONDARY EDUCATION

#### Support for Improvement

Pursuant to the authority contained in section 404 of the General Education Provisions Act (20 U.S.C. 1221d), "Support for improvement of postsecondary education," notice is hereby given that the Secretary of Health, Education, and Welfare proposes to amend the existing regulations for this program as set forth below. The proposed amendments to the regulations, reflected in §§ 1501.6-10 and 1501.12, would: (a) establish special focus program competitions; (b) establish a preapplication procedure for the broader comprehensive program and revise some of the criteria therefor; and (c) revise the existing audit requirements. These amendments are proposed to improve the implementation of section 404 as the result of program operating experience.

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposed amendments to the regulations to the office administering the program, the Fund for the Improvement of Postsecondary Education, Department of Health, Education, and Welfare, 400 Maryland Avenue SW., Room 3139, Washington, D.C. 20202. Such responses to this notice will be available for public inspection at

the above office on Mondays through Fridays between 9 a.m. and 5:30 p.m. All relevant material received not later than December 28, 1973 will be considered.

(Federal Domestic Assistance Catalogue No. 13.538: Fund for the Improvement of Postsecondary Education)

Dated: November 23, 1973.

CASPAR W. WEINBERGER,  
Secretary of Health,  
Education, and Welfare.

### PART 1501—SUPPORT FOR IMPROVEMENT OF POSTSECONDARY EDUCATION

It is proposed that 45 CFR Part 1501 be revised to read as follows:

- |         |                                           |
|---------|-------------------------------------------|
| Sec.    |                                           |
| 1501.1  | Purpose.                                  |
| 1501.2  | Applicability of civil rights provisions. |
| 1501.3  | Definitions.                              |
| 1501.4  | Eligibility for assistance.               |
| 1501.5  | Types of assistance.                      |
| 1501.6  | Program categories.                       |
| 1501.7  | Criteria for evaluating applications.     |
| 1501.8  | Comprehensive program objectives.         |
| 1501.9  | Special focus program objectives.         |
| 1501.10 | Application procedures.                   |
| 1501.11 | Retention of records.                     |
| 1501.12 | Audits.                                   |
| 1501.13 | Limitations on costs.                     |
| 1501.14 | Reporting.                                |
| 1501.15 | Final accounting.                         |

AUTHORITY: Sec. 404, General Education Provisions Act, as added by sec. 301(a)(2) of Public Law 92-318, 86 Stat. 327 (20 U.S.C. 1221d), unless otherwise noted.

#### § 1501.1 Purpose.

The purpose of the regulations in this part is to implement the provisions of section 404 of the General Education Provisions Act as amended which provides for grants to, and contracts with, institutions of postsecondary education and other public and private educational institutions and agencies to improve postsecondary educational opportunities. The program is administered by the Fund for the Improvement of Postsecondary Education, a unit within the Office of the Assistant Secretary for Education of the Department of Health, Education, and Welfare, with the advice of a Board of Advisors.

(20 U.S.C. 1221d)

#### § 1501.2 Applicability of civil rights provisions.

(a) Federal financial assistance under this part is subject to the regulations in part 80 of this title, issued by the Secretary of Health, Education, and Welfare and approved by the President, to effectuate the provisions of title VI of the Civil Rights Act of 1964 (Public Law 88-352).

(42 U.S.C. 2000d)

(b) Federal financial assistance under this part is also subject to the provisions of title IX of the Education Amendments of 1972 (prohibition of sex discrimination), and any regulations issued thereunder.

(20 U.S.C. 1681-86; Public Law 92-318, section 906)

#### § 1501.3 Definitions.

As used in this part—

"Fiscal year" means a period beginning on July 1 and ending on the following June 30. (A fiscal year is designated in accordance with the calendar year in which the ending date of the fiscal year occurs.)

"Fund" means the Fund for the Improvement of Postsecondary Education, the unit within the Office of the Assistant Secretary for Education of the Department of Health, Education, and Welfare which administers the program covered by this part.

"Institution of postsecondary education" means an educational institution which admits as regular students only persons who have completed or left elementary or secondary school.

"Local government" means a local unit of government including specifically a county, municipality, city, town, township, local public authority, special district, intrastate district, council of governments, sponsor group representative organization, and other regional or interstate government entity, or any agency or instrumentality of a local government, exclusive of institutions of postsecondary education and hospitals.

"Nonexpendable personal property" means tangible personal property, including equipment, having a useful life of more than 1 year and an acquisition cost of \$300 or more per unit.

"Nonprofit" means owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

"Personal property" means property of any kind, tangible or intangible, except real property.

"Private" means not under public supervision or control.

"Public," as applied to an institution or agency, means that the institution or agency is a legally constituted organization of government under public administrative control and direction, except that an institution or agency of the Federal Government shall not be considered a public institution or agency.

"Recipient" means an applicant receiving assistance under this part.

"State" means any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any agency or instrumentality of a State exclusive of State institutions of postsecondary education and hospitals.

(20 U.S.C. 1221d)

#### § 1501.4 Eligibility for assistance.

Institutions of postsecondary education, combinations thereof, and other public and private educational institutions and agencies are eligible to receive assistance under this part. The fact that an applicant has been only recently established will not in itself prejudice such applicant's application.

(20 U.S.C. 1221d)



**§ 1501.5 Types of assistance.**

Public and nonprofit applicants may receive assistance in the form of grants or contracts, depending on the nature and objectives of their proposals. An applicant which is not public or nonprofit may receive assistance only in the form of contracts. Grants may be made to a combination of institutions of postsecondary education only if all institutions in the combination are public or nonprofit. Assistance may support a proposal in its entirety or may be conditioned upon the provision of funds from other sources, including the applicant itself. Assistance may be awarded in one payment or in a number of payments, not necessarily equal, over a period of time.

(20 U.S.C. 1221d)

**§ 1501.6 Program categories.**

The Fund shall accept applications for assistance in two program categories:

(a) a comprehensive program solicitation, under which preapplications shall first be required for preliminary screening of applicants; and

(b) special focus program solicitations, to be announced by the Fund for each fiscal year.

(20 U.S.C. 1221d)

**§ 1501.7 Criteria for evaluating applications.**

An application or (in the case of the comprehensive program) a preapplication for assistance under this part shall be evaluated in terms of the extent to which the proposal therein:

(a) Has the potential for advancing one or more of the following general goals of the Fund:

(1) To provide effective educational options not generally available;

(2) To increase the cost-effectiveness of educational services;

(3) To achieve far-reaching improvements in postsecondary education;

(4) To promote learner-centered improvements in postsecondary education;

(b) Meets the following operational standards:

(1) Is feasible, has sound project design, and is likely to attain expected results with expected expenditures;

(2) Will, if appropriate, be supported financially by sources other than the Fund, including the applicant itself;

(3) Has the potential for having available financial resources for continuation beyond the period of Fund support, if appropriate;

(4) Gives evidence of commitment to the project on the part of the applicant institution and any other institutions or organizations to be involved in the project;

(c) Is directed at furthering either (1) one or more of the objectives of the comprehensive program as described in section 1501.8, or (2) the objectives of one of the special focus programs as described in section 1501.9.

(20 U.S.C. 1221d.)

**§ 1501.8 Comprehensive program objectives.**

The Fund will accept preapplications and applications (from those applicants whose preapplications are approved) directed toward one or more of the following objectives:

(a) To provide new approaches to teaching and learning, specifically through projects which:

(1) Employ one or more of the following techniques or processes to achieve these purposes: (i) The integration of learning experiences, (ii) the individualization of educational services, or (iii) the improvement of teaching/learning techniques; or

(2) Develop and implement new kinds of education assessment to measure and achieve these purposes;

(b) To provide educational services for new clientele, specifically through projects which involve the restructuring of educational services and programs on behalf of these groups.

(c) To revitalize institutional missions, specifically through projects involving one or more of the following activities:

(1) The introduction of new structures or activities designed to channel institutional energies more effectively toward the implementation or refinement of an institution's existing mission, or

(2) The phasing out of programs or activities no longer central to an institution's mission. A proposal directed at furthering this objective will be evaluated by the Fund in terms of the extent to which it (i) will serve an important social objective, (ii) will be central to the institution's principal mission, (iii) will have a long-term effect on the institution, and (iv) will actively involve and be supported by constituencies relevant to the institution's mission.

(d) To implement new missions, specifically through projects which:

(1) Redirect missions of existing institutions, or

(2) Create new institutions.

(e) To encourage openness in postsecondary education, specifically through projects involving the improvement of one or more of the following:

(1) The nature of information about postsecondary education and the ways in which such information is communicated to students, educational institutions, and makers of educational policy.

(2) The standards, practices, and structures used in recognizing and evaluating the performance of individuals and institutions in postsecondary education, and the utilization of the judgments thereby made by other educational and social institutions and agencies.

(3) The forms and techniques by which financial support for postsecondary education is provided, particularly those which affect incentives for teachers and structure relationships among teachers and learners.

(4) The ways in which postsecondary education is regulated by public agencies.

(20 U.S.C. 1221d)

**§ 1501.9 Special focus program objectives.**

In fiscal year 1974, in addition to the comprehensive program, the Fund will accept applications for assistance under two special focus programs, focusing on the following areas:

(a) Approaches to competency-based learning, i.e., educational approaches in which learning goals and outcomes are specified in terms of the skills, attitudes, values and/or areas of knowledge required for success in various endeavors. Proposals will be reviewed in terms of the extent to which they are designed to develop the goal specifications, assessment procedures, and patterns of implementation for competency-based learning. In judging the significance and feasibility of a proposal related to any or all of these facets of competency-based learning, special attention will be given to: (1) The project's potential for formulating competencies of an integrated and complex nature; (2) the importance to society of the subject areas of endeavor; (3) if appropriate, the project's potential for demonstrating innovative assessment procedures; and (4) the extent and manner of expected involvement in the project by relevant constituencies.

(b) New incentive structures: creating conditions that encourage effective faculty participation in the learning process. Proposals will be reviewed in terms of the extent to which they are designed to enhance concern for effectiveness in teaching and to demonstrate the cost-effectiveness of different instructional approaches. Such conditions for excellence could include the development of: (1) Positive incentive mechanisms, (2) more supportive recruitment, promotion, governance, and/or budget allocation systems, (3) forums of recognition, or (4) improved faculty evaluation systems.

(20 U.S.C. 1221d)

**§ 1501.10 Application procedures.**

(a) An application or preapplication for assistance under this part must be filed with the Fund on or before the closing date or dates announced by the Fund for each fiscal year.

(b) Except as provided in paragraph (e) of this section, an application or preapplication must have a title page providing the following information:

(1) Name and address of applicant.

(2) Name, address, title, phone number, and signature of applicant's authorizing officer.

(3) Name, address, title, and phone number of proposed project director.

(4) Dates of proposed project, including evaluation time.

(5) Amount of assistance requested.

(6) Proposal title.

(7) A brief, one-paragraph description of the proposal.



(c) Except as provided in paragraph (e) of this section, a preapplication must contain the following information, in a format to be selected by the applicant:

(1) Statement of the problem being addressed; (2) description of the specific criteria by which the success or failure of the project could be determined; (3) description of how the objectives are to be accomplished; (4) a statement of the potential long-range outcomes of the project; and (5) a statement of the estimated budget range and the nature and amount of major anticipated expenditures.

(d) Except as provided in paragraph (e) of this section, an application must contain the following information, in a format to be selected by the applicant:

(1) A diagnosis of the problem addressed, including a description of the problem and, as applicable, a discussion of pertinent empirical data and past attempts to deal with the problem.

(2) A description of the proposed project, including its methodology and schedule, qualifications of the persons who would conduct it, its short-term and long-term objectives and its specific allocation of available funds in the form of a budget.

(3) Evidence of commitment, including an indication of (i) the nature and extent of involvement in the project on the part of the applicant institution and any other institutions or organizations to be involved in the project, and (ii), if appropriate, expected sources of financial support after the period of Fund support has elapsed.

(4) An evaluation plan, including the criteria by which the project will be evaluated, the methods and schedules for such evaluation, and the cost of such evaluation.

(e) A State or local government seeking assistance under this part must apply in accordance with such procedures, and using such forms, as the Fund may specially prescribe in conformity with pertinent directives of the Office of Management and Budget. Much of the material required of such applicants pursuant to such directives is similar to the material required of applicants proceeding under paragraphs (b), (c), and (d) of this section.

(f) Prior to its disposition of applications for assistance under this part, the Fund may obtain the review and advice of qualified persons not employed by the Department of Health, Education, and Welfare. Any such review shall be in addition to the review of applications by the Fund in accordance with such procedures as it may establish, including consultation with the Board of Advisors to the Fund.

(g) No application for assistance under this part to an institution of postsecondary education shall be approved until the Fund has submitted it to the State postsecondary education commission. If there is one, established or designated pursuant to section 1202 of the Higher Education Act of 1965 in the State in which the institution is located and af-

forded the commission an opportunity to submit its comments and recommendations as to the application to the Fund.

(h) No application for assistance under this part shall be approved until the procedure for implementing the evaluation plan required under paragraph (d) of this section or, as applicable, paragraph (e) of this section has been established and a schedule for the submission of reports on such evaluation by the applicant to the Fund has been agreed upon.

(20 U.S.C. 1221d; OMB Circular No. A-102, Attachment M)

#### § 1501.11 Retention of records.

(a) *Records.* Each recipient shall keep intact and accessible records relating to the receipt and expenditure of Federal funds (and to the expenditure of the recipient's contribution to the cost of the project, if any), including all accounting records and related original and supporting documents that substantiate direct and indirect costs charged to the award.

(b) *Period of retention.* (1) Except as provided in paragraphs (b) (2) and (d) of this section, the records specified in paragraph (a) of this section shall be retained for 3 years after the date of the submission of the final expenditure report or, with respect to a grant or contract which is renewed annually, for 3 years after the date of the submission of an annual expenditure report.

(2) Records for nonexpendable personal property which was acquired with Federal funds shall be retained for 3 years after its final disposition.

(c) *Microfilm copies.* Recipients may substitute microfilm copies in lieu of original records in meeting the requirements of this section.

(d) *Audit questions.* The records involved in any claim or expenditure which has been questioned by Federal audit shall be further retained until resolution of any such audit questions.

(e) *Audit and examination.* The Secretary of Health, Education, and Welfare and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to all such records and to any other pertinent books, documents, papers, and records of the recipient.

(OMB Circular No. A-73; OMB Circular No. A-102; Attachment C; 20 U.S.C. 1221d)

#### § 1501.12 Audits.

(a) All expenditures by recipients shall be audited by the recipient or at the recipient's direction to determine, at a minimum, the fiscal integrity of financial transactions and reports.

(b) The recipient shall schedule such audits with reasonable frequency, usually annually, but not less frequently than once every 2 years, considering the nature, size, and complexity of the activity.

(c) Copies of audit reports shall be made available to the Fund to assure that proper use has been made of the funds expended. The results of such audits will be used to review the recipient's records and shall be made available to Federal auditors. Federal auditors shall be given access to such records or other documents as may be necessary to review the results of such audits.

(20 U.S.C. 1221d; OMB Circular No. A-102, Attachment G, 2, Attachment C, 1)

#### § 1501.13 Limitations on costs.

The amount of the award shall be set forth in the grant award or contract document. The total cost to the Federal Government will not exceed the amount set forth in the grant award or contract document. The Federal Government shall not be obligated to reimburse the recipient for costs incurred in excess of such amount unless and until the Fund has notified the recipient in writing that such amount has been increased and has specified such increased amount in a revised grant award or contract document. Such revised amount shall thereupon constitute the revised total cost of the performance of the grant or contract that may be borne by the Federal Government.

(31 U.S.C. 200)

#### § 1501.14 Reporting.

The recipient shall comply with the schedule for reporting on its evaluation of the project agreed upon pursuant to § 1501.10(h).

(20 U.S.C. 1221d; OMB Circular No. A-102, Attachment M)

#### § 1501.15 Final accounting.

(a) In addition to such other accounting as the Fund may require the recipient shall render, with respect to the project, a full account of funds expended, obligated, and remaining.

(b) A report of such accounting shall be submitted to the Fund within 90 days of the expiration or termination of the grant or contract, and the recipient shall remit within 30 days of the receipt of a written request therefor any amounts found by the Fund to be due. Such period may be extended at the discretion of the Fund upon the written request of the recipient.

(20 U.S.C. 1221d; 31 U.S.C. 628)

[FR Doc.73-25344 Filed 11-27-73; 8:45 am]

## DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 73-EA-87]

### CONTROL ZONE AND TRANSITION AREA

#### Proposed Alteration

The Federal Aviation Administration is considering amending §§ 71.171 and 71.181 of Part 71 of the Federal Aviation regulations so as to alter the Rome, N.Y., Control Zone (38 FR 416) and Utica, N.Y., Transition Area (38 FR 591).

The change to the transition area is proposed so as to increase the 1200-foot transition area for aircraft utilizing the Griffiss AFB, Rome, New York, instrument procedures. The transition area



and control zone both are proposed to reflect a new set of refined geographic coordinates.

Interested parties may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, Attn: Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, New York 11430. All communications received on or before December 28, 1973 will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements may be made for informal conferences with Federal Aviation Administration officials by contacting the Chief, Airspace and Procedures Branch, Eastern Region.

Any data or views presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested parties at the Office of Regional Counsel, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, New York.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal area of Rome, New York, proposes the airspace action hereinafter set forth:

1. Amend § 71.171 of Part 71 of the Federal Aviation regulations by deleting in the description of the Rome, N.Y. control zone the coordinates "43°14'10" N., 75°24'25" W." and inserting the following in lieu thereof: "43°13'45" N., 75°25'00" W."

2. Amend § 71.181 of Part 71 of the Federal Aviation regulations as follows:

(a) In the description of the Utica, N.Y. 700 foot transition area, delete the coordinates "43°14'10" N., 75°24'25" W." and insert "43°13'45" N., 75°25'00" W." in lieu thereof.

(b) Delete the description of the Utica, N.Y., 1,200 foot transition area and insert the following in lieu thereof:

That airspace extending upward from 1,200 feet above the surface within the area bounded by a line beginning at 43°24'00" N., 76°53'00" W. to 42°57'00" N., 76°57'00" W. to 42°40'00" N., 77°23'45" W. to 42°41'30" N., 76°23'00" W. to 42°40'00" N., 75°30'00" W. to 43°00'00" N., 74°30'00" W. to 43°18'40" N., 74°30'30" W. thence counterclockwise along an arc with a radius of 45 miles from the center of Griffiss AFB to 43°36'00" N., 74°39'30" W. to 43°31'00" N., 74°43'00" W. thence counterclockwise along an arc with a radius of 40 miles from the center of Griffiss AFB to 43°44'00" N., 75°49'15" W. to 43°32'00" N., 76°23'00" W. to 43°24'00" N., 76°40'00" W. to point of beginning.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958, 72 Stat. 749 (49 U.S.C. 1348) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Jamaica, N.Y., on November 7, 1973.

ROBERT H. STANTON,  
Acting Director, Eastern Region.

[FR Doc.73-25206 Filed 11-27-73; 8:45 am]

# [ 14 CFR Part 71 ]

[ Airspace Docket No. 73-EA-88 ]

## TRANSITION AREA

### Proposed Alteration

The Federal Aviation Administration is considering amending § 71.181 of Part 71 so as to alter the Pottsville, Pa., Transition Area (38 FR 561).

A review of the airspace requirements for the transition area indicates that an alteration of the Pottsville, Pa., transition area will be required to provide additional controlled airspace for aircraft executing the instrument approach procedures, in accordance with the Terminal Instrument Procedures (TERPs) and to update the airport geographic position.

Interested parties may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, Attn: Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, New York 11430. All communications received on or before December 28, 1973 will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements may be made for informal conferences with Federal Aviation Administration officials by contacting the Chief, Airspace and Procedures Branch, Eastern Region.

Any data or views presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested parties at the Office of Regional Counsel, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, New York.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal area of Pottsville, Pennsylvania, proposes the airspace action hereinafter set forth:

1. Amend § 71.181 of Part 71 of the Federal Aviation regulations by deleting the description of the Pottsville, Pa., transition area and by substituting the following in lieu thereof:

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the center, 40°42'15" N., 76°23'00" W. of Schuylkill County (Joe Zerbe) Airport, Pottsville, Pa.; within 3 miles each side of the 103° bearing from the Zerbe RBN 40°42'25" N., 76°22'19" W., extending from the 6-mile radius area to 8.5 miles east of the RBN; and within 2 miles each side of the Ravine, Pa. VORTAC 049° radial, extending from the 6-mile radius area to 9 miles north-east of the VORTAC.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958, 72 Stat. 749 (49 U.S.C. 1348) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Jamaica, N.Y., on November 9, 1973.

ROBERT H. STANTON,  
Director, Eastern Region.

[FR Doc.73-25207 Filed 11-27-73; 8:45 am]

## Hazardous Materials Regulations Board

### [ 49 CFR Part 171 ]

[ Docket No. HM-22; Notice 73-8 ]

## TRANSPORTATION OF HAZARDOUS MATERIALS

### Matter Incorporated by Reference

The Hazardous Materials Regulations Board of the Department of Transportation is considering amending § 171.7(d) (1) of the Hazardous Materials Regulations to update the reference to the addenda to sections VIII (Division I) and IX of the American Society of Mechanical Engineers Boiler and Pressure Vessel Code.

The Compressed Gas Association, Inc., has petitioned the Board to effect this change.

In consideration of the foregoing, it is proposed to amend 49 CFR Part 171 as follows:

In § 171.7, paragraph (d)(1) would be amended to read as follows:

§ 171.7 Matter incorporated by reference.

(d) \* \* \*

(1) ASME Code means sections VIII (Division I) and IX of the 1971 edition of the "American Society of Mechanical Engineers Boiler and Pressure Vessel Code," and addenda thereto through June 30, 1973.

Interested persons are invited to give their views on this proposal. Communications should identify the docket number and be submitted in duplicate to the Secretary, Hazardous Materials Regulations Board, Department of Transportation, Washington, D.C. 20590. Communications received on or before January 29, 1974 will be considered before final action is taken on these proposals. All comments received will be available for examination by interested persons at the Office of the Secretary, Hazardous Materials Regulations Board, Room 6215 Buzzards Point Building, Second and V Streets, SW., Washington, D.C. both before and after the closing date for comments.

(18 U.S.C. 831-835, sec. 9, Department of Transportation Act (49 U.S.C. 1657), Title VI and sec. 902(h), Federal Aviation Act of 1958 (49 U.S.C. 1421-1430, 1472(h), 1655(c)).)

Issued in Washington, D.C., on November 21, 1973.

WILLIAM K. BYRD,  
Deputy Director,  
Office of Hazardous Materials.

[FR Doc.73-25240 Filed 11-27-73; 8:45 am]



National Highway Traffic Safety  
Administration

## [ 23 CFR Part 1213 ]

[ Docket No. 73-27 ]

## HIGHWAY SAFETY PROGRAMS

Incentive Grant Criteria for State Safety  
Belt Use Laws

This notice proposes a new Part 1213 in Title 23, Code of Federal Regulations, that would specify criteria for State safety belt use laws. States that satisfy the criteria would qualify for incentive grants under section 219 of the 1973 Highway Safety Act (23 U.S.C. 402(j)(1)). It also provides information concerning the public safety and welfare benefits, constitutionality, and enforceability of State safety belt use laws.

In section 402(j)(1), Congress authorizes the Secretary of Transportation to conduct a 3 year program for making incentive grants to States that enact safety belt use laws during fiscal years 1974 through 1976. To make the enacting States eligible for a grant, the laws must be consistent with criteria that the Secretary is required to establish and publish.

The incentive program was established as a result of the 15 to 20 percent reductions in annual highway fatalities achieved by the safety belt use laws of the Australian States over the last several years. The Australian success has led numerous other jurisdictions with Western legal traditions to enact or seriously consider safety belt use laws. Such laws were enacted by New Zealand in 1972 and by France and Puerto Rico in 1973. Other Western European countries, especially Denmark, Finland, the Netherlands, and Norway, are actively considering following suit next year. Although a safety belt use law has not yet been enacted by a State in this country, safety belt use legislation has been introduced in almost half of the State legislatures this year and adopted by one house of three State legislatures. The recent adoption by the Governors' Highway Safety Representatives of a resolution favoring safety belt use laws indicates that State activity concerning such laws will be even greater next year.

Section 402(j)(1) does not require States to enact safety belt use laws. The States remain free to enact any type of safety belt use law or none at all. If, however, States wish to qualify for an incentive grant under section 402(j)(1), they would have to satisfy the criteria proposed by this notice.

Any State that enacts a safety belt use law in accordance with the criteria would be eligible to receive an incentive grant of up to 25 percent of the amount of Federal funds apportioned to it under section 402 of title 23, United States Code, for the fiscal year of enactment. For example, if a State were apportioned \$1,000,000 in fiscal year 1974 and during that year enacted a safety belt use law in accordance with the criteria, it could qualify to receive as much as an additional \$250,000 in incentive funds. The

incentive funds could be used to carry out the highway safety purposes of chapter 4 of title 23.

Section 402(j)(1) also authorizes the Secretary to make, at his discretion, an incentive grant to a State not only in the year in which it enacts a safety belt use law, but also in subsequent fiscal years for which funds are authorized. A State that enacted a safety belt use law in accordance with the criteria during fiscal year 1974 could receive incentive grants for all fiscal years for which funds are authorized, i.e., 1974 through 1976. A State that waited until fiscal year 1976 to enact a safety belt use law could qualify for only a single incentive grant. The sooner a State enacted such a law, the sooner it would make substantial reductions in highway deaths and injuries and the more highway safety funds it could receive.

Enactment of a safety belt use law could also facilitate a State's efforts to qualify for a second type of incentive grant authorized by section 219 of the 1973 Act (23 U.S.C. 402(j)(2)). The Secretary is authorized by that section to make, at his discretion, separate incentive grants to the States that make the most progress in reducing their number of highway fatalities per 100,000,000 vehicle miles. One of the most efficient ways to make a significant reduction in a State's highway fatality rate would be to enact and administer effectively a safety belt use law. Thus, a State could enact a safety belt use law in fiscal year 1974 and become eligible for the first type of incentive grant. The State might subsequently become eligible for the second type of incentive grant when the implementation of the law had proceeded sufficiently to make a significant impact on the State's annual highway fatality toll.

The criteria proposed by this notice would be minimum criteria. Accordingly, a State could adopt additional or higher requirements without lessening its chances of qualifying for an incentive grant. The more comprehensive a safety belt use law is, the more it can contribute to a State's effort to qualify for the fatality rate reduction incentive. Enactment of the substance, not the exact words, of the criteria would be required.

States could choose not only whether to participate at all in the incentive program, but also the manner and extent of their participation. This part would establish criteria for three different safety belt use laws having ascending potential for saving lives and preventing injuries. Enactment of the first, second or third safety belt use law would qualify the enacting State to receive an incentive grant of 10, 15 or 25 percent, respectively, of the State's section 402 apportionment for the fiscal year of enactment.

The proposed criteria concerning safety belt installation, retention, and maintenance; exemptions; and penalties would be identical for each of the three laws. The safety belt use criteria would be least comprehensive for the 10 percent

incentive grant law and most comprehensive for the 25 percent incentive grant law.

**Safety belt installation, retention, and maintenance criteria.** All motor vehicles operated on a State's highways would be required to be equipped with the same number of lap and shoulder safety belts with which the vehicles were required by Federal law or regulation to be equipped at the time of their manufacture. This requirement would, in accordance with Federal Motor Vehicle Safety Standard 208 issued under the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381 et seq.), affect all passenger cars manufactured on or after January 1, 1968, and all multipurpose passenger vehicles, trucks, and buses manufactured on or after July 1, 1971. Any Federally-required safety belts that have been removed from these vehicles would have to be replaced.

The installation requirement would apply to any vehicle operated on the highways of a State, even if the vehicle were registered in another State. Since most vehicles that would be subject to the requirement have all of the safety belts required by Standard 208 at the time of the vehicles' manufacture, application of this requirement to out-of-State vehicles would pose no difficulties. Such application would have several beneficial effects. First, it would treat equally all vehicles operated on the highways of a State. Second, it would increase the safety of the State's residents. Third, it would avoid some of the public expenditures within the State for vehicle accidents and resulting deaths and injuries. Fourth, it would aid the State's chances of qualifying for the fatality rate reduction incentive.

No retrofitting with safety belts would be required of vehicles not originally equipped with safety belts pursuant to Standard 208. However, a State would have the option to require installation of safety belts in such vehicles.

Many States have long required that pre-1968 passenger cars be equipped with safety belts. Wisconsin, for instance, has required installation since 1962. Earlier this year, Puerto Rico, the first jurisdiction under the Highway Safety Act to enact a safety belt use law, required the retrofitting of all 1965 through 1967 model passenger cars.

A safety belt use law would not achieve its full potential if it did not require retention of safety belts required by State law or regulation to be installed in motor vehicles. To prevent circumvention of the safety belt use criteria, removal or disconnection of any such safety belts by any person, except temporarily for cleaning, repair or replacement, would be prohibited. States could permit replacement of a vehicle's safety belts with any safety belts that met or exceeded the requirements established by a State or by Standard 208 for the vehicle at the time of its manufacture.

To insure the safety of all highway users, a driver would be prohibited from operating a motor vehicle on the public



highways of a State unless the vehicle is equipped with all safety belts required by State law or regulation and such safety belts are in good operating condition and readily usable. The driver would be made responsible since he would be endangering highway users by putting in motion a vehicle lacking properly maintained safety belts deemed necessary by a State for highway safety.

**Exemptions.** Since there might be some persons whose safety belt use might pose a safety risk to them, a State would have the option of exempting, by law or regulation, persons from safety belt use requirements on the grounds of physical unfitness, including body size, or other medical problem. Exemptions would also be permitted for persons during any of their necessary occupational activities that would be unreasonably hampered by safety belt use.

**Penalties.** The penalty proposed for violations of any safety belt installation, retention, and maintenance requirement would be the same as the fines currently provided by the States for violation of other vehicle safety equipment requirements. In some States, the fine for violation of such requirements is up to \$100. In others, multiple violations may be punishable by fines of up to \$200 for a second offense and of up to \$500 for a third offense. States may, of course, establish other sanctions in addition to the one proposed for violation of the installation, retention, and maintenance requirements.

The violation of any safety belt use requirement would be required to be punishable by a fine of not less than \$10. Public comment is invited on an appropriate upper limit to such fines.

Although a State could authorize jail sentences for violators of the use requirements, the NHTSA recommends that the States not adopt such sanction. A relatively minor fine should be sufficient to obtain compliance with the use requirements. The successful safety belt use laws of the Australian States generally provide for fines of \$20.00 in Australian currency (approximately \$30.00 in United States currency). A substantial fine or additional type of sanction might be viewed as disproportionate to the offense and could, therefore, be counterproductive to the interests of highway safety.

**Safety belt use criteria.** To qualify for a 10 percent incentive grant, a State would have to require that each front seat occupant of a motor vehicle use a lap safety belt with which a front seating position is equipped. Such occupant would not be liable for nonuse of a lap safety belt that was required by State law or regulation, but was missing from such a position.

There would be one exception to the requirements for passenger use of front lap safety belts. An unbelted front seat passenger would not be in violation if all front passenger seating positions equipped with a lap safety belt were occupied by other passengers who were using such safety belts.

The requirement for use of front lap safety belts would apply to each driver and to each passenger 6 years of age or older. Voluntary use of infant or child safety seating systems conforming with Federal Motor Vehicle Safety Standard 213 for passengers less than 6 years of age is strongly recommended, but would not be required. Each passenger 16 years of age or older and each driver would be individually liable for his failure to use a front lap safety belt.

In the case of a passenger 6 years of age or older, but less than 16 years of age, however, the driver of the vehicle in which the child was riding would be responsible for the child's use of safety belts. The principle of personal responsibility for one's own acts would not be followed with respect to safety belt use by such passengers since they might not be able to appreciate fully the desirability of, and a requirement for, protecting themselves and others by using a safety belt. Conversely, we believe that drivers, who must demonstrate knowledge of the rules of the road, should be deemed capable of comprehending a safety belt use requirement. Accordingly, a driver would be made liable for insuring safety belt use by such young persons.

There would be two options for use requirements for the 15 percent incentive grant. One option relates to front seat occupants. It would require each front seat passenger 16 years of age or older and each driver to use all safety belts, including shoulder safety belts, with which their seating position is equipped. It would also require each front seat passenger 6 years of age or older, but less than 16 years of age, to use a lap safety belt with which a front seating position is equipped. The other option relates to front and rear seat occupants. It would require each passenger 6 years of age or older and each driver to use a lap safety belt for a front or rear seating position.

The use requirements for the 25 percent incentive grant would require use of front or rear lap safety belts by each passenger 6 years of age or older and each driver. In addition, they would require each passenger 16 years of age or older and each driver to use a shoulder safety belt if their seating position is equipped with one.

The enactment and prudent administration by all States of safety belt use laws in accordance with the criteria for the 25 percent incentive grant could save approximately 10,000 lives per year. Many times that number in injuries would be mitigated or averted altogether. This level of benefits from such laws would continue to accrue as long as all new vehicles were equipped with safety belts.

Although the life saving and injury preventing benefits of a person's use of safety belts would flow primarily to him, they would also extend in a variety of circumstances to other highway travelers.

Safety belt use can prevent or reduce the force of collisions between occupants of a vehicle during a crash and thereby

prevent them from adding to each other's injuries. The most severe collisions between occupants occur in directly and angularly frontal vehicle crashes, which account for slightly more than 50 percent of all injury-producing crashes. Common examples of frontal crashes are the running of a vehicle forward into a vehicle coming from the opposite direction (head-on collision), into the rear of the vehicle it is following or into a fixed object like a telephone pole. In such crashes, unbelted rear seat occupants are hurled forward either directly into the front seat occupants or into the rear of the front seat seatbacks. In either instance, the rear seat occupants thereby add to the injuries of the front seat occupants (Abstract published in "Traffic Safety", March 1968, p. 29, A. Nahum, A. W. Siegel, and P. V. Hight, Vehicle Trauma Research Group, Department of Surgery, UCLA School of Medicine). Unbelted rear seat occupants can be flung forward with sufficient force to collapse the folding seatback of front seats and to crush and fatally injure front seat occupants ("Fatal Accidents During a Twelve Month Period (1972) Involving Volvo Models 140 and 164 Vehicles", Lars Samuelsson, Traffic Accident Research AB Volvo, "Report on the Fourth International Technical Conference on Experimental Safety Vehicles", Kyoto, Japan, March 1973, pp. 371-391, National Highway Traffic Safety Administration, 1973).

Safety belt use by rear seat occupants can prevent collisions between rear and front seat occupants and reduce the force of the rear seat occupants' impact with the rear of the front seat seatbacks. As a result, deaths and injuries that would otherwise be caused by the rear seat occupants can be avoided.

Unbelted vehicle occupants are also hurled into and injure other occupants of the same vehicle in lateral or side collisions in which the vehicle, while passing through an intersection, is struck from the left or right by a vehicle traveling on the cross street. Safety belt use by an occupant of the front (or rear) seating area of the struck vehicle can prevent him from being hurled sideways into other occupants of the same seating area or at least reduce the extent of his impact with them.

Safety belt use can also reduce the occurrence of crashes. Safety belt use can do so by reducing the likelihood that drivers will lose control during emergency maneuvers or during collisions that do not bring their vehicles to a halt (CAL Researchers Say "Yes" to Buckle-Up Law," John W. Garrett, head of accident research branch, Cornell Aeronautical Laboratory's transportation research department, "Traffic Safety," March 1972). A typical circumstance in which a driver must make a sudden, violent emergency maneuver is in attempting to avoid colliding with a pedestrian or another vehicle that has suddenly entered his path. The driver's safety belt use can help prevent the centrifugal force of his maneuver from



moving him relative to his steering wheel to the extent that his ability to control his vehicle is reduced. Similarly, safety belt use can help prevent any impact that does not stop a vehicle, such as the sideswipe common to urban streets having more than one lane of traffic traveling in the same direction, from having the same adverse effect on the driver's position and his control of his vehicle (Arnold W. Siegel, Wayne T. Van Wagoner, and Alan M. Nahum, School of Medicine, UCLA, "Case Comparisons of Restrained and Nonrestrained Occupants and Related Injury Patterns," Society of Automotive Engineers, 1969, p. 2). Accordingly, since belted drivers are held in place during such maneuvers and collisions, they are less likely than unbelted drivers to become involved in crashes that may injure the passengers of their vehicles, the occupants of other vehicles, and pedestrians.

In addition to promoting public safety, safety belt use would also promote public welfare, reducing highway deaths and injuries and thereby reducing public expenditures necessitated by the highway carnage.

A State safety belt use law would require the use of safety equipment that would significantly reduce motor vehicle occupants' chances of being killed or injured in vehicle crashes. Most deaths and injuries involving vehicle occupants occur during the "second collision," i.e., the collision of the occupants with the vehicle's interior during a crash. The balance of such deaths and injuries results primarily from the ejection of occupants from their vehicles during crashes.

Safety belt use helps prevent the "second collision" and ejection. Lap safety belt use prevents the user from being totally ejected from his vehicle and reduces his movement within his vehicle during a crash. Shoulder safety belt use provides the added protection of preventing the user's head and upper portions of his body from striking injury-producing objects such as the vehicle windshield and dashboard.

The safety benefits from use of safety belts are substantial. Studies have indicated that safety belt users are approximately 50 percent less likely to be killed or seriously injured in crashes (See, e.g., J. K. Kihlberg, "Efficacy of Seat Belts in Injury and Non-injury Crashes in Rural Utah: Technical Report," Cornell Aeronautical Laboratory, May 1969). Studies also show that persons who are retained within their vehicles are at least several times less likely to be killed than persons who are ejected from their vehicles (See, e.g., D. F. Heulke and P. W. Gikas, "Causes of Death in Automobile Accidents," "Journal of the American Medical Association," 1968, pp. 1100-1107). Safety belt use also reduces the deaths and injuries that users would cause if they were unbelted.

By preventing highway deaths and injuries, a State safety belt use law would,

in turn, promote the public welfare by aiding in reducing highway accident related insurance premiums and awards, emergency medical and hospital costs, including demands upon medical staff and hospital bed space, loss of wages and resulting loss of tax revenue for public activities, and unemployment compensation and welfare payments to the disabled and to the dependents of the disabled and the deceased.

The total national personal injury costs of motor vehicle fatal and nonfatal injuries in 1971 were estimated as having been \$34,000,000,000 ("Societal Costs of Motor Vehicle Accidents," Preliminary Report, April 1972, National Highway Traffic Safety Administration). This figure was based upon the 1971 national toll of 55,000 fatalities and 3,800,000 injuries. Highway fatalities alone accounted for nearly \$11,000,000,000 of the total costs. If the estimated 10,000 persons who could be saved annually nationwide by enactment of safety belt use laws in all States were totally uninjured, such laws could also save \$2,000,000,000 per year. However, since at least some of these persons would be injured to some extent, the savings would somewhat less than \$2,000,000,000. In addition, substantial sums would be saved as a result of the reduction in severity of thousands of nonfatal injuries.

The preceding discussion concerning the public safety and welfare benefits of a safety belt use law will aid States in measuring the full impact of such a law. It will also be useful to States in assessing the constitutionality of a safety belt use law. The public benefits are similar to those being realized from State motorcycle helmet use laws. Helmet use laws have been enacted by 46 States and upheld as constitutional by the highest State court in 25 of 26 States. In reaching their decisions, the courts generally relied upon a finding that such laws promoted the safety or welfare, or both, of the public as well as the personal safety of the helmet user. The helmet use laws have also been supported or upheld by the United States Supreme Court in "Bisenius v. Karna," 42 Wis. 2d 42, 165 N.W. 2d 377 (1969), appeal dismissed for want of a substantial federal question, 395 U.S. 709, 89 S. Ct. 2033, 23 L. Ed. 2d 655 (1969) and "Simon v. Sargent," 346 F. Supp. 277 (D. Mass. 1972), affirmed, 409 U.S. 1020, 93 S. Ct. 463, 34 L. Ed. 2d 312 (1972).

As to the interest of a State in the consequences of a motorcyclist's failure to use a helmet, the Federal District Court said in "Simon,"

(W)hile we agree with Plaintiff that the act's only realistic purpose is the prevention of head injuries incurred in motorcycle mishaps, we cannot agree that the consequences of such injuries are limited to the individual who sustains the injury . . . (T)he public has an interest in minimizing the resources directly involved. From the moment of the injury, society picks the person up off the highway; delivers him to a municipal hospital and municipal doctors; provides him with unemployment compensation if, after

recovery, he cannot replace his lost job, and if the injury causes permanent disability, may assume the responsibility for his and his family's continued subsistence. We do not understand a state of mind that permits plaintiff to think that only he himself is concerned. Simon, supra, 279.

In view of these decisions, it appears likely that safety belt use laws would be judicially upheld. At least one State Attorney General has already ruled that a State safety belt use bill, if enacted, would be " . . . a reasonable exercise of the police power designed to protect the safety of the motoring public" and therefore constitutional (58 Wis. Att'y Gen. 241 (1969)).

A free copy of an NHTSA brief on the constitutionality of a safety belt use law may be obtained by writing to the address in this notice for comments. The brief states that such a law would not only require vehicle occupants to decrease substantially their chances of being killed or injured in crashes, but also protect public safety and welfare. There is no equally or more effective alternative means, available to a State, that could accomplish the purposes of such a law and that would be less restrictive of constitutionally-protected personal liberties. Accordingly, since enactment of such a law would be a reasonable exercise of a State's police power, it would not unconstitutionally limit any personal liberties.

Due to the general law-abidingness of the citizenry of this country, laws enacted in accordance with the proposed criteria would be unlikely to necessitate more enforcement than any other highway safety regulation. There is a long-standing tradition that any misgivings that people may have about a proposed law are put aside after the law is enacted and becomes effective.

Australians displayed precisely this reaction to the safety belt use laws enacted in their country. The minority of Australians who opposed the enactment of such laws ceased its opposition after the laws became effective and began to produce the anticipated benefits. Australian law enforcement officials report that actions against violators of the safety belt use laws represent less than 1 percent of all actions against all violators of highway safety laws and that safety belt use has reached a rate of 80 to 85 percent in urban areas and of approximately 65 percent in rural areas. This rate of compliance compares favorably with the rate of compliance in this country with a number of important highway safety laws.

Notwithstanding this general law-abidingness, safety belt use laws, like any other highway safety measure, would probably require some enforcement. Several enforcement approaches would be available.

One approach would be observation of shoulder safety belt use. Such use could be observed from almost any vantage point. The ability to observe shoulder safety belt use would be of far more significance than might commonly be assumed. First, the national 5 to 1 ratio of



lap safety belt use to lap and shoulder safety belt use provides strong assurance that a vehicle occupant observed using a shoulder safety belt is also using a lap safety belt. Second, if lap and shoulder safety belt use could thus be secured, the major portion of the benefits anticipated from safety belt use laws could be realized. This would be because front seating positions are inherently more dangerous and substantially more frequently occupied than rear seating positions. As a result, deaths involving front seat occupants not unsurprisingly outnumber those involving rear seat occupants by approximately 7 or 8 to 1.

Another approach would be checking safety belt use after drivers have been stopped for other traffic law infractions. This is the method used in this country to enforce several highway safety measures, including the requirement that persons possess their driver's license while driving. It is also the primary approach taken by several Australian States as part of their successful effort that has raised safety belt use to the levels indicated above.

Promulgation of the criteria for the safety belt use law incentive does not require public notice and comment pursuant to statute. This request for comments is issued, however, to afford the States and the public an opportunity to participate in the establishment of the criteria and to obtain the widest possible range of views on this subject.

Interested persons, States, and public and private safety organizations are invited to submit written data, views, and arguments concerning the criteria proposed by this notice. Comments should refer to Docket No. 73-27. All comments should be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5221, 400 Seventh Street, SW., Washington, D.C. 20590. It is requested, but not required, that 3 copies be submitted.

All comments received before the close of business on January 14, 1974, will be considered, and will be available at the above address both before and after the closing date. To the extent possible, comments filed after the above date will also be considered. However, action may be taken at any time after that date, and comments filed after the above date and too late for consideration in regard to the establishment of the criteria will be treated as suggestions for future action. The NHTSA will continue to file relevant material, as it becomes available, in the docket after the closing date. It is recommended that interested persons continue to examine the docket for new material.

It is proposed that the final criteria be promulgated and published in the FEDERAL REGISTER in approximately two months. States that enact safety belt use laws prior to such promulgation will be eligible for incentive grants if their laws satisfy the criteria.

In consideration of the foregoing, it is proposed that a new Part 1213 be added

to 23 CFR Ch. II, Subchapter B, to read as set forth below.

Issued on November 26, 1973.

JAMES B. GREGORY,  
Administrator.

# PART 1213—INCENTIVE GRANT CRITERIA FOR STATE SAFETY BELT USE LAWS

| Sec.   |                                              |
|--------|----------------------------------------------|
| 1213.1 | Scope.                                       |
| 1213.2 | Purpose.                                     |
| 1213.3 | Definitions.                                 |
| 1213.4 | General requirements.                        |
| 1213.5 | Requirements for 10 percent incentive grant. |
| 1213.6 | Requirements for 15 percent incentive grant. |
| 1213.7 | Requirements for 25 percent incentive grant. |
| 1213.8 | Penalties.                                   |
| 1213.9 | Optional provisions.                         |

AUTHORITY: Sec. 219, Pub. L. 93-87, 87 Stat. 290, 23 U.S.C. 402(j); delegation of authority at 49 CFR 1.51.

## § 1213.1 Scope.

This part establishes criteria, in accordance with 23 U.S.C. 402(j), for the awarding of incentive grants to States that enact laws requiring the use of safety belts in motor vehicles.

## § 1213.2 Purpose.

The purpose of this part is to induce States to enact safety belt use laws that will significantly reduce highway deaths and injuries and resultant societal costs. The criteria established are intended to insure that the State safety belt use laws for which incentive grants are awarded meet or exceed minimum levels of life saving and injury preventing potential.

## § 1213.3 Definitions.

(a) "Available" means, with respect to safety belts, a safety belt that is not fastened around the front of a motor vehicle occupant's body.

(b) "Driver" means any person who controls the direction and speed of a motor vehicle.

(c) "Highway" means the entire width between the boundary lines of every publicly-maintained way when any part thereof is open to the use of the public for the purpose of travel by motor vehicle.

(d) "Motor vehicle" means any vehicle driven or drawn by mechanical power manufactured primarily for use on the public streets, roads, and highways, except any vehicle operated exclusively on a rail or rails.

(e) "Safety belt" means a lap belt, shoulder belt, or any other belt or combinations of belts designed to be installed in motor vehicles to restrain drivers and passengers during motor vehicle accidents. It also includes anchorages, buckles, and all other equipment related to the installation and use of safety belts.

(f) "Seating position" means any vehicle location intended by the vehicle manufacturer to provide seating accommodation while the vehicle is in motion, except auxiliary seating accommodations such as temporary or folding jump seats.

## § 1213.4 General requirements.

To qualify for incentive grants of 10, 15, or 25 percent of its apportionment of highway safety funds under 23 U.S.C. 402, a State must enact a safety belt use law that meets the requirements of § 1213.5, § 1213.6, or § 1213.7, as applicable, and of § 1213.8. Such grants will be made for the fiscal year of enactment to any State that enacts such a law during fiscal year 1974, 1975, or 1976. Additional grants may be made for one or more of fiscal years 1974 through 1976 to any State that has enacted such a law in any fiscal year prior to the fiscal years for which such grants are made.

## § 1213.5 Requirements for 10 percent incentive grant.

To qualify for an incentive grant of 10 percent of its section 402 apportionment, a State safety belt use law shall include provisions to the following effect:

(a) Each seating position in each motor vehicle shall be equipped with not less than the number of lap safety belts and shoulder safety belts with which it was required to be equipped by Federal law or regulation at the time of the vehicle's manufacture.

(b) No person shall distribute, have for sale, offer for sale or sell any safety belt for use in motor vehicles unless it meets all applicable requirements established by State or Federal law or regulation.

(c) No person shall wholly or partially remove or disconnect any safety belt that is required by State law or regulation to be installed in a motor vehicle, except temporarily for cleaning, repair, or replacement.

(d) No person shall operate any motor vehicle on the highways of the State unless the vehicle is equipped with all of the safety belts with which it is required by State law or regulation to be equipped.

(e) No person shall operate on the highways of the State any motor vehicle required by State law or regulation to be equipped with safety belts unless such safety belts are in good operating condition and readily usable.

(f) No person shall operate on the highways of the State any motor vehicle whose driver's seating position is equipped with a lap safety belt, unless he has fastened such lap safety belt around the front of his body.

(g) No person shall operate on the highways of the State any motor vehicle in which there is a front passenger seating position with an available lap safety belt, if there is a person 6 years of age or older, but less than 16 years of age, riding in the front seat of such vehicle without such lap safety belt fastened around the front of his body.

(h) No person 16 years of age or older shall ride as a passenger on the highways of the State in the front seat of any motor vehicle in which there is a front passenger seating position with an available lap safety belt, unless he has fastened such lap safety belt around the front of his body.



### § 1213.6 Requirements for 15 percent incentive grant.

To qualify for an incentive grant of 15 percent of its section 402 apportionment, a State safety belt use law shall include provisions to the effect of § 1213.5 (a) through (e). In addition, it shall include provisions to the effect of § 1213.5 (g) and paragraphs (a) and (b) of this section or to the effect of § 1213.5(f) and paragraphs (c) and (d) of this section.

(a) No person shall operate on the highways of the State any motor vehicle whose driver's seating position is equipped with a lap safety belt or lap and shoulder safety belts, unless he has fastened all such safety belts around the front of his body.

(b) No person 16 years of age or older shall ride as a passenger in the front seat of any motor vehicle in which there is a front passenger seating position with an available lap safety belt or lap and shoulder safety belts, unless he has fastened all such safety belts around the front of his body.

(c) No person shall operate on the highways of the State any motor vehicle in which there is a passenger seating position with an available lap safety belt, if there is a person 6 years of age or older, but less than 16 years of age, riding in the vehicle without such lap safety belt fastened around the front of his body.

(d) No person 16 years of age or older shall ride as a passenger on the highways of the State in any motor vehicle in which there is a passenger seating position with an available lap safety belt, unless he has fastened such lap safety belt around the front of his body.

### § 1213.7 Requirements for 25 percent incentive grant.

To qualify for an incentive grant of 25 percent of its § 402 apportionment, a State safety belt use law shall include provisions to the effect of § 1213.5(a) through (e) and § 1213.6(a) and (c). In addition, it shall include a provision to the following effect:

(a) No person 16 years of age or older shall ride as a passenger on the highways of the State in any motor vehicle in which there is a passenger seating position with an available lap safety belt or lap and shoulder safety belts unless he has fastened all of such safety belts around the front of his body.

### § 1213.8 Penalties.

A State safety belt use law shall provide that:

(a) Any person who violates any requirement of § 1213.5 (b) through (e) shall be punishable by fine to the same extent as is provided by State law for punishment of violators of existing motor vehicle equipment laws; and

(b) Any person who violates any requirements in §§ 1213.5 (f) through (h), 1213.6 (a) through (d), or § 1213.7(a) shall be fined not less than \$10.00.

### § 1213.9 Optional provisions.

A State safety belt use law may, although it is not required to, provide that—

(a) Any seating position in any motor vehicle that was not required by Federal law or regulation to be equipped with safety belts at the time of the vehicle's manufacture shall be required to be equipped with a lap safety belt or lap and shoulder safety belts;

(b) The requirements to use a safety belt shall not apply to a person—

(1) While he is operating a motor vehicle in a rearward direction;

(2) If he possesses a written statement from a qualified physician that he belongs to a class of persons whose use of safety belts has been determined by State law or regulation to subject the class members to safety risks, due to the physical unfitness, including body size, or other medical problem of the members, that outweigh the safety and economic benefits to the public and class members from such use; or

(3) If he belongs to a class of persons whose necessary occupational activities have been determined by State law or regulation to be hampered unreasonably by their safety belt use. Such occupational exemption shall apply to a person only during such occupational activities; or

(c) The requirement to ensure safety belt use by a passenger 6 years of age or older, but less than 16 years of age, shall not apply to a driver with respect to any such passenger who belongs to a class of persons whose use of safety belts has been determined by State law or regulation to subject the class members to safety risks, due to the physical unfitness, including body size, or other medical problem of the members, that outweigh the safety and economic benefit to the public and class members from such use.

[FR Doc. 73-25330 Filed 11-26-73; 2:30 pm]

## ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 120]

### NAVIGABLE WATERS OF STATE OF ILLINOIS

#### Proposed Water Quality Standards

Notice is hereby given that pursuant to the authority of section 303(b) of the Federal Water Pollution Control Act, as amended, (33 U.S.C. 1251, 1313(b); 86 Stat. 816 et seq., Pub. L. 92-500), ("the Act"), regulations setting forth standards of water quality to be applicable to the navigable waters of the State of Illinois are proposed.

Under section 303(a) of the Act, the Administrator of the U.S. Environmental Protection Agency is required to review water quality standards for interstate and intrastate waters adopted and submitted by the States. When he determines that changes in such standards are required to meet the requirements of the Act as in effect prior to October 18, 1972, (the date of enactment of the 1972 Amendments to the Act, Pub. L. 92-500), he must notify the State. If the State does not adopt the required revisions, or if the revisions submitted by the State do not meet the requirements of the Act,

the Administrator may publish proposed revised water quality standards in accordance with such requirements.

The State of Illinois prior to October 18, 1972, adopted water quality standards for both interstate and intrastate waters.

After the enactment of the 1972 Amendments, U.S. EPA reviewed both the interstate and intrastate standards pursuant to section 303(a) of the Act. (A notice concerning U.S. EPA review of all interstate and intrastate water quality standards was published in the *FEDERAL REGISTER* on December 29, 1972, 37 FR 28775-28780.)

On January 16, 1973, the Regional Administrator notified Illinois that certain revisions to its interstate water quality standards were necessary to make the standards consistent with the applicable requirements of the Act. On March 6, 1973, a similar notification was made for intrastate water quality standards. The revisions proposed though not yet adopted by the State were not completely consistent with the applicable requirements of section 303(a) (1) and (2) of the Act. Accordingly, pursuant to section 303(b) (1), U.S. EPA is now proposing regulations setting forth standards required to comply with the Act as in effect prior to October 18, 1972.

Section 303(b) (2) of the Act requires the Administrator to promulgate standards no later than 190 days after the date of publication of this notice, unless by such time the State shall have adopted a water quality standard which the Administrator determines to be in accordance with the requirements of section 303(a) of the Act. However, the Administrator is not required to await State action for the entire 190 day period prior to promulgation. Thus, these standards may be promulgated by the Administrator at any time following the expiration of time for public comment.

Except as provided in the attached proposed regulations, the interstate and intrastate standards previously adopted by the State of Illinois, as referenced above, are the effective water quality standards under section 303 of the Act for interstate and intrastate navigable waters within that State. Where the proposed regulations set forth below are inconsistent with the referenced standards, these regulations, if promulgated, will supersede such standards to the extent of the inconsistency.

Interested persons may submit written data, views, or arguments, in triplicate, in regard to the proposed regulations to the Regional Administrator, 1 North Wacker Drive, Chicago, Illinois 60606. All relevant material received on or before January 14, 1974 will be considered. The Regional Administrator will also schedule a public hearing on the proposed regulations at a time to be determined in the future, if such a hearing appears warranted by the comments received from interested persons.

In consideration of the foregoing, it is hereby proposed that 40 CFR Part 120 be amended by adding a new § 120.22 to read as set forth below.



The proposed new section would be effective immediately upon republication. (Sec. 303(b), Pub. L. 92-500, 86 Stat. 816 (33 U.S.C. 1313(b)).)

Issued on November 21, 1973.

JOHN QUARLES,  
Acting Administrator.

§ 120.22 Illinois water quality standards.

Water quality standards established by Illinois on January 6, 1972, and March 7, 1972, and partially approved by the Environmental Protection Agency on June 5, 1972, contained in the document entitled, "Water Pollution Regulations of Illinois," the State of Illinois Environmental Protection Agency, March 1972, hereinafter will be the water quality standards of the State of Illinois except for the following:

(a) To Part II Water Quality Standards, section 201(b) Mixing Zones, the following shall be added immediately after the last word affected, "nor should any mixing zone contain more than 25 percent of the cross-sectional area and volume of flow of a stream. In addition, mixing zone characteristics, except for the thermal component thereof, must not be lethal to aquatic organisms. The 96 hr. TLM for indigenous aquatic species should not be exceeded in any point in the mixing zone".

(b) Change part II, section 203, General Standards to read:

(h) Pollutants not listed in (f) or combinations of any pollutants shall not exceed at any time one-tenth of the 96 hr. TLM for any indigenous aquatic species except that more stringent application factors shall be imposed where necessary to meet the minimum requirements of the National Technical Advisory Committee "Water Quality Criteria", 1968.

[FR Doc.73-25111 Filed 11-27-73;8:45 am]

FEDERAL RESERVE SYSTEM

[12 CFR Part 222]

[Reg. Y]

BANKING HOLDING COMPANIES

Underwriting of Real Estate Mortgage Guaranty Insurance; Revised Notice of Hearing

The Board of Governors published in the FEDERAL REGISTER on October 26, 1973 (38 FR 29610), notice of an oral presentation to be held on November 28, 1973, on the matter of the proposal (38 FR 13572, May 23, 1973) to add to the list of activities that the Board has determined to be closely related to banking or managing or controlling banks (§ 225.4(a) of Regulation Y) the following: "Engaging in the underwriting of real estate mortgage guaranty insurance."

In connection with this notice, a significant number of the members of the mortgage guaranty industry have petitioned that the Board delay the hearing

until at least January 15, 1974, and that the Board reconsider its decision denying the prior requests for a formal hearing.

The Board has reconsidered the matter and has decided to reschedule the proceeding for January 24, 1974, in order that participants be assured adequate time within which to prepare their presentations and secure the participation of expert witnesses. The Board has determined, however, that a formal hearing is not necessary for the parties to adequately present their case but rather has adopted a procedure whereby participants in the proceedings will have opportunity for rebuttal. The proceeding will be limited to the issues specified in the prior notice.

The Board has adopted the following procedures: (1) Any person interested in participating as a party in the hearing must file with the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received by November 30, 1973, a written request containing a statement of the nature of the petitioner's interest in the proceedings, the extent of participation desired, a summary of the matters concerning which petitioner wishes to give testimony or submit evidence, and the names and identity of witnesses who propose to appear. Individuals who have already filed this information with the Secretary, pursuant to the prior notice, need not file again.

(2) All such parties (a) will be notified by the Secretary of the identity of the other parties and of all issues raised by them and (b) will be invited to submit written material to be received by December 31, 1973. Material so submitted must be forwarded to all other parties.

(3) Any party may submit written comments on material submitted by other parties to be received by January 18, 1974, and must send copies thereof to all other parties.

(4) Each party will be given a specified time, normally not to exceed 30 minutes, to present his views orally at the hearing to be held before available members of the Board on January 24, 1974, at 10 a.m., in the Board Room of its building on 20th and Constitution Avenue, NW, Washington, D.C.

(5) All parties will be given until February 22, 1974, to submit such additional material related to issues raised at the proceeding as they desire.

Interested persons need not participate in the oral presentation to have their views considered but may submit their views in writing to be received by the Secretary no later than February 22, 1974. Written comments, as they are received, will be made available for inspection and copying in Room 1020 of the Board's building.

Board of Governors of the Federal Reserve System, November 16, 1973.

[SEAL] CHESTER B. FELDBERG,  
Secretary of the Board.

[FR Doc.73-25197 Filed 11-27-73;8:45 am]

INTERSTATE COMMERCE COMMISSION

[49 CFR Part 1048]

[Ex Parte No. MC-37 (Sub-No. 24)]

ECKLAR-MOORE EXPRESS, INC.

Commercial Zones and Terminal Areas

NOVEMBER 23, 1973.

Petitioner: ECKLAR-MOORE EXPRESS, INC. Lexington, Ky.; Petitioner's representative: Charles W. Rhoten, 147 South Forbes Rd., Lexington, Ky. 40505.

By petition filed November 8, 1973, the above-named petitioner requests that the Commission institute a rulemaking proceeding for the purpose of defining the commercial zone limits of Lexington-Fayette County, Ky.

The limits of the present commercial zone of Lexington, Ky., are now determined by application of the population-mileage formula enunciated in Ex Parte No. MC-37, Commercial Zones and Terminal Areas, 46 M.C.C. 665 (1946) (49 CFR 1048.101).

Petitioner asserts that effective January 1, 1974, the respective governmental units of the City of Lexington and Fayette County, Ky., will cease to exist and will merge to form an urban county form of government, and that the political boundaries of this proposed metropolitan government will conform to the present boundaries of Fayette County. Petitioner therefore requests that the Commission define the commercial zone for this new governmental unit.

Petitioner is directed to submit a detailed map of the areas proposed for inclusion within the proposed commercial zone. Until such time as the Commission renders a decision on this matter the present political boundaries of the municipalities within Fayette County shall control the definition of said municipalities' respective commercial zones. The proposed action is not expected to significantly affect the quality of the human environment within the meaning of the National Environmental Policy Act of 1969. No oral hearing is contemplated at this time, but anyone wishing to make representations in favor, or against the relief sought in the petition may do so by the submission of written data, views or arguments. An original and seven copies of such data, views, or arguments shall be filed with the Commission on or before January 14, 1974. A copy of each representation should be served upon petitioner's representative. Written material or suggestions submitted will be available for public inspection at the Offices of The Interstate Commerce Commission, 12th and Constitution, Washington, D.C., during regular business hours.

Notice to the general public of the matter herein under consideration will be given by depositing a copy of this notice in the Office of the Secretary of the Commission for public inspection and by filing a copy thereof with the Director, Office of the Federal Register.

By the Commission.

[SEAL] ROBERT L. OSWALD,  
Secretary.

[FR Doc.73-25257 Filed 11-27-73;8:45 am]



**SECURITIES AND EXCHANGE  
COMMISSION****[ 17 CFR Part 230 ]**

[Release 33-5438]

**TRANSACTIONS BY AN ISSUER DEEMED  
NOT TO INVOLVE ANY PUBLIC OFFER-  
ING****Extension of Comment Period**

On October 10, 1973, the Commission published for comment revisions of proposed Rule 146 (17 CFR 230.146), "Trans-

actions by an Issuer Deemed Not to Involve Any Public Offering" (Securities Act Release No. 5430) (38 FR 28951). The time for submitting such comments expires November 15, 1973. However, the Commission has received requests for additional time within which to submit comments on proposed Rule 146, and in light of the difficulty in achieving rapid dissemination of the October 10 release, the Commission has determined to extend the time for submitting comments to December 14, 1973. All interested per-

sons are invited to submit their comments in writing to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549 on or before December 14, 1973. Such communications should refer to File No. S7-458 and will be available for public inspection.

By the Commission.

[SEAL] **GEORGE A. FITZSIMMONS,**  
*Secretary.*

[FR Doc.73-25160 Filed 11-27-73; 8:45 am]



# Notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF STATE

[Public Notice CM-92]

### ADVISORY COMMISSION ON INTERNATIONAL EDUCATIONAL AND CULTURAL AFFAIRS

#### Notice of Meeting

The United States Advisory Commission on International Educational and Cultural Affairs will meet in open session on Friday, December 14, 1973, at the Department of State, Room 1410, from 9 a.m. to 12 noon. The agenda will include completion of plans for the January meeting and a discussion of several aspects of the study recently undertaken in cooperation with the U.S. Advisory Commission on Information. This is "a study of the similar and related functions performed by the U.S. Information Agency, its overseas information service, and the Department of State, with a view to recommending to the President, to the Congress, and to the agencies involved any rearrangements more suitable to the effective performance of these programs and more in keeping with the changing directions of U.S. foreign policy."

For purposes of fulfilling building security requirements, anyone wishing to attend the open session must advise the Staff Director by telephone in advance of the meeting. Telephone: 632-2764.

Dated: November 19, 1973.

MARGARET G. TWYMAN,  
Staff Director,  
Commission Secretariat.

[FR Doc.73-25152 Filed 11-27-73;8:45 am]

#### Agency for International Development

[Redelegation 99.1.55]

### DIRECTOR, EAST AFRICA REGIONAL ECONOMIC DEVELOPMENT SERVICES OFFICE

#### Redelegation of Authority

Pursuant to the authority delegated to me as Director, Office of Contract Management, under Redelegation of Authority No. 99.1 (38 FR 12836) from the Assistant Administrator for Program and Management Services of the Agency for International Development, I hereby redelegate to the Director, Regional Economic Development Services Offices/East Africa, the authority to:

(1) Sign U.S. Government contracts and amendments thereto, provided that the aggregate amount of each individual contract does not exceed \$25,000 or local currency equivalent; and,

(2) Sign contracts with individuals for the services of the individual alone without monetary limitation; and,

(3) Approve A.I.D. grant-financed host country contracts for technical assistance provided that the aggregate amount of each individual contract does not exceed \$100,000 or local currency equivalent.

The authority herein delegated may be redelegated in writing, in whole or in part, by said Regional Director only to the person or persons designated by the Regional Director as Contracting Officer. Such redelegation shall remain in effect until it is revoked by the Regional Director.

The authority delegated herein is to be exercised in accordance with regulations, procedures and policies now or hereafter established or modified and promulgated within A.I.D. and is not in derogation of the authority of the Director of the Office of Contract Management to exercise any of the functions herein redelegated.

The authority herein delegated to the Regional Director may be exercised by duly authorized persons who are performing the functions of the Regional Director in an acting capacity.

This redelegation of authority shall be effective November 7, 1973.

Dated: November 2, 1973.

JOHN F. OWENS,  
Director, Office of  
Contract Management.

[FR Doc.73-25143 Filed 11-27-73;8:45 am]

### MISSION DIRECTOR, USAID, INDONESIA Redelegation of Authority

Redelegation of authority regarding contracting functions No. 99.1.21, effective October 1, 1973 and published in the FEDERAL REGISTER on October 9, 1973, at (38 FR 27849), is hereby changed by restating redelegation paragraph 1 as follows:

1. U.S. Government contracts and grants (other than grants to foreign governments or agencies thereof), and amendments thereto, and A.I.D. grant-financed host country contracts for technical assistance provided that the aggregate amount of each individual contract or grant does not exceed \$25,000 or local currency equivalent.

Dated: November 14, 1973.

JOHN F. OWENS,  
Director, Office of  
Contract Management.

[FR Doc.73-25141 Filed 11-27-73;8:45 am]

### MISSION DIRECTOR, USAID, KOREA

#### Redelegation of Authority

Redelegation of authority regarding contracting functions No. 99.1.22, effective October 1, 1973 and published in the FEDERAL REGISTER on October 9, 1973 (38 FR 27849), is hereby changed by restating redelegation paragraph 1 as follows:

1. U.S. Government contracts and grants (other than grants to foreign governments or agencies thereof), and amendments thereto, and A.I.D. grant-financed host country contracts for technical assistance provided that the aggregate amount of each individual contract or grant does not exceed \$25,000 or local currency equivalent.

Dated: November 14, 1973.

JOHN F. OWENS,  
Director, Office of  
Contract Management.

[FR Doc.73-25142 Filed 11-27-73;8:45 am]

## DEPARTMENT OF JUSTICE

### Land and Natural Resources Division

#### DISCHARGE OF POLLUTANTS

##### Proposed Consent Judgment

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19020, notice is hereby given that on November 9, 1973, a proposed consent decree in United States v. Gus Almacher, James Coward, and North Branch Operating Co., Inc., was lodged with the United States District Court for the Southern District of New York. The proposed decree requires Gus Almacher, James Coward, and North Branch Operating Co., Inc. to remove fill and refuse matter from a salt marsh located at the junction of the Croton and Hudson Rivers adjacent to the property of North Branch Operating Co., Inc., in the Town of Croton-on-Hudson, New York.

The Department of Justice will receive for 30 days from the date of publication of this notice written comments relating to the proposed judgment. Comments should be addressed to the Assistant Attorney General for the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and refer to United States v. Gus Almacher, James Coward, and North Branch Operating Co., Inc., D. J. Ref. 62-51-442.

The proposed consent decree may be examined at the office of the United States Attorney, Southern District of New York, Foley Square, New York, New York; the Clerk of the District Court,



Southern District of New York, U.S. Courthouse, Foley Square, New York, New York; and the Pollution Control Section, Land and Natural Resources Division, Department of Justice, Room 2623, Department of Justice Building, Ninth Street and Pennsylvania Avenue, Northwest, Washington, D.C. A copy of the proposed consent judgment may be obtained in person or by mail from the Pollution Control Section. In requesting a copy, please enclose a check in the amount of \$1.30 (10 cents per page reproduction charge) payable to the Treasurer of the United States.

WALLACE H. JOHNSON,  
Assistant Attorney General,  
Land and Natural Resources  
Division.

[FR Doc.73-25199 Filed 11-27-73;8:45 am]

## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

#### DEPUTY AREA DIRECTOR, ABERDEEN AREA OFFICE, S. DAK.

##### Redelegation of Authority

This delegation is issued under the authority delegated to the Commissioner of Indian Affairs from the Secretary of the Interior in Section 25 of Secretarial Order 2508 (10 BIAM 2.1) and redelegated by the Commissioner to the Area Director in 10 BIAM 3.

This redelegation is being made to reflect the reorganization of the Aberdeen Area Office, effective January 1, 1973, which established a Deputy Area Director position in lieu of the Assistant Area Director positions which were eliminated.

1. The Aberdeen Area Office redelegation notice signed March 10, 1969, and published on page 5609 of the March 25, 1969, FEDERAL REGISTER (34 FR 5609) is revoked.

2. The Deputy Area Director, Bureau of Indian Affairs, Aberdeen Area Office, Aberdeen, South Dakota, is hereby authorized to exercise all the power and authority of the Area Director of the Aberdeen Area Office delegated to the Area Director in 10 BIAM 3 or elsewhere.

3. In the absence of the Deputy Area Director, persons authorized to act in his stead may exercise any and all authority conferred upon the Area Director.

4. The delegation of authority included herein is not construed as depriving the Area Director of the authority conferred upon him.

5. The effective date of this delegation will be the date of signature by the Area Director.

W. D. BABBY,  
Area Director.

Approved: November 14, 1973.

MARVIN L. FRANKLIN,  
Assistant to the Secretary of the  
Interior.

[FR Doc.73-25148 Filed 11-27-73;8:45 am]

### Bureau of Land Management

#### BILLINGS DISTRICT ADVISORY BOARD

##### Notice of Meeting

The Billings District Advisory Board will meet on December 11, 1973, commencing at 9 a.m. in the Billings District Office, 820 East Main Street, Billings, Montana.

The agenda will include reorganization of the Board, structure of the Board, consideration of 1974-75 grazing applications, other grazing administration actions, range improvement project proposals, monitoring of prairie dog towns, proposed regulations on branding of licensed horses and burros, wild horse management program, land use planning program, allotment management planning program, and motorcycle races on public lands.

The meeting will be open to the public. Requests for additional information should be submitted to the District Manager, P.O. Box 2020, Billings, Montana 59103.

The Advisory Board Chairman is Bill Wegner, Bull Mountain Route, Worden, Montana 59088. Those wishing to make an oral statement should inform the Advisory Board Chairman prior to the meeting of the Board, and any written statements should also be submitted to the Chairman.

C. REX CLEARY,  
District Manager.

[FR Doc.73-25150 Filed 11-27-73;8:45 am]

#### IDAHO FALLS DISTRICT ADVISORY BOARD

##### Notice of Meeting

Notice is hereby given that the Bureau of Land Management Idaho Falls District Advisory Board will meet at 9 a.m. on Tuesday, December 18, 1973, at the BLM Idaho Falls District Office, 940 East Lincoln Road, Idaho Falls, Idaho 83401.

The agenda for the meeting will include Advisory Board recommendations on 1974 grazing applications, applications for transfer and exchange of use, and a progress report on district programs.

The meeting will be open to the public. Any interested person wishing to meet with the Advisory Board should inform the Advisory Board Vice-Chairman, Richard Egbert, prior to the meeting. Written statements may also be filed for consideration with Mr. Egbert. They may be sent to Richard Egbert, % Bureau of Land Management, 940 Lincoln Road, P.O. Box 1867, Idaho Falls, Idaho 83401.

WILLIAM L. MATTHEWS,  
State Director.

[FR Doc.73-25151 Filed 11-27-73;8:45 am]

#### CANON CITY DISTRICT ADVISORY BOARD

##### Notice of Meeting

Notice is hereby given that the Canon City District Advisory Board will meet on January 8, 1974, commencing at 10

a.m., at the San Luis Resource Area Office, Bureau of Land Management, 1921 State Avenue, Alamosa, Colorado.

The agenda for the meeting includes organization of the Board, selection of livestock representatives to State Board, selection of district officers, discussion of 1974 grazing season, allotment transfers, branding of licensed horses and burros, and current workload emphasis.

The meeting will be open to the public. Those members of the public wishing to make an oral statement should advise the Advisory Board Chairman, James L. Curtis, Jr., c/o Bureau of Land Management, P.O. Box 311, Canon City, Colorado 81212, prior to the meeting. Oral statements will be heard at 1 p.m. Written statements may also be filed with Mr. Curtis for consideration.

DALE R. ANDRUS,  
State Director.

[FR Doc.73-25149 Filed 11-27-73;8:45 am]

#### National Park Service

[INT FES 73-66]

#### PROPOSED JOHN DAY FOSSIL BEDS NATIONAL MONUMENT, OREG.

##### Availability of Final Draft Environmental Statement

Pursuant to section 102(2)(c) of the National Environmental Policy Act, the Department of the Interior has prepared a final draft environmental statement for a legislative proposal for the establishment of John Day Fossil Beds National Monument in the State of Oregon.

The proposal recommends the authorization of a national monument of some 14,402 acres consisting of three separate but interrelated units located in Grant and Wheeler Counties, Oregon. The monument will preserve and make available to the public a great variety of Cenozoic Plant and animal fossils in a compact setting where earth history can be presented plainly and clearly.

Copies are available from and for inspection at the following locations:

Pacific Northwest Regional Office, National Park Service, 523 Fourth and Pike Building, Seattle, Washington 98101.

Klamath Falls Group Office, National Park Service, 1939 South 6th Street, Klamath Falls, Oregon 97601.

Dated: November 21, 1973.

JOHN M. SEIDL,  
Deputy Assistant Secretary  
of the Interior.

[FR Doc.73-25147 Filed 11-27-73;8:45 am]

#### DEPARTMENT OF AGRICULTURE

##### Food and Nutrition Service

[FSP 1974-2.1; Amdt. 22]

##### FOOD STAMP PROGRAM

Maximum Monthly Allowable Income  
Standards and Basis of Coupon Issuance—Alaska

##### Correction

In FR Doc. 73-24422, appearing at page 31874 in the issue for Monday, Novem-



ber 19, 1973, in the table of "Monthly Coupon Allotments and Purchase Requirements—Alaska", the entry reading "\$210 to \$299.99" should read "\$210 to \$229.99".

#### Soil Conservation Service

#### PAINT CREEK WATERSHED PROJECT, OKLA.

#### Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Soil Conservation Service, U.S. Department of Agriculture, has prepared a final environmental statement for the Paint Creek Watershed Project, Harper County, Oklahoma, USDA-SCS-ES-WS-ADM-73-42-(F).

The environmental statement concerns a plan for watershed protection and flood prevention. The planned works of improvement include conservation land treatment throughout the watershed, supplemented by one single-purpose floodwater retarding structure, one and one-tenth miles of water, and wildlife mitigating measures.

The final environmental statement was transmitted to CEQ on October 29, 1973.

Copies are available for inspection during regular working hours at the following locations:

Soil Conservation Service, USDA, South Agriculture Building, Room 5227, 14th and Independence Avenue SW., Washington, D.C. 20250.

Soil Conservation Service, USDA, USDA Building, Farm Road and Brumley Street, Stillwater, Oklahoma 74074.

Copies are available for purchase from the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22151. Please order by name and number of statement. The estimated cost is \$4.00.

(Catalog of Federal Domestic Assistance Program No. 10.904, National Archives Reference Services.)

Dated: November 21, 1973.

WILLIAM B. DAVEY,  
Deputy Administrator for Water  
Resources, Soil Conservation  
Service.

[FR Doc.73-25253 Filed 11-27-73; 8:45 am]

#### DEPARTMENT OF COMMERCE

#### Maritime Administration

[Docket No. S-396]

#### LUCKENBACH INTERNATIONAL CORP.

#### Notice of Application

Notice is hereby given that Luckenbach International Corporation by letter of November 1, 1973, has amended its application of October 10, 1973, for operating-differential subsidy on two new dry bulk carriers (to be constructed) of approximately 56,110 deadweight tons each. Said vessels will be time chartered and will operate eastbound from the west coast of Canada to eastern and Gulf Coast U.S. ports and westbound from Florida and/or

the Caribbean to the west coast of Canada. The vessels will carry cargoes of lumber, plywood, and other forest products eastbound and phosphates and/or other bulk or neo-bulk commodities westbound. These vessels will not carry cargo subject to the cargo preference statutes, including 10 U.S.C. 2631, 46 U.S.C. 1241, and 15 U.S.C. 616a.

Any party having an interest in such application and who would contest a finding of the Board that the service now provided by vessels of United States registry for the worldwide carriage of liquid and dry bulk cargoes, not subject to the cargo preference statutes, moving in the foreign commerce of the United States or in any particular trade in the foreign commerce of the United States is inadequate, must on or before December 12, 1973, notify the Secretary in writing of his interest and of his position and file a petition for leave to intervene in accordance with the Board's rules of practice and procedure (46 CFR Part 201). Each such statement of interest and petition to intervene shall state whether a hearing is requested under section 605(c) of the Merchant Marine Act, 1936, as amended, and with as much specificity as possible the facts that the intervenor would undertake to prove at such hearing.

In the event that a section 605(c) hearing is ordered to be held, the purpose of such hearing will be to receive evidence relevant to whether the service already provided by vessels of U.S. registry for the worldwide movement of liquid and dry bulk cargoes in the foreign oceanborne commerce of the United States is inadequate and whether in the accomplishment of the purposes and policy of the Act additional vessels should be operated.

If no request for hearing and petition for leave to intervene is received within the specified time, or if the Maritime Subsidy Board determines that petitions for leave to intervene filed with the specified time do not demonstrate sufficient interest to warrant a hearing the Maritime Subsidy Board will take such action as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 11.504 Operating-Differential Subsidies (ODS).)

Dated: November 21, 1973.

By order of the Maritime Subsidy Board.

JAMES S. DAWSON, Jr.,  
Secretary.

[FR Doc.73-25243 Filed 11-27-73; 8:45 am]

#### TAYLOR TANKER CORP. AND VAN BUREN TANKER CORP.

#### Application for Construction-Differential Subsidy

Notice is hereby given that Taylor Tanker Corporation and Van Buren Tanker Corporation have filed, pursuant to Title V of the Merchant Marine Act, 1936, as amended, applications dated November 21, 1973, for a construction-differential subsidy to aid in the construction of two (one each) approximately 265,000 deadweight ton new tanker ves-

sels at Sparrows Point, Maryland shipyard of Bethlehem Steel Corporation for use in the foreign commerce of the United States.

Any person may inspect this application in the Office of the Secretary, Room 3099B, Maritime Administration, Department of Commerce, 14th and E Streets NW., Washington, D.C. 20230.

Dated: November 23, 1973.

By order of the Maritime Subsidy Board, Maritime Administration.

JAMES S. DAWSON, Jr.,  
Secretary.

[FR Doc.73-25242 Filed 11-27-73; 8:45 am]

#### United States Travel Service

#### TRAVEL ADVISORY BOARD

#### Notice of Meeting

The Travel Advisory Board of the U.S. Department of Commerce will meet December 11 at 9:30 a.m., in Room 4830 of the Main Commerce Building, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

Established in July 1968, the Travel Advisory Board consists of senior representatives of 15 U.S. travel industry segments who are appointed by the Secretary of Commerce to serve two year terms.

Members advise the Secretary of Commerce and Assistant Secretary of Commerce for Tourism on policies and programs designed to accomplish the purposes of the International Travel Act of 1961, as amended.

Agenda items are as follows:

- (1) Opening remarks by Assistant Secretary of Commerce for Tourism, C. Langhorne Washburn.
- (2) 1973 U.S. arrivals and departures, and tourism earnings and expenditures.
- (3) Discussion of highlights of USTS activities, October to December.
- (4) Discussion of progress under Integrated Marketing Plan and Measurement System.
- (5) Discussion of tour development program.
- (6) Introduction and discussion of 1974 advertising program.
- (7) Discussion of USTS legislation.
- (8) Discussion of fuel shortage and impact on tourism.
- (9) Adjournment.

A limited number of seats, approximately 14, will be available to observers from the public and the press. The public will be permitted to file written statements with the Committee before or after the meeting. To the extent time is available the presentation of oral statements will be allowed.

Robert Jackson, Director of Information Services, of the United States Travel Service, Room 1525, U.S. Department of Commerce, Washington, D.C. 20230 (telephone 202-967-4987) will respond to public requests for information about the meeting.

C. LANGHORNE WASHBURN,  
Assistant Secretary for Tourism,  
U.S. Department of Commerce.

[FR Doc.73-25367 Filed 11-27-73; 8:45 am]



# DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

## Food and Drug Administration

[FAP 4B2938]

### AMERICAN CYANAMID CO.

#### Filing of Petition for Food Additive

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409 (b) (5), 72 Stat. 1786; 21 U.S.C. 348(b) (5)), notice is given that a petition (FAP 4B2938) has been filed by American Cyanamid Co., Wayne, NJ 07470, proposing that § 121.2526 *Components of paper and paperboard in contact with aqueous and fatty foods* (21 CFR 121.2526) be amended in paragraph (a) (5), by changing the permissible level of use, from 0.25 percent to 1 percent, of the item acrylonitrile polymer with styrene, reaction product with ethylenediamine, acetate; as a sizing material in paper and paperboard intended for contact with food.

The environmental impact analysis report and other relevant material have been reviewed, and it has been determined that the proposed use of the additive will not have a significant environmental impact. Copies of the environmental impact analysis report may be seen in the office of the Assistant Commissioner for Public Affairs, Rm. 15B-42 or the office of the Hearing Clerk, Food and Drug Administration, Rm. 6-86, 5600 Fishers Lane, Rockville, MD 20852, during working hours Monday through Friday.

Dated: November 16, 1973.

ALBERT C. KOLEYE, Jr.,  
Acting Director,  
Bureau of Foods.

[FR Doc.73-25157 Filed 11-27-73;8:45 am]

[DESI 11926; Docket No. FDC-D-645;  
NDA 11-926, etc.]

### ROCHE LABORATORIES

#### Triclobisium Chloride Vaginal Preparations; Withdrawal of Approval

On August 28, 1973, there was published in the FEDERAL REGISTER (38 FR 22996) a notice of opportunity for hearing (DESI 11926) in which the Commissioner of Food and Drugs proposed to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)) withdrawing approval of the following new drug applications containing triclobisium chloride:

1. NDA 11-926, Trib Vaginal Cream; and
2. NDA 12-523, Trib Vaginal Suppositories; both formerly marketed by Roche Laboratories, Division of Hoffman-La Roche, Inc., 340 Kingsland Avenue, Nutley, NJ 07110.

The basis of the proposed withdrawal of approval was the lack of substantial evidence that these drugs will have the effects that they purport or are represented to have under the conditions of use prescribed, recommended or suggested in the labeling.

All identical, related, or similar products, not the subject of an approved new drug application, are covered by the new drug applications reviewed and are subject to this notice. See 21 CFR 130.40 (37 FR 23185, Oct. 31, 1972). Any person who wishes to determine whether a specific product is covered by this notice should write to the Food and Drug Administration, Bureau of Drugs, Office of Compliance (BD-300), 5600 Fishers Lane, Rockville, MD 20852.

Neither Roche Laboratories nor any other interested person filed a written appearance of election as provided by said notice. The failure to file such an appearance constitutes an election by such persons not to avail themselves of the opportunity for a hearing.

The Commissioner of Food and Drugs, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1053, as amended; 21 U.S.C. 355), and the Administrative Procedure Act (5 U.S.C. 554), and under authority delegated to him (21 CFR 2.120), finds that on the basis of new information before him with respect to said drugs, evaluated together with the evidence available to him when the applications were approved, there is a lack of substantial evidence that the drugs will have the effects they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in the labeling thereof.

Therefore pursuant to the foregoing finding, approval of the above new drug applications and all amendments and supplements applying thereto is withdrawn effective on December 10, 1973.

Shipment in interstate commerce of the above-listed drug products or of any identical, related, or similar products, not the subject of an approved new drug application, will then be unlawful.

Dated: November 19, 1973.

SAM D. FINE,  
Associate Commissioner  
for Compliance.

[FR Doc.73-25156 Filed 11-27-73;8:45 am]

### Office of the Secretary

#### SOCIAL SECURITY ADMINISTRATION

##### Statement of Organization and Functions and Delegations of Authority

Part 4 (Social Security Administration) of the Statement of Organization and Functions and Delegations of Authority of the Department of Health, Education, and Welfare (33 FR 5836-5837, dated April 16, 1968), as amended, including, as pertinent here, the additional amendments made by 35 FR 7033-34, dated May 2, 1970, and 38 FR 15648, dated June 14, 1973, is hereby further amended by adding the following subsection at the end of section 4-D.1—*Delegations of Authority to the Commissioner of Social Security:*

- h. The functions vested in the Secretary by sections 210 through 214 of Part

B of title II of Public Law 93-66, enacted on July 9, 1973 (87 Stat. 154-158), which pertain to the Social Security Administration's implementation and ongoing administration of the supplemental security income program established by section 301 of Public Law 92-603, enacted on October 30, 1972.

This delegation is effective as of the date this General Notice thereof is published in the FEDERAL REGISTER. However, any actions heretofore taken by the Commissioner of Social Security or other SSA officials with the Commissioner's approval which, in effect, involve the exercise of authority formally delegated by this document, are hereby affirmed and ratified.

(Sec. 6, Reorganization Plan No. 1 of 1953.)

Dated: November 20, 1973.

CASPAR W. WEINBERGER,  
Secretary of Health,  
Education, and Welfare.

[FR Doc.73-25213 Filed 11-27-73;8:45 am]

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### Federal Disaster Assistance Administration

[Docket No. NFD-138; FDAA-406-DR]

#### NEBRASKA

##### Amendment to Notice of Major Disaster

Notice of Major Disaster for the State of Nebraska, dated October 20, 1973, and published October 29, 1973 (38 FR 29835), and amended November 1, 1973, is hereby further amended to include the following counties among those counties determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of October 20, 1973:

The Counties of:

Cass Saunders  
(Catalog of Federal Domestic Assistance Program No. 50.002, Disaster Assistance.)

Dated: November 21, 1973.

THOMAS P. DUNNE,  
Administrator, Federal Disaster  
Assistance Administration.

[FR Doc.73-25224 Filed 11-27-73;8:45 am]

## ATOMIC ENERGY COMMISSION

[Dockets Nos. 50-324; 50-325]

### CAROLINA POWER AND LIGHT CO.

#### Notice and Order for Further Prehearing Conference

In the matter of Carolina Power & Light Co. (Brunswick Steam Electric Plant, Units 1 and 2).

Please take notice that a further prehearing conference in the above-captioned proceeding will be held at 9:30 a.m. on Tuesday, January 15, 1974, in the United States District Court, 2nd Floor, United States Court House, Federal Building, Water and Princess Streets, Wilmington, North Carolina 28401.



All members of the public are entitled to attend this prehearing conference, which will be conducted, pursuant to § 2.751a of the Commission's rules of practice, 10 CFR 2.751a, as a continuation of the initial prehearing conference held in this proceeding on July 19, 1973. This continuation of the July 19, 1973, prehearing conference will be for the purpose of further considering identification of key issues in this proceeding, the steps necessary for such identification, and the establishment of a firm schedule for subsequent actions to be taken. The Atomic Safety and Licensing Board (Board), at the January 15, 1974, prehearing conference, will not receive evidence, nor allow statements by members of the public who desire to make limited appearances in this proceeding. The Board will allow such statements to be made on the initial day of the commencement of evidentiary hearings.

Wherefore, it is ordered, In accordance with the Atomic Energy Act, as amended, and the rules of practice of the Atomic Energy Commission, that a prehearing conference shall convene at 9:30 a.m. on January 15, 1974, in the United States District Court, 2nd Floor, United States Court House, Federal Building, Water and Princess Streets, Wilmington, North Carolina 28401.

Done at Washington, D.C., November 20, 1973.

ATOMIC SAFETY AND LICENSING BOARD,  
MICHAEL L. GLASER,  
Chairman.

[FR Doc.73-25208 Filed 11-27-73;8:45 am]

[Dockets Nos. 50-334; 50-412]

#### DUQUESNE LIGHT CO.

##### Order Convening Evidentiary Hearing

In the matter of, Duquesne Light Company, Ohio Edison Company, and Pennsylvania Power Company (Beaver Valley Power Station Units 1 and 2).

Take notice that, in accordance with the stipulation of the parties respecting their readiness to proceed, the evidentiary hearing for these combined proceedings involving a request for an operating license for Beaver Valley Unit No. 1 and a construction permit for Beaver Valley Unit No. 2 shall commence at 9 a.m. on Tuesday, January 8, 1974, in Courtroom No. 9 on the Ninth Floor, U.S. District Court, U.S. Post Office and Court House, 7th and Grand Streets, Pittsburgh, Pennsylvania 15230.

Issued: November 23, 1973 at Germantown, Maryland.

ATOMIC SAFETY AND LICENSING BOARD,  
SAMUEL W. JENSEN,  
Chairman.

[FR Doc.73-25221 Filed 11-27-73;8:45 am]

[License 12-15641-02E]

#### REPUBLIC INDUSTRIES, INC.

##### Issuance of Byproduct Material License

Please take notice that the Atomic Energy Commission has, pursuant to 10

CFR 32.26 issued License No. 12-15641-02E to Republic Industries, Incorporated, Dor-O-Matic Division, 7350 W. Wilson Avenue, Chicago, Illinois 60654, which authorizes the distribution of the Fire Eye III, fire detector to persons exempt from the requirements for a license pursuant to 10 CFR 30.20.

1. The devices are designed to detect incipient fire by responding to the products of combustion produced by thermal decomposition of building materials or contents prior to the appearance of visible smoke, flame, or appreciable heat. The sensitive element of the detector is an ionization chamber in which air flowing into the chamber is made conductive by alpha particles emitted by americium 241.

2. The byproduct material incorporated in the detector is americium in the oxide form contained in foils manufactured by the Radio-chemical Centre (Model AMM W294). The nominal activity contained in the unit is 2 microcuries but the maximum activity is 2.6 microcuries.

3. Each exempt unit will have a label identifying the manufacturer (Dor-O-Matic) and the byproduct material (americium-241) contained in the unit and recommending that the unit be returned to Dor-O-Matic for repair or disposal.

A copy of the license and a safety evaluation containing additional information, prepared by the Directorate of Licensing, are available for public inspection at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C.

For the Atomic Energy Commission.

Dated at Bethesda, Maryland, November 21, 1973.

JAMES C. MALARO,  
Chief Materials Branch,  
Directorate of Licensing.

[FR Doc.73-25220 Filed 11-27-73;8:45 am]

[Docket Nos. 50-445; 50-466]

#### TEXAS UTILITIES GENERATING CO. ET AL.

##### Notice and Order Scheduling Prehearing Conference

In the matter of Texas Utilities Generating Company, Dallas Power and Light Company, Texas Electric Service Company, and Texas Power and Light Company (Comanche Peak Steam Electric Station, Units 1 and 2).

Take notice, that in accordance with the Atomic Energy Commission's "Notice of Hearing on Application for Construction Permits" published August 2, 1973, 38 FR 20635, a special prehearing conference will be held in the above-identified proceeding on Tuesday, December 4, 1973, at 10 a.m., local time, in Courtroom 15-B-16, U.S. District Court, 1000 Commerce Street, Dallas, Texas 75202.

The prehearing conference shall deal with the following matters:

- (1) Identification of the key issues in the proceeding;
- (2) Consideration of petitions for leave to intervene to permit the Safety and Licensing Board to make such preliminary

or final determination as to the parties to the proceeding, as may be appropriate; and

(3) Establishment of a schedule for further actions in the proceeding.

Members of the public are invited to attend the prehearing conference. Limited appearance statements will not be accepted at this proceeding but will be accepted at the commencement of the evidentiary hearing to be scheduled at a later date.

It is so ordered.

Issued at Washington, D.C., this 21st day of November 1973.

ATOMIC SAFETY AND LICENSING BOARD,  
ROBERT M. LAZO,  
Chairman.

[FR Doc.73-25209 Filed 11-27-73;8:45 am]

[Docket No. 38]

#### PATENT COMPENSATION BOARD

##### Notice of Application

Notice is hereby given that Charles V. Ellison of Arlington, Virginia, filed an application for reasonable royalty-fees, just compensation and awards November 15, 1973, based on U.S. Patents 2,990,240 and 3,429,671, Canadian Patent 625,998, and the "TBP Process for the Uranium Recovery from Metal Waste". The application of Mr. Ellison is on file with the Patent Compensation Board. Any person other than the applicant desiring to be heard with reference to the application should file with the Patent Compensation Board, United States Atomic Energy Commission, Washington, D.C., 20545, on or before December 28, 1973, a statement of facts concerning the nature of his interest.

Dated at: Germantown, Md., this 23rd day of November 1973.

MARGARET H. MELIN,  
Acting Clerk,  
Patent Compensation Board.

[FR Doc.73-25264 Filed 11-27-73;8:45 am]

#### CIVIL AERONAUTICS BOARD

[Docket 23080-1 et al.; Order 73-11-91]

##### DOMESTIC SERVICE MAIL RATES

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 20th day of November 1973.

In the matter of priority and nonpriority domestic service mail rates—phase 1, docket 23080-1, domestic service mail rate case, docket 16349, and nonpriority mail rates, docket 18381.

By Order 73-8-144, dated August 30, 1973, the Board proposed to fix final domestic service mail rates for the period December 12, 1970, through March 27, 1973. All interested persons were directed to show cause why the Board should not adopt the proposed findings and conclusions and fix and determine the rates specified therein.

The time allowed for filing notices of objection has expired without objections being filed by any party. However, on



September 13, 1973, a petition to intervene and an objection and answer to the show cause order were filed by "Public Citizen" and the "Aviation Consumer Action Project" (ACAP). Subsequent thereto, Delta Air Lines, Inc., on September 25, 1973, and Trans World Airlines, Inc., on September 28, 1973, filed motions for leave to file a reply<sup>1</sup> and replies to the objection and answer of Public Citizen and ACAP. By Order 73-11-90, issued contemporaneously herewith, the Board denied the petition to intervene. Accordingly, no further procedural steps are required other than a final decision of the Board fixing the rates. However, pursuant to Rules 302 and 305(c)<sup>2</sup> of the Board's rules of practice and in the exercise of our statutory responsibilities in determining whether the findings and conclusions proposed in Order 73-8-144 should be made final, we have considered the arguments raised in the objection and answer of Public Citizen and ACAP and the replies of Delta and TWA.

Public Citizen and ACAP challenge the premise underlying the Board's show cause order that changes over time in overall unit costs accurately reflect changes in mail unit costs, and they contend that the use of such overall costs is improper, since actual cost data have been distributed to the parties by the Bureau of Economics. They further allege that the cost figures arrived at by the Bureau are erroneous because they are inflated by several errors which if corrected would result in figures showing the carriers' being overcompensated by \$1.4 million. Delta and TWA state that the objections of Public Citizen and ACAP should be disallowed because they are not substantiated by independent evidence but rather are based on a highly selective sifting of material taken from the exhibits of the Postal Service and the Bureau of Economics. Further, they argue that Public Citizen and ACAP are trying to substitute their own judgment for that of the Board and the other parties.

Upon consideration of the arguments raised in the objection and answer and the replies thereto, we will make final the tentative findings and conclusions in Order 73-8-144. Those findings and conclusions were not based on particular costing principles espoused in the exhibits of the Bureau of Economics or of any other party, but upon a ratemaking methodology acceptable to all parties as a means of reaching a reasonable resolution of what would otherwise be a complicated, time-consuming and unwieldy proceeding.

If this case were to go to hearing, all issues would be open, and we cannot predict, of course, precisely what mail rate would ensue from that proceeding. How-

ever, we are here dealing with a finite past period which only indirectly bears on the future, since substantial changes in the character of the mail service were made thereafter. It is desirable to establish the past period rates now so as to place all payments for the carriage of mail on a current basis for periods prior to inauguration of the new system. This action will resolve budgetary uncertainties for the Postal Service and balance-sheet uncertainties for the carriers, covering a substantial time span, while deferring finalization further would be undesirable for both the Postal Service and the carriers, as both recognize. The rates proposed by Order 73-8-144 are acceptable to all parties to this proceeding, even though those rates may differ quite substantially from the rates that would be advocated if the proceeding were set for hearing. The Board has long recognized the propriety of establishing final rates under section 406 on a basis short of a full-scale hearing. Similarly, in a number of cases where no party in interest has objected, we have recognized the validity of establishing final service mail rates on the basis of overall cost trends.<sup>3</sup>

There is, then, acceptance by all the parties of the rate proposed by the Board, although the Postal Service and all carriers recognize that a hearing might produce a higher or lower rate. Further, a full-scale hearing and attendant procedural steps would constitute a costly burden on all parties and the Board, requiring a very sizeable expenditure of time, effort, and money for all concerned, and constituting a significant drain on Board resources that could be more productively employed on other matters of greater urgency.

The question posed by ACAP is whether the basis on which the Board proposed to establish final rates, taking into account the above factors, is unreasonable. We conclude that ACAP has not so demonstrated and that the basis for fixing these rates used by the Board in its show cause order is entirely reason-

<sup>1</sup> Latin American Service Mail Rate for Priority Mail, Orders 69-10-149, October 30, 1969, and 69-10-65, October 14, 1969; Latin American Service Mail Rate Proceeding, 44 C.A.B. 518 (1966); Domestic Service Mail Rate Case, 43 C.A.B. 59 (1965); Transatlantic and Transpacific Priority Service Mail Rate Proceeding, 41 C.A.B. 297 (1964).

able. There is no reason to believe that the use of the ratio technique for measuring cost trends over time injects any significant bias into the rates so established. ACAP has not shown that mail costs are any less affected by inflation and general cost trends than are the carriers' overall operating costs. Mail transportation services are not provided separately and apart from the carriage of passengers, express, and air freight. On the contrary, almost all mail is carried on aircraft along with other traffic, and the costs of transporting the mail are produced jointly with the cost of transporting the other types of traffic. Thus, it is clear, we believe, that the vast bulk of carrier cost (e.g., the cost of acquiring, flying, servicing, and maintaining aircraft) applies jointly to the several traffics and most cost changes (e.g., an increase in the price of fuel) are properly shared by all traffics.

Further, contrary to the contention of the objectors, the rates proposed by the Board result in a dollar payment to the carriers that is lower than that derived from the exhibits of the Bureau and the carriers. Examination of the exhibits of the Bureau of Economics indicates that the Bureau's cost figures produce a retroactive mail payment of \$38.6 million<sup>4</sup> in contrast to the \$24.9 million calculated by the objectors from the Bureau's exhibit.<sup>5</sup> Moreover, although the exhibits represent the untested data and positions of the various parties to the proceeding, we note that the retroactive payments shown in the exhibits of the other parties range from a low of no payment, proposed by the Postal Service, to a high of nearly \$93 million. Thus the Bureau position in its exhibits does not represent a ceiling on the rates from which adjust-

<sup>4</sup> Computation of additional mail pay using costs advocated by the bureau in docket 23080-1.

<sup>5</sup> Public Citizen and ACAP apparently arrived at the \$24.9 million by using the Bureau unit costs that reflect the circuitry ratios provided by the Postal Service in Exhibit PS-IR-7. However, as the Bureau's Statement of Position which accompanied Exhibit BE-D-1000 (Revised) makes clear, the actual billing ton-mile data subsequently supplied by the Postal Service and used in that exhibit are considered to be more accurate than the earlier furnished ratios and therefore should be relied on. Public Citizen and ACAP used the wrong figures in their computation.

| Item                                                                 | 1971   |         | 1972   |         |
|----------------------------------------------------------------------|--------|---------|--------|---------|
|                                                                      | Mail-P | Mail-NP | Mail-P | Mail-NP |
| Base revenue per great-circle ton-mile <sup>1</sup> .....cents.....  | 28.78  | 16.30   | 28.78  | 16.36   |
| Current costs per great-circle ton-mile <sup>2</sup> .....cents..... | 29.57  | 19.73   | 30.47  | 20.66   |
| Percent increase.....                                                | +2.7   | +21.0   | +5.9   | +26.3   |

| Period                 | Priority mail    |          |                 | Nonpriority mail |          |                 | Total mail       |          |                 |
|------------------------|------------------|----------|-----------------|------------------|----------|-----------------|------------------|----------|-----------------|
|                        | Revenue received | Per-cent | Increase amount | Revenue received | Per-cent | Increase amount | Revenue received | Per-cent | Increase amount |
| Current year 1971..... | \$101.9          | 2.7      | \$2.8           | \$54.2           | 21.0     | \$11.4          | \$156.2          | 9.1      | \$14.2          |
| Current year 1972..... | 102.3            | 5.9      | 6.0             | 51.8             | 26.3     | 13.6            | 154.0            | 12.7     | 19.6            |
| 1st quarter 1973.....  | 25.0             | 5.9      | 1.5             | 12.7             | 26.3     | 3.3             | 37.7             | 12.7     | 4.8             |
| Total.....             | 229.2            | 4.4      | 10.3            | 118.7            | 23.8     | 28.3            | 347.9            | 11.1     | 38.6            |

<sup>1</sup> ACAP's objections and answer, App. I, Line 7.

<sup>2</sup> Bureau exhibits: BE-D-1000 (revised), economic costs per as billed RTM.

<sup>1</sup> We are granting the motions for leave to file the reply.

<sup>2</sup> Under Rule 305(c), the objection and answer have been treated as a memorandum filed pursuant to Rule 302. Under Rule 302 persons other than parties may submit a memorandum in support of or in opposition to an order to show cause.



ments are to be made, as ACAP would have it. We would also note that the Board cannot pick and choose from among only certain of the parties' exhibits as ACAP has, but must consider all relevant evidence bearing on the issues. We are satisfied the overall cost trend approach we followed is a reasonable alternative to a full-scale hearing and has produced a reasonable result. Certainly the fact that both the providers and user of the service are prepared to accept the proposed rates is substantial evidence of their reasonableness.

The other contentions of Public Citizen and ACAP directed to the Bureau's exhibits are equally without merit. Some of the points raised are not at all relevant under the approach followed by the Board as set forth above. Their further deficiencies are discussed in the margin.<sup>6</sup> However, since two of the arguments also apply to the methodology used by the Board in the order to show cause, they have been considered in that context.

First, the objectors cite as erroneous the use of the normal Federal income tax rate of 48 percent rather than an actual tax rate. Historically, the Board has followed ratemaking policies with respect to service mail rates which are similar to those employed for ordinary commercial rates (i.e., passenger fares, freight rates). In such cases it has been the Board's policy to provide a tax element in the rate or fare based on the then applicable normal tax rate,<sup>7</sup> and

\* ACAP and Public Citizen assert that the Bureau overstated mail pay by misapplying "the circuitry factor" to total costs instead of to capacity costs only, but the fact is that under the Bureau's methodology no circuitry factor was used or required. The use of a circuitry factor is necessary only when (a) unit costs and yields are stated in terms of revenue ton-miles and (b) billings under the rate are based on the shorter great-circle miles. In that event the ratio of revenue ton-miles to as-billed ton-miles has frequently been applied to yield in order to equalize revenues and costs. However, under the Bureau's methodology, as indicated in note 5, supra, the mail costs were divided by the as-billed ton-miles to produce unit costs and overall yields. These overall yields were then directly divided between the line haul and station elements, with no application of a circuitry factor, since none was necessary. Billings based on great-circle miles applied to the rate elements thus derived by the Bureau would produce total mail revenues the same as the total mail costs used by the Bureau. The further contention that the Bureau erred in allocating total traffic-servicing expense among the several categories of traffic without first removing expenses directly chargeable to air freight is also invalid. The man-minute data used to allocate the total expense pool reflect employee time which is directly chargeable to a given type of traffic as well as employee time which must be allocated among two or more traffics. Thus, the expense pool and man-minute allocation factors are wholly consistent and the result produced is valid.

<sup>6</sup> Cf. the Board's Policy Statement with respect to deferred income taxes, Section 399.44. Under that policy a normal tax allowance is provided, notwithstanding the fact that a carrier's current tax liability may be lower by virtue of the application of deferred tax provisions.

that policy has been applied in cases where, as here, a mail rate was being established for a past period. A different policy has been used in subsidy cases, but there we are treating with the need of the carrier as a whole, rather than the economic cost of one portion of its operation. While it is arguable that a tax allowance should not be made at a rate in excess of that experienced by a carrier during the rate period, it is by no means self-evident that tax savings affected by losses or marginal earnings from the predominant passenger services should redound to the benefit of the mail rate, which should be based on the full economic cost of providing the service. In any event, we would be most reluctant to make this controversial change in policy on a retroactive basis, and certainly not in the context of the overall approach adopted in view of the factors discussed above. Finally, it may be noted that, even if the \$10.7 million asserted by Public Citizen and ACAP to be applicable to this tax issue were deducted from the additional service mail pay indicated in the Bureau's exhibits, the resulting amount would be closely in line with the increase proposed by Order 73-8-144.

Public Citizen and ACAP also contend that the carriers' costs are inflated by the application of the standard passenger load factor when a standard cargo load factor should have been used. First, use of a standard passenger load factor reduces the costs applicable to mail to the extent that capacity exists over and above that allowable under the standard, rather than inflating them. Moreover, it can be stated, without any prejudice to full exploration of this issue in the Domestic Air Freight Rate Investigation, Docket 22859, where the matter can be examined in detail, that there is a substantial question as to the feasibility of establishing cargo load-factor standards for combination aircraft, in which most of the mail is carried but in which passenger traffic is predominant and exerts the primary influences on scheduling. In any event, it would be inappropriate for the Board to establish and apply standard cargo load factors for a past period during which no such standards were in effect. As we stated in a recent opinion:<sup>8</sup>

"... we have considerable doubts that the Board can or should apply load-factor standards of the DPFI retroactively, absent a finding of a lack of honest, economical or efficient carrier management. The adoption of standards, such as load-factor guidelines, essentially involves a regulatory judgment by the agency for the purpose of determining the lowest cost consistent with adequate service, under section 1002(e) (2), and only the Board can make this determination. To impose Board-made standards retroactively on carriers in a situation where they had no reason to believe that their operations would be subject to ex post facto review raises a substantial question of equity.

\* Reasonableness of Passenger Fares Charged by Domestic Trunkline and Local Service carriers from October 1, 1969, through October 14, 1970, Order 73-7-39, July 11, 1973.

Therefore, we applied the passenger load-factor and seating-configuration standards adopted in the Domestic Passenger-Fare Investigation, Docket 21866, for that portion of the open-rate period during which these standards were in effect.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 406 thereof, and pursuant to the Board's regulations, 14 CFR Part 302,

It is ordered, That:

1. The fair and reasonable final rates of compensation to be paid by the Postmaster General to Airlift International, Inc., Alaska Airlines, Inc., Allegheny Airlines, Inc., American Airlines, Inc., Braniff Airways, Inc., Caribbean-Atlantic Airlines, Inc., Continental Air Lines, Inc., Delta Air Lines, Inc., Eastern Air Lines, Inc., The Flying Tiger Line Inc., Frontier Airlines, Inc., Hughes Air Corp., Mohawk Airlines, Inc., National Airlines, Inc., Northeast Airlines, Inc., North Central Airlines, Inc., Northwest Airlines, Inc., Ozark Air Lines, Inc., Pan American World Airways, Inc., Piedmont Aviation, Inc., Seaboard World Airlines, Inc., Southern Airways, Inc., Texas International Airlines, Inc., Trans Caribbean Airways, Inc., Trans World Airlines, Inc., United Air Lines, Inc., and Western Air Lines, Inc.,

(a) for the transportation by air of nonpriority mail (i.e., all mail other than airmail and air parcel post, which may be tendered from time to time by the Postal Service and carried on a space-available basis) other than that for which rates are elsewhere established, the facilities used and useful therefor, and the services connected therewith, between the points at issue in Docket 23080-1 are (1) from December 12, 1970, through December 31, 1971, a linehaul charge of 12.85 cents per nonstop great-circle ton-mile and terminal charges of 2.65, 5.31, and 10.61 cents per pound at stations of origin classified as X, Y, and Z, respectively, and (2) from January 1, 1972, through March 27, 1973, a linehaul charge of 12.63 cents per nonstop great-circle ton-mile and terminal charges of 2.61, 5.22, and 10.44 cents per pound at stations of origin classified as X, Y, and Z, respectively;

(b) for the transportation by air of mail other than that for which rates are elsewhere established, the facilities used and useful therefor, and the services connected therewith, between the points at issue in Docket 23080-1, are (1) from December 12, 1970, through December 31, 1971, a linehaul charge of 25.68 cents per nonstop great-circle ton-mile and terminal charges of 2.50, 5.01, and 10.02 cents per pound at stations of origin classified as X, Y, and Z, respectively, and (2) from January 1, 1972, through March 27, 1973, a linehaul charge of 25.25 cents per nonstop great-circle ton-mile and terminal charges of 2.46, 4.92, and 9.85 cents per pound at stations of origin classified as X, Y, and Z, respectively.

\* As defined by Order 70-4-9.



2. Effective December 12, 1970, Order 70-4-9, dated April 2, 1970, as amended, shall be further amended as follows:

(a) Paragraphs (A) (1) and (A) (2) (a)-(g) on pages 1 and 2 are amended to read as follows:

(A) the fair and reasonable rates of compensation to be paid by the Postmaster General for the transportation by air of non-priority mail (i.e., all mail other than air-mail and air parcel post, which may be tendered from time to time by the Postal Service and carried on a space-available basis) other than that for which rates are elsewhere established, the facilities used and useful therefor, and the services connected therewith to:

Airline International, Inc.  
Alaska Airlines, Inc.  
Allegheny Airlines, Inc.  
American Airlines, Inc.  
Braniff Airways, Inc.  
Caribbean-Atlantic Airlines, Inc.  
Continental Air Lines, Inc.  
Delta Air Lines, Inc.  
Eastern Air Lines, Inc.  
The Flying Tiger Line, Inc.  
Frontier Airlines, Inc.  
Hughes Air Corp.  
Mohawk Airlines, Inc.  
National Airlines, Inc.  
Northeast Airlines, Inc.  
North Central Airlines, Inc.  
Northwest Airlines, Inc.  
Ozark Air Lines, Inc.  
Pan American World Airways, Inc.  
Piedmont Aviation, Inc.  
Seaboard World Airlines, Inc.  
Southern Airways, Inc.  
Texas International Airlines, Inc.  
Trans Caribbean Airways, Inc.  
Trans World Airlines, Inc.  
United Air Lines, Inc.  
Western Air Lines, Inc.

for operations over their routes authorized under certificates in effect on or subsequent to December 12, 1970:

(1) On and after December 12, 1970; within the 48 contiguous States and the District of Columbia; between points in the 48 contiguous States and the District of Columbia, on the one hand, and, on the other hand, Hilo and Honolulu, Hawaii; San Juan, Puerto Rico; St. Croix and St. Thomas, Virgin Islands; Wake Island; Agana, Guam; Pago Pago, American Samoa; Acapulco, Guaymas, La Paz, Mazatlan, Merida, Mexico City, Monterrey, Puerto Vallarta, Tampico, and Veracruz, Mexico; and terminal points in Canada; between Honolulu, Hawaii, on the one hand, and, on the other hand, Agana, Guam; Wake Island; and Pago Pago, American Samoa; between points in Puerto Rico, on the one hand, and St. Croix and St. Thomas, Virgin Islands, on the other; between points in Puerto Rico; and between St. Croix and St. Thomas, Virgin Islands;

(2) From December 12, 1970, through January 2, 1973, between points in the 48 contiguous States and the District of Columbia, on the one hand, and Anchorage, Cordova, Fairbanks, Juneau, Ketchikan, Kodiak, and Yakutat, Alaska, on the other;

(3) On and after January 3, 1973, between points in the 48 contiguous States and the District of Columbia, on the one hand, and points in the State of Alaska, on the other; shall be the sum of the linehaul charges and the terminal charges computed as follows:

\* The final rates for civil domestic mail of the second, third, and fourth classes established by Order 72-6-95, dated June 21, 1972, for the carriers, points, and dates specified therein are not affected by this order.

(b) The first paragraph under "1. Linehaul charges" on page 3 is amended to read as follows:

1. *Linehaul charges*—For the period December 12, 1970, through December 31, 1971, the linehaul charge shall be the product of the nonpriority mail ton-miles times the linehaul rate of 12.85 cents per nonpriority mail ton-mile. For the period January 1, 1972, through March 27, 1973, the linehaul charge shall be the product of the nonpriority ton-miles times the linehaul rate of 12.63 cents per nonpriority mail ton-mile. The nonpriority mail ton-miles for each shipment shall be computed by using the non-stop great-circle miles between the station of origin and station of destination for each shipment as the standard mileage between such points.

(c) Paragraph 2(a) on page 3 is amended to read as follows:

2. *Terminal charges*—(a) The terminal charge for each shipment of nonpriority mail shall be the product of the pounds of nonpriority mail in each shipment times the terminal rate per pound set forth below for the station of origin of the mail shipment:

| Station of origin | Terminal rate per pound             |                                |
|-------------------|-------------------------------------|--------------------------------|
|                   | December 12, 1970–December 31, 1971 | January 1, 1972–March 27, 1973 |
| Class X.....      | Cents 2.65                          | Cents 2.61                     |
| Class Y.....      | 3.31                                | 3.22                           |
| Class Z.....      | 10.61                               | 10.44                          |

3. Effective December 12, 1970, Order E-25610, dated August 28, 1967, as amended, shall be further amended as follows:

(a) Paragraph (2) on pages 1 and 2 is amended to read as follows:

(2) The fair and reasonable rates of compensation to be paid by the Postmaster General for the transportation by air of mail other than that for which rates are elsewhere established, the facilities used and useful therefor, and the services connected therewith to:

Airline International, Inc.  
Allegheny Airlines, Inc.  
Eastern Air Lines, Inc.  
Frontier Airlines, Inc.  
Hughes Air Corp.  
Mohawk Airlines, Inc.  
Northeast Airlines, Inc.  
North Central Airlines, Inc.  
Ozark Air Lines, Inc.  
Piedmont Aviation, Inc.  
Southern Airways, Inc.  
Texas International Airlines, Inc.  
United Air Lines, Inc.

for operations over their entire systems as constituted on or subsequent to December 12, 1970, and

Alaska Airlines, Inc.  
American Airlines, Inc.  
Braniff Airways, Inc.  
Caribbean-Atlantic Airlines, Inc.  
Continental Air Lines, Inc.  
Delta Air Lines, Inc.  
The Flying Tiger Line, Inc.  
National Airlines, Inc.  
Northwest Airlines, Inc.  
Pan American World Airways, Inc.  
Seaboard World Airlines, Inc.  
Trans Caribbean Airways, Inc.  
Trans World Airlines, Inc.  
Western Air Lines, Inc.

for operations over their routes within the 48 contiguous States and the District of Columbia insofar as authorized under certificates for interstate air transportation; over their routes between points within the 48 contiguous States and the District of Colum-

bia, on the one hand, and on the other, points in the State of Alaska; Hilo and Honolulu, Hawaii; Acapulco, Merida, Mexico City, and Monterrey, Mexico; San Juan, Puerto Rico; points in the Virgin Islands; and terminal points in Canada; and between points in Puerto Rico, on the one hand, and points in the Virgin Islands, on the other; between points in Puerto Rico; and between points in the Virgin Islands; which are in effect on or subsequent to December 12, 1970, shall be computed by obtaining the sum of (1) the linehaul charges, and (2) the terminal charges, computed as follows:

(b) The first paragraph under "1. Linehaul charges" on page 2 is amended to read as follows:

1. *Linehaul charges*. For the period December 12, 1970, through December 31, 1971, the linehaul charge shall be the product of the ton-miles times the linehaul rate of 25.63 cents per mail ton-mile. For the period January 1, 1972, through March 27, 1973, the linehaul charge shall be the product of the mail ton-miles times the linehaul rate of 25.25 cents per mail ton-mile. The mail ton-miles for each shipment shall be computed by using the non-stop great-circle miles between the station of origin and station of destination for each shipment as the standard mileage between such points.

(c) Paragraph 2(a) on page 2 is amended to read as follows:

2. *Terminal charges*. (a) The terminal charge for each shipment of mail shall be the product of the pounds of mail in each shipment times the terminal rate per pound set forth below for the station of origin of the mail shipment:

| Station of origin | Terminal rate per Pound             |                                |
|-------------------|-------------------------------------|--------------------------------|
|                   | December 12, 1970–December 31, 1971 | January 1, 1972–March 27, 1973 |
| X.....            | Cents 2.50                          | Cents 2.46                     |
| Y.....            | 5.01                                | 4.92                           |
| Z.....            | 10.02                               | 9.85                           |

4. The final service mail rates here fixed and determined are to be paid in their entirety by the Postmaster General.

5. The investigation in Docket 23080-1 is terminated with respect to the air carriers listed in paragraph 1 above.

6. The Motions of Delta Air Lines, Inc. and Trans World Airlines, Inc., for leave to file a reply to the objection and answer of Public Citizen and ACAP are granted.

7. This order shall be served upon the parties enumerated in paragraph 1 above, and Public Citizen and the Aviation Consumer Action Project.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,  
Secretary.

[FR Doc. 73-25235 Filed 11-27-73; 8:45 am]

[Docket 25513; Order 73-11-82]

#### INTERNATIONAL AIR TRANSPORT ASSOCIATION

#### Order Relating to Fares Over the North/Central Pacific

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 19th day of November, 1973.



By Order 73-7-54 dated July 12, 1973 the Board disapproved IATA agreements which proposed fare increases<sup>1</sup> on the North/Central Pacific. In addition the Board disapproved because of lack of justification a proposed increase of five percent to apply to U.S.-originating passengers which would reflect increased expenses associated with the evaluation of the dollar.<sup>2</sup>

As a consequence of the Board's orders of disapproval, the IATA carriers successfully concluded a mail vote which would establish fares over the North/Central Pacific effective January 1, 1974 for the period through March 1975. This agreement which has been submitted to the Board for approval would establish fares over the North/Central Pacific comporting with the Board's views as expressed in Order 73-7-54. A comparison of present and proposed fares is shown in the attachment.<sup>3</sup> In addition, the agreement would reduce the earlier proposed five percent surcharge to be applied to U.S.-originating travel to three percent.

While the fare proposals appear to comport with our earlier orders, we will require that the carriers submit justification in support of the imposition of a three percent surcharge to be applied to U.S.-originating passengers.

Accordingly, it is ordered, That:

1. All United States air carrier members of the International Air Transport Association providing services over the North/Central Pacific shall file within fifteen calendar days of this order, full documentation and economic justification in support of the proposed imposition of a surcharge to be placed on fares for United States-originating travel.

2. Comments and/or objections from interested persons shall be submitted within thirty days after the date of this order.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board:

[SEAL] EDWIN Z. HOLLAND,  
Secretary.

[FR Doc. 73-25239 Filed 11-27-73; 8:45 am]

[Docket Nos. 26129, 22859, Order 73-11-99]

#### AMERICAN AIRLINES, INC.

##### Order of Suspension and Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 21st day of November 1973.

By tariff revision<sup>1</sup> bearing the issue date of October 25 and marked to be-

come effective November 24, 1973, American Airlines, Inc. (American), proposes to establish a specific commodity rate on cameras and film<sup>2</sup> of \$9.80 per 100 pounds from Boston to San Francisco/Oakland, subject to a minimum weight of 70,000 pounds. The proposed rate is limited to shipments tendered to the carrier between the hours of 12:01 a.m. Saturday and 11:59 p.m. on the same day, and the rate is subject to an expiry date of November 24, 1974.

A complaint requesting suspension pending investigation has been filed by The Flying Tiger Line Inc. (Tiger). Tiger alleges, inter alia, that the proposal is an unnecessary reduction for traffic that must move by air; that no surface diversion exists since this is a new product that has not been shipped to the West Coast in any significant volume prior to this time; that American's costing submissions contain a number of mathematical miscalculations, omissions, and inappropriate assumptions which, in the aggregate, result in a significant understatement of non-capacity costs; that the revenue forecasts for eastbound traffic call for the generation of approximately 80,000 pounds of general commodity rated traffic in markets which, historically, have been dominated by specific commodity rates; that, in the westbound direction, all 15,000 pounds of other traffic would have to be moving at the 100-pound general commodity rate in order to generate the required amount of revenue; and that, based upon Tiger's computation of costs and revenues, American would incur losses rather than gain profits.

In support of its proposal and in answer to the complaint, American asserts, inter alia, that the proposed rate is designed to attract approximately 3.6 million pounds annually of freight presently moving via surface, generating revenues of about \$356,000; that the proposed rate covers non-capacity costs with contribution to capacity costs; that the revenues generated will increase the profitability of Saturday (westbound) and Monday (eastbound) operations; that, with an average density in excess of 18 pounds per cubic foot, and an average weight per piece of 1,700 pounds, this traffic is ideally suited for air transportation; that the proposed Saturday operation will move on a New York-Boston-Detroit-San Francisco routing as compared to its current direct routing from New York to San Francisco; that the current Saturday flight, averaging only 15,000 pounds of freight, results in losses and, without the generation of additional westbound traffic, the continuation of this flight is threatened; and that, based on a fully allocated cost of operating the proposed routing, an operating profit of over \$4,600 would result per round trip.

Upon consideration of the complaint and all other relevant matters, the Board

finds that American's proposal may be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful and should be investigated. (These rates would also automatically be under investigation in the Domestic Air Freight Rate Investigation, Docket 22859.) The Board further concludes that this proposal should be suspended pending investigation.

The Board has serious reservations regarding the establishment of low specific commodity rates in the westbound direction on an added cost basis. While American indicates that the revenue generated from the proposal plus that from existing traffic in these markets would more than cover fully allocated costs, the instant proposal alone does not cover fully allocated costs and is dependent upon a relatively high-rated traffic mix before the flight becomes economic.

The proponent asserts that the existing flight to be diverted currently carries only 15,000 pounds and, without the generation of additional traffic would have to be cancelled. In view of the current fuel crisis and resultant capacity reductions, we question whether significantly reduced rates in the prime direction should be used as a method for generating traffic for continuation of an otherwise non-compensatory flight.

The proposed rate level is relatively low, yielding only 7.2 cents per ton-mile. This appears to be the lowest bulk rate currently available in this or similar markets. The Board concludes that American's proposal results in an unnecessary and unwarranted reduction for a relatively high value-high density commodity that, because of its nature, would typically move in air freight service without such significant reductions as are herein proposed.

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

It is ordered, That:

1. An investigation is instituted to determine whether the rates, charges, and provisions described in Appendix A hereto<sup>3</sup> and rules, regulations, and practices affecting such rates, charges, and provisions, are or will be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and if found to be unlawful, to determine and prescribe the lawful rates, charges, and provisions, and rules, regulations, or practices affecting such rates, charges, and provisions;

2. Pending hearing and decision by the Board, the rates and provisions described in Appendix A hereto are suspended and their use deferred to and including February 21, 1974, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board;

3. The proceeding herein, designated Docket 26129, be assigned before an Administrative Law Judge of the Board at a time and place to be designated;

<sup>3</sup> Filed as part of the original document.

<sup>1</sup> Increases were proposed on first-class, normal economy fares, excursion fares, inclusive tour fares and fares for groups of 25 passengers.

<sup>2</sup> By Order 73-8-119 the Board denied various petitions for reconsideration of Order 73-7-54. In that order the Board noted that although cost increases associated with dollar devaluation are to be expected, the proposed five percent adjustment did not appear reasonable.

<sup>3</sup> Filed as part of the original document.

<sup>1</sup> Revision to Airline Tariff Publishers, Inc., Agent, C.A.B. No. 169.

<sup>2</sup> Specifically, cameras and camera parts, photographic; photographic film, unexposed.



4. Except to the extent granted herein, the complaint of The Flying Tiger Line Inc., in Docket 26071, is dismissed; and

5. Copies of this order shall be filed with the tariff and served upon American Airlines, Inc., and The Flying Tiger Line Inc., which are hereby made parties to Docket 26129.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board:

[SEAL] EDWIN Z. HOLLAND,  
Secretary.

[FR Doc. 73-25236 Filed 11-27-73; 8:45 am]

[Docket No. 25427]

#### LAKER AIRWAYS LTD.

#### Foreign Air Carrier Permit Application, London-New York Scheduled Service; Notice of Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held on December 10, 1973, at 10 a.m. (local time), in Room 1031, Universal Building North, 1875 Connecticut Avenue NW., Washington, D.C., before the undersigned administrative law judge.

For information concerning the issues involved and other details in the proceeding, interested persons are referred to the prehearing conference report served on October 24, 1973, and other documents which are in the docket of this proceeding on file in the docket section of the Civil Aeronautics Board.

Dated at Washington, D.C., November 21, 1973.

[SEAL] GREER M. MURPHY,  
Administrative Law Judge.

[FR Doc. 73-25238 Filed 11-27-73; 8:45 am]

[Docket No. 25920]

#### SCANSPEED FLIGHT INC.

#### Foreign Air Carrier Permit, Indirect Foreign Air Transportation; Postponement of Prehearing Conference and Hearing

Notice is hereby given that the prehearing conference on the above-entitled application, which was assigned to be held on December 5, 1973 (38 FR 31200, November 12, 1973), will be held on December 19, 1973, at 10 a.m. (local time) in Room 911, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C. before the undersigned.

Notice is also given that the hearing may be held immediately following the conclusion of the prehearing conference unless a person objects or shows reason for postponement on or before December 10, 1973.

Dated at Washington, D.C., November 23, 1973.

[SEAL] JOHN E. FAULK,  
Administrative Law Judge.

[FR Doc. 73-25234 Filed 11-27-73; 8:45 am]

[Docket 25908, etc.; Order 73-11-96]

#### TRANSATLANTIC ROUTE PROCEEDING Order Amending Order

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 21st day of November 1973.

This proceeding was instituted by Order 73-9-83, September 21, 1973, to consider the renewal of the temporary certificates of Pan American World Airways, Inc. (PAA), Trans World Airlines, Inc. (TWA), and Seaboard World Airlines, Inc. (Seaboard), involving service to numerous points in Western and Eastern Europe, the Near and Middle East, North Africa and points in the Far East. Also included in the investigation is the question of renewal of the temporary certificates of six supplemental air carriers<sup>1</sup> authorizing them to provide supplemental air transportation between any point in any State of the United States or the District of Columbia, on the one hand, and points in Greenland, Iceland, the Azores, Europe, Africa, and Asia, as far east as (and including) India, on the other hand. Because of the increased congestion at many of the existing East Coast gateways, and the continued increase in transatlantic traffic, the Board selected 16 additional cities for consideration as U.S. coterminals for transatlantic passenger and/or cargo service.<sup>2</sup> The order also embraced consideration of Transatlantic cargo charter authority.

Order 73-9-83 provided that petitions for reconsideration and motions to consolidate appropriate applications should be filed 20 days from the service date of the order and answers thereto 10 days thereafter. Fifteen petitions for reconsideration and one petition for institution of an investigation were filed.<sup>3</sup> Twenty-

two carriers filed applications and motions to consolidate such applications.<sup>4</sup> Twenty answers were filed in support of or in opposition to the petitions for reconsideration.<sup>5</sup>

Turning first to the petitions for reconsideration we are confronted with proposals to: (1) Redesignate the existing coterminals of New York and San Francisco, (2) expand the geographical scope to include the consideration of additional domestic coterminals and additional foreign points, (3) include the issue of domestic fill-up rights, (4) include specific rulemaking issues relating to both scheduled and supplemental services, (5) delete Manila from consideration, (6) defer consideration of the renewal of all of TWA's authority east of Bombay, (7) restore TWA's application in Docket 14882 to the active docket, and (8) include the consideration of service to Ireland by one U.S. carrier.

The redesignation of New York to New York-Newark and the redesignation of San Francisco to San Francisco-Oakland-San Jose will permit greater operating flexibility and will not expand or delay the proceeding. These requests will therefore be granted. We will also grant the requests to include Puerto Rico and the Virgin Islands for consideration of supplemental service and will include Luxembourg as an additional foreign point. San Juan is already an issue for scheduled service and the addition of San Juan and the Virgin Islands for supplemental service will not unduly expand or delay the proceeding. Luxembourg was a point in issue in the original East Coast Points-Europe Service Investigation, Docket 19255, but is the only European country which was not placed in issue here. Since it is the center of the geographic area to be considered in this

<sup>1</sup> Capitol International Airways, Inc. (Capitol), Overseas National Airways, Inc. (Overseas), Saturn Airways, Inc. (Saturn), Trans International Airlines, Inc. (TIA), Universal Airlines, Inc. (Universal), and World Airways, Inc. (World).

<sup>2</sup> Atlanta, Cleveland, Dallas/Fort Worth, Denver, Hartford, Houston, Kansas City, Las Vegas, Miami, Minneapolis/St. Paul, New Orleans, Phoenix, Pittsburgh, St. Louis, San Diego, and Tampa.

<sup>3</sup> Petitions for reconsideration were filed by Eastern Air Lines, Inc.; PAA; Seaboard; TWA; Western Air Lines, Inc.; Capitol; World; the City of Oakland, Calif., and the Oakland Chamber of Commerce; the Port Authority of New York and New Jersey; the Metropolitan Nashville Airport Authority; the City of Columbus, Ohio and the Columbus Area Chamber of Commerce; the Greater Cincinnati Chamber of Commerce and the Kenton County Airport Board; the City of Bangor, Maine and the Greater Bangor Area Chamber of Commerce; and the Indianapolis Airport Authority. The City of Memphis, Tenn., and the Memphis Area Chamber of Commerce filed a petition for institution of an investigation to determine whether direct air service is required between Memphis and points in Europe, Africa and Asia, Docket 25980, together with a motion for consolidation with the transatlantic Route Case. The City of Anchorage, Alaska, filed a late petition for reconsideration accompanied by a motion to file an untimely document. We find that Anchorage has shown good cause for late filing and its petition for reconsideration will be accepted.

<sup>4</sup> American Airlines, Inc., Docket 25983; Braniff Airways, Inc., Docket 25947; Continental Air Lines, Inc., Docket 25972; Delta Air Lines, Inc., Docket 25981; Eastern, Docket 25986; National Airlines, Inc., Docket 25969; Northwest Airlines, Inc., Docket 25995; PAA, amendment No. 1 to Docket 24818; Seaboard, amendment No. 1 to Docket 24825; TWA, amendment No. 1 to Docket 24816 and Docket 25987; Western, Docket 25977; Airlift International, Inc., Docket 25968; Capitol, Dockets 25978 and 25979; McCulloch International Airlines, Inc., Docket 25971; Modern Air Transport, Inc., Docket 25963; Overseas, Docket 25394 and amendment No. 1 to Docket 25973; Saturn, Dockets 25997 and 25998; TIA, Dockets 25991 and 25999; World, Dockets 25985 and 25986; Holiday Air of America, Inc./Purdue Airlines, Inc., Docket 25992; Johnson Flying Service, Inc., Docket 25994; and Universal Airlines, Inc., Docket 26046.

<sup>5</sup> American, Continental, Delta, Eastern, National, Northwest, PAA, Seaboard, TWA, Western, Allegheny, Flying Tiger, Orlando, San Jose, Cincinnati/Milacron, Inc., General Electric Co., Procter and Gamble Co., and the Bureau of Operating Rights. Fairbanks filed a late answer accompanied by a motion for leave to file an untimely document. We find that Fairbanks has shown good cause for late filing and we will accept its answer. Memphis filed a reply to the consolidated answer of the Bureau which was accompanied by a motion for leave to file an unauthorized document. We will grant Memphis' motion.



case, its inclusion will not unduly expand or delay the proceeding.

In our opinion, the petitioners have failed to demonstrate a valid basis for further enlarging the geographic scope of the proceeding—either for additional domestic coterminals or for foreign points. It is understandable that cities other than those designated by the Board seek coterminal status. The line has to be drawn somewhere and we believe the line we have drawn is reasonable. The cities we have selected are large, major traffic-generating points and are located within regions that will permit them to act as gateways for other cities in their immediate area. We find that the addition of these points to the existing coterminals will provide ample opportunity for all areas of the country to establish their need for transatlantic service. We will also deny PAA's request to expand the scope to include Moscow-Tokyo service. This involves consideration of a global route and the evidence presented would relate to flows of traffic and patterns of service that lie completely outside the scope of this proceeding.

Pan American's request to consider the issue of domestic fill-up rights will be denied. This case now encompasses an enormous geographic area with the inquiry focused on transatlantic scheduled and supplemental service for both passenger and cargo traffic. Expansion of this proceeding to include a host of domestic markets would seriously complicate and delay the final disposition of this case.

With respect to the various requests to include rulemaking issues, we will follow the same procedure we adopted in the Transatlantic Supplemental Charter Authority Renewal Case, Docket 20569, and in the Supplemental Renewal Proceeding, Docket 23944. Specifically, we will include the issues of: (a) The imposition of frequency and regularity restrictions on transatlantic charters of supplemental air carriers under Part 208 of the Board's Economic Regulations, (b) the amendment of Part 208 to limit supplemental air carriers' transatlantic cargo charter authority to single-entity charters, subject to frequency and regularity restrictions, if transatlantic cargo charter authority is awarded to supplemental carriers herein, and (c) the amendment of Part 208 to incorporate therein a prior approval procedure on authority to operate transatlantic charters. These rule-making issues bear directly on the existing issues in this case of what conditions should be imposed on any renewal of the present transatlantic supplemental air carrier authorizations.

We have carefully considered World's request to include such matters as single-stop inclusive tour authority for all transatlantic markets, the possibilities for single destination inclusive tour authority, a broad review of the authority of scheduled and supplemental airlines as reflected in Parts 207 and 208, possible restrictions on scheduled carriers' authority with respect to group transportation, and modification of present con-

ditions under which scheduled and supplemental carriers may engage in the bulk transportation market. It should be clearly evident from Order 73-9-83, that the primary focus of this proceeding will be directed to the consideration of the renewal of the scheduled and supplemental carriers' temporary transatlantic authorities, the possible certification of additional U.S. coterminal points, and the authorization of supplemental transatlantic cargo authority. World's request to expand the issues is clearly beyond the scope of the Board's order and will be denied.

TWA's contention that it has no authority to serve Manila on route 147 is correct, such authority having expired upon its inauguration of service to Hong Kong. Consequently, we will delete the consideration of Manila from this proceeding. We do not agree, however, with TWA's contention that consideration of all of its authority east of Bombay should be deferred. TWA's other points such as Calcutta, Mandalay, and Hanoi do not present the same unique circumstances which exist at Canton and Shanghai. We will therefore deny TWA's request.

With respect to service to Ireland, Pan American correctly points out that it holds permanent authority between the United States, on the one hand, and Dublin and Shannon, on the other, by virtue of Part I of its certificate for route 132. TWA also holds certain permanent authority at Ireland on its route 147. However, the question of which carrier or carriers should continue to be authorized to serve all points in Ireland (including, as may be necessary, the termination of existing authority pursuant to section 401(g) of the Act) is still pending in the Transatlantic Route Renewal Case (Dublin Service), Docket 13577, et al. See Orders E-23230, February 11, 1966, E-24633, January 12, 1967, and E-24842, March 10, 1967. Moreover, on November 2, 1973, Pan American and TWA filed an agreement for Board approval in Docket 26063 under which Pan American would voluntarily withdraw from Ireland pending a more permanent resolution of the question of service to Ireland in this case. This agreement was prompted by the recent exchange of notes between the United States and the Republic of Ireland which authorizes, for the first time, U.S.-Flag service to Dublin. The bilateral agreement limits U.S.-Flag service to a single carrier at Dublin, with a mandatory stop at Shannon and no traffic rights beyond Dublin. See Amendment to International Air Transport Agreement by Exchange of Diplomatic Notes, June 11, 1973, T.I.A.S. No. 7660. Under all these circumstances, we believe that the question of exclusive access to Ireland might constructively be reexamined in light of the recently acquired traffic rights at Dublin and that this proceeding is an appropriate forum for the consideration of the long-range pattern of service to Ireland. Consequently, we shall include in this case the question of whether or not a single carrier should be selected to serve all of Ire-

land, including the issues of which U.S.-Flag carrier should be authorized to serve Dublin and whether or not the existing operating authority of other carriers to serve Ireland should be renewed, or suspended or otherwise withdrawn pursuant to sections 401(g) or 401(j) of the Act.<sup>7</sup>

Accordingly, it is ordered, That:

Order 73-9-83 is modified as follows: 1. Ordering paragraph 2(a) is amended so as to add the issue of whether the public convenience and necessity require the certification of authority to provide transatlantic passenger, cargo (combination or all-cargo) and mail service, either on a temporary or permanent basis, between Luxembourg, on the one hand, and the U.S. coterminal points set out in paragraph 2(b) on the other;

2. Ordering paragraph 2(b) is amended so as to (a) redesignate the coterminal point New York, N.Y. as New York, N.Y.-Newark, N.J., and (b) redesignate the coterminal point San Francisco, Calif., as San Francisco-Oakland-San Jose, Calif.;

3. New ordering paragraph 2(d) is added as follows:

"Whether (a) The public convenience and necessity require the amendment, alteration, modification, or suspension of any certificate of public convenience and necessity pursuant to section 401(g) of the Act insofar as that certificate authorizes service to any point in Ireland and (b) the public interest requires the suspension of service of any carrier now authorized to serve any point in Ireland;

4. Renumber existing paragraph 2(d) and subsequent paragraphs.

5. New ordering paragraphs 2(h) and 2(i) are added as follows:

"2(h) Whether Part 208 of the Board's Economic Regulations should be modified to impose the following limitations on transatlantic charters: (a) Frequency and regularity restrictions, (b) limitation of any cargo authority that may be authorized to single-entity charters, subject to frequency and regularity restrictions, and (c) a prior approval requirement;

"2(i) Whether the public convenience and necessity require the certification of supplemental authority on a temporary or permanent basis between a point or points in Puerto Rico and/or the Virgin Islands, on the one hand, and points in Greenland, Iceland, the Azores, Europe, Africa, and Asia, as far east as (and including) India, on the other hand; \*

\* That proceeding included the question of whether the existing authority of either Pan American or TWA should be terminated. The Board decided to continue both authorizations but that decision was reversed in part by the President who concluded, for reason of foreign relations, that only one U.S.-Flag carrier should be permitted to fly to Dublin. On remand from the President, the Board selected Pan American as the exclusive carrier but the effectiveness of this decision was stayed. No further action has been taken.

\* Our action herein is, of course, without prejudice to our taking whatever other or different action may be required by the public interest in Dockets 13577 and 26063.

\* Appropriate changes in the definition of supplemental air transportation contained in the Board's Economic regulations to include Puerto Rico and the Virgin Islands is also in issue.



6. Appendix A is modified so as to delete Manila as a temporary point on TWA's route 147;

7. Appendix B is modified so as to delete the application of Trans World Airlines in Docket 14882 and said application is hereby reinstated;

8. The following applications are consolidated for hearing and decision herein to the extent that such applications conform to the scope of this investigation as established by this order: American Airlines, Inc., Docket 25983; Braniff Airways, Inc., Docket 25947; Continental Air Lines, Inc., Docket 25972; Delta Air Lines, Inc., Docket 25981; Eastern Air Lines, Inc., Docket 25996; National Airlines, Inc., Docket 25969; Northwest Airlines, Inc., Docket 25995; Pan American World Airways, Inc., amendment No. 1 to Docket 24818; Seaboard World Airlines, Inc., amendment No. 1 to Docket 24825; Trans World Airlines, Inc., amendment No. 1 to Docket 24816 and Docket 25987; Western Air Lines, Inc., Docket 25977; Airlift International, Inc., Docket 25968; Capitol International Airways, Inc., Dockets 25978 and 25979; McCulloch International Airlines, Inc., Docket 25971; Modern Air Transport, Inc., Docket 25963; Overseas National Airways, Inc., Docket 25394 and amendment No. 1 to Docket 25973; Saturn Airways, Inc., Dockets 25997 and 25998; Trans International Airlines, Inc., Dockets 25991 and 25999; World Airways, Inc., Dockets 25985 and 25986; Holiday Air of America, Inc./Purdue Airlines, Inc., Docket 25992; Johnson Flying Service, Inc., Docket 25994; and Universal Airlines, Inc., Docket 26046.

9. The applicants listed in ordering paragraph 8 herein may, within 10 days after the date of service of this order, file amended applications conforming to the scope of the proceeding.

10. Portions of the applications listed in ordering paragraph 8 which are not consolidated herein, be and they hereby are dismissed.

11. Except to the extent granted herein, all motions, petitions, and other requests for relief be and they hereby are denied.\*

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board:

[SEAL] EDWIN Z. HOLLAND,  
Secretary.

[FR Doc.73-25237 Filed 11-27-73; 8:45 am]

## COMMISSION ON CIVIL RIGHTS

### MARYLAND STATE ADVISORY COMMITTEE

#### Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights,

\* On November 15, 1973, the City of Orlando filed a motion for leave to file an otherwise unauthorized document. We have granted Orlando's motion and have considered its request for relief in reaching out conclusions herein.

that a planning meeting of the Maryland State Advisory Committee to this Commission will convene at 8 p.m. on November 29, 1973, at 2404 Ken Oak Road, Baltimore, Maryland 21209.

Persons wishing to attend this meeting should contact the Committee Chairman, or the Mid-Atlantic Regional Office of the Commission, Room 510, 2120 L Street NW., Washington, D.C. 20425.

The purpose of this meeting shall be to review the status of the Administration of Justice Committee's Report.

This meeting will be conducted pursuant to the rules and regulations of the Commission.

Dated at Washington, D.C., November 21, 1973.

ISAIAH T. CRESWELL, JR.,  
Advisory Committee  
Management Officer.

[FR Doc.73-25212 Filed 11-27-73; 8:45 am]

## ENVIRONMENTAL PROTECTION AGENCY

### BUTTE COUNTY MOSQUITO ABATEMENT DISTRICT, STATE OF CALIFORNIA

#### Notice of Application for Registration of Pesticide Containing DDT for Restricted Use

Notice is hereby given of the receipt of application for registration of a pesticide containing DDT for restricted use for treatment of tree holes for control of *Aedes sierrensis* by the Butte County Mosquito Abatement District of the State of California, pursuant to the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (86 Stat. 973).

Notice is given in order that any Federal agency or any other interested person may comment in writing with respect to this request, and such comments must be received on or before December 28, 1973. This notice should not be construed as indicating a decision by this Agency on the application. Please address such comments to the Director, Registration Division, Office of Pesticide Programs, Environmental Protection Agency, Washington, D.C. 20460.

Dated: November 19, 1973.

HENRY J. KOPP,  
Deputy Assistant Administrator  
for Pesticide Programs.

[FR Doc.73-25113 Filed 11-27-73; 8:45 am]

## STATE OF CALIFORNIA DEPARTMENT OF AGRICULTURE

### Notice of Application for Registration of Pesticide Containing DDT for Restricted Use

Notice is hereby given of the receipt of application for registration of a pesticide containing DDT for restricted use to treat egg masses and larvae of gypsy moths encountered on vehicles and contents from infested areas of the Eastern United States by the California Department of Agriculture, pursuant to the provisions of the Federal Insecticide, Fungi-

cide, and Rodenticide Act, as amended (86 Stat. 973).

Notice is given in order that any Federal agency or any other interested person may comment in writing with respect to this request, and such comments must be received on or before December 28, 1973. This notice should not be construed as indicating a decision by this Agency on the application. Please address such comments to the Director, Registration Division, Office of Pesticide Programs, Environmental Protection Agency, Washington, D.C. 20460.

Dated: November 19, 1973.

HENRY J. KOPP,  
Deputy Assistant Administrator  
for Pesticide Programs.

[FR Doc.73-25112 Filed 11-27-73; 8:45 am]

## STATE OF NORTH CAROLINA DEPARTMENT OF NATURAL AND ECONOMIC RESOURCES

### Notice of Application for Registration of Pesticide Containing DDT for Restricted Use

Notice is hereby given of the receipt of application for registration of a pesticide containing DDT for restricted use for use in the protection of newly planted seedling pine from destruction by the pales weevil *Hylobius pales* (Herbst) by the State of North Carolina Department of Natural and Economic Resources, pursuant to the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (86 Stat. 973).

Notice is given in order that any Federal agency or any other interested person may comment in writing with respect to this request, and such comments must be received on or before December 28, 1973. This notice should not be construed as indicating a decision by this Agency on the application. Please address such comments to the Director, Registration Division, Office of Pesticide Programs, Environmental Protection Agency, Washington, D.C. 20460.

Dated: November 19, 1973.

HENRY J. KOPP,  
Deputy Assistant Administrator  
for Pesticide Programs.

[FR Doc.73-25114 Filed 11-27-73; 8:45 am]

## WEST VIRGINIA AIR QUALITY PLAN

### Notice of Postponement of Public Hearing

On November 1, 1973, notice was published in the FEDERAL REGISTER (38 FR 30136) advising interested persons that, commencing December 10, 1973, a public hearing would be held in Charleston, West Virginia to consider whether seven electric utility generating stations located within the State should be granted one year postponements from the compliance dates specified in two sections of the West Virginia Implementation Plan to Achieve and Maintain Air Quality Standards.

Under authority of 40 CFR 51.33(k), a prehearing conference was held in



Charleston, West Virginia on November 10, 1973, to consider procedural matters relating to the hearing. During the course of the prehearing conference, one of the parties noted that the State of West Virginia had recently adopted a higher SO<sub>2</sub> emission ceiling for sources located in regions where the ambient air quality standards were being met. It was further noted that, if approved by EPA, this Plan revision would have a significant impact on the four electric utility stations which were seeking relief from the compliance dates specified in Regulation X of the West Virginia Plan. With these considerations in mind and given the fact that the Plan revision had been filed with EPA's regional office and was awaiting EPA action, it was felt that the only realistic approach to the forthcoming hearing was one which recognized the possibility of favorable EPA action on the Plan revision. All parties to the prehearing conference concurred in this view. As a result, it was agreed that, during the hearing, discussions relating to SO<sub>2</sub> emission requirements ought to reflect both the existing requirements of the Plan and the requirements which would come into effect if the Plan revision were approved by the Agency. To provide the parties with additional time to consider this new aspect of the case, it was agreed (and so ordered by the administrative law judge) that the hearing would be postponed until Monday, January 14, 1974. The hearing will still be held at the Federal Courthouse in Charleston and will commence at 9:30 a.m. local time in Courtroom No. 1 (located on the fifth floor of the building).

Dated: November 21, 1973.

ALAN G. KIRK II,  
Acting Assistant Administrator  
for Enforcement and General  
Counsel.

[FR Doc.73-25115 Filed 11-27-73; 8:45 am]

## FEDERAL MARITIME COMMISSION

[Independent Ocean Freight Forwarder License 1159]

### AGAPITO TORRES Order of Revocation

By letter dated October 15, 1973, Agapito Torres, P.O. Box 1763, Ponce, Puerto Rico 00731, was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 1159 would be automatically revoked or suspended unless a valid surety bond was filed with the Commission on or before November 12, 1973.

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.9 of Federal Maritime Commission General Order 4, further provides that a license will be automatically revoked or suspended for failure of a licensee to maintain a valid bond on file.

Agapito Torres has failed to furnish a valid surety bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (revised) section 7.04(g) (dated 9/15/73):

It is ordered, That Independent Ocean Freight Forwarder License No. 1159 of Agapito Torres be returned to the Commission for cancellation.

It is further ordered, That Independent Ocean Freight Forwarder License No. 1159 be and is hereby revoked effective November 12, 1973.

It is further ordered, That a copy of this Order be published in the FEDERAL REGISTER and served upon Agapito Torres.

AARON W. REESE,  
Managing Director.

[FR Doc.73-25219 Filed 11-27-73; 8:45 am]

### INCRS LINE AGENCY, INC. AND COM- PAGNIE GENERALE TRANSATLANTIQUE Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, and San Francisco, California. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before December 18, 1973. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed for approval by:

Mr. Raymond J. Burke, Burke and Parsons,  
52 Wall Street, New York, New York 10005.

Agreement No. 10008 between Incrs Line Agency, Inc., as agent for Victoria Steamship Co., Ltd., and Compagnie Generale Transatlantique (French Line), identified as the General Sales Agreement, provides for the appointment by Incrs Line Agency, Inc., of French Line as its exclusive agent to conduct on a world-wide basis, the business of the sale of passenger transportation on the M.S. VICTORIA. Among other things, the

Agreement sets out the duties of French Line which include consultation with Incres concerning voyage and cruise itineraries of the VICTORIA and the scheduling of voyages and cruises originating from San Juan, Puerto Rico. While providing for earlier termination, the term of the Agreement is until September 28, 1975. However, in the event that French Line should, at any time during the term of this Agreement, place in the West Indies Cruise Service out of San Juan, Puerto Rico, the M.S. DEGRASSE or any other vessel owned, operated or managed by French Line, or for which French Line acts as agent, the obligations of the parties for the remaining period of this Agreement shall be governed by the terms of Agreement No. 10008A, which has also been filed with this Commission for approval.

By order of the Federal Maritime Commission.

Dated: November 23, 1973.

FRANCIS C. HURNEY,  
Secretary.

[FR Doc.73-25217 Filed 11-27-73; 8:45 am]

### INCRS LINE AGENCY, INC. AND COM- PAGNIE GENERALE TRANSATLANTIQUE Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, and San Francisco, California. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before December 18, 1973. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed for approval by:

Mr. Raymond J. Burke, Burke and Parsons,  
52 Wall Street, New York, New York 10005.

Agreement No. 10008A, identified as the General Agency Agreement, between



Ingres Line Agency, Inc., as agent for Victoria Steamship Co., Ltd., sole owner of the passenger vessel VICTORIA, and Compagnie Generale Transatlantique (French Line), provides for the appointment by Ingres Line Agency, Inc., and Victoria Steamship Co., Ltd., (together referred to as "Owner") of French Line as its General Agent which appointment shall commence at any time if and when French Line places the M.S. DeGRASSE in the West Indies Cruise Service out of San Juan, Puerto Rico, or any other vessel owned, operated or managed by French Line, or for which French Line acts as agent. This Agreement provides for termination on or about September 28, 1975. This is a standby agreement. Otherwise the parties will operate under the terms and conditions of Agreement No. 10008 which has been filed with this Commission for approval. In the event that Agreement No. 10008A becomes effective, the duties and obligations of French Line shall also remain those of a sales agent as designated in Agreement No. 10008, the terms and conditions of which shall govern Agreement No. 10008A as far as they are applicable.

Among other things Agreement No. 10008A sets forth French Line's obligations, owner's obligations, cancellation provisions for earlier termination and assignment of this Agreement in the event of sale of the vessel.

By order of the Federal Maritime Commission.

Dated: November 23, 1973.

FRANCIS C. HURNEY,  
Secretary.

[FR Doc.73-25218 Filed 11-27-73;8:45 am]

## FEDERAL POWER COMMISSION

[Docket Nos. RI70-1763 et al.]

PERRY R. BASS ET AL.

Rate Changes; Order Providing for Hearing on and Suspension of Proposed Changes and Allowing Changes To Become Effective Subject to Refund.<sup>1</sup>

NOVEMBER 16, 1973.

Respondents have filed proposed changes in rates and charges for jurisdictional sales of natural gas, as set forth in Appendix A below.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the

<sup>1</sup> Does not consolidate for hearing or dispose of the several matters herein.

supplements herein be suspended and their use be deferred as ordered below.

The Commission orders: (A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR, Chapter II), and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column. Each of these supplements shall become effective, subject to refund, as of the expiration of the suspension period without any further action by the Respondent or by the Commission. Each Respondent shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder.

(C) Unless otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period, whichever is earlier.

By the Commission.

[SEAL]

KENNETH F. PLUMB,  
Secretary.

### APPENDIX A

| Docket No. | Respondent           | Rate schedule No. | Supplement No. | Purchaser and producing area                                                                                                         | Amount of annual increase | Date filing tendered | Effective date unless suspended | Date suspended until— | Cents per Mcf* |                         | Rate in effect subject to refund in dockets No. |
|------------|----------------------|-------------------|----------------|--------------------------------------------------------------------------------------------------------------------------------------|---------------------------|----------------------|---------------------------------|-----------------------|----------------|-------------------------|-------------------------------------------------|
|            |                      |                   |                |                                                                                                                                      |                           |                      |                                 |                       | Rate in effect | Proposed increased rate |                                                 |
| RI70-1763  | Perry R. Bass        | 6                 | 23             | Transwestern Pipeline Co. (Keystone Gasoline Plant, Winkler County, Tex., and Bell Lake Field, Lea County, N. Mex.) (Permian Basin). | \$3,562                   | 10-23-73             | 8-7-73                          | 14 Accepted           | \$27.319       | \$25.049                | RI70-1763                                       |
| RI70-1763  | do                   |                   |                | do                                                                                                                                   | (1,512)                   | 10-23-73             | 8-7-73                          | 14 Accepted           | \$27.2         | \$24.5                  | RI70-1763                                       |
| RI70-1763  | do                   |                   | 24             | do                                                                                                                                   | 373,290                   | 10-23-73             | 11-23-73                        | 14 Accepted           | \$36.0         | \$38.705                | RI70-1763                                       |
| RI70-1763  | do                   |                   |                | do                                                                                                                                   | 3,562                     | 10-23-73             | 10-24-73                        | 14 Accepted           | \$25.949       | \$27.319                | RI70-1763                                       |
| RI70-1763  | do                   |                   |                | do                                                                                                                                   | (30,140)                  | 10-23-73             | 11-23-73                        | 14 Accepted           | \$27.2         | \$27.27                 | RI70-1763                                       |
| RI70-1763  | do                   |                   |                | do                                                                                                                                   | 1,512                     | 10-23-73             | 10-24-73                        | 14 Accepted           | \$24.5         | \$27.2                  | RI70-1763                                       |
| RI74-64    | The Superior Oil Co. | 8                 | 15             | El Paso Natural Gas Co. (Leveland Plant, Hockley County, Tex.) (Permian Basin).                                                      | 594                       | 10-19-73             | 4-19-74                         |                       | 35.0           | 35.8                    | RI73-277                                        |
| do         | do                   | 10                | 16             | El Paso Natural Gas Co. (TXL Plant, Ector County, Tex.) (Permian Basin).                                                             | 18,442                    | 10-19-73             | 4-19-74                         |                       | 35.0           | 39.3                    | RI73-277                                        |
| RI74-65    | Marathon Oil Co.     | 4                 | 14             | Northern Natural Gas Co. (Southeast Lea County Field, Lea County, N. Mex.) (Permian Basin).                                          | 569,712                   | 10-30-73             | 5-1-74                          |                       | 24.3781        | 37.3261                 |                                                 |

\* Unless otherwise stated, the pressure base is 14.65 p.s.i.a.

<sup>1</sup> Subject to quality adjustments and gathering allowance, if applicable, pursuant to Opinion No. 662.

<sup>2</sup> Rate reduction in compliance to Opinion No. 662.

<sup>3</sup> Includes Btu adjustment.

<sup>4</sup> Includes 1.5 cents per Mcf gathering allowance.

<sup>5</sup> Texas gas from dedications prior to Oct. 1, 1968.

<sup>6</sup> New Mexico gas from dedications prior to Oct. 1, 1968.

<sup>7</sup> Texas gas from dedications on and after Oct. 1, 1968.

<sup>8</sup> New Mexico gas from reservoir discovered on and after Oct. 1, 1968, on previously dedicated acreage.

Perry R. Bass was collecting increased rates subject to refund prior to Opinion No. 662 (Permian II) which were in excess of the just and reasonable rates established in that opinion. Bass has filed herein decreased rates down to the levels prescribed in that opinion, and concurrently has filed rate increases back up to the rate levels in effect, subject to refund, prior to that opinion. The proposed decreases are accepted as of August 7, 1973,

the effective date of Opinion No. 662, and the proposed rate increases are suspended in the same suspension proceeding applicable to his earlier filings for one day from the date of filing with waiver of the 30 day notice period granted. In addition, Bass has filed two proposed increases which do not exceed the applicable ceiling in Opinion No. 662, and they are accepted herein as of the expiration of the statutory notice period.

<sup>9</sup> Not applicable to New Mexico "new gas" from reservoir discovered and completed June 1, 1973.

<sup>10</sup> Increase to area ceiling rate.

<sup>11</sup> Unilateral increase—contract has expired.

<sup>12</sup> Unilateral increase—contract expires Dec. 1, 1973.

<sup>13</sup> Includes quality adjustments.

<sup>14</sup> The proposed rate is accepted as of the date shown in the "Effective Date Unless Suspended" column, the date of issuance of Opinion No. 662. The proposed rate accepted herein shall not exceed the applicable area rate as adjusted for quality, and gathering allowance if applicable, pursuant to Opinion No. 662.

<sup>15</sup> Accepted, effective Nov. 23, 1973, 30 days after filing.

The Superior Oil Company and Marathon Oil Company have filed unilateral increases for sales of gas under expired contracts to the "new" gas ceiling rate prescribed in Opinion No. 662. However, since they have not submitted new contracts as required under Opinion No. 639 and the proposed rates exceed the flowing gas ceiling in Opinion No. 662, the proposed rates are suspended for five months.

[FR Doc.73-25061 Filed 11-27-73;8:45 am]



[Docket No. RI74-66]

**AMOCO PRODUCTION CO.****Order Providing for Hearing on and Suspension of Proposed Change in Rate**

NOVEMBER 21, 1973.

Respondent has filed a proposed change in rate and charge for the jurisdictional sale of natural gas, as set forth in Appendix A hereof.

The proposed changed rate and charge may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

*The Commission finds:* It is in the public interest and consistent with the Natural Gas Act that the Commission enter

upon a hearing regarding the lawfulness of the proposed change, and that the supplement herein be suspended and its use be deferred as ordered below.

*The Commission orders:* (A) Under the Natural Gas Act, particularly Sections 4 and 15, the Regulations pertaining thereto (18 CFR, Chapter II), and the Commission's rules of practice and procedure, a public hearing shall be held concerning the lawfulness of the proposed change.

(B) Pending hearing and decision thereon, the rate supplement herein is suspended and its use deferred until date shown in the "Date Suspended Until" column. This supplement shall become

effective, subject to refund, as of the expiration of the suspension period without any further action by the Respondent or by the Commission. Respondent shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the Regulations thereunder.

(C) Unless otherwise ordered by the Commission, neither the suspended supplement, nor the rate schedule sought to be altered, shall be changed until disposition of this proceeding or expiration of the suspension period, whichever is earlier.

By the Commission.

[SEAL]

KENNETH F. PLUMB,  
Secretary.

## APPENDIX A

| Docket No. | Respondent               | Rate schedule No. | Supplement No. | Purchaser and producing area                                                                | Amount of annual increase | Date filing tendered | Effective date unless suspended | Date suspended until | Cents per Mcf* |                         | Rate in effect subject to refund in docket No. |
|------------|--------------------------|-------------------|----------------|---------------------------------------------------------------------------------------------|---------------------------|----------------------|---------------------------------|----------------------|----------------|-------------------------|------------------------------------------------|
|            |                          |                   |                |                                                                                             |                           |                      |                                 |                      | Rate in effect | Proposed increased rate |                                                |
| RI74-66... | Amoco Production Co..... | 582               | 1              | Colorado Interstate Gas Co. (Antelope Field, Sweetwater County, Wyo.) (Rocky Mountain Area) |                           | 10-23-73             | 11-23-73                        | 2 Accepted           |                |                         |                                                |
| do         |                          |                   | 2              | do                                                                                          | \$149,532                 | 10-23-73             |                                 | 4-23-74              | 22.75          | 24.02                   |                                                |

\*Unless otherwise stated, the pressure base is 15.025 p.s.i.a.

1 Contract agreement.

2 Subject to upward and downward B.t.u. adjustment from a B.t.u. base of 1,000.

3 The accepted agreement adds acreage and amends the pricing provisions of the basic contract. The agreement is accepted as of Nov. 23, 1973, but such acceptance does not constitute authorization for sales from the added acreage.

Amoco's proposed rate increase exceeds the ceiling rate set forth in Order No. 435, and is therefore suspended for five months.

[PR Doc.73-25139 Filed 11-27-73; 8:45 am]

[Docket No. E-8403]

**ANDERSON POWER AND LIGHT****Order Granting Petition To Withdraw Complaint and Terminating Proceeding**

NOVEMBER 21, 1973.

On September 12, 1973, Anderson Power and Light of the City of Anderson, Indiana (Anderson), filed a petition and complaint for emergency service pursuant to section 202(c) of the Federal Power Act. Anderson requests that the Commission assert jurisdiction pursuant to its emergency authority to require Indiana and Michigan Electric Company (I&M) to continue the transmission, distribution, delivery, and sale of electric power and energy at wholesale to it. Moreover, Anderson requests that upon full consideration, after notice and hearings, the Commission enter a permanent order requiring I&M to continue its service to Anderson. Finally, Anderson requests that the Commission advance this proceeding in the Commission's docket for expeditious prehearing conference and such hearing as may be necessary.

In support of its complaint, Anderson states that I&M advised it by letter on September 6, 1973, that unless Anderson paid in full its billing statement rendered under Tariff WS and rejected as to Anderson by Commission order of August 8, 1973, it would exercise its right to discontinue service on September 18, 1973. Moreover, Anderson avers that the cessation of service to it creates a burden on

interstate commerce, adversely affects the public interest, and is imminent and inevitable unless the requested relief is granted.

On September 24, 1973, Anderson filed a petition for leave to withdraw its complaint filed September 12, 1973. In support of its petition to withdraw, Anderson states that the Commission, sua sponte, on September 12, 1973, shortly after Anderson's complaint was filed, issued an order notifying I&M that it could not lawfully terminate service to Anderson without giving notice as required by the Federal Power Act. Service to Anderson which was allegedly threatened to be terminated, was continued. Anderson asserts that its complaint filed on September 12, 1973, requesting service continuation is therefore moot. We agree and, accordingly, shall permit Anderson to withdraw its complaint and terminate this proceeding.

*The Commission finds:* It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Federal Power Act that the Commission grant Anderson's petition to withdraw its complaint filed September 24, 1973.

*The Commission orders:* (A) Anderson's petition for leave to withdraw its complaint filed on September 24, 1973, is hereby granted and the complaint is deemed withdrawn.

(B) The proceedings in Docket No. E-8403 are hereby terminated.

(C) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL]

KENNETH F. PLUMB,  
Secretary.

[PR Doc.73-25132 Filed 11-27-73; 8:45 am]

[Docket No. E-8189]

**DAYTON POWER AND LIGHT CO.****Extension of Time and Postponement of Prehearing Conference and Hearing**

NOVEMBER 20, 1973.

On November 12, 1973, Staff Counsel requested an extension of the procedural dates fixed by order issued July 9, 1973, in the above-designated matter. The request states that all parties participating in an informal conference on October 18, 1973, reached substantial agreement and Dayton Power and Light Company is preparing a proposed settlement agreement.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Staff Direct Case, December 7, 1973.  
Prehearing Conference, January 3, 1974 (10 am., e.s.t.).  
Interveners' Direct Case, December 28, 1973.  
Dayton's Rebuttal, January 18, 1974.  
Cross-Examination, February 6, 1974 (10 am., e.s.t.).

KENNETH F. PLUMB,  
Secretary.

[PR Doc.73-25133 Filed 11-27-73; 8:45 am]



[Docket No. RP73-109]

**EL PASO NATURAL GAS CO.****Notice Deferring Procedural Dates**

NOVEMBER 20, 1973.

On November 9, 1973, Staff Counsel filed a motion for an extension of the procedural dates fixed by order issued June 22, 1973, in the above-designated matter.

Notice is hereby given that the procedural dates in the above matter are deferred pending disposition of the above motion.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 73-25134 Filed 11-27-73; 8:45 am]

[Docket No. CP70-270]

**EL PASO NATURAL GAS CO.****Petition To Amend**

NOVEMBER 20, 1973.

Take notice that on November 1, 1973, El Paso Natural Gas Company (Petitioner), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP70-270 a petition to amend the order issued in said docket on August 4, 1970 (44 FPC 237), as amended November 22, 1971 (46 FPC 1254), and August 15, 1972 (48 FPC 1254), pursuant to section 7(c) of the Natural Gas Act by authorizing the construction and operation of one 1,068 horsepower gas turbine driven centrifugal compressor unit in lieu of two such units originally authorized at Petitioner's Compressor Station No. 27 located on its 16-inch O.D. Reno Lateral pipeline in Owyhee County, Idaho, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that due to shift in firm market requirements and decline in availability from attached sources of gas supply, the installation of a single compressor unit, estimated to be completed by November 1, 1973, will provide sufficient capacity to meet firm requirements of consumers in the established market area of Southwest Gas Corporation through the 1974-75 heating season. Petitioner states further that the installation of only one unit will reduce costs of the project from the original estimate of \$950,000 to a current estimate of \$772,000.

Any person desiring to be heard or to make any protest with reference to said petition should on or before December 14, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding.

Any person wishing to become a party to a proceeding or to participate as a party in any hearing herein must file a

petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 73-25135 Filed 11-27-73; 8:45 am]

[Docket No. CI73-931]

**LONE STAR PRODUCING CO.****Extension of Time and Postponement of Hearing**

NOVEMBER 20, 1973.

On November 9, 1973, Staff Counsel filed a motion to postpone the hearing fixed by order issued November 1, 1973, in the above-designated matter. The motion states that all parties to the proceeding, including Natural Gas Pipe Line Company of America and the American Public Gas Association join in the motion.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of Direct Testimony and Exhibits of Applicant and Interveners Supporting the Application, November 23, 1973.

Service of Direct Testimony and Exhibits of Staff and All Interveners Opposing the Application, November 28, 1973.

Rebuttal Testimony, December 2, 1973.

Hearing, December 6, 1973 (10 am, est.).

Administrative Law Judge Decision, January 25, 1974.

Briefs on Exceptions, February 1, 1974.

Briefs Opposing Exceptions, February 8, 1974.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 73-25136 Filed 11-27-73; 8:45 am]

[Docket No. CI74-186]

**PHILLIPS PETROLEUM CO.****Order Granting Intervention, Setting Hearing Date and Prescribing Procedure**

NOVEMBER 21, 1973.

On September 17, 1973, Phillips Petroleum Company (Phillips) filed in Docket No. CI74-186 an application requesting issuance of a limited term certificate of public convenience and necessity with pre-granted abandonment authority, pursuant to section 7 of the Natural Gas Act, for the sale of gas to United Gas Pipeline Company (United) from acreage in West Bryceland Field, Bienville Parish, North Louisiana.

Specifically, Phillips proposes to sell and deliver to United approximately 150,000 Mcf of gas per month for one year pursuant to a contract dated August 21, 1973. The proposed rate of 60.0 cents per Mcf, subject to upward and downward Btu adjustment from a base of 1000 Btu's, exceeds the current applicable area ceiling rate of 26.875 cents per Mcf.

Phillips, in its application, has requested that the intermediate decision be omitted, that oral hearing be waived and that the application be heard under the shortened procedure afforded by section 1.32 of the Commission's rules of practice and procedure.

Phillips commenced an emergency sale to United on August 24, 1973, pursuant

to § 157.29 of the Commission's regulations. This sale expired on October 23, 1973.

On October 25, 1973, a petition to intervene in support of the application was filed by United.

The application in this proceeding represents a sizeable volume of gas potentially available to the interstate market. It is of critical importance that interstate pipelines procure emergency supplies of gas to avoid disruption of service to consumers, nevertheless, we must determine whether the rate to be paid serves the public convenience and necessity. It is therefore necessary that this application be set for public hearing and expeditious determination. The hearing will be held to allow presentation, cross-examination, and rebuttal of evidence by any participant. This evidence should be directed to the issue of whether the present or future public convenience and necessity requires issuance of a limited-term certificate on the terms proposed in that application.

We take further note, however, that the Commission in a number of recent orders has already held that an emergency exists on United's system. See *Monsanto Company*, -- FPC --, Docket No. CI72-832, issued October 31, 1973. We, therefore, conclude that there is an emergency on United's system which could warrant the issuance of a certificate if the price conforms to the public convenience and necessity.

The Commission finds: (1) The intervention of United in this proceeding may be in the public interest.

(2) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the issues in this proceeding be scheduled for hearing in accordance with the procedures set forth below.

The Commission orders: (A) Applicant's request that the intermediate decision be omitted, that oral hearing be waived and that the application be heard under the shortened procedure afforded by Section 1.32 of the Commission's rules of practice and procedure is not in the public interest and is hereby denied.

(B) United is hereby permitted to intervene in this proceeding, subject to the rules and regulations of the Commission: *Provided, however*, That the participation of such intervenor shall be limited to matters affecting asserted rights and interests as specifically set forth in said petitions for leave to intervene; and *Provided, further*, That the admission of said intervenor shall not be construed as recognition by the Commission that it might be aggrieved by any order or orders of the Commission entered in this proceeding.

(C) Pursuant to the authority of the Natural Gas Act, particularly sections 7 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act, a public hearing shall be held on December 18, 1973, at 10 a.m. (est.) in a hearing room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, concerning the issue of whether certificates of public conven-



ience and necessity should be granted as requested by the applicants.

(D) On or before December 7, 1973, Phillips and any supporting party shall file with the Commission and serve upon all parties, including Commission Staff, their testimony and exhibits in support of their positions.

(E) An Administrative Law Judge to be designated by the Chief Administrative Law Judge—See Delegation of Authority, 18 CFR 3.5(d)—shall preside at, and control this proceeding in accordance with the policies expressed in the Commission's rules of practice and procedure and the purposes expressed in this order.

By the Commission.

[SEAL] KENNETH F. PLUMB,  
Secretary.  
[FR Doc.73-25138 Filed 11-27-73;8:45 am]

[Rate Schedule Nos. 202, et al.]

### SHELL OIL CO. ET AL. Rate Change Filings

NOVEMBER 20, 1973.

Take notice that the producers listed in the Appendix attached hereto have

#### APPENDIX

| Filing date  | Producer                                                                | Rate schedule No. | Buyer                            | Area              |
|--------------|-------------------------------------------------------------------------|-------------------|----------------------------------|-------------------|
| Nov. 6, 1973 | Shell Oil Co., 1 Shell Plaza, P.O. Box 2463, Houston, Tex. 77001.       | 202               | United Gas Pipe Line Co.         | South Louisiana.  |
| Do.          | do.                                                                     | 203               | do.                              | Do.               |
| Do.          | do.                                                                     | 204               | do.                              | Do.               |
| Do.          | do.                                                                     | 205               | do.                              | Do.               |
| Do.          | do.                                                                     | 206               | do.                              | Do.               |
| Do.          | do.                                                                     | 207               | do.                              | Do.               |
| Do.          | do.                                                                     | 208               | do.                              | Do.               |
| Nov. 7, 1973 | Skelly Oil Co., P.O. Box 1690, Tulsa, Okla.                             | 2                 | Texas Eastern Transmission Corp. | Texas Gulf Coast. |
| Nov. 8, 1973 | Mobil Oil Corp., 3 Greenway Plaza East, Suite 800, Houston, Tex. 77016. | 483               | Tennessee Gas Pipeline Co.       | Do.               |

[FR Doc.73-25137 Filed 11-27-73;8:45 am]

[Docket No. E-8467]

### IOWA PUBLIC SERVICE CO.

#### Notice of Filing Amendment to Agreement

NOVEMBER 23, 1973

Take notice that on October 29, 1973, Iowa Public Service Company (IPSC) filed an amendment to Exhibit "A" of its agreement with Northwest Iowa Power Cooperative (Northwest) dated April 30, 1971, and designated "Iowa Public Service Company Rate Schedule FPC No. 52." That agreement provides for amendments to Exhibit "A" from time to time as additional points of interconnection are agreed to and established between the parties.

IPSC states that it and Northwest have agreed to two additional points of interconnection: one at a point near the Iowa community of Dow City and the other at Northwest Iowa Power Cooperative's Perry Substation located in Plymouth County, Iowa. IPSC indicates that it is

for the purpose of revising Exhibit "A" to reflect these changes that IPSC has filed its amendment.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before November 28, 1973. 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 for public inspection.

MARY B. KIDD,  
Acting Secretary.

[FR Doc.73-25295 Filed 11-27-73;8:45 am]

[Docket No. R174-43]

### PETRO LEWIS CORP.

#### Petition for Special Relief

NOVEMBER 20, 1973.

Take notice that on October 15, 1973, Petro-Lewis Corporation (Petitioner), 1600 Broadway, Denver, Colorado 80202, filed a petition for special relief in Docket No. R174-43, pursuant to § 2.76 of the Commission's General Policy and Interpretations. Petitioner requests that it be granted special relief from the area rate of the Commission's Opinion No. 598 and seeks to collect from Southern Natural Gas Company, its pipeline purchaser, a price of 30.75 cents per Mcf at 15.025 psia for gas compressed prior to delivery and sold under its FPC Gas Rate Schedule Nos. 3 and 4 from wells in Lake Enformer Field and Coffee Bay Field in Lafourche Parish, Louisiana. The net effect is that Petitioner seeks 7.5¢ per Mcf for compression. The request for relief is based on the need to install compression facilities for the subject gas. Petitioner estimates that additional gas in the amount of 7,965,000 Mcf can be delivered as a result of compression.

Any person desiring to be heard or to make any protest with reference to said petition should on or before December 14, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party 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.73-25140 Filed 11-27-73;8:45 am]

### FEDERAL RESERVE SYSTEM ALABAMA BANCORP.

#### Order Approving Acquisition of Bank

Alabama Bancorportion, Birmingham, Alabama, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire all of the voting shares (less directors' qualifying shares) of the successor by merger to the Fort Payne Bank, Fort Payne, Alabama ("Bank"). The bank into which Bank is to be merged has no significance except as a means to facilitate the acquisition of the voting shares of Bank. Accordingly, the proposed acquisition of shares of the successor organization is treated herein as the proposed acquisition of the shares of Bank.



Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and none has been timely received. The Board has considered the application in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the largest bank holding company in Alabama, controls nine banks, with aggregate deposits of approximately \$1.1 billion,<sup>1</sup> representing 15.6 percent of total deposits of commercial banks in the State. Acquisition of Bank would increase Applicant's share of State deposits by 0.2 percentage points and would not significantly increase the concentration of resources in the State. Applicant would continue to be the largest bank holding company in Alabama upon consummation of the proposed acquisition.

Bank (\$13.1 million in deposits as of June 30, 1972) is the second largest of eight banking organizations in the De Kalb County banking market (approximated by De Kalb County) where it controls approximately 23 percent of the deposits in that market. Applicant's subsidiary bank closest to Bank is the J. C. Jacobs Banking Company, Inc., located in Scottsboro, 30 miles away in a different banking market. It does not appear that any meaningful competition exists between this bank or any of Applicant's other subsidiary banks and Bank. Engel Mortgage Company, a nonbanking subsidiary of Applicant, maintains no offices in De Kalb County and has originated no business from the service area of Bank. Thus, consummation of the proposed acquisition would not adversely affect existing competition in the relevant market. Further, the development of future competition between Bank and Applicant's subsidiary banks or the de novo entry of Applicant into the market appears unlikely in view of the population to banking office ratio of De Kalb County. It is the Board's judgment that competitive considerations are consistent with approval of the application.

The financial and managerial resources and future prospects of Applicant, its present subsidiary banks, and Bank, are regarded as satisfactory. Considerations relating to the banking factors are consistent with approval of the application. Although there is no evidence in the record to indicate that banking needs of the residents of the De Kalb County banking market are not currently being met, the proposed affiliation is likely to result in expansion of the range of services presently offered by Bank. Affiliation with Applicant should provide Bank greater access to the Applicant's financial and managerial resources and thereby enable it to provide new and improved banking services to the residents

of the Fort Payne area. Applicant proposes to assist Bank in recruitment and the training of personnel as well as provide access to trust services and mortgage financing. Considerations relating to the convenience and needs of the community to be served lend weight toward approval of the application. It is the Board's judgment that the proposed acquisition would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order, or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Atlanta pursuant to delegated authority.

By order of the Board of Governors,<sup>2</sup> effective November 15, 1973.

[SEAL]

CHESTER B. FELDBERG,

Secretary of the Board.

[FR Doc. 73-25171 Filed 11-27-73; 8:45 am]

#### ALLIED BANCSHARES, INC.

##### Acquisition of Bank

Allied Bancshares, Inc., Houston, Texas, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to The First National Bank of Crockett, Crockett, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit his views in writing to the Reserve Bank, to be received not later than December 13, 1973.

Board of Governors of the Federal Reserve System, November 16, 1973.

[SEAL]

THEODORE E. ALLISON,

Assistant Secretary of the Board.

[FR Doc. 73-25170 Filed 11-27-73; 8:45 am]

#### CENTRAL NATIONAL CORP.

##### Order Approving Acquisition of Bank

Central National Corporation, Richmond, Virginia (Applicant), a bank holding company within the meaning of the Bank Holding Company Act, has applied for prior approval pursuant to section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to

The First National Bank of Yorktown, Yorktown, Virginia (Bank).

The bank into which Bank is to be merged has no significance except as a means to facilitate the acquisition of the voting shares of Bank. Accordingly, the proposed acquisition of shares of the successor organization is treated herein as the proposed acquisition of the shares of Bank. The application is to be acted upon by the Federal Reserve Bank of Richmond (Reserve Bank) under authority delegated by the Board of Governors of the Federal Reserve System (12 CFR 265.2(f)(24)). Notice of the receipt of the application has been given in accordance with section 3(b) of the Act, and the time for filing comments and views has expired. The Reserve Bank has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act and finds that:

As of June 30, 1973, Applicant was the ninth largest banking organization in Virginia. It controlled one banking subsidiary which operated 14 banking offices (an additional office has been opened since that date) with aggregate deposits of \$247 million, or 2.2 percent of total commercial bank deposits in Virginia. In addition, during September of this year, Applicant obtained the approval of the Reserve Bank, acting pursuant to delegated authority, to acquire the successor by merger to City Savings Bank and Trust Company, Petersburg, Virginia. As of June 30, 1973, City Savings Bank and Trust Company had deposits of \$18 million or approximately .16 percent of total commercial bank deposits in Virginia. Acquisition of Bank (deposits of \$10 million as of June 30, 1973) would increase Applicant's share of total commercial bank deposits in Virginia by approximately .09 percent. Consummation of the proposed transaction would not significantly increase the concentration of banking resources in Virginia. Applicant currently operates, both directly and indirectly, four nonbanking subsidiaries.

Bank's relevant geographic market is approximated by the cities of Hampton, Newport News and Williamsburg and the counties of James City and York in Virginia. Bank, with approximately 2 percent of total deposits in the relevant geographic market, is the twelfth largest of 15 banking organizations operating in this market. Eight of the largest Virginia bank holding companies are represented in this market. Applicant's banking subsidiary, The Central National Bank of Richmond, serves the Richmond SMSA, and City Savings Bank and Trust Company serves the Petersburg SMSA, each of which is a banking market separate from that of Bank. A distance of about 57 miles separates the nearest offices of The Central National Bank of Richmond and Bank. The nearest office of City Savings Bank and Trust Company is even more distant from the nearest office of Bank. There is no significant present competition between Bank and the existing bank subsidiary of Applicant or between Bank and City Savings Bank

<sup>1</sup> All banking data are as of June 30, 1973, and reflect holding company formations and acquisitions approved through October 31, 1973, unless otherwise noted.

<sup>2</sup> Voting for this action: Vice Chairman Mitchell and Governors Daane, Sheehan, Bucher, and Holland. Absent and not voting: Chairman Burns and Governor Brimmer.



and Trust Company. It is concluded that consummation of the proposal would have no adverse effect on banking competition and that the competitive effects of the proposal are not inconsistent with approval of the application.

The financial and managerial resources of Applicant and Bank are generally satisfactory, and future prospects appear favorable. While it does not appear that the banking needs of the area are unmet, consummation of the proposed acquisition should enable Bank to expand its services and to compete more effectively. Banking factors and convenience and needs considerations, therefore, lend weight to approval of the application. It is the Reserve Bank's judgment that consummation of the proposed transaction would be in the public interest.

On the basis of the record in this case, the application is approved for the reasons summarized above. However, the transaction shall not be consummated (a) before the thirtieth calendar day following the date of this Order, or (b) later than three months after the date of this Order, unless such period is extended for good cause by the Board of Governors of the Federal Reserve System or by the Federal Reserve Bank of Richmond pursuant to delegated authority.

By order of the Federal Reserve Bank of Richmond, acting pursuant to delegated authority for the Board of Governors of the Federal Reserve System, November 15, 1973.

[SEAL]

ROBERT P. BLACK,  
President.

[FR Doc. 73-25173 Filed 11-27-73; 8:45 am]

# CONNECTICUT BANC FEDERATION, INC. Order Approving Formation of Bank Holding Company

The Connecticut BancFederation, Inc., New Britain, Connecticut, 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)) of formation of a bank holding company through acquisition of 80 percent or more of the voting shares of: (1) The Guaranty Bank & Trust Company, Hartford ("Guaranty Bank"); (2) New Britain Bank and Trust Company, New Britain ("New Britain Bank"); and (3) Terryville Trust Company, Terryville ("Terryville Bank"), all located in Connecticut.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, a newly-formed corporation with no operating history, was organized for the purpose of becoming a bank holding company. The banks have aggregate deposits of \$102.0 million, representing 1.6 percent of total deposits in commercial banks in Connecticut.<sup>1</sup>

<sup>1</sup> All banking data are as of December 31, 1972.

Applicant would become the twelfth largest banking organization in the State and would hold 1.6 percent of total commercial bank deposits in the State.

New Britain Bank (deposits of \$64.8 million) operates five offices in the New Britain Standard Metropolitan Statistical Area ("SMSA") and two offices in the Hartford SMSA. Guaranty Bank (deposits of \$26.1 million) operates four offices, all in the Hartford SMSA. The relevant geographic market in which the competitive effects of the affiliation of these two banks is to be adjudged is the Hartford-New Britain banking market approximated by the combined Hartford and New Britain SMSAs. The two SMSAs are contiguous, and the central cities of Hartford and New Britain are only ten miles apart. Census Bureau data indicate that approximately 22 percent of the resident labor force of New Britain commutes to the city of Hartford and seven towns surrounding Hartford.

The Hartford-New Britain banking market is highly concentrated, the two largest of 24 banks therein holding 41 percent and 37 percent of market deposits respectively. The third, fourth, and sixth largest banks in the market are subsidiaries of the same bank holding company which thereby controls eight percent of market deposits. New Britain Bank is the fifth largest bank in the market holding three percent of market deposits, and Guaranty Bank, holding one percent of deposits in the market ranks as the tenth largest bank in the market. Applicant would become the fourth largest banking organization in the market with approximately 4 percent of market deposits. Applicant would not thereby control an undue percentage of the Hartford-New Britain market, nor would consummation of the proposed transaction result in a significant increase in the concentration of firms in that market.

Although the closest offices of New Britain Bank and Guaranty Bank are only six miles apart, their service areas overlap only in the town of Newington (population of 26,037, according to 1970 Census of Population). Guaranty Bank does not have an office in Newington, while New Britain Bank does maintain an office there, which office competes with the offices of three commercial banks, two mutual savings banks, and a savings and loan association. A fourth thrift institution has recently been approved in Newington. It appears that reasonable banking alternatives would be available to the Newington community even if competition were eliminated between New Britain Bank and Guaranty Bank. The Board concludes that consummation of the proposed transaction would not have a significant adverse effect on existing competition in the Hartford-New Britain market.

Terryville Bank (deposits of \$11.1 million) operates two offices, both located in the town of Plymouth, in the Bristol SMSA, the relevant banking market in which the competitive effects of the acquisition by Applicant are considered. It is the third largest of four banks in the market and holds approximately 20 percent of deposits in the market. Although

the Bristol SMSA is contiguous to the Hartford and New Britain SMSAs and although an office of Terryville Bank is located only 15 miles from the nearest office of New Britain Bank and 20 miles from the nearest office of Guaranty Bank, there is little existing competition between Terryville Bank on the one hand and New Britain Bank or Guaranty Bank on the other. Neither New Britain Bank nor Guaranty Bank derives more than 1 percent of its other banking business from the Bristol SMSA; and Terryville Bank does not derive more than 1 percent of its demand deposits, nor more than 3 percent of its other banking business, from the service areas of New Britain Bank and Guaranty Bank.

The law of the State of Connecticut permits commercial banks to establish branch offices at any location in the State except in towns in which a commercial bank is headquartered. Although there are "open" locations in the service areas of the banks that are the subject of the instant application, it appears that New Britain Bank is the only one of the three banks that has the resources to pursue an expansionary branching policy into the service areas of the other two banks. However, the towns around Hartford that are not subject to "home office protection" are heavily banked, and New Britain Bank, having recently closed a branch office after five years of unprofitable operations at that branch, is not considered likely to pursue an aggressive branching policy in the near future. Consummation of the proposed transactions is unlikely to adversely affect potential competition.

Hartford National Corporation, a bank holding company controlling the largest bank in the Hartford-New Britain market, has objected to the form of the instant proposal and has urged the Board to restructure the proposal, apparently by requiring a merger of New Britain Bank and Terryville Bank into Guaranty Bank, in order to remove the "home office protection" granted by State law to the Plymouth community and to assist in the removal of such protection from the city of New Britain. Hartford National Corporation notes that State law effectively prohibits its banking subsidiary from establishing a branch facility in New Britain, but recognizes that it may lawfully form a new bank in New Britain.

Applicant has vigorously opposed the suggestion of Hartford National Corporation stressing the affirmatively pro-competitive effect of the instant proposal, as a means, in effect, to deconcentrate the Hartford-New Britain market. Applicant contends that the proposal would be jeopardized, and the pro-competitive effect thereby lost, if New Britain Bank and Terryville Bank are required to merge out of existence. As a matter of policy, the Board opposes "home office protection" statutes as devices to protect a favored few from the rigors of fair competition,<sup>2</sup> and, where an application has presented significant adverse competitive effects, or where an Applicant has recognized the wisdom of free competition and has voluntarily taken steps that would result in removal of "home office protection", that removal



has been considered a procompetitive consideration and a public benefit.<sup>2</sup> However, where, as here, an application presents net procompetitive effects, the Board has not conditioned its approval upon removal of "home office protection,"<sup>3</sup> and the Board will not do so in this case.

The financial conditions of Applicant and its proposed subsidiary banks are generally satisfactory. Management of all three banks is generally considered good, and consummation of the proposed transaction should provide greater managerial depth to the banks. Prospects for all are generally favorable in view of Applicant's intention to strengthen and develop the banking operations and services of its subsidiary banks. Accordingly, banking factors weigh in favor of approval of the application.

Considerations relating to the convenience and needs of the communities to be served also favor approval. There is no evidence that the banking needs of the communities to be served are not being adequately met. Nevertheless, consummation of the proposed transaction is expected to enable Guaranty Bank and Terryville Bank to expand their trust and electronic data processing services and to offer credit card programs to their customers. Combined programs for electronic data processing, investment, personnel, and auditing should improve the quality of services that the banks presently offer. Most importantly, it is expected that the convenience and needs of residents of the Hartford-New Britain banking market, presently dominated by two banks, will be promoted by the positive competitive effect that the formation of this new bank holding company is expected to have in that market. It is the Board's judgment that the transaction would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Boston pursuant to delegated authority.

By order of the Board of Governors,<sup>4</sup> effective November 16, 1973.

[SEAL] CHESTER B. FELDBERG,  
Secretary of the Board.  
[FR Doc. 73-25172 Filed 11-27-73; 8:45 am]

#### CONTINENTAL ILLINOIS CORP.

##### Order Approving Retention of Republic Realty Mortgage Corp.

Continental Illinois Corporation, Chicago, Illinois, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval, under section 4(c)(8) of the Act and § 225.4(b)(2) of the Board's Regulation Y, to retain all of the voting shares of Republic Realty Mortgage Corporation, Chicago, Illinois ("Company"), a company that engages in the following activities: origination and acquisition of real estate loans (including construction lending) both FHA-insured and conventional as principal or agent; sale of real estate loans to investors; servicing of real estate loans; acting as agent or broker in connection with the placement of credit life and credit disability insurance related to real estate loans originated or serviced; and other incidental activities related to the mortgage banking business.<sup>5</sup> Such activities have been determined by the Board to be closely related to banking (12 CFR 225.4(a)(1), (3), and (9)).

<sup>2</sup> Voting for this action: Vice Chairman Mitchell and Governors Daane, Brimmer, Sheehan, Bucher and Holland. Absent and not voting: Chairman Burns.

<sup>3</sup> Said shares were acquired by Continental Illinois Corporation on June 18, 1970, through the merger of Company into a wholly-owned subsidiary of Continental Illinois Corporation formed for the express purpose of acquiring Company. Under the provisions of section 4(a)(2) of the Act, more than 5 per cent of said shares may not be retained beyond December 31, 1980, without Board approval.

<sup>4</sup> Company also engages in the activity of acting as agent or broker in connection with the placement of property and casualty insurance related to real estate loans it originates or services. Continental Illinois Corporation intends to file with the Board, at a later date, a separate application for continuation of this activity by the Company under section 4(c)(8) of the Act. Accordingly, the Board's Order herein makes no determination under section 4(c)(8) of the Act with respect to the Company's continuing to act as agent or broker in connection with the placement of property and casualty insurance related to real estate loans it originates or services. Under the provisions of section 4(a)(2) of the Act, such activity may not be engaged in by Company beyond December 31, 1980, without board approval.

Notice of the application, affording opportunity for interested persons to submit comments and views on the public interest factors, has been duly published (38 FR 26152). The time for filing comments and views has expired, and none has been timely received.

Applicant owns the Continental Illinois National Bank and Trust Company of Chicago ("Bank"), the largest bank in Illinois. Bank's total deposits of \$7.1 billion represent 15.5 percent of the total commercial bank deposits in the State, and 20.4 percent of the total commercial bank deposits in the Chicago banking market.<sup>6</sup> Bank originates and services mortgage loans solely for its own account. During 1969, the last full year prior to Applicant's acquisition of Company, Bank originated \$25.2 million of mortgage loans, over 90 percent of which related to parcels of land in the Chicago SMSA (which embraces the six north-eastern counties in Illinois). Bank serviced \$114.7 million of its outstanding mortgage loans as of December 31, 1969 and as of that date had outstanding construction loans of \$48.4 million. Comparable figures for 1972 show that Bank originated \$44.6 million, serviced \$172.3 million and had outstanding construction loans of \$85.2 million. The largest share of Bank's mortgage originations have involved one-to-four family residential properties. Such originations accounted for 58 percent of Bank's originations in 1969 and 72 percent in 1972. Two of Applicant's nonbanking subsidiaries also act as investment advisors for real estate investment trusts.<sup>7</sup> Both of the trusts served by these investment advisors are California-based and their investments outside of California and Texas have not been significant.

Company engages primarily in originating mortgage loans for resale to institutional investors and in servicing such loans for these investors. In June, 1970, when Applicant acquired Company, Company had its main office in Chicago, Illinois, and branch offices in St. Louis, Missouri, and Milwaukee, Wisconsin. Company opened an additional office in Atlanta, Georgia in June, 1972. During 1969, Company originated \$22.8 million of mortgage loans, of which \$18.6 million were on parcels within the Chicago SMSA. Company had a mortgage loan servicing portfolio of \$132 million as of December 31, 1969, and as of that date had outstanding construction loans of \$9.3 million. Comparable figures for 1972 show that Company originated \$83.8 million of mortgage loans, of which \$71.7 million were on parcels within the Chicago SMSA, had a servicing portfolio of \$220 million, and outstanding construction loans of \$32.1 million. Based on its servicing portfolio, Company ranked as the 130th largest mortgage company in

<sup>5</sup> All banking data are as of December 31, 1972.

<sup>6</sup> Applicant owns all of the outstanding voting shares of Continental Illinois Realty Advisors, Inc., which also owns all of the outstanding voting shares of Continental Illinois Properties Advisors, Inc.

<sup>1</sup> See Order of January 19, 1973 approving acquisition of bank by CBT Corporation, Fed. Res. Bulletin 111, 112 (February, 1973); See Statement accompanying Order of July 29, 1971 denying acquisition of bank by Midlantic Banks, Inc., 57 Fed. Res. Bulletin 684, 686 (August 1971); and Order of February 17, 1972 approving acquisition of bank by United Jersey Banks 58 Fed. Res. Bulletin 296 (March 1972).

<sup>2</sup> See Statement accompanying Order of February 7, 1972 approving acquisition of bank by Midlantic Banks, Inc., 58 Fed. Res. Bulletin 286, 287-288 (March, 1972); Statement accompanying Order of April 7, 1972 approving acquisition of bank by Midlantic Banks, Inc., 58 Fed. Res. Bulletin 475, 477 (May, 1972); Order of February 17, 1972 approving acquisition of bank by United Jersey Banks, 58 Fed. Res. Bulletin 296 (March, 1972); and Order of January 19, 1973 approving acquisition of bank by CBT Corporation, Fed. Res. Bulletin 111, 112 (February, 1973).

<sup>3</sup> See Statement accompanying Order of April 17, 1970 approving application by First Connecticut Bancorp, Inc. to become a bank holding company, 56 Fed. Res. Bulletin 452 (May, 1970). That decision is uniquely "on all fours" with the instant application having been found to present the same procompetitive effects in what has become the Hartford-New Britain banking market that the Board finds are presented by the instant application.



the nation just prior to its acquisition and ranked at the end of 1972 as the 133rd largest in the nation and the 15th largest with offices in Chicago.

The Board regards the standards under section 4(c)(8) for retention to be the same as the standards for a proposed acquisition. The primary effects of the acquisition and proposed retention upon competition appear to be limited to the Chicago SMSA where over 80 percent of Company's and over 90 percent of Bank's mortgage loans are originated.<sup>5</sup> The acquisition of Company did not eliminate any meaningful competition between Bank and Company in the origination of mortgages on one-to-four family residential properties since Company did not and does not originate such loans to any significant extent. Similarly, no competition with regard to servicing loans for third parties was eliminated since Bank services loans solely for its own account. It appears that there was some competition between Bank and Company in the origination of mortgage loans on income-producing properties and in the making of construction loans. However, in view of the regional and perhaps national market for such loans and the numerous competitors for such loans, the acquisition does not appear to have eliminated significant existing competition. Although Applicant appears capable of expanding Bank's mortgage lending activities or forming a de novo mortgage company, Applicant's acquisition did not adversely affect competition since the acquisition of Company gave Applicant only small shares of the relevant markets and because of the presence of numerous other competitors for mortgage loans in the Chicago SMSA.<sup>6</sup> Based on these facts and other facts of record, the Board has concluded that the acquisition and the proposed retention had and would have no significant adverse effects on existing or future competition.

At the time of the acquisition, it could reasonably have been expected that affiliation of Company with Applicant would make funds more readily available to Company, thus allowing Company to expand its operations in Chicago and elsewhere. It could also have been expected that Company would increase its participation in making funds available for low-income housing. Since affiliation with Applicant, Company's capital base has been increased substantially, thus increasing the availability of lines of credit from unaffiliated banks, substantial credit has been extended by Applicant to Company, and a new office has

been opened in Atlanta, Georgia. Company has also, since affiliation, taken an active role in financing low-income housing projects and hospital construction. Thus, the expectations expressed above appear to be consistent with what has taken place to date and it can reasonably be expected that these public benefits will continue as a result of the proposed retention. These public benefits clearly outweigh any possible adverse effects upon competition.

Based upon the foregoing and other considerations reflected in the record, the Board has determined that the balance of the public interest factors the Board is required to consider under section 4(c)(8) is favorable. Accordingly, the application is hereby approved. This determination is subject to the conditions set forth in § 225.4(c) of Regulation Y and to the Board's authority to require such modification or termination of the activities of a holding company or any of its subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder, or to prevent evasion thereof.

By order of the Board of Governors,  
effective November 16, 1973.

[SEAL] CHESTER B. FELDBERG,  
Secretary of the Board.

[FR Doc. 73-25175 Filed 11-27-73; 8:45 am]

#### COUNTY NATIONAL BANCORPORATION Order Approving Acquisition of Insurance Agency Activities of General Mortgage Company of St. Louis

County National Bancorporation, Clayton, Missouri, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval, under section 4(c)(8) of the Act and § 225.4(b)(2) of the Board's Regulation Y, to acquire the insurance agency activities of General Mortgage Company of St. Louis ("Company"), St. Ann, Missouri. Certain insurance agency activities have been determined by the Board to be closely related to banking (12 CFR 225.4(a)(9)).

Notice of the application, affording opportunity for interested persons to submit comments and views on the public interest factors, has been duly published. (37 FR 24852.)<sup>1</sup> The time for filing com-

<sup>1</sup> The published notice of this application was included in the notice of the application to acquire General Mortgage Company of St. Louis, St. Ann, Missouri. When the National Association of Insurance Agents, Inc., and related parties objected to the proposed acquisition of the insurance agency activities of Company, and requested a hearing thereon, Applicant requested separate consideration by the Board of the other activities of Company and the insurance agency activities of Company. Subsequently, the Board approved the acquisition of Company except for the insurance agency activities, effective March 13, 1973.

ments and views has expired, and the Board has considered all comments received in light of the public interest factors set forth in section 4(c)(8) of the Act.<sup>2</sup>

Applicant, the eighth largest banking organization in Missouri, controls two banks with aggregate deposits of \$312.3 million, representing 2.2 percent of the total deposits of commercial banks in Missouri. (All banking data are as of December 31, 1972, and reflect bank holding acquisitions and formations through September 30, 1973.) Earlier this year, Applicant acquired Company, but stated that Company would neither write new insurance policies nor renew expiring insurance pending the outcome of the application.

Company has previously engaged in the sale of insurance as agent in connection with its mortgage company activities. Company had gross commission income of approximately \$30,000 for the year ending March 31, 1972. Virtually all of the commissions resulted from the sale of declining coverage term life insurance policies where the coverage was equal to the outstanding balance of a mortgage held or serviced by Company, the sale of accident and health insurance policies where the coverage was equal to monthly mortgage payments, and the sale of homeowners insurance policies where the primary coverage of the policies protects collateral which formed the basis for an extension of credit by Company or secures a mortgage serviced by Company. Thus, it appears virtually all of Company's gross insurance commission income is directly related to an extension of credit by Company or directly related to provision of other financial services of Company.

Neither Applicant nor its banking subsidiaries engage in the sale of insurance as agents or brokers although Applicant's banking subsidiaries do engage in the sale of credit life and accident and health insurance. Effectuation of the proposal would not eliminate any significant existing or future competition between Applicant or its banking subsidiaries and Company in view of the limited nature of the respective insurance activities. Nor does it appear that permitting Company, as a subsidiary of Applicant, to continue to engage in insurance agency activities, would adversely affect the

<sup>2</sup> The National Association of Insurance Agents, Inc., and related parties filed a petition on December 12, 1972, objecting to approval of the application and requesting a hearing be held upon the application. On March 6, 1973, the Board directed that a hearing be held on this application, among others. After the Administrative Law Judge designated to conduct the proceeding scheduled a hearing, the objectors to the application and the Applicant reached agreement whereby the objections to the application were withdrawn and whereby Applicant agreed to be bound by the final outcome of certain specified applications to engage in insurance agency activities. On August 13, 1973, the Administrative Law Judge dismissed the application from the hearing docket and referred the application back to the Board.

<sup>5</sup> Bank did not and does not compete with the other offices of Company in Milwaukee, St. Louis, and Atlanta.

<sup>6</sup> As of December 31, 1972, there were 52 mortgage banking concerns, 270 savings and loan associations and 330 commercial banks with offices in the Chicago SMSA.

<sup>7</sup> Voting for this action: Vice Chairman Mitchell and Governors Daane, Sheehan, Bucher, and Holland. Absent and not voting: Chairman Burns and Governor Brimmer.



numerous existing competitors in the areas where Company does business.

It is anticipated that the sale of insurance by Company will provide a convenient alternative source of insurance agency services for customers of Company. There is no evidence in the record indicating that consummation of the proposed transaction would result in any undue concentration of resources, unfair competition, conflicts of interests, unsound banking practices, or other adverse effects.

Based upon the foregoing and other considerations reflected in the record, the Board has determined that the balance of the public interest factors the Board is required to consider under section 4(c)(8) is favorable. Accordingly, the application is hereby approved. This determination is subject to the conditions set forth in § 225.4(c) of Regulation Y and to the Board's authority to require such modification or termination of the activities of a holding company or any of its subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder, or to prevent evasion thereof.

The transaction shall be made not later than three months after the effective date of this Order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of St. Louis, pursuant to authority delegated hereby.

By order of the Board of Governors,<sup>2</sup> effective November 16, 1973.

[SEAL] CHESTER B. FELDBERG,  
Secretary of the Board.

[FR Doc. 73-25174 Filed 11-27-73; 8:45 am]

#### F&M NATIONAL CORP.

##### Proposed Acquisition of Peoples Loans, Inc.

F&M National Corporation, Winchester, Virginia, 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, for permission to acquire voting shares of Peoples Loans, Incorporated, Luray, Virginia. Notice of the application was published on October 12, 1973, in Page News and Courier, a newspaper circulated in Luray, Virginia.

Applicant states that the proposed subsidiary would engage in the activity of making or acquiring, for its own account or for the account of others, loans or other extensions of credit such as would be made by a finance company; selling credit life and credit health and accident insurance to borrowers. 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 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 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 December 12, 1973.

Board of Governors of the Federal Reserve System, November 15, 1973.

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

[FR Doc. 73-25180 Filed 11-27-73; 8:45 am]

#### FIDELITY AMERICAN BANKSHARES, INC. Order Approving Acquisition of Columbia Life Insurance Co.

Fidelity American Bankshares, Inc., Lynchburg, Virginia, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval, under section 4(c)(8) of the Act and § 225.4(b)(2) of the Board's Regulation Y, to acquire all of the voting shares of Columbia Life Insurance Company, Phoenix, Arizona ("Company"), a company that will engage de novo in the underwriting, as reinsurer, of credit life and credit accident and health insurance in connection with extensions of credit by Applicant's lending subsidiaries.

Notice of the application, affording opportunity for interested persons to submit comments and views on the public interest factors, has been duly published (37 FR 4230). The time for filing comments and views has expired and all received have been considered, including those presented orally and in writing in connection with a Board hearing on March 24, 1973, pertaining to the underwriting of credit life and credit accident and health insurance in general and this application in particular.

Effective December 11, 1972, the Board amended § 225.4 of Regulation Y to add the activity of "acting as underwriter for credit life and credit accident and health insurance which is directly related to extensions of credit by the bank holding

company system" to the list of activities the Board has determined to be closely related to banking (12 CFR 225.4(a)(10)).

Applicant controls 14 banks with total deposits of \$540.6 million, representing 5 percent of total deposits in commercial banks in the State, and is the eighth largest banking organization in Virginia. (All banking data are as of December 31, 1972, and reflect bank holding company formations and acquisitions approved by the Board through October 1, 1973.) Applicant's nonbanking subsidiaries include a finance company and a mortgage company.

Company will be formed as an Arizona insurance corporation with initial capital of \$155,000. As Company will be qualified to underwrite insurance directly only in Arizona, its activities will be limited to acting as reinsurer of credit life and credit accident and health insurance policies made available in connection with extensions of credit by Applicant's lending subsidiaries. Such insurance will be directly underwritten by an insurer or insurers qualified to underwrite in the State where Applicant's subsidiaries engage in business and will thereafter be assigned or ceded to Company under a reinsurance agreement.

Credit life and credit accident and health insurance is generally made available by banks and other lenders and is designed to assure repayment of a loan in the event of death or disability of the borrower. In connection with its addition of credit life underwriting to the list of permissible activities for bank holding companies, the Board stated:

To assure that engaging in the underwriting of credit life and credit accident and health insurance can reasonably be expected to be in the public interest, the Board will only approve applications in which an applicant demonstrates that approval will benefit the consumer or result in other public benefits. Normally such a showing would be made by a projected reduction in rates or increase in policy benefits due to bank holding company performance of this service.

Applicant has applied for permission to engage in the reinsurance of the following types of insurance coverage to be offered in the State of Virginia: individual and joint level term credit life insurance on single payment loans;<sup>1</sup> individual and joint decreasing credit life insurance;<sup>2</sup> and individual decreasing credit accident and health insurance.

Applicant has stated that its proposed reinsurance subsidiary (Company) and

<sup>1</sup> The Board does not regard the sale of level term credit life insurance in connection with installment lending as directly related to an extension of credit under section 225.4(a)(9)(11) of Regulation Y; however, the Board has found that such insurance in connection with single payment loans is directly related to an extension of credit.

<sup>2</sup> Applicant makes available and proposes to underwrite the aforementioned joint credit life coverage for co-makers or co-signers on indebtedness resulting from the extension of credit.

<sup>3</sup> Voting for this action: Vice Chairman Mitchell and Governors Daane, Sheehan, Bucher and Holland. Absent and not voting: Chairman Burns and Governor Brimmer.



the direct underwriter which issues the credit life and credit accident and health insurance policies made available by Applicant's lending subsidiaries will reduce the rates charged for all types of credit life insurance by 7.7 percent from the rates they presently charge. In addition, Applicant will reduce the rate charged for individual decreasing credit accident and health insurance by 5 percent and will also make improvements in policy coverage. The Board finds that the reduced cost of such insurance coverage is procompetitive and is in the public interest. The Board concludes that such public benefits outweigh any possible adverse effects of approval of the application.

Based upon the foregoing and other considerations reflected in the record, the Board has determined that the balance of the public interest factors the Board is required to consider under section 4(c) (8) is favorable.

Accordingly, the application is hereby approved. This determination is subject to the conditions set forth in § 225.4(c) of Regulation Y and to the Board's authority to require such modification or termination of the activities of a holding company or any of its subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder, or to prevent evasion thereof.

The transaction shall be made not later than three months after the effective date of this Order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Richmond pursuant to delegated authority.

By order of the Board of Governors,  
effective November 15, 1973.

[SEAL] CHESTER B. FELDBERG,  
Secretary of the Board.

[FR Doc.73-25176 Filed 11-27-73;8:45 am]

#### FIRST BANCORP, INC. Acquisition of Bank

First Bancorp, Inc., Corsicana, Texas, has applied for the Board's approval under section 3(a) (3) of the Bank Holding Company Act (12 U.S.C. 1842(a) (3)) to acquire 69.44 percent of the voting shares of South Central Bank, Hutchins, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve Sys-

\* Voting for this action: Vice Chairman Mitchell and Governors Daane, Sheehan, Bucher, and Holland. Absent and not voting: Chairman Burns and Governor Brimmer.

tem, Washington, D.C. 20551, to be received not later than December 17, 1973.

Board of Governors of the Federal Reserve System, November 20, 1973.

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

[FR Doc.73-25177 Filed 11-27-73;8:45 am]

#### FIRST STEUBEN BANCORP, INC. Order Approving Acquisition of Bank

First Steuben Bancorp, Inc., Steubenville, Ohio, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a) (3) of the Act (12 U.S.C. 1842(a) (3)) to acquire 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to The Farmers National Bank of Salem, Salem, Ohio ("Bank"). The bank into which Bank is to be merged has no significance except as a means to facilitate the acquisition of the voting shares of Bank. Accordingly, the proposed acquisition of shares of the successor organization is treated herein as the proposed acquisition of the shares of Bank.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and none has been timely received. The Board has considered the application in the light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant controls two banks with aggregate deposits of approximately \$93 million, representing 0.3 percent of deposits in commercial banks in Ohio, and is the tenth largest multi-bank holding company and thirty-ninth largest banking organization in the State. (All banking data are as of June 30, 1973, and reflect holding company formations and acquisitions approved through September 15, 1973.) The acquisition of Bank (with deposits of \$53 million) would increase Applicant's share of State deposits by less than one-half of one percentage point.

Bank serves the Salem banking market which encompasses the northern section of Columbiana County (including the communities of Salem, Lisbon and Columbiana) and the portion of Mahoning County which includes the townships of Green and Goshen. Bank is the largest of the seven banks serving the market and holds approximately 32 percent of total deposits. The second, third, and fourth largest banks in the market (in terms of deposits) hold collectively approximately 48 percent of the total market deposits with respective holdings of approximately 24 percent, 15 percent, and 9 percent of such deposits. The fourth largest market bank is a subsidiary of Ohio's largest banking organization and bank holding company.

Applicant's closest subsidiary banking office is located 30 miles south of Bank's Lisbon office, and it does not compete in the Salem banking market at the present time. No meaningful present competition would be eliminated between offices of Bank and Applicant's subsidiary banks by consummation of this proposal, and in view of restrictions on branching imposed by Ohio law and distances separating the banking offices, it appears unlikely that any significant competition between Bank and Applicant's banking offices would develop. Furthermore, it appears that Applicant would not find de novo entry into Columbiana County particularly desirable considering the county's rather limited economic prospects and the large number of banking offices operating in the area. Consummation of the proposal in the Board's opinion would have no significantly adverse effect on competition nor tend to create a monopoly or in any manner be in restraint of trade in the Salem market.

The financial condition and managerial resources of Applicant, its present subsidiaries, and of Bank are generally satisfactory, and the prospects for each appear favorable and, accordingly, considerations relating to banking factors are consistent with approval of the application. Although there is no evidence that the major banking needs of the area are not being adequately served at the present time, the proposed affiliation would benefit the residents of the area since Applicant proposes to make the trust services of its lead bank available to customers of Bank, to provide Bank with on-line computer services, and to assist in servicing loan requests in excess of Bank's lending limit. Considerations relating to the convenience and needs of the communities to be served are consistent with approval of the application. It is the Board's judgment that consummation of the proposed transaction would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Cleveland pursuant to delegated authority.

By order of the Board of Governors,  
effective November 15, 1973.

[SEAL] CHESTER B. FELDBERG,  
Secretary of the Board.

[FR Doc.73-25179 Filed 11-27-73;8:45 am]

\* Voting for this action: Vice Chairman Mitchell and Governors Daane, Sheehan, Bucher and Holland. Absent and not voting: Chairman Burns and Governor Brimmer.



## FOREST LAKE FINANCE CO.

## Order Approving Formation of Bank Holding Company and Retention of Insurance Agency Activities

Forest Lake Finance Company, Forest Lake, Minnesota, has applied for the Board's approval under section 3(a)(1) of the Act (12 U.S.C. 1842(a)(1)) of formation of a bank holding company through acquisition of 95 percent or more of the voting shares of Forest Lake State Bank, Forest Lake, Minnesota ("Bank").

At the same time, Applicant has applied for the Board's approval under section 4(c)(8) of the Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of Regulation Y to continue to engage in permissible insurance agency activities in Forest Lake, Minnesota (population of less than 4,000). The operation by a bank holding company of a general insurance agency in a community with a population not exceeding 5,000 is an activity that the Board has previously determined to be closely related to banking (12 CFR 225.4(a)(9)(iii)(a)).

Notice of the receipt of the applications has been given in accordance with sections 3 and 4 of the Act, and the time for filing comments and views has expired. The Board has considered the applications and all comments received in light of the factors set forth in section 3(c) of the Act, and the considerations specified in section 4(c)(8) of the Act.

Applicant, a general insurance agency and lending institution which conducts its business in a building adjacent to Bank, is closely associated with Bank through common ownership. Bank (\$10.6 million in deposits) is the only commercial bank in the community of Forest Lake, which is located within the northern perimeter of the Minneapolis-St. Paul RMA,<sup>1</sup> a reasonable approximation of the relevant market. (All banking data are as of December 31, 1972.) Bank ranks as the 53rd largest commercial banking organization in the relevant market with 0.2 per cent of total market deposits. Since Applicant has no banking subsidiaries, acquisition of Bank by Applicant would not eliminate any existing competition. Moreover, it does not appear that the proposal would have any adverse effect on other banks in the market, nor preclude the establishment of new banks in the area. Therefore, competitive considerations are consistent with approval of the application.

The financial and managerial resources and future prospects of Applicant and Bank are satisfactory and consistent with approval. Although Applicant will incur debt in acquiring Bank, it appears that income from Bank and insurance

agency activities will provide sufficient revenue to service the debt adequately without impairing the financial condition of Bank. Applicant proposes to transfer its credit life and credit accident and health insurance business to Bank upon consummation of this proposed transaction, which should provide Bank with an additional source of income. Accordingly, considerations relating to the convenience and needs of the community to be served, with respect to the acquisition of Bank, are consistent with approval of the application. It is the Board's judgment that consummation of the transaction would be in the public interest and that the application to acquire Bank should be approved.

Applicant operates a general insurance agency business out of an office adjacent to Bank and is one of three insurance agencies in Forest Lake. Retention of Applicant's insurance activities would enable Bank's customers to enjoy the continued convenience of obtaining banking and insurance services in conjunction with each other. There is no evidence in the record indicating that consummation of the proposal would result in any undue concentration of resources, unfair competition, conflicts of interest, unsound banking practices, or other adverse effects on the public interest. On the basis of the foregoing and other facts reflected in the record, the Board has determined that the considerations affecting the competitive factors under section 3(c) of the Act and the balance of the public interest factors the Board must consider under section 4(c)(8) both favor approval of the Applicant's proposal.

Accordingly, the applications are approved for the reasons summarized above. The acquisition of Bank shall not be made (a) before the thirtieth calendar day following the effective date of this Order, or (b) later than three months after the effective date of this Order unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Minneapolis pursuant to delegated authority. The determination as to Applicant's insurance activities is subject to the Board's authority to require reports by, and make examinations of, holding companies and their subsidiaries and to require such modification or termination of the activities of a holding company or any of its subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder, or to prevent evasion thereof.

By order of the Board of Governors,<sup>2</sup> effective November 16, 1973.

[SEAL] CHESTER B. FELDBERG,  
Secretary of the Board.

[FR Doc. 73-25178 Filed 11-27-73; 8:45 am]

<sup>2</sup> Voting for this action: Vice Chairman Mitchell and Governors Daane, Sheehan, Bucher, and Holland. Absent and not voting: Chairman Burns and Governor Brimmer.

## GUARANTY LOAN AND INVESTMENT CORPORATION OF TULSA, INC.

## Proposed Acquisition

Guaranty Loan and Investment Corporation of Tulsa, Inc., Tulsa, Oklahoma, 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, for permission to retain the assets of Economy Loan and Thrift Plan, Inc., Tulsa, Oklahoma. Notice of the application was published on September 1, 1973, in the Tulsa World, a newspaper circulated in Tulsa, Oklahoma.

Applicant states that the proposed subsidiary would engage in the following activities: industrial banking and incidental sale of credit life, accident and health insurance on a group basis of the borrower's option. 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 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 Kansas City.

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 December 13, 1973.

Board of Governors of the Federal Reserve System, November 16, 1973.

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

[FR Doc. 73-25195 Filed 11-27-73; 8:45 am]

## LINDSBORG BANCSHARES, INC.

## Formation of Bank Holding Company

Lindsborg Bancshares, Inc., Lindsborg, Kansas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 81 percent or more of the voting shares of Farmers State Bank, Lindsborg, Kansas. 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)).

<sup>1</sup> RMA refers to Rationally Metro Area which is defined as the central city plus every community, 8 per cent or more of the total population of which, or 15 per cent or more of the labor force of which, commutes to the central city, based on the Census of Population. No community, 35 per cent or more of the labor force of which is engaged in agriculture, is included in an RMA.



The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received not later than December 13, 1973.

Board of Governors of the Federal Reserve System, November 16, 1973.

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

[FR Doc.73-25182 Filed 11-27-73;8:45 am]

#### LINDSBORG BANCSHARES, INC.

##### Proposed Acquisition

Lindsborg Bancshares, Inc., Lindsborg, Kansas, 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, for permission to acquire the assets of Shogren - Larson Agency, Lindsborg, Kansas. Notice of the application was published on October 11, 1973, in The Lindsborg News-Record a newspaper circulated in Lindsborg, Kansas.

Applicant states that the proposed subsidiary would engage in the activity of conducting general insurance agency operations in a community that has a population of less than 5,000 persons, including the sale of fire, casualty, crop-hail, credit life, life, accident and health, and liability insurance. 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 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 Kansas City.

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 December 13, 1973.

Board of Governors of the Federal Reserve System, November 16, 1973.

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

[FR Doc.73-25181 Filed 11-27-73;8:45 am]

#### MEMPHIS TRUST CO.

##### Proposed Acquisition of Homeowners Savings and Loan Association, Inc.

Memphis Trust Company, Memphis, Tennessee, 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, for permission to acquire voting shares of Homeowners Savings and Loan Association, Inc., Collierville, Tennessee, a newly-formed savings and loan association. Notice of the application was published on October 4, 1973, in The Collierville Herald, a newspaper circulated in Collierville, Tennessee.

Applicant states that the proposed subsidiary would engage in the activities of operating a savings and loan association chartered by the State of Tennessee in accordance with the laws of the State of Tennessee, and without membership in the Federal Savings and Loan Insurance Corporation.

Interested persons may express their views as to whether such activities are so closely related to banking or managing or controlling banks as to be a proper incident thereto. In considering this application the Board will take into account the record of its October 30-31, 1973 hearing on a similar application and on the general question whether the operation of a savings and loan association is so closely related to banking or managing or controlling banks as to be a proper incident thereto.

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 St. Louis.

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 December 13, 1973.

Board of Governors of the Federal Reserve System, November 16, 1973.

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

[FR Doc.73-25183 Filed 11-27-73;8:45 am]

#### MERCANTILE BANCORPORATION INC.

##### Acquisition of Bank

Mercantile Bancorporation Inc., St. Louis, Missouri, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12

U.S.C. 1842(a)(3)) to acquire 100 per cent of the voting shares (less directors' qualifying shares) of Mercantile National Bank of Clay County, Kansas City, Missouri, a proposed new bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than December 13, 1973.

Board of Governors of the Federal Reserve System, November 16, 1973.

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

[FR Doc.73-25185 Filed 11-27-73;8:45 am]

#### MERCHANTS NATIONAL CORP.

##### Proposed Retention of Merbanc Life Insurance Company

Merchants National Corporation, Indianapolis, Indiana, 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, for permission to retain voting shares of Merbanc Life Insurance Company, Phoenix, Arizona. Notice of the application was published on October 3, 1973, in The Indianapolis Star-News, a newspaper circulated in Indianapolis, Indiana.

Applicant states that the proposed subsidiary would engage in the activity of underwriting as a reinsurer of credit life and credit accident and health insurance directly related to extensions of credit by the bank holding company system. 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 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 Chicago.

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 December 17, 1973.

Board of Governors of the Federal Reserve System, November 20, 1973.

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

[FR Doc.73-25184 Filed 11-27-73;8:45 am]

#### NCNB CORP.

##### Proposed Acquisition of Blanchard and Calhoun Mortgage Co.

NCNB Corporation, Charlotte, North Carolina, 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, for permission to acquire indirectly, through its wholly-owned subsidiary, NCNB Mortgage Corporation, voting shares of Blanchard and Calhoun Mortgage Co., Augusta, Georgia. Notices of the application were published in newspapers of general circulation in the cities in which offices of the proposed subsidiary are located: Augusta, Georgia; Macon, Georgia; Warner Robins, Georgia; and Savannah, Georgia.

Applicant states that the proposed subsidiary would engage in the activities of originating, selling and servicing residential and commercial mortgage loans; making construction and development mortgage loans; and selling mortgage redemption insurance and credit accident and health insurance to its mortgage customers. 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 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, 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 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 December 13, 1973.

Board of Governors of the Federal Reserve System, November 16, 1973.

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

[FR Doc.73-25186 Filed 11-27-73;8:45 am]

#### NORTHERN STATES BANCORPORATION, INC. AND TWIN GATES CORP.

##### Order Approving Acquisition of First National Bank of Lake City, Mich.

Twin Gates Corporation, Wilmington, Delaware ("Twin Gates"), a bank holding company within the meaning of Bank Holding Company Act, and its subsidiary Northern States Bancorporation, Inc., Detroit, Michigan ("Northern States"), a registered bank holding company, have applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares of the successor by merger to First National Bank of Lake City, Lake City, Michigan ("Bank"). The applications state that the acquisition will be made directly by Northern States. The bank into which Bank is to be merged has no significance except as a means to facilitate the acquisition of all of the voting shares of Bank. Accordingly, the proposed acquisition of shares of the successor organization is treated herein as the proposed acquisition of shares of Bank.

Notice of the applications, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and none have been received. The applications have been considered in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Northern States is the sixth largest banking organization in Michigan and presently controls City National Bank of Detroit, Detroit, Michigan, and Bank of Lansing, Lansing, Michigan,<sup>1</sup> with combined deposits of \$719.1 million or 2.8 percent of total State deposits.<sup>2</sup> Northern States received Board's approval for the acquisition of Kelly Mortgage and Investment Company, Flint, Michigan, on October 12, 1973. In addition, Northern States has applications pending to acquire First Citizens Bank, Troy, Michigan; Union National Bank and Trust Company of Marquette, Marquette, Michigan; and National Bank of Rochester, Rochester, Michigan. Upon acquisition of Bank (\$17.7 million deposits), Northern States' share of State deposits would increase by 0.1 percent to 2.9 percent and Northern States would remain the sixth largest banking organization in Michigan. If potential acquisitions in Troy, Marquette and Rochester are consummated, Northern States' share of State deposits would increase to 3.1 percent, and its rank in the State would not change.

<sup>1</sup> In addition, Twin Gates directly owns 20 percent of the outstanding voting shares of the National Bank of Rochester, Rochester, Michigan. A profit sharing trust for the benefit of employees of Northern States' subsidiary, City National Bank of Detroit, Detroit, Michigan, also controls 13.2 percent of the outstanding shares of National Bank of Rochester.

<sup>2</sup> Source: FDIC Summary of Deposits, June 30, 1972. All deposit data is from the same source.

In the Lake City-Cadillac banking market, Bank operates three offices, holds 15.5 percent of the total commercial bank deposits, and ranks second in deposit size. The larger bank in the market holds 64.9 percent of the deposits. Bank also operates a branch in a Roscommon market, to the east, where its share of deposits is also small. It does not appear that any significant existing competition between Bank and the subsidiaries of Northern States and Twin Gates would be eliminated upon consummation of the proposal. Furthermore, in view of the distances involved and the restrictions of the current Michigan banking laws, there is little probability that any significant future competition will develop between Bank and any present subsidiary banks of Northern States. The nearest banking office of a Northern States' or Twin Gates' subsidiary is located in Lansing, approximately 107 road miles south.

While Northern States possesses the resources to enter the market de novo, population characteristics of the area would not support such entry at this time. On the basis of the foregoing facts, competitive factors are consistent with approval.

The financial and managerial resources of Northern States and Twin Gates are generally satisfactory and their prospects appear favorable. In view of the managerial assistance Northern States would be able to provide Bank, its financial condition would be strengthened and its prospects enhanced. As a result, considerations relating to banking factors lend weight toward approval.

Considerations relating to the convenience and needs of the community to be served also lend some weight toward approval of the applications. Bank's affiliation with Northern States would aid it in serving larger commercial and industrial customers, and expanded trust services would be implemented. Extended banking hours and additional services are contemplated. It is this Federal Reserve Bank's judgment that the proposed transaction is in the public interest and that the applications should be approved.

On the basis of the record as summarized above, the Federal Reserve Bank of Chicago approves the applications, provided that the transaction shall not be consummated (a) before the thirtieth calendar day following the date of this Order or (b) later than three months after the date of this Order, unless such period is extended for good cause by the Board or by this Federal Reserve Bank pursuant to delegated authority.

By order of the Federal Reserve Bank of Chicago, acting pursuant to delegated authority for the Board of Governors of the Federal Reserve System effective November 13, 1973.

[SEAL] ROBERT P. MAYO,  
President.

[FR Doc.73-25187 Filed 11-27-73;8:45 am]



**PITTSBURGH NATIONAL CORP.****Proposed Acquisition of Buhler Mortgage Co., Inc.**

Pittsburgh National Corporation, Pittsburgh, Pennsylvania, 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, for permission to acquire indirectly, through its wholly-owned subsidiary, The Kissell Company, Springfield, Ohio, voting shares of Buhler Mortgage Company, Inc., Sacramento, California. Notice of the application will be published in a newspaper of general circulation in the service area of the proposed subsidiary.

Applicant states that the proposed subsidiary would engage in the activities of originating and servicing mortgage loans for its own account or the accounts of others. 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 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 Cleveland.

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 December 11, 1973.

Board of Governors of the Federal Reserve System, November 14, 1973.

[SEAL] THEODORE E. ALLISON,  
Assistant Secretary of the Board.  
[FR Doc. 73-25186 Filed 11-27-73; 8:45 am]

**POPULAR BANCSHARES CORP.****Acquisition of Bank**

Popular Bancshares Corporation, Miami, 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 97 percent or more of the voting shares of North American Bank of Tampa, Tampa, Florida. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than December 12, 1973.

Board of Governors of the Federal Reserve System, November 14, 1973.

[SEAL] THEODORE E. ALLISON,  
Assistant Secretary of the Board.  
[FR Doc. 73-25189 Filed 11-27-73; 8:45 am]

**SOUTHEAST BANKING CORP.****Acquisition of Bank**

Southeast Banking Corporation, Miami, 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 80 percent or more of the voting shares of the Bank of East Orange, Orlando, Florida. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than December 17, 1973.

Board of Governors of the Federal Reserve System, November 20, 1973.

[SEAL] THEODORE E. ALLISON,  
Assistant Secretary of the Board.  
[FR Doc. 73-25190 Filed 11-27-73; 8:45 am]

**SOUTHEAST BANKING CORP.****Order Approving Acquisition of Bank**

Southeast Banking Corporation, Miami, Florida, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 80 percent or more of the voting shares of Southeast Bank of Westland, Hialeah, Florida ("Hialeah Bank"), a proposed new bank.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant controls 24 banks with aggregate deposits of \$1.6 billion, representing approximately 8 percent of the deposits in commercial banks in Florida, and is the largest banking organization and bank holding company in the State. (All banking data are as of December 31, 1972, and reflect formations and acquisitions approved by the Board through September 30, 1973.) Acquisition of Hialeah Bank will not increase the percentage of deposits held by Applicant since Bank is a proposed new bank. The proposal would not eliminate existing competition nor significantly increase the concentration of banking resources in any relevant area.

The proposed site of Hialeah Bank is in the western section of the City of Hialeah. The relevant banking market (Greater Miami banking market) consists of all of Dade County and the southern portion of Broward County where 40 banking organizations are represented controlling in the aggregate 98 banks with total deposits of \$5 billion. Applicant controls the largest share of market deposits through six subsidiary banks which hold collectively deposits of \$1.2 billion, representing 23 percent of total deposits in the market. Applicant's largest subsidiary bank is located in the City of Miami and controls slightly more than 20 percent of the market. Multibank holding companies control the second, third, and fourth largest shares of deposits in the market and have, respectively, 8.9 percent, 8.8 percent, and 5.24 percent of total market deposits. Applicant's subsidiary closest to Hialeah Bank's proposed site is located 7 miles to the southeast. On the facts of record and in view of the projected growth of the Hialeah area at a rate approximately 40 percent higher than for the State as a whole, and the numerous banking offices located in the areas intervening between Bank and any of Applicant's subsidiary banks, it appears that consummation of the proposal would not eliminate any significant amount of future competition between the proposed new bank and any of Applicant's present subsidiaries. On the basis of the record before it, the Board concludes that consummation of the proposed acquisition would not have a significant adverse effect on competition in any relevant area, nor have a significant adverse effect on any competing banks.

The financial and managerial resources of Applicant and its subsidiary banks are deemed satisfactory especially in view of Applicant's commitment to increase the capital of its subsidiaries, and the projected growth and earnings for the group appear favorable. Hialeah Bank, as a proposed new bank, has no financial or operating history; however, its prospects under Applicant's management appear favorable. Banking factors as they concern Applicant's group and the proposed new bank are consistent with approval of the application. Although there is no evidence that the major banking needs of the area are not being adequately served at the present time, the proposed new bank will provide a convenient source of banking services for the rapidly growing Hialeah area. Some of the services Applicant proposes to provide through Hialeah Bank include consumer and personal loans, small business financing, mortgage financing, and professional billing and payroll accounting. Considerations under convenience



and needs aspects of the proposal are consistent with approval and lend some weight thereto. It is the Board's judgment that consummation of the proposed acquisition would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated (2) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after that date, and (c) Southeast Bank of Westland, Hialeah, Florida, shall be opened for business not later than six months after the effective date of this Order. Each of the periods described in (b) and (c) may be extended for good cause by the Board, or by the Federal Reserve Bank of Atlanta pursuant to delegated authority.

By order of the Board of Governors,<sup>1</sup>  
effective November 15, 1973.

[SEAL] CHESTER B. FELDBERG,  
Secretary of the Board.  
[FR Doc.73-25191 Filed 11-27-73; 8:45 am]

#### **SOUTHWEST BANCSHARES, INC.** **Acquisition of Bank**

Southwest Bancshares, Inc., Houston, Texas, has applied for the Board's approval under section 3(a) (3) of the Bank Holding Company Act (12 U.S.C. 1842(a) (3)) to acquire 51 percent or more of the voting shares of Citizens Bank, Irving, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than December 13, 1973.

Board of Governors of the Federal Reserve System, November 16, 1973.

[SEAL] THEODORE E. ALLISON,  
Assistant Secretary of the Board.  
[FR Doc.73-25192 Filed 11-27-73; 8:45 am]

#### **UNITED BANK OF KANSAS, INC.** **Formation of Bank Holding Company**

United Bank of Kansas, Inc., Liberal, Kansas, has applied for the Board's approval under section 3(a) (1) of the Bank Holding Company Act (12 U.S.C. 1842(a) (1)) to become a bank holding company through acquisition of 80 percent or more of the voting shares of The Peoples National Bank of Liberal, Liberal, Kansas. The factors that are

considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit his views in writing to the Reserve Bank, to be received not later than December 11, 1973.

[SEAL] THEODORE E. ALLISON,  
Assistant Secretary of the Board.  
[FR Doc.73-25193 Filed 11-27-73; 8:45 am]

#### **UNITED VIRGINIA BANKSHARES INC.** **Order Approving Acquisition of Bank**

United Virginia Bankshares Incorporated, Richmond, Virginia (Applicant), a bank holding company within the meaning of the Bank Holding Company Act (12 U.S.C. 1842), has applied for prior approval under section 3(a) (3) of the Act to acquire 100 percent of the voting shares of the successor by merger to Peoples Bank of Gretna, Gretna, Virginia (Gretna), a State member bank.

The bank into which Gretna is to be merged has no significance except as a means of acquiring the voting shares of Gretna. Accordingly, the proposed acquisition of the successor organization is treated herein as a proposed acquisition of the shares of Gretna. The application is to be acted upon by the Federal Reserve Bank of Richmond (Reserve Bank) under authority delegated by the Board of Governors (12 CFR Part 265). Notice of the receipt of the application has been given in accordance with section 3(b) of the Act, and the time for filing comments and views has expired. The Reserve Bank has considered the application and all comments received in the light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)) and finds that:

As of June 30, 1973, Applicant controlled 12 banking subsidiaries operating 130 offices with aggregate deposits of \$1.6 billion, or approximately 14 percent of total commercial bank deposits in Virginia. Since that time, Applicant has received approval of applications to acquire one de novo bank and two existing banks; the latter operate two offices and have combined deposits of \$18.3 million. In terms of deposits, Applicant is the State's largest banking organization. Acquisition of Gretna (deposits of \$12.6 million as of June 30, 1973) would increase Applicant's share of deposits in the State by approximately 0.13 percent. Consummation of the proposed transaction, giving consideration to the two previously approved applications, would not significantly increase concentration of banking resources within the State.

Gretna is one of ten banking organizations located in the relevant geographic market, which includes the independent City of Danville and Pittsylvania County. Of these ten, Gretna ranks sixth, with approximately 6 percent of total area

deposits. Bank's service area extends marginally into southern Campbell County, which includes the Town of Altavista, and insignificantly overlaps the service area of Applicant's Lynchburg subsidiary bank. Applicant's lead bank, United Virginia Bank, is located in Richmond and serves the Richmond SMSA, which represents a separate banking market from that in which Gretna competes. The closest office of any of Applicant's subsidiary banks to Gretna is some 34 road miles distant, located in Lynchburg, Virginia. There is no significant competition existing between Gretna and any existing banking subsidiary or office of Applicant and there appears to be no significant incentive for Applicant to establish a de novo bank in the market served by Gretna. It is concluded that consummation of the proposal would have no adverse effect on banking competition and that the competitive effects of the proposal are not inconsistent with approval of the application.

The financial and managerial resources of Applicant and Gretna are generally satisfactory, and the future prospects appear favorable. In addition, Applicant has demonstrated a past history of willingness and ability to supply needed management assistance and capital to its subsidiary banks. Banking factors, therefore, lend weight toward approval of the application. Although there is no evidence that significant banking needs of the area are unserved, consummation of the proposal should enable Gretna to compete more effectively through its higher available loan limit and the initiation of new services now offered by Applicant's other banking subsidiaries. It is the Reserve Bank's judgment that consummation of the proposed transaction would be in the public interest.

On the basis of the record in this case, the application is approved for the reasons summarized above. However, the transaction shall not be consummated (a) before the thirtieth calendar day following the date of this Order, or (b) later than three months after the date of this Order, unless such period is extended for good cause by the Board of Governors of the Federal Reserve System or by the Federal Reserve Bank of Richmond pursuant to delegated authority.

By order of the Federal Reserve Bank of Richmond, acting pursuant to delegated authority for the Board of Governors of the Federal Reserve System, effective November 15, 1973.

[SEAL] ROBERT P. BLAOK,  
President.  
[FR Doc.73-25194 Filed 11-27-73; 8:45 am]

#### **FEDERAL OPEN MARKET COMMITTEE** **Domestic Policy Directive**

In accordance with § 271.5 of its rules regarding availability of information, there is set forth below the Committee's

<sup>1</sup> Voting for this action: Vice Chairman Mitchell and Governors Daane, Sheehan, Bucher and Holland. Absent and not voting: Chairman Burns and Governor Brimmer.



Domestic Policy Directive issued at its meeting held on August 21, 1973.<sup>1</sup>

The information reviewed at this meeting suggests that growth in real output of goods and services, which slowed in the second quarter from the exceptionally rapid pace of the two preceding quarters, will be moderate in the third quarter. Increases in nonfarm employment also have slowed in recent months, but the unemployment rate has declined. The rate of rise in wage rates has remained relatively moderate. The exceptionally rapid advance in prices was interrupted in July by the temporary freeze imposed in mid-June. However, farm and food prices adjusted sharply upward after mid-July, when the freeze was lifted on most such products. The U.S. merchandise trade balance improved in June, and the balance on goods and services was in surplus in the second quarter for the first time in nearly two years. Since the end of July the dollar has strengthened markedly in foreign exchange markets, and the price of gold has dropped sharply.

Both the narrowly and more broadly defined money stock, which had increased rapidly in May and June, grew more slowly in July. Inflows of consumer-type time and savings deposits strengthened again at banks in late July and early August, while net outflows were experienced at nonbank thrift institutions. Expansion in bank credit has continued at a substantial pace. Since mid-July short-term market interest rates have advanced considerably further on balance. Long-term rates also rose substantially for much of that period, but most recently they have declined in the course of a sharp market rally. On August 13 increases were announced in Federal Reserve discount rates from 7 to 7½ percent.

In light of the foregoing developments, it is the policy of the Federal Open Market Committee to foster financial conditions conducive to abatement of inflationary pressures, a sustainable rate of advance in economic activity, and progress toward equilibrium in the country's balance of payments.

To implement this policy, while taking account of international and domestic financial market developments and the forthcoming Treasury financing, the Committee seeks to achieve bank reserve and money market conditions consistent with slower growth in monetary aggregates over the months immediately ahead than has occurred on average thus far this year.

By order of the Federal Open Market Committee, November 19, 1973.

ARTHUR L. BROIDA,  
Secretary.

[FR Doc.73-25196 Filed 11-27-73; 8:45 am]

<sup>1</sup> The Record of Policy Actions of the Committee for the meeting of August 21, 1973, 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. 20561.

## NATIONAL TRANSPORTATION SAFETY BOARD

[Docket No. SA-440]

### AIRCRAFT ACCIDENT AT ALBUQUERQUE, N. MEX.

#### Notice of Hearing

In the matter of investigation of Accident Involving National Airlines, Inc., McDonnell-Douglas DC-10 of United States Registry N60NA Albuquerque, New Mexico, November 3, 1973.

Notice is hereby given that an Accident Investigation Hearing on the above matter will be held commencing at 9:30 a.m. (local time), on December 10, 1973, at the Miami Springs Villas and Kings Inn Hotel, Miami Springs, Florida.

Dated this 20th day of November 1973.

[SEAL] WILLIAM R. HENDRICKS,  
Senior Hearing Officer.

[FR Doc.73-25153 Filed 11-27-73; 8:45 am]

## RAILROAD RETIREMENT BOARD RAILROAD UNEMPLOYMENT INSURANCE ACCOUNT

### Statement of Balance

Pursuant to section 8(a) of the Railroad Unemployment Insurance Act, the Railroad Retirement Board has determined, and hereby proclaims, that the balance to the credit of the railroad unemployment insurance account as of the close of business on September 30, 1973, was \$19,418,163.24.

In witness whereof the members of the Railroad Retirement Board have hereunto set their hands and caused its seal to be affixed.

Done at Chicago, Illinois, this 20th day of November, 1973.

By the Railroad Retirement Board.

[SEAL] JAMES L. COWEN,  
Chairman.

NEIL P. SPEIRS,  
Member.

WYTHE D. QUARLES, Jr.,  
Member.

R. F. BUTLER,  
Secretary of the Board.

[FR Doc.73-25144 Filed 11-27-73; 8:45 am]

## SECURITIES AND EXCHANGE COMMISSION

[37-60]

### AMERICAN NATURAL GAS CO. AND AMERICAN NATURAL GAS SERVICE CO.

#### Proposed Modification of Accounting System Procedures

Notice is hereby given that American Natural Gas Service Company (Service Company), One Woodward Avenue, Detroit, Michigan 48226, a wholly owned subsidiary service company of American Natural Gas Company, a registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935

("Act") designating section 13(c) of the Act and Rule 88 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

The declaration states that a modification of Service Company's accounting system is deemed necessary because of the increased complexity involved in its accounting services for system companies, due in large part to increased personnel and to the recent transfer of gas storage acquisition and development activity to Service Company from Michigan Consolidated Gas Company and Michigan Wisconsin Pipe Line Company.

Accordingly, Service Company now proposes to adopt an accounting system which will streamline the recording and billing of costs to serviced companies. After January 1, 1974, it is proposed that costs will be maintained by department, although still billed, as at present, by type of service rendered. Departmental costs will include salaries, employee expenses, rents, office supplies, and other expenses of running the department. Additionally, costs will be maintained for general and administrative expenses which cannot readily be departmentalized.

The proposed accounting system substantially conforms with Service Company's present system as set forth in its service agreements. It is stated, therefore, that the proposed system will not result in a change of total service costs, but will provide for more efficient record-keeping and control in the Service Company operations.

It is stated that no fees, commissions or expenses have been incurred or will be incurred in connection with the proposed transaction. It is further stated that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than December 15, 1973, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption



from such rules provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive 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 Corporate Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,  
Secretary.

[FR Doc.73-25162 Filed 11-27-73;8:45 am]

[File No. 500-1]

**BBI, INC.**

#### Suspension of Trading

NOVEMBER 19, 1973.

The common stock of BBI, Inc., being traded on the American Stock Exchange and the Philadelphia-Baltimore-Washington Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of BBI, Inc., being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchanges and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to sections 19(a) (4) and 15(c) (5) of the Securities Exchange Act of 1934, trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange is suspended, for the period from November 20, 1973, through November 29, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,  
Secretary.

[FR Doc.73-25165 Filed 11-27-73;8:45 am]

[811-617]

**BUSINESSMAN'S FUND, INC.**

#### Filing of Application

Notice is hereby given that The Businessman's Fund, Inc., 111 Broadway, New York, New York 10006 (Applicant), an open-end, diversified management investment company registered under the Investment Company Act of 1940 (Act), has filed an application pursuant to section 8(f) of the Act for an order of the Commission declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

The Applicant was organized, as a corporation in the state of New York on October 20, 1952, and registered under the Act by filing a Form N-8A Notifica-

tion of Registration on November 19, 1952.

Applicant represents that pursuant to a Plan and Agreement of Reorganization (the Plan) adopted by its shareholders on September 22, 1972, it has transferred its business and all of its assets, except those reserved for payment of Applicant's liabilities and expenses of liquidation, to MagnaCap Fund, Inc. (MagnaCap), a Maryland corporation registered as an investment company under the Act, in exchange for capital stock of MagnaCap. On September 25, 1972, the MagnaCap shares were distributed to Applicant's shareholders as part of its liquidation. The Plan provides that any assets remaining in Applicant's possession after the payment of all liabilities and expenses of liquidation will be distributed to Applicant's shareholders. Of the \$83,450.61 reserved for such payments and expenses, all but \$16,681.05 had been paid out by October 2, 1973, and Applicant does not expect that any of this amount will be left for distribution to shareholders. Applicant further represents that it was dissolved pursuant to the New York Business Corporation Law on September 27, 1972, and that it has not since then, conducted business of any nature except that incidental to the winding up of its affairs.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the effectiveness of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than December 17, 1973, 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 should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the Applicant 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 herein will be issued as of course following December 17, 1973, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,  
Secretary.

[FR Doc.73-25163 Filed 11-27-73;8:45 am]

[Release No. 33-5437, 34-10496]

#### "HOT ISSUES" SECURITIES MARKETS DISTRIBUTION AND TRADING PHASE

##### Notice of Hearing

The Securities and Exchange Commission announced today that, in connection with the final phase of its public investigation in the Matter of the Hot Issues Securities Markets, public hearings are scheduled to be conducted by the Division of Corporation Finance on December 10, 1973, at the Commission's New York Regional Office, 26 Federal Plaza, New York, New York. The primary purpose of these hearings, as they relate to the distribution of and trading in the securities of certain specific companies, is to develop information for rulemaking purposes and consideration of disclosure and regulatory policies and not for enforcement purposes. Witnesses will include investors who purchased at premium prices three first-time offerings—Cabana Coach Corporation, International Furniture Galleries, Inc. and Telco Marketing Services, Inc.—which were selected by the Commission for analysis because they had experienced dramatic aftermarket price increases and were enumerated at Securities Act Release No. 5335, Securities Exchange Act Release No. 9877. The hearings will focus particularly on the following subjects which were set forth in the above release announcing the selection of the three issues:

1. The use of supplemental sales literature in addition to statutory prospectuses in connection with the distribution and trading of such securities;
2. The nature of oral communications between customers and associates of underwriters and dealers participating in distribution and trading of such securities;
3. The classes of investors purchasing or selling such securities at different stages of an offering, i.e., in the distribution, or in various stages of aftermarket trading, and the bases for underwriters' allocations of such securities to customers;
4. Considerations involved in such investors' investment decisions, including the weight given by them to various forms of disclosure available to them including statutory prospectuses and supplemental sales literature; and
5. Prospectus delivery practices of underwriters and dealers including distribution of preliminary prospectuses.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,  
Secretary.

[FR Doc.73-25161 Filed 11-27-73;8:45 am]



[70-5416]

PUBLIC SERVICE COMPANY OF  
OKLAHOMAProposed Issue and Sale of Bonds and  
Preferred Stock

NOVEMBER 19, 1973.

Notice is hereby given that Public Service Company of Oklahoma, 600 South Main Street, Tulsa, Oklahoma 74102 (Public Service), an electric utility subsidiary company of Central and South West Corporation, a registered holding company, has filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6 and 7 of the Act and Rule 50 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

Public Service proposes to issue and sell, subject to the competitive bidding requirements of Rule 50 promulgated under the Act, \$35,000,000 principal amount of First Mortgage Bonds, Series M, due January 1, 2004. The interest rate of the bonds (which shall be a multiple of  $\frac{1}{8}$  of 1 percent) and the price, exclusive of accrued interest, to be received by Public Service (which shall be not less than 99 percent nor more than 102 $\frac{3}{4}$  percent of the principal amount) will be determined by the competitive bidding. The bonds will be issued under the Indenture of Mortgage or Deed of Trust dated July 1, 1945, of Public Service to The First National Bank and Trust Company of Tulsa, as Trustee, as heretofore supplemented and as to be further supplemented by a Supplemental Indenture to be dated January 1, 1974. The bonds may not be redeemed prior to January 1, 1979, with funds borrowed at a lower effective interest cost.

Public Service also proposes to amend its charter to increase the authorized shares of its preferred stock from 350,000 shares to 700,000 shares and to issue and sell, subject to the competitive bidding requirements of Rule 50 under the Act, 250,000 shares of its authorized but unissued 4 percent Preferred Stock (cumulative, \$100 par value). The dividend rate (which shall be a multiple of .04 percent) and the price (exclusive of accrued dividends) to be paid to Public Service (which shall be not less than \$100 or more than \$102.75 per share) will be determined by the competitive bidding. The terms of the preferred stock include a five-year prohibition against refunding the preferred stock, directly or indirectly, with funds derived from the issuance of debt securities at a lower effective interest cost or other preferred stock at a lower effective dividend cost. It is stated that under Oklahoma law, the affirmative vote of the holders of a majority of the aggregate number of outstanding shares of both common stock and preferred stock, voting together, is required for the adoption of the proposed amendment to the charter. Central and South West Corporation

owns all of the 8,565,000 outstanding shares of common stock of Public Service (which constitute more than a majority of the aggregate number of outstanding shares of both the common stock and the preferred stock and which account for over 83 percent of the votes eligible to be cast on the proposition) and has stated its intention to vote the shares held by it in favor of the amendment.

The net proceeds from the sale of the bonds and preferred stock will be applied by Public Service to the payment of its short-term notes to banks, estimated to aggregate about \$31,000,000, and the balance will be applied to its future construction expenditures, estimated at \$76,252,000 for 1974.

Fees and expenses incident to the proposed bonds and preferred stock are estimated at \$64,290 and \$46,210, respectively, including respective counsel fees of \$12,500 and respective accounting fees of \$3,250. The fees of counsel for the underwriters, to be paid by the successful bidders, are estimated not to exceed \$9,000 for each issue.

The application states that the issue and sale of the bonds and preferred stock are subject to the jurisdiction of the Corporation Commission of the State of Oklahoma and that no other State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than December 20, 1973, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicant-declarant at the above-stated address and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. 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 Corporate Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,  
Secretary.

[FR Doc.73-25164 Filed 11-27-73; 8:45 am]

[File No. 500-1]

## TRIEX INTERNATIONAL CORP.

## Suspension of Trading

NOVEMBER 19, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Triex International Corporation, being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c) (5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from November 20, 1973, through November 29, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,  
Secretary.

[FR Doc.73-25166 Filed 11-27-73; 8:45 am]

[File No. 500-1]

## U.S. FINANCIAL INC.

## Suspension of Trading

NOVEMBER 19, 1973.

The common stock of U.S. Financial Incorporated being traded on the New York Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of U.S. Financial Incorporated, being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to sections 19(a) (4) and 15(c) (5) of the Securities Exchange Act of 1934, trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange is suspended, for the period from November 20, 1973, through November 29, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,  
Secretary.

[FR Doc.73-25167 Filed 11-27-73; 8:45 am]

## COST OF LIVING COUNCIL

FOOD INDUSTRY WAGE AND SALARY  
COMMITTEE

## Notice of Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770) notice is hereby given that the Food Industry Wage and Salary Committee, established under the authority of section 212(f) of the Economic Stabilization Act, as amended, section 4(a)(iv) of Executive Order 11695, and Cost of Living Council Order No. 14, will meet on November 29, 1973. The meeting will be open to the public on a first-come, first-served basis at 10



a.m. in Conference Room 8202, 2025 M Street NW., Washington, D.C.

The agenda will consist of a discussion of policy questions involving food industry wage matters and, if circumstances permit, of food industry wage cases pending before the Cost of Living Council.

The Chairman of the Committee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business.

Issued in Washington, D.C., on November 27, 1973.

HENRY H. PERRITT, JR.,  
Executive Secretary,  
Cost of Living Council.

[FR Doc. 73-25406 Filed 11-27-73; 11:31 a.m.]

## INTERSTATE COMMERCE COMMISSION

[Notice 395]

### ASSIGNMENT OF HEARINGS

NOVEMBER 23, 1973.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after the date of this publication.

MC-C-8095, Kerek Air Freight Corporation, et al. v. S. S. Bertz & Sons, Inc., et al., now assigned December 3, 1973, at Philadelphia, Pa., is postponed indefinitely.

MC 64808 Sub 16, W. S. Thomas Transfer, Inc., now assigned November 26, 1973, at Washington, D.C., is cancelled and transferred to Modified Procedure.

MC 129862 Sub 3, Rajor, Inc., now being assigned hearing January 21, 1974 (1 week), at Chicago, Ill., in a hearing room to be later designated.

I & S M-27038, Heating & Cooling Equipment, Columbus, Ohio, to the West, I & S M-27039, Dairy & Ice Cream Products, Indianapolis, Ind., to Arkansas, Texas, and California, I & S M-27072, Frozen Foods, New Hampton, Iowa, to the east, I & S M-27144, Printed Matter, Tennessee to Western States, MC-C-8187, Sam Tanksley Trucking, Inc., Investigation and Revocation, MC 105566 Sub 40, Sam Tanksley Trucking, Inc., Extension-Kingsport and New Canton, Tenn., MC 105566 Sub 47, Sam Tanksley Trucking, Inc., Extension-Columbus, Ohio, MC 105566 Sub 64, Sam Tanksley Trucking, Inc., Extension-Kroger Dairy, and MC 105566 Sub 69, Sam Tanksley Trucking, Inc., Extension-New Hampton, Iowa, now being assigned hearing January 28, 1974, at the Offices of the Interstate Commerce Commission, Washington, D.C.

[SEAL] ROBERT L. OSWALD,  
Secretary.

[FR Doc. 73-25246 Filed 11-27-73; 8:45 am]

## FOURTH SECTION APPLICATIONS FOR RELIEF

NOVEMBER 23, 1973.

An application, as summarized below, has been filed requesting relief from the requirements of section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the General Rules of Practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

FSA No. 42774—*Class and Commodity Rates Between Points in Texas*. Filed by Texas-Louisiana Freight Bureau, Agent, (No. 675), for interested rail carriers. Rates on various commodities, in carloads and tank-car loads, as described in the application, from, to and between points in Texas, over interstate routes through adjoining states.

Grounds for relief—Intrastate rates and maintenance of rates from and to points in other states not subject to the same competition.

Tariff—Supplement 41 to Texas-Louisiana Freight Bureau, Agent, tariff 87-J, I.C.C. No. 1159. Rates are published to become effective on December 22, 1973.

### AGGREGATE-OF-INTERMEDIATES

FSA No. 42775—*Class and Commodity Rates Between Points in Texas*. Filed by Texas-Louisiana Freight Bureau, Agent, (No. 674), for interested rail carriers. Rates on various commodities, in carloads and tank-car loads, as described in the application, from, to and between points in Texas, over interstate routes through adjoining states.

Grounds for relief—Maintenance of depressed rates published to meet intrastate competition without use of such rates as factors in constructing combination rates.

Tariff—Supplement 41 to Texas-Louisiana Freight Bureau, Agent, tariff 87-J, I.C.C. No. 1159. Rates are published to become effective on December 22, 1973.

By the Commission.

[SEAL] ROBERT L. OSWALD,  
Secretary.

[FR Doc. 73-25244 Filed 11-27-73; 8:45 am]

## CONCERNING MOTOR CARRIER LICENSING PROCEDURES (OPERATIONAL FEASIBILITY)

### General Policy Statement

The National Transportation Policy declared by the Congress requires, in part, that this Commission "promote safe, adequate, economical, and efficient service and foster sound economic conditions in transportation and among the several carriers." Efficient and economical two-way motor operations, which minimize or eliminate the costs of empty

vehicle movements, benefit both the motor carriers and the shipping and traveling public they serve. Cf. Rogers Cartage Co., a Corporation—Extension, 110 M.C.C. 139 (1969). Efficient two-way motor operations, without empty dead-head mileage, will usually reduce a carrier's costs and such savings may generally be passed on to the consumer through lower transportation rates.

Part II of the Interstate Commerce Act providing for the economic regulation (through licensing and rate regulation) of for-hire motor carrier operations in interstate or foreign commerce, and the National Transportation Policy in furtherance of which that statute is to be administered and enforced, require, among other things, a balanced evaluation of the operational feasibility of each proposed new or additional motor carrier operation. The ability of carriers to provide safe and adequate services are considered pursuant to these same mandates. Western Auto Transports, Inc., Extension—Lumber, 72 M.C.C. 345 (1957). In addition, it appears that more detailed information as to the physical aspects of a carrier's proposed operation would be helpful to the continuing assessment by this Commission of the possible environmental consequences of the proposal as required by the National Environmental Policy Act of 1969.

An in-depth consideration of the operational feasibility of a carrier's proposal has long been an integral part of motor carrier licensing. Bos Truck Lines, Inc., Extension—Boston, Mass., 48 M.C.C. 50 (1948); and Stone Lines, Inc., Contract Carrier Application, 54 M.C.C. 310 (1952). Despite this, however, carriers and their representatives appear to have grown somewhat lax in presenting evidence pertaining to the operational feasibility of a proposed service. This, in turn, has made increasingly difficult our task of evaluating whether the present or future public convenience and necessity require a proposed motor common carrier operation or whether a proposed motor contract carrier service is or will be consistent with the public interest and the National Transportation Policy.

In view of these considerations, we have decided to issue this policy statement to notify carriers and their representatives that evidence respecting how equipment is expected to be returned to an origin point, as well as other data relating to the operational feasibility of their proposals (including the need for dead-head operations), must be presented as part of an applicant's initial evidentiary presentation (either at oral hearing or in its opening verified statement under modified procedure) with respect to all applications filed on or after December 1, 1973. To the extent practicable, this requirement will also be imposed as to all proceedings in which an applicant's initial presentation of evidence has not been completed as of the same date.

If an applicant states in its initial evidentiary presentation that empty or partially empty vehicle movements will



result upon a grant of its application, applicant will be expected (1) to specify the extent of such empty operations, by mileage and the number of vehicles, that would be incurred, and (2) to designate where such empty vehicle operations will be conducted.

By the Commission.

Dated: November 15, 1973.

[SEAL] ROBERT L. OSWALD,  
Secretary.

[FR Doc.73-25247 Filed 11-27-73; 8:45 am]

[Notice 38]

# **MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES**

NOVEMBER 23, 1973.

The following letter-notices of proposals (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), to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission under the Commission's Revised Deviation Rules-Motor Carriers of Property, 1969 (49 CFR 1042.4(c)(11)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.4(c)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 1042.4(c)(12)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Revised Deviation Rules-Motor Carriers of Property, 1969, will be numbered consecutively for convenience in identification and protests, if any, should refer to such letter-notices by number.

## **MOTOR CARRIERS OF PROPERTY**

No. MC-22229 (Deviation No. 17),  
TERMINAL TRANSPORT COMPANY,  
INC., 248 Chester Avenue SE., Atlanta,  
Georgia 30316, filed August 9, 1973. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over deviation routes as follows: (1) From Cartersville, Ga., over Georgia Highway 61 to junction U.S. Highway 278 at Dallas, Ga., thence over U.S. Highway 278 to junction U.S. Highway 78 at Austell, Ga., thence over U.S. Highway 78 to junction Georgia Highway 6, thence over Georgia Highway 6 to junction Interstate Highway 20, thence over Interstate Highway 20 to junction Interstate Highway 285, thence over Interstate Highway 285 to junction Georgia Highway 166, thence over Georgia Highway 166 to Atlanta, Ga., (2) from junction U.S. Highway 41 and Georgia Highway 176 near Acworth, Ga., over Georgia Highway 176 to junction U.S. Highway 278 near Powder Springs, Ga., thence over

U.S. Highway 278 to junction U.S. Highway 78 at Austell, Ga., thence over U.S. Highway 78 to junction Georgia Highway 6, thence over Georgia Highway 6 to junction Interstate Highway 20, thence over Interstate Highway 20 to junction Interstate Highway 285, thence over Interstate Highway 285 to junction Georgia Highway 166, thence over Georgia Highway 166 to Atlanta, Ga., (3) from Cartersville, Ga., over Georgia Highway 61 to junction U.S. Highway 278, at Dallas, Ga., thence over U.S. Highway 278 to junction Interstate Highway 285, thence over Interstate Highway 285 to junction Georgia Highway 166, thence over Georgia Highway 166 to Atlanta, Ga., and (4) from junction U.S. Highway 41 and Georgia Highway 176 near Acworth, Ga., over Georgia Highway 176 to junction U.S. Highway 278 near Powder Springs, Ga., thence over U.S. Highway 278 to junction Interstate Highway 285, thence over Interstate Highway 285 to junction Georgia Highway 166, thence over Georgia Highway 166 to Atlanta, Ga., and return over the same routes, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Cartersville, Ga., over U.S. Highway 41 to Atlanta, Ga., and return over the same route.

No. MC-48958 (Deviation No. 49),  
ILLINOIS-CALIFORNIA EXPRESS,  
INC., P.O. Box 9050, Amarillo, Texas  
79105, filed October 31, 1973. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over deviation routes as follows: (1) From Sterling, Colo., over Colorado Highway 14 to junction Interstate Highway 25, thence over Interstate Highway 25 to Cheyenne, Wyo., (2) from Sterling, Colo., over Colorado Highway 14 to junction Colorado Highway 71, thence over Colorado Highway 71 to junction U.S. Highway 30 (Interstate Highway 80), thence over U.S. Highway 30 (Interstate Highway 80) to Cheyenne, Wyo., and (3) from Sterling, Colo., over U.S. Highway 138 to junction Colorado Highway 113, thence over Colorado Highway 113 and Nebraska Highway 19 to junction U.S. Highway 30 (Interstate Highway 80), thence over U.S. Highway 30 (Interstate Highway 80) to Cheyenne, Wyo., and return over the same routes, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Sterling, Colo., over U.S. Highway 6 to junction U.S. Highway 34 near Brush, Colo., thence over U.S. Highway 34 to junction U.S. Highway 85 at Greeley, Colo., thence over U.S. Highway 85 to Cheyenne, Wyo., and return over the same route.

By the Commission.

[SEAL] ROBERT L. OSWALD,  
Secretary.

[FR Doc.73-25248 Filed 11-27-73; 8:45 am]

## **MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS**

NOVEMBER 23, 1973.

The following publications (except as otherwise specifically noted, each applicant (on applications filed after March 27, 1972) states that there will be no significant effect on the quality of the human environment resulting from approval of its application), are governed by the new Special Rule 1100-247 of the Commission's Rules of Practice, published in the Federal Register, issue of December 3, 1963, which became effective January 1, 1964.

The publications hereinafter set forth reflect the scope of the applications as filed by applicant, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable by the Commission.

### **MOTOR CARRIERS OF PROPERTY**

No. MC 120800 (Sub-No. 50) (RE-PUBLICATION), filed January 26, 1973, published in the FEDERAL REGISTER issue of May 17, 1973, and republished in this issue. Applicant: CAPITOL TRUCK LINE, INC., 2500 North Alameda Street, Compton, Calif. 90222. Applicant's representative: David P. Christianson, 825 City National Bank Building, 606 South Olive Street, Los Angeles, Calif. 90014. An Order of the Commission, Operating Rights Board, dated October 19, 1973, and served November 14, 1973, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier*, by motor vehicle, over irregular routes, of *helium*, in bulk, in tank vehicles from Navajo, Ariz., to points in California; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. The purpose of this republication is to give the correct origin point of the carrier's operation as Navajo, Ariz. Because it is possible that other parties who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described above, issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of this publication of the authority actually granted, during which period any proper party in interest may file an appropriate petition for intervention or other relief in this proceeding setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 138395 (Sub-No. 2) (RE-PUBLICATION), filed June 5, 1973, published in the FEDERAL REGISTER issue of July 20, 1973, and republished in this issue. Applicant: DOUGLAS H. WEST,



P.O. Box 1274, Salisbury, Md. 21801. Applicant's representative: Charles E. Creager, Suite 523, 816 Easley Street, Silver Spring, Md. 20910. An order of the Commission, Operating Rights Board, dated November 2, 1973, and served November 16, 1973, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, of scrap metals, from Salisbury, Md., to Philadelphia, Pa., and Camden and Burlington, N.J.; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. The purpose of this republication is to show that the supporting shipper shows a need for the movement of scrap metals generally, rather than merely scrap steel. Because it is possible that other parties who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described above, issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of this publication of the authority actually granted, during which period any proper party in interest may file an appropriate petition for intervention or other relief in this proceeding setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 3978 (NOTICE OF FILING OF PETITION FOR RESTATEMENT OF CERTIFICATE), filed November 1, 1973. Petitioner: SCHEER TRANSFER COMPANY, a Corporation, P.O. Box 137, New Haven, Mo. 63068. Petitioner's representative: Gregory M. Rebman, 1230 Boatmen's Bank Building, St. Louis, Mo. 63102. Petitioner presently holds a motor common carrier certificate in No. MC 3978 issued February 26, 1942, authorizing transportation over regular and irregular routes of: (1) *General commodities* (except those of unusual value, and except dangerous explosives, household goods as defined in *Practices of Motor Common Carriers of Household Goods*, 17 M.C.C. 467, commodities in bulk, commodities requiring special equipment), between Hermann, Mo., and St. Louis, Mo.: From Hermann over Missouri Highway 100 to junction U.S. Highway 50, and thence over U.S. Highway 50 to St. Louis, and return over the same route; (2) *mixed feed and fertilizer*, (a) From East St. Louis, Ill., to Hermann, Mo.; and (b) From East St. Louis, Ill., across the Mississippi River to St. Louis, Mo., thence over the above-specified route to Hermann and return over the same route with no transportation for compensation except as otherwise authorized. Service is authorized to and from the intermediate and off-route points of Washington, New Haven, and Berger, Mo.; and (3) *Livestock*, between Hermann, Mo., and points and places within ten miles of Hermann, on the one hand, and, on the other, National City, Ill. By the instant

petition, petitioner seeks to reissue certificate so as to clarify the intermediate and off-route point authority to be included in (1) above, instead of (2) as stated. The certificate should read: (1) *General commodities* (except those of unusual value, and except dangerous explosives, household goods as defined in *Practices of Motor Common Carriers of Household Goods*, 17 M.C.C. 467, commodities in bulk, commodities requiring special equipment), between Hermann, Mo., and St. Louis, Mo.: From Hermann over Missouri Highway 100 to junction U.S. Highway 50, and thence over U.S. Highway 50 to St. Louis, and return over the same route. Service is authorized to and from the intermediate and off-route points of Washington, New Haven, and Berger, Mo.; and (2) *mixed feed and fertilizer*, (a) From East St. Louis, Ill., to Hermann, Mo.; and (b) From East St. Louis, Ill., across the Mississippi River to St. Louis, Mo., thence over the above-specified route to Hermann and return over the same route with no transportation for compensation except as otherwise authorized; and (3) *livestock*, between Hermann, Mo., and points within ten miles of Hermann, on the one hand, and, on the other, National City, Ill. Any interested person or persons desiring to participate may file an original and six copies of his written representations, views, or arguments in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 8973 (Sub-No. 11) (NOTICE OF FILING OF PETITION FOR MODIFICATION, CLARIFICATION AND AMENDMENT OF CERTIFICATE), filed November 7, 1973. Petitioner: METROPOLITAN TRUCKING, INC., 2424 95th Street, North Bergen N.J. 07047. Petitioner's representative: George A. Olson, 69 Tonnele Avenue, Jersey City, N.J. 07306. Petitioner presently holds a motor common carrier certificate in No. MC 8973 (Sub-No. 11) issued July 3, 1968, authorizing, as pertinent, transportation, over irregular routes, of *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in Bergen, Essex, Hudson, Middlesex, Morris, Passaic, Somerset, and Union Counties, N.J., on the one hand, and, on the other, New York, N.Y. By the instant petition, petitioner requests that (1) an order be entered to amend the territorial description stated above to read: "Between points in Bergen, Hudson, Middlesex, Morris, Passaic, Somerset, and Union Counties, N.J., on the one hand, and, on the other, New York, N.Y. Commercial Zone, as defined in *Commercial Zones and Terminal Areas*, 53 M.C.C. 451, within which local operations may be conducted pursuant to the partial exemption of section 203 (b) (8) of the Interstate Commerce Act (the "exempt" zone) and those points in New Jersey within 5 miles of New York, N.Y., and all of any municipality in

New Jersey any part of which is within 5 miles of New York, N.Y."; or (2) the Commission issue an appropriate order that the petitioner be empowered and permitted to designate as its terminal area, all points within which local operations may be conducted in the New York, N.Y. Commercial Zone as defined by the Commission. Any interested person or persons desiring to participate may file an original and six copies of his written representation, views, or arguments in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 20915 and (Sub-No. 2) (NOTICE OF FILING OF PETITION FOR MODIFICATION, CLARIFICATION, AND AMENDMENT OF CERTIFICATE), filed November 9, 1973. Petitioner: SKYWAY, INC., 75 Third Avenue, Kearny, N.J. 07032. Petitioner's representative: George A. Olson, 69 Tonnele Avenue, Jersey City, N.J. 07306. Petitioner presently holds motor common carrier certificates in No. MC 20915 and (Sub-No. 2) issued January 13, 1942, and January 8, 1951, respectively, authorizing, as pertinent, transportation, over irregular routes of, in the lead certificate, (1) *chemicals, tile, and cement*, between New York, N.Y., and Lincoln and North Bergen, N.J., on the one hand, and, on the other, New York, N.Y., and points in Rockland, Westchester, and Nassau Counties, N.Y., and those in Union and Bergen Counties, N.J.; and (2) *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 points in Bergen, Passaic, Essex, and Hudson Counties, N.J., on the one hand, and, on the other, New York, N.Y.; and in Sub-No. 2, *general commodities* (except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), between New York, N.Y., on the one hand, and, on the other, points in Union County, N.J. By the instant petition, petitioner requests that (A) an order be entered to amend the territorial descriptions stated above, to read in lead certificate (1) above:

"Between New York, N.Y., Commercial Zone, as defined in *Commercial Zones and Terminal Areas*, 53 M.C.C. 451, within which local operations may be conducted pursuant to the partial exemption of section 203(b) (8) of the Interstate Commerce Act (the "exempt" zone) and those points in New Jersey within 5 miles of New York, N.Y., and all of any municipality in New Jersey any part of which is within 5 miles of New York, N.Y., Lincoln and North Bergen, N.J. on the one hand, and, on the other, New York, N.Y., and points in Rockland, Westchester, and Nassau Counties, N.Y., and those in Union and Bergen Counties, N.J."; to read in the lead certificate in (2) above: "Between points in Bergen, Passaic, Essex, and Hudson Counties, N.J., on the one hand,



and, on the other, New York, N.Y., Commercial Zone, as defined in *Commercial Zones and Terminal Areas*, 53 M.C.C. 451, within which local operations may be conducted pursuant to the partial exemption of section 203(b) (8) of the Interstate Commerce Act, (the "exempt" zone) and those points in New Jersey within 5 miles of New York, N.Y., and all of any municipality in New Jersey any part of which is within 5 miles of New York, N.Y.; and to read in Sub-No. 2: "Between New York, N.Y., Commercial Zone, as defined in *Commercial Zones and Terminal Areas*, 53 M.C.C. 451, within which local operations may be conducted pursuant to the partial exemption of section 203(b) (8) of the Interstate Commerce Act, (the "exempt" zone) and those points in New Jersey within 5 miles of New York, N.Y., and all of any municipality in New Jersey any part of which is within 5 miles of New York, N.Y., on the one hand, and on the other, points in Union County, N.J.;" or (B) the Commission issue an appropriate order that the petitioner be empowered and permitted to designate as its terminal area, all points within which local operations may be conducted in the New York, N.Y., Commercial Zone as defined by the Commission. Any interested person or persons desiring to participate may file an original and six copies of his written representations, views or arguments in support of or against the petition within 30 days from the date of publication in the *FEDERAL REGISTER*.

No. MC 32967 and (Sub-No. 1) (NOTICE OF FILING OF PETITION TO AMEND A CERTIFICATE), filed November 9, 1973. Petitioner: ATLANTIC COAST EXPRESS, INC., 217 North Fleet St., Elizabeth, N.J. 07207. Petitioner's representative: Arthur D. Bernstein, 1054 Thirty-First Street NW., Washington, D.C. 20007. Petitioner presently holds motor common carrier certificates in No. MC 32967 and (Sub-No. 1) issued November 7, 1973, and June 14, 1973, respectively, authorizing transportation, over irregular routes, of in the lead certificate, *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 points in Hudson, Bergen, Passaic, Union, Middlesex, Somerset, and Essex Counties, N.J., on the one hand, and, on the other, New York, N.Y. Petitioner presently conducts operations between the seven New Jersey Counties specified in the lead certificate above and Port Elizabeth (Union County, N.J.) by tacking the lead certificate and Sub-No. 1 at New York, N.Y. By the instant petition, petitioner seeks to amend its lead certificate destination point to read: "points in that part of the New York, N.Y., Commercial Zone, as defined in *Commercial Zones and Terminal Areas*, 53 M.C.C. 451, within which local operations may be conducted pursuant to the partial exemption of section 203(b) (8) of the Interstate Commerce Act (the "ex-

empt" zone)", thereby eliminating the necessity of providing operations via a New York, N.Y., gateway. Petitioner states if the instant petition is granted, its Sub-No. 1 Certificate would no longer be required and would be submitted for revocation. Any interested person or persons desiring to participate may file an original and six copies of his written representations, views or arguments in support of or against the petition within 30 days from the date of publication in the *FEDERAL REGISTER*.

No. MC 112668 (Sub-No. 51) (NOTICE OF FILING OF PETITION TO MODIFY A COMMODITY DESCRIPTION), filed November 9, 1973. Petitioner: HARVEY R. SHIPLEY & SONS, INC., RFD Finksburg, Md. 21048. Petitioner's representative: Theodore Polydoroff, 1250 Connecticut Avenue NW., Washington, D.C. 20036. Petitioner presently holds a motor common carrier certificate in No. MC 112668 (Sub-No. 51) issued April 14, 1971, authorizing transportation, over irregular routes, of *salt*, from the facilities of Morton Salt Company, Division of Morton International, Inc., at Milo, N.Y., to points in Delaware, Maryland, New Jersey, North Carolina, Virginia, West Virginia, and the District of Columbia. By the instant petition, petitioner seeks to modify its commodity description to read: "Salt, salt products, calcium chloride and mixtures thereof." Any interested person or persons desiring to participate may file an original and six copies of his written representations, views, or arguments in support of or against the petition within 30 days from the date of publication in the *FEDERAL REGISTER*.

No. MC 114115 (Sub-Nos. 5 and 12) (NOTICE OF FILING OF PETITION TO ADD A CONTRACTING SHIPPER), filed November 7, 1973. Petitioner: TRUCKWAY SERVICE, INC., 1099 Oakwood Blvd., Detroit, Mich. 48217. Petitioner's representative: James R. Stiver, 50 West Broad Street, Columbus, Ohio 43215. Petitioner presently holds motor contract carrier permits in No. MC 114115 (Sub-Nos. 5 and 12) issued November 4, 1963 and September 23, 1971, respectively, authorizing transportation, over irregular routes, of, in Sub-No. 5, *salt*, in bulk; (1) Between points in Ohio (except those in Ashtabula, Columbiana, Cuyahoga, Geauga, Mahoning, Portage, Summit, and Trumbull Counties, Ohio), (2) Between points in West Virginia, (3) Between points in Kentucky; (4) Between points in Michigan (except from Detroit and Port Huron, Mich., to points in the Lower Peninsula of Michigan). RESTRICTION: The service authorized above is restricted to traffic having a prior movement by rail, and (5) from water terminals on the Ohio River and its tributaries, to points in Ohio, West Virginia, and Kentucky, with no transportation for compensation on return except as otherwise authorized. RESTRICTION: The service authorized immediately above is restricted to traffic having a prior movement by water, under

a continuing contract, or contracts, with the following shippers: International Salt Company, Morton Salt Company, and Diamond Crystal Salt Company, and in Sub-No. 12, *rock salt*, in bulk, Between points in Illinois, Indiana, Kentucky, Ohio, Pennsylvania, and the Lower Peninsula of Michigan.

RESTRICTION: The service authorized herein is subject to the following conditions: The operations authorized herein are restricted against the following: (1) Traffic moving between points in Pennsylvania, (2) traffic moving between points within 40 miles of Monroe, Mich., (3) traffic moving from Lucas County, Ohio, to points in Michigan and Indiana, and (4) traffic moving between points in Ashtabula, Cuyahoga, Franklin, Lake, Licking, Muskingum, Summit, and Wayne Counties, Ohio, on the one hand, and, on the other, points in Indiana, Kentucky, Michigan, and Pennsylvania. Said operations are limited to a transportation service to be performed, under a continuing contract, or contracts, with the following shippers: Diamond Crystal Salt Company, International Salt Company, Morton Salt Company, Division of Morton International, Inc., and Cargill, Incorporated. Service to Cargill, Incorporated, is restricted against traffic moving from points in the St. Louis, Mo.-East St. Louis, Ill., Commercial Zone, as defined by the Commission, to points in Illinois and that part of Indiana on and south of U.S. Highway 136 and on and west of Indiana Highway 37. By the instant petition, petitioner seeks to add Domtar Chemicals, Inc., Sifto Salt Division as an additional contracting shipper to the authority described above. Any interested person or persons desiring to participate may file an original and six copies of his written representations, views or arguments in support of or against the petition within 30 days from the date of publication in the *FEDERAL REGISTER*.

No. MC 124373 (Sub-No. 7) (NOTICE OF FILING OF PETITION TO ADD AN ADDITIONAL CONTRACTING SHIPPER), filed November 8, 1973. Petitioner: NELMAR TRUCKING CO., a Corporation, 1179 1/2 Roosevelt Avenue, Carteret, N.J. 07008. Petitioner's representative: E. Stephen Heisley, 666 Eleventh Street NW., Washington, D.C. 20001. Petitioner presently holds a motor contract carrier permit in No. MC 124373 (Sub-No. 7) issued June 28, 1972, authorizing transportation, over irregular routes, of *beverages*, in containers, and *beverage preparations*, other than malt, and *equipment, materials and supplies* used in the manufacture and sale of beverages, between points in Connecticut, Delaware, Maine, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Virginia, Vermont, West Virginia, North Carolina, Kentucky, and the District of Columbia, under a continuing contract or contracts with Yoo-Hoo Chocolate Beverage Corp., and its wholly-owned subsidiaries of Carlstadt, N.J., Custom Cannery of Baltimore,



Md., and Shasta Beverages, a division of Consolidated Foods, Inc. By the instant petition, petitioner seeks to add Crown Cork & Seal Co., Inc., of Philadelphia, Pa., as an additional contracting shipper to the authority described above. Any interested person or persons desiring to participate may file an original and six copies of his written representations, views or arguments in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 136408 (NOTICE OF FILING OF PETITION FOR MODIFICATION, CLARIFICATION AND AMENDMENT OF CERTIFICATE), filed October 16, 1973. Petitioner: CARGO CONTRACT CARRIER CORP., P.O. Box 206, U.S. Highway 20, Sioux City, Iowa 51102. Petitioner's representative: William J. Hanlon, 60 Park Place, Newark, N.J. 07102. Petitioner presently holds a motor contract carrier permit in No. MC 136408 issued August 30, 1972, authorizing, as pertinent, transportation, over irregular routes, of (1) *Meats, meat products, and meat by-products, and dairy products*, as described in sections A and B of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles), (A) From Sioux City, Iowa, to New York, N.Y., under a continuing contract, or contracts, with Iowa Beef Packers, Inc., of Sioux City, Iowa (successor-in interest to Sioux Quality Packers, Inc.); (B) From West Point, Nebr., to New York, N.Y., and Chicago, Ill., under a continuing contract, or contracts, with Iowa Beef Packers, Inc., of Dakota City, Nebr.; and (C) From Glenwood, Spencer, and Des Moines, Iowa, Luverne, Minn., and Omaha, Nebr., to New York, N.Y., under a continuing contract, or contracts, with the following shippers: W. M. Tynan and Co., of New York, N.Y., Iowa Beef Packers, Inc., of Dakota City, Nebr., and Swift & Company, of Glenwood, Iowa; and (2) *Meats, meat products, and meat by-products*, as described by the Commission in section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides, skins, pieces of each, and commodities in bulk), From Fort Dodge, Denison, Waterloo, Sioux City, and Iowa Falls, Iowa, to New York, N.Y., under a continuing contract, or contracts, with W. M. Tynan & Co., of New York, N.Y. By the instant petition, petitioner requests that (1) the Commission issue an appropriate order that the petitioner be empowered and permitted to designate as its terminal area, all points within which local operations may be conducted in the New York, N.Y., Commercial Zone as defined by the Commission, or (2) amend its permit to modify its destination point of New York, N.Y., in the authority described above to read: "points in the New York, N.Y., Commercial Zone". Any interested person or persons desiring to participate may file an original and six copies of his written representations, views or argu-

ments in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 138418 (Sub-No. 4) (NOTICE OF FILING OF PETITION TO MODIFY A COMMODITY DESCRIPTION), filed November 5, 1973. Petitioner: STANDARD CONTAINER TRANSPORT CORPORATION, 145 North Avenue East, Elizabeth, N.J. 07201. Petitioner's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Petitioner presently holds a motor common carrier certificate in No. MC 138418 (Sub-No. 4) pursuant to a finance proceeding in No. MC-FC-74232, approved by the Commission February 28, 1973, effective April 16, 1973, authorizing, as pertinent, transportation, over irregular routes, of *heavy machinery and structural steel* used in connection therewith, between New York, N.Y., and points in Philadelphia, Delaware, Montgomery, and Bucks Counties, Pa., those in New Jersey and those in Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk, Sullivan, Ulster, and Worcester Counties, N.Y. By the instant petition, petitioner seeks to modify its commodity description to read: "Commodities the transportation of which because of size or weight, requires the use of special equipment or special handling, and self-propelled articles, each weighing 15,000 pounds or more, and related machinery, tools, parts and supplies moving in connection therewith, restricted to commodities which are transported on trailers". Any interested person or persons desiring to participate may file an original and six copies of his written representations, views or arguments in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

APPLICATION(S) FOR CERTIFICATES OR PERMITS WHICH ARE TO BE PROCESSED CONCURRENTLY WITH APPLICATION(S) UNDER SECTION 5 GOVERNED BY SPECIAL RULE 240 TO THE EXTENT APPLICABLE.

No. MC 70832 (Sub-No. 17), filed October 5, 1973. Applicant: NEW PENN MOTOR EXPRESS, INC., 18 East Weidman Street, Lebanon, Pa. 17042. Applicant's representative: S. Harrison Kahn, Suite 733, Investment Building, Washington, D.C. 20005. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *General commodities*, between points in Massachusetts.

NOTE.—Applicant states that the requested authority can be tacked at points in Massachusetts to serve points in Connecticut and Rhode Island. The purpose of this application is to convert Coastal Freightways, Inc., Certificate of Registration in MC 106736 (Sub-No. 2) into a Certificate of Public Convenience and Necessity. This is a matter directly related to the Section 5 purchase proceeding in MC-F-12019, published in FEDERAL REGISTER issue of October 18, 1973. If a hearing is deemed necessary, applicant requests it be held at Boston, Mass.

No. MC 76032 (Sub-No. 298), filed October 29, 1973. Applicant: NAVAJO FREIGHT LINES, INC., 1205 South

Platte River Drive, Denver, Colo. 80223. Applicant's representative: Jack Goodman, 39 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a common carrier, by motor vehicle, over regular routes, transporting: *General commodities* (except household goods as defined by the Commission, automobiles, trucks, buses, trailer coaches, campers, livestock, logs, commodities in bulk, commodities requiring protection from heat, commodities requiring special equipment and handling because of unusual size, weight, or shape, and articles of extraordinary value), Between the Los Angeles Basin Territory (being that area embraced by the following boundary):

(1) Beginning at the point the Ventura County-Los Angeles County boundary line intersects the Pacific Ocean; thence northeasterly along said county line to the point it intersects State Highway No. 118, approximately two miles west of Chatsworth; easterly along State Highway No. 118 to Sepulveda Boulevard; northerly along Sepulveda Boulevard to Chatsworth Drive; northeasterly along Chatsworth Drive to the corporate boundary of the city of San Fernando; westerly and northerly along said corporate boundary to McClay Avenue; northeasterly along McClay Avenue and its prolongation to the Angeles National Forest boundary; southeasterly and easterly along the Angeles National Forest and San Bernardino National Forest boundary to the county road known as Mill Creek Road; westerly along Mill Creek Road to the county road 3.8 miles north of Yucaipa; southerly along said county road to and including the unincorporated community of Yucaipa; westerly along Redlands Boulevard to U.S. Highway No. 99; northwesterly along U.S. Highway No. 99 to the corporate boundary of the City of Redlands; westerly and northerly along said corporate boundary to Brookside Avenue; westerly along Brookside Avenue to Barton Avenue; westerly along Barton Avenue and its prolongation to Palm Avenue; westerly along Palm Avenue to La Cadena Drive; southwesterly along La Cadena Drive to Iowa Avenue; southerly along Iowa Avenue to U.S. Highway No. 60; southwesterly along U.S. Highway Nos. 60 and 395 to the county road approximately one mile north of Perris; easterly along said county road via Nuevo and Lakeview to the corporate boundary of the City of San Jacinto; easterly, southerly and westerly along said corporate boundary to San Jacinto Avenue; southerly along San Jacinto Avenue to State Highway No. 74; westerly along State Highway No. 74 to the corporate boundary of the City of Hemet; southerly, westerly, and northerly along said corporate boundary to the right of way of The Atchison, Topeka & Santa Fe Railway Company; southwesterly along said right of way to Washington Avenue; southerly along Washington Avenue, through and including the unincorporated community of Winchester to Benton Road; westerly along Benton Road to the county road intersection U.S.



Highway No. 395, 2.1 miles north of the unincorporated community of Temecula; southerly along said county road to U.S. Highway No. 395; southeasterly along U.S. Highway No. 395 to the Riverside County-San Diego County boundary line; westerly along said boundary line to the Orange County-San Diego County boundary line; southerly along said boundary line to the Pacific Ocean; northeasterly along the shoreline of the Pacific Ocean to point of beginning and junction Interstate Highway 5 (formerly U.S. Highway 101) and the California-Mexican border, serving as intermediate and off-route points all points in that part of San Diego County, Calif., located on, north and west of a line beginning at the junction of U.S. Highway 395 and the Riverside County-San Diego County boundary line, thence extending southerly over U.S. Highway 395 to junction California Highway 78, thence southwesterly over California Highway 78 to junction California Highway 67, thence southwesterly and southerly over California Highway 67 to junction Interstate Highway 8 at or near Lakeside, thence southwesterly over Interstate Highway 8 to junction California Highway 94, thence southeasterly over California Highway 94 to the United States-Mexican border at or near Tecate, Calif.;

(2) From the Los Angeles Basin Territory as defined above over California Highway 1 (formerly known as U.S. Highway Alternate 101) to junction Interstate Highway 5 (formerly known as U.S. Highway 101), thence over Interstate Highway 5 to the California-Mexican border and return over the same route; and (3) from the Los Angeles Basin Territory as defined above over Interstate Highway 5 (formerly known as U.S. Highway 101) to the California-Mexican border and return over the same route.

**NOTE.**—Applicant seeks by this application to convert a Certificate of Registration into a Certificate of Public Convenience and Necessity. This is a matter directly related to the Section 5 purchase proceeding in MC-F-11889, published in the FR issue of June 6, 1973. If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif.

No. MC 115669 (Sub-No. 138), filed November 14, 1973. Applicant: HOWARD N. DAHLSTEN, doing business as DAHLSTEN TRUCK LINE, P.O. Box 95, Clay Center, Nebr. 68933. Applicant's representative: Marshall D. Becker, 530 Univac Building, 7100 West Center Road, Omaha, Nebr. 68106. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Animal and poultry feed and feed compounds, animal and poultry medicines and tonics, insecticides, and dry earth paint*, in quantities of 20,000 pounds or more between Quincy, Ill., on the one hand, and, on the other, points in Scott, Pottawatomie, Greenwood, Phillips, Ellis, and Pratt Counties, Kans.; (2) *animal and poultry feed and feed compounds, animal and poultry medicines and tonics, insecticides, and dry earth paint*, between Quincy, Ill., on the one hand, and, on the other, points in

Sedgwick and Neosho Counties, Kans.; (3) *mineral mixture for livestock or poultry feeding, animal and poultry tonics or medicines, animal and poultry feed, insecticides (other than agricultural), dry earth paint, and advertising matter*, from Quincy, Ill., to points in Riley County, Kans.; (4) *damaged shipments of the commodities named in (3) above, from points in Riley County, Kans., to Quincy, Ill.*; (5) *prepared animal and poultry feeds, animal and poultry mineral mixtures, animal and poultry tonics and medicines, insecticides (other than agricultural), dry earth paint, and advertising matter in premiums when shipped with the commodities named in (5) above, from Quincy, Ill., to Cameron, Clarence, Pilot Grove, and Villa Ridge, Mo.*; (6) *damaged, defective, rejected or returned shipments of the commodities named in (5) above, from the destination points named in (5) above to Quincy, Ill.*; (7) *animal and poultry feeds, animal and poultry mineral mixtures, animal and poultry tonics and medicines, dry earth paint, insecticides, and premiums and advertising matter relating to such products, from the site of Moorman Manufacturing Company located at or near Quincy, Ill., to points in Missouri*;

(8) *such ingredients as are used in animal and poultry feeds, animal and poultry mineral mixtures, animal and poultry tonics and medicines, dry earth paint, and insecticides, and bags and containers, from points in Kansas and Missouri to the plantsite of Moorman Manufacturing Company located at or near Quincy, Ill.*; (9) *insecticides, dry animal and poultry feeds, dry animal and poultry mineral mixtures, dry animal and poultry feed ingredients, dry animal and poultry tonics and medicines, dry earth paint, and premiums and advertising matter relating to such products, from Quincy, Ill. to points in Kansas (except points in Scott, Pottawatomie, Greenwood, Phillips, Ellis, Pratt, Sedgwick, Neosho, and Riley Counties, Kans.)*; and (10) *livestock and poultry feeders and equipment, from the plantsite of the Moorman Manufacturing Company located at or near Quincy, Ill., to points in Missouri and Kansas (1) through (10) for the account of Moorman Manufacturing Company of Quincy, Ill.*

**NOTE.**—Applicant states that the requested authority cannot be tacked with its existing authority. Applicant seeks by this application to convert the Permits issued in MC 113865 and Sub-Nos. 8, 9, and 13 into a Certificate of Public Convenience and Necessity. This is a matter directly related to the Section 5 purchase proceeding in MC-F-12047, published in the FEDERAL REGISTER issue of November 28, 1973. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill. or Omaha, Nebr.

#### APPLICATIONS UNDER SECTIONS 5 AND 210a(b)

The following applications are governed by the Interstate Commerce Commission's Special Rules governing notice of filing of applications by motor carriers of property or passengers under Sections 5 and 210a(b) of the Interstate Com-

merce Act and certain other proceedings with respect thereto. (49 CFR 1.240).

#### MOTOR CARRIERS OF PROPERTY

No. MC-F-12031. (Correction) (YEARY TRANSFER COMPANY, INC.—PURCHASE (PORTION)—WEBB TRANSFER LINE, INC., JOHN C. RYAN, TRUSTEE), published in the November 7, 1973 issue of the FEDERAL REGISTER on page 30804. Prior notice should be modified to read, *Homogenized, reconstituted or reconstructed tobacco*, from Spotswood, N.J., and Ancram, N.Y., to Richmond, Va., and Durham and Reidsville, N.C.; *homogenized, reconstituted and reconstructed tobacco*, between Bermuda Hundred, Va., on the one hand, and, on the other, Louisville and Lexington, Ky.

No. MC-F-12043. Application under section 5(1) of the Interstate Commerce Act for approval of an agreement between common carriers for the pooling of traffic. Applicants: O.N.C. FREIGHT SYSTEMS, 2800 W. Bayshore Rd., Palo Alto, CA 94303 (MC-71459), and LASSALLE TRUCKING COMPANY, 701 W. Railroad Blvd., Calexico, CA 92231 (MC-109126), seeks to enter into an agreement for the pooling of traffic consisting of general commodities moving in interstate commerce between points in Andrade, Bard, Brawley, Bonds Corner, Calexico, Calipatria, Carlton, Dixieland, El Centro, Frink, Gordons Well, Heber, Holtville, Imperial, Kane Springs, Meloland, Naval Air Facility El Centro, Niland, Occotello Well, Orita, Plaster City, Salton City, Salton Riviera, Salton Sea Base, Salton Sea Beach, Sandia, Seeley, Truckhaven, and Westmoreland, Calif. Attorney and representative: Roland Rice, 618 Perpetual Bldg. NW., Washington, D.C. 20004, and C. J. Boddington, Vice President of Administration and Corporate Development, 2800 W. Bayshore Way, Palo Alto, CA 94303. O.N.C. FREIGHT SYSTEMS, is authorized to operate as a common carrier in California.

No. MC-F-12044. Application under section 5(1) of the Interstate Commerce Act for approval of an agreement between common carriers for the pooling of traffic. Applicants: O.N.C. FREIGHT SYSTEMS, 2800 W. Bayshore Rd., Palo Alto, CA 94303 (MC-71459), and ALCO TRANSPORTATION CO., 1603 Chapin Rd., Montebello, CA 90640 (MC-98836), seeks to enter into an agreement for the pooling of traffic consisting of general commodities moving in interstate commerce between points in Bonsall, Cardiff, Camp Pendleton, Carlsbad, Del Dios, Del Mar, Encinitas, Escondido, Fallbrook, Fallbrook Annex, Lake Hodges, Leucadia, Navy Fallbrook, Oceanside, Poway, Rainbow, Rancho Santa Fe, Rancho Bernardo, San Luis Rey, San Marco, San Onofre, San Pasqual, Solano Beach, U.S. Navy Fallbrook, Valley Center, and Vista, Calif. Attorney and representative: Roland Rice, 618 Perpetual Bldg. NW., Washington, D.C. 20004, and C. J. Boddington, Vice President of Administration and Corporate Development, 2800



W. Bayshore Rd., Palo Alto, CA 94303. O.N.C. FREIGHT SYSTEMS is authorized to operate as a common carrier in California.

No. MC-F-12045. Application under section 5(1) of the Interstate Commerce Act for approval of an agreement between common carriers for the pooling of traffic. Applicants: O.N.C. FREIGHT SYSTEMS, 2800 W. Bayshore Rd., Palo Alto, CA 94303 (MC-71459), and AZTEC TRANSPORTATION CO., INC., 1211 South 32nd St., San Diego, CA 92113 (MC-120575), seeks to enter into an agreement for the pooling of traffic consisting of general commodities moving in interstate commerce between points in Alpine, Barrett, Boulevard, Buckman Springs, Campo, Cyumama, Descanso, Dulzura, El Capitan Dam, Flinn Springs, Glenview, Guatay, Harbison Canyon, Hulburd Grove, Jacumba, Jamul, Laguna Junction, La Posta, Manzanita, Morena Lake, Mount Laguna, Pine Valley, Potrero, Tecate, Viejas Valley, and White Star, Calif. Attorney and representative: Roland Rice, 618 Perpetual Bldg. NW., Washington, D.C. 20004, and C. J. Boddington, Vice President of Administration and Corporate Development, 2800 W. Bayshore Rd., Palo Alto, CA 94303. O.N.C. FREIGHT SYSTEMS, is authorized to operate as a common carrier in California.

No. MC-F-12046. Authority sought for purchase by FOGLEMAN TRUCK LINE, INC., P.O. Box 1504, Crowley, LA 70526, of a portion of the operating rights of STAUFFER TRUCK SERVICE, INC., R.R. #1, Taylor, MO 63471, and for acquisition by BYRON FOGLEMAN, RUDY E. FOGLEMAN, ERNEST R. FOGLEMAN, and LARRY E. FOGLEMAN, all of P.O. Box 1504, Crowley, LA 70526, of control of such rights through the purchase. Applicants' attorney: Austin L. Hatchell, 1102 Perry-Brooks Bldg., Austin, TX 78701. Operating rights sought to be transferred: *Animal and poultry feeds, animal and poultry mineral mixtures, animal and poultry tonics and medicines, dry earth paints, insecticides, and premiums and advertising matter relating to such products, as a contract carrier over irregular routes, from the site of Moorman Manufacturing Company plant at or near Quincy, Ill., to points in Arkansas and Mississippi; insecticides, dry animal and poultry feeds, dry animal and poultry mineral mixtures, dry animal and poultry feed ingredients, dry animal and poultry tonics and medicines, dry earth paint, and premiums and advertising matter relating to such products, from Quincy, Ill., to points in Louisiana; insecticides ingredients, dry ingredients for animal and poultry feeds, animal and poultry mineral mixtures, animal and poultry tonics and medicines, and dry earth paint, and bags and containers, from points in Louisiana, to Quincy, Ill.; animal and poultry feed and animal and poultry feed ingredients (except chemicals and petroleum products), dry, in bulk, from points in Mississippi to the plant site of the Moorman Manufactur-*

*ing Company at or near Quincy, Ill.; livestock and poultry feeders and equipment, from the plant site of the Moorman Manufacturing Company at or near Quincy, Ill., to points in Arkansas, Louisiana and Mississippi, with restrictions. Vendee is authorized to operate as a contract carrier in Louisiana, Alabama, Arkansas, Mississippi, Oklahoma, Tennessee, Texas, Florida, Georgia, Kansas, Kentucky, Missouri, North Carolina, South Carolina, Oregon, Idaho, Illinois, Indiana, Iowa, Minnesota, Nebraska, Wisconsin, Arizona, Colorado, Connecticut, Delaware, Maryland, Massachusetts, Michigan, New Mexico, New Jersey, New York, North Dakota, Ohio, Pennsylvania, Rhode Island, South Dakota, Utah, Virginia, West Virginia, and the District of Columbia; and as a common carrier in Louisiana, Arkansas, Alabama, Florida, Georgia, Mississippi, South Carolina, Tennessee, Texas, California, Colorado, Missouri, North Carolina, Oregon, Oklahoma, and Kentucky. Application has been filed for temporary authority under section 210a(b).*

NOTE.—MC-41116 (Sub-No. 30), is a matter directly related.

No. MC-F-12047. Authority sought for purchase by HOWARD N. DAHLSTEN, doing business as DAHLSTEN TRUCK LINE, P.O. Box 95, Clay Center, NE 68933, of a portion of the operating rights of STAUFFER TRUCK SERVICE, INC., R.R. #1, Taylor, MO 63471, and for acquisition by HOWARD N. DAHLSTEN, P.O. Box 95, Clay Center, NE 68933, of control of such rights through the purchase. Applicants' attorney: Marshall D. Becker, 530 Univac Bldg., 7100 W. Center Rd., Omaha, NE 68106. Operating rights sought to be transferred: *Animal and poultry feed and feed compounds, animal and poultry medicines and tonics, insecticides, and dry earth paint, in quantities of 20,000 pounds or more, as a contract carrier over irregular routes, between Quincy, Ill., on the one hand, and, on the other, points in Scott, Pottawatomie, Greenwood, Phillips, Ellis, and Pratt Counties, Kans.; animal and poultry feed and feed compounds, animal and poultry medicines and tonics, insecticides, and dry earth paint, between Quincy, Ill., on the one hand, and, on the other, points in Sedgwick and Neosho Counties, Kans.; mineral mixture for livestock or poultry feeding, animal and poultry tonics or medicines, animal and poultry feed, insecticides (other than agricultural), dry earth paint, and advertising matter, from Quincy, Ill., to points in Riley County, Kans.; prepared animal and poultry feeds, animal and poultry mineral mixtures, animal and poultry tonics and medicines, insecticides (other than agricultural), dry earth paint; and advertising matter and premiums when shipped with the above-specified commodities from Quincy, Ill., to Cameron, Clarence, Pilot Grove, and Villa Ridge, Mo.; animal and poultry feeds, animal and poultry mineral mixtures, animal and poultry tonics and medicines, dry earth paint, insecticides, and premiums and advertis-*

*ing matter relating to such products, from the site of Moorman Manufacturing Company plant at or near Quincy, Ill., to points in Missouri; such ingredients as are used in animal and poultry feeds, animal and poultry mineral mixtures, animal and poultry tonics and medicines, dry earth paint, and insecticides, and bags and containers, from points in Kansas and Missouri to the plant site of Moorman Manufacturing Company at or near Quincy, Ill.; insecticides, dry animal and poultry feeds, dry animal and poultry mineral mixtures, dry animal and poultry feed ingredients, dry animal and poultry tonics and medicines, dry earth paint, and premiums and advertising matter relating to such products, from Quincy, Ill., to points in Kansas (except points in Scott Pottawatomie, Greenwood, Phillips, Ellis, Pratt, Sedgwick, Neosho, and Riley Counties, Kans.); livestock and poultry feeders and equipment, from the plant site of the Moorman Manufacturing Company at or near Quincy, Ill., to points in Missouri and Kansas, with restrictions. Vendee is authorized to operate as a common carrier in Kansas, Illinois, Iowa, Nebraska, Colorado, Montana, North Dakota, South Dakota, Wyoming, Oklahoma, Arkansas, Minnesota, New Mexico, Texas, Missouri, Wisconsin, Idaho, Utah, Indiana, Kentucky, Michigan, Ohio, Arizona, Louisiana, and Nevada. Application has been filed for temporary authority under section 210a(b).*

NOTE.—MC-115669 (sub-No. 138), is a matter directly related.

No. MC-F-12048. Authority sought for purchase by POPELKA TRUCKING CO., doing business as THE WAGGONERS, P.O. Box 990, Livingston, MT 59047, of the operating rights and property of BUFFORD McCULLOM, doing business as MIDWEST SPECIALIZED HAULING, 8508 E. 111th St., Kansas City, MO 64134, and for acquisition by WAYNE WAGGONER, 405 Lewis, Livingston, MT 59047 of control of such rights and property through the purchase. Applicants' attorney: John E. Jandera, 641 Harrison, Topeka, KS 66603. Operating rights sought to be transferred: (1) *Rubber pneumatic tires which are 10 feet or more in diameter, and (2) rubber pneumatic tires which are 6 feet or more in diameter, when moving in mixed loads with (1) above, as a contract carrier over irregular routes, between the plantsite of the Goodyear Tire and Rubber Company at Topeka, Kans., on the one hand, and, on the other, points in the United States (including Alaska but excepting Hawaii). Vendee is authorized to operate as a contract carrier in Montana and Idaho, and as a common carrier in Montana, Wyoming, Nebraska, North Dakota, Idaho, South Dakota, Minnesota, Oregon, Washington, Utah, Colorado, Iowa, Illinois, Indiana, and California. Application has been filed for temporary authority under section 210a(b).*



No. MC-F-12049. Authority sought for purchase by BOND TRANSPORTATION, INC., P.O. Box 115, Mutton Hollow Rd., Woodbridge, NJ 07095, of the operating rights of STANDARD TRUCKING CO., THE INTERNAL REVENUE SERVICE (Successor-in-interest), 587 Fayette St., Perth Amboy, NJ 08861, and for acquisition by JOHN CRAMER, 58 Liberty Corner Rd., Warren, NJ, of control of such rights through the purchase. Applicants' attorney: Morton E. Kiel, 140 Cedar St., New York, NY 10006. Operating rights sought to be transferred: *Insulation materials, as a contract carrier over irregular routes, from Perth Amboy, N.J., to certain specified points in Delaware, Connecticut, Pennsylvania, and New York; roofing materials, asphalt and asbestos building materials, and asphalt paving materials, from Perth Amboy, N.J., to certain specified points in Connecticut, Delaware, Pennsylvania, and New York Counties, to Perth Amboy, N.J.; plaster, plaster board, chip board, gypsum blocks, lime, metal lath, metal lath products, fiber board, insulation board, paints, paper bags, rockwool insulation, and other insulation materials, between Long Island City and Harlem River, N.Y., and Perth Amboy and Newark, N.J., on the one hand, and, on the other, points and places in New Jersey and certain specified points in New York and Pennsylvania; such commodities as are dealt in by persons engaged in the manufacture of insulation materials, roofing materials, asphalt and asbestos building materials, and asphalt paving materials, from Perth Amboy, N.J., to the District of Columbia, points and places in Maryland, and certain specified points in Delaware, New York, Pennsylvania, Virginia, and West Virginia, from Lyndhurst, N.J., to certain specified points in Connecticut, and New York; such commodities as are used in the manufacture of insulation materials, roofing materials, asphalt and asbestos building materials, and asphalt paving materials, from all points and places in the District of Columbia and Maryland, and certain specified points in Delaware, New York, Pennsylvania, Virginia, and West Virginia, to Perth Amboy, N.J.; asphalt, in packages, from Bayonne, N.J., to certain specified points in Connecticut, New York, and Pennsylvania.* Vendee is authorized to operate as a contract carrier in New Jersey, and New York, and as a common carrier in Missouri, and Kansas. Application has been filed for temporary authority under section 210a(b).

By the Commission.

[SEAL] ROBERT L. OSWALD,  
Secretary.

[FR Doc.73-25249 Filed 11-27-73; 8:45 am]

[Notice 159]

# MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

NOVEMBER 20, 1973.

The following are notices of filing of application, 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, for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-87 (49 CFR 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six (6) copies.

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 field office to which protests are to be transmitted.

## MOTOR CARRIERS OF PROPERTY

No. MC 53965 (Sub-No. 90 TA), filed November 9, 1973. Applicant: GRAVES TRUCK LINE, INC., 2130 South Ohio, P.O. Drawer 838, Salina, Kans. 67401. Applicant's representative: John E. Jandera, 641 Harrison Street, Topeka, Kans. 66603. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Frozen foodstuffs, from Omaha, Nebr., to points in Missouri and points in the St. Louis, Mo.-East St. Louis, Ill., Commercial Zone, for 180 days.* SUPPORTING SHIPPER: Campbell Soup Company, 1202 Douglas Street, Omaha, Nebr. 68102. SEND PROTESTS TO: Thomas P. O'Hare, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 234 Federal Building, Topeka, Kans. 66603.

No. MC 102616 (Sub-No. 885 TA), filed November 9, 1973. Applicant: COASTAL TANK LINES, INC., P.O. Box 7211 (Box zip 44306), Akron, Ohio 44319. Applicant's representative: James Annand (same address as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Carbon black oil, in bulk, in tank vehicles, from the facility of Sun Oil Company at Toledo, Ohio, to the plant site of the Cabot Corporation, Waverly (Cabot), W. Va., for 180 days.* SUPPORTING SHIPPER: Cabot Corporation, 125 High Street, Boston, Mass. 02110. SEND PROTESTS TO: Franklin D. Bail, District Supervisor, Interstate Commerce Commission, Bureau of Op-

erations, 181 Federal Office Building, Cleveland, Ohio 44199.

No. MC 107515 (Sub-No. 882 TA), filed November 1, 1973. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, 3901 Jonesboro Road, S.E., Forest Park, Ga. 30050. Applicant's representative: Paul M. Daniell, Suite 1600 First Federal Bldg., Atlanta, Ga. 30303. 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 the plant site and warehouse facilities utilized by J. H. Filbert, Inc. at Atlanta, Ga., to Denver, Colo.; Salt Lake City, Utah; Phoenix, Ariz.; Albuquerque, N. Mex.; Milwaukie, Oreg.; San Francisco, Los Angeles and Oakland, Calif.; Dallas, Ft. Worth, San Antonio, Houston and Lubbock, Tex.; Oklahoma City, Okla.; Kansas City, Mo.; Omaha, Nebr.; Des Moines and Cedar Rapids, Iowa; Minneapolis and St. Paul, Minn.; and points in their commercial zones, for 180 days.* SUPPORTING SHIPPER: J. H. Filbert, Inc., 3701 Southwester Boulevard, Baltimore, Md. 21229. SEND PROTESTS TO: William L. Scroggs, District Supervisor, Room 309, 1252 West Peachtree Street, N.W., Bureau of Operations, Interstate Commerce Commission, Atlanta, Ga. 30309.

No. MC 128866 (Sub-No. 48 TA), filed November 8, 1973. Applicant: B & B TRUCKING, INC., P.O. Box 128, 9 Brade Lane, Cherry Hill, N.J. 08034. Applicant's representative: J. Michael Farrell, 1725 K Street NW., #814, Washington, D.C. 20006. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Aluminum food containers, on behalf of Penny Plate, Inc., from the plantsites of Penny Plate, Inc. at Cherry Hill, N.J.; Searcy, Ark.; and Deerfield, Ill., to Buffalo, N.Y., for 150 days.* SUPPORTING SHIPPER: Penny Plate, Inc., P.O. Box 458, Haddonfield, N.J. 08033. SEND PROTESTS TO: Richard M. Regan, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 428 East State Street, Room 204, Trenton, N.J. 08608.

No. MC 133095 (Sub-No. 50 TA), filed November 9, 1973. Applicant: TEXAS CONTINENTAL EXPRESS, INC., 2603 W. Euless Blvd., P.O. Box 434, Euless, Tex. 76039. Applicant's representative: Hugh T. Matthews, 630 Fidelity Union Tower, Dallas, Tex. 75201. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Alcoholic beverages (except in bulk), when moving in mechanically refrigerated vehicles, from Hammondsport, N.Y., to Birmingham, Tuscaloosa, Montgomery, and Mobile, Ala., for 180 days.* SUPPORTING SHIPPER: Goldseal Vineyards, Inc., Empire State Building, Suite 3202, New York, N.Y. 10001. SEND PROTESTS TO: H. C. Morrison, Sr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 9A27, Federal Building,



817 Taylor Street, Forth Worth, Tex. 76102.

No. MC 138530 (Sub-No. 3 TA), filed November 9, 1973. Applicant: C.O.P. TRANSPORT, INC., 28 So. Second Street, Greenville, Pa. 16125. Applicant's representative: Warren R. Keck III (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Copper, copper alloy, material used in the manufacture of copper and copper alloy*, from Eminence, Ky., to points in Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Texas, Oklahoma, Michigan, Wisconsin, Illinois, Missouri, Pennsylvania, Arkansas, Iowa, South Carolina, North Carolina, Virginia, Mississippi, Georgia, Florida, and Louisiana, for 180 days. SUPPORTING SHIPPER: Hussey Metals Division, Copper Range Co., Leetsdale, Pa. 15056. SEND PROTESTS TO: Franklin D. Bail, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 181 Federal Office Bldg., 1240 East Ninth Street, Cleveland, Ohio 44199.

No. MC 138925 (Sub-No. 1 TA), filed November 6, 1973. Applicant: C. W. GREENE AND ROY GRINDSTAFF, doing business as MAYLAND STONE COMPANY, 128 Bailey Avenue, Spruce Pine, N.C. 28777. Applicant's representative: C. W. Greene (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Stone, crushed or ground; feldspar; sand-spar; dry ground mica; silica sand; tailings; waste and by-products*; in bags and in bulk, in pneumatic tankers, dump vehicles, flatbeds, lowboys, and van trailers, from the plantsite and mine facilities of Lawson United Feldspar and Mineral Company at or near Spruce Pine (Mitchell County), N.C., to points in the United States (except Alaska and Hawaii) and (2) *materials, supplies and equipment* used in the mining and processing of the above named commodities, from points in the United States (except Alaska and Hawaii), to the plantsite and mine facilities of Lawson United Feldspar and Mineral Company at or near Spruce Pine (Mitchell County), N.C., under a continuing contract or contracts with Lawson United Feldspar and Mineral Company, for 180 days. SUPPORTING SHIPPER: Lawson United Feldspar and Mineral Co., P.O. Box 309, Spruce Pine, N.C. 28777. SEND PROTESTS TO: Terrell Price, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 800 Briar Creek Road, CC516, Charlotte, N.C. 28205.

No. MC 139095 (Sub-No. 1 TA), filed November 6, 1973. Applicant: DIUGUID TRANSPORT SERVICE, INC., 900 North 16th Street, Herrin, Ill. 62948. Applicant's representative: Elmer Jenkins, 123 East Main Street, Benton, Ill. 62812. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Gasoline and distillates*, for the account of Ed-

wards Oil Company, from Henderson, Ky., to Marion, Ill., for 180 days. SUPPORTING SHIPPER: Bill Edwards, Owner, Edwards Oil Company, Marion, Ill. 62959. SEND PROTESTS TO: Harold C. Jolliff, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Leland Office Building, 527 East Capitol Avenue, Room 414, Springfield, Ill. 62701.

No. MC 139116 (Sub-No. 1 TA), filed November 5, 1973. Applicant: R. W. STEELE, doing business as R. W. STEELE TRUCKING COMPANY, 320 Heaslet Street, Clovis, N. Mex. 88101. Applicant's representative: Hugh T. Matthews, 630 Fidelity Union Tower, Dallas, Tex. 75201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Irrigation systems and parts thereof* (except plastic pipe and plastic tubing), between points in Weld County, Colo., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), for 180 days. RESTRICTION: Restricted against the transportation of commodities which by reason of size or weight require the use of special equipment. SUPPORTING SHIPPER: Perfect Circle Irrigation Systems, Inc., 2419 First Avenue, Greeley, Colo. 80631. SEND PROTESTS TO: William R. Murdoch, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1106 Federal Office Bldg., 517 Gold Avenue SW., Albuquerque, N. Mex. 87101.

No. MC 139239 TA, filed November 9, 1973. Applicant: INTERNATIONAL DISTRIBUTING COMPANY, 8001 Othello, San Diego, Calif. 92111. Applicant's representative: Ed Cramer, 7130 Miramar Road, San Diego, Calif. 92121. Authority sought to operate as a *contract carrier*, by motor vehicle, over regular routes, transporting: *Such bakery goods* as are manufactured or distributed, from the plant site of Holsum Bakery, Inc., Phoenix, Ariz., and between Phoenix, Ariz., and San Diego, Calif., normally utilizing U.S. Highway 80 and Interstate Highway 8, unless weather conditions or mechanical problems require alternate routes, for 180 days. SUPPORTING SHIPPER: Holsum Bakery, Inc., P.O. Box 6674, Phoenix, Ariz. 85005. SEND PROTESTS TO: District Supervisor Philip Yallowitz, Interstate Commerce Commission, Bureau of Operations, 300 North Los Angeles Street, Room 7708, Los Angeles, Calif. 90012.

No. MC 139239 TA, filed November 9, 1973. Applicant: INTERNATIONAL DISTRIBUTING COMPANY, 8001 Othello, San Diego, Calif. 92111. Applicant's representative: Ed Cramer, 7130 Miramar Road, San Diego, Calif. 92121. Authority sought to operate as a *contract carrier*, by motor vehicle, over regular routes, transporting: *Such bakery goods* as are manufactured or distributed, from the plant site of Holsum Bakery, Inc., Phoenix, Ariz., and between Phoenix, Ariz., and San Diego, Calif., normally utilizing U.S. Highway 80 and Interstate Highway 8, unless weather conditions or mechanical problems require alternate

routes, for 180 days. SUPPORTING SHIPPER: Holsum Bakery, Inc., P.O. Box 6674, Phoenix, Ariz. 85005. SEND PROTESTS TO: District Supervisor Philip Yallowitz, Interstate Commerce Commission, Bureau of Operations, 300 North Los Angeles Street, Room 7708, Los Angeles, Calif. 90012.

No. MC 139244 TA, filed November 9, 1973. Applicant: TRUCKING SERVICE, INC., P.O. Box 229, Carlinville, Ill. 62626. Applicant's representative: Robert T. Lawley, 300 Reich Building, Springfield, Ill. 62701. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Trailers* (except those designated to be drawn by passenger automobiles), *trailer chassis*, in initial movements, in truckway service and accessories, equipment, and parts thereof when moving with trailers and chassis as above authorized; (2) *truck bodies, roll back equipment loaders, winches, hoists, axles, truck utility boxes, wheels, gears, lift gates, brakes, and vehicle light testing equipment*, from the plantsites, warehouses and facilities of Schien Body and Equipment Company located in Macoupin County, Ill., to points in the United States (except Alaska and Hawaii), for the account of Schien Body and Equipment Company, Carlinville, Ill.; and (3) *steel sheets, steel coils, steel channels, channel iron bar stock and steel tubing*, from points in Lake and Porter Counties, Ind., and Youngstown, Ohio, to the plantsites, warehouses and facilities of Schien Body and Equipment Company located in Macoupin County, Ill., for the account of Schien Body and Equipment Company, Carlinville, Ill., for 180 days. SUPPORTING SHIPPER: John Schien, President, Schien Body & Equipment Co., P.O. Box 229—North on University, Carlinville, Ill. 62626. SEND PROTESTS TO: Harold C. Jolliff, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Leland Office Building, 527 East Capitol Avenue, Room 414, Springfield, Ill. 62701.

No. MC 139245 TA, filed November 9, 1973. Applicant: DAVIS & BURTON CONTRACTORS, INC., P.O. Box 655, Catlettsburg, Ky. 41129. Applicant's representative: James E. Adkins, 2813 Louisa Street, Catlettsburg, Ky. 41129. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Pitch* in bulk dump type vehicles, from Allied Chemical Plant, Lawrence County, Ohio, to Calgon Corp. Plant, Boyd County, Ky., for 180 days. SUPPORTING SHIPPER: Robert J. Merchant, Sr., Plant Buyer, Calgon Corp. Activated Carbon Division, Route 23, Catlettsburg, Ky. 41129. SEND PROTESTS TO: R. W. Schnitter, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 222 Bakhaus Building, 1500 West Main Street, Lexington, Ky. 40505.

By the Commission.

[SEAL]

ROBERT L. OSWALD,

Secretary.

[FR Doc. 73-25245 Filed 11-27-73; 8:45 am]



## CUMULATIVE LISTS OF PARTS AFFECTED—NOVEMBER

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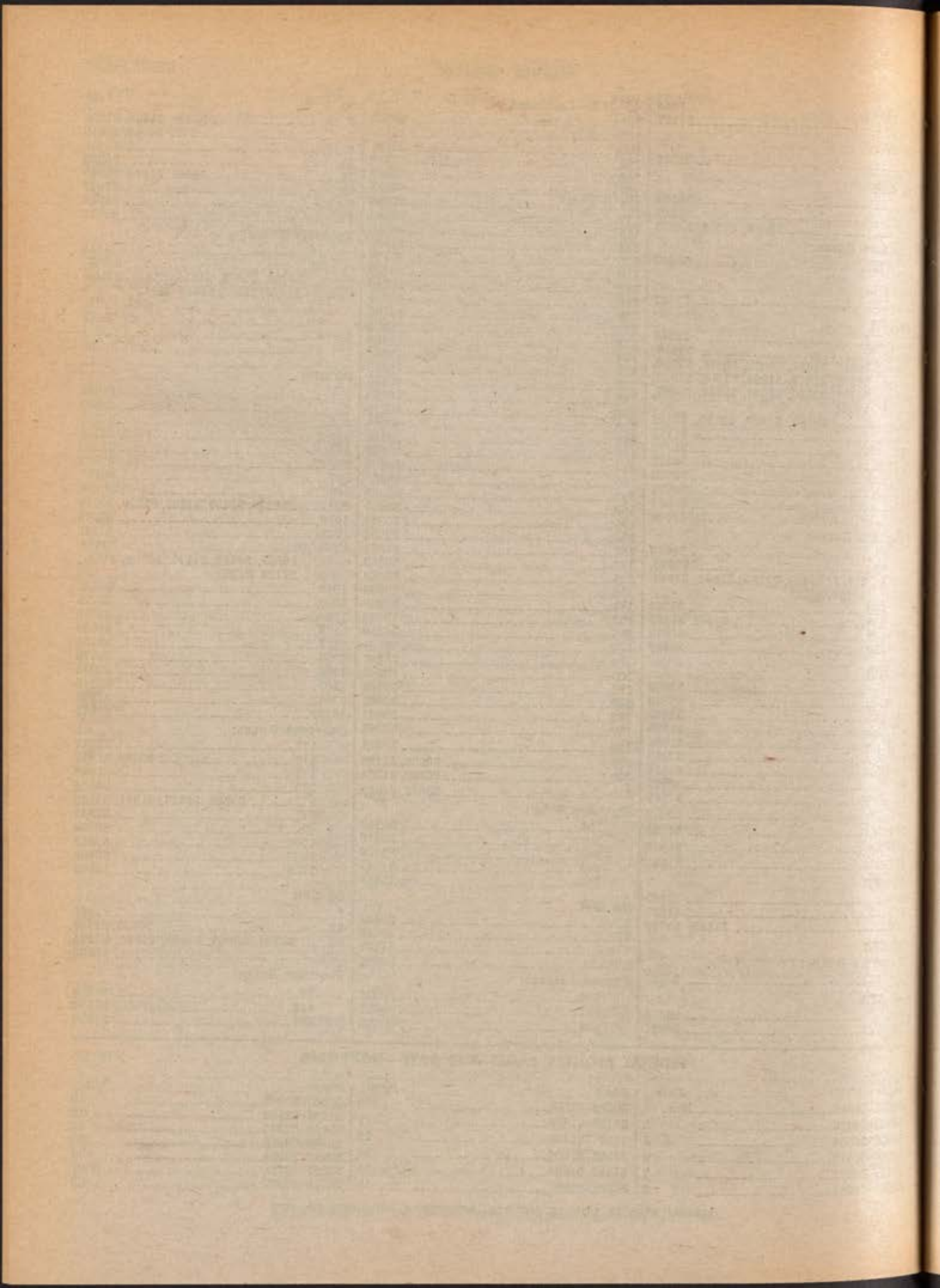


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PART II



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## OFFICE OF MANAGEMENT AND BUDGET



### FEDERAL AND FEDERALLY ASSISTED PROGRAMS AND PROJECTS

Evaluation, review, and coordination



# OFFICE OF MANAGEMENT AND BUDGET

[Rev. Circular A-95]

## FEDERAL AND FEDERALLY ASSISTED PROGRAMS AND PROJECTS

### Evaluation, Review, and Coordination

NOVEMBER 13, 1973.

1. *Purpose.* This Circular furnishes guidance to Federal agencies for added cooperation with State and local governments in the evaluation, review, and coordination of Federal assistance programs and projects. The Circular promulgates regulations (Attachment A) which provide, in part, for:

a. Encouraging the establishment of a project notification and review system to facilitate coordinated planning on an intergovernmental basis for certain Federal assistance programs in furtherance of section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 and Title IV of the Intergovernmental Cooperation Act of 1968 (Attachment B).

b. Coordination of direct Federal development programs and projects with State, areawide, and local planning and programs pursuant to title IV of the Intergovernmental Cooperation Act of 1968.

c. Securing the comments and views of State and local agencies which are authorized to develop and enforce environmental standards on certain Federal or Federally assisted projects affecting the environment pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (Attachment C) and regulations of the Council on Environmental Quality.

d. Furthering the objectives of title VI of the Civil Rights Act of 1964.

This Circular supersedes Circular No. A-95 (Revised), dated February 9, 1971 as amended by Transmittal Memoranda No. 1, dated July 26, 1971, and No. 2, dated March 8, 1972. It will become effective January 1, 1974.

2. *Basis.* This Circular has been prepared pursuant to:

a. Section 401(a) of the Intergovernmental Cooperation Act of 1968 which provides, in part, that

The President shall . . . establish rules and regulations governing the formulation, evaluation, and review of Federal programs and projects having a significant impact on area and community development . . .

and the President's Memorandum of November 8, 1968, to the Director of the Bureau of the Budget (33 FR 16487, November 13, 1968) which follows:

By virtue of the authority vested in me by section 301 of title 3 of the United States Code and section 401(a) of the Intergovernmental Cooperation Act of 1968 (Public Law 90-577), I hereby delegate to you the authority vested in the President to establish the rules and regulations provided for in that section governing the formulation, evaluation, and review of Federal programs and projects having a significant impact on area and community development, including programs providing Federal assistance to the States and localities, to the end that they

shall most effectively serve these basic objectives.

In addition, I expect the Bureau of the Budget to generally coordinate the actions of the departments and agencies in exercising the new authorizations provided by the Intergovernmental Cooperation Act, with the objective of consistent and uniform action by the Federal Government.

b. Title IV, section 403, of the Intergovernmental Cooperation Act of 1968 which provides that:

The Bureau of the Budget or such other agency as may be designated by the President, is hereby authorized to prescribe such rules and regulations as are deemed appropriate for the effective administration of this Title.

c. Section 204(c) of the Demonstration Cities and Metropolitan Development Act of 1966 which provides that:

The Bureau of the Budget, or such other agency as may be designated by the President, shall prescribe such rules and regulations as are deemed appropriate for the effective administration of this section.

and

d. Reorganization Plan No. 2 of 1970 and Executive Order No. 11541 of July 1, 1970, which vest all functions of the Bureau of the Budget or the Director of the Bureau of the Budget in the Director of the Office of Management and Budget.

3. *Coverage.* The regulations promulgated by this Circular (Attachment A) will have applicability to:

a. Under Part I, all projects and activities (or significant changes thereto) for which Federal assistance is being sought under the programs listed in Attachment D or Appendix I of the Catalog of Federal Domestic Assistance which ever bears the later date. Limitations and provisions for exceptions are noted therein.

Projects and activities under other Federal programs in certain States, where State law (or administrative regulations developed pursuant thereto) so require, unless the head of the Federal program agency determines that such requirements would be inconsistent with the Federal law on which the program is based and the objectives of this Circular.

b. Under Part II, all direct Federal development activities, including the acquisition, use, and disposal of Federal real property.

c. Under Part III, all Federal programs as listed in Appendix II of the Catalog of Federal Domestic Assistance requiring, by statute or administrative regulation, a State plan as a condition of assistance and certain multi-source programs.

d. Under Part IV, all Federal programs providing assistance to State, local, and areawide projects and activities that are planned on a multijurisdictional basis.

4. *Inquiries.* Inquiries concerning this Circular may be addressed to the Office of Management and Budget, Washington, D.C. 20503, telephone (202) 395-3031.

Roy L. Ash,  
Director.

ATTACHMENT A—REGULATIONS UNDER SECTION 204 OF THE DEMONSTRATION CITIES AND METROPOLITAN DEVELOPMENT ACT OF 1966, TITLE IV OF THE INTERGOVERNMENTAL COOPERATION ACT OF 1968, AND SECTION 102(2)(C) OF THE NATIONAL ENVIRONMENTAL POLICY ACT OF 1969

### PART I—PROJECT NOTIFICATION AND REVIEW SYSTEMS

1. *Purpose.* The purpose of this Part is to:

a. Further the policies and directives of title IV of the Intergovernmental Cooperation Act of 1968 by encouraging the establishment of a network of State and areawide planning and development clearinghouses which will aid in the coordination of Federal or federally assisted projects and programs with State, areawide, and local planning for orderly growth and development.

b. Implement the requirements of section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 for metropolitan areas within that network.

c. Implement, in part, requirements of section 102(2)(C) of the National Environmental Policy Act of 1969, which require that State, areawide, and local agencies which are authorized to develop and enforce environmental standards be given an opportunity to comment on the environmental impact of Federal or federally assisted projects.

d. Provide public agencies charged with enforcing or furthering the objectives of State and local civil rights laws with opportunity to participate in the review process established under this Part.

e. Encourage, by means of early contact between applicants for Federal assistance and State, and local governments, and agencies, an expeditious process of intergovernmental coordination and review of proposed projects.

2. *Notification.* a. Any agency of State or local government or any organization or individual undertaking to apply for assistance to a project (or a renewal or major modification thereto) under a Federal program covered by this Part will be required to notify the State and areawide planning and development clearinghouse in the jurisdiction of which the project is to be located, of its intent to apply for assistance.

In the case of applications for an activity that is State wide or broader in nature (such as for various types of research) and does not have specific applicability to nor affects areawide or local planning and programs, the notification need be sent only to the State clearinghouse. Involvement of areawide clearinghouses in the review in such cases will be at the initiative of the State clearinghouse.

Notification will include a summary description of the project for which assistance will be sought. The summary description will contain the following information, as appropriate and available:

(1) Identity of the applicant agency, organization, or individual.



(2) The geographic location of the project to be assisted. A map should be provided, if appropriate.

(3) A brief description of the proposed project by type, purpose, general size or scale, estimated cost, beneficiaries, or other characteristics which will enable the clearinghouses to identify agencies of State or local government having plans, programs, or projects that might be affected by the proposed projects.

(4) A statement as to whether or not the applicant has been advised by the funding agency from which assistance is being sought that he will be required to submit environmental impact information in connection with the proposed project.

(5) The Federal program title and number and agency under which assistance will be sought as indicated in Attachment D or the latest Catalog of Federal Domestic Assistance. (The Catalog is issued annually in the spring and is updated periodically during the year.)

(6) The estimated date the applicant expects to formally file an application.

Many clearinghouses have developed notification forms and instructions. Applicants are urged to contact their clearinghouses for such information in order to expedite clearinghouse review.

b. In order to assure maximum time for effective coordination and so as not to delay the timely submission of the completed application to the funding agency, notifications containing the preliminary information indicated above should be sent at the earliest feasible time.

c. Applications from federally recognized Indian tribes are not subject to the requirements of this part. However, Indian tribes may voluntarily participate in the Project Notification and Review System and are encouraged to do so. Federal agencies will notify the appropriate State and areawide clearinghouses of any applications from federally recognized Indian tribes upon their receipt.

3. *Clearinghouse functions.* Clearinghouse functions include:

a. Evaluating the significance of proposed Federal or federally assisted projects to State, areawide, or local plans and programs, as appropriate.

b. Receiving and disseminating project notifications to appropriate State agencies in the case of the State clearinghouse and to appropriate local governments and agencies and regional organizations in the case of areawide clearinghouses; and providing liaison, as may be necessary, between such agencies or bodies and the applicant.

c. Assuring, pursuant to section 102 (2)(c) of the National Environmental Policy Act of 1969, that appropriate State, areawide, or local agencies which are authorized to develop and enforce environmental standards are informed of and are given opportunity to review and comment on the environmental significance of proposed projects for which Federal assistance is sought.

d. Providing public agencies charged with enforcing or furthering the objectives of State and local civil rights laws with opportunity to review and comment on the civil rights aspects of the project for which assistance is sought.

e. Providing, pursuant to Part II of these regulations, liaison between Federal agencies contemplating direct Federal development projects and the State, or areawide agencies, or local governments having plans or programs that might be affected by the proposed project.

4. *Consultation and review.* a. State and areawide clearinghouses may have a period of 30 days after receipt of a project notification in which to inform State agencies and local or regional governments or agencies (including agencies authorized to develop and enforce environmental standards and public agencies charged with enforcing or furthering the objectives of State and local civil rights laws) that may be affected by the proposed project and arrange, as may be necessary, to consult with the applicant thereon.

b. During this period and during the period in which the application is being completed, the clearinghouse may work with the applicant in the resolution of any problems raised by the proposed project.

c. Clearinghouses may have, if necessary, an additional 30 days to review the completed application and to transmit to the applicant any comments or recommendations the clearinghouse (or others) may have. Written comments submitted to the areawide clearinghouse by other jurisdictions, agencies, or parties will be included as attachments to the comments of areawide clearinghouses, when they are at variance with the clearinghouse comments; and others from whom comments were solicited should be listed.

d. In the case of a project for which Federal assistance is sought by a special purpose unit of government, clearinghouses will assure that any unit of general local government having jurisdiction over the area in which the project is to be located has opportunity to confer, consult, and comment upon the project and the application.

e. Applicants will include with the completed application as submitted to the Federal agency (or to the State agency in the case of projects for which the State, under certain programs, has final project approval):

(1) Any comments and recommendations made by or through clearinghouses, along with a statement that such comments have been considered prior to submission of the application; or

(2) A statement that the procedures outlined in this section have been followed and that no comments or recommendations have been received.

f. Where areawide clearinghouse jurisdictions are contiguous, coordinative arrangements should be established between the clearinghouses in such areas to assure that projects in one area which may have an impact on the development of a contiguous area are jointly studied. Any comments and recommendations made by or through a clearinghouse in one area on a project in a contiguous area will accompany the application for assistance to that project.

5. *Subject matter of comments and recommendations.* Comments and recommendations made by or through clearinghouses with respect to any project are for the purpose of assuring maximum consistency of such project with State, areawide, and local comprehensive plans. They are also intended to assist the Federal agency (or State agency, in the case of projects for which the State under certain Federal grants has final project approval) administering such a program in determining whether the project is in accord with applicable Federal law. Comments or recommendations, as may be appropriate, may include, but need not be limited to, information about:

a. The extent to which the project is consistent with or contributes to the fulfillment of comprehensive planning for the State, area, or locality.

b. The extent to which the proposed project:

(1) Duplicates, runs counter to, or needs to be coordinated with other projects or activities being carried out in or affecting the area; or

(2) Might be revised to increase its effectiveness or efficiency.

c. The extent to which the project contributes to the achievement of State, areawide, and local objectives and priorities relating to natural and human resources and economic and community development as specified in section 401 of the Intergovernmental Cooperation Act of 1968, including:

(1) Appropriate land uses for housing, commercial, industrial, governmental, institutional, and other purposes;

(2) Wise development and conservation of natural resources, including land, water, mineral, wildlife, and others;

(3) Balanced transportation systems, including highway, air, water, pedestrian, mass transit, and other modes for the movement of people and goods;

(4) Adequate outdoor recreation and open space;

(5) Protection of areas of unique natural beauty, historical and scientific interest;

(6) Properly planned community facilities, including utilities for the supply of power, water, and communications, for the safe disposal of wastes, and for other purposes; and

(7) Concern for high standards of design.

d. As provided under section 102(2)(C) of the National Environmental Policy Act of 1969, the extent to which the project significantly affects the environment including consideration of:

(1) The environmental impact of the proposed project;

(2) Any adverse environmental effects which cannot be avoided should the proposed project be implemented;

(3) Alternatives to the proposed project;

(4) The relationship between local short term uses of man's environment and the maintenance and enhancement of long term productivity; and

(5) Any irreversible and irretrievable commitments of resources which would be involved in the proposed project or action, should it be implemented.



e. The extent to which the project contributes to more balanced patterns of settlement and delivery of services to all sectors of the area population, including minority groups.

f. In the case of a project for which assistance is being sought by a special purpose unit of government, whether the unit of general local government having jurisdiction over the area in which the project is to be located has applied, or plans to apply for assistance for the same or a similar type project. This information is necessary to enable the Federal (or State) agency to make the judgments required under section 402 of the Intergovernmental Cooperation Act of 1968.

6. *Federal agency procedures.* Federal agencies having programs covered under this Part will develop appropriate procedures for:

a. Informing potential applicants for assistance under such programs of the requirements of this Part (1) in program information materials, (2) in response to inquiries respecting application procedures, (3) in pre-application conferences, or (4) by other means which will assure earliest contact between applicant and clearinghouses.

b. Assuring that all applications for assistance under programs covered by this part have been submitted to appropriate clearinghouses for review prior to their submission to the funding agency.

c. Notifying clearinghouses within seven days of any action, (approvals, disapprovals, return for amendment, etc.) taken on applications that have been reviewed by such clearinghouses. Where a State or areawide clearinghouse has assigned an identification number to an application, the Federal agency will refer to such identification numbers in notifying clearinghouses of actions taken on the application.

d. Where a clearinghouse has recommended against approval of an application or approval only with specific and major substantive changes, and the funding agency having the power to approve or disapprove the application substantially as submitted, the funding agency will provide the clearinghouse, in writing, with an explanation therefor.

e. Assuring, in the case of an application submitted by a special purpose unit of government, where accompanying comments indicate that the unit of general local government having jurisdiction over the area in which the project is to be located has submitted or plans to submit an application for assistance for the same or a similar type project, that appropriate considerations and preferences as specified in section 402 of the Intergovernmental Cooperation Act of 1968, are accorded the unit of general local government. Where such preference cannot be so accorded, the agency shall supply, in writing, to the unit of general local government and the Office of Management and Budget its reasons therefor.

7. *OMB Circular No. A-102.* OMB Circular No. A-102 (Attachment M) provides standard application forms for all Federal grant programs to State and local governments except those Federal formula grant programs which do not require grantees to apply for Federal funds on a project basis. The Circular promulgates a Preapplication Form for all construction, land acquisition, and land development projects or programs for which the need for Federal funding exceeds \$100,000.

a. Any applicant using the A-102 Preapplication Form for a project under a program covered by this Part will transmit copies of the preapplication to the appropriate State and areawide clearinghouses at the time it is submitted to the Federal agency from which assistance is being sought.

b. Circular No. A-102 requires the Federal agency to respond to a preapplication within 45 days of its receipt. Where a clearinghouse wishes to make any comments on the project, it may submit such comments directly to the Federal agency and the applicant. The Federal agency will consider any such comments received prior to completion of its own review of the preapplication and notify the clearinghouse of its action on the preapplication. Clearinghouses should also notify the Federal agency if they have no comment.

c. Any comment by a clearinghouse endorsing or withholding endorsement of the project during the preapplication stage will not be considered a substitute for review under this Part unless the clearinghouse so indicates. All consultations and conferences between applicants and clearinghouses subsequent to submission of the preapplication or review of completed final applications will be carried out as described under paragraph 4 of this Part.

8. *Housing programs.* Because of the unique nature of housing programs of the Department of Housing and Urban Development, the Veterans Administration, and the Farmers Home Administration of the Department of Agriculture a variation of the review procedure is necessary. For such programs, the following procedure for review will be followed:

a. The appropriate HUD, VA, or USDA/FHA office will transmit to the appropriate State and areawide clearinghouses a copy of the initial application for project approval.

b. Clearinghouses will have 30 days from receipt to review the applications and to forward to the HUD, VA, or USDA/FHA office any comments which they may have, including observations concerning the consistency of the proposed project with State and areawide development plans, the extent to which the proposed project will provide housing opportunities for all segments of the community, and identification of major environmental concerns. Processing of applications in the HUD, VA, or USDA/FHA office will proceed concurrently with the clearinghouse review.

c. This procedure will include only applications involving new construction

and will apply to applications for loans, loan guarantees, mortgage insurance, or other housing assistance:

(1) In cities over 50,000 population and contiguous urbanized areas having a population density of over 100 persons per square mile, to:

(a) Subdivisions having 25 or more lots.

(b) Multifamily projects having 50 or more dwelling units.

(c) Mobile home courts with 50 or more spaces.

(d) College housing provided under the debt service or direct loan programs for 200 or more students.

(2) In all other areas, to:

(a) Subdivisions having 10 or more lots.

(b) Multifamily projects having 25 or more dwelling units.

(c) Mobile home courts with 25 or more spaces.

(d) College housing provided under the debt service or direct loan programs for 100 or more students.

9. *Exceptions.* a. Heads of Federal departments and agencies may, with the concurrence of the Office of Management and Budget, exclude certain categories of projects or activities under listed programs from the requirements of Attachment A, Part I. OMB concurrence will be based on the following criteria:

(1) Lack of geographic identifiability with respect to location or impact (e.g., certain types of technical studies);

(2) Small scale or size;

(3) Essentially local impact (within the applicant jurisdiction); and

(4) Other characteristics that make review impractical. OMB will notify clearinghouses of such exclusions.

b. In the case of any exception, applicants are, nevertheless, required to send copies of the application to the clearinghouses at the time it is submitted to the Federal agency. The Federal agency will consider any clearinghouse comments up until the time the application has been processed. Comments should be sent directly to the Federal agency.

c. Exceptions will be reviewed periodically by the Office of Management and Budget.

d. Individual clearinghouses may except certain types of projects from review for reasons indicated above or for other reasons appropriate to the State or area.

10. *Reports and directories.* a. The Director of the Office of Management and Budget may require reports, from time to time, on the implementation of this Part.

b. The Office of Management and Budget will maintain and distribute to appropriate Federal agencies a directory of State and areawide clearinghouses.

c. The Office of Management and Budget will notify clearinghouses and Federal agencies of any excepted categories of projects under covered programs.

#### PART II—DIRECT FEDERAL DEVELOPMENT

1. *Purpose.* The purpose of this Part is to:

a. Provide State and local government with information on projected Federal



development so as to facilitate coordination with State, areawide, and local plans and programs.

b. Provide Federal agencies with information on the relationship of proposed direct Federal development projects and activities to State, areawide, and local plans and programs; and to assure maximum feasible consistency of Federal developments with State, areawide, and local plans and programs.

c. Provide Federal agencies with information on the possible impact on the environment of proposed Federal development.

2. *Coordination of direct Federal development projects with State, areawide, and local development.* a. Federal agencies having responsibility for the planning and construction of Federal buildings and installations or other Federal public works or development or for the acquisition, use, and disposal of Federal land and real property will establish procedures for:

(1) Consulting with Governors, State and areawide clearinghouses, and local elected officials at the earliest practicable stage in project or development planning on the relationship of any plan or project to the development plans and programs of the State, area, or locality in which the project is to be located.

(2) Assuring that any such Federal plan or project is consistent or compatible with State, areawide, and local development plans and programs identified in the course of such consultations. Exceptions will be made only where there is clear justification.

(3) Providing State, areawide, and local agencies which are authorized to develop and enforce environmental standards with adequate opportunity to review such Federal plans and projects pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969. Any comments of such agencies will accompany the environmental impact statement submitted by the Federal agency.

(4) Through the appropriate clearinghouses providing State and areawide agencies which are authorized to perform comprehensive health planning (under Sections 314a and 314b of the Public Health Service Act) with adequate opportunity to review Federal projects for construction and/or equipment involving capital expenditures exceeding \$200,000 for modernization, conversion, and expansion of Federal inpatient care facilities, which alter the bed capacity or modify the primary function of the facility, as well as plans for provision of major new medical care services. (Excluded are projects to renovate or install mechanical systems, air conditioning systems, or other similar internal system modifications.) The comments of such agencies will accompany the plan and budget requests submitted by the Federal agency to the Office of Management and Budget or a certification that the agencies had been provided a reasonable time to comment and had failed to do so.

3. *Use of clearinghouses.* The State and areawide planning and development

clearinghouses established pursuant to Part I will be utilized to the greatest extent practicable to effectuate the requirements of this Part. Agencies are urged to establish early contact with clearinghouses to work out arrangements for carrying out the consultation and review required under this Part, including identification of types of projects considered appropriate for consultation and review.

#### PART III.—STATE PLANS AND MULTISOURCE PROGRAMS

1. *Purpose.* The purpose of this Part is to provide Federal agencies with information about the relationship to State or areawide comprehensive planning of State plans or multisource programs which are required or form the basis for funding under various Federal programs.

2. *State plans.* To the extent not presently required by statute or administrative regulation, Federal agencies administering programs requiring by statute or regulation a State plan as a condition of assistance under such programs will require that the Governor, or his delegated agency, be given the opportunity to comment on the relationship of such State plan to comprehensive and other State plans and programs and to those of affected areawide or local jurisdictions. To the extent practical, the Governor is encouraged to involve areawide clearinghouses in the review of State plans.

a. The Governor will be afforded a period of 45 days in which to make such comments, and any such comments will be transmitted with the plan.

b. A "State plan" under this Part is defined to include any required supporting planning reports or documentation that indicate the programs, projects, and activities for which Federal funds will be utilized. Such reports or documentation will also be submitted for review at the request of the Governor or the agency he has designated to perform review under this Part.

c. Programs requiring State plans are listed in Appendix II of the Catalog of Federal Domestic Assistance.

3. *Multisource programs.* A "multisource program" under this Part is a program or programs of related activities for which assistance is sought, on a combined or coordinated basis, involving two or more Federal programs or funding authorities.

a. Federal agencies administering or participating in the administration of multisource programs will require that appropriate State and areawide clearinghouses be given the opportunity to comment on the relationship of any proposed multisource program to State or areawide comprehensive plans and programs. Clearinghouses will be afforded a period of 45 days in which to make such comments, and any comments will be transmitted with the application for assistance under such multisource program.

b. Multisource programs include the following programs, plus such other pro-

grams as the Office of Management and Budget shall specify from time to time:

- (1) Integrated Grant Administration (IGA).
- (2) Unified Work Program (DOT 1130.2).
- (3) Environmental Protection—Consolidated Program Grants (EPA).
- (4) Areawide Manpower Plans (DOL).

#### PART IV.—COORDINATION OF PLANNING IN MULTIJURISDICTIONAL AREAS

1. *Policies and objectives.* The purposes of this Part are:

a. To encourage and facilitate State and local initiative and responsibility in developing organizational and procedural arrangements for coordinating comprehensive and functional planning activities.

b. To eliminate overlap, duplication, and competition in State and local planning activities assisted or required under Federal programs and to encourage the most effective use of State and local resources available for development planning.

c. To minimize inconsistency among Federal administrative and approval requirements placed on State and areawide development planning activities.

d. To encourage the States to exercise leadership in delineating and establishing a system of planning and development districts or regions in each State, which can provide a consistent geographic base for the coordination of Federal, State, and local development programs.

e. To encourage Federal agencies administering programs assisting or requiring areawide planning to utilize agencies that have been designated to perform areawide comprehensive planning in planning and development districts or regions established pursuant to subparagraph d above and that have been designated areawide clearinghouses pursuant to Part I of Attachment A of this Circular to carry out or coordinate planning under such programs. In the case of interstate metropolitan areas, agencies designated as metropolitan areawide clearinghouses should be utilized to the extent possible to carry out or coordinate Federally assisted or required areawide planning.

2. *Common or consistent planning and development districts or regions.* a. Prior to the designation or redesignation (or approval thereof) of any planning and development district or region under any Federal program, Federal agency procedures will provide a period of 30 days for the Governor(s) of the State(s) in which the district or region will be located to review the boundaries thereof and comment upon its relationship to planning and development districts or regions established by the State. Where the State has established such planning and development districts, the boundaries of areas designated under Federal programs will conform to them unless there is clear justification for not doing so.

b. Where the State has not established planning and development districts or



regions which provide a basis for evaluation of the boundaries of the area proposed for designation, major units of general local government and the appropriate Federal Regional Council in such areas will also be consulted prior to designation of the area to assure consistency with districts established under inter-local agreement and under related Federal programs.

c. The Office of Management and Budget will be notified through the appropriate Federal Regional Council by Federal agencies of any proposed designation and will be informed of such designation when it is made.

3. *Common and consistent planning bases and coordination of related activities in multijurisdictional areas.* Each agency will develop procedures and requirements for applications for areawide planning and development assistance under appropriate programs to assure the fullest consistency and coordination with related planning and development being carried on by the areawide clearinghouse designated under Part I of this Circular in the multijurisdictional area.

Such procedures shall include provision for submission to the funding agency by any applicant for areawide planning assistance, if the applicant is other than an areawide comprehensive planning agency referred to in paragraph 1e of this Part, of a memorandum of agreement between the applicant and such areawide comprehensive planning agency covering the means by which their planning activities will be coordinated. The agreement will cover but need not be limited to the following matters:

a. Identification of relationships between the planning proposed by the applicant and that of the areawide agency and of similar or related activities that will require coordination;

b. The organizational and procedural arrangements for coordinating such activities, such as: Overlapping board membership, procedures for joint reviews of projected activities and policies, information exchange, etc.;

c. Cooperative arrangements for sharing, planning resources (funds, personnel, facilities, and services);

d. Agreed upon base data, statistics, and projections (social, economic, demographic) on the basis of which planning in the area will proceed.

Where an applicant has been unable to effectuate such an agreement, he will submit a statement indicating the efforts he has made to secure agreement and the issues that have prevented it. In such case, the funding agency, in consultation with the Federal Regional Council and the State clearinghouse designated under Part I, will undertake, within a 30 day period after receipt of the application, resolution of the issues before approving the application, if it is otherwise in good order.

4. *Joint funding.* Where it will enhance the quality, comprehensive scope, and coordination of planning in multijurisdictional areas, Federal agencies will, to the extent practicable, provide for joint funding of planning activities being carried on therein.

5. *Coordination of agency procedures and requirements.* With respect to the steps called for in paragraphs 2 and 3 of this Part, departments and agencies will develop for relevant programs appropriate draft procedures and requirements. Copies of such drafts will be furnished to the Director of the Office of Management and Budget and to the heads of departments and agencies administering related programs. The Office, in consultation with the agencies, will review the draft procedures to assure the maximum obtainable consistency among them.

#### PART V—DEFINITIONS

Terms used in this circular will have the following meanings:

1. *Federal agency.* Any department, agency, or instrumentality in the executive branch of the Government and any wholly owned Government corporation.

2. *State.* Any of the several States of the United States, the District of Columbia, Puerto Rico, any territory or possession of the United States, or any agency or instrumentality of a State, but does not include the governments of the political subdivisions of the State.

3. *Unit of general local government.* Any city, county, town, parish, village, or other general purpose political subdivisions of a State.

4. *Special purpose unit of local government.* Any special, district, public purpose corporation, or other strictly limited purpose political subdivision of a State, but shall not include a school district.

5. *Federal assistance, Federal financial assistance, Federal assistance programs, or federally assisted program.* Programs that provide assistance through grant or contractual arrangements. They include technical assistance programs, or programs providing assistance in the form of loans, loan guarantees, or insurance. The term does not include any annual payment by the United States to the District of Columbia authorized by article VI of the District of Columbia Revenue Act of 1947 (D.C. Code sec. 47-2501a and 47-2501b).

6. *Funding agency.* The Federal agency or, in the case of certain formula grant programs, the State agency which is responsible for final approval of applications for assistance.

7. *Comprehensive planning.* To the extent directly related to area needs or needs of a unit of general local government, including the following:

a. Preparation, as a guide for governmental policies and action, of general plans with respect to:

(1) Pattern and intensity of land use, (2) Provision of public facilities (including transportation facilities) and other government services.

(3) Effect development and utilization of human and natural resources.

b. Preparation of long range physical and fiscal plans for such action.

c. Programming of capital improvements and other major expenditures, based on a determination of related urgency, together with definitive financing plans for such expenditures in the earlier years of the program.

d. Coordination of all related plans and activities of the State and local governments and agencies concerned.

e. Preparation of regulatory and administrative measures in support of the foregoing.

8. *Metropolitan area.* A standard metropolitan statistical area as established by the Office of Management and Budget, subject, however, to such modifications and extensions as the Office of Management and Budget may determine to be appropriate for the purposes of section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, and these Regulations.

9. *Areawide.* Comprising, in metropolitan areas, the whole of contiguous urban and urbanizing areas; and in non-metropolitan areas, contiguous counties or other multijurisdictional areas having common or related social, economic, or physical characteristics indicating a community of developmental interest; or, in either, the area included in a sub-state district designated pursuant to paragraph 1d, Part IV, Attachment A of this Circular.

10. *Planning and development clearinghouse or clearinghouse includes:*

a. *State clearinghouse.* An agency of the State Government designated by the Governor or by State law to carry out the requirements of Part I of Attachment A of this Circular.

b. *Areawide clearinghouse.* (1) In non-metropolitan areas a comprehensive planning agency designated by the Governor (or Governors in the case of regions extending into more than one State) or by State law to carry out requirements of this Circular; or

(2) In metropolitan areas an areawide agency that has been recognized by the Office of Management and Budget as an appropriate agency to perform review functions under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, Title IV of the Intergovernmental Cooperation Act of 1968, and this Circular.

11. *Multijurisdictional area.* Any geographical area comprising, encompassing, or extending into more than one unit of general local government.

12. *Planning and development district or region.* A multijurisdictional area that has been formally designated or recognized as an appropriate area for planning under State law or Federal program requirements.

13. *Direct Federal development.* Planning and construction of public works, physical facilities and installations or land and real property development (including the acquisition, use, and disposal of real property) undertaken by or for the use of the Federal Government or any of its agencies.



## ATTACHMENT B

SECTION 204 OF THE DEMONSTRATION CITIES AND METROPOLITAN DEVELOPMENT ACT OF 1966 AS AMENDED (80 STAT. 1263, 82 STAT. 206)

SEC. 204. (a) All applications made after June 30, 1967, for Federal loans or grants to assist in carrying out open-space land projects or for planning or construction of hospitals, airports, libraries, water supply and distribution facilities, sewage facilities and waste treatment works, highways, transportation facilities, law enforcement facilities, and water development and land conservation projects within any metropolitan area shall be submitted for review—

(1) To any areawide agency which is designated to perform metropolitan or regional planning for the area within which the assistance is to be used, and which is, to the greatest practicable extent, composed of or responsible to the elected officials of a unit of areawide government or of the units of general local government within whose jurisdiction such agency is authorized to engage in such planning, and

(2) If made by a special purpose unit of local government, to the unit or units of general local government with authority to operate in the area within which the project is to be located.

(b)(1) Except as provided in paragraph (2) of this subsection, each application shall be accompanied (A) by the comments and recommendations with respect to the project involved by the areawide agency and governing bodies of the units of general local government to which the application has been submitted for review, and (B) by a statement by the applicant that such comments and recommendations have been considered prior to formal submission of the application. Such comments shall include information concerning the extent to which the project is consistent with comprehensive planning developed or in the process of development for the metropolitan area or the unit of general local government, as the case may be, and the extent to which such project contributes to the fulfillment of such planning. The comments and recommendations and the statement referred to in this paragraph shall, except in the case referred to in paragraph (2) of this subsection, be reviewed by the agency of the Federal Government for which such application is submitted for the sole purpose of assisting it in determining whether the application is in accordance with the provisions of Federal law which govern the making of the loans or grants.

(2) An application for a Federal loan or grant need not be accompanied by the comments and recommendations and the statements referred to in paragraph b(1) of this subsection, if the applicant certifies that a plan or description of the project, meeting the requirements of such rules and regulations as may be prescribed under subsection (c), or such application, has lain before an appropriate areawide agency or instrumentality or unit of general local government for a period of sixty days without comments or recommendations thereon being made by such agency or instrumentality.

(3) The requirements of paragraphs (1) and (2) shall also apply to any amendment of the application which, in light of the purposes of this title, involves a major change in the project covered by the application prior to such amendment.

(c) The Bureau of the Budget, or such other agency as may be designated by the President, is hereby authorized to prescribe such rules and regulations as are deemed appropriate for the effective administration of this section.

## TITLE IV OF THE INTERGOVERNMENTAL CO-OPERATION ACT OF 1968 (82 STAT. 1103)

## TITLE IV—COORDINATED INTERGOVERNMENTAL POLICY AND ADMINISTRATION OF DEVELOPMENT ASSISTANCE PROGRAMS

## DECLARATION OF DEVELOPMENT ASSISTANCE POLICY

SEC. 401. (a) The economic and social development of the Nation and the achievement of satisfactory levels of living depend upon the sound and orderly development of all areas, both urban and rural. Moreover, in a time of rapid urbanization, the sound and orderly development of urban communities depends to a large degree upon the social and economic health and the sound development of small communities and rural areas. The President shall, therefore, establish rules and regulations governing the formulation, evaluation, and review of Federal programs and projects having a significant impact on area and community development, including programs providing Federal assistance to the States and localities, to the end that they shall most effectively serve these basic objectives. Such rules and regulations shall provide for full consideration of the concurrent achievement of the following specific objectives and, to the extent authorized by law, reasoned choices shall be made between such objectives when they conflict:

(1) Appropriate land uses for housing, commercial, industrial, governmental, institutional, and other purposes;

(2) Wise development and conservation of natural resources, including land, water, minerals, wildlife, and others;

(3) Balanced transportation systems, including highway, air, water, pedestrian, mass transit, and other modes for the movement of people and goods;

(4) Adequate outdoor recreation and open space;

(5) Protection of areas of unique natural beauty, historical and scientific interest;

(6) Properly planned community facilities, including utilities for the supply of power, water, and communications, for the safe disposal of wastes, and for other purposes; and

(7) Concern for high standards of design.

(b) All viewpoints—national, regional, State, and local—shall, to the extent possible, be fully considered and taken into account in planning Federal or federally assisted development programs and projects. State and local government objectives, together with the objectives of regional organizations shall be considered and evaluated within a framework of national public objectives, as expressed in Federal law, and available projections of future national conditions and needs of regions, State, and localities shall be considered in plan formulation, evaluation, and review.

(c) To the maximum extent possible, consistent with national objectives, all Federal aid for development purposes shall be consistent with and further the objectives of State, regional, and local comprehensive planning. Consideration shall be given to all developmental aspects of our total national community, including but not limited to housing, transportation, economic development, natural and human resources development, community facilities, and the general improvement of living environments.

(d) Each Federal department and agency administering a development assistance program shall, to the maximum extent practicable, consult with and seek advice from all other significantly affected Federal departments and agencies in an effort to assure fully coordinated programs.

(e) Insofar as possible, systematic planning required by individual Federal programs (such as highway construction, urban re-

newal, and open space) shall be coordinated with and, to the extent authorized by law, made part of comprehensive local and area-wide development planning.

## FAVORING UNITS OF GENERAL LOCAL GOVERNMENT

SEC. 402. Where Federal law provides that both special-purpose units of local government and units of general local government are eligible to receive loans or grants-in-aid, heads of Federal departments and agencies shall, in the absence of substantial reasons to the contrary, make such loans or grants-in-aid to units of general local government rather than to special-purpose units of local government.

## RULES AND REGULATIONS

SEC. 403. The Bureau of the Budget, or such other agency as may be designated by the President, is hereby authorized to prescribe such rules and regulations as are deemed appropriate for the effective administration of this title.

## ATTACHMENT C—SECTION 102(2)(C) OF THE NATIONAL ENVIRONMENTAL POLICY ACT OF 1969 (83 STAT. 853)

SEC. 102. The Congress authorizes and directs that, to the fullest extent possible: (1) the policies, regulations, and public laws of the United States shall be interpreted and administered in accordance with the policies set forth in this Act, and (2) all agencies of the Federal Government shall—

(C) Include in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment, a detailed statement by the responsible official on—

(i) The environmental impact of the proposed action,

(ii) Any adverse environmental effects which cannot be avoided should the proposal be implemented,

(iii) Alternatives to the proposed action,

(iv) The relationship between local short-term use of man's environment and the maintenance and enhancement of long-term productivity, and

(v) Any irreversible or irretrievable commitments of resources which would be involved in the proposed action should it be implemented.

Prior to making any detailed statement, the responsible Federal official shall consult with and obtain the comments of any Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved. Copies of such statement and the comments and views of the appropriate Federal, State, and local agencies, which are authorized to develop and enforce environmental standards, shall be made available to the President, the Council on Environmental Quality and to the public as provided by section 552 of Title 5, United States Code, and shall accompany the proposal through the existing agency review processes: \* \* \*

## ATTACHMENT D—COVERAGE OF PROGRAMS UNDER ATTACHMENT A, PART I

1. Programs listed below are referenced several ways, due to transitional phases in program development, special revenue sharing, etc. Generally, citations are to programs as they are listed in the June, 1973 Catalog of Federal Domestic Assistance. Asterisks indicate references to the 1972 Catalog. For certain new legislation, Catalog citations have not yet been developed. In such cases, references are



to Public Law number and section. When no funding is available for a program, it is not generally listed in the Catalog or this Attachment. The Catalog is issued annually and revised periodically during the year. Every effort will be made to keep Appendix I and Attachment D current. Reference should always be made to the one bearing the latest issued date.

2. Heads of Federal departments and agencies may, with the concurrence of the Office of Management and Budget, exclude certain categories of projects or activities under listed programs from the requirements of Attachment A, Part I. See Part I, paragraph 9.

### 3. Covered programs.

#### DEPARTMENT OF AGRICULTURE

- 10.409 Irrigation, Drainage, and Other Soil and Water Conservation Loans.
- 10.411 Rural Housing Site Loans.
- 10.414 Resource Conservation and Development Loans.
- 10.415 Rural Rental Housing Loans.
- 10.418 Water and Waste Disposal Systems for Rural Communities.
- 10.419 Watershed Protection and Flood Prevention Loans.
- 10.901 Resource Conservation and Development.
- 10.904 Watershed Protection and Flood Prevention (Exception: Small projects costing under \$7500 for erosion and sediment control and land stabilization and for rehabilitation and consolidation of existing irrigation systems).

#### DEPARTMENT OF COMMERCE/EDA

- 11.300\* Economic Development—Grants and Loans for Public Works and Development Facilities.
- 11.302\* Economic Development—Planning Assistance.
- 11.303\* Economic Development—Technical Assistance.
- 11.304 Economic Development—Public Works Impact Projects.

#### DEPARTMENT OF DEFENSE

- 12.101 Beach Erosion Control Projects.
- 12.106 Flood Control Projects.
- 12.107 Navigation Projects.
- 12.108 Snagging and Clearing for Flood Control.

#### DEPARTMENTAL OF HEALTH, EDUCATION, AND WELFARE

- 13.206 Comprehensive Health Planning—Area-wide Grants.
- 13.210 Comprehensive Public Health Services—Formula Grants.
- 13.220 Health Facilities Construction—Grants.
- 13.226\* Health Services Research and Development Grants.
- 13.235 Mental Health—Community Assistance Grants for Narcotic Addiction and Drug Abuse.
- 13.240 Mental Health—Community Mental Health Centers.
- 13.246 Migrant Health Grants.
- 13.249\* Regional Medical Programs.
- 13.251 Mental Health—Community Assistance Grants for Comprehensive Alcoholism Services.
- 13.252 Mental Health—Direct Grants for Projects (Alcoholism).
- 13.253 Health Facilities Construction—Loans and Loan Guarantees.
- 13.254 Mental Health—Direct Grants for Special Projects (Narcotic Addiction and Drug Abuse).

- 13.256 Health Maintenance Organization Service (HMOS).
- 13.297 Urban Rat Control.
- 13.340\* Health Professions Teaching Facilities—Construction Grants.
- 13.350 Medical Library Assistance—Regional Medical Libraries.
- 13.369 Nursing School Construction.
- 13.378\* Health Professional Teaching Facilities—Loan Guarantees and Interest Subsidies.
- 13.392 Cancer—Construction.
- 13.401 Adult Education—Special Projects.
- 13.408\* Construction of Public Libraries.
- 13.477 School Assistance in Federally Affected Areas—Construction.
- 13.493 Vocational Education—Basic Grants to States.
- 13.494 Vocational Education—Consumer and Homemaking.
- 13.495 Vocational Education—Cooperative Education.
- 13.499 Vocational Education—Special Needs.
- 13.501 Vocational Education—Work Study.
- 13.502 Vocational Education—Innovation.
- 13.516 Preschool, Elementary and Secondary Education—Special Programs and Projects.
- 13.519 Supplementary Education Centers and Services, Guidance, Counseling, and Testing (PACE).
- 13.600 Child Development—Head Start.
- 13.746 Rehabilitation Services and Facilities—Basic Support.
- 13.753 Development Disabilities—Basic Support.
- 13.756 Aging—Special Support Programs.
- 13.763 Rehabilitation Services and Facilities—Special Projects.
- 13.764 Youth Development and Delinquency Prevention.

#### DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

- 14.103 Interest Reduction Payments—Rental and Cooperative Housing and Lower Income Families.
- 14.105 Interest Subsidy—Homes for Lower Income Families.
- 14.112 Mortgage Insurance—Construction or Rehabilitation of Condominium Projects.
- 14.115 Mortgage Insurance—Development of Sales-Type Cooperative Projects.
- 14.116 Mortgage Insurance—Group Practice Facilities.
- 14.117 Mortgage Insurance—Homes.
- 14.118 Mortgage Insurance—Homes for Certified Veterans.
- 14.119 Mortgage Insurance—Homes for Disaster Victims.
- 14.120 Mortgage Insurance—Homes for Low and Moderate Income Families.
- 14.121 Mortgage Insurance—Homes in Outlying Areas.
- 14.122 Mortgage Insurance—Homes in Urban Renewal Areas.
- 14.124 Mortgage Insurance—Investor Sponsored Cooperative Housing.
- 14.125 Mortgage Insurance—Land Development and New Communities.
- 14.126 Mortgage Insurance—Management-Type Cooperative Projects.
- 14.127 Mortgage Insurance—Mobile Home Courts.
- 14.128 Mortgage Insurance—Hospitals.
- 14.129 Mortgage Insurance—Nursing Homes and Intermediate Care Facilities.
- 14.134 Mortgage Insurance—Rental Housing.
- 14.135 Mortgage Insurance—Rental Housing for Moderate Income Families.
- 14.137 Mortgage Insurance—Rental Housing for Low and Moderate Income Families, Market Interest Rate.
- 14.138 Mortgage Insurance—Rental Housing for the Elderly.

- 14.139 Mortgage Insurance—Rental Housing in Urban Renewal Areas.
- 14.141 Nonprofit Housing Sponsor Loans—Planning Projects for Low and Moderate Income Housing.
- 14.146 Public Housing—Acquisition (with or without rehabilitation) and Construction (new construction only).
- 14.149 Rental Supplements—Rental Housing for Lower Income Families.
- 14.203 Comprehensive Planning Assistance.
- 14.207 New Communities—Loan Guarantees.
- 14.214 Urban Systems Engineering Demonstration Grants.
- 14.307 Urban Renewal Projects.

#### DEPARTMENT OF THE INTERIOR

- 15.400 Outdoor Recreation—Acquisition and Development.
- 15.401 Outdoor Recreation State Planning—Financial Assistance.
- 15.501 Irrigation Distribution System Loans.
- 15.503 Small Reclamation Projects.
- 15.904 Historic Preservation.

#### DEPARTMENT OF JUSTICE

- 16.500 Law Enforcement Assistance—Comprehensive Planning Grants.
- 16.501 Law Enforcement Assistance—Discretionary Grants.
- 16.502 Law Enforcement Assistance—Improving and Strengthening Law Enforcement.

#### DEPARTMENT OF LABOR

- 17.211 Job Corps.
- 17.212 Job Opportunities in the Business Sector (Excluding National Contracts).
- 17.226 Work Incentive Program—Training and Allowances.
- 17.230 Migrant Workers.
- 17.232 Comprehensive Manpower Programs.

#### DEPARTMENT OF TRANSPORTATION

- 20.102 Airport Development Aid Program.
- 20.103 Airport Planning Grant Program.
- 20.201 Forest Highways.
- 20.204 Highway Beautification—Landscaping and Scenic Enhancement.
- 20.205 Highway Research, Planning, and Construction.
- 20.209 Public Lands Highways.
- 20.500 Urban Mass Transportation Capital Improvement Grants (Planning and Construction only).
- 20.501 Urban Mass Transportation Capital Improvement Loans (Planning and construction only).
- 20.505 Urban Mass Transportation Technical Studies Grants (planning and construction only).

#### APPALACHIAN REGIONAL COMMISSION

- 23.003 Appalachian Development Highway System.
- 23.004 Appalachian Health Demonstration.
- 23.005 Appalachian Housing Fund.
- 23.008 Appalachian Local Access Roads.
- 23.010 Appalachian Mine Area Restoration.
- 23.011 Appalachian State Research, Technical Assistance, and Demonstration Projects.
- 23.012 Appalachian Vocational Education Facilities and Operations.
- 23.013 Appalachian Child Development.
- 23.016 Appalachian Vocational Education and Technical Education Demonstration Grants.

#### COASTAL PLAINS REGIONAL COMMISSION

- 28.001 Coastal Plain Regional Economic Development.

#### FOUR CORNERS REGIONAL COMMISSION

- 38.001 Four Corners Regional Economic Development.



## NATIONAL SCIENCE FOUNDATION

- 47.036 Intergovernmental Science and Research Utilization.

## NEW ENGLAND REGIONAL COMMISSION

- 48.001 New England Regional Economic Development.

## OFFICE OF ECONOMIC OPPORTUNITY\*

- 49.002 Community Action (excluding administration, research, training and technical assistance, and evaluation).  
49.003 Comprehensive Health Services (To HEW).  
49.004 Drug Rehabilitation (To HEW).  
49.006 Family Planning (To HEW).  
49.009 Migrant and Seasonal Farmworkers Assistance (To DOL).  
49.011 Community Economic Development (To OMBE/DOC).

## OZARKS REGIONAL COMMISSION

- 52.001 Ozarks Regional Economic Development.

## SMALL BUSINESS ADMINISTRATION

- 59.013 State and Local Development Company Loans (Construction only).

## UPPER GREAT LAKES REGIONAL COMMISSION

- 63.001 Upper Great Lakes Regional Economic Development.

## VETERANS ADMINISTRATION

- 64.004 Exchange of Medical Information (EMI).  
64.005 Grants to States for Construction of State Nursing Home Care Facilities.  
64.017 Grants to States for Remodeling of State Home Hospital/Domiciliary Facilities.  
64.114 Veterans Housing—Guaranteed and Insured Loans (GI Home Loans).

## WATER RESOURCES COUNCIL

- 65.001 Water Resources Planning.

## ENVIRONMENTAL PROTECTION AGENCY

- 66.001 Air Pollution Control Program Grants.  
66.005 Air Pollution Survey and Demonstration Grants.  
66.015 Construction Grants for Wastewater Treatment Works.  
66.017 Water Pollution Control-State and Interstate Program Grants.  
66.504 Solid Waste Research Grants.  
66.505 Water Pollution Control Demonstrations.  
66.000 Environmental Protection-Consolidated Program Grants.

## ACTION

- 72.001 Foster Grandparents.

*Other.* The following covered programs have not yet been assigned Catalog numbers and descriptions.

P.L. 92-583, Coastal Zone Management Act of 1972. Grants for management, program development, and administration (Sections 305 and 306).

P.L. 92-500, Federal Water Pollution Control Act Amendments of 1972. Comprehensive Programs for Water Pollution Control (Sec. 102); Grants for areawide waste treatment planning, management, and construction (Title II); Water Quality Implementation Plans (Sec. 303).

P.L. 92-424, Economic Opportunity Amendments of 1972. Assistance under programs for New Special Emphasis (Sec. 11), Design and Planning Assistance (Sec. 226), Youth Recreation and Sports (Sec. 227), Consumer Action and Cooperation (Sec. 228), and for Community Economic Development (Title II).

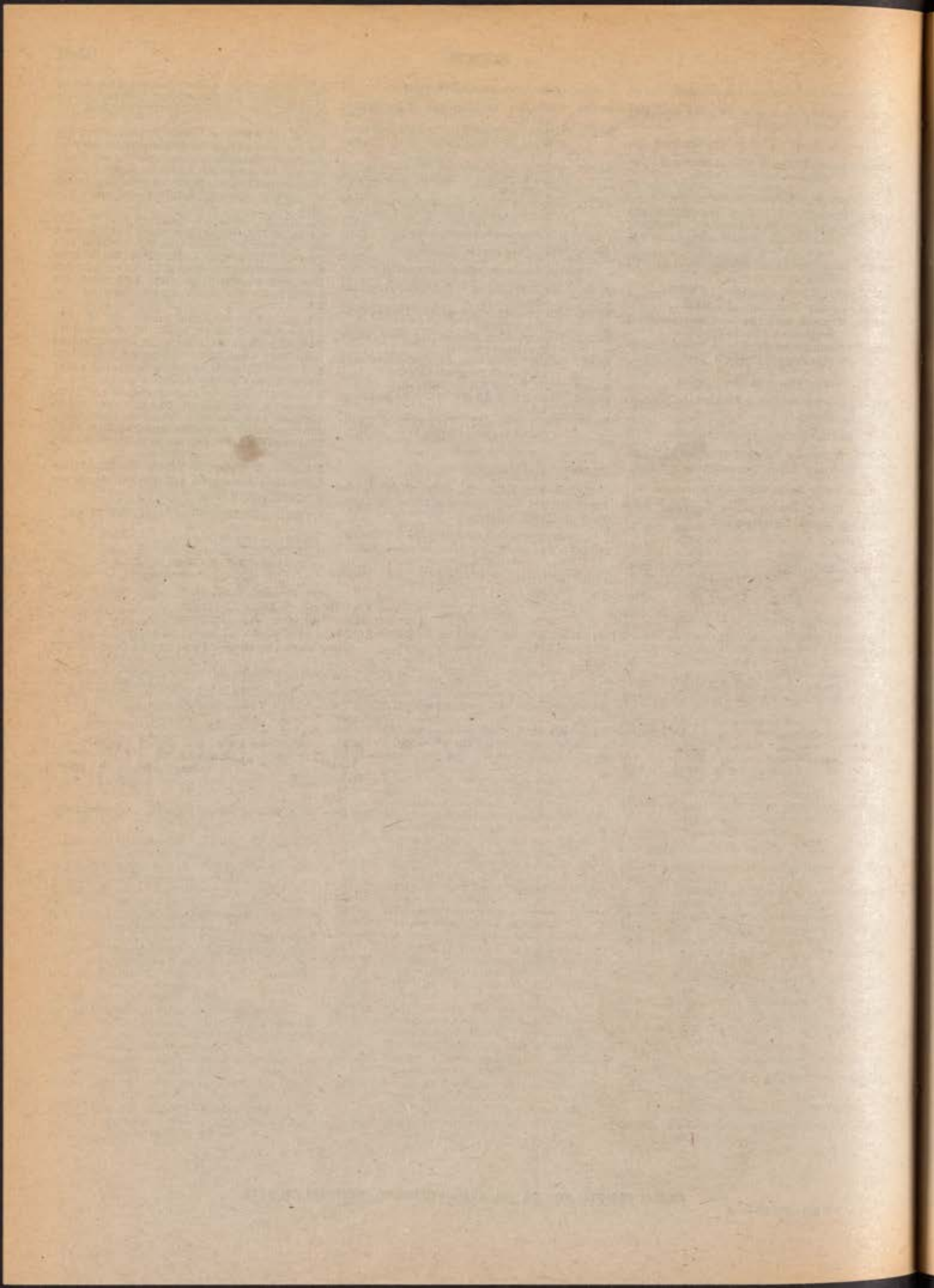
P.L. 92-419, Rural Development Act of 1972. Assistance for Essential Rural Community Facilities (Sec. 104); Rural Industrialization Assistance (Sec. 118); Watershed Protection and Flood Prevention (Sec. 201 (e), (f), (g)); water storage facilities (Sec. 301).

P.L. 92-318, Education Amendments of 1972. Grants for Programs and Projects Relating to National and Regional Problems (Sec. 102); for Construction of Academic Facilities (Sec. 161); and for Metropolitan Area Projects (Sec. 709).

P.L. 92-541, Veterans' Administration Medical School Assistance and Health Manpower Training Act of 1972.

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PART III



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## **ENVIRONMENTAL PROTECTION AGENCY**



### **PENNSYLVANIA AIR PROGRAM IMPLEMENTATION PLAN**

Metropolitan Philadelphia and  
Southwest Pennsylvania Regions



## Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL  
PROTECTION AGENCY

## SUBCHAPTER C—AIR PROGRAMS

PART 52—APPROVAL AND PROMUL-  
GATION OF IMPLEMENTATION PLANS

## Subpart NN—Pennsylvania

METROPOLITAN PHILADELPHIA AND  
SOUTHWEST PENNSYLVANIA AQCRs

This rulemaking sets forth a transportation control plan for the Pennsylvania portion of the Metropolitan Philadelphia Interstate Air Quality Control Region (AQCR) and for the Southwest Pennsylvania Intrastate AQCR. A general preamble was published on November 6, 1973, in the Federal Register (38 FR 30626) and is incorporated by reference herein.

CONTROL PLAN FOR PENNSYLVANIA PORTION  
OF METROPOLITAN PHILADELPHIA AQCR

## BACKGROUND

On June 15, 1973, the Administrator disapproved in part the transportation control plan submitted on April 13, 1973, by the Commonwealth of Pennsylvania for attainment of primary national ambient air quality standards for carbon monoxide (CO) in the Pennsylvania portion of the Metropolitan Philadelphia Interstate Region (38 FR 16550, June 22, 1973). Although the general strategies contained in the plan were acceptable, the overall plan lacked adequate legal and technical assurances that the anticipated emission reductions could be realized and the air quality standards in fact attained.

The plan was not required to, and did not, address the problem of attainment of the photochemical oxidant ( $O_3$ ) standards for the Pennsylvania portion of the Metropolitan Philadelphia Interstate Region by May 31, 1975. As discussed herein, the Administrator is requesting the submission of a revised plan which would contain additional measures regarding the attainment of oxidant standards.

Pennsylvania's request for a 2-year extension in attaining standards also was disapproved because it lacked adequate data to support a conclusion that strategies needed to attain standards in 1975 were technically infeasible. On July 3, 1973, the Administrator proposed regulations to bring details of the strategies contained in the Pennsylvania plan into conformance with technical requirements of the law and also proposed two added strategies to achieve further emissions reductions needed to assure the attainment of standards. These were the air bleed retrofit of pre-1968 vehicles and the gasoline distribution limitations (38 FR 17793).

Public hearings on the EPA plan were held in Philadelphia, Pennsylvania, on July 23 and 24, and September 14, 1973. A total of 47 statements were presented during the hearings, and a total of 32 letters were received both before and after the hearings from private citizens, representatives of business and industry, and spokesmen for environmental

organizations. The control measures promulgated herewith reflect to a great extent comments received in the letters and at the public hearings.

AIR POLLUTION IN THE PENNSYLVANIA PORTION  
OF THE METROPOLITAN PHILADELPHIA  
INTERSTATE AQCR

**Natural features.** The Pennsylvania portion of the Metropolitan Philadelphia Air Quality Control Region is divided into two distinct geological regions, the coastal plain and the Piedmont Plateau. The coastal plain is flat, never rising more than 220 feet above sea level. The Piedmont Plateau, which constitutes the greater part of the region, consists of gently rolling hills generally rising to 500-600 feet above sea level. The dividing line between the two geological regions is called the "fall line." Many waterfalls occur along this line, as the tributaries travel from the inland plateaus to the coastal plain. Since these waterfalls provided natural hydraulic power, many cities sprang up along this line.

The Metropolitan Philadelphia Region is subject to moderating influences because of its proximity to the Atlantic Ocean and the Delaware Bay. Extended cold or heat waves are rare because of these moderating effects, although prevalence of maritime air during the summer months results in high humidity. The region, however, is subject to Bermuda Highs, which are large stagnant air masses that move up the coast from the south. Approximately three of these air mass systems usually occur during the late summer, fall, and early winter months and usually last from 3 to 10 days. The air becomes stable, and temperature inversions result. These air masses are, therefore, conducive to the creation of air pollution problems. The average mixing depths are lower during this time of the year (390-650 meters in the morning, 868-1413 meters in the afternoon) than during the late winter and spring months (799-847 meters in the morning, 1620-2230 meters in the afternoon). Heavy fog, another condition that can be detrimental to air quality, also occurs most frequently during the fall and winter months, about an average of ten times annually. Fog is most prevalent over the low-lying coastal areas where most of the industries in Philadelphia are located.

In addition to air stagnation systems and air stability factors, wind speed and direction are very important. Philadelphia is located in a region with prevailing westerly winds. The prevailing wind direction during the summer is southwest and during the winter is northwest. The average wind speed in the Philadelphia area is 8.3 knots, although calms (less than 2.6 knots) occur 7 percent of the time. The prevailing westerlies are a detriment to air quality at times in the Metropolitan Philadelphia Region because a high percentage of industry is located in the western section of the Region.

**Air quality and reductions.** The Environmental Protection Agency in its pro-

posed transportation control plan of July 3, 1973 (38 FR 17793), proposed measures only for the attainment of the ambient air quality standards for carbon monoxide in the Metropolitan Philadelphia Interstate Region. The Administrator had made an earlier determination that the hydrocarbon/oxidant problem was minimal and that any measures needed to attain carbon monoxide standards would ensure attainment of oxidant standards. Thus, the May 31, 1972, issue of the Federal Register (37 FR 10842) did not require a transportation plan for oxidants. The oxidant air quality data were recently reevaluated; this study, taken in conjunction with updated hydrocarbon (HC) emission information, indicated that the earlier conclusion was erroneous. As a consequence, the Administrator is notifying the Commonwealth of Pennsylvania of the need to reexamine recent air quality data and to submit appropriate revisions to the State implementation plan. A more detailed analysis of the air quality and emission reductions for these pollutants is presented in the following discussion.

The Commonwealth of Pennsylvania, in its transportation control plan submission of April 13, 1973, included a second-highest 1971 8-hour average carbon monoxide concentration of 22.5  $\mu\text{g}/\text{m}^3$ . After verifying the accuracy of this value (and a conversion to a carbon monoxide concentration of 20 ppm), the Administrator has determined it to be the downtown Philadelphia pollutant concentration upon which the control strategies should be based. (See Transportation Control Strategies for the State Implementation Plan, City of Philadelphia, EPA Report APTD 1370, p. 3, February 1973.)

According to the Pennsylvania plan, total carbon monoxide emissions in the Philadelphia Central Business District (CBD) were 28,805 tons/year in 1971. In order to demonstrate attainment of the standards, the EPA calculations, using the rollback technique (see Technical Support Document for the Transportation Control Plan for the Metropolitan Philadelphia Interstate Region, EPA Region III, available as indicated in EPA studies and guidelines section of this preamble), indicate that carbon monoxide emissions must be reduced by 55.5 percent of the 1971 emissions in the Philadelphia CBD to a level of 12,818 tons/year.

The EPA data bank records for 1971 show that Philadelphia's second highest 1-hour concentration of photochemical oxidants was 259  $\mu\text{g}/\text{m}^3$  (0.13 ppm) measured at the Continuous Air Monitoring Project station. However, a validated second-highest reading of 347  $\mu\text{g}/\text{m}^3$  (0.17 ppm) had been recorded at Philadelphia's AMS Laboratory in 1971. Pennsylvania is being requested to evaluate this information together with additional data on hydrocarbon emissions from other sources not previously included in this plan and to adopt any necessary additional hydrocarbon control measures such as measures to control emissions from gasoline handling



and aircraft operations. In addition, Pennsylvania is being requested to make a comprehensive study of all oxidant measures in light of possible higher (but as yet unvaluated) levels of oxidant concentrations.

Presented in Table 2 are the hydrocarbon emissions reductions for Philadelphia that are expected to be achieved by applying the strategies designed to attain carbon monoxide standards by May 31, 1976—the predicted attainment date for that pollutant.

Also presented in Table 2 are measures that reflect on-going State and county programs for control of stationary source emissions. These controls consist of: (1) Dry cleaning vapor recovery (solvent control), (2) gasoline handling vapor recovery (at bulk terminals), and (3) other stationary source rule strengthening.

These stationary source controls have no effect on carbon monoxide emissions in the Philadelphia CBD. The presently estimated effect of the carbon monoxide controls and the stationary source regulations on hydrocarbon emissions is shown in this promulgation and will be considered in the revised implementation plan that Pennsylvania will be requested to submit.

#### STATE TRANSPORTATION CONTROL PLAN

The Pennsylvania plan contained five general strategies: (1) Federal Motor Vehicle Control Program, (2) Pennsylvania motor vehicle inspection, (3) mass transportation improvements, (4) automobile use disincentives, and (5) automobile restraints.

The latter four strategies represent a combination of Pennsylvania, City of Philadelphia, and the Southeastern Pennsylvania Transportation Authority (SEPTA) proposed programs. (See the Pennsylvania Transportation Control Plan including Appendix F of the plan and the referenced document entitled "Progress Reports, City of Philadelphia \* \* \*, Strategies for Implementation of the Air Pollution Control Transportation Plan \* \* \*," dated September 11, 1973.)

The strategies were evaluated to determine whether they were adequate to attain standards. (See 38 FR 16550, June 22, 1973, and "Evaluation Report for the Transportation Control Plan submitted by the Commonwealth of Pennsylvania," EPA Region III).

A brief summary of these strategies and their evaluation is given in the following paragraphs:

The Pennsylvania plan demonstrates legal authority for an emissions inspection program as part of the existing semiannual State vehicle inspection program. The plan claims a 10 percent carbon monoxide emission reduction for all 1968 and later light-duty vehicles through the use of a diagnostic type inspection/maintenance program. However, the proposed program was neither supported by substantiating data (including failure rates) for claimed emission reductions nor by proposed or adopted regulations. Therefore, the Ad-

ministrator considered it necessary to propose and to promulgate an annual inspection program utilizing an idle mode test with a 30 percent failure criterion to correct these deficiencies.

The Pennsylvania Plan (as amplified by the City of Philadelphia and SEPTA) includes the following mass-transit-oriented measures:

Increased peak hour transit capacity. This program includes contracted purchases on 144 new rail cars with deliveries between mid-1973 and mid-1975. Broad Street subway extension which has been completed, procurement of 900 buses by 1975 on a firm schedule of 300 buses per year (300 already procured), 10 percent headway improvement of the Market-Frankford line and platform extensions which have been initiated and scheduled for completion by 1977, and completion of the Airport-Eastwick rail line by 1976.

Increased fringe parking capacity along railroads at the rate of 800 spaces per year starting mid-1974. The program for 1974 is already committed.

A 2-year TOPICS study program is scheduled to begin by the end of 1973 and will encompass approximately 500 miles of Philadelphia roadways. Implementation of approved projects will begin by the end of 1975.

Direct incentives to maximize transit utilization including a public information program, improved system maintenance, service, and security; transit-fare rebates; unified fares; and staggered work hours.

The Pennsylvania Plan assumes that transit expansion, improvement, and incentives will achieve a 5 percent reduction in vehicle miles traveled (VMT) in Philadelphia. The CBD reduction was not stated. EPA calculations indicate that the plan would attain only a 1 percent VMT reduction in the five-county region. In any event, the stated measures were not accompanied by specific VMT or emission reduction data or specific regulations. Therefore, the EPA estimated the emission reductions attributable to transit expansion, improvement, and incentives and has taken account of these reductions in developing the plans promulgated herewith.

The Pennsylvania Plan proposed automobile disincentives to reduce VMT by 10 percent. These consisted of: (1) Reduced lane availability resulting from conversion of some regular driving lanes to exclusive transit lanes, (2) restructured bridge tolls, (3) increased parking costs, and (4) improved enforcement of existing traffic and parking regulations.

However, these strategies were not accompanied by specific data or regulations. Therefore, the Administrator is incorporating significant portions of these strategies in the regulations promulgated herewith.

The Pennsylvania plan also proposed direct restraints on the use of private vehicles in the CBD on certain selected days to obtain a claimed 37 percent reduction of emissions. The Administrator considered these proposals and, in the

EPA-proposed plan, such a strategy was more specifically identified. It was subsequently evaluated and rejected following the public hearing process.

#### ORIGINAL EPA PROPOSAL

In addition to the emission reductions of the Federal Motor Vehicle Control Program, the Environmental Protection Agency proposed in the FEDERAL REGISTER of July 3, 1973 (38 FR 17793), the following measures to reduce carbon monoxide emissions: (1) Inspection and maintenance (included in Pennsylvania's Transportation Control Plan), (2) air bleed retrofit, (3) mass transit improvements (included in Pennsylvania's Transportation Control Plan), (4) traffic flow improvements (included in Pennsylvania's Transportation Control Plan), (5) 20 percent vehicle exclusion, and (6) gasoline distribution limitations.

The measures, as proposed, would have provided for an attainment date of May 31, 1976.

#### FINAL EPA PROMULGATION

The Environmental Protection Agency herewith promulgates regulations designed to correct specific deficiencies in the Pennsylvania plan. The original EPA proposals have been modified to reflect testimony at the public hearings and written comments, and to incorporate portions of the alternative proposals submitted by the City of Philadelphia and SEPTA.

Because the Pennsylvania plan lacks adequate assurance that all gasoline-powered, light-duty vehicles subject to the Pennsylvania Vehicle Inspection Program will meet any defined emission limitations, a regulation is promulgated to prohibit the Commonwealth of Pennsylvania from allowing the operation of vehicles that cannot show proof of satisfactorily passing a vehicle emission test. The promulgated regulation also includes emission testing of medium-duty vehicles since the Administrator has concluded that medium-duty vehicles in the 6,000 to 10,000 lb. gross vehicle weight (GVW) class utilize the same basic engines as light-duty vehicles and can, therefore, be subject to similar emission inspection practices. The regulation, as promulgated, only requires inspection of vehicles registered to owners residing in and vehicles primarily used in the counties included within the Pennsylvania portion of the Metropolitan Philadelphia Interstate Region and exempts special categories of vehicles such as antique or collector vehicles. The Administrator is aware that Pennsylvania has authorized a state-wide inspection system, although Pennsylvania has not yet submitted a revised implementation plan that includes proposed or adopted regulations for an inspection and maintenance program. If such a program is submitted to the Administrator in satisfactory form and is of adequate stringency, then the promulgated regulation will be rescinded.

The inspection regulation as promulgated establishes the type (idle mode),



frequency (once a year), and failure criterion (30 percent) for the inspection program, and requires the first inspection cycle to be completed by April 1, 1976.

According to Appendix N of Part 51 of this chapter, idle mode inspection on an annual basis can be expected to reduce carbon monoxide emissions by 8 percent per vehicle and to reduce hydrocarbon emissions by 10 percent per vehicle. However, the effect of this program on total carbon monoxide emissions for the Philadelphia CBD is a reduction of only 7.5 percent. This is attributable to the fact that, at present, there is no valid inspection program for heavy-duty vehicles (gross vehicle weight over 10,000 lb) for which emission reductions can be predicted. Similarly, the effect on hydrocarbon emissions from mobile sources in the Pennsylvania portion of the Metropolitan Philadelphia Interstate Region is limited to a 6.7 percent reduction both because of the above reason and because any inspection program would have no effect on the evaporative emissions from either light-, medium-, or heavy-duty vehicles.

The additional annual average cost of emissions inspection and maintenance is estimated to be \$6 (i.e., the costs that are above and beyond those currently experienced by vehicle owners).

On the basis of strong support given in testimony at the public hearings and in written comments, the Administrator has determined that it is desirable to promulgate these requirements, which are essentially the same as those proposed in the FEDERAL REGISTER of July 3, 1973 (38 FR 17793).

Regulations are promulgated to require an air bleed retrofit of all pre-1968 light-duty vehicles to limit their emissions by May 31, 1976. The Administrator believes this device to be a practicable, cost-effective, and efficient device capable of large reductions of both carbon monoxide and hydrocarbons. These regulations are substantially the same as those proposed in the FEDERAL REGISTER (38 FR 17793). Exemptions are permitted for certain classes or categories of vehicles, as defined by Pennsylvania. This could include classic or antique cars.

Because the Pennsylvania plan lacks specific assurances of emissions reductions from improvements to public transportation, regulations are promulgated to augment the plan as follows:

Establishment of a program of exclusive bus/carpool and trolley lanes that reflects proposals of the Commonwealth of Pennsylvania and the City of Philadelphia. These bus/carpool lanes would be along Roosevelt Boulevard and on the following streets in the CBD by January 1, 1975: Chestnut Street, Walnut Street, Market Street, 8th Street, 9th Street, 16th Street, 17th Street, 11th Street, and 12th Street. Exclusive trolley lanes would be denoted on 11th Street and 12th Street by appropriate markings and curbing to preclude use of the lane trolley during normal movement of traffic.

Establishment of an exclusive bus/carpool and trolley lane program by January 1, 1975, which expands upon the proposals of the City of Philadelphia by including the following streets identified by Philadelphia as meriting further consideration: Girard Avenue, Erie Avenue, Allegheny Avenue, Baltimore Avenue, Woodland Avenue, Oregon Avenue, Spring Garden Street, Columbia Avenue, Lehigh Avenue, and Ogontz Avenue. Each of these streets already has a bus or streetcar line.

Requirement for the development of exclusive commuter-route bus/carpool lanes (or suitable alternatives) to reduce private vehicle use from certain suburban areas to the CBD by January 1, 1976. This includes development of feasible bus/carpool lanes from or within the following areas: Tacony and adjacent suburbs, King of Prussia, Chester, Paoli, Media, and West Chester.

Requirement for the designation of bus lanes associated with currently used Pennsylvania-New Jersey commuter routes by August 1, 1974. These are required in both inbound and/or outbound directions along the Benjamin Franklin Bridge, Vine Street, 6th Street, Market Street, and Broad Street.

Restriction of on-street parking along all streets which contain dedicated bus lanes or street cars by April 1, 1974. Promulgation of this measure in the Philadelphia CBD corresponds closely with the strategy outlined in the Pennsylvania Plan and amplified in the Philadelphia proposal. The EPA measure stipulates the requirements in the remainder of the five-county region.

Additional vehicle restraints and VMT-reduction measures are included in the final regulations that were not among the proposed regulations. As indicated in the FEDERAL REGISTER of July 3, 1973 (38 FR 17793), the Administrator has been continuing to study additional reasonably available measures that will result in reduction of vehicle miles traveled by automobiles. The Act requires that all control measures that are reasonably available must be applied before an extension may be granted. EPA is under a court order to promulgate a plan that meets this test without further delay. Accordingly, additional measures that have come to the attention of the Administrator and that are reasonably available in the affected areas are included in this promulgation. These are identified in the following paragraphs. Public comment on these measures is invited, but EPA will consider revising the plan only to the extent that evaluation of these comments indicates revision would be appropriate.

Management of parking supply. This regulation will require the pre-construction review of new parking facilities in pollution-impacted areas, will enhance the effectiveness of the City of Philadelphia proposal for fringe parking facilities, and increase mass transit patronage. The regulation herewith promulgated requires the obtaining of a permit before commencing the construction of any facility of 50 or more spaces. A per-

mit will only be granted after it is determined that the parking facility will not have an effect inconsistent with a plan's VMT reduction goals or cause a violation of any ambient air quality standard. For facilities of 250 or more spaces, the permit application must be accompanied by an analysis to ensure that standards will not be violated. This regulation applies to all construction commenced after November 12, 1973, unless the contract for on-site construction work was signed prior to that date.

This regulation establishes review procedures similar to those that the EPA is proposing for indirect sources of pollutants as discussed in the FEDERAL REGISTER of October 30, 1973 (38 FR 29893). In the case of sources that would otherwise be subject to review both under this plan and under a finally promulgated regulation for indirect sources, a single review procedure will be established.

Carpool locator system. This measure requires the institution by an appropriate governmental agency of a computerized system by January 1, 1975, for matching potential carpool participants whose origin, destination, and commuting schedules are compatible. This system is to be made available to the maximum possible number of commuters. Such a measure is necessary if the restraints on individual vehicle use contained in this plan are to have the desired effect of reducing VMT. The Administrator is aware of a commuter-computer program that has been instituted by radio station KYW and the Keystone Automobile Club. The EPA commends these organizations for this progressive step to stimulate organization of carpools.

A detailed guide for the operation of a bus/carpool matching program, along with a discussion of a number of successful programs in operation in many areas of the country, is contained in "Carpool and Buspool Matching Guide" (Second Edition), U.S. Department of Transportation, Federal Highway Administration, May 1973. This report discusses the consideration involved in a successful program, such as public information methods and procedures for updating the service, and is an excellent guide and reference for conducting such a program.

The EPA believes that this approach to reducing vehicle miles traveled is a very good short-term strategy. It involves a minimum investment and deserves the active promotion and support of government and industry.

Employer parking policy. This regulation provides for a bus and carpool incentive and promotion programs that will initially require by February 1, 1974, all private and public employers providing 700 or more employee parking spaces in one location within the CBD to submit a plan to provide incentives to their employees that will encourage them either to ride to work in carpools or to ride the bus or streetcar. These plans must be put into effect by July 1, 1974. By July 1, 1975, the program will be expanded to cover employers with 70 or more employee spaces. Possible elements



of these plans are: Subsidies to employees using mass transit, reduced parking spaces or surcharges for those driving alone, charter buses (buspool), and preferential parking for carpools.

**Bikeway network.** This measure requires the Commonwealth of Pennsylvania to conduct a study by March 1, 1975, of the best locations and designs for bikeway routes and bikeway parking facilities for the Philadelphia CBD. The study is to be made with a view toward safety and security, and is to make recommendations for "rules of the road" for bicyclists. Upon conclusion of the study, the Commonwealth of Pennsylvania, and such local jurisdictions as the Commonwealth requests to participate, are required to establish at least a 25-mile bicycle network to reduce VMT into the Philadelphia CBD by May 31, 1976, unless it is demonstrated to the Administrator's satisfaction that the maximum practicable network is a lesser amount.

A regulation is included in this promulgation that would require State and/or local authorities to monitor VMT, vehicle speeds, and per vehicle emission reductions, and to report such data to the Administrator on a quarterly basis.

The gasoline distribution limitations and the vehicle restriction program that were proposed in the FEDERAL REGISTER of July 3, 1973, (38 FR 17793) are not included in this promulgation as a result of the strong opposition expressed in the public hearing testimony and in subsequent written comments and in view of their economic infeasibility and the severe problems of their enforcement. For a more complete discussion on this topic, see the General Preamble.

The strategies promulgated herein are projected to achieve a 55.8 percent reduction in carbon monoxide emission, which meets the national ambient air quality standards for carbon monoxide by May 31, 1976, in the Pennsylvania portion of the Metropolitan Philadelphia Interstate Region. (The attendant reductions in hydrocarbon emissions are 36.3 percent by that date.) EPA is promulgating the 1-year extension from May 31, 1975, because air bleed retrofit cannot be completely implemented until mid-1976, and because the inspection and maintenance, urban-suburban bus lane, the bicycle lane programs will not be in full operation until 1976.

The Administrator is aware of the additional mobile source emissions that will result from the anticipated 100,000 visitors per day at the Bicentennial Celebration in 1976 and recognizes that realistic assessment of the location and quantity of these emissions is impossible at this time. In the event that the Commonwealth of Pennsylvania determines that emissions generated by the 100,000 visitors will preclude attainment of the national ambient air quality standard for carbon monoxide by May 31, 1976, the Administrator will, upon application by the Governor of Pennsylvania, consider a postponement of the date by which carbon monoxide standards are to be at-

tained, in accordance with the requirements of section 110(f) of the Clean Air Act.

However, the Administrator is also aware of the numerous plans of the Bicentennial Commission to handle the influx of this large number of visitors. These measures are expected to have long-term, post-Bicentennial benefits. They include such transportation improvements as fringe parking facilities

and express bus and rail links to historical sites. He therefore urges their complete and timely implementation to minimize the possibility of even a temporary contravention of air quality standards.

#### SUMMARY

Comparison of the strategy proposed by EPA on July 3, 1973 (38 FR 17793) with the strategy promulgated herewith is presented in Table 1:

TABLE 1—EPA TRANSPORTATION CONTROL PLAN FOR PHILADELPHIA

| Proposal                              | Promulgation                       |
|---------------------------------------|------------------------------------|
| <b>MOBILE SOURCE CONTROLS</b>         |                                    |
| Inspection/maintenance (LDV).....     | Inspection/maintenance (LDV, MDV). |
| Air bleed retrofit, pre-'68 LDV.....  | Air bleed retrofit, pre-'68 LDV.   |
| <b>VMT REDUCTIONS</b>                 |                                    |
| Mass transit improvements.....        | Mass transit improvements.         |
| Exclusive bus/carpool lanes.....      | Exclusive bus/carpool lanes.       |
| Parking restrictions.....             | Parking restrictions.              |
| Traffic flow improvements.....        | Traffic flow improvements.         |
| 20 percent vehicle exclusion.....     | Management of parking supply.      |
| Gasoline distribution limitation..... | Carpool locator program.           |
|                                       | Employer parking policy.           |
|                                       | Bikeway network.                   |

TABLE 2—COMPILATION OF CONTROL STRATEGY EFFECTS FOR PHILADELPHIA, MAY 31, 1976

| SOURCE CATEGORY                                                     | Carbon monoxide |                                | Hydrocarbons  |                                |
|---------------------------------------------------------------------|-----------------|--------------------------------|---------------|--------------------------------|
|                                                                     | Tons per year   | Percent of base year emissions | Tons per year | Percent of base year emissions |
| 1971 Tons per year (base year).....                                 | 28,805          | 100.0                          | 218,159       | 100.0                          |
| Reduction required to reach NAAQS.....                              | 15,087          | 55.6                           | 118,417       | 54.3                           |
| <b>STATIONARY SOURCES</b>                                           |                 |                                |               |                                |
| Emissions without control strategy.....                             | (7)             | 0                              | 105,208       | 48.2                           |
| Expected reductions from existing regulations:                      |                 |                                |               |                                |
| Solvent control.....                                                | 0               |                                | 7,803         | 3.6                            |
| Gasoline handling vapor recovery: Bulk terminals <sup>1</sup> ..... | 0               |                                | 3,420         | 1.6                            |
| Aircraft ground operations.....                                     | 0               |                                | 416           | .2                             |
| Other stationary source rule strengthening.....                     | 0               |                                | 11,775        | 5.4                            |
| Stationary source emissions remaining.....                          | (7)             | 0                              | 81,794        | 37.4                           |
| <b>MOBILE SOURCES</b>                                               |                 |                                |               |                                |
| Emissions from LDV's and HDV's with control strategy.....           | 28,805          | 100.0                          | 112,951       | 51.8                           |
| Expected reductions:                                                |                 |                                |               |                                |
| Federal motor vehicle control program <sup>1</sup> .....            | 12,664          | 44.0                           | 49,528        | 22.7                           |
| Inspection and maintenance.....                                     | 1,206           | 4.2                            | 4,244         | 1.9                            |
| Air bleed retrofit of pre-1968 cars.....                            | 1,386           | 4.8                            | 1,555         | .7                             |
| VMT measures.....                                                   | 682             | 2.4                            | 477           | .3                             |
| Traffic flow improvements.....                                      | 139             | .5                             |               |                                |
| Mobile source emissions remaining.....                              | 12,728          | 44.1                           | 57,147        | 26.2                           |
| Total reductions.....                                               | 16,077          | 55.8                           | 79,218        | 36.3                           |
| Total emissions remaining.....                                      | 12,728          | 44.2                           | 138,941       | 63.7                           |
| Total allowable emissions.....                                      | 12,818          | 44.5                           | 99,742        | 45.7                           |

<sup>1</sup> Includes effect of VMT reductions.

<sup>2</sup> Negligible.

#### IMPLEMENTATION PROCEDURES

Implementation is the key to the success of the air quality improvement program for the Pennsylvania portion of the Metropolitan Philadelphia Interstate Region. Therefore, these regulations provide the necessary administrative procedures; schedules of compliance; and surveillance, monitoring, and enforcement activities.

In all cases where VMT reduction measures are being promulgated by regulations, the State, city, county, or other governmental entity will be required to take steps to accomplish the intended result. The Administrator commends the City of Philadelphia and SEPTA for their detailed proposals for a network of exclusive bus lanes and urges the early submission of a compliance schedule.

#### SOCIAL AND ECONOMIC IMPACT OF THE CONTROLS

A full analysis of the social and economic effects of the transportation control plans has not been made because of the lack of time and because of the innate complexity of the problem. Many factors, such as the willingness of the public to use mass transit instead of the automobile for some trips, cannot be predicted.

Many control measures are designed to provide incentives for the use of mass transit. Preferential treatment of buses and carpools on freeways and city streets, incentives to employees to use mass transit, and management of parking facilities should make the use of buses, streetcars, and carpools easier and more attractive. This would result



in a more balanced system of transportation, available to the entire public. It will necessarily cause some inconvenience and delay in the driving of private automobiles until the public shifts some trips from automobiles to mass transit. Increased ridership has been found to be a vital factor in improved bus and streetcar service, and it is hoped that the regulations promoting the use of mass transit will lead to an improved system, which in turn is even more attractive. Improvements in public transportation will most benefit the poor, the old, and the young—the so-called "captive" riders—although commuters should also benefit from preferential treatment of buses, streetcars, and carpools on highways and city streets. Improved public transit may also uncover and serve a latent trip demand in the present users of public transit.

Within the 5-county Philadelphia region, existing transit facilities and the upgrading of bus services, which can be accomplished in a relatively short time, should permit the absorption of the bulk of the automobile travel displaced by the strategies promulgated herein.

In addition, private automobiles, which are designed to carry four to six persons and currently carry an average of 1.5 persons per trip in the Philadelphia area, represent the largest unused pool of transportation capacity now available.

Although the impact of VMT reductions on aspects of human welfare other than air quality is difficult to access precisely, these measures may create some inconvenience in the short run. Persons accustomed to driving downtown at their own convenience in the assurance of finding a parking space while they shop, or persons accustomed to commuting to and from work at times to some extent of their own choosing may have to modify their previous habits. Some shorter trips will be shifted from automobiles to other forms of transportation such as bicycles or walking.

There may be significant positive aspects associated with these measures. Many experts believe that the sprawling development patterns fostered by widespread automobile use are unduly wasteful of energy, land, and other resources, and have contributed to the decay of urban centers. More widespread use of other modes of transportation will be necessary if these tendencies are to be corrected. (Reference has already been made to cost estimates for the inspection and maintenance and retrofit programs being promulgated).

#### MASS TRANSIT

Improved and expanded mass transit facilities in the Philadelphia metropolitan area are a necessary corollary to the proposed disincentives to and restraints on the personal use of automobiles. The emphasis must be on a large-scale improvement of the existing public transportation system for commuters and shoppers, both CBD and suburban. The existing Southeast Pennsylvania Trans-

portation Authority and Delaware River Port Authority systems consist of about 490 rapid transit cars. For the short term, the best possibility of achieving the required transit improvement is by increasing the capacity of radial bus routes. Philadelphia's existing bus and rail routes must be expanded to absorb expected increases in commuter travel. For example, the capability of the existing Penn Central and Reading rail lines to respond to such increases has been demonstrated during work stoppages affecting the SEPTA bus and streetcar systems. Moreover, recent plans for longer platforms and shorter headways indicate a potential 30 percent increase in peak hour capacity by 1975. However, the amenities and convenient utility of all public transportation systems must be considerably improved to ensure attraction and retention of commuter ridership.

The Administrator, therefore, encourages and will provide all possible support to Federal, State, and local agencies, and to private groups in their efforts to expand the mass transit facilities by May 31, 1976.

#### CONTROL PLAN FOR SOUTHWEST PENNSYLVANIA AQCR

##### BACKGROUND

On June 15, 1973, the Administrator disapproved in part the transportation control plan submitted on April 13, 1973, by the Commonwealth of Pennsylvania for attainment of primary national ambient air quality standards for carbon monoxide (CO) and photochemical oxidants (Ox) in the Southwest Pennsylvania (Pittsburgh) Intrastate Region (38 FR 16550, June 22, 1973). Although the general strategies contained in the plan were acceptable, the overall plan lacked adequate legal and technical assurances that the anticipated emissions reductions could be realized and the air quality standards in fact attained.

The plan did not explicitly show attainment of the photochemical oxidant (Ox) standards for the Southwest Pennsylvania Intrastate Region by May 31, 1975.

Pennsylvania's request for a 2-year extension in attaining standards also was disapproved because it lacked adequate data to support a conclusion that strategies needed to attain standards in 1975 were technically infeasible. On July 3, 1973, the Administrator proposed regulations to bring details of the strategies contained in the Pennsylvania plan into conformance with technical requirements of the law, and also proposed two added strategies to achieve further emissions reductions needed to assure the attainment of standards. These were the air bleed retrofit of pre-1968 vehicles and gasoline distribution limitations (38 FR 17793).

Public hearings on the EPA plan were held in Pittsburgh, Pennsylvania on July 30 and 31, 1973. A total of 36 statements were heard during the public hearings and 7 letters from private citizens, representatives of business and industry,

and spokesmen for environmental organizations were received both prior to and following the hearings on the proposed plan. The control measures promulgated herewith reflect to a great extent comments received in the letters and at the public hearings.

#### AIR POLLUTION IN THE SOUTHWEST PENNSYLVANIA INTRASTATE AQCR

**Natural features.** The Southwest Pennsylvania Air Quality Control Region lies west of the Allegheny Mountains of Pennsylvania and occupies the central portion of the Allegheny Plateau, which extends from southwestern West Virginia into central New York. The topography in this area is characterized by rugged terrain as the three major rivers in the area, the Allegheny, Monongahela, and Ohio, have cut deep valleys into the plateau. Pittsburgh is located at the junction of these rivers. The emanations of the mills and factories are to a considerable extent trapped by the valley walls, and therefore are not dispersed as they would be in open terrain. This problem becomes more acute under the conditions of atmospheric stability.

The Allegheny Plateau, shielded to a large extent from the moderating influence of the Atlantic Ocean by the Appalachian Mountains, is for the most part under the influence of continental polar air masses traveling from Canada by way of the Great Lakes or the Great Plains, although during the summer months the area is frequently overrun by maritime tropical air from the Gulf of Mexico. The Pittsburgh area, lying near the normal storm track for much of the year, is subject to moderately high annual amounts of precipitation and cloudiness. The average mean mixing depths usually range between 1040 meters and 1510 meters during spring and summer months, and 340-730 meters during fall and winter months, when episodes of slowly moving anticyclonic circulations, the so-called "stagnant highs," are fairly common. Under these conditions the air becomes very stable, especially at night under clear skies when radiational cooling gives rise to pronounced temperature inversions near the ground. The pollutants from the numerous steel mills and other stationary sources, as well as those from motor vehicles, tend to become trapped in the lower layers of the atmosphere during the late night and early morning hours, until the increasing input of solar energy after sunrise can burn off the ground fog and clear the air by wiping out the inversion and restoring a more normal temperature distribution aloft. Although this condition is certainly not unique to the Pittsburgh area, it is made worse there by the presence of concentrated emissions of pollutants in the narrow, deep, and winding valleys, which act both as physical deterrents to the dispersal of pollutants and as delaying agents to the onset of the solar heating effect.

An additional effect is the well-known "mountain and valley breeze," which tends to concentrate the colder air near the bottoms of the valleys during the



hours of darkness, thus increasing still further the strength of the temperature inversions and causing a further delay in their breakup during the day. All of this gives rise to frequent river fogs and, where concentrations of pollutants are present, to potentially severe air pollution episodes. One of the best-known of such occurrences, that at Donora, Pennsylvania, took place in 1948 not more than 20 miles from downtown Pittsburgh under precisely the conditions outlined above: Stable atmosphere with little or no wind, cold weather, nighttime hours, and concentrated industrial emissions in a narrow, winding, steep-walled valley (that of the Monongahela River).

Next to terrain and atmospheric stability effects, the most important meteorological parameters for air pollution consideration are the wind speed and direction. While the Pittsburgh area lies in the heart of the prevailing westerlies of the Temperate Zone, the rough terrain creates wide variations from the mean wind velocity. In general, the "roughness effect" acts to decrease the mean wind speed due to frictional forces; at the same time, the local wind direction tends to become channeled along the orientation of the valleys. The overall result is to create a tendency for further concentration of pollutants in the valley areas containing industrial and highway sources. With this combination of unfavorable influences at work in the Greater Pittsburgh area, a serious air pollution problem has existed since the middle of the 19th Century.

**Air quality and reductions.** The Commonwealth of Pennsylvania, in its transportation control plan submission of April 13, 1973, included a second-highest 8-hour average carbon monoxide concentration of 23.2 mg/m<sup>3</sup>, and a second-highest 1-hour oxidant concentration of 304 µg/m<sup>3</sup>. After verifying the accuracy of these values (and conversion to a carbon monoxide concentration of 21 ppm and an oxidant concentration of 0.155 ppm) the Administrator has determined them to be the air quality levels for these pollutants upon which the control strategies may be based for Pittsburgh.

According to the Pennsylvania plan, total carbon monoxide emissions in the Pittsburgh CBD, on which the strategies are to be based, were 13,130 tons/year in 1971. EPA concurs with this estimate. Total hydrocarbon emissions were not identified.

In order to demonstrate attainment of the standards, the Environmental Protection Agency calculations, using the rollback technique (see Technical Support Document for the Transportation Control Plans for the Southwest Pennsylvania Intrastate Region, EPA Region III, available as indicated in the EPA studies and guidelines section of this preamble), indicate that carbon monoxide emissions must be reduced by 56.9 percent of the 1971 emissions in Pittsburgh CBD to a level of 5,659 tons/years.

The hydrocarbon emission inventory from stationary sources, as presented in

the EPA-proposed promulgation of July 3, 1973 (38 FR 17793), was based on the contractor's report (See "Transportation Controls to Reduce Motor Vehicle Emissions in Pittsburgh, Pa." EPA Report APTD-1446, p. II-87), which reflected a stationary/mobile source emission ratio of 0.22/0.78. Based on the updated stationary sources emissions data provided in correspondence from the Allegheny County Bureau of Air Pollution Control (See "Stationary Source Emission Inventory for Allegheny County (1971-1977)", J. D. Graham letter to C. C. Miesse, dated August 30, 1973), which the Administrator has determined to be a more valid representation of the baseline emissions, EPA calculations indicate higher 1971 hydrocarbon emissions than indicated in the FEDERAL REGISTER of July 3, 1973, (38 FR 17793). From EPA calculations based on APTD-1446, "Transportation Controls to Reduce Motor Vehicle Emissions in Pittsburgh, Pennsylvania" and additional data supplied by the Allegheny County Department of Planning and Development, subsequent to the EPA proposals in the July 3, 1973, issue of the FEDERAL REGISTER (38 FR 17793); hydrocarbon emissions in Allegheny County were 93,323 tons/year in 1971. Based on EPA calculations using 40 CFR Part 51, Appendix J, the hydrocarbon emissions must be reduced by 49.3 percent of the 1971 emissions in Allegheny County to a level of 47,315 tons/year.

The stationary source controls presented in Table 4 reflect on-going state and county programs for control of stationary source emissions. These controls consist of: (1) Dry cleaning vapor recovery (solvent control); (2) gasoline handling vapor recovery (at bulk terminals); and (3) other stationary source rule strengthening.

#### STATE TRANSPORTATION CONTROL PLAN

The Pennsylvania plan contained five general strategies: Federal Motor Vehicle Control Program, Pennsylvania motor vehicle inspection, mass transportation improvements, automobile use disincentives, and automobile restraints. The latter four strategies, which represent a combination of Pennsylvania, Allegheny County, and the City of Pittsburgh proposed programs, were also evaluated. (See "Proposed Transportation Control Plan for Allegheny County", D. Bond letter to C. Miesse, August 6, 1973; City of Pittsburgh testimony at EPA public hearing, July 30, 1973; FEDERAL REGISTER, 38 FR 16550, June 22, 1973; and Evaluation Report for the "Transportation Control Plan submitted by the Commonwealth of Pennsylvania, EPA Region III.")

A brief summary of these strategies and their evaluation is given in the following paragraphs:

The Pennsylvania plan demonstrates legal authority for an emissions inspection program as part of the existing semiannual State vehicle inspection program. The plan claims a 10 percent carbon monoxide emission reduction for all

1968 and later light-duty vehicles through the use of a diagnostic type inspection/maintenance program. However, the proposed program was neither supported by substantiating data (including failure rates) for claimed emission reductions nor by proposed or adopted regulations. Therefore, the Administrator considered it necessary to propose and to promulgate an annual inspection program utilizing an idle mode test with a 30 percent failure criteria to correct these deficiencies.

The Pennsylvania plan (as amplified by Allegheny County and the City of Pittsburgh) includes the following mass-transit oriented measures:

**Increased peak hour transit capacity.** The City of Pittsburgh and Allegheny County plan will increase peak hour capacity by purchasing 50 additional buses for express service (for which funds are committed), providing feeder bus service for existing commuter rail lines, initiating express streetcar service on several lines, paving an existing trolley tunnel for faster bus use, and establishing an exclusive busway.

**Increased fringe parking capacity.** A series of park-ride lots will be established to provide 4,000 spaces for the express bus routes. By mid-1974, 1,900 of these spaces will be available; the remainder will be provided by mid-1975.

**TOPICS program.** The 6-year program scheduled to begin in 1973 will provide improved signalization and signs, channelization, and widening along 105 miles of roadways in Allegheny County. The contractor's report (see "Transportation Controls to Reduce Motor Vehicle Emissions in Pittsburgh, Pennsylvania," EPA Report APTD-1446) estimates that this program should result in a 10 percent increase in daily overall speed, leading to a 1.0 percent reduction in carbon monoxide emissions in the CBD.

**Direct incentives to maximize transit utilization.** The measures include a public information program; improved system maintenance, service, and security; transit-fare rebates; and staggered work hours.

**Buspool program for major employers.** Plans are currently being developed by the Southwestern Pennsylvania Regional Planning Commission to establish a system of express buspool and/or carpool routes for employees of the city, county, State, and Federal Governments. Special carpool parking facilities will be proposed on the fringe of the CBD, with tripper buses available along direct routes to the CBD. Major industries are encouraged to provide small buses for employee commuter trips.

This plan is designed to achieve a vehicle miles traveled (VMT) reduction of 6.5 percent in the CBD and 2 percent in Allegheny County based on information provided by Allegheny County. (See "Proposed Transportation Control Plan for Allegheny County", D. Bond letter to C. C. Miesse, dated August 6, 1973). However, the plan was not accompanied by



specific regulations. The EPA has estimated the emissions reductions attributable to transit expansion, improvement, and incentives and has taken account of these reductions in developing the plans promulgated herewith.

The Pennsylvania plan proposed auto-use disincentives to reduce VMT by 10 percent. These consisted of: (1) Reduced lane availability resulting from conversion of some regular driving lanes to exclusive transit lanes, (2) increased parking costs, and (3) improved enforcement of existing traffic and parking regulations.

However, these strategies were not accompanied by specific data or regulations. Therefore, the Administrator is incorporating significant portions of these strategies in the regulations promulgated herewith.

The Pennsylvania plan also proposed direct restraints on the use of private vehicles in the CBD on certain selected days to obtain a claimed 19 percent reduction emissions. The Administrator considered these proposals and, in the EPA-proposed plan, such a strategy was more specifically identified. It was subsequently evaluated and rejected following the public hearing process.

#### ORIGINAL EPA PROPOSAL

In addition to the emission reductions of the Federal Motor Vehicle Control Program, the Environmental Protection Agency proposed, in the FEDERAL REGISTER of July 3, 1973 (38 FR 17793), the following measures to reduce carbon monoxide and hydrocarbon emissions: (1) Inspection and maintenance (included in Pennsylvania's Transportation Control Plan), (2) air bleed retrofit, (3) mass transit improvements (included in Pennsylvania's Transportation Control Plan), (4) traffic flow improvements (included Pennsylvania's Transportation Control Plan), (5) 20 percent vehicle exclusion, and (6) gasoline distribution limitations. The measures, as proposed, would have provided for an attainment date of May 31, 1976.

#### FINAL EPA PROMULGATION

The Environmental Protection Agency herewith promulgated regulations designed to correct specific deficiencies in the Pennsylvania plan. The original EPA proposals have been modified to reflect testimony at the public hearings and written comments, and other new technical information available to the Administrator, and to incorporate portions of the alternative proposals submitted by the City of Pittsburgh and Allegheny County.

Because the Pennsylvania plan lacks adequate assurance that all gasoline-powered, light-duty vehicles subject to the Pennsylvania Vehicle Inspection Program will meet any defined emission limitations, a regulation is promulgated to prohibit the Commonwealth of Pennsylvania from allowing the operation of vehicles that cannot show proof of satisfactorily passing a vehicle emission test. The promulgated regulation also

includes emission testing of medium-duty vehicles since the Administrator has concluded that medium-duty vehicles in the 6,000 to 10,000 lb gross vehicle weight (GVW) class utilize the same basic engines as light-duty vehicles and can, therefore, be subjected to similar emission inspection practices. The regulation, as promulgated, only requires inspection of vehicles registered in, or primarily used in, the counties included within the Southwest Pennsylvania Intrastate Region and exempts special categories of vehicles such as antique or collector vehicles. The Administrator is aware that Pennsylvania has authorized a statewide inspection system, although Pennsylvania has not yet submitted a revised implementation plan that includes proposed or adopted regulations for an inspection and maintenance program. If such a program is submitted to the Administrator in satisfactory form and is of adequate stringency, then the promulgated regulation will be rescinded.

The inspection regulation promulgated establishes the type (idle mode), frequency (once a year), and failure criterion (30 percent) for the inspection program, and requires the first inspection cycle to be completed by April 1976. According to Appendix N of Part 51 of this chapter, idle mode inspection on an annual basis can be expected to reduce hydrocarbon emissions by 10 percent per vehicle and carbon monoxide by 8 percent. However, the effect on total carbon monoxide emissions for the Pittsburgh CBD is limited to a 6.9 percent reduction. This is attributable to the fact that, at present, no inspection program emissions reduction can be predicted for heavy-duty vehicles (gross vehicle weight greater than 10,000 lb). Similarly, the effect on total hydrocarbon emissions for Allegheny County is limited to a 7.0 percent reduction both because of the uncertainty regarding the possible reductions resulting from inspection of heavy-duty vehicles and because any inspection program will have no effect on the evaporative emissions from light- and heavy-duty vehicles. The additional annual average cost of emissions inspection and maintenance is estimated to be \$6 (i.e., the costs that are above and beyond those currently experienced by vehicle owners). On the basis of strong support given in testimony at the public hearings and in written comments, the Administrator has determined that it is desirable to promulgate these requirements, which are essentially the same as those proposed in the FEDERAL REGISTER of July 3, 1973 (38 FR 17793).

Regulations are promulgated to require an air bleed retrofit of all pre-1968 light-duty vehicles to limit their emissions by May 31, 1976, which the Administrator believes to be adequate time for the installation. If additional time is required to complete the installation, the Governor of Pennsylvania may apply for an extension. The Administrator believes that the air bleed retrofit is a practicable, cost-effective, and efficient device capable of large reductions of both carbon monoxide and hydrocarbons. These reg-

ulations are substantially the same as those proposed in the FEDERAL REGISTER (38 FR 17793). Exemptions are permitted for certain classes or categories of vehicles, as defined by Pennsylvania. This could include classic or antique cars.

Because the Pennsylvania plan lacks specific assurances of emissions reductions from improvements to public transportation, regulations are promulgated to augment the plan as follows:

Establishment of exclusive bus/carpool lanes along major arteries and streets in the CBD and Allegheny County as identified in the proposals submitted by the Commonwealth of Pennsylvania, Allegheny County, and the City of Pittsburgh. These streets and arteries include Fifth Avenue (both directions), Liberty Avenue (outbound), Centre Avenue (outbound), Stanwix Street (inbound), the Penn Lincoln Parkway (inbound and outbound), and the Fort Pitt Bridge (outbound).

Requirement for the development by January 1, 1976, of exclusive commuter route bus/carpool lanes (or suitable alternatives) to reduce private vehicle use from certain suburban areas to the CBD. This includes development of feasible bus/carpool lanes from or within the following areas: Bellevue, Bethel Park, Clairton, Greater Pittsburgh International Airport, McKeesport, McKees Rocks, Monroeville, North Braddock, Penn Hills, and Aspinwell.

Restriction of on-street parking along all streets which contain exclusive bus lanes, including those streets designated by the City of Pittsburgh and/or Allegheny County by April 1, 1974. Promulgation of this measure in the City of Pittsburgh corresponds closely with the strategy outlined in the Pennsylvania Plan and amplified in the proposals submitted by Allegheny County and the City of Pittsburgh. The EPA measure stipulates the requirements in the remainder of Allegheny County.

Additional measures for stationary source control, vehicle restraints, and VMT reduction are included in the final regulations that were not among the proposed regulations. As indicated in the FEDERAL REGISTER of July 3, 1973 (38 FR 17793), the Administrator has been continuing to study additional reasonably available measures that will result in reduction of vehicle miles traveled by automobiles. The Act requires that all control measures that are reasonably available must be applied before an extension may be granted. EPA is under a court order to promulgate a plan that meets this test without further delay. Accordingly, additional measures that have come to the attention of the Administrator and that are reasonably available in the affected areas are included in this promulgation. These are identified in the following paragraphs. Public comment on these measures are invited, but EPA will consider revising the plan only to the extent that evaluation of these comments indicates revision would be appropriate.

Service station tank vapor control. This regulation requires the installation



of vapor recovery devices, capable of reducing hydrocarbon emissions by 90 percent, on submerged gasoline tanks at all service stations in Allegheny County by March 1, 1976. In view of continuing high concentrations of photochemical oxidants in Allegheny County, the Administrator is promulgating this regulation in order to facilitate earlier attainment of the national ambient air quality standards and to assure maintenance of these standards beyond the 1976 attainment date.

Management of parking supply. This regulation will require the pre-construction review of new parking facilities in pollution-impacted areas, will enhance the effectiveness of the Allegheny County proposal for fringe parking facilities, and will increase mass transit patronage. The regulation herewith promulgated requires the obtaining of a permit before commencing the construction of any facility of 50 or more spaces. A permit will only be granted after it is determined that the parking facility will not have an effect inconsistent with a plan's VMT reduction goals or cause a violation of any ambient air quality standard. For facilities of 250 or more spaces, the permit application must be accompanied by an analysis to ensure that standards will not be violated. This regulation applies to all construction commenced after November 13, 1973, unless a contract for on-site construction work was signed prior to that date.

Promulgation of this measure in the Southwest Pennsylvania Intrastate Region will tend to limit commuter vehicular traffic to the present levels in areas of high employment density and will thus serve to reinforce the anticipated reductions resulting from diversion of vehicular trips to mass transit facilities. This regulation establishes review procedures similar to those which the EPA is proposing for indirect sources as discussed in the FEDERAL REGISTER of October 30, 1973, (38 FR 29893). In the case of sources which would otherwise be subject to review both under this plan and under a finally promulgated regulation for indirect sources, a single review procedure will be established.

Carpool locator system. This measure requires the institution by an appropriate governmental agency of a computerized system by January 1, 1975, for matching potential carpool participants whose origin, destination, and commuting schedules are compatible. This system is to be made available to the maximum possible number of commuters. Such a measure is necessary if the restraints on individual vehicle use contained in this plan are to have the desired effect of reducing VMT.

The Administrator is aware of a commuter-computer program that has been instituted by radio station KDKA and

Auto Data Processing of Pittsburgh. He commends these organizations for this progressive step to stimulate carpooling.

A detailed guide for the operation of a bus/carpool matching program, along with a discussion of a number of successful programs in operation in many areas of the country is contained in "Carpool and Buspool Matching Guide (Second Edition)," Department of Transportation Federal Highway Administration, May 1973. This report discusses the considerations involved in a successful program such as public information, incentives, data processing, and a continuous updating of the service, and is an excellent guide and reference for conducting such a program.

The EPA believes that this approach to reducing vehicle miles traveled is a very good short-term strategy. It involves a minimum investment and deserves the active promotion and support of government and industry.

Employer parking policy. This regulation provides for a bus and carpool incentive and promotion program that will initially require all private and public employers providing 700 or more employee parking spaces in one location within the CBD to submit a plan by February 1, 1974, to provide incentives to those employees that will encourage them either to ride to work in carpools or to ride the bus. The plan must be put into effect by July 1, 1974. By July 1, 1975, the program will be expanded to cover employers with 70 or more employee spaces. Possible elements of these plans are: subsidies to employees using mass transit, reduced parking spaces or surcharges for those driving alone, charter buses (buspools), and preferential parking for carpools.

Bikeway network. This measure requires the Commonwealth of Pennsylvania to conduct a study by March 1, 1975, of the best locations and designs for bikeway routes and bikeway parking facilities for commuters into the Pittsburgh CBD. The study is to be made with a view

toward safety and security, and is to make recommendations for "rules of the road" for bicyclists. Upon conclusion of the study, the Commonwealth of Pennsylvania and such local jurisdictions as the Commonwealth requests to participate, are required to establish at least a 10-mile bicycle network to reduce VMT into the Pittsburgh CBD by May 31, 1975, unless it is demonstrated to the Administrator's satisfaction that the maximum practicable network is a lesser amount.

A regulation included in this promulgation would require state and/or local authorities to monitor VMT, average vehicle speed, and per-vehicle emission reductions and to report such data to the Administrator on a quarterly basis.

The gasoline distribution limitations and the vehicle restriction program that were proposed in the FEDERAL REGISTER of July 3, 1973, (38 FR 17793) are not included in this promulgation as a result of the strong opposition expressed in the public hearing testimony and in subsequent written comments and in view of their economic infeasibility and the severe problems of their enforcement. For a more complete discussion on this topic, see the general preamble.

The strategies promulgated herein are projected to achieve a 57.1 percent reduction in carbon monoxide emissions by May 31, 1977, and 49.4 percent reduction in hydrocarbon emissions by June 30, 1976, which meet the national ambient air quality standards for carbon monoxide and photochemical oxidants in the Southwest Pennsylvania Intrastate Region. EPA is promulgating these extensions from May 31, 1975, because inspection, air bleed retrofit, bicycle lanes, urban-suburban bus lanes, and vapor recovery measures cannot be completely implemented until mid-1976.

#### SUMMARY

Comparison of the strategy proposed by EPA on July 3, 1973 (38 FR 17793), with the strategy promulgated herewith is presented in Table 3:

TABLE 3—EPA TRANSPORTATION CONTROL PLAN FOR PITTSBURGH

| Proposal                            | Promulgation                        |
|-------------------------------------|-------------------------------------|
| STATIONARY SOURCE CONTROLS          |                                     |
|                                     | Service Station Tank Vapor Control. |
| MOBILE SOURCE CONTROLS              |                                     |
| Inspection/Maintenance (LDV).....   | Inspection/Maintenance (LDV, MDV).  |
| Air Bleed Retrofit, pre-68 LDV..... | Air Bleed Retrofit, pre-68 LDV.     |
| VMT REDUCTIONS                      |                                     |
| Mass Transit Improvements.....      | Mass Transit Improvements.          |
| Exclusive Bus/Carpool Lanes.....    | Exclusive Bus/Carpool Lanes.        |
| Parking Restrictions.....           | Parking Restrictions.               |
| Traffic Flow Improvements.....      | Traffic Flow Improvements.          |
| 20% Vehicle Exclusion.....          |                                     |
| Gasoline Distribution Limit.....    |                                     |
|                                     | Management of Parking Supply.       |
|                                     | Carpool Locator Program.            |
|                                     | Employer Parking Policy.            |
|                                     | Bikeway Network.                    |



TABLE 4.—COMPILED OF CONTROL STRATEGY EFFECTS FOR PITTSBURGH

| SOURCE CATEGORY                                           | Carbon monoxide<br>May 31, 1977 |                                   | Hydrocarbons<br>June 30, 1976 |                                         |
|-----------------------------------------------------------|---------------------------------|-----------------------------------|-------------------------------|-----------------------------------------|
|                                                           | Tons<br>per<br>year             | Percent<br>base year<br>emissions | Tons<br>per<br>year           | Percent<br>of<br>base year<br>emissions |
| 1971 tons per year (base year)                            | 13,130                          | 100.0                             | 83,323                        | 100.0                                   |
| Reduction required to reach NAAQS                         | 7,471                           | 56.9                              | 46,008                        | 49.3                                    |
| <b>STATIONARY SOURCES</b>                                 |                                 |                                   |                               |                                         |
| Emissions Without Control Strategy                        | (1)                             |                                   | 34,875                        | 37.4                                    |
| Expected reductions from existing regulations:            |                                 |                                   |                               |                                         |
| Solvent control                                           | (1)                             |                                   | 500                           | .5                                      |
| Gasoline handling vapor recovery: Bulk loading facilities | (1)                             |                                   | 4,596                         | 4.9                                     |
| Aircraft ground operations                                | (1)                             |                                   | 829                           | .9                                      |
| Other stationary source rule strengthening                | (1)                             |                                   | 6,392                         | 6.8                                     |
| Expected reductions from EPA promulgation:                |                                 |                                   |                               |                                         |
| Gasoline handling, Phase I                                |                                 |                                   | 3,263                         | 3.6                                     |
| Stationary source emissions remaining                     | (1)                             |                                   | 19,195                        | 20.6                                    |
| <b>MOBILE SOURCES</b>                                     |                                 |                                   |                               |                                         |
| Emissions from LDV's and HDV's without control strategy   | 13,130                          | 100.0                             | 58,448                        | 62.6                                    |
| Expected reductions:                                      |                                 |                                   |                               |                                         |
| Federal motor vehicle control program                     | 6,234                           | 47.5                              | 26,925                        | 28.9                                    |
| Inspection and maintenance                                | 474                             | 3.7                               | 2,305                         | 2.4                                     |
| Air bleed retrofit of pre-1968 cars                       | 390                             | 3.0                               | 759                           | .8                                      |
| VMT measures                                              | 333                             | 2.5                               | 518                           | .5                                      |
| Traffic flow improvements                                 | 60                              | .5                                |                               |                                         |
| Mobile source emissions remaining                         | 5,639                           | 42.8                              | 28,045                        | 30.3                                    |
| Total reductions                                          | 7,491                           | 57.1                              | 46,083                        | 49.4                                    |
| Total emissions remaining                                 | 5,639                           | 42.8                              | 47,240                        | 50.6                                    |
| Total allowable emissions                                 | 5,659                           | 43.1                              | 47,315                        | 50.7                                    |

(1) Includes effect of VMT reduction.

(2) Negligible.

## IMPLEMENTATION PROCEDURES

Implementation is the key to the success of the air quality improvement program for the Southwest Pennsylvania Intrastate Region. Therefore, these regulations provide the necessary administrative procedures; schedules of compliance; and surveillance, monitoring, and enforcement activities.

In all cases where VMT reduction measures are being promulgated by regulations, the State, city, and county, or other governmental entity will be required to take steps to accomplish the intended result. The Administrator commends Allegheny County and the City of Pittsburgh for their detailed proposals for a network of exclusive bus lanes and urges the early submission of a compliance schedule.

## MASS TRANSIT AND SOCIO-ECONOMIC IMPACT

Improved and expanded mass transit facilities in the Pittsburgh metropolitan area are a necessary corollary to the proposed disincentives and restraints on the personal use of automobiles. The emphasis must be a large-scale expansion of a very limited public transportation system for CBD commuters and shoppers, both CBD and suburban. The existing Port Authority of Allegheny County (Pittsburgh) system consists of about 915 buses and 95 streetcars. For the short-term, the best possibility of achieving the required transit expansion is by increasing the capacity of radial bus routes. However, the amenities and convenient utility of all public transportation systems must be considerably improved to ensure attraction and retention of commuter ridership.

The Administrator, therefore, encourages and will provide all possible support to Federal, State, and local agencies, and to private groups in their efforts to expand the mass transit facilities by June 30, 1976.

The problem in Pittsburgh is somewhat formidable since there is no rapid transit system and only a minimal commuter rail system.

Within Allegheny County, existing transit facilities and the upgrading of bus services, which can be accomplished in a relatively short time, should permit the absorption of the bulk of the automobile travel displaced by the strategies promulgated herein.

In addition, private automobiles, which are designed to carry four to six persons and currently carry an average of 1.46 persons per trip in the Pittsburgh area, represent the largest unused pool of transportation capacity now available.

Although the impact of VMT reductions on aspects of human welfare other than air quality is difficult to assess precisely, these measures may create some inconvenience in the short run. Persons accustomed to driving downtown at their own convenience in the assurance of finding a parking space while they shop, or persons accustomed to commuting to and from work at times to some extent of their own choosing, will have to modify their previous habits. Some shorter trips will be shifted from automobiles to other forms of transportation such as bicycles or walking.

There may be significant positive aspects associated with these measures. Many experts believe that the sprawling development patterns fostered by widespread automobile use are unduly wasteful of energy, land, and other resources,

and have contributed to the decay of urban centers. More widespread use of other modes of transportation will be necessary if these tendencies are to be corrected. The vapor control measures at service stations will result in a saving of fuel while adding less than one cent per gallon to the cost.

Reference has already been made to cost estimates for the inspection and maintenance and retrofit programs being promulgated.

## EPA STUDIES AND GUIDELINES

Further information on transportation control, land use, and motor vehicle emissions may be obtained from one or more of the following documents which the Environmental Protection Agency has in its possession or has published:

a. "Prediction of the Effects of Transportation Controls on Air Quality in Major Metropolitan Areas" and "Evaluating Controls to Reduce Motor Vehicle Emissions in Major Metropolitan Areas" November 1972. Both of these documents are generally known as the "Six Cities Study".

b. "Transportation Controls to Reduce Motor Vehicle Emissions in Major Metropolitan Areas" December 1972. This document is a summary of a study of 14 cities conducted with the view of recommending specific transportation control strategies. (Separate reports for each of the 14 cities are also available.)

Note: The documents listed in a and b above are available from the Air Pollution Technical Information Center, EPA, Research Triangle Park, North Carolina 27711.

c. "Control Strategies for In-Use Vehicles" November 1972. This report is available from EPA, Mobile Source Pollution Control Programs, 401 M Street SW., Washington, D.C. 20460.

d. "Transportation Control Measures" FEDERAL REGISTER (38 FR 15194) June 8, 1973.

e. "Transportation Control Strategies for the State Implementation Plan: City of Philadelphia" APTD-1370 (February 1973), available from EPA, Office of Air and Water Programs, Research Triangle Park, North Carolina 27711.

f. "Technical Support Document for the Transportation Control Plan for the Metropolitan Philadelphia Interstate Region," EPA Region III.

g. "Aircraft Emissions: Impact on Air Quality and Feasibility of Control," U.S. Environmental Protection Agency.

h. "Strategies for Implementation of the Air Pollution Control Transportation Plan to Meet Carbon Monoxide Air Quality Standards in Philadelphia," City of Philadelphia, Environmental Transportation Coordinating Committee, September 11, 1973.

i. "Facilities and Services Needed to Support Bicycle Commuting into Center City Philadelphia," Philadelphia Bicycle Coalition, June 1973.

j. "Evaluation Report for the Transportation Control Plan Submitted by the Commonwealth of Pennsylvania," EPA Region III, 1973.



k. "Progress Reports, City of Philadelphia," Managing Director's Office, Environmental Transportation Coordinating Committee, "Strategies for Implementation of the Air Pollution Control Transportation Plan to Meet Carbon Monoxide Air Quality Standards in Philadelphia," dated September 11, 1973.

l. "Transportation Controls to Reduce Motor Vehicle Emissions in Pittsburgh, Pennsylvania" APID-1446 (December 1972), available from EPA, Office of Air and Water Programs, Research Triangle Park, North Carolina 27711.

m. Proposed Transportation Control Plan for Allegheny County, D. Bond letter to C. C. Miesse, dated August 6, 1973.

n. Technical Support Document for the Transportation Control Plan for the Southwest Pennsylvania Intrastate Region, EPA, Region III.

o. Stationary Source Emission Inventory for Allegheny County (1971-1977), J. D. Graham letter to C. C. Miesse, dated August 30, 1973.

p. Total Aircraft Operations: Pittsburgh, T. Stockhausen letter to C. C. Miesse, dated August 30, 1973.

q. City of Pittsburgh testimony on the transportation control strategy proposed by the Environmental Protection Agency, July 30, 1973.

r. Bikeways for Pittsburgh, Pittsburgh Council American Youth Hostels, Inc., September 1972.

s. Carpool and Buspool Matching Guide (Second Edition), May 1973, available from the U.S. Department of Transportation, Federal Highway Administration.

All documents listed above are available for inspection at the Freedom of Information Center, U.S. Environmental Protection Agency, Room W232, 401 M Street SW., Washington, D.C. 20460, and at the EPA Region III office, Sixth and Walnut Streets, Philadelphia, Pennsylvania 19106.

#### EFFECTIVE DATES

Should the Commonwealth of Pennsylvania submit revisions to its own plan which are determined to meet the requirements of the law, the regulations set forth in this notice will be rescinded. It is the desire of the Environmental Protection Agency that the plan to attain and maintain the national ambient air quality standards in the Metropolitan Philadelphia Interstate Region and in the Southwest Pennsylvania Intrastate Region be a state plan carried out by the State.

The regulations promulgated today become effective on December 28, 1973 except in the case of those regulations that impose requirements for specific action at earlier dates. In such cases, the Administrator has found that good cause exists for accelerating the effective date because of the need to take action as expeditiously as practicable in order to attain and maintain the national ambient air quality standards. The regulation for management of parking sup-

ply is effective immediately upon signature of this plan and applies to actions (42 U.S.C. 1857c-5(c), 1857g.)

Dated: November 12, 1973.

JOHN QUARLES,  
Acting Administrator.

Subpart NN of 40 CFR Part 52 is amended as follows:

1. Section 52.2022 is amended by adding paragraph (b) to read as follows:

#### § 52.2022 Extensions.

(b) The Administrator hereby extends for 2 years the attainment date for the national standards for carbon monoxide in the Southwest Pennsylvania Intrastate Region, for 1 year the attainment date for the national standard for photochemical oxidants in the Southwest Pennsylvania Intrastate Region, and for 1 year the attainment date for the national standards for carbon monoxide in the Pennsylvania portion of the Metropolitan Philadelphia Interstate Region.

2. Section 52.2023 is revised to read as follows:

#### § 52.2023 Approval status.

(a) With the exceptions set forth in this subpart, the Administrator approves Pennsylvania's plan for attainment and maintenance of the national standards.

(b) With respect to the transportation control plan submitted on April 13, 1973, the Administrator approves the inspection program, with the exceptions set forth in §§ 52.2030, 52.2031, and 52.2036 and promulgates rectifying provisions in §§ 52.2038 and 52.2053.

(c) With respect to the transportation control plan submitted on April 13, 1973, the Administrator approves the mass transportation improvements and automobile-use disincentives, with the exceptions set forth in §§ 52.2030, 52.2031, and 52.2036, and promulgates rectifying provisions in §§ 52.2040, 52.2041, and 52.243 through 52.2053.

(d) With respect to the transportation control plan submitted on April 13, 1973, the Administrator disapproves the plan for vehicle exclusion on selected days.

3. In § 52.2034, the attainment date table is revised by replacing the date "May 31, 1975", which designates the date for attainment of the national standard for photochemical oxidants (hydrocarbons) in the Southwest Pennsylvania Intrastate Region, with the date "May 31, 1976", by replacing the date "May 31, 1975", which designates the date for attainment of the national standards for carbon monoxide in the Southwest Pennsylvania Intrastate Region with the date "May 31, 1977", by replacing the date "May 31, 1975", which designates the date for attainment of the national standards for carbon monoxide in the Metropolitan Philadelphia Interstate Region, with the date "May 31, 1976", and by deleting footnote "f".

#### § 52.2035 [Reserved]

4. Section 52.2035 is revoked and reserved.

5. Section 52.2036 is revised to read as follows:

#### § 52.2036 Control strategy: Carbon monoxide and photochemical oxidants (hydrocarbons).

(a) The requirements of § 51.14 (a), (b), and (c) of this chapter are not met as to carbon monoxide in the Metropolitan Philadelphia Interstate Region and as to carbon monoxide and photochemical oxidants (hydrocarbons) in the Southwest Pennsylvania Intrastate Region because the strategies in the transportation control plan submitted on April 13, 1973, do not contain adequate descriptions of enforcement methods, proposed or adopted rules and regulations, descriptions of administrative procedures, and compliance schedules; because the strategies to restrain vehicle use are not defined and qualified well enough to assure that the necessary reductions in carbon monoxide and hydrocarbons will be achieved; because the plan does not contain provisions for preventing increases in pollutant concentrations resulting from traffic increases; and because the plan lacks a summary of the data and calculations used to develop the proposed control measures.

(b) Substitute and rectifying measures and provisions are promulgated in §§ 52.2038 through 52.2053.

6. Sections 52.2038 through 52.2053 are added to read as follows:

#### § 52.2038 Inspection and maintenance.

##### (a) Definitions:

(1) "Inspection and maintenance program" means a program to reduce emissions from in-use vehicles through identifying vehicles that need emission control related maintenance and requiring that such maintenance be performed.

(2) "Light-duty vehicle" means a gasoline powered motor vehicle rated at 6,000 lb GVW (gross vehicle weight) or less.

(3) "Medium-duty vehicle" means a gasoline powered motor vehicle rated at more than 6,000 lb GVW and less than 10,000 lb GVW.

(4) All other terms used in this section which are defined in Appendix N to Part 51 of this chapter, are used herein with the meanings so defined.

(b) This section is applicable in the Pennsylvania portion of the Metropolitan Philadelphia Interstate AQCR and in the Southwest Pennsylvania Intrastate AQCR.

(c) The Commonwealth of Pennsylvania shall submit to the Administrator, no later than February 1, 1974, a detailed compliance schedule showing the steps that will be taken to establish and enforce an inspection and maintenance program pursuant to paragraph (d) of this section. The compliance schedule shall include:

(1) The text of any statutory proposals and regulations that are needed to carry out the inspection/maintenance program.

(2) A detailed timetable describing the steps that must be taken (and the date by which such steps will be taken)



to ensure the timely submittal of any needed legislation to the legislature and to ensure timely adoption of the regulations needed for paragraph (d) of this section.

(3) A signed statement by the chief executive of the Commonwealth identifying the sources and amounts of funding for the inspection/maintenance program. If funds cannot legally be obligated under existing statutory authority, the text of the needed legislation shall be submitted to the Administrator pursuant to paragraph (c) (1) of this section.

(d) The Commonwealth of Pennsylvania shall establish an inspection and maintenance program applicable to all light- and medium-duty vehicles subject to registration in Pennsylvania and registered to persons residing in any area defined in paragraph (b) of this section. No later than April 1, 1974, the Commonwealth of Pennsylvania shall submit legally adopted regulations to the Administrator establishing such a program. The Commonwealth may exempt any class or category of vehicles which the Commonwealth finds is rarely used on public streets and highways (such as classic or antique vehicles). The regulations shall include:

(1) Provisions for the inspection of all light- and medium-duty vehicles subject to this section at periodic intervals of no more than 1 year by means of an idle test. Such inspection must be performed within one of the AQCR's subject to this section.

(2) Provisions for inspection failure criteria consistent with average annual vehicular exhaust emissions reductions of 8 percent for carbon monoxide and 10 percent for hydrocarbons of the amounts that would have been emitted by vehicles subject to this section without the program. These criteria shall include an initial failure rate of 30 percent.

(3) Provisions to require that failed vehicles receive, within 2 weeks, the maintenance necessary to achieve compliance with the inspection standards. This shall include sanctions against individual owners and repair facilities, retest of failed vehicles following maintenance, a certification program to ensure that repair facilities performing the required maintenance above the necessary equipment, parts, and knowledgeable operators to perform the tasks satisfactorily, and such other measures as may be necessary or appropriate.

(4) A program of enforcement to ensure that vehicles are not intentionally readjusted or modified subsequent to the inspection and/or maintenance in such a way as would cause them no longer to comply with the inspection standards. This might include spot checks of idle adjustments and/or a suitable type of physical tagging. This program shall include appropriate penalties for violation.

(5) Designation of the agency or agencies responsible for conducting, overseeing, and enforcing the inspection and maintenance program.

(6) Provisions for beginning the first inspection cycle no later than May 1, 1975, and for completing it no later than April 30, 1976.

(7) Criteria and procedures for identifying, whether by specially marked license plates, registration cards, or otherwise, vehicles subject to the requirements of this section.

(e) After April 30, 1976, the Commonwealth of Pennsylvania shall not allow to operate on its streets and highways vehicles subject to this section which do not display a valid State sticker certifying compliance with the applicable standards and procedures of paragraph (d) of this section. This shall not apply to the initial registration of a new motor vehicle.

(f) After April 30, 1976, no owner of a vehicle subject to this section shall operate or allow to be operated a vehicle which does not display a valid State sticker certifying compliance with the applicable standards and procedures adopted pursuant to paragraph (d) of this section. This shall not apply to the initial registration of a new motor vehicle.

(g) The requirements of this section shall apply to any vehicle registered to any person residing outside any area defined in paragraph (b) of this section if said vehicle is used primarily within any such area.

#### § 52.2039 Air bleed to intake manifold retrofit.

##### (a) Definitions:

(1) "Air bleed to intake manifold retrofit" means a system or device (such as a modification to the engine's carburetor or positive crankcase ventilation system) that results in engine operation at an increased air-fuel ratio so as to achieve reductions in exhaust emissions of hydrocarbons and carbon monoxide from 1967 and earlier light-duty vehicles of at least 21 percent and 58 percent, respectively.

(2) "Light-duty vehicle" means a gasoline-powered motor vehicle rated at 6,000 lb GVW (gross vehicle weight) or less.

(3) All other terms used in this section that are defined in Appendix N, to Part 51 of this Chapter, are used herein with the meanings so defined.

(b) This section is applicable in the Allegheny County portion of the Southwest Pennsylvania Intrastate AQCR and the Pennsylvania portion of the Metropolitan Philadelphia Interstate AQCR.

(c) The Commonwealth of Pennsylvania shall establish a retrofit program to ensure that on or before June 1, 1976, all light-duty vehicles of model years prior to 1968, subject to registration in Pennsylvania and registered to persons residing in any area defined in paragraph (b) of this section, are equipped with an appropriate air bleed to intake manifold retrofit device. No later than April 1, 1974, the Commonwealth shall submit legally adopted regulations to the Administrator establishing such a program. The Commonwealth may exempt any class or category of vehicles that the Commonwealth finds is rarely used on public streets and highways (such as classic or antique vehicles). The regulation shall include:

(1) Designation of an agency responsible for evaluating and approving such devices for use on vehicles subject to this section.

(2) Designation of an agency responsible for ensuring that the provisions of paragraph (c) (3) of this section are enforced.

(3) Provisions for beginning the installation of the air bleed devices by August 1, 1975, with installation of the devices on all vehicles subject to this section no later than May 31, 1976.

(4) Procedures for ensuring that those installing the retrofit devices have the training and ability to perform the needed tasks satisfactorily and will have an adequate supply of retrofit components.

(5) Criteria and procedures for identifying, whether by specially marked license plates, registration cards, or otherwise, vehicles subject to the requirements of this section.

(d) After June 1, 1976, the Commonwealth shall not register or allow to operate on its streets or highways any light-duty vehicle subject to this section which does not comply with the applicable standards and procedures adopted pursuant to paragraph (c) of this section.

(e) After June 1, 1976, no owner of a vehicle subject to this section shall operate or allow the operation of any such vehicle that does not comply with the applicable standards and procedures implementing this section.

(f) The Commonwealth of Pennsylvania shall submit to the Administrator no later than February 1, 1974, a detailed compliance schedule showing the steps it will take to establish and enforce a retrofit program pursuant to paragraph (c) of this section, including:

(1) The text of statutory proposals and regulations that the Commonwealth proposes for adoption.

(2) The date by which the State will recommend needed legislation to the State legislature.

(3) The date by which the Commonwealth will evaluate and approve devices for use in this program. Such date shall be no later than September 30, 1974.

(g) The requirements of this section shall apply to any vehicle registered to any person residing outside any area defined in paragraph (b) of this section if said vehicle is used primarily within any such area.

#### § 52.2040 Management of parking supply.

##### (a) Definitions:

(1) "Parking facility" (also called "facility") means a lot, garage, building, or structure, or combination or portion thereof, in or on which motor vehicles are temporarily parked.

(2) "Vehicle trip" means a single movement by a motor vehicle that originates or terminates at a parking facility.

(3) "Construction" means fabrication, erection, or installation of a parking facility, or any conversion of lane, buildings, or structures, or portions thereof, for use as a facility.



(4) "Modification" means any change to a parking facility that increases or may increase the motor vehicle capacity of, or the motor vehicle activity associated with, such parking facility.

(5) "Commence" means to undertake a continuous program of on-site construction or modification.

(6) "Philadelphia CBD" means the area within the City of Philadelphia, Pennsylvania, bounded by, but not including, Vine Street, South Street, and Schuylkill River, and the Delaware River.

(b) This section is applicable in the Southwest Pennsylvania Intrastate AQCR and in the Philadelphia CBD of the Pennsylvania portion of the Metropolitan Philadelphia Interstate AQCR.

(c) The requirements of this section are applicable to the following parking facilities in the areas specified in paragraph (b) of this section, the construction or modification of which is commenced after November 13, 1973.

(1) Any new parking facility with parking capacity for 50 or more motor vehicles;

(2) Any parking facility that will be modified to increase parking capacity by 50 or more motor vehicles; and

(3) Any parking facility constructed or modified in increments which individually are not subject to review under this section, but which, when all such increments occurring since November 13, 1973, are added together as a total, would subject the facility to review under this section.

(d) No person shall commence construction or modification of any facility subject to this section without first obtaining written approval from the Administrator or an agency designated by him; provided, that this paragraph shall not apply to any proposed construction or modification for which a general construction contract was finally executed by all appropriate parties on or before November 13, 1973.

(e) No approval to construct or modify a facility shall be granted unless the applicant shows to the satisfaction of the Administrator or agency approved by him that:

(1) The design or operation of the facility will not cause a violation of the control strategy which is part of the applicable implementation plan, and will be consistent with the plan's VMT reduction goals.

(2) The emissions resulting from the design or operation of the facility will not prevent or interfere with the attainment or maintenance of any national ambient air quality standard at any time with 10 years from the date of application.

(f) All applications for approval under this section shall include the following information:

(1) Name and address of the applicant.

(2) Location and description of the parking facility.

(3) A proposed construction schedule.

(4) The normal hours of operation of the facility and the enterprises and activities that it serves.

(5) The total motor vehicle capacity before and after the construction or modification of the facility.

(g) The Administrator or agency approved by him may require an application to include the following information:

(1) The number of people using or engaging in any enterprises or activities that the facility will serve on a daily basis and a peak hour basis.

(2) A projection of the geographic areas in the community from which people and motor vehicles will be drawn to the facility. Such projection shall include data concerning the availability of mass transit from such areas.

(3) An estimate of the average and peak hour vehicle trip generation rates, before and after construction or modification of the facility.

(4) An estimate of the effect of the facility on traffic pattern and flow.

(5) An estimate of the effect of the facility on total VMT for the air quality control region.

(6) An analysis of the effect of the facility on total VMT for the air quality including a showing that the facility will be compatible with the applicable implementation plan, and that the facility will not cause any national air quality standard to be exceeded within 10 years from date of application. The Administrator may prescribe a standardized screening technique to be used in analyzing the effect of the facility on ambient air quality.

(7) Additional information, plans, specifications, or documents required by the Administrator.

(h) All applications under this section, for new parking facilities with parking capacity for 250 or more vehicles, or for any modification which, either individually or together with modifications since November 13, 1973, will increase capacity by that amount, shall, in addition to that information required by paragraph (f) of this section, include the information required by paragraphs (g) (1) through (7) of this section unless the applicant has received a waiver from any provisions of such paragraph from the Administrator or agency approved by him.

(i) Each application shall be signed by the owner or operator of the facility, whose signature shall constitute an agreement that the facility shall be operated in accordance with applicable rules, regulations, permit conditions, and the design submitted in the application.

(j) Within 30 days after receipt of an application, the Administrator or agency approved by him shall notify the public, by prominent advertisement in the Region affected, of the receipt of the application and the proposed action on it (whether approval, conditional approval, or denial), and shall invite public comment.

(1) The application, all submitted information, and the terms of the proposed action shall be made available to the public in a readily accessible place within the affected air quality region.

(2) Public comments submitted within 30 days of the date such information is made available shall be considered in making the final decision on the application.

(3) The Administrator or agency approved by him shall take final action (approval, conditional approval, or denial) on an application within 30 days after close of the public comment period.

# § 52.2041 Study and establishment of bikeways.

(a) Definitions:

(1) "Philadelphia CBD" is defined as the area within the City of Philadelphia, Pennsylvania, bounded by, but not including Vine Street, South Street, the Schuylkill River, and the Delaware River.

(2) "Pittsburgh CBD" is defined as the area enclosed by the Allegheny River, the Monongahela River, and I-876. I-876 is not included.

(b) This section is applicable in the Southwest Pennsylvania Intrastate AQCR and in the Pennsylvania portion of the Metropolitan Philadelphia Interstate AQCR (the Regions).

(c) The Commonwealth of Pennsylvania shall, according to the schedule set forth in paragraph (d) of this section, conduct a study of, and shall in that study recommend locations for exclusive bicycle lanes and bicycle parking facilities in the areas described in paragraph (b) of this section. The study shall be made with a view toward maximum safety and security. The study shall include consideration of the physical designs for such lanes and parking facilities, and of rules of the road for bicyclists and, to the extent that present rules must be modified because of bicycle lanes, new rules of the road for motorists. In conducting the study, opportunity shall be given for public comments and suggestions. The study shall recommend as large a network of new CBD-oriented commuter bicycle lanes and bicycle parking facilities as is practicable within the areas described in paragraph (b) of this section and shall recommend physical designs for said lanes and facilities. The networks shall contain at least 25 miles of exclusive bicycle lanes in each direction in the Pennsylvania portion of the Metropolitan Philadelphia Interstate AQCR and shall contain at least 10 miles of such lanes in each direction within the Southwest Pennsylvania Intrastate AQCR.

(d) The Commonwealth of Pennsylvania shall submit to the Administrator no later than March 1, 1974, a detailed compliance schedule showing the steps that will be taken to carry out the study required by paragraph (c) of this section. The compliance schedule shall at a minimum include:

(1) Designation of the agency responsible for conducting the study.

(2) A date for initiation of the study, which date shall be no later than May 1, 1974.

(3) A date for completion of the study, and submittal thereof to the Administrator, which date shall be no later than March 1, 1975.



(4) A detailed timetable describing the steps that must be taken and when these steps will be taken to ensure the timely submittal of any legislation needed to generally authorize establishment of bikeways and parking facilities in Pennsylvania to the State legislature.

(e) On or before April 1, 1975, the Administrator shall submit to the Commonwealth of Pennsylvania his response to the study required by paragraph (c) of this section, and shall, in that response, either approve the route and parking facility location and designs recommended in the study, or shall designate alternative and/or additional route and parking facility locations and designs.

(f) The Commonwealth of Pennsylvania, and such county and local jurisdictions as the Commonwealth shall request to participate in the establishment of the networks (the Commonwealth must request the participation of a county or local jurisdiction if the participation of that jurisdiction is necessary to the establishment of the lanes and other facilities required by this section) shall establish, according to the schedule set forth in the compliance schedule required by paragraph (g) of this section, bike lanes and parking facilities along the routes and in the locations approved or designated by the Administrator pursuant to paragraph (e) of this section.

(g) On or before June 1, 1975, the Commonwealth of Pennsylvania, and such county and local jurisdictions as the Commonwealth has requested to participate (and are, therefore, required to participate by paragraph (f) of this section) shall submit to the Administrator compliance schedules which shall show in detail the steps which each governmental entity will take to establish the bike lanes and parking facilities required by this section. The schedule must include as a minimum the following:

(1) Each lane and parking facility must be identified with a date set for its establishment.

(2) The design, security, and safety features of each lane and parking facility must be precisely described and shown to be in accord with the designs approved or designated by the Administrator pursuant to paragraph (e) of this section.

(3) A date must be set for the initiation of lane and parking construction, which date shall be no later than September 1, 1975.

(4) A date must be set for completion of 50 percent of lane and parking construction, which date shall be no later than February 1, 1976.

(5) A date must be set for completion of 100 percent of lane and parking construction, which date shall be no later than May 31, 1976.

(6) Designation must be made of the agencies responsible for guaranteeing the establishment of the lanes and facilities in accordance with the Administrator's response to the Commonwealth study.

(7) Signed statements of the chief executives of all jurisdictions involved in the establishment of the lanes and parking facilities required by this section, or their designees, must be submitted identifying the sources and amounts of funding for the programs required by this section, along with a timetable to ensure that proper funds will be available.

(h) No later than August 1, 1975, each governmental entity required by this section to establish bicycle lanes and/or parking facilities, shall submit to the Administrator legally adopted regulations sufficient to implement and enforce all of the requirements of this section.

(i) Notwithstanding paragraph (c) of this section, if prior to the completion and submittal of the study required by paragraph (c) of this section, the Commonwealth of Pennsylvania has good and reasonable cause, through public comment or otherwise, to believe that the maximum practicable network of bicycle lanes will be less than 25 miles, in each direction, in the Pennsylvania portion of the Metropolitan Philadelphia Interstate AQCR, and/or less than 10 miles, in each direction, in the Southwest Pennsylvania Intrastate AQCR, the Commonwealth shall so notify the Administrator and shall obtain his concurrence or nonconcurrence, and shall conduct the remainder of the study to assure that the network of lanes shall be that mileage specified by the Administrator. Notice pursuant to this paragraph shall be given no later than the beginning of the ninth month of the study.

#### § 52.2042 Gasoline transfer vapor control.

(a) "Gasoline" means any petroleum distillate having a Reid vapor pressure of 4 pounds or greater.

(b) This section is applicable in the Allegheny County portion of the Southwest Pennsylvania Intrastate AQCR.

(c) No person shall transfer gasoline from any delivery vessel into any stationary storage container with a capacity greater than 250 gallons unless the displaced vapors from the storage container are processed by a system that prevents release to the atmosphere of no less than 90 percent by weight of organic compounds in said vapors displaced from the stationary container location.

(1) The vapor recovery portion of the system shall include one or more of the following:

(i) A vapor-tight return line from the storage container to the delivery vessel and a system that will ensure that the vapor return line is connected before gasoline can be transferred into the container.

(ii) Refrigeration-condensation system or equivalent designed to recover no less than 90 percent by weight of the organic compounds in the displaced vapor.

(2) If a "vapor-tight vapor return" system is used to meet the requirements of this section, the system shall be so constructed as to be readily adopted to retrofit with an adsorption system, refrigeration-condensation system, or

equivalent vapor removal system, and so constructed as to anticipate compliance with § 52.2043.

(3) The vapor-laden delivery vessel shall be subject to the following conditions:

(i) The delivery vessel must be so designed and maintained as to be vapor-tight at all times.

(ii) The vapor-laden delivery vessel may be refilled only at facilities equipped with a vapor recovery system or the equivalent, which can recover at least 90 percent by weight of the organic compounds in the vapors displaced from the delivery vessel during refilling.

(iii) Gasoline storage compartments of 1,000 gallons or less in gasoline delivery vehicles presently in use on the promulgation date of this section will not be required to be retrofitted with a vapor return system until January 1, 1977.

(d) The provisions of paragraph (c) of this section shall not apply to the following:

(1) Stationary container having a capacity less than 550 gallons used exclusively for the fueling of implements of husbandry.

(2) Any container having a capacity of less than 2,000 gallons installed prior to promulgation of this section.

(3) Transfer made to storage tanks equipped with floating roofs or their equivalent.

(e) Every owner or operator of a stationary storage container or delivery vessel subject to this section shall comply with the following compliance schedule:

(1) April 1, 1974. Submit to the Administrator a final control plan, which describes at a minimum the steps that will be taken by the source to achieve compliance with the provisions of paragraph (c) of this section.

(2) May 1, 1974. Negotiate and sign all necessary contracts for emission control systems, or issue orders for the purchase of component parts to accomplish emissions control.

(3) January 1, 1975. Initiate on-site construction or installation of emission control equipment.

(4) February 1, 1976. Complete on-site construction or installation of emission control equipment.

(5) March 1, 1976. Assure final compliance with the provisions of paragraph (c) of this section.

(6) Any owner or operator of sources subject to the compliance schedule in this paragraph shall certify to the Administrator, within 5 days after the deadline for each increment of progress, whether or not the required increment of progress has been met.

(f) Paragraph (e) of this section shall not apply:

(1) To a source which is presently in compliance with the provisions of paragraph (c) of this section and which has certified such compliance to the Administrator by January 31, 1974. The Administrator may request whatever supporting information he considers necessary for proper certification.



(2) To a source for which a compliance schedule is adopted by the State and approved by the Administrator.

(3) To a source whose owner or operator submits to the Administrator by January 31, 1974, a proposed alternative schedule. No such schedule may provide for compliance after March 1, 1976. Any such schedule shall provide for certification to the Administrator within 5 days after the deadline for each increment therein, as to whether or not that increment has been met. If promulgated by the Administrator, such schedule shall satisfy the requirements of this paragraph for the affected source.

(g) Nothing in this section shall preclude the Administrator from promulgating a separate schedule for any source to which the application of the compliance schedule in paragraph (e) of this section fails to satisfy the requirements of § 51.15 (b) and (c) of this chapter.

(h) Any gasoline dispensing facility subject to this section that installs a storage tank after the effective date of this section shall comply with the requirements of paragraph (c) of this section by March 1, 1976, and prior to that date shall comply with paragraph (e) as far as possible. Any facility subject to this section that installs a storage tank after March 1, 1976, shall comply with the requirements of paragraph (c) of this section at the time of installation.

**§ 52.2043 Computer carpool matching system.**

(a) Definitions:

(1) "Carpool" means two or more persons utilizing the same vehicle.

(2) "Carpool matching" means assembling lists of commuters sharing similar travel needs and providing a mechanism by which persons on such lists may be put in contact with each other for the purpose of forming carpools.

(3) "Time-origin-destination (TOD) information" means information that identifies a commuters' work schedule, home and work location, or the location of other desired origins and destinations of trips (such as shopping or recreational trips).

(4) "Pilot program" means a program that is initiated on a limited basis for the purpose of facilitating a future full scale regional program.

(b) This section is applicable in the Southwest Pennsylvania Intrastate AQCR and in the Pennsylvania portion of the Metropolitan Philadelphia Interstate AQCR (the Regions).

(c) Beginning June 1, 1975, the Commonwealth of Pennsylvania shall, unless exempted by the Administrator on the basis of a finding that equivalent service is being or will be provided by some other public or private entity, establish a computer-aided carpool matching system which is conveniently available at least to all employees of employers within the Regions who employ 100 or more employees. The system shall, as soon as practicable, be made available to employees of smaller employers. No later than June 1, 1974, the Commonwealth of

Pennsylvania shall submit to the Administrator a program, legally adopted (through regulation or statute) by and legally binding on the Commonwealth, providing for such a system. The program shall include:

(1) A method of collecting information that will include the following as a minimum:

(i) Provisions for each affected employee to receive an application form with a cover letter describing the matching program.

(ii) Provisions on each application for applicant identification of his TOD information, and the applicant's desire to drive only, ride only, or share driving.

(2) A computer method of matching information that will have provisions for locating each applicant's origin and destination within a grid system in each of the Regions and matching applicants with identical origin and destination grids and compatible work schedules.

(3) A method for providing continuing service so that the master list of all applicants is retained and available for use by new applicants, applications are currently available, and the master list is periodically updated to remove applicants who have moved from the area served.

(4) An agency or agencies responsible for operating, overseeing and maintaining the carpool computer matching system.

(d) No later than January 1, 1975, a pilot program shall be initiated in each Region identified in paragraph (b) of this section in preparation for the full implementation required under paragraph (c) of this section.

**§ 52.2044 Pennsylvania-New Jersey busways.**

(a) Any governmental entity, including the Delaware River Port Authority, having ownership or control over all or any portion of the following streets and highways, including the Benjamin Franklin Toll Bridge, shall take all action necessary to establish by August 1, 1974, the lanes indicated below during the times indicated below, as lanes exclusively for use by buses:

(1) One continuous lane which extends from the New Jersey entrance onto the Benjamin Franklin Toll Bridge along said bridge to Vine Street, along Vine Street to Sixth Street, along Sixth Street to Market Street, and along Market Street to Philadelphia City Hall, shall be so reserved to serve buses bound into the City of Philadelphia from 6:30 a.m. to 9:30 a.m., Monday through Saturday.

(2) One continuous lane which extends along Market Street from Sixth Street to Juniper Street, the exclusive lane terminating briefly to allow blending of all traffic around Philadelphia City Hall, the exclusive lane beginning again on Broad Street at the intersection of John F. Kennedy Boulevard and Broad Street and extending along Broad Street to Vine Street, along Vine Street to the Benjamin Franklin Toll Bridge, along said bridge to the exit from the bridge

into New Jersey shall be so reserved to serve buses bound out of the City of Philadelphia from 3:30 p.m. to 6:30 p.m., Monday through Saturday.

(b) Each affected governmental entity, including the Delaware River Port Authority, shall coordinate the lanes required by paragraph (a) of this section with any exclusive bus lanes established or to be established by the State of New Jersey and any appropriate local government therein, on the New Jersey approaches to the Benjamin Franklin Toll Bridge.

(c) Each governmental entity, including the Delaware River Port Authority, required by paragraph (a) of this section to establish exclusive bus lanes, shall submit to the Administrator no later than March 1, 1974, a compliance schedule which shall show in detail the steps which it will take to establish the bus lanes provided for by this section, and to enforce the limitations on their use. In the compliance schedule submitted pursuant to this paragraph, a governmental entity, including the Delaware River Port Authority, may designate limited segments of lanes which may be entered briefly by vehicles, otherwise excluded from such lanes, for reasons of safety or sound traffic planning. Such exceptions shall be subject to the approval of the Administrator. Special circumstances justifying the need for such an exception (such as the desire to allow an exclusive lane to be entered briefly by automobiles for purposes of making a turn) must be set forth in detail.

(d) Exclusive bus lanes must be prominently indicated by distinctive painted lines, pylons, signs, or physical barriers. All lanes must be established and needed signs must be installed by August 1, 1974.

(e) A signed statement by the chief executive of each governmental entity subject to this section (including the chief executive of the Delaware River Port Authority) or their designee shall be submitted to the Administrator no later than March 1, 1974, to identify the sources and amounts of funds for all projects required by this section.

(f) No later than May 1, 1974, each governmental entity, subject to this section, including the Delaware River Port Authority, shall submit to the Administrator legally adopted regulations sufficient to implement and enforce all of the requirements of this section.

**§ 52.2045 Roosevelt Boulevard busway between Grant Avenue and Hunting Park.**

(a) This section is applicable in the City of Philadelphia which is a segment of the Pennsylvania portion of the Metropolitan Philadelphia Interstate AQCR.

(b) Each governmental entity having ownership or control over Roosevelt Boulevard between Grant Avenue and the Hunting Park exit shall by December 1, 1974, take all actions necessary to reserve the outside (right) lane of the inside set of three lanes, on both the northbound and southbound sides of such boulevard, for the exclusive use of buses at all times.



(c) Each governmental entity required to take action under paragraph (b) of this section shall submit to the Administrator no later than March 1, 1974, a compliance schedule which shall show in detail the steps which it will take to establish the bus lanes provided for by this section and to enforce the limitations on their use. In the compliance schedule submitted pursuant to this paragraph, a governmental entity may designate limited segments of lanes which may be entered briefly by vehicles, otherwise excluded from such lanes, for reasons of safety or sound traffic planning. Such exceptions shall be subject to the approval of the Administrator. Special circumstances justifying the need for such an exception (such as the desire to allow an exclusive lane to be entered briefly by automobiles for purposes of making a turn) must be set forth in detail.

(d) Exclusive bus lanes must be prominently indicated by distinctive painted lines, pylons, signs, or physical barriers. All lanes must be established and needed signs must be installed by December 1, 1974.

(e) A signed statement by the chief executive of each governmental entity required to take action under paragraph (b) of this section or their designees shall be submitted to the Administrator no later than March 1, 1974, to identify the sources and amounts of funds for all projects required by this section.

(f) No later than June 1, 1974, each governmental entity subject to this section shall submit to the Administrator legally adopted regulations sufficient to implement and enforce all of the requirements of this section.

**§ 52.2046 Central business districts bus and trolley ways and parking restrictions.**

(a) "Philadelphia CBD" is defined as the area within the City of Philadelphia bounded by but not including Vine Street, South Street, the Schuylkill River, and the Delaware River.

(b) Within the Philadelphia CBD, each governmental entity having ownership or control over the following streets and highways shall reserve the following lanes thereon, at the time indicated, exclusively for use by buses:

(1) The right lane of Chestnut Street from 22nd Street through 6th Street shall be so reserved from 9 a.m. to 6 p.m., Monday through Saturday.

(2) The right lane of Walnut Street from 8th Street through 23rd Street shall be so reserved from 8 a.m. to 6 p.m., Monday through Saturday.

(3) The right lane of eastbound Market Street from Juniper Street through 6th Street shall be so reserved from 8 a.m. to 6 p.m., Monday through Saturday.

(4) The right lane of 8th Street, 9th Street, 16th Street, and 17th Street between Vine and South Streets shall be so reserved from 8 a.m. to 6 p.m., Monday through Saturday.

(c) Each governmental entity required to establish exclusive bus lanes by paragraph (b) of this section, shall ensure:

(1) That in the center lane of all streets on which exclusive bus lanes are established pursuant to paragraph (b) of this section the flow of traffic is not obstructed by stopped or parked vehicles, or otherwise at any time, and that in the left lane of such streets the flow of traffic is not obstructed by stopped or parked vehicles, or otherwise, from 11 a.m. to 6 p.m., Monday through Saturday.

(2) That the left lane of all streets along which exclusive bus lanes are established pursuant to paragraph (d) of this section is available for taxi, carpool, and truck loading and unloading from 6 p.m. until 11 a.m. the following morning. Short-term parking (no more than 2 hours) may also be permitted during these hours.

(d) Within the Philadelphia CBD, each governmental entity having ownership or control over the center lanes of 11th Street and 12th Street between Vine and South Streets shall reserve such lanes for the exclusive use of trolleys at all times.

(e) Each governmental entity required to establish exclusive trolley lanes by paragraph (d) of this section shall ensure:

(1) That in the left lane of streets on which exclusive trolley lanes are established pursuant to paragraph (d) of this section the flow of traffic is not obstructed by stopped or parked vehicles, or otherwise at any time, and that in the right lane of such streets the flow of traffic is not obstructed by stopped or parked vehicles or otherwise from 11 a.m. to 6 p.m.

(2) That the right lane of streets along which exclusive trolley lanes are established pursuant to paragraph (d) of this section is available for taxi, carpool, and truck loading and unloading from 6 p.m. until 11 a.m. the following morning. Short-term parking (no more than two hours) may also be permitted during these hours.

(f) The City of Philadelphia shall prohibit the obstruction of the flow of traffic by stopped or parked vehicles on Filbert Street between Broad Street and 6th Street from 8 a.m. to 6 p.m., Monday through Saturday and shall also prohibit the loading and unloading of any vehicle on said street except during periods of low traffic density as are designated by the City of Philadelphia and approved by the Administrator.

(g) Each governmental entity required to take action under any paragraph of this section shall submit to the Administrator no later than March 1, 1974, a compliance schedule which shall show in detail the steps which that entity will take to establish the bus and trolley lanes provided for by this section, and to enforce the limitations on their use, and which shall also show the steps the entity will take to establish and enforce all parking and loading/unloading restrictions provided for by this section. The schedule shall show the dates for institution of the parking and loading/unloading restrictions provided for by this section. Such date for restrictions along any particular

street shall not be later than the date set for the establishment of the exclusive lane on that street. The date for institution of the restrictions along Filbert Street shall not be later than August 1, 1974. In the compliance schedule submitted pursuant to this paragraph, a governmental entity may designate limited segments of lanes which may be entered briefly by vehicles, otherwise excluded from such lanes, for reasons of safety or sound traffic planning. Such exceptions shall be subject to the approval of the Administrator. Special circumstances justifying the need for such an exception (such as the desire to allow an exclusive lane to be entered briefly by automobiles for purposes of making a turn) must be set forth in detail.

(h) Exclusive bus and exclusive trolley lanes, no parking-no standing zones, and no loading-no unloading zones must be prominently indicated by distinctive painted lines, pylons, signs, or physical barriers. Fifty percent of the lanes must be established and needed signs must be installed by August 1, 1974; 100 percent established by January 1, 1975.

(i) Each governmental entity subject to this section shall provide that any vehicle stopped or parked in violation of any restriction imposed by this section shall be towed away and the owner shall be fined not less than \$50 per violation.

(j) A signed statement by the chief executive of each governmental entity subject to this section or their designees shall be submitted to the Administrator no later than March 1, 1974, to identify the sources and amounts of funds for all projects required by this section.

(k) No later than May 1, 1974, each governmental entity subject to this section shall submit to the Administrator legally adopted regulations sufficient to implement and enforce all of the requirements of this section.

**§ 52.2047 Exclusive busways in Philadelphia outside the CBD.**

(a) This section is applicable in the City of Philadelphia which is a segment of the Pennsylvania portion of the Metropolitan Philadelphia Interstate AQCR.

(b) Each governmental entity having ownership or control over the following streets and highways, or any portion thereof, shall take all action necessary to establish the lanes indicated below during the times indicated below, as lanes exclusively for use by buses or trolleys (as indicated). Lanes must be established in accordance with the schedule set forth in paragraph (d) of this section.

(1) One lane in each direction on Girard Avenue between Norris Street and 63rd Street shall be so reserved for trolleys from 6:30 a.m. to 9:30 a.m. and from 3:30 p.m. to 6:30 p.m., Monday through Saturday.

(2) One lane in each direction on Erie Avenue between Kensington Avenue and 23rd Street shall be so reserved for trolleys from 6:30 a.m. to 9:30 a.m. and from 3:30 p.m. to 6:30 p.m., Monday through Saturday.

(3) One lane in each direction on Allegheny Avenue between Richmond Ave-



nue and 35th Street shall be so reserved for trolleys from 6:30 a.m. to 9:30 a.m. and from 3:30 p.m. to 6:30 p.m., Monday through Saturday.

(4) One lane on Woodland Avenue to serve trolleys traveling from 45th Street to 39th Street shall be so reserved from 6:30 a.m. to 9:30 a.m., Monday through Saturday, and one lane on Woodland Avenue to serve trolleys traveling from 38th Street to 45th Street shall be so reserved from 3:30 p.m. to 6:30 p.m., Monday through Saturday.

(5) One lane in each direction on Oregon Avenue between Vare Avenue and 20th Street (for westbound transit) and 19th Street (for eastbound transit) shall be so reserved for buses from 6:30 a.m. to 9:30 a.m. and from 3:30 p.m. to 6:30 p.m., Monday through Saturday.

(6) One lane in each direction on Spring Garden Street between Front Street and the Art Museum Circle shall be so reserved for buses from 6:30 a.m. to 9:30 a.m. and from 3:30 p.m. to 6:30 p.m., Monday through Saturday.

(7) One lane in each direction on Columbia Avenue between 33rd Street and 7th Street (eastbound transit) and 6th Street (for westbound transit) shall be so reserved for buses from 6:30 a.m. to 9:30 a.m. and from 3:30 p.m. to 6:30 p.m., Monday through Saturday.

(8) One lane in each direction on Lehigh Avenue between Kensington Avenue and 34th Street shall be so reserved for buses from 6:30 a.m. to 9:30 a.m. and from 3:30 p.m. to 6:30 p.m., Monday through Saturday.

(9) One lane on Ogontz Avenue to serve trolleys traveling from Cheltenham Avenue to Champlost Avenue shall be so reserved from 6:30 a.m. to 9:30 a.m., and one lane on Ogontz Avenue to serve trolleys traveling from Champlost Avenue to Cheltenham Avenue shall be so reserved from 3:30 p.m. to 6:30 p.m., Monday through Saturday.

(c) Each governmental entity required to take action under paragraph (b) of this section shall submit to the Administrator no later than April 1, 1974, compliance schedules which shall show in detail the steps which each such governmental entity will take to establish the trolley and bus lanes provided for by this section, and to enforce the limitations or their use. In the compliance schedule submitted pursuant to this paragraph, a governmental entity may designate limited segments of lanes which may be entered briefly by vehicles, otherwise excluded from such lanes, for reasons of safety or sound traffic planning. Such exceptions shall be subject to the approval of the Administrator. Special circumstances justifying the need for such an exception (such as the desire to allow an exclusive lane to be entered briefly by automobiles for purposes of making a turn) must be set forth in detail.

(d) Exclusive trolley and bus lanes must be prominently indicated by distinctive painted lines, pylons, signs, or physical barriers. Fifty percent of the lanes must be established and needed signs must be installed by August 1, 1974; 100 percent must be established by January 1, 1975.

(e) A signed statement by the chief executive of each governmental entity required to take action under paragraph (b) of this section, or his designee, shall be submitted to the Administrator no later than April 1, 1974, to identify the sources and amounts of funds for all projects required by this section.

(f) No later than June 1, 1974, each governmental entity subject to this section shall submit to the Administrator legally adopted regulations sufficient to implement and enforce all of the requirements of this section.

#### § 52.2048 Exclusive bus lanes for Philadelphia suburbs and outlying areas.

(a) Definitions:

(1) "Carpool" means a vehicle containing three or more persons.

(2) "Bus/carpool lane" means a lane on a street or highway, which lane is open only to buses (or buses and carpools), whether constructed especially for that purpose or converted from existing lanes.

(3) "Philadelphia CBD" means the area within the City of Philadelphia, Pennsylvania, bounded by but not including Vine Street, South Street, the Schuylkill River, and the Delaware River.

(b) The Commonwealth of Pennsylvania and such county and local jurisdictions as the Commonwealth may request to participate (the Commonwealth must request the participation of a county or local jurisdiction by December 15, 1974, if the participation of that jurisdiction is necessary to the establishment of the lanes required by this section), shall establish, according to the schedule in paragraph (f) of this section, bus/carpool lanes along corridors connecting at least the following suburban or outlying areas (or alternative areas if indicated in the study required by paragraph (c) of this section and approved by the Administrator) to the Philadelphia CBD:

- (1) King of Prussia, Pennsylvania,
- (2) Chester, Pennsylvania,
- (3) Paoli, Pennsylvania,
- (4) Media, Pennsylvania,
- (5) West Chester, Pennsylvania, and
- (6) Tacony section, Philadelphia, Pennsylvania and adjacent areas.

For each route either approved or designated by the Administrator pursuant to paragraph (d) of this section, at least one bus/carpool lane shall be established to serve traffic traveling toward the Philadelphia CBD from 6:30 a.m. to 9:30 a.m. (or for a longer time), and at least one bus/carpool lane shall be established to serve traffic traveling toward the suburban or outlying areas from 3:30 p.m. to 6:30 p.m. (or for a longer time), Monday through Saturday.

(c) On or before November 1, 1974, the Commonwealth of Pennsylvania shall submit to the Administrator a study which shall contain for each of the corridors described in paragraph (b) of this section a detailed analysis showing every specific route location considered by the Commonwealth for that corridor. The study shall designate one of the specific routes examined for each corridor as the most practicable route for that corridor.

The study shall fully present the advantages and disadvantages of establishing the bus/carpool lanes provided for in paragraph (b) of this section along the most practicable route. For any corridor identified in this section along which the Commonwealth concludes that bus/carpool lanes are not feasible, the Commonwealth shall designate a replacement corridor connecting the Philadelphia CBD and another significant source of CBD-bound traffic along which bus/carpool lanes are feasible. An analysis of the substituted corridor shall be included, similar to the analysis of the original corridor, to show the most practicable route for said bus/carpool lanes.

(d) On or before December 1, 1974, the Administrator shall submit to the Commonwealth of Pennsylvania his response to the study required by paragraph (c) of this section, and shall, in that response, either approve the routes selected by the Commonwealth as the most practicable and feasible for bus/carpool lanes, or shall designate alternative routes on which bus/carpool lanes must be established.

(e) On or before February 1, 1975, the Commonwealth of Pennsylvania and such county and local jurisdictions as the Commonwealth has requested to participate (and as are, therefore, required by paragraph (b) of this section to establish lanes), shall submit to the Administrator compliance schedules which shall show in detail the steps which each governmental entity will take to establish the bus/carpool lanes required by this section, and to enforce the limitations on their use. In the compliance schedule submitted pursuant to this paragraph a governmental entity may designate limited segments of lanes which may be entered briefly by vehicles, otherwise excluded from such lanes, for reasons of safety or sound traffic planning. Such exceptions shall be subject to the approval of the Administrator. Special circumstances justifying the need for such an exception (such as the desire to allow an exclusive lane to be entered briefly by automobiles for purposes of making a turn) must be set forth in detail.

(f) Bus/carpool lanes must be prominently indicated by distinctive painted lines, pylons, signs or physical barriers. Twenty-five percent of the lane mileage for each of the governmental entities must be established and the needed signs installed by July 1, 1975; 50 percent established by October 1, 1975; and 100 percent established by January 1, 1976.

(g) A signed statement by the chief executive of each governmental entity establishing lanes, or his designee, shall be submitted to the Administrator no later than February 1, 1975, to identify the sources and amount of funds for all projects required by this section.

(h) No later than April 1, 1975, each governmental entity required by this section to establish lanes shall submit to the Administrator legally adopted regulations sufficient to implement and enforce all of the requirements of this section.



# § 52.2049 Specific express busways in Allegheny County.

(a) This section is applicable in the Allegheny County portion of the South-west Pennsylvania Intrastate AQCR.

(b) Each governmental entity having ownership or control over the following streets and highways, or any portion thereof, shall take all action necessary to establish the lanes indicated below, during the times indicated below, as lanes exclusively for use by buses. Lanes must be established in accordance with the schedule set forth in paragraph (d) of this section.

(1) One lane in each direction of Fifth Avenue in the City of Pittsburgh between Grant Street and Liberty Avenue shall be so reserved from 6 a.m. to 7 p.m., Monday through Saturday.

(2) One lane of Fifth Avenue in the City of Pittsburgh to serve buses traveling from Jumonville Street to Neville Street shall be so reserved 24 hours per day, Monday through Saturday.

(3) One lane of Liberty Avenue in the City of Pittsburgh to serve buses traveling from Grant Street to 32nd Street shall be so reserved from 4:30 p.m. to 6:30 p.m., Monday through Saturday.

(4) One lane of Stanwix Street in the City of Pittsburgh to serve buses traveling from Liberty Avenue to the Boulevard of the Allies shall be so reserved from 4:30 p.m. to 6:30 p.m., Monday through Saturday.

(5) One lane of Centre Avenue in the City of Pittsburgh to serve buses traveling from Penn Circle to Craig Street shall be so reserved from 6 a.m. to 9 a.m., Monday through Saturday.

(6) One lane of Centre Avenue in the City of Pittsburgh to serve buses traveling from Craig Street to Penn Circle shall be so reserved from 4:30 p.m. to 6:30 p.m., Monday through Saturday.

(7) One lane of the Penn Lincoln Parkway to serve buses traveling from the Greentree entrance to the Saw Mill Run exit shall be so reserved from 6 a.m. to 9 a.m., Monday through Saturday.

(8) One lane of the Penn Lincoln Parkway to serve buses traveling from the Saw Mill Run entrance to the Greentree exit shall be so reserved from 4:30 p.m. to 6:30 p.m., Monday through Saturday.

(9) Penn Hills, Pennsylvania. Parkway to serve buses traveling from the Squirrel Hill entrance to the Boulevard of the Allies exit shall be so reserved from 6 a.m. to 9 a.m., Monday through Saturday.

(10) One lane of the Penn Lincoln Parkway to serve buses traveling from the Boulevard of the Allies entrance to the Squirrel Hill exit shall be so reserved from 4:30 p.m. to 6:30 p.m., Monday through Saturday.

(11) One lane of the Fort Pitt Bridge to serve buses traveling from Point Park shall be so reserved from 4:30 p.m. to 6:30 p.m., Monday through Saturday.

(c) Each governmental entity required to take action under paragraph (b) of this section shall submit to the Administrator no later than April 1, 1974, compliance schedules which shall show in

detail the steps which each such governmental entity will take to establish the bus lanes provided for by this section, and to enforce the limitations on their use. In the compliance schedule submitted pursuant to this paragraph a governmental entity may designate limited segments of lanes which may be entered briefly by vehicles, otherwise excluded from such lanes, or reasons of safety or sound traffic planning. Such exceptions shall be subject to the approval of the Administrator. Special circumstances justifying the need for such an exception (such as the desire to allow an exclusive lane to be entered briefly by automobiles for purposes of making a turn) must be set forth in detail.

(d) Exclusive bus lanes must be prominently indicated by distinctive painted lines, pylons, signs, or physical barriers. Fifty percent of the lanes must be established and needed signs must be installed by August 1, 1974; 100 percent must be established by January 1, 1975.

(e) A signed statement by the chief executive of each governmental entity required to take action under paragraph (b) of this section, or his designee, shall be submitted to the Administrator no later than April 1, 1974, to identify the sources and amounts of funds for all projects required by this section.

(f) No later than June 1, 1974, each governmental entity subject to this section shall submit to the Administrator legally adopted regulations sufficient to implement and enforce all of the requirements of this section.

## § 52.2050 Exclusive bus lanes for Pittsburgh suburbs and outlying areas.

(a) Definitions:

(1) "Carpool" means a vehicle containing three or more persons.

(2) "Bus/carpool lane" means a lane on a street or highway, which lane is open only to buses (or buses and carpools), whether constructed especially for that purpose or converted from existing lanes.

(3) "Pittsburgh CBD" means the area enclosed by the Allegheny River, the Monongahela River, and I-876. I-876 is not included.

(b) The Commonwealth of Pennsylvania and such county and local jurisdictions as the Commonwealth may request to participate (the Commonwealth must request the participation of a county or local jurisdiction by December 15, 1974, if the participation of that jurisdiction is necessary to the establishment of the lanes required by this section) shall establish, according to the schedule in paragraph (f) of this section, bus/carpool lanes along corridors connecting at least the following suburban or outlying areas (or alternative areas if indicated in the study required by paragraph (c) of this section and approved by the Administrator) to the Pittsburgh CBD:

- (1) Belleville, Pennsylvania,
- (2) Bethel Park, Pennsylvania,
- (3) Clairton, Pennsylvania,
- (4) The Greater Pittsburgh International Airport,
- (5) McKeesport, Pennsylvania,
- (6) McKees Rocks, Pennsylvania,

- (7) Monroeville, Pennsylvania,
- (8) North Braddock, Pennsylvania, and
- (9) Penn Hills, Pennsylvania,

For each route either approved or designated by the Administrator pursuant to paragraph (d) of this section, at least one bus/carpool lane shall be established to serve traffic traveling toward the Pittsburgh CBD from 6:30 to 9:30 a.m. (or for a longer time), and at least one bus/carpool lane shall be established to serve traffic traveling toward the suburban or outlying areas from 3:30 to 6:30 p.m. (or for a longer time), Monday through Saturday.

(c) On or before November 1, 1974, the Commonwealth of Pennsylvania shall submit to the Administrator a study which shall contain for each of the corridors described in paragraph (b) of this section a detailed analysis showing every specific route location considered by the Commonwealth for the corridor. The study shall designate one of the specific routes examined for each corridor as the most practicable route for that corridor. The study shall fully present the advantages and disadvantages of establishing the bus/carpool lanes provided for in paragraph (b) of this section along the most practicable route. For any corridor identified in this section along which the Commonwealth concludes that bus/carpool lanes are not feasible, the Commonwealth shall designate a replacement corridor connecting the Pittsburgh CBD and another significant source of CBD-bound traffic along which bus/carpool lanes are feasible. An analysis of the substituted corridor shall be included similar to the analysis of the original corridor, to show the most practical route for said bus/carpool lanes.

(d) On or before December 1, 1974, the Administrator shall submit to the Commonwealth of Pennsylvania his response to the study required by paragraph (c) of this section, and shall in that response, either approve the routes selected by the Commonwealth as most practicable and feasible for bus/carpool lanes, or shall designate alternative routes on which bus/carpool lanes must be established.

(e) On or before February 1, 1975, the Commonwealth of Pennsylvania and such county and local jurisdictions as the Commonwealth has requested to participate (and are, therefore, required by paragraph (b) of this section to establish lanes) shall submit to the Administrator compliance schedules which shall show in detail the steps which each governmental entity will take to establish the bus/carpool lanes required by this section, and to enforce the limitations on their use. In the compliance schedule submitted pursuant to this paragraph a governmental entity may designate limited segments of lanes which may be entered briefly by vehicles, otherwise excluded from such lanes, for reasons of safety or sound traffic planning. Such exceptions shall be subject to the approval of the Administrator. Special circumstances justifying the need for



such an exception (such as the desire to allow an exclusive lane to be entered briefly by automobiles for purposes of making a turn) must be set forth in detail.

(f) Bus/carpool lanes must be prominently indicated by distinctive painted lines, pylons, signs, or physical barriers. Twenty-five percent of the lane mileage for each of the governmental entities must be established and the needed signs installed by July 1, 1975; 50 percent established by October 1, 1975; and 100 percent established by January 1, 1976.

(g) A signed statement by the chief executive of each governmental entity establishing lanes, or his designee, shall be submitted to the Administrator no later than February 1, 1975, to identify the sources and amounts of funds for all projects required by this section.

(h) No later than April 1, 1975, each governmental entity required by this section to establish lanes shall submit to the Administrator legally adopted regulations sufficient to implement and enforce all of the requirements of this section.

**§ 52.2051 Regulation for limitation of public parking.**

(a) "On-street parking" means stopping a motor vehicle on any street, highway, or roadway (except for legal stops at or before intersections and as caution and safety require) whether or not a person remains in the vehicle. Stopping for the purpose of effecting any pickup or delivery of goods shall be permitted as provided in paragraphs (d) and (e) of this section.

(b) This section is applicable in the Southwest Pennsylvania Intrastate AQCR and in the Pennsylvania portion of the Metropolitan Philadelphia Interstate AQCR.

(c) Beginning April 1, 1974, each appropriate governmental entity shall prohibit on-street parking, Monday through Saturday, on all streets and highways over which it has ownership or control and which contain exclusive bus, bus/carpool, or trolley lanes pursuant to §§ 52.2044 through 52.2050, except as provided in paragraph (f) of this section. The prohibition against on-street parking on any particular street or highway shall be only for the period during which such street or highway has a lane or lanes reserved for trolleys, buses, and/or carpools. Momentary stopping for the pickup or discharge of passengers on exclusive bus, bus/carpool, or trolley lanes at established passenger stops shall be permitted. No later than March 1, 1974, each initially affected governmental entity shall submit to the Administrator legally adopted regulations establishing such a prohibition program. For any governmental entity not subject to any requirement to establish exclusive lanes until so requested by the Commonwealth of Pennsylvania pursuant to §§ 52.2048 (b) and 52.2050 (b), legally adopted regulations need not be submitted to the Administrator until 2 months after the Commonwealth of Pennsylvania requests the participation of such governmental

entity in an exclusive lane program. At a minimum, such regulations must provide that vehicles parked in violation of the prohibition shall be towed away and the owner shall be fined not less than \$50 per violation.

(d) Any governmental entity required under paragraph (c) of this section to establish on-street parking limitations may apply to the Administrator for permission to allow pickup and delivery of goods in certain identified zones along streets or highways containing exclusive trolley, bus, or bus/carpool lanes. Such applications must be submitted to the Administrator no later than June 1, 1974, or 1 month before the exclusive lane is established, whichever is later, and must identify precisely the physical location of the zones, the times for which permission to load and deliver in the zone is sought, and the manner (signs, pylons, etc.) in which the zones will be identified to motorists. Such application must also demonstrate that no safe and feasible alternatives exist for loading and delivery for the affected merchants (or others) from streets not containing exclusive trolley, bus, or bus/carpool lanes.

(e) After July 1, 1974, any governmental entity required under paragraph (c) of this section to establish on-street parking limitations, shall also prohibit stopping any vehicle along any street or highway containing an exclusive trolley, bus, or bus/carpool lane for the purpose of effecting any pickup or delivery of goods, except in loading and delivery zones approved by the Administrator pursuant to paragraph (d) of this section. Such prohibition shall apply during the same hours as the prohibition against on-street parking and shall state that any vehicle parked in violation of the prohibition shall be towed away and the owner shall be subject to a fine of not less than \$50 per violation.

(f) This section shall have no application to the streets and highways containing exclusive bus or trolley lanes as provided for in § 52.2046.

(g) No later than February 1, 1974, governmental entities subject to this section shall submit to the Administrator detailed compliance schedules showing the steps they will take to establish and enforce the on-street parking limitation program, including statutory proposals and needed regulations that they will propose for adoption. For any governmental entity not subject to any requirement to establish exclusive bus/carpool lanes until so requested by the Commonwealth of Pennsylvania pursuant to §§ 52.2048 (b) and 52.2050 (b), a compliance schedule need not be submitted to the Administrator until 1 month after the Commonwealth of Pennsylvania requests the participation of such governmental entity in an exclusive lane program.

**§ 52.2052 Employer's provision for mass transit priority incentives.**

(a) Definitions:

(1) "Philadelphia CBD" means the area within the City of Philadelphia, Pennsylvania, bounded by, but not in-

cluding, Vine Street, South Street, the Schuylkill River, and the Delaware River.

(2) "Employee parking space" means any parking space reserved or provided by an employer for the use of his employees.

(b) This section is applicable in the Southwest Pennsylvania Intrastate AQCR, and in the Philadelphia CBD of the Pennsylvania portion of the Metropolitan Philadelphia Interstate AQCR (the Regions).

(c) Each employer in the Regions who maintains more than 700 employee parking spaces shall, on or before February 1, 1974, submit to the Administrator an adequate transit incentive program designed to encourage the use of mass transit and discourage the use of single-passenger automobiles by his employees. This program may contain provisions for signed to encourage the use of mass transit, reductions in the number of employee parking spaces, surcharges on the use of such spaces by employees, provision of special charter buses or other modes of mass transit for the use of employees, preferential parking, and other benefits to employees who travel to work by carpool, and/or any other measures acceptable to the Administrator. By April 1, 1974, the Administrator shall approve such program for each employer if he finds it to be adequate, and shall disapprove it if he finds it not to be adequate. Notice of such approval or disapproval will be published in Subpart NN of this part.

(d) In order to be approvable by the Administrator, such program shall contain procedures whereby the employer will supply the Administrator with semi-annual certified reports which shall show, at a minimum the following information:

(1) The number of employees at each of the employer's facilities within the Regions on October 15, 1973, and as of the date of the report.

(2) The number of free and non-free employee parking spaces provided by the employer at each such employment facility on October 15, 1973, and as of the date of the report.

(3) The number of employees regularly commuting to and from work by private automobile, carpool, and mass transit at each such employment facility on October 15, 1973, and as of the date of the report.

(4) Such other information as the Administrator may prescribe.

(e) If, after the Administrator has approved a transit incentive program, the employer fails to submit any reports in full compliance with paragraph (d) of this section, or if the Administrator finds that any such report has been intentionally falsified, or if the Administrator determines that the program is not in operation or is not providing adequate incentives for employee use of carpools and mass transit, the Administrator may revoke the approval of such plan. Such revocation shall constitute a disapproval.



(f) By April 1, 1974, the Administrator shall prescribe a transit incentive program for each employer to whom paragraph (c) of this section is applicable if such employer has not submitted a program. By June 1, 1974, the Administrator shall prescribe a transit incentive program for each employer to whom paragraph (c) of this section is applicable if the program submitted is not adequate. Within 2 months after any revocation pursuant to paragraph (e) of this section, the Administrator shall prescribe a transit incentive program for the affected employer. Any program prescribed by the Administrator shall be published in Subpart NN of this part.

(g) Each employer in the Regions who maintains more than 70 employee parking spaces shall, on or before February 1, 1975, submit to the Administrator an adequate transit incentive program conforming to the requirements of paragraphs (c) and (d) of this section, except that in paragraph (d), the reference date for reports shall be October 15, 1974, rather than October 15, 1973. Each such program shall be subject to approval or disapproval by the Administrator by April 1, 1975. Each such program, when approved, shall be subject to revocation as provided in paragraph (e) of this section.

(h) By April 1, 1975, the Administrator shall prescribe a transit incentive program for each employer to which paragraph (g) of this section is applicable if such employer has not submitted a program. By June 1, 1975, the Administrator shall prescribe a transit incentive program for each employer to which paragraph (g) of this section is applicable if the program submitted is not adequate.

Within 2 months after any revocation of any program of any employer pursuant to paragraph (e) of this section, the Administrator shall prescribe a transit incentive program for the affected employer. Any program prescribed by the Administrator shall be published in Subpart NN of Part 52, Title 40, Code of Federal Regulations.

#### § 52.2053 Monitoring transportation mode trends.

(a) This section is applicable to the Southwest Pennsylvania Intrastate AQCR and the Pennsylvania portion of the Metropolitan Philadelphia Interstate AQCR.

(b) In order to assure the effectiveness of the inspection and maintenance program and the retrofit devices required under §§ 52.2038 and 52.2039, the Commonwealth of Pennsylvania shall monitor the actual per vehicle emission reductions occurring as a result of such sections. All data obtained from such monitoring shall be included in the quarterly report submitted to the Administrator by the Commonwealth in accordance with § 51.7 of this chapter. The first quarterly report for reporting emission reduction data shall cover the period from January 1 to March 31, 1976.

(c) In order to assure the effective implementation of §§ 52.2040, 52.2041, and 52.2043 through 52.2051 the Commonwealth shall monitor vehicle miles traveled and average vehicle speed for each area in which such sections are in effect for such time periods as may be appropriate to evaluate the effectiveness of such sections. The first quarterly report for reporting vehicle miles traveled and vehicle speed data shall cover

the period from July 1, through September 30, 1974. All data obtained from such monitoring shall be included in the quarterly report submitted to the Administrator by the State in accordance with § 51.7 of this chapter in the basic format shown in Table 1.

|                    |                              |                  |                               |
|--------------------|------------------------------|------------------|-------------------------------|
| Time period.....   | VMT OR AVERAGE VEHICLE SPEED |                  |                               |
| Affected area..... |                              |                  |                               |
|                    | Roadway type                 | Vehicle type (1) | Vehicle type (2) <sup>1</sup> |
| Freeway.....       |                              |                  |                               |
| Arterial.....      |                              |                  |                               |
| Collector.....     |                              |                  |                               |
| Local.....         |                              |                  |                               |

<sup>1</sup> Continue with other vehicle types as appropriate.

(d) No later than March 1, 1974, the Commonwealth shall submit to the Administrator a compliance schedule to implement this section. The program description shall include the following:

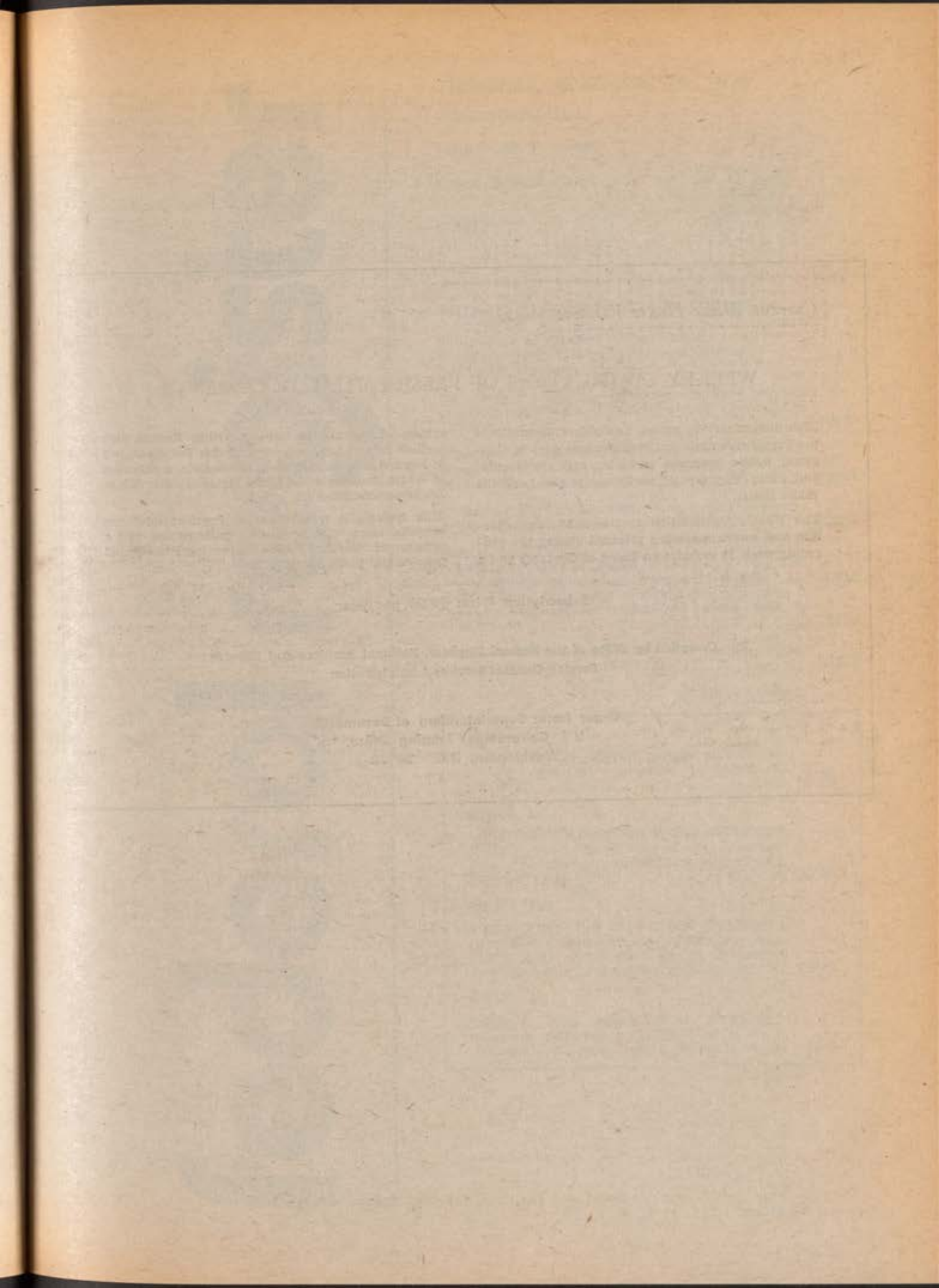
(1) The Agency or agencies responsible for conducting, overseeing, and maintaining the monitoring program.

(2) A description of the methods to be used to collect the emissions data, VMT data, and vehicle speed data; a description of any modeling techniques to be employed; a description of the geographical area to which the data apply; identification of the location at which the data will be collected; and the time periods during which data will be collected.

(3) The administrative procedures to be used.

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