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Title 3—The President

PROCLAMATION 4295

Flag Day and National Flag Week, 1974

By the President of the United States of America

A Proclamation

The Continental Congress met in Philadelphia on June 14, 1777, and its journal for that date, now in the National Archives, shows that its members primarily concerned themselves with routine matters. But two resolutions approved on that day were to be of great moment.

The first: "Resolved, that Captain John Paul Jones be appointed to command the said ship Ranger." It was an appointment that made naval history.

The second: "Resolved, that the flag of the thirteen United States be thirteen stripes, alternate red and white: that the union be thirteen stars, white in a blue field, representing a new constellation." This short and unadorned declaration gave birth to our flag.

The outcome of the Revolutionary War remained in doubt on that Saturday in June 197 years ago. But the simple words that created our national standard epitomized the sense of purposeful determination of the people of this land to live together in independence.

We won our independence and an enduring Union was forged. The flag that had been adopted in those uncertain days flew over a new nation. With the addition of stars, it remains our flag today and symbolizes our commitment, as a people, to freedom, equality, and independence.

To commemorate the adoption of our flag, the Congress, by a joint resolution of August 3, 1949 (63 Stat. 492), designated June 14 of each year as Flag Day and requested the President to issue annually a proclamation calling for its observance. The Congress also requested the President, by joint resolution of June 9, 1966 (80 Stat. 194), to issue annually a proclamation designating the week in which June 14 occurs as National Flag Week and to call upon all citizens of the United States to display the flag of the United States on those days.

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, do hereby designate the week beginning

June 9, 1974, as National Flag Week, and I direct the appropriate officials of the Government to display the flag on all Government buildings during that week. I urge all Americans to observe Flag Day, June 14, and Flag Week by flying the Stars and Stripes from their homes and other suitable places.

IN WITNESS WHEREOF, I have hereunto set my hand this thirty-first day of May, in the year of our Lord nineteen hundred and seventy-four, and of the independence of the United States of America the one hundred ninety-eighth.

Richard Nixon

[FR Doc.74-12881 Filed 5-31-74;4:04 pm]

MEMORANDUM OF MAY 16, 1974

[Presidential Determination No. 74–20]

Security Supporting Assistance to Egypt

Memorandum for the Secretary of State and the Secretary of Agriculture

THE WHITE HOUSE, *Washington*, MAY 16, 1974.

Subject: Determinations and Authorization under Sections 614(a) and 653(a) of the Foreign Assistance Act of 1961, as amended; Finding and Determination under Sections 103(d)(3) and (4) and 410 of the Agricultural Trade Development and Assistance Act of 1954, as amended—Egypt.

I. DETERMINATION AND AUTHORIZATION UNDER THE FOREIGN ASSISTANCE ACT

Pursuant to the authority vested in me by the Foreign Assistance Act of 1961, as amended (hereinafter "the Act"), I hereby:

(a) Determine, pursuant to section 614(a) of the Act, that the use of not to exceed $730,000 of funds available in the fiscal year 1974 for security supporting assistance to Egypt in addition to funds previously made available, without regard to the requirements of the Act, is important to the security of the United States;

(b) Authorize, pursuant to section 614(a) of the Act, such use of not to exceed $730,000 as security supporting assistance to Egypt for the purpose of providing assistance in clearing the Suez Canal of wrecked ships and other debris;

(c) Determine, pursuant to section 653(a) of the Act, that it is in the security interests of the United States that Egypt receive not to exceed $730,000 in security supporting assistance in addition to funds previously made available from funds available under section 532 of the Act for the fiscal year 1974;

(d) Determine, pursuant to section 614(a) of the Act, that the use of not to exceed $3 million in United States-owned excess Egyptian pounds in furtherance of security supporting assistance to Egypt, without regard to the requirements of the Act and without regard to any law relating to receipts or credits accruing to the United States, is important to the security of the United States; and

(e) Authorize, pursuant to section 614(a) of the Act, the use of not to exceed $3 million equivalent of such excess Egyptian pounds for the purpose of defraying costs payable in local currency incurred by the United States Government in connection with clearing the Suez Canal

of mines, providing technical and advisory assistance in disposing of unexploded ordnance in the Canal and along its banks, and providing assistance in clearing the Suez Canal of wrecked ships and other debris.

II. FINDING AND DETERMINATION UNDER THE AGRICULTURAL TRADE DEVELOPMENT AND ASSISTANCE ACT

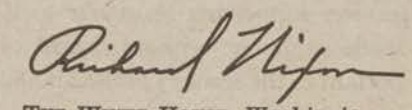
Pursuant to the authority vested in me under the Agricultural Trade Development and Assistance Act of 1954, as amended (hereinafter "the Act"), I hereby:

(a) Find, pursuant to Section 103(d)(3) of the Act, that the making of an agreement with the Government of Egypt for the sale, under title I of the Act, of tobacco in an amount not to exceed $10 million in value is in the national interest of the United States;

(b) Determine, pursuant to Section 103(d)(4) of the Act, that the sale to Egypt of tobacco in furtherance of such an agreement is in the national interest of the United States; and

(c) Determine and certify, pursuant to Section 410 of the Act and Section 620(e) of the Foreign Assistance Act of 1961, as amended, that it is important to the national interests of the United States to waive the prohibitions contained in those sections against assistance under title I of the Act for the sale to Egypt of tobacco in an amount not to exceed $10 million in value.

This determination shall be published in the FEDERAL REGISTER.



THE WHITE HOUSE, *Washington.*

STATEMENT OF REASONS THAT SALES UNDER TITLE I OF THE AGRICULTURAL TRADE DEVELOPMENT AND ASSISTANCE ACT OF 1954, AS AMENDED (PUB. L. 480) TO EGYPT ARE IN THE NATIONAL INTEREST

Egypt is central to our efforts to achieve a just and lasting peace in the Middle East. Our ultimate success will depend on Egyptian confidence in our intention to develop a broad and constructive bilateral relationship with that country. Institution of a program for concessional sales of agricultural commodities to Egypt will constitute a tangible demonstration of our intended role.

In response to current Egyptian needs, it is proposed to export to that country tobacco in the amount not to exceed $10 million in value, financed under Title I of the Agricultural Trade Development and Assistance Act of 1954, as amended (Pub. L. 480). This amount is not based on Egypt's needs for more than one fiscal year.

In order to enter into an agreement with the government of Egypt for such a sale under Title I, it is necessary that the President find, determine, and certify that such sales would be in the national interest of the United States. Section 103(d)(3) of Pub. L. 480 prohibits the sale of agricultural commodities under Title I of the Act to any nation which sells or furnishes or permits ships or aircraft under its registry to transport to or from Cuba or North Vietnam any equipment, materials, or commodities (so long as those countries are governed by Communist regimes). However, if such activities are limited to the furnishing, selling, or selling and transporting to Cuba medical supplies, non-strategic raw materials for agriculture, and non-strategic agricultural or food commodities, sales agreements may be made if the President finds they are in the national interest of the United States. Section 103(d)(4) prohibits sales of commodities under Title I to Egypt unless the President determines such sales are in the national interests of the United States. Finally, Section 410 applies to assistance under Title I of Pub. L. 480 the prohibitions contained in Section 620(e) of the Foreign Assistance Act of 1961,

as amended, relating to nationalization or expropriation of property owned by Americans; the prohibitions of Section 620(e), however, may be waived by the President if he determines and certifies that such a waiver is important to the national interests of the United States.

Although Egypt has been trading with Cuba in recent years, our information indicates that it has not traded with North Vietnam. Egyptian ships or aircraft have not called at Cuba or North Vietnam. The best information available indicates that current Egyptian trade with Cuba is limited to non-strategic agricultural commodities and medical supplies within the meaning of Section 103(d)(3).

Since 1961 Egypt has enacted agrarian reform laws and certain nationalization, sequestration, and restrictive measures with a view to extending public ownership and control of its economy. These measures adversely affected property rights and interests of Americans in Egypt and thus make Section 410 applicable to Egypt.

The considerations noted above, however, make it important to the national interest of the United States that the proposed sale be made notwithstanding the prohibitions contained in Section 103(d)(3) and (4) and Section 410 of Pub. L. 480.

[FR Doc.74-12862 Filed 5-31-74;3:15 pm]

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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.

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Title 7—Agriculture

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

[Lemon Reg. 640, Amdt. 1]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

This regulation increases the quantity of California-Arizona lemons that may be shipped to fresh market during the weekly regulation period May 26 to June 1, 1974. The quantity that may be shipped is increased due to improved market conditions for California-Arizona lemons. The regulation and this amendment are issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 910.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The need for an increase in the quantity of lemons available for handling during the current week results from changes that have taken place in the marketing situation since the issuance of Lemon Regulation 640 (39 FR 18446). The marketing picture now indicates that there is a greater demand for lemons than existed when the regulation was made effective. Therefore, in order to provide an opportunity for handlers to handle a sufficient volume of lemons to fill the current market demand thereby making a greater quantity of lemons available to meet such increased demand, the regulation should be amended, as hereinafter set forth.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this amendment until July 5, 1974 (5 U.S.C. 553) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restriction on the handling of lemons grown in California and Arizona.

(b) *Order, as amended.* Paragraph (b)(1) of § 910.940 (Lemon Regulation 640) (39 FR 18446) is hereby amended to read as follows: "The quantity of lemons grown in California and Arizona which may be handled during the period May 26, 1974, through June 1, 1974, is hereby fixed at 315,000 cartons."

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

Dated: May 30, 1974.

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

[FR Doc.74–12753 Filed 6–3–74;8:45 am]

PART 915—AVOCADOS GROWN IN SOUTH FLORIDA

Expenses and Rate of Assessment and Carryover of Unexpended Funds

This document authorizes expenses of $38,250 for the Avocado Administrative Committee under Marketing Order No. 915, for the 1974–75 fiscal year and fixes a rate of assessment of $0.05 per bushel of avocados handled in such period to be paid to the Committee by each first handler as his pro rata share of such expenses.

On May 3, 1974, notice of rule making was published in the FEDERAL REGISTER (39 FR 15488) inviting written comments not later than May 21, 1974, regarding proposed expenses, and the related rate of assessment for the period beginning April 1, 1974, through March 31, 1975, and carryover of unexpended funds, pursuant to the marketing agreement, as amended, and Order No. 915, as amended (7 CFR Part 915), regulating the handling of avocados grown in South Florida. None were received. This regulatory program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). After consideration of all relevant matters presented, including the proposals set forth in such notice which were submitted by the Avocado Administrative Committee (established pursuant to said marketing agreement and order), it is hereby found and determined that:

§ 915.213 Expenses, rate of assessment, and carryover of unexpended funds.

(a) *Expenses.* Expenses which are reasonable and likely to be incurred by the Avocado Administrative Committee during the period April 1, 1974, through March 31, 1975, will amount to $38,250.

(b) *Rate of assessment.* The rate of assessment for said period, payable by each handler in accordance with § 915.41, is fixed at $0.05 per bushel of avocados.

(c) *Reserve.* Unexpended assessment funds in the amount of approximately $19,306, which are in excess of expenses incurred during the fiscal year ending March 31, 1974, shall be carried over as a reserve in accordance with §§ 915.42 and 915.205 of said amended marketing agreement and order.

It is hereby further found that good cause exists for not postponing the effective date hereof until July 5, 1974 (5 U.S.C. 553) in that (1) shipments of avocados are expected to begin on or about June 17, 1974, (2) the relevant provisions of said marketing agreement and this part require that the rate of assessment herein fixed shall be applicable to all assessable avocados handled during the aforesaid period, and (3) such period began on April 1, 1974, and said rate of assessment will automatically apply to all such avocados beginning with such date.

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

Dated: May 30, 1974.

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

[FR Doc.74–12754 Filed 6–3–74;8:45 am]

Title 9—Animals and Animal Products

CHAPTER I—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

Areas Quarantined or Released

These amendments quarantine a portion of Douglas County in Nebraska because of the existence of cattle scabies. The restrictions pertaining to the interstate movement of cattle from quarantined areas as contained in 9 CFR Part 73, as amended, will apply to the area quarantined.

The amendments release a portion of Antelope County in Nebraska and a portion of Weld County in Colorado 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. No areas in Colorado remain under quarantine.

Accordingly, Part 73, Title 9, Code of Federal Regulations, as amended, restricting the interstate movement of cattle because of scabies is hereby amended as follows:

In § 73.1a, paragraph (b) relating to Nebraska is amended and paragraph (e) relating to the State of Colorado is deleted.

§ 73.1a Notice of quarantine.

* * * * *

(b) Notice is hereby given that cattle in certain portions of Nebraska 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) That portion of Douglas County comprised of sec. 36, T. 14–15 N., R. 9–10 E.

(2) The premises of Hammond Farms in Otoe Precinct of Otoe County, sec. 20.

* * * * *

(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 amendments shall become effective May 30, 1974.

Insofar as the amendments impose certain further restrictions necessary to prevent the interstate spread of cattle scabies, they must be made effective immediately to accomplish their purpose in the public interest. Insofar as the amendments relieve restrictions, they are no longer deemed necessary to prevent the spread of cattle scabies and they 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 amendments are impracticable and contrary to the public interest, and good cause is found for making them effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 30th day of May 1974.

J. M. HEJL,
Acting Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service.

[FR Doc.74–12751 Filed 6–3–74;8:45 am]

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. Y]

PART 225—BANK HOLDING COMPANIES

By notice of proposed rule making published in the FEDERAL REGISTER on July 13, 1973 (38 FR 18691), the Board of Governors proposed to amend § 225.4(a)(4) of Regulation Y to clarify the boundaries upon deposit-taking activities that are properly incidental to trust company activities which the Board has determined to be so closely related to banking or managing or controlling banks as to be a proper incident thereto, and to provide that the kinds of activities authorized under § 225.4(a)(4) include those performed not only by trust company subsidiaries that are State-chartered, but also by any such subsidiaries that may operate as limited purpose trust companies under national bank charters and that do not both accept demand deposits and make commercial loans. After considering the comments on such proposal, the Board published a revised proposal in the FEDERAL REGISTER on October 11, 1973 (38 FR 28082) which retained the provision authorizing limited purpose trust companies to operate under either a State charter or a national bank charter and further clarified the scope of permissible deposit-taking and lending activities of such trust companies.

The Board has considered all of the material submitted on the July 13, 1973 proposal, and the October 11, 1973 proposal. After considering all relevant aspects of the proposal to amend § 225.4(a)(4) to clarify the deposit-taking and incidental lending activities of bank holding company trust company subsidiaries, the Board has determined that the trust company activities published for comment in the October 11, 1973 proposal are activities that are closely related to banking and has decided to adopt such proposal without any modification.

Pursuant to this amendment, bank holding company trust company subsidiaries, operating under Federal or State charter, are authorized to accept deposits that are generated from trust funds not currently invested and deposits representing funds received for a special use in the capacity of a managing agent or custodian for an owner of, or investor in, real property, or as agent for an issuer of, or broker or dealer in, securities, provided that such agency or custodian accounts are not employed by or for the account of a customer in the manner of a general purpose checking account and do not bear interest. However, such trust company subsidiaries are prohibited from making loans or investments, except the sale of federal funds, the making of call loans to securities dealers or the purchase of money market instruments such as certificates of deposit, commercial paper, government or municipal securities, and bankers acceptances. Such authorized loans and investments, however, may not be used as a method of channeling funds to nonbanking affiliates of the trust company. Such limitations on the lending activities of trust company subsidiaries of bank holding companies are necessary in order to carry out the purposes of section 3(d) of the Bank Holding Company Act (12 U.S.C. 1842(d)), which limits the commercial banking business of bank holding companies to the State in which their principal banking subsidiaries operate. In order to engage in broader lending activities, it is recognized that bank holding companies may, in their home State, choose to apply for limited purpose trust companies under section 3 of the Act.

The text of the amendment to § 225.4(a)(4) which supersedes existing § 225.4(a)(4) reads as follows:

§ 225.4 Nonbanking activities.

(a) * * *

(4) Performing or carrying on any one or more of the functions or activities that may be performed or carried on by a trust company (including activities of a fiduciary, agency, or custodian nature), in the manner authorized by Federal or State law, so long as the institution does not make loans or investments or accept deposits other than (i) deposits that are generated from trust funds not currently invested and are properly secured to the extent required by law, or (ii) deposits representing funds received for a special use in the capacity of managing agent or custodian for an owner of, or investor in, real property, securities, or other personal property, or for such owner or investor as agent or custodian of funds held for investment or escrow agent, or for an issuer of, or broker or dealer in securities, in a capacity such as paying agent, dividend disbursing agent, or securities clearing agent, and not employed by or for the account of the customer in the manner of a general purpose checking account or bearing interest, or (iii) sale of federal funds, making of call loans to securities dealers or purchase of money market instruments such as certificates of deposit, commercial paper, government or municipal securities, and bankers acceptances (such authorized loans and investments, however, may not be used as a method of channeling funds to nonbanking affiliates of the trust company);

* * * * *

Effective date: June 24, 1974.

By order of the Board of Governors of the Federal Reserve System, May 22, 1974.

[SEAL] CHESTER B. FELDBERG,
Secretary of the Board.

[FR Doc.74–12712 Filed 6–3–74;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Airworthiness Docket No. 74-WE-26-AD; Amdt. 39-1863]

PART 39—AIRWORTHINESS DIRECTIVES

Hiller UH-12D and UH-12E Helicopters

Amendment 261 to Regulations of the Administrator Part 507, AD 61-5-4, as amended (Airworthiness Directives issued under R.O.A. Part 507 have been incorporated into Part 39 of the Federal Aviation Regulations), requires the removal and replacement of transmission gears that do not bear certain heat treat lot numbers and accomplishment of certain subsequent period inspections. Amendment 411 to Part 507, AD 62-6-3, requires certain modifications to the transmission and lubrication system to provide additional lubrication for the transmission. Amendment 730 to Part 507, AD 64-11-2, requires the removal and replacement of certain tail rotor pinion gears that are acceptable under the provisions of AD 61-5-4. After issuing these amendments, the agency determined that the inspections required by AD 61-5-4 may be discontinued upon compliance with paragraph (d) of AD 62-6-3, and that some confusion exists among the requirements of Item 1 of AD 61-5-4 and those of AD 64-11-2. Therefore, AD 61-5-4 is being amended to delete these inspections upon compliance with paragraph (d) of AD 62-6-3 and to clarify the relationship of AD's 61-5-4, 62-6-3, and 64-11-2. The AD is reprinted in its entirety, as amended.

Since this amendment relieves a restriction and provides clarification only, and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 FR 13697), § 39.13 of Part 39 of the Federal Aviation Regulations, Amendment 261 to Regulations of the Administrator, Part 507, AD 61-5-4, as amended, is further amended as follows:

HILLER. Applies to Hiller Model UH-12D and UH-12E Helicopters Certificated in all Categories

Compliance required as indicated unless previously accomplished.

To minimize failures of the main transmission:

(a) Prior to next flight:

(1) Inspect the planet spur gear, bevel ring gear and tail rotor bevel gear shaft for part number and heat treat lot number.

NOTE: The heat treat lot number, if any, is etched on the parts. The 1962 series parts do not bear heat treat lot numbers.

(2) Remove any planet spur gear, Part No. 23527, that does not have one of the following lot numbers:

(i) For Model UH-12D only—35, 59, 71, 125, 171, 180, 181, 182, 185, 186, 196, 217, 245, 275, 309 and subsequent prefaced by "VHI", or any number prefaced by "HA".

(ii) For Model UH-12E only—180, 185, 186, 196, 275, 309 and subsequent prefaced by "VHI", or any number prefaced by "HA".

(3) Replace with planet spur gears Part No. 1962C171 or 23527-3, or with Part No. 23527 having one of the above heat treat lot numbers specified in subparagraph (a)(2) above.

NOTE: Part No. 23527-3 gears must not be intermixed with Part No. 1962C171 or Part No. 23527 gears in the same transmission.

(4) Remove any bevel ring gear, Part No. 23528, that does not have one of the following lot numbers—40, 40R, 277, 279, 286, 288, 293, 293A, 295, 309 and subsequent prefaced by "VHI", or any number prefaced by "HA".

(5) Replace with bevel ring gear Part No. 1962D58, 23528-5 or 23633, or with Part No. 23528 having one of the heat treat lot numbers specified in subparagraph (a)(4) above.

(6) Remove any tail rotor bevel gear shaft, Part No. 23522, that does not have one of the following lot numbers—291, 292, 309 and subsequent prefaced by "VHI", or any number prefaced by "HA".

(7) Replace with tail rotor bevel gear shaft Part No. 23634-3 or 1962D65.

NOTE: Airworthiness Directive 64-11-2 applicable to Model UH-12E helicopters further requires the replacement of all tail rotor bevel gear shafts Parts Nos. 23522 and 23634 with Part No. 23634-3 within the time period specified in that AD.

(8) For any bevel ring gear not replaced in acocrdance with subparagraph (5) above and any tail rotor bevel gear shaft not replaced in accordance with subparagraph (7) above or AD 64-11-2, inspect for proper gear tooth pattern.

NOTE: Refer to earlier transmission overhaul manual for description of acceptable pattern.

(9) Replace any bevel ring and tail rotor bevel gear shaft found to have improper gear tooth pattern in acocrdance with subparagraphs (5) and (7) above.

(b) For all Models UH-12D and UH-12E, Serial Numbers 942, 954, and 2001 through 2198, inclusive, accomplish the following prior to next flight and thereafter at intervals not to exceed 25 hours' time in service from the last inspection until modified in accordance with paragraph (d) of Airworthiness Directive 62-6-3:

(1) Remove and check the oil nozzle orifice, P/N 23607, located at lower right-hand side of main transmission for obstruction. If this nozzle is obstructed, inspect the Borg Warner clutch for evidence of lack of lubrication. If such evidence is found, replace the clutch with a serviceable clutch of the same or FAA-approved equivalent Part Number.

(2) Using a piece of 0.020-inch wire, check for obstruction in oil orifices located at forward topside of upper case, forward side of tachometer drive cover, and (if generator is installed on transmission) upper outboard side of generator drive housing. If any of these orifices are found obstructed, inspect the first stage planetary gear system for abnormal wear or overheating. If signs of such wear and/or overheating are noticed, overhaul or replace the first stage planetary system with a serviceable first stage planetary system of the same or FAA-approved equivalent Part Number.

(c) For all Model UH-12D and UH-12E Serial Nos. 942, 954 and 2001 through 2198 inclusive, accomplish the following prior to the next flight and thereafter at intervals not to exceed 10 hours' (Model UH-12D) or 25 hours' (Model UH-12E) time in service from the last inspection until modified in accordance with paragraph (d) of Airworthiness Directive 62-6-3: Remove, disassemble, and inspect the engine oil filter and transmission oil filter for the presence of metallic particles. If aluminum, bronze, or steel particles are found in either or both of these filters, inspect the first stage planetary system for abnormal wear or overheating. If signs of such wear and/or overheating are noticed, overhaul or replace the first stage planetary system with a serviceable first stage planetary system of the same or FAA-approved equivalent Part Number.

(d) Within the next 150 hours' time in service, incorporate Part Nos. 23549-3 and 23549-5 bushings and Part No. 23578 planet gear shafts in the first stage planetary gear system of Model UH-12D helicopters with main transmission Part No. 23500, 23500-3 or 23500-7.

This amendment becomes effective June 4, 1974.

This amendment is made under the authority of sections 313(a), 601 and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 and 1423) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Los Angeles, California on May 20, 1974.

ARVIN O. BASNIGHT,
Director,
FAA Western Region.

[FR Doc.74-12679 Filed 6-3-74;8:45 am]

[Docket No. 73-CE-23-AD; Amdt. 39-1764]

PART 39—AIRWORTHINESS DIRECTIVES

Beech Models 95-55, 95-A55, 95-B55, 95-C55, D55, D55A, E55 and E55A Airplanes

Correction

In FR Doc. 73-26991, appearing on page 35232 in the issue of Wednesday, December 26, 1973, line 5 of the applicability statement should read as follows "TE-1 through TE-199 and TC-350), air-".

Issued in Kansas City, Missouri, on May 24, 1974.

A. L. COULTER,
Director, Central Region.

[FR Doc.74-12680 Filed 6-3-74;8:45 am]

[Airspace Docket No. 74-AL-10]

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

Alteration of Colored Airways, Controlled Airspace, and Reporting Points

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to make editorial changes in the descriptions of certain airways, controlled airspace, and reporting points as a result of the conversion and renaming of the Big Delta, Alaska, low frequency four course radio range (LFR) to the Delta Junction, Alaska, nondirectional radio beacon (RBN) at its present location and the renaming of the Middleton Island, Alaska, RBN to the Wessels, Alaska, RBN.

A plan for the conversion of all LFRs to RBNs in the State of Alaska was circulated January 14, 1972, with a request for comment. All comments received were favorable. Renaming the Middleton Island RBN to Wessels RBN eliminates

the duplication of names for navaids at this location.

Since this action simply redescribes airways, controlled airspace and reporting points with no substantive alteration to any route structure or airspace dimension, it is a minor matter in which the public would have no particular desire to comment. Therefore, notice and public procedure thereon are unnecessary. In order to provide sufficient time for changes to be made on appropriate aeronautical charts, this amendment will be made effective July 18, 1974.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 g.m.t. July 18, 1974, as hereinafter set forth.

1. § 71.105 (39 FR 305, 38 FR 34728) is amended as follows:

a. In A-2 "Big Delta, Alaska, RR; INT northwest course Big Delta RR;" is deleted and "Delta Junction, Alaska, RBN;" is substituted therefor.

b. In A-15 "Big Delta, Alaska," is deleted and "Delta Junction, Alaska, RBN;" is substituted therefor.

2. § 71.107 (39 FR 306, 10116, 15259) is amended as follows:

In R-103 "Middleton Island, Alaska, RBN." is deleted and "Wessels, Alaska, RBN." is substituted therefor.

3. § 71.109 (39 FR 306, 3670) is amended as follows:

In B-25 "Middleton Island, Alaska, RBN 296° bearing;" is deleted and "Wessels, Alaska, RBN 296° bearing;" is substituted therefor, also "Big Delta, Alaska, RR." is deleted and "Delta Junction, Alaska, RBN." is substituted therefor.

4. § 71.163 (39 FR 346) is amended as follows:

In Control 1310 "Middleton Island RBN to the Sandspit," is deleted and "Wessels, Alaska, RBN to the Sandspit," is substituted therefor, and "from the Middleton Island RBN and northwest from the Sandspit RBN," is deleted and "from the Wessels, Alaska, RBN and northwest from the Sandspit RBN," is substituted therefor, also "midway between Middleton Island and Sandspit," is deleted and "midway between Wessels and Sandspit," is substituted therefor.

5. § 71.181 (39 FR 440) is amended as follows:

In Middleton Island, Alaska "the Middleton Island RBN 011° bearing," is deleted and "the Wessels, Alaska, RBN 011° bearing," is substituted therefor.

6. § 71.211 (39 FR 632) is amended as follows:

a. "Big Delta, Alaska, RR" is deleted and "Delta Junction, Alaska, RBN" is added.

b. "Middleton Island, Alaska, RBN" is deleted and "Wessels, Alaska, RBN" is added.

c. In Porpoise INT: "INT 122° bearing Middleton Island," is deleted and "INT 122° bearing Wessels," is substituted therefor.

d. In Shrimp INT: "INT 122° bearing Middleton Island, Alaska (MDO), RBN," is deleted and "INT 122° bearing Wessels, Alaska, RBN," is substituted therefor.

7. § 71.213 (39 FR 634) is amended as follows:

In Porpoise INT: "INT 122° bearing Middleton Island, Alaska, RBN," is deleted and "INT 122° bearing Wessels, Alaska, RBN," is substituted therefor.

This amendment is made under the authority of sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on May 16, 1974.

CHARLES H. NEWPOL,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.74-12678 Filed 6-3-74;8:45 am]

[Airspace Docket No. 74-EA-21]

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

Alteration of Area High Route

On April 8, 1974, a Notice of Proposed Rule Making (NPRM) was published in the FEDERAL REGISTER (39 FR 12769) stating that the Federal Aviation Administration (FAA) was considering an amendment to Part 75 of the Federal Aviation Regulations that would realign J-864R east of Front Royal, Va.

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

In consideration of the foregoing, Part 75 of the Federal Aviation Regulations is amended, effective 0901 g.m.t., August 15, 1974, as hereinafter set forth.

§ 75.400 (39 FR 718, 38 FR 24204) is amended as follows:

In J-864R "Herndon, Va., 39°01'10" N. 77°27'42" W." is deleted, and "Armel, Va., 38°56'04" N. 77°28'01" W." is substituted therefor.

This amendment is made under the authority of sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and sec. 6(c) of the Department of Transportation (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on May 29, 1974.

GORDON E. KEWER,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.74-12677 Filed 6-3-74;8:45 am]

Title 20—Employees' Benefits

CHAPTER V—MANPOWER ADMINISTRATION, DEPARTMENT OF LABOR

PART 602—COOPERATION OF THE U.S. TRAINING AND EMPLOYMENT SERVICE AND STATES IN ESTABLISHING AND MAINTAINING A NATIONAL SYSTEM OF PUBLIC EMPLOYMENT OFFICES

Minimum Wage Rates for Temporary Foreign Agricultural Labor

On page 15307 of the FEDERAL REGISTER of May 2, 1974, there was published a notice of proposed rulemaking to revise the minimum wage rates at 20 CFR 602.10b (a)(1), which are applicable to the importation of aliens for certain temporary agricultural work. Interested persons were given 15 days in which to file written statements of data, views, or arguments regarding the proposed amendment. No comments were received. After consideration of all relevant matters, the amendment as so proposed is hereby adopted with one change and is set forth below.

The change is required because of a typographical error in the proposed minimum wage rate for the State of New York. For this reason the wage rate for New York is reserved in this amendment A proposed amendment setting forth the correct wage rate for New York, $2.26 per hour. is being published today.

The amendments herein reflect findings regarding changes in wage rates of U.S. workers in agricultural occupations to be used pursuant to the Secretary's responsibility in the immigration process. Full opportunity was provided for participation in the rulemaking process. Any additional advance notice of these changes would be contrary to the public interest. Accordingly, this amendment becomes effective on June 4, 1974.

§ 602.10b Wage rates.

(a)(1) Except as otherwise provided in this section the following hourly wage rates (which have been found to be the rates necessary to prevent adverse effect upon U.S. workers) shall be offered to agricultural workers in accordance with § 602.10a(j):

State:	*Rate*
Connecticut	$2.28
Maine	2.24
Massachusetts	2.25
New Hampshire	2.43
New York [Reserved]	
Rhode Island	2.21
Vermont	2.37
Virginia	2.27
West Virginia	2.25

(8 U.S.C. 1184, 8 CFR 214.2(h), 34 FR 6502)

Signed at Washington, D.C., this 30th day of May 1974.

WILLIAM H. KOLBERG,
Assistant Secretary for Manpower.

[FR Doc.74-12740 Filed 6-3-74;8:45 am]

Title 21—Food and Drugs

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

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 19—CHEESES, PROCESSED CHEESES, CHEESE FOODS, CHEESE SPREADS, AND RELATED FOODS

Spiced, Flavored Standardized Natural Cheese; Identity; Label Statement of Optional Ingredients

A proposal to establish a standard of identity for spiced, flavored standardized natural cheeses in 21 CFR Part 19 was published in the FEDERAL REGISTER of February 13, 1973 (38 FR 4347), based on a petition submitted by the National Cheese Institute, Inc., 110 North Franklin St., Chicago, IL 60606. The petition proposed to establish a standard of identity for natural cheeses which contain added spice, or flavoring, or both, but in other respects conform to existing natural cheese standards of identity.

Eleven consumers and one member of industry submitted comments in response to the proposal. The comments and the responses of the Commissioner of Food and Drugs are as follows:

1. Eight of the consumers were in favor of the proposal based on provisions in the proposal that required labeling which to them would distinguish a spiced and/or flavored cheese from the natural cheese variety and would at the same time allow for new and distinctive variations of historical foods.

2. Three consumers were not in favor of the proposed standard based on the issue that they would not want spices or flavors added to natural cheeses.

The Commissioner points out that natural cheeses without added spices and flavors will still be available. The labeling provisions of this standard require that cheese which has added spices or flavors be clearly identified by name so that consumers will have the choice of purchasing cheese with or without added spices and flavors.

3. The single industry comment suggested deletion of the words "by weight" from the phrase "in order of predominance by weight" in § 19.____(b)(1)(i), and in addition suggested deletion of the portion of (b) which requires the name of the characterizing flavor or spice to be in the same size, style, and color of type as the rest of the name of the food.

The Commissioner has concluded that the labeling provisions of this standard should be consistent with the applicable requirements of 21 CFR Part 1. Therefore, the label provisions for the foods covered by this standard have been cross-referenced to § 1.12 *Food labeling; spices, flavorings, colorings, and chemical preservatives*. The Commissioner wishes to point out that when spices are represented as being the primary recognizable flavor in the food, this constitutes a declaration of flavor and the provisions of § 1.12(l) apply.

4. The industry comment questioned why the proposed standard did not provide for the addition of foods such as tissues derived from fruit, vegetable, meat, fish, or poultry during the manufacture of the cheese.

The Commissioner has concluded that such a change is beyond the scope of the notice that was published. A separate petition, furnishing reasonable grounds, should be submitted and subjected to an adequate comment period before such a change is made.

Paragraph (b) which appeared in the proposal has been revised to reference the provisions of 21 CFR 1.12 (38 FR 27622) which deal with the manner in which the use of spices and flavorings are to be declared on the label of foods.

Having considered the information submitted by the petitioner, the comments received, and other relevant material, the Commissioner concludes that it will promote honesty and fair dealing in the interest of consumers to adopt the proposal to establish the standard of identity for spiced, flavored standardized natural cheeses as set forth below.

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 19 be amended by adding thereto a new section as follows:

§ 19.792 Spiced, flavored standardized cheeses; identity; label statement of optional ingredients.

(a) Except as otherwise provided for herein and in applicable sections in this part, a spiced or flavored standardized cheese conforms to the applicable definitions, standard of identity and requirements for label statement of optional ingredients prescribed for that specific natural cheese variety promulgated pursuant to section 401 of the act. In addition a spiced and/or flavored standardized cheese shall contain one or more safe and suitable spices and/or flavorings, in such proportions as are reasonably required to accomplish their intended effect: *Provided*, That no combination of ingredients shall be used to simulate the flavor of cheese of any age or variety.

(b) The name of a spiced or flavored standardized cheese shall include in addition to the varietal name of the natural cheese, a declaration of any flavor and/or spice that characterizes the food, in the manner prescribed in § 1.12 of this chapter.

Any person who will be adversely affected by the foregoing order may at any time on or before July 5, 1974, file with the Hearing Clerk, Food and Drug Administration, Rm. 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. This order shall become effective Aug. 5, 1974, 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 given by publication 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: May 28, 1974.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.74-12719 Filed 6-3-74;8:45 am]

SUBCHAPTER F—BIOLOGICS

PART 680—ADDITIONAL STANDARDS FOR MISCELLANEOUS PRODUCTS

Sterility Test Media

An order was published in the FEDERAL REGISTER of September 22, 1971 (36 FR 18795), which required in part that Soybean-Casein Digest Medium be used in place of Fluid Sabouraud's Media for testing the sterility of biological products as specified in § 610.12(a)(2) (21 CFR 610.12(a)(2)), formerly 42 CFR 73.730(a)(2), recodified in the FEDERAL REGISTER of November 20, 1973 (38 FR 32057). However, it has come to the attention of the Commissioner of Food and Drugs that due to an oversight, a corresponding reference to this substitution was not reflected in the additional standards for allergenic products under § 680.3(c) (2) and (3), which continue to erroneously reference Fluid Sabouraud Medium, rather than Soybean-Casein Digest Medium.

Accordingly, in order to correct this inadvertent discrepancy, 21 CFR 680.3(c) is being amended as set forth below to change references from Fluid Sabouraud Medium to Soybean-Casein Digest Medium.

Therefore, pursuant to the Public Health Service Act (sec. 351, 58 Stat. 702, as amended; 42 U.S.C. 262) and under authority delegated to the Commissioner (21 CFR 2.120), Part 680 is amended by revising § 680.3(c) (2) and (3) to read as follows:

§ 680.3 Tests.

* * * * *

(c) * * *

(2) For lots consisting of no more than 5 final containers, the final container test shall be performed in accordance with § 610.12(g)(7) of this chapter using the sample therein prescribed or using a sample of no less than 0.25 ml. of product from each final container, divided in approximately equal proportions for testing in Fluid Thioglycollate and Soybean-Casein Digest Media. The test sample in the latter alternative method may be an overfill in the final container.

(3) For products prepared in sets of individual dilution series, a test sample of 0.25 ml. shall be taken from a final container of each dilution, which samples may be pooled and one half of the pooled material used for the test with Fluid Thioglycollate Medium and one half used for the test with Soybean-Casein Digest Medium.

* * * * *

Pursuant to the Administrative Procedure Act (5 U.S.C. 553 (b) and (d)), the Commissioner finds that notice, public procedure, and delayed effective date are unnecessary for the promulgation of this order since it is of a minor nature and does not alter, but rather maintains consistent requirements for sterility testing.

Effective date. This order shall become effective June 4, 1974.

(Sec. 351, 58 Stat. 702, as amended (42 U.S.C. 262))

Dated: May 28, 1974.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.74-12720 Filed 6-3-74;8:45 am]

Title 24—Housing and Urban Development

CHAPTER IX—OFFICE OF INTERSTATE LAND SALES REGISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R-74-271]

PART 1700—INTRODUCTION

Amendment and Delegation of Authority

The Secretary is amending 24 CFR, Part 1700 in order to notify the public of the reorganization of the Office of Interstate Land Sales Registration and of the establishment of a new Division of that Office. The new Division is named the Policy Development and Control Division, and is headed by a Director who is delegated and assigned certain authorities and responsibilities, as reflected by this amendment.

The section dealing with separability of provisions is renumbered and placed under Part 1700, Subpart A, where it is felt to be more appropriately ordered.

This amendment relates to agency management; therefore, notice of proposed rule making and postponement of the effective date are unnecessary.

Accordingly, Chapter IX of Title 24 CFR, Part 1700 is amended to read as follows:

PART 1700—INTRODUCTION

Subpart A—Authority and Organization

Sec.

1700.1 Scope of authority and purpose.
1700.5 Authority of Secretary.
1700.10 Delegation of authority.
1700.15 Establishment of office.
1700.20 Administrator.
1700.25 Principal divisions.
1700.30 Public information.
1700.35 Separability of provisions.

Subpart B—Delegations of Basic Authority and Functions

1700.80 Director of Examination Division, Office of Interstate Land Sales Registration, and Deputy.
1700.85 Director of the Land Sales Enforcement Division, Office of Interstate Land Sales Registration, and Deputy.
1700.90 Director of the Policy Development and Control Division, Office of Interstate Land Sales Registration.
1700.95 Acting Administrator.
1700.100 Assistant Deputy Administrator.

AUTHORITY: The provisions of this Part 1700 issued under sec. 1419, 82 Stat. 598 (15 USC 1718).

Subpart A—Authority and Organization

§ 1700.1 Scope of authority and purpose.

A land developer is required by the Interstate Land Sales Full Disclosure Act, Title XIV of Public Law 90-448, 82 Stat. 590, 15 USC 1701, enacted on August 1, 1968 (hereafter sometimes referred to as the Act) to make full disclosure in the sale or lease of certain undeveloped, subdivided land. The Act makes it unlawful (except with respect to certain exempted transactions) for any developer to sell or lease, by use of the mail or by any means in interstate commerce, any such land offered as part of a common promotional plan unless the land is registered with the Secretary of Housing and Urban Development and a printed property report is furnished to the purchaser or lessee in advance of the signing of an agreement for sale or lease.

§ 1700.5 Authority of Secretary.

Section 1416(a) of the Act vests authority and responsibility for its administration in the Secretary of Housing and Urban Development (hereafter in this part referred to as the Secretary), and authorizes the Secretary to delegate any of his functions, duties and powers thereunder to employees of the Department of Housing and Urban Development.

§ 1700.10 Delegation of authority.

(a) The Secretary has delegated to the Interstate Land Sales Administrator and the Deputy Administrator all of the authority to exercise the power and authority vested in him under the Act except the authority to:

(1) Conduct hearings in accordance with 5 USC 556 and 557.

(2) Issue orders or determinations after such hearings.

(3) Issue rules and regulations under section 1416(a) of the Interstate Land Sales Full Disclosure Act 15 USC 1701-1720, Title XIV of the Housing and Urban Development Act of 1968 prescribing rights of appeal from the decisions of hearing examiners.

(4) Transmit evidence of apparent violations of the Act to the Attorney General of the United States for the institution of any appropriate criminal proceedings under section 1415(a) of the Act.

(5) Sue and be sued.

(b) The Secretary has further authorized the Administrator to redelegate any of the delegated authority to employees of the Department.

§ 1700.15 Establishment of Office.

There is established, as an organizational unit of the Department of Housing and Urban Development, the Office of Interstate Land Sales Registration.

§ 1700.20 Administrator.

The Office of Interstate Land Sales Registration is headed by the Interstate Land Sales Administrator who shall be designated by the Secretary.

§ 1700.25 Principal divisions.

The following Divisions have been established within the Office of Interstate Land Sales Registration:

(a) Examination Division.

(b) Land Sales Enforcement Division.

(c) Policy Development and Control Division.

§ 1700.30 Public information.

(a) *In general.* The identifiable records of the Office of Interstate Land Sales Registration are subject to the provisions of 5 USC 552, as implemented by Part 15—Public Information, Subtitle A, of this title.

(b) *Availability of information and records.* Information concerning land sales registrations and copies of statements of record may be obtained from the following address:

Office of Interstate Land Sales Registration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

In addition, statements of record may be reviewed at such address on any business day from 9 a.m. to 4:15 p.m.

(c) *Nonapplicability of exemptions authorized by 5 USC 552.* Section 1405(d) of the Act specifically provides that information contained in or filed with any statement of record shall be made available to the public. The exemptions from public disclosure authorized by 5 USC 552, as set forth in § 15.21 of this title, are not applicable to information contained in or filed with a statement of record.

(d) *Duplication fee—property report.* Notwithstanding the provisions of § 15.14, Schedule of Fees, of this title, copies of a Property Report on file with the Office of Interstate Land Sales Registration will be provided upon request for a fixed fee of $2.50 per copy regardless of the number of pages duplicated. Payment may be made in cash or by check or money order payable to the Department of Housing and Urban Development. Personal checks are acceptable.

§ 1700.35 Separability of provisions.

If any clause, sentence, paragraph, or part of these regulations shall, for any reason, be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined by its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

Subpart B—Delegations of Basic Authority and Functions

§ 1700.80 Director of the Examination Division, Office of Interstate Land Sales Registration, and Deputy.

To the position of Director of the Examination Division, Office of Interstate Land Sales Registration, and under his supervision to the position of Deputy Director there are delegated and assigned the following authorities and responsibilities:

(a) To receive and examine all statements of record (other than those partial statements of record filed in connection with requests for Exemption Orders or Exemption Advisory Opinions) and property reports filed under the provisions of the Interstate Land Sales Full Disclosure Act and all amendments and corrections to such statements.

(b) To determine the adequacy of disclosure of statements of record and property reports and amendments thereto and to effect corrections, additions, and deletions in such statements and reports deemed necessary to achieve the purposes of the Interstate Land Sales Full Disclosure Act.

(c) To recommend to the Administrator that he find effective or declare not effective statements of record filed under the Interstate Land Sales Full Disclosure Act and to prepare evidence in connection with hearings and other administrative proceedings relative to statements of record declared not effective.

§ 1700.85 Director of the Land Sales Enforcement Division, Office of Interstate Land Sales Registration, and Deputy.

To the position of Director of the Land Sales Enforcement Division, Office of Interstate Land Sales Registration, and under his supervision to the position of Deputy Director, there are delegated and assigned the following authorities and responsibilities:

(a) To receive, examine, and make determination with respect to complaints arising from the alleged failure of a developer subject to the Act to comply with the requirements of the Act and Regulations issued thereunder and to negotiate resolutions of such complaints and compliance by such developers.

(b) To recommend actions by the Administrator to achieve compliance by developers deemed subject to the Act who have not complied with any or all of the requirements of the Act and Regulations issued thereunder.

(c) To conduct, on his own initiative, or in response to information received, reviews to determine the existence of such noncompliance and secure compliance with the requirements of the Act and Regulations thereunder.

(d) To recommend suspension by the Administrator of statements of record on a determination of noncompliance with the requirements of the Act and Regulations thereunder.

(e) To recommend action to secure permanent or temporary injunctions or restraining orders to prevent acts or practices in violation of the provisions of the Act and Regulations thereunder and to require compliance therewith.

(f) To prepare evidence in connection with hearings or other administrative proceedings or injunctions or restraining orders in connection with suspensions of statements of record or other action in connection with noncompliance under the Act and Regulations thereunder.

§ 1700.90 Director of the Policy Development and Control Division, Office of Interstate Land Sales Registration.

To the position of Director of the Policy Development and Control Division there are delegated and assigned the following authorities and responsibilities:

(a) To receive, examine, and recommend approval or disapproval of developers' claims and requests for statutory and regulatory exemptions from the Act.

(b) To perform all functions incident to mail and correspondence control.

(c) To develop and recommend regulatory and legislative changes.

(d) To recommend office policy, to review examinations to determine consistency of application of office policy, and to develop training programs to implement office policy as needed.

(e) To maintain and coordinate the efforts of the Office of Interstate Land Sales Registration with the efforts of those State agencies having responsibility for land sales functions.

§ 1700.95 Acting Administrator.

The Deputy Administrator and the Assistant Deputy Administrator in the order named, are designated by the Administrator to act in his place and stead in the event of his absence or inability to act, having the title of "Acting Administrator" with the powers, duties, and rights delegated by the Secretary's Delegation of Authority published in the FEDERAL REGISTER on March 9, 1972, 37 FR 5071.

§ 1700.100 Assistant Deputy Administrator.

The Assistant Deputy Administrator is designated by the Administrator to perform routine matters concurrently with the Deputy Administrator.

Effective date. These amendments are effective on June 4, 1974.

(Section 7(d) of the Department of Housing and Urban Development Act, 79 Stat. 670 (42 USC 3535(d)), 1419, 82 Stat. 598 (15 USC 1718), Secretary's delegation of authority published at 37 FR 5071.)

GEORGE K. BERNSTEIN,
Interstate Land Sales Administrator.

[FR Doc.74-12759 Filed 6-3-74;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Revisions to the New Jersey Transportation Control Plan

On December 7, 1973 (38 FR 33775), EPA published in the FEDERAL REGISTER proposed revisions to the New Jersey Transportation Control Plan concerning the employer's provisions for mass transit priority incentives. Public hearings were held on the proposed revisions in Camden, Trenton, and Newark, New Jersey on January 10, 11, and 12, 1974. At the public hearings, representatives of various industries, civil organizations, industrial associations, and private citizens presented testimony on the New Jersey Transportation Control Plan.

Representatives from two industrial concerns expressed their support of the intent of the regulation but were concerned that the proposed revision discriminated against larger employers because it applied only to employers who provide 700 or more parking spaces for their employees. One representative also stated that there were estimated to be only 4 or 5 employers in the New Jersey portion of the Metropolitan Philadelphia Region who maintained 700 employee parking spaces and that to be effective this program must be applicable to more than 4 employers. It was suggested that the criteria be based on the number of employees at a facility rather than on the number of parking spaces provided. It was further suggested that an employer whose incentive/disincentive program is disapproved be allowed an inexpensive and rapid review. One specific recommendation was that the proposed regulation should apply to employers with 200 or more employees. On the basis of the testimony presented, the Administrator has modified the size criterion to include all employers who provide 400 or more parking spaces. Recognizing that the total number of persons employed is often unrelated to the number of persons who commute by private automobile, EPA has rejected the use of the criterion based on the number of employees.

Spokesmen for two motoring organizations continued to oppose the proposed regulation on the grounds that they believed that carpooling and other mass transit programs should be "voluntary" for employers and that EPA should instead work to develop mass transit alternatives. They also urged that additional park-and-ride facilities and exclusive bus lanes should be established along major commuter routes.

In order to assure that needed reductions in pollutant emission levels take place, the Administrator feels an employer incentive program of a mandatory nature is definitely necessary. Furthermore, it has been and is EPA's policy to encourage mass transportation expansion and improvements. A list of short-term control strategies for reducing VMT was prepared by the New Jersey State Department of Transportation in September 1973 for inclusion in the transportation control plan that the State of New Jersey is developing. Since the list included possible additional park-and-ride facilities to be established, the Administrator felt that a regulation requiring the establishment of such facilities would not be necessary. The Administrator has further concluded that the bus lanes which are required by § 52.1598 of the New Jersey Transportation Control Plan as promulgated on November 13, 1973 are sufficient to meet the plan objectives.

The remaining testimony was addressed to other sections of the New Jersey Transportation Control Plan. EPA will consider these statements in its continuing plan evaluation process.

During the 30-day public comment period following the hearings, EPA received additional comments on the proposed revisions and on the other aspects of the New Jersey Transportation Control Plan. Five industrial corporations commented on the proposed revision. Three of these corporations have opposed the measure on the basis that it would "discriminate" against certain employees or groups of employees and would strain employee-employer relationships.

The Administrator has determined that this measure would not place a strain on employee-employer relationships. This determination is based upon review of programs that have been submitted to EPA by employers to comply with similar regulations in Texas and California. These programs consist primarily of providing benefits rather than detriments to employees and do not appear to "discriminate" against any employee or group of employees.

A fourth company generally supported the objectives of the proposed measure but expressed some concern with the proposed definition of "employer" and with the use of surcharges in a program. EPA has revised its definition of employer. It is no longer based upon the number of employees but on the number of employee parking spaces provided at

one location. Furthermore, EPA is not requiring the use of surcharges. An employer may utilize any measures that he feels would be most effective in his situation; however, all programs would be subject to EPA approval.

The fifth company was confused about the relationship between the Administrator's action of January 15, 1974 and EPA's proposed revision to § 52.1590 published on December 7, 1973. The Administrator's action on January 15, 1974 prohibits EPA from promulgating a regulation that places surcharges on employee parking spaces. His action in no way affects EPA's revision to § 52.1590 because it does not contain a provision for surcharges on employee parking.

This regulation now being promulgated differs from the proposal in a number of ways. "Employer" is now defined as a person who provides 400 parking spaces for his employees. This lower number will increase the number of employers who are affected by the regulation, particularly in the Metropolitan Philadelphia Region. Also, the date for submittal of the plans has been extended because this rulemaking is being published at a later date than originally anticipated. The date used to determine baseline information concerning the number of employees at each facility, the modes of employee commuting, and an estimate of vehicle miles traveled by employees has also been modified. This date may now be any date between August 1, 1973 and April 1, 1974, for which valid data or estimates are available.

It should be noted that an added advantage of this regulation will be to reduce fuel consumption within the two Air Quality Control Regions to which the regulation is applicable.

EPA may expand this program to a second stage. This expansion will be dependent upon the success of the program as it applies to the larger employers.

The second stage, which may take effect in July 1975, and which may apply to employers who supply some number of parking spaces less than 400 will be promulgated at a later date. No regulatory language for it is included in this promulgation; however, EPA currently intends to model it very closely on the requirements as set forth above. This regulation shall take effect July 5, 1974.

(Sections 110(c) and 301(a) of the Clean Air Act, 42 U.S.C. 1857–5(c) and 1857g).

Dated: May 24, 1974.

JOHN QUARLES,
Acting Administrator.

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

Subpart FF—New Jersey

1. Section 52.1590 is revised to read as follows:

§ 52.1590 Employer's provision for mass transit priority incentives.

(a) Definitions:

(1) "Carpool" means a vehicle containing two or more persons.

(2) "Employee parking space" means any parking space reserved or provided by any employer for the use of his employees.

(b) This section is applicable in the New Jersey portions of the New Jersey-New York-Connecticut and Metropolitan Philadelphia Interstate AQCR's (the "Regions").

(c) Each employer in the Regions who maintains 400 employee parking spaces at any of his facilities shall submit to the Administrator, on or before July 1, 1974, an adequate transit incentive program for that facility designed to encourage the use of mass transit and carpooling by his employees. The employer's program employees. The employer's program should contain the mix of incentive or disincentive provisions most likely to obtain maximum use of carpooling and mass transit so as to reduce vehicle miles travelled (VMT). Some incentive examples are: Subsidies to employees using mass transit, preferential parking or other benefits for those who travel in carpools, provision of special charter or employer buses to and from mass transit stops and formal information systems so that employees can select optimum carpool arrangements. Some examples of disincentive provisions are: Reduction in employee parking spaces, surcharges on use of parking spaces for single passenger drivers and non-preferential parking for single passenger drivers.

(d) By September 1, 1974, the Administrator shall approve or disapprove such program for each employer. Notice of such approval or disapproval will be published in Part 52 to Title 40, Code of Federal Regulations.

(e) Such program shall contain procedures whereby the employer shall supply the Administrator with semi-annual reports which shall show the following information:

(1) The number of employees at each of the employer's facilities within the Regions on April 1, 1974 or any date before April 1, 1974 but not earlier than August 1, 1973, for which valid data or estimates are available, and as of the date of the report.

(2) The number of employees regularly commuting to and from work by (i) single passenger automobile, (ii) carpool, and (iii) mass transit at each affected facility on April 1, 1974 or any date before April 1, 1974 but not earlier than August 1, 1973 for which valid data or estimates are available, and as of the date of the report.

(3) An estimate of employee vehicle miles travelled per day as of April 1, 1974 or any date before April 1, 1974, but not earlier than August 1, 1973 for which valid data or estimates are available, and as of the last typical work day preceding the date of preparation of the report.

(4) Such other information as the Administrator may prescribe.

(f) 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 or disincentives for employee use of carpools and mass transit, the Administrator may revoke the approval of such plan.

(g) By October 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 or has submitted a program found to be inadequate. Within two 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 this Part 52 of Title 40, Code of Federal Regulations.

[FR Doc.74–12732 Filed 6–3–74;8:45 am]

Title 45—Public Welfare

CHAPTER VIII—CIVIL SERVICE COMMISSION

PART 801—VOTING RIGHTS PROGRAM

Appendix A; Mississippi

Appendix A to Part 801 is amended as set out below to show, under the heading "Dates, Times, and Places for Filing", one additional place for filing in Mississippi:

Mississippi

County; Place for filing; beginning date.
• • • • •
Pearl River; Picayune—Community Recreation Center; Library; Rosa and Beech Streets; June 8, 1974.

(Secs. 7 and 9 of the Voting Rights Act of 1965; Pub. L. 89–110)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.74–12745 Filed 6–3–74;8:45 am]

Title 49—Transportation

CHAPTER I—DEPARTMENT OF TRANSPORTATION

SUBCHAPTER B—OFFICE OF PIPELINE SAFETY

[Amdt. No. 195–7; Docket No. HM–6B]

PART 195—TRANSPORTATION OF LIQUIDS BY PIPELINE

Movement of Pipelines Containing Liquefied Gases

This amendment modifies the restriction on movement of pipelines containing liquefied gases under § 195.424.

On June 21, 1971, the Federal Railroad Administrator issued Notice 71–19 (36 FR 12175, June 26, 1971), proposing to delete the requirement in § 195.424(b) for isolation of the line section being moved and substitute a new requirement that continuous flow of the commodity be maintained but at a substantially reduced line pressure. As stated in the notice, isolation of a line section during movement is costly to the industry and may create an unnecessary hazard. When a line section is isolated, valves upstream and downstream of the section are closed, stopping the flow of commodity in the section. If a line section so isolated is

exposed to the sun, the heat generated can cause the internal line pressure to rise above the normal operating pressure of the pipeline, resulting in stresses which could be harmful. On the other hand, continuous flow of commodity in the section being moved will dissipate added heat from the sun, and the internal line pressure will not rise above the normal operating pressure. In addition to proposing that pipelines containing liquefied gases be moved under flow conditions, the notice also proposed a concomitant reduction in line pressure below that required by § 195.424(a) to provide a further safeguard against accidental escape of the unusually hazardous liquefied gases.

Interested persons were invited to participate in making the proposed amendment by submitting written comments by August 20, 1971. Two commenters responded to the notice: the American Petroleum Institute, who favored the amendment as proposed, and the National Transportation Safety Board (NTSB), who suggested several changes.

After Notice 71–19 had been issued, section 6(f)(3)(A) of the Department of Transportation Act was amended to delete the authority of the Federal Railroad Administrator to carry out the liquid pipeline safety functions under 18 U.S.C. 831–835. On November 7, 1972, this authority was delegated to the Assistant Secretary for Environment, Safety, and Consumer Affairs (37 FR 24674) and redelegated to the Director, Office of Pipeline Safety (OPS) (37 FR 24901).

The OPS has reviewed this rule making proceeding and fully considered each comment received. In § 195.424, the existing requirement in paragraph (b) is revised and a new paragraph (c) is added to provide greater safety in moving pipelines containing liquefied gases. The final rule also places additional conditions on movement which were not included in the proposed version. These additional conditions reflect the OPS response to NTSB suggestions concerning the safety of moving pipelines containing liquefied gases. The conditions are within the general scope of the notice which was to modify the existing restriction on moving these pipelines in view of the hazard the restriction may create in practice.

The NTSB noted that most pipelines transport other commodities as well as liquefied gases and suggested that these pipelines should be moved only when they contain the other commodities. Moving pipelines when they contain a commodity other than liquefied gases is a desirable safeguard and is followed by industry. For this reason, OPS has adopted the suggestion, but with modification. Making the practice suggested by NTSB mandatory in all situations would unfairly restrict the operation and maintenance practices of carriers who transport a variety of commodities as compared with those who only transport liquefied gases. The NTSB suggestion also could result in maintenance delay and considerable expense in some cases. Therefore, in the final rule, the language has been tempered to apply only in practical situations. The rule provides that a pipeline which contains liquefied gases may not be moved unless moving that pipeline when it contains some other commodity is impractical.

The NTSB also suggested that the public would be better protected if pipelines containing liquefied gases were isolated and drained as a condition to movement in certain circumstances, and moved under flow conditions only in areas of low population density. Except as to areas of low population density, following this suggestion would introduce additional hazards involved in emptying a pipeline containing liquefied gases. The practice of isolating and draining pipelines also would be a very costly safety measure which is unwarranted in view of the good accident record of carriers in moving pipelines. The OPS believes, however, in light of the NTSB recommendation, that the public should be afforded additional safeguards when a pipeline containing liquefied gases is moved. Therefore, § 195.424 now requires as a condition to moving pipelines containing liquefied gases, that the carrier have procedures under § 195.402 designed to protect the public before the pipeline is moved, including procedures to warn the public when evacuation of the surrounding area is necessary.

The NTSB further pointed out that pipelines with mechanical joints present a more hazardous situation when being moved than pipelines with welded joints. The OPS believes the hazard would be worse if mechanically joined pipelines containing liquefied gases were moved with the commodity flowing. Moreover, the extra risk involved would outweigh the safety advantage to be gained from permitting movement under flow conditions in lieu of requiring isolation to prevent flow. As a consequence, the final rule permits movement with continuous flow at reduced pressure for pipelines joined by welding but not for pipelines joined by other means. The existing requirement for isolation of the line section involved is continued in effect for pipelines joined other than by welding. The OPS is considering the problems associated with different pipe characteristics as the subject of a future rule making proposal, particularly with regard to the transportation of highly volatile liquids.

In consideration of the foregoing, in § 195.424 of Title 49 of the Code of Federal Regulations, paragraph (b) is revised and paragraph (c) is added to read as follows, effective July 15, 1974:

§ 195.424 Pipe movement.

* * * * *

(b) No carrier may move any pipeline containing liquefied gases where materials in the line section involved are joined by welding unless—

(1) Movement when the pipeline does not contain liquefied gases is impractical;

(2) The procedures of the carrier under § 195.402 contain precautions to protect the public against the hazard in moving pipelines containing liquefied gases, including the use of warnings, where necessary, to evacuate the area close to the pipeline; and

(3) The pressure in that line section is reduced to the lower of the following:

(i) Fifty percent or less of the maximum operating pressure; or

(ii) The lowest practical level that will maintain the commodity in a liquid state with continuous flow, but not less than 50 psig above the vapor pressure of the commodity.

(c) No carrier may move any pipeline containing liquefied gases where materials in the line section involved are not joined by welding unless—

(1) The carrier complies with paragraphs (b) (1) and (2) of this section; and

(2) That line section is isolated to prevent the flow of commodity.

This amendment is issued under the authority of sections 831–835 of Title 18, United States Code, section 6(e)(4) of the Department of Transportation Act (49 U.S.C. 1655(e)(4)), § 1.58(d) of the regulations of the Office of the Secretary of Transportation (49 CFR 1.58(d)), and the redelegation of authority to the Director, Office of Pipeline Safety, set forth in Appendix A to Part 1 of the regulations of the Office of the Secretary of Transportation (49 CFR Part 1).

Issued in Washington, D.C., on May 28, 1974.

JOSEPH C. CALDWELL,
Director,
Office of Pipeline Safety.

[FR Doc.74–12686 Filed 6–3–74;8:45 am]

CHAPTER V—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 73–9; Notice 6]

PART 570—VEHICLE IN USE INSPECTION STANDARDS

Response to Petitions for Reconsideration Correction

In FR Doc. 74–7966, appearing at page 12867 in the issue of April 9, 1974, the following correction is made:

Section 570.9(b) is revised to read:

§ 570.9 Tires.

* * * * *

(b) * * * (i) *Inspection procedures.* Examine visually. A major mismatch in tire size designation, construction, and profile between tires on the same axle, or a major deviation from the size as recommended by the manufacturer (e.g., as indicated on the glove box placard on 1968 and later passenger cars) are causes for rejection.

(Secs. 103, 108, 119, Pub. L. 89–563, 80 Stat. 718 (15 U.S.C. 1392, 1397, 1401); delegation of authority at 49 CFR 1.51.)

Issued on May 29, 1974.

JAMES B. GREGORY,
Administrator.

[FR Doc.74–12687 Filed 6–3–74;8:45 am]

[Docket No. 72-6; Notice 4]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Motorcycle Helmets

This notice is in response to a petition for reconsideration and petition for rulemaking to amend Motor Vehicle Safety Standard No. 218, "Motorcycle helmets" (49 CFR 571.218).

A notice responding to petitions for reconsideration and petitions for rulemaking to amend the standard established on August 20, 1973 (38 FR 22390; 49 CFR 571.218), was published on January 28, 1974 (39 FR 3554). Pursuant to 49 CFR 553.35, a petition for reconsideration of the January 28, 1974, notice was filed by the Safety Helmet Council of America (SHCA). Pursuant to 49 CFR 553.31, a petition for rulemaking to amend the standard as published on August 20, 1973, was filed by the California Highway Patrol. Both of these petitions are denied.

The petition for rulemaking submitted by the California Highway Patrol was received by the NHTSA before the issuance of the January 28, 1974, notice but after it had already been finally processed. This comment requested that the 105° minimum peripheral vision clearance to each side of the midsagittal plane be increased to 120°. After reviewing the information contained in the petition for the support of this view, the agency adheres to its position that the 105° minimum requirement strikes the best balance between visibility and protection.

The SHCA requested that the March 1, 1974, effective date of the standard be suspended for one year, and that the time duration criterion at the 200g level for the flat anvil phase of the impact attenuation test be changed from 2.0 to 3.0 milliseconds. These same requests had been included by the SHCA in a previous petition for reconsideration to amend the standard as published on August 20, 1973 (38 FR 22390; 49 CFR 571.218). In response to information contained in that earlier petition as well as from other comments that had been received, the standard was amended by the notice of January 28, 1974 (39 FR 3554), in some minor respects, and its effective date was temporarily suspended for helmets that must be tested on headform sizes A, B, and D. The additional data which the SHCA has supplied in support of its recent requests have been carefully considered and have been determined by the agency to be insufficient to justify the recommended changes in the standard.

(Secs. 103, 112, 119, Pub. L. 89-563, 80 Stat. 718, 15 U.S.C. 1392, 1401, 1407; delegation of authority at 49 CFR 1.51.)

Issued on May 29, 1974.

JAMES B. GREGORY,
Administrator.

[FR Doc.74-12688 Filed 6-3-74;8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rulemaking prior to the adoption of the final rules.

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

[8 CFR Part 242]

APPLICATIONS FOR TEMPORARY WITHHOLDING OF DEPORTATION

Consideration of Nonrecord Information

Pursuant to section 553 of Title 5 of the United States Code (80 Stat. 383), notice is hereby given of the proposed amendment of § 242.17(c) of Title 8 of the Code of Federal Regulations, pertaining to the use of nonrecord information.

Section 242.17(c) currently provides that the determination of an application for the temporary withholding of deportation under section 243(h) of the Immigration and Nationality Act may be based upon nonrecord information if, in the opinion of the special inquiry officer or the Board, the disclosure of such information would be prejudicial to the interests of the United States. The amendment to § 242.17(c) is being proposed to provide that nonrecord information should be used only in cases involving national security. The proposed amendment also provides that the respondent should be informed of the receipt of such nonrecord information by the special inquiry officer and that whenever the special inquiry officer believes he can do so, consistent with safeguarding both the information and its source, he should inform the respondent of the general nature of the information in order that he may have an opportunity to offer opposing evidence.

In accordance with the provisions of section 553 of Title 5 of the United States Code (80 Stat. 383), interested persons may submit to the Commissioner of Immigration and Naturalization, Room 7100-C, 425 Eye Street NW., Washington, D.C. 20536, written data, views, or arguments, in duplicate, with respect to the proposed rule. Such representations may not be presented orally in any manner. All relevant material received by June 28, 1974, will be considered.

It is proposed to amend Chapter I of Title 8 of the Code of Federal Regulations as follows:

PART 242—PROCEEDINGS TO DETERMINE DEPORTABILITY OF ALIENS IN THE UNITED STATES: APPREHENSION, CUSTODY, HEARING, AND APPEAL

In § 242.17, the existing last sentence of paragraph (c) is revoked and four new sentences are added in lieu thereof to read as follows:

§ 242.17 Ancillary matters, applications.

* * * * *

(c) *Temporary withholding of deportation.* * * * The trial attorney may also present evidence or information for the record, and he may submit information not of record to be considered by the special inquiry officer provided that the special inquiry officer or the Board has determined that such information is relevant and is classified under Executive Order No. 11652 (37 FR 5209; March 10, 1972) as requiring protection from unauthorized disclosure in the interest of national security. When the special inquiry officer receives such nonrecord information he shall inform the respondent thereof and shall also inform him whether it concerns conditions generally in a specified country or the respondent himself. Whenever he believes he can do so consistently with safeguarding both the information and its source, the special inquiry officer should state more specifically the general nature of the information in order that the respondent may have an opportunity to offer opposing evidence. A decision based in whole or in part on such classified information shall state that such information is material to the decision.

(Sec. 103, 66 Stat. 173 (8 U.S.C. 1103))

Dated: May 29, 1974.

L. F. CHAPMAN, Jr.,
Commissioner of Immigration and Naturalization.

[FR Doc.74-12682 Filed 6-3-74;8:45 am]

DEPARTMENT OF THE INTERIOR

Mining Enforcement and Safety Administration

[30 CFR Part 11]

RESPIRATORY PROTECTIVE DEVICES

Proposed Requirements

On March 25, 1972, the Department of Health, Education, and Welfare and the Department of the Interior jointly adopted Part 11 of Title 30, Code of Federal Regulations which provides for the testing of occupational respirators and the issuance of joint approvals for those which meet certain requirements for performance and respiratory protection (37 FR 6244). On March 15, 1973, the Departments jointly adopted miscellaneous amendments to Part 11 to reflect an agreement whereby the site for the testing of respiratory protective devices was transferred from the Bureau of Mines (now Mining Enforcement and Safety Administration) laboratory in Pittsburgh to the Testing and Certification Laboratory of the National Institute for Occupational Safety and Health in Morgantown, West Virginia.

Notice is hereby given that the Secretary of the Interior and the Secretary of Health, Education, and Welfare propose new amendments to Part 11 as set forth below. Section 11.85-12(d) would be amended to permit approval of lightweight escape apparatus by increasing to 1.5 percent the permissible concentration of carbon dioxide in closed-circuit, self-contained apparatus which use only a mouthpiece. Section 11.90(b) would be amended by deleting the maximum use concentrations which were recommendations to gas mask users of the typical maximum concentration of gas or vapor in which the device could be used. Recent investigations indicate that these values are too high. The user should refer to the National Institute of Occupational Safety and Health, the Mining Enforcement and Safety Administration, or the Occupational Safety and Health Administration for information concerning the safe use of gas masks. It is also proposed to change the test atmospheres involving nitrogen dioxide for both front- and back-mounted gas mask canisters from 20,000 to 10,000 parts per million. The sorbent capacity of the material in the canisters has been found to be less for NO_2 than for the other acid gases listed. Finally, § 11.93 would be changed by substituting the newly published American National Standard for Identification of Air Purifying Respirator Canisters and Cartridges for the previous standard concerning identification of canisters.

Interested persons may address written comments concerning the proposed amendments, in writing, to the Regulations Officer, National Institute for Occupational Safety and Health, Room 3-32, 5600 Fishers Lane, Rockville, Maryland 20852. All comments received in response to this notice will be available for public inspection at the foregoing address on weekdays between the hours of 8:15 a.m. and 4:45 p.m. All comments received on or before July 5, 1974 will be considered. It is proposed to make the regulations effective on the date of their republication in the FEDERAL REGISTER.

Dated: May 22, 1974.

C. K. MALLORY,
Deputy Assistant Secretary of the Interior.

CASPAR W. WEINBERGER,
Secretary of Health, Education and Welfare.

MARCH 28, 1974.

1. In § 11.85–12, paragraph (d) is revised to read as follows:

§ 11.85–12 Test for carbon dioxide in inspired gas; open- and closed-circuit apparatus; maximum allowable limits.

* * * * *

(d) In addition to the test requirements for closed-circuit apparatus set forth in paragraph (b) of this section, gas samples will be taken during the course of the man tests described in Tables 1, 2, 3, and 4. These gas samples will be taken from the closed-circuit apparatus at a point downstream of the carbon dioxide sorbent, and they shall not contain more than 0.5 percent carbon dioxide at any time, except that for escape-only apparatus where only a mouthpiece is used, a sample shall not contain more than 1.5 percent carbon dioxide at any time.

§ 11.90 [Amended]

2. The heading of paragraph (a) (2) of § 11.90 is changed to read: "Other front-mounted or back-mounted gas mask."

3. In § 11.90, paragraph (b) is revised to read as follows:

(b) Gas masks shall be further described according to the specific gases or vapors against which they are designed to provide respiratory protection, as follows:

Type of Front-Mounted or Back-Mounted Gas Mask

Acid Gas [3,4].
Ammonia [3].
Carbon Monoxide [3].
Organic Vapors [3,4].

Type of Chin-Style Gas Mask

Acid Gas [3,4].
Ammonia.
Organic Vapors [3,4].

Type of Escape Gas Mask

Acid Gas [3,4,5].
Ammonia [5].
Carbon Monoxide.
Organic Vapors [3,4,5].

NOTE: It is suggested that the gas mask user refer to the National Institute for Occupational Safety and Health, the Mining Enforcement and Safety Administration, or the Occupational Safety and Health Administration for information governing selection, use, and maintenance of gas masks and for information on safe use concentrations.

§ 11.102–5 [Amended]

4. In § 11.102–5, paragraph (c) (1) is revised to read as follows:

(c) (1) Front-mounted and back-mounted canisters designated for acid gases, ammonia, organic vapors, carbon monoxide and particulate contaminants shall have a window or other indicator to warn the gas mask wearer when the canister will no longer satisfactorily remove carbon monoxide from the inhaled air.

5. In Table 5 of § 11.102–5, the number 20,000 in the column designated "Concentration, p.p.m." for the gas NO_2 is deleted for that gas wherever it appears and the number 10,000 is substituted therefor, and in the column designated "Canister Type" the classification "Type N" is deleted and the words "acid gases, ammonia, organic vapors, carbon monoxide, and particulate contaminants" are substituted therefor.

6. Section 11.93 is revised to read as follows:

§ 11.93 Canisters and cartridges; color and markings; requirements.

The color and markings of all canisters and cartridges or labels shall conform with the requirements of the American National Standard for Identification of Air Purifying Respirator Canisters and Cartridges, K 13.1, obtainable from the American National Standards Institute, Inc.; 1430 Broadway; New York, N.Y. 10018.

[FR Doc.74–12723 Filed 6–3–74;8:45 am]

[3] Approvals may be for acid gases or organic vapors as a class or for specific acid gases, ammonia, or organic vapors. Approval may also be granted for combinations of acid gases, organic vapors, and other gases and vapors.

[4] Not for use against acid gases or organic vapors with poor warning properties (except where an indicator is incorporated in the canister to advise the wearer of impending or occurring leakage) or which generate high heats of reaction with sorbent materials in the canister.

[5] Eye protection may be required in certain concentrations of acid gases, ammonia, and organic vapors.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 915]

AVOCADOS GROWN IN SOUTH FLORIDA

Proposed Limitation of Handling

Consideration is being given to the following proposal, as hereinafter set forth, which would limit the handling of fresh avocados grown in South Florida by establishing minimum quality and maturity requirements, pursuant to § 915.51 *Issuance of regulations*, which were recommended by the Avocado Administrative Committee, established pursuant to the marketing agreement, as amended, and Order No. 915, as amended (7 CFR Part 915), regulating the handling of avocados grown in South Florida. The proposed regulation would establish U.S. No. 3 as the minimum grade and would prescribe minimum weights or diameters by specified dates as the maturity requirements for the handling of designated varieties of avocados, effective on and after June 17, 1974. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

All persons who desire to submit written data, views, or arguments in connection with the proposal should file the same in quadruplicate with the Hearing Clerk, Room 112A U.S. Department of Agriculture, Washington, D.C. 20250, not later than June 6, 1974. 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)).

A reasonable determination as to the quality and maturity of avocados must await the development of the crop and adequate information thereon was not available to the Avocado Administrative Committee until May 8, 1974, on which date an open meeting was held after giving due notice thereof to consider the need for and the extent of regulation of shipments of such avocados. Interested persons were afforded an opportunity to submit information and views at this meeting. Inview of this, and the need for making the regulation effective on June 17, 1974, to prevent shipment of immature avocados in the interest of producers and consumers, preliminary notice beyond that herein provided is impractical.

The recommendations of the Avocado Administrative Committee reflect its appraisal of the avocado crop and current and prospective market conditions. Shipments of avocados are expected to begin on or about June 17, 1974. The committee has considered and recommended the quality and maturity requirements, including shipping periods, for the designated varieties and types of avocados, to prevent the handling of immature and other undesirable quality fruit. Such recommendation is designed to recognize the differences in the consumer demand within and outside the production area and to provide the trade and consumers with an adequate supply of mature avocados of a satisfactory quality commensurate with crop conditions in the interest of producers and consumers pursuant to the declared policy of the act.

Such proposal reads as follows:

§ 915.316 Avocado Regulation 16.

(a) *Order.* (1) During the period June 17, 1974, through April 30, 1975, no handler shall handle any avocados unless such avocados grade at least U.S. No. 3 grade: *Provided*, That avocados which fail to meet the requirements of such grade may be handled within the production area, if such avocados meet all other applicable requirements of this section and are handled in containers other than the containers prescribed in § 915.305, as amended (7 CFR 915; 37 FR 11314; 38 FR 1921), for the handling of avocados between the production area and any point outside thereof;

(2) On and after the effective time of this regulation, except as otherwise provided in paragraphs (a) (11) and (a) (12) of this section, no avocados of the varieties listed in column 1 of the following Table I shall be handled prior to the date listed for the respective variety in Column 2 of such table, and thereafter each such variety shall be handled only in conformance with paragraphs (a) (3), (4), (5), (6), (7), and (8) hereof.

TABLE I

Variety	Date	Minimum weight or diameter	Date	Minimum weight or diameter	Date	Minimum weight or diameter	Date
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Fuchs	6–24–74	14 oz. 3 1/16 in.	7– 8–74	12 oz. 3 1/16 in.	7–22–74	10 oz. 2 15/16 in.	8–12–74
K–5	7– 1–74	16 oz. 3 5/16 in.	7–15–74	14 oz. 3 5/16 in.	7–29–74		

TABLE I—Continued

Variety	Date	Minimum weight or diameter	Date	Minimum weight or diameter	Date	Minimum weight or diameter	Date
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Dr. DuPuis	6-24-74	16 oz. 3⅝ in.	7- 8-74	14 oz. 3⅞ in.	7-22-74		
Hardee	7- 8-74	16 oz. 3⅜ in.	7-15-74	14 oz. 2 15/16 in.	8- 5-74		
Pollock	7- 8-74	18 oz. 3 1/16 in.	7-22-74	16 oz. 3⅞ in.	8- 5-74		
Simmonds	7- 8-74	16 oz. 3⅝ in.	7-22-74	14 oz. 3⅞ in.	8- 5-74		
Nadir	7- 8-74	14 oz. 3⅝ in.	7-15-74	12 oz. 3⅞ in.	7-22-74	10 oz. 2 1/16 in.	8- 5-74
Katherine	7- 8-74	16 oz.	7-22-74	14 oz.	8- 5-74		
Halle	7-22-74	16 oz.	7-29-74	14 oz.	8-19-74		
Dawn	7-22-74	12 oz. 3⅝ in.	8- 5-74	10 oz. 3 9/16 in.	8-19-74		
Peterson	7-29-74	14 oz. 3⅝ in.	8-12-74	10 oz. 3⅞ in.	8-26-74	8 oz. 2 1/16 in.	9- 9-74
Gretchen	8- 5-74	14 oz.	8-19-74	12 oz.	9- 2-74		
Trapp	8-19-74	14 oz. 3 9/16 in.	9- 2-74	12 oz. 3⅞ in.	9-16-74		
Waldin	8-19-74	16 oz. 3⅝ in.	9- 2-74	14 oz. 3⅞ in.	9-16-74	12 oz. 3⅝ in.	9-30-74
Ruehle	7-22-74	18 oz. 3 1/16 in.	7-29-74	16 oz. 3⅝ in.	8- 5-74	14 oz. 3⅞ in.	9- 2-74
Pinelli	8- 5-74	18 oz. 3 1/16 in.	8-19-74	16 oz. 3 9/16 in.	9- 2-74		
Miguel	8- 5-74	22 oz.	8-19-74	20 oz.	9- 2-74	18 oz.	9-16-74
Webb 2	7-22-74	18 oz.	8- 5-74	16 oz.	8-19-74		
Nesbitt	8- 5-74	22 oz.	8-19-74	18 oz.	8-26-74	16 oz.	9-16-74
Beta	8-19-74	18 oz.	8-26-74	16 oz.	9-16-74		
Tower 2	8-19-74	14 oz.	9- 2-74	12 oz.	9-30-74		
Tonnage	9- 2-74	14 oz. 3⅝ in.	9- 9-74	12 oz. 3⅝ in.	9-16-74	10 oz. 2 1/16 in.	9-23-74
Fairchild	9- 2-74	16 oz. 3 9/16 in.	9-16-74	14 oz. 3⅞ in.	9-30-74	12 oz. 3⅝ in.	10- 7-74
Nirody	9- 2-74	18 oz. 3 5/16 in.	9-16-74	16 oz. 3 5/16 in.	9-30-74		
Black Prince	9-16-74	23 oz.	9-30-74	16 oz.	10-21-74		
Catalina	9-16-74	24 oz.	9-23-74	22 oz.	10- 7-74		
Blair	9-30-74	14 oz. 3⅝ in.	10-21-74				
Collinson	9-30-74	16 oz. 3 9/16 in.	10-28-74				
Chica	9-30-74	12 oz. 3⅞ in.	10-14-74	10 oz. 3⅝ in.	10-28-74		
Rue	9-30-74	30 oz. 4⅜ in.	10- 7-74	24 oz. 3 5/16 in.	10-21-74	18 oz. 3⅝ in.	11- 4-74
Booth 5	10- 7-74	16 oz. 3 1/16 in.	10-28-74				
Hickson	10- 7-74	15 oz. 3⅝ in.	10-21-74	12 oz. 3⅝ in.	10-28-74		
Simpson	10- 7-74	16 oz. 3⅝ in.	10-28-74				
Vaca	10- 7-74	16 oz. 3⅝ in.	10-28-74				
Sherman	10- 7-74	16 oz.	10-21-74	14 oz.	11- 4-74	10 oz.	11-25-74
Marcus	10- 7-74	32 oz.	11-18-74				
Booth 10	10-14-74	16 oz. 3 9/16 in.	11-11-74				
Booth 7	10- 1-74	18 oz.	10-14-74	16 oz. 3 9/16 in.	10-28-74	14 oz. 3⅝ in.	11-11-74
Avon	10-14-74	15 oz. 3 1/16 in.	11- 4-74				
Booth 11	10-14-74	16 oz. 3 1/16 in.	11- 4-74				
Leona	10-14-74	18 oz. 3 9/16 in.	10-28-74				
Winslowson	10-14-74	18 oz. 3 1/16 in.	11- 4-74				
Nelson	10-14-74	14 oz. 3⅝ in.	10-28-74	12 oz. 3⅝ in.	11-11-74	10 oz. 3⅛ in.	12- 2-74
Hall	10-14-74	26 oz. 3 1/16 in.	10-28-74	20 oz. 3⅝ in.	11-11-74		
Lula	10-21-74	18 oz. 3 1/16 in.	11- 4-74	14 oz. 3⅝ in.	11-18-74		
Choquette	10-21-74	24 oz. 4 1/16 in.	11- 4-74	20 oz. 3 1/16 in.	11-25-74		
Monroe	10-21-74	24 oz. 4 1/16 in.	11- 4-74	20 oz. 3 1/16 in.	11-25-74		
Herman	10-21-74	16 oz. 3⅝ in.	11- 4-74	14 oz. 3⅝ in.	11- 8-74		
Murphy	10-21-74	16 oz.	11- 4-74	14 oz.	11-18-74	11 oz.	12- 9-74
Ajax (B7-B)	10-28-74	18 oz. 3 1/16 in.	11-18-74				
Booth 1	10-28-74	16 oz. 3 1/16 in.	11-18-74				
Booth 3	10-28-74	10 oz. 3 9/16 in.	11-18-74				
Taylor	10-28-74	14 oz. 3⅝ in.	11-11-74	12 oz. 3⅞ in.	11-25-74		
Dunedin	11-11-74	16 oz. 3 9/16 in.	11-25-74	14 oz. 3⅝ in.	12- 9-74	10 oz. 3⅛ in.	12-30-74
Byars	11-18-74	16 oz. 3 1/16 in.	12- 9-74				
Linda	11-18-74	18 oz. 3 1/16 in.	12- 9-74				
Nabal	11-18-74	14 oz. 3⅝ in.	12- 9-74				
Zio	12- 2-74	12 oz.	12-16-74	10 oz.	12-30-74		
Wagner	12- 9-74	12 oz. 3⅝ in.	12-23-74	10 oz. 3⅞ in.	1- 6-75		
Maya	12-30-74	13 oz.	1-13-75	11 oz.	1-27-75		
Brookslate	1-13-75	14 oz.	1-27-75	12 oz.	2-10-75	10 oz.	2-24-75
Schmidt	1-20-75						
Itsamna	2-17-75						

(3) From the date listed for the respective variety in column 2 of Table I to the date listed for the respective variety in column 4 of such table, no handler shall handle any avocados of such variety unless the individual fruit weighs at least the ounces specified for the respective variety in column 3 of such table or is of at least the diameter specified for such variety in said column 3;

(4) From the date listed for the respective variety in column 4 of Table I to the date listed for the respective variety in column 6 of such table, no handler shall handle any avocados of such variety unless the individual fruit weighs at least the ounces specified for the respective variety in column 5 of such table or is of at least the diameter specified for such variety in said column 5;

(5) From the date listed for the respective variety in column 6 of Table I to the date listed for the respective variety in column 8 of such table, no handler shall handle any avocados of such variety unless the individual fruit weighs at least the ounces specified for the respective variety in column 7 of such table or is of at least the diameter specified for such variety in said column 7;

(6) No handler shall handle during the period June 17, 1974, through July 22, 1974, any Arue variety avocados unless the individual fruit in each lot of such avocados weighs at least 14 ounces, or is at least 3 3/16 inches in diameter;

(7) No handler shall handle (i) prior to August 26, 1974, any Lisa variety avocados, (ii) during the period August 26, 1974, through September 1, 1974, any Lisa variety avocados unless the individual fruit in each lot of such avocados weighs at least 12 ounces, (iii) during the period September 2, 1974, through September 8, 1974, any Lisa variety avocados unless the individual fruit in each lot of such avocados weighs at least 11 ounces, (iv) during the period September 9, 1974, through September 15, 1974, any Lisa variety avocados unless the individual fruit in each lot of such avocados weighs at least 10 ounces, (v) during the period September 16, 1974, through September 23, 1974, any Lisa variety avocados unless the individual fruit in each lot of such avocados weighs at least 9 ounces;

(8) No handler shall handle (i) prior to September 16, 1974, any Booth 8 variety avocados, (ii) during the period September 16, 1974, through October 6, 1974, any Booth 8 variety avocados unless the individual fruit in each lot of such avocados weighs at least 16 ounces, or is at least 3-9/16 inches in diameter, or (iii) during the period October 7, 1974, through October 20, 1974, any Booth 8 variety avocados unless the individual fruit in each lot of such avocados weighs at least 14 ounces, (iv) during the period October 21, 1974, through November 3, 1974, any Booth 8 variety avocados unless the individual fruit in each lot of such avocados weighs at least 12 ounces, (v) during the period November 4, 1974, through November 18, 1974, any Booth 8 variety avocados unless the individual fruit in each lot of such avocados weighs at least 10 ounces.

(9) Except as otherwise provided in paragraphs (a)(11) and (a)(12) of this section, varieties of the West Indian type of avocados not listed in Table I shall not be handled except in accordance with the following terms and conditions:

(i) Such avocados shall not be handled prior to July 8, 1974.

(ii) from July 8, 1974, through August 4, 1974, the individual fruit in each lot of such avocados shall weigh at least 18 ounces.

(iii) From August 5, 1974, through September 8, 1974, the individual fruit in each lot of such avocados shall weigh at least 16 ounces.

(iv) From September 9, 1974, through October 6, 1974, the individual fruit in each lot of such avocados shall weigh at least 14 ounces.

(10) Except as otherwise provided in paragraphs (a)(11) and (a)(12) of this section, varieties of avocados not covered by paragraphs (a) (2) through (9) hereof shall not be handled except in accordance with the following terms and conditions:

(i) Such avocados shall not be handled prior to September 23, 1974.

(ii) From September 23, 1974, through October 20, 1974, the individual fruit in each lot of such avocados shall weigh at least 15 ounces.

(iii) From October 21, 1974, through December 22, 1974, the individual fruit in each lot of such avocados shall weigh at least 13 ounces.

(11) Notwithstanding the provisions of paragraphs (a) (2) through (10) hereof regarding the minimum weight or diameter for individual fruit, up to 10 percent, by count, of the individual fruit contained in each lot may weigh less than the minimum specified weight and be less than the minimum specified diameter: *Provided*, That such avocados weigh not more than two ounces less than the applicable specified weight for the particular variety as prescribed in columns 3, 5, or 7 of Table I or in paragraphs (a) (6), (7), (8), (9), and (10) of this section. Such tolerances shall be on a lot basis, but not to exceed double such tolerances shall be permitted for an individual container in a lot.

(12) The provisions of paragraphs (a)(2) through (11) of this section shall not apply to any variety, except the Linda variety, of avocados which, when mature, normally change color to any shade of red or purple and any portion of the skin of the individual fruit has changed to the color for that fruit when mature.

(b) Terms used in the amended marketing agreement and order, when used herein, have the same meaning as is given to the respective term in said marketing agreement and order; the term "diameter" shall mean the greatest dimension measured at right angles to a line from the stem to the blossom end of the fruit; and the terms "U.S. No. 3" shall have the same meaning as set forth in the United States Standards for Florida Avocados (7 CFR 51.3050–51.3069).

(c) The provisions of this regulation shall become effective June 17, 1974.

Dated: May 24, 1974.

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

[FR Doc.74-12605 Filed 6-3-74;8:45 am]

DEPARTMENT OF COMMERCE

Patent Office

[37 CFR Part 1]

ABANDONED APPLICATIONS REFERRED TO IN DEFENSIVE PUBLICATIONS

Public Inspection

Notice is hereby given that, pursuant to authority contained in section 6 of the Act of July 19, 1952 (66 Stat. 793 (35 U.S.C. 6)), as amended October 5, 1971, Pub. L. 92–132, 85 Stat. 364, the Patent Office proposes to amend Title 37 of the Code of Federal Regulations by revising § 1.14(b).

All persons are invited to present in writing their views, objections, recommendations or suggestions in connection with the proposed amendment to the Commissioner of Patents, Washington, D.C. 20231 no later than June 30, 1974. Submissions made pursuant to this notice may be inspected by any person, upon written request, a reasonable time after the closing date for submitting comments.

The proposed amendment would open to public inspection those abandoned patent applications which are referred to in Defensive Publication applications opened to public inspection pursuant to §§ 1.11(b) and 1.139. The purpose of the proposal is to encourage greater use of the Defensive Publication Program provided under § 1.139.

The objective of the Defensive Publication Program is "to provide better service to the public by making available the technical disclosure of certain applications in which the owner may prefer to publish an abstract in lieu of obtaining an examination by the Patent Office" (notice published on April 11, 1968, in 33 FR 5623, and in 849 O.G. 1221 on April 30, 1968). To accomplish that objective, §§ 1.11(b) and 1.139 open the complete Defensive Publication application to inspection by the general public upon publication of the abstract. The proposed amendment would have the effect of placing a Defensive Publication application on the same footing as an issued patent, insofar as making technical disclosures available to the public is concerned, by opening to public inspection an abandoned patent application referred to in the Defensive Publication application as well as in an issued patent. Applicants would benefit from the assurance that the disclosure of an abandoned application, which is referred to in a Defensive Publication application, would be open to public inspection and need not be repeated in the Defensive Publication application.

The text of the proposed revised rule is as follows:

§ 1.14 **Patent applications preserved in secrecy.**

* * * * *

(b) Except as provided in § 1.11(b) abandoned applications are likewise not open to public inspection, except that if an application referred to in a U.S. patent, or in an application which is open to inspection pursuant to § 1.139, is abandoned and is available, it may be inspected or copies obtained by any person on written request, without notice to the applicant. Abandoned applications may be destroyed after 20 years from their filing date, except those to which particular attention has been called and which have been marked for preservation. Abandoned applications will not be returned.

* * * * *

Dated: May 20, 1974.

C. MARSHALL DANN,
Commissioner of Patents.

Approved: May 28, 1964.

BETSY ANCKER-JOHNSON,
Assistant Secretary for Science and Technology.

[FR Doc.74-12726 Filed 6-3-74;8:45 am]

DEPARTMENT OF LABOR

Manpower Administration

[20 CFR Part 602]

PUBLIC EMPLOYMENT OFFICES

Minimum Wage Rates

On May 2, 1974, 39 FR 15307, there appeared a proposed amendment to 20 CFR 602.10b(a)(1), which would revise the hourly minimum wage rates which an employer must offer to U.S. workers in order to be eligible to apply for alien workers in nine States. Due to a typographical error, the amendment did not set forth the correct minimum wage rate for the State of New York, $2.26 per hour. The minimum wage rates for the other eight States were adopted as proposed and appear on another page of this issue of the FEDERAL REGISTER. Time for comment on the proposed minimum wage rate of $2.26 per hour for the State of New York is hereby extended to June 19, 1974.

(8 USC 1184, 8 CFR 214.2(h), 34 FR 6502)

Signed at Washington, D.C. this 30th day of May 1974.

WILLIAM H. KOLBERG,
Assistant Secretary for Manpower.

[FR Doc.74-12739 Filed 6-3-74;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 19987]

UNITED STATES-MEXICO FM BROADCASTING AGREEMENT

Order Extending Time for Filing Comments and Reply Comments

In the matter of amendment of Subpart B (FM Broadcast Stations) of Part 73 in Certain Respects.

1. On March 28, 1974, the Commission adopted a notice of proposed rulemaking in the above-entitled proceeding. Publication was given in the FEDERAL REGISTER on April 10, 1974, 39 FR 13007. Comment and reply comment dates are presently May 28 and June 11, 1974, respectively.

2. On May 24, 1974, the Corporation for Public Broadcasting (CPB) filed a request for extension of time in which to file comments to and including June 11, 1974. CPB states that it has been holding consultations with National Public Radio and the Association of Public Radio Stations and because of the unexpected complex engineering and policy questions raised by this matter the additional time is necessary.

3. We are of the view that the public interest would be served by extending the time in this proceeding. *Accordingly, it is ordered,* That the dates for filing comments and reply comments are extended to and including June 11 and June 25, 1974, respectively.

4. This action is taken pursuant to authority found in Sections 4(i), 5(d)(1) and 303(r) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's Rules.

Adopted: May 24, 1974.

Released: May 28, 1974.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] JOSEPH F. ZIAS,
Acting Chief, Broadcast Bureau.

[FR Doc.74-12730 Filed 6-3-74;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–144]

U.S. 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 Tuesday, June 25, 1974, at the Department of State, Room 1207, from 4 to 5:30 p.m. The agenda will include a progress report of the work of the Panel on International Information, Education and Cultural Relations; consideration of a proposal for creation of a North-South Center; consideration of the Cultural Presentations program of the Bureau of Educational and Cultural Affairs; miscellaneous reports by the Chairman and members; and such new business as may be brought to the attention of the members.

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.

MARGARET G. TWYMAN,
Staff Director,
Commission Secretariat.

MAY 24, 1974.

[FR Doc.74–12710 Filed 6–3–74;8:45 am]

DEPARTMENT OF THE TREASURY

Bureau of the Mint

CONSTRUCTION OF NEW UNITED STATES MINT—DENVER, COLORADO

Notice of Availability of Final Revised Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Bureau of the Mint in the Department of the Treasury has prepared a Final Revised Environmental Impact Statement for the location and, in general terms, the construction of a new United States Mint at Denver, Colorado. The Statement was filed with the Council on Environmental Quality on May 29, 1974.

The Statement considers two possible sites: (1) The northwest corner of the Clayton Trust Property in Denver (Park Hill) and (2) the northwest corner of the Denver Federal Center in Lakewood.

The Mint is being planned for a production capacity of 10.5 billion domestic coins per year and 25 million proof coins and medals per year. It would be designed to provide space for expansion of critical operations and to make possible reasonable expandability of the facility to accommodate increased production requirements as they develop in future years. Although detailed design of the facilities has not yet been started, it has been determined that building space of approximately 700,000 square feet would be needed. The structures would reflect the importance of the governmental function to be performed.

Copies of the Statement are available for inspection during regular working hours at the office of the

Facilities Project Manager
Bureau of the Mint
Denver Mint
320 West Colfax Avenue
Denver, Colorado

and at the

Office of the Director
Bureau of the Mint
Room 2064
U.S. Treasury Department
15th Street & Pennsylvania Avenue, NW.
Washington, D.C. 20220

Copies are also on file in the Departmental Library in the Main Treasury Building.

It is anticipated that a decision on the location of the Mint will be made shortly after July 7, 1974.

[SEAL] WARREN F. BRECHT,
Assistant Secretary
of the Treasury.

[FR Doc.74–12746 Filed 6–3–74;8:45 am]

DEPARTMENT OF THE INTERIOR

Geological Survey

[Proposed OCS Order No. 9]

GULF OF MEXICO AREA

Approval Procedure for Oil and Gas Pipelines

Notice is hereby given that pursuant to 30 CFR 250.11 and in accordance with 30 CFR 250.19(b), the Chief, Conservation Division, Geological Survey, proposes to approve OCS Order No. 9 for the Gulf of Mexico Area as set forth below.

The purpose of proposed OCS Order No. 9 is to provide requirements to oil and gas operators for the Approval Procedure for Oil and Gas Pipelines.

Interested persons may submit written comments, suggestions, and objections concerning the proposed order to the Director, U.S. Geological Survey, National Center, Mail Drop 101, 12201 Sunrise Valley Drive, Reston, Virginia 22092 on or before July 1, 1974.

V. E. MCKELVEY,
Director.

NOTICE TO LESSEES AND OPERATORS OF FEDERAL LEASES IN THE OUTER CONTINENTAL SHELF, GULF OF MEXICO AREA

[OCS Order No. 9]

Effective _____

APPROVAL PROCEDURE FOR OIL AND GAS PIPELINES

This Order is established pursuant to the authority prescribed in 30 CFR 250.11 and in accordance with 30 CFR 250.19(b). Section 250.19(b) provides as follows:

The Supervisor is authorized to approve the design, other features, and plan of installation of all pipelines for which a right of use or easement has been granted under paragraph (c) of § 250.18 or authorized under any lease issued or maintained under the Act, including those portions of such lines which extend onto or traverse areas other than the Outer Continental Shelf.

The operator shall comply with the following requirements. All departures from the requirements specified in this Order shall be subject to approval pursuant to 30 CFR 250.12(b). References in this Order to approvals, determinations, or requirements are to those given or made by the Supervisor or his delegated representative.

1. *Definition of terms.* As used in this Order, the following terms shall have the meanings indicated:

A. *Pipeline.* Lines installed for the purpose of transporting oil, gas, water, sulphur, or other minerals, including lines sometimes referred to as flow or gathering lines, but excluding lines confined to a platform or structure.

B. Internal Pressure at Minimum Yield Strength (IP@MYS). The internal pressure exerted by a fluid being transferred at which permanent deformation of the pipe will occur. IP@MYS is calculated as follows (refer to ANSI B 31.4, 1971, and USAS 31.8, 1968, for details):

$$IP\ @\ MYS = \frac{2\,St \times E \times T}{D}$$

where:

S = Fiber stress at the specified minimum yield strength of the pipe material in psi.
t = Nominal wall thickness in inches.
D = Outside diameter in inches.
E = Longitudinal joint factor obtained from Appendix 1.
T = Temperature derating factor:
250° F. or less = 1.00
300° F. = .967
350° F. = .933
400° F. = .900

C. *Maximum allowable pressure (MAP).* The pressure in the pipe when circumferential fiber stress has reached either 60 percent or 72 percent (dictated by location) of the IP@MPS. The smaller MAP is the maximum pressure to which a pipeline or segment of pipeline shall be subjected under maximum

working pressure conditions. MAP is calculated as follows (refer to USAS B 31.8, 1969, for details):

(1) For platform or structure piping, pipeline risers, and submerged pipeline within 300 feet from the riser:

MAP=0.60×IP@MYS

(2) For submerged pipelines:

MAP=0.72×IP@MYS

D. *Maximum working pressure (MWP).* The maximum pressure to which the pipeline or segment of pipeline could be subjected in the event of a safety system malfunction. For pipelines receiving production from separation facilities (working pressure of vessels), pumps, compressors, and other pipelines, the maximum pressure which can be exerted by the system will be considered the MWP. The shut-in tubing pressure of a well producing into a pipeline will be considered as the MWP of that pipeline. When a pipeline is used to transport production from more than one well, the well with the highest shut-in tubing pressure will constitute the MWP. The MWP shall not exceed the MAP.

E. *Maximum operating pressure (MOP).* The maximum pressure to which the pipeline will be subjected over a period of time under normal operations with fluid flow. The MOP shall not exceed the MWP.

F. *Minimum operating pressure.* The minimum pressure to which the pipeline will be subjected over a period of time under normal operations with fluid flow.

G. *Hydrostatic test pressure (HTP).* HTP means the required pressure to which a pipeline will be subjected for a specified period of time in order to verify its integrity.

2. *Requirements.* All pipelines shall be designed, installed, maintained, and abandoned in accordance with the following:

A. *Safety equipment.* The operator shall be responsible for the installation of the following control devices on all oil and gas pipelines connected to a platform or structure, including such pipelines which are not operated or owned by the operator. Operators of platforms or structures installed prior to the effective date of this Order shall comply with the requirements of paragraph 2A(1) with regard to required check valves on pipelines departing platforms or structures within six months of the effective date of this Order.

(1) All pipelines boarding a platform or structure shall be equipped with a check valve to prevent backflow. All pipelines departing a platform or structure shall be equipped with a check valve to prevent backflow.

(2) All pipeline pumps and compressors shall be equipped with high and low pressure shut-in sensing devices. The low pressure sensor must be located upstream of any check valves. Time delay devices to prohibit the low pressure sensor from functioning when pumps are started are permissible, provided the time delay does not exceed the time required for the pressure in the pipeline to reach the low pressure sensor setting plus 60 seconds.

(3) All pipelines departing a platform or structure receiving production from the platform or structure and which do not receive production from any boarding pipeline shall be equipped with high and low pressure sensors, located upstream of any check valves on any departing line, to directly or indirectly shut-in the wells on the platform or structure.

(4) All pipelines departing a platform or structure receiving production from a boarding pipeline, and which do not receive production from the platform or structure, shall be equipped with high and low pressure sensors at the departing locale, located upstream of any check valve on the departing pipeline, to activate an automatic fail-close valve to be located in the upstream portion of the pipeline boarding the platform or structure. This automatic fail-close valve shall be operated by either the platform or structure automatic and manual emergency shut-in system or by an independent automatic and manual emergency shut-in system.

(5) All pipelines departing a platform or structure receiving production from a boarding pipeline, and which receive production from the platform or structure, shall be equipped with a set of high and low pressure sensors at the departing locale located upstream of any check valve on the departing pipeline and downstream of the junction point of the pipelines. These high and low pressure sensors shall activate an automatic fail-close valve located on the boarding pipeline and directly or indirectly shut-in the wells on the platform or structure. This automatic fail-close valve on the boarding pipeline shall be operated by either the platform or structure automatic and manual emergency shut-in system or by an independent automatic and manual emergency shut-in system.

(6) All pipelines boarding a platform or structure and delivering production to production vessels on the platform or structure shall be equipped with an automatic fail-close valve operated by the shut-in sensing devices of the production vessel and by the manual emergency shut-in system.

(7) All pipelines boarding a platform or structure and delivering production to a departing pipeline that does not receive production from the platform or structure shall be equipped with an automatic fail-close valve operated by high and low sensors on the departing pipeline and a manual emergency shut-in system.

(8) The deletion of safety equipment on a gas lift gas pipeline supplying gas lift to wells on platforms or structures with four or less producing or shut-in completions per platform or structure and no production equipment is allowed, except that a check valve shall be installed in each casing annulus line. The gas lift gas line shall have a check valve and high and low pressure sensors to shut off the gas supply at the source in case of a malfunction.

(9) Where bi-directional gas flow is necessary for gas lift or compressor suction, deletion of check valves on departing or boarding pipelines is allowed provided high and low pressure sensors and an automatic fail-close valve are installed on or near each pipeline riser.

(10) All pressure sensors shall be equipped to permit external testing.

B. *General requirements.* (1) The size, weight, and grade of all pipe to be installed, including valves, fittings, flanges, bolting, and other required equipment, shall be determined by the anticipated volumes and pressures pursuant to paragraphs 1A, 1B, 1C, 1D, and 2D of this Order. This determination shall conform with the expression MAP ≧MWP≧MOP.

(2) All pipelines shall be designed for the protection of the pipeline against water currents, storm scouring, soft bottoms, and other environmental factors.

(3) All pipeline risers shall be protected from physical damage by floating vessels.

C. *Corrosion protection.* All pipelines shall be protected against loss of metal due to corrosion, using such means as protective coatings and cathodic protection in accordance with the most current National Association of Corrosion Engineers Recommended Practice entitled, Control of Corrosion of Offshore Steel Pipelines, and as follows.

(1) All pipelines shall be provided with external protective coating capable of preventing underfilm corrosion. This coating shall have sufficient ductility to resist cracking in required service. All pipe coating shall be inspected on the lay barge prior to installation of the pipe, and any coating damage shall be repaired to maintain overall coating integrity.

(2) All pipelines shall have a cathodic protection system designed to mitigate corrosion. This system will be designed based on minimum of 2 percent holidays in the protective coating and a current density of 5 milliamperes per square foot. The cathodic protection life shall be based on a minimum of 20-year design.

(3) The cathodic protection system of a pipeline protected by sacrificial anodes attached directly to the pipeline shall be designed as if the pipeline were insulated at each end.

(4) A pipeline cathodically protected by a rectifier shall be equipped with a continuous monitor.

(5) All pipelines will be designed to facilitate the installation of corrosion monitoring and control devices at both ends of the line.

(6) All pipelines, with the exception of pipelines transporting production from four or less wells, shall be designed for the installation of pig launchers and receivers. Pipelines transporting production from four or less completions shall be designed for installation of pig traps or be treated with paraffin solvents and corrosion inhibitors to protect the internal integrity of the pipeline.

D. *Hydrostatic testing requirements.* All pipelines shall be designed to allow for hydrostatic testing to at least 1.25 times the MWP. In no case will the pipeline be tested with a hydrostatic pressure in excess of 90 percent of the IP@MYS. This design shall conform with the expression (0.90) IP@MYS≧HTP≧1.25 MWP.

(1) Prior to placing a new pipeline in service, the pipeline shall be hydrostatically tested at least 1.25 times the MWP for a minimum period of 24 hours.

(2) Prior to returning a pipeline to service after repair of a leak caused by corrosion or rupture due to exceeding the MAP, the pipeline shall be hydrostatically tested to at least 1.25 times the MWP for a minimum period of 24 hours.

(3) Prior to returning a pipeline to service after repair of a leak caused by damage due to foreign objects, storms, manufacturing flaw, or malfunction of a submerged valve, the pipeline shall be hydrostatically tested to at least 1.25 times the MWP for a minimum period of 8 hours.

(4) Pipelines that have operated for a period of one year shall not be operated at a higher MOP unless it meets the hydrostatic test requirements for a new line.

(5) A report of all hydrostatic tests conducted shall be submitted to the Supervisor. The report shall include all hydrostatic test data, including procedure, test pressure, hold time, and results.

E. *Installation requirements.* All pipelines shall be responsible for the required setting to be compatible with trawling operations and other uses.

(1) Pipelines installed in water depths less than 300 feet shall be buried a minimum of three feet below the Gulf floor.

(2) Pipelines installed in water depths greater than 300 feet need not be buried unless the Supervisor has determined that the pipeline constitutes a hazard to trawling operations or other uses. In such event, the pipeline shall be buried a minimum of three feet below the Gulf floor.

F. *Operating requirements.* The operator shall be responsible for the required setting of pressure sensing devices on all oil and gas pipelines connected to a platform, including pipelines which are not operated or owned by the operator.

(1) The high-pressure sensors, required by this Order, shall not be set at a pressure higher than the MAP or 10 percent above the MOP of the pipeline, whichever is less.

(2) The low-pressure sensors, required by this Order, shall not be set at a pressure lower than 30 psig or 10 percent below the minimum operating pressure of the pipeline, whichever is greater.

(3) These high and low sensor settings and the time interval for any time delay device shall be determined from a pressure recording chart showing the pipeline pressure profile under normal operating conditions over a minimum continuation time span of 24 hours.

G. *Abandonment requirements.* All pipelines shall be abandoned as follows:

(1) Lines shall be flushed and filled with seawater.

(2) Lines shall be cut and capped below the mud line on each end.

(3) A line to be temporarily abandoned may be either blind flanged or isolated with a closed block valve, in lieu of cutting and capping below the mud line.

(4) Pipelines to be removed shall be flushed with seawater prior to removal.

3. *Pipeline applications.* Pipeline applications shall be submitted, in duplicate, to the Supervisor in accordance with the following:

A. *New pipelines.* Applications for the installation of new pipelines shall include:

(1) Plat for plats, with a scale of 1"≦2,000', showing the major features and other pertinent data, including water depth, route, location, length, connecting facilities, size, type of products to be transported, and burial depth.

(2) A schematic drawing showing the following pipeline safety equipment and the manner in which the equipment functions, sensing devices with associated pressure-control lines, automatic fail-close valves, check valves, vessels, manifolds, and the rated working pressure of all valves and fittings. This schematic drawing or an additional drawing shall also show the placement of corrosion monitoring equipment.

(3) General information including:

(a) Product or products to be transported by the pipeline.

(b) Size, weight, grade, and class of the pipe and risers.

(c) Length in feet of the line.

(d) Maximum and minimum water depth.

(e) Description of cathodic protection system. If sacrificial anodes are used on the pipeline or platform or structure, specify the type, size, weight, and spacing of anodes. Provide calculations used in designing the sacrificial anode system, including anticipated life of the line. If a rectifier is to be used, include size of unit or units, voltage and ampere rating and pipelines and platforms or structures to be protected. Provide calculations used in designing the size of unit or units and maximum capability.

(f) Description of external pipeline coating system and type coating.

(g) Description of internal protective measures including internal coating and provision for corrosion inhibition program.

(h) Specific gravity of the empty pipe.

(i) Anticipated gravity or density of the product or products.

(j) Maximum and minimum operating pressure.

(k) Maximum working pressure.

(l) Maximum allowable pressure. Provide calculations used in determining MAP.

(m) Hydrostatic test pressure and period of time to which the line will be tested after installation. This test must conform to paragraph 2D of this order.

(n) Type, size, pressure rating, and location of pumps and prime movers.

(o) Proposed inspetcion procedures.

(p) Other information as may be required by the Supervisor.

B. *Pipeline repairs.* Applications for pipeline repair shall include:

(1) Date and time problem detected. (Example: leak, X-ray of riser indicates wall thickness less than minimum acceptable valve, etc.)

(2) Estimated volume of product lost.

(3) Pipeline size and service.

(4) Location of pipeline.

(5) Approximate location of leak and distance from nearest end.

(6) Cause.

(7) Remedial action to be taken.

(8) Proposed hydrostatic pressure test. This test must conform to paragraph 2D of this order.

C. *Pipeline abandonment.* Applications for pipeline abandonment shall include:

(1) The proposed procedure for compliance with paragraph 2G of this order.

(2) A location plat describing the pipeline or segment of pipeline to be abandoned in such a manner as to be identifiable for reference purposes.

4. *Operational test and reporting requirements*—A. *New pipeline completion report.* The pipeline operator shall submit a report to the Supervisor when installation of a pipeline is completed. The report shall include a drawing or plat, with a scale of 1"≦2,000', showing the location of the line as installed and the hydrostatic test data required in paragraph 2D.

B. *Pipeline damage report.* Pipeline operators shall immediately report orally to the Supervisor any leak, break, flow restriction or stoppage, or other indicated damage due to the following: corrosion, stuck pig, paraffin, kinking, flattening or non-destructive testing. Proposed methods of repair may be requested and approvals granted orally subject to written confirmation as required in paragraph 3B.

C. *Pipeline repair report.* This report shall be submitted to the Supervisor within a week after completion of the repairs. The report shall include:

(1) Location of pipeline.

(2) Location of Leak.

(3) Detailed description of cause.

(4) Detailed description of remedial action.

(5) Hydrostatic test results.

(6) Date returned to service.

D. *Equipment testing.* Safety and antipollution devices required in paragraph 2A of this Order shall be tested for operation at least once each calendar month, but at no time shall more than six weeks elapse between tests. Records of the tests shall be maintained at the field headquarters for a period of one year showing the present status and past history of each device including dates and details of inspection, testing, repairing, adjustments, and re-installation. A report of these tests shall be submitted to the Supervisor during February of each year.

E. *Pipeline abandonment report.* The operator shall submit written notification to the Supervisor of the date the abandonment is completed and confirm that the pipeline was abandoned as approved.

F. *Corrosion detection test and report.* All pipelines shall be tested on both ends for the possible existence of internal corrosion. This determination may be by the use of coupons, probes, water analysis (iron count, pH, and scale), and CO_2 (particle pressure) at a minimum of 6-month intervals. The results and conclusions shall be submitted to the Supervisor during February of each year.

5. *Inspections and reporting requirements*—A. *Visual inspection.* All pipelines shall be inspected monthly for indication of leakage, using aircraft, floating equipment, or other methods. The results of the inspections will be submitted during February of each year to the Supervisor.

B. *Hazard damage corrective action report.* If the hazards of storm scouring, soft bottoms, and other environmental factors are observed to be detrimentally affecting the pipeline, the operator shall return the pipeline to an acceptable condition and submit a report of the remedial action taken to the Supervisor.

C. *Pipeline failure investigation.* All pipeline operators shall inspect and analyze every pipeline failure and, where possible, select samples of the failed section for laboratory examination for the purpose of determining the cause. A comprehensive written report of the information obtained shall be submitted to the Supervisor as soon as available.

D. *Cathodic protection report.* All pipeline cathodic protection facilities shall be inspected and pipe-to-electrolyte potential measurements conducted at a minimum of 6-month intervals to assure their proper operation and maintenance. The results and conclusions shall be submitted to the Supervisor during February of each year.

E. *Internal corrosion inspection.* (1) All pipelines shall be pigged on a regular schedule and treated with inhibitors as necessary. A record of pigging runs and inhibitor treatments shall be submitted to the Supervisor during February of each year.

(2) All pipelines of 8-inch or larger size shall be inspected for corrosion by the use of instrumented pigs at intervals not to exceed five years. Any internally coated line is excluded from this requirement. The results and conclusions from the data obtained shall be submitted to the Supervisor within two months after completion of the inspection.

F. *Riser inspection and reports.* All pipeline risers shall be visually inspected semiannually for physical and corrosion damage in the splash zone. If damage is observed on protected risers, radiographic or ultrasonic inspection shall be conducted. The pipe shall either be inspected to determine the wall thickness and repaired or replaced. All bare risers shall be similarly inspected semiannually to determine wall thickness, and, if necessary, repaired or replaced. The safe operating wall thickness shall be determined by the following formula and the measured thickness compared to the calculated minimum acceptable thickness.

$$t = \frac{1.2 \times SET}{DP(1.25)}$$

where:

t = Maximum thickness for the riser to remain in service.

D = Outside diameter in inches.

P = Maximum working pressure at time of inspection strength of the pipe material in psi.

E = Longitudinal joint factor obtained from Appendix 1.

T = Temperature derating factor:

250° F. or less = 1.00
300° F. = .967
350° F. = .933
400° F. = .900

S = Fiber stress at the specified minimum yield strength of the pipe material in psi.

A report of all riser inspections shall be submitted to the Supervisor during February of each year.

If physical corrosive damage has occurred, necessitating repair or replacement, an application shall be submitted pursuant to paragraph 3B and 4B.

APPENDIX 1.—*Longitudinal joint factor E*

Specification No.	Pipe class	E factor
ASTM A 53	Seamless	1.00
	Electric resistance welded	1.00
	Furnace butt welded	.60
ASTM A 106	Seamless	1.00
ASTM A 134	Electric fusion arc welded	.80
ASTM A 135	Electric resistance welded	1.00
ASTM A 139	Electric fusion welded	.80
ASTM A 155	Electric fusion arc welded	1.00
ASTM A 211	Spiral welded steel pipe	.80
ASTM A 381	Double submerged-arc-welded	1.00
API 5 L	Seamless	1.00
	Electric resistance welded	1.00
	Electric flash welded	1.00
	Furnace butt welded	.60
	Furnace lap-welded [1]	.80
API 5 LX	Seamless	1.00
	Electric resistance welded	1.00
	Electric flash welded	1.00
	Submerged arc welded	1.00
API 5 LS	Electric resistance welded	1.00
	Submerged arc welded	1.00

[1] Manufacture was discontinued and process deleted from API 5 L in 1962.

[FR Doc.74-12592 Filed 6-3-74;8:45 am]

[Power Site Cancellation 326]

YUBA RIVER BASIN, CALIFORNIA

Cancellation of Power Site Classification

Pursuant to authority under the Act of March 3, 1879 (20 Stat. 394; 43 U.S.C. 31), and 220 Departmental Manual 6.1, Power Site Classification 326 is hereby cancelled to the extent that it affects the following described land:

MOUNT DIABLO MERIDIAN

T. 17 N., R. 10 E.,
Sec. 34, lots 1 and 2, SE¼NE¼, SW¼NW¼, N½N½SE¼NW¼, E½NE¼SW¼, NE¼SE¼, and NW¼SE¼.

The lands described aggregate about 221 acres.

The effective date of this cancellation is September 24, 1974.

HENRY W. COULTER,
Acting Director.

MAY 24, 1974.

[FR Doc.74-12709 Filed 6-3-74;8:45 am]

National Park Service

NATIONAL REGISTER OF HISTORIC PLACES

Additions, Deletions, and Corrections

By notice in the FEDERAL REGISTER of February 19, 1974, Part II, there was published a list of the properties included in the National Register of Historic Places. This list has been amended by a notice in the FEDERAL REGISTER of March 5 (39 FR 8357-8362), April 2 (39 FR 12042-12046), and May 7 (39 FR 16173-16177). Further notice is hereby given that certain amendments or revisions in the nature of additions, deletions, or corrections to the previously published list are adopted as set out below.

It is the responsibility of all Federal agencies to take cognizance of the properties included in the National Register as herein amended and revised in accordance with section 106 of the National Historic Preservation Act of 1966, 80 Stat. 915, 16 U.S.C. 470.

The following properties have been added to the National Register since May 7, 1974:

California

Fresno County

Fresno, *Old Administration Building, Fresno City College*, 1101 University Avenue (5-1-74).

Inyo County

Death Valley, *Skiddo*, Death Valley National Monument (4-16-74).

Lassen County

Susanville, *Roop's Fort (Roop's Trading Post)*, North Weatherlow Street (5-2-74).

Los Angeles County

Los Angeles, *Centinela Adobe*, 7634 Midfield Avenue (5-2-74).
South Pasadena, *Longley, Howard, House*, 1005 Buena Vista Street (4-16-74).

Nevada County

Grass Valley, *Mount St. Mary's Academy and Convent*, Church and Chapel Streets (5-3-74).
Nevada City, *Nevada City Firehouse #2*, 420 Broad Street (5-3-74).

Colorado

Park County

Fairplay, *Summer Saloon*, Third and Front Streets (5-8-74).

District of Columbia

Lansburgh, Julius, Furniture Co., Inc., 909 F Street NW. (5-8-74).
National Bank of Washington, Washington Branch, 301 Seventh Street NW. (5-8-74).
National Cathedral (Cathedral Church of St. Peter and St. Paul and Close), Wisconsin and Massachusetts Avenues NW. (5-3-74).
Old Naval Hospital, 921 Pennsylvania Avenue SE. (5-3-74).

Florida

Dade County

South Miami, *Allen, Hervey, Study (Glade Estates)*, 8251 Southwest 52d Avenue (5-7-74).

Escambia County

Pensacola, *Old Christ Church*, 405 South Adams Street (5-3-74).
Pensacola, *St. Michael's Creole Benevolent Association Hall*, 416 East Government Street (5-3-74).

Jackson County

Greenwood, *Pender's Store*, near intersection of Florida 71 and 69 (5-3-74).

Leon County

Tallahassee vicinity, *Pisgah United Methodist Church*, north of Tallahassee, off Florida 151 (5-3-74).

Martin County

Stuart vicinity, *House of Refuge at Gilbert's Bar*, Hutchinson Island, between Negro and Bessie Coves (5-3-74).

Palm Beach County

Palm Beach, *Brelsford House*, 1 Lake Trail (5-3-74).

Volusia County

Enterprise, *All Saint's Episcopal Church*, corner of DeBary Avenue NE., and Clark Street (5-3-74).

Georgia

Bartow County

Cartersville vicinity, *Valley View*, Euharlee Road, southwest of Cartersville (5-8-74).

Fulton County

Atlanta, *Martin Luther King, Jr. Historic District*, bounded roughtly by Irwin, Randolph, Edgewood, Jackson, and Auburn Avenues (5-2-74).
Atlanta, *U.S. Post Office and Courthouse*, 76 Forsyth Street (5-2-74).
Roswell, *Roswell Historic District*, essentially original area laid out by Roswell and King (5-2-74).

Hancock County

Sparta, *Sparta Historic District*, bounded roughly by Burwell, West, Elm, and Hamilton Streets; and north on Jones to Clinch Terrace. (4-16-74).
Sparta vicinity, *Glen Mary*, Linton Road, south of Sparta (5-8-74).

Talbot County

Talbotton vicinity, *Zion Episcopal Church*, south of Talbotton on U.S. 80 (5-8-74).

Troup County

LaGrange vicinity, *Nutwood*, south of La Grange off Big Springs Road (5-8-74).

Guam

Agana, *Plaza de Espana*, Saylor Street (5-1-74).
Umatac vicinity, *Fort San Jose*, northwest of Umatac on Route 2 (5-1-74).

Idaho

Butte County

Arco vicinity, *Goodale's Cutoff*, south of Arco off U.S. 20 (5-1-74).

Madison County

Rexburg, *Rexburg State Tabernacle*, 25 North Center Street (5-3-74).

Illinois

Randolph County

Prairie du Rocher and vicinity, *French Colonial Historic District*, from Fort de Chartres State Park to Kaskaskia Island (4-3-74) (also in Monroe County).
Prairie du Rocher vicinity, *Kolmer Site*, northwest of Prairie du Rocher off Illinois 155 (5-1-74).

Iowa

Davis County

Bloomfield, *Davis County Courthouse*, Bloomfield Town Square (5-3-74).
Centerville vicinity, *Stringtown House*, east of Centerville on Iowa 2 (4-16-74).

Kansas

Atchison County

Atchison, *Waggener, B. P., House*, 819 North Fourth Street (5-3-74).

Geary County

Junction City vicinity, *Main Post Area, Fort Riley*, northeast of Junction City on Kansas 18 (5-1-74).

Rice County

Sterling, *Cooper Hall, Sterling College*, North Broadway Avenue (5-3-74).

Kentucky

Carter County

Grayson vicinity, *Kitchen, Van, House*, south of Grayson off Kentucky 7 (5-2-74).

Fayette County

Lexington, *McGarvey, Dr. John, House*, 362 South Mill Street (5-15-74).
Lexington, *McPheeters, Charles, House*, 352 South Mill Street (5-15-74).

Lexington, *Poindexter, William, House*, 359 South Mill Street (5–15–74).

Johnson County

Paintsville, *Mayo, John C. C., Mansion and Office*, Third Street (5–3–74).

Louisiana

Pointe Coupee Parish

Innis vicinity, *St. Stephen's Episcopal Church*, north of Innis off Louisiana 418 (4–24–74).

Maine

Cumberland County

Portland, *Butler, A. B., House*, 4 Walker Street (5–8–74).

Portland, *Portland Waterfront*, Waterfront Area (5–2–74).

Westbrook, *Cumberland Mills Historic District*, roughly both sides of Presumpscot River between railroad tracks and Warren Avenue (5–2–74).

Knox County

Thomaston, *Thomaston Historic District*, roughly both sides of U.S. 1 between Maine 131 and Wadsworth Street and both sides of Knox Street to river (5–2–74).

Lincoln County

Damariscotta, *Cottrill, Matthew, House*, Main Street (5–2–74).

New Castle, *Kavanaugh, Governor Edward, House*, Maine 213 (Damariscotta Mills) (5–3–74).

Penobscot County

Bangor, *Adams-Pickering Block*, corner of Main and Middle Streets (5–2–74).

Maryland

Baltimore (independent city)

Davidge Hall, 522 West Lombard Street (4–24–74).

Harford County

Forest Hill, *St. Ignatius Church*, 533 East Jarrettsville Road (4–16–74).

Howard County

Elkridge, *Trinity Church*, 7474 Washington Boulevard (5–6–74).

Savage, *Savage Mill*, southwest corner of Foundry Road and Washington Street (4–18–74).

Massachusetts

Bristol County

Seekonk, *Martin House*, 940 Court Street (5–2–74).

Essex County

Gloucester, *Front Street Block*, West End, 55–71 Main Street (5–8–74).

Hampden County

Springfield, *Ames Hill/Crescent Hill District*, roughly both sides of Maple Street between Mill and Central Streets (both sides) (5–1–74).

Springfield, *Court Square Historic District*, bounded by Main, State, Broadway, Pynchon Streets and City Hall Place (5–2–74).

Springfield, *Quadrangle-Mattoon Street Historic District*, bounded by Chestnut, State, and properties on either side of Mattoon, Salem, Edwards and Elliot Streets (5–8–74).

Middlesex County

Lincoln, *The Grange*, Codman Road (4–18–74).

Nantucket County

Nantucket, *NOBSKA* (steamship), Steamboat Wharf, Nantucket Harbor (5–2–74).

Norfolk County

Medfield, *First Parish Unitarian Church*, North Street (4–18–74).

Milton, *Holbrook, Dr. Amos, House*, 208 Adams Street (4–18–74).

Suffolk County

Boston, *Ames Building*, 1 Court Street (4–26–74).

Boston, *Copp's Hill Burial Ground*, Charter, Snowhill, and Hull Streets (4–18–74).

Boston, *King's Chapel Burying Ground*, Tremont Street (5–2–74).

Boston, *Park Street District*, Tremont, Park and Beacon Streets (5–1–74).

Boston, *Suffolk County Courthouse*, Pemberton Square (5–8–74).

Boston, *Winthrop Building*, 7 Water Street (4–18–74).

Boston, *Youth's Companion Building (Sawyer Building)*, 209 Columbus Avenue (5–2–74).

Charlestown, *Phipps Street Burying Ground*, Phipps Street (5–15–74).

Dorchester, *Blake, James, House*, 735 Columbia Road (5–1–74).

Dorchester, *Clapp Houses*, 199 & 195 Boston Street (5–2–74).

Dorchester, *Dorchester North Burying Ground*, Stoughton Street and Columbia Road (4–18–74).

Dorchester, *Pierce House*, 24 Oakton Avenue (4–26–74).

Minnesota

Hennepin County

Minneapolis, *Milwaukee Avenue Historic District*, Milwaukee Avenue from Franklin Avenue to 24th Street (5–2–74).

Minnetonka, *Burwell House*, McGinty Road and Minnetonka Boulevard (5–2–74).

Missouri

Platte County

Weston vicinity, *McCormick Distillery*, southeast of Weston off Route JJ (4–16–74).

Nevada

Washoe County

Reno, *Morrill Hall, University of Nevada/Reno*, University of Nevada campus (5–1–74).

New Jersey

Monmouth County

Freehold, *Hankinson, Moreau, Covenhoven House (Clinton's Headquarters)*, 150 West Main Street (5–1–74).

Holmdel vicinity, *Kovenhoven*, north of Holmdel off New Jersey 34 (4–26–74).

Middletown, *Kings Highway District*, irregular pattern, both sides of Kings Highway, south and west of New Jersey 35 (5–3–74).

Shrewsbury, *Allen House*, Broad Street and Sycamore Avenue (5–8–74).

New Mexico

San Miguel County

Las Vegas vicinity, *Montezuma Hotel Complex*, northwest of Las Vegas in Gallinas Canyon (5–3–74).

New York

Columbia County

Chatham, *Union Station*, at intersection of New York 66 and New York 295 (5–1–74).

Madison County

Hamilton, *Smith, Adon, House (Village Office Bldg.)*, 3 Broad Street (5–2–74).

Rensselaer County

Troy, *Powers Home*, 819 Third Avenue (4–16–74).

St. Lawrence County

Canton, *Herring-Cole Hall, St. Lawrence University*, St. Lawrence University campus (5–1–74).

Canton, *Richardson Hall, St. Lawrence University*, St. Lawrence University campus (5–1–74).

Suffolk County

East Hampton, *East Hampton Village District*, bounded by Main Street, James and Woods Lanes (5–2–74).

Washington County

Whitehall, *Potter, Judge Joseph, House*, Mountain Terrace (5–2–74).

Westchester County

Rye, *Widow Haviland's Tavern*, Purchase Street (4–16–74).

North Carolina

Carteret County

Beaufort, *Beaufort Historic District*, roughly bounded by Beaufort Channel, Pine, Craven, Broad, Gordon Ann Fulford Streets and approximately 1 mile offshore of waterfront (5–6–74).

New Hanover County

Wilmington, *Federal Building and Courthouse*, North Water between Market and Princess Streets (5–2–74).

Wilmington, *Wilmington Historic District*, roughly 100 yards west of Cape Fear River, Ninth Street on the east, Wright Street on the south and Harnett Street on the north (5–6–74).

Polk County

Columbus vicinity, *Green River Plantation*, east of Columbus off State Route 1005 (3–28–74).

Rockingham County

Reidsville, *Reid, Governor David S., House*, 219 Southeast Market Street (4–26–74).

Reidsville vicinity *High Rock Farm* southeast of Reidsville on State Route 2619 (4–26–74).

Ohio

Adams County

Manchester vicinity, *Buckeye Station*, east of Manchester off U.S. 52 (5–1–74).

Champaign County

Saint Paris, *Monitor House*, 375 West Main Street (5–2–74).

Clermont County

Neville vicinity, *Schafer House*, east of Neville off U.S. 52 (5–13–74).

Crawford County

Crestline, *Crestline City Hall*, 121 West Bucyrus Street (5–8–74).

Cuyahoga County

Cleveland, *Old Federal Building (and Post Office)*, 201 Superior Avenue NE. (5–3–74).

Cleveland Heights, *Overlook Road Carriage House District*, 2141 Kenilworth, 2141, 2171, and 2187 Overlook Road (5–6–74).

Fairfield County

Carroll vicinity, *Coon Hunters Mound*, southwest of Carroll (5–2–74).

Franklin County

Canal Winchester vicinity, *Bergstresser Covered Bridge*, south of Canal Winchester off Ohio 674 (5–3–74).

Georgesville vicinity, *Cannon, Tom, Mound*, north of Georgesville (5–2–74).

Worthington vicinity, *Jeffers, H.P., Mound*, west of Worthington (5–2–74).

Hamilton County

Norwood, *Norwood Mound*, east of Indian Mound Avenue (5-2-74).

Highland County

Rainsboro vicinity, *Rocky Fort Park Site*, southwest of Rainsboro (5-2-74).

Huron County

Monroeville, *Brown, Seth, House*, 29 Brown Street (5-3-74).
Monroeville, *Hosford, John, House*, 64 Sandusky Street (5-3-74).
Monroeville, *Zion Episcopal Church*, Ridge Street at Monroe Street (5-3-74).

Knox County

Mount Liberty, *Mount Liberty Tavern*, U.S. 36 (5-3-74).

Licking County

Utica vicinity, *McDaniel Mound*, west of Utica (5-2-74).

Lorain County

Oberlin, *Westervelt Hall*, 39 South Main Street (5-3-74).

Meigs County

Chester vicinity, *Mound Cemetery Mound*, north of Chester (5-2-74).

Ottawa County

Port Clinton, *Ottawa County Courthouse*, West Fourth and Madison Streets (5-3-74).

Paulding County

Paulding, *Paulding County Courthouse*, Courthouse Square (5-3-74).

Pickaway County

Fox vicinity, *Clemmons, W.C., Mound*, west of Fox (5-2-74).

Pike County

Piketon vicinity, *Piketon Mounds*, south of Piketon (5-2-74).

Putnam County

Ottawa, *Putnam County Courthouse*, Courthouse Square (5-3-74).

Richland County

Mansfield, *Bushness, Martin, House*, 34 Sturges Avenue (4-26-74).

Scioto County

Otway vicinity, *Otway Covered Bridge*, south of Otway off Ohio 348 (5-3-74).
Portsmouth, *Horseshoe Mound*, Hutchins Avenue between Grant and 17th Avenues (5-2-74).
Portsmouth, *Lyric Theatre*, 820 Gallia Street (5-15-74).

Summit County

Twinsburg, *Twinsburg Congregational Church*, Twinsburg Public Square (5-3-74).

Vinton County

Zaleski, *Markham Mound*, Webb Hollow Road (5-3-74).

Oklahoma

Cherokee County

Tahlequah vicinity, *First Cherokee Female Seminary Site*, southeast of Tahlequah 4-30-74).

Oregon

Benton County

Kings Valley vicinity, *Fort Hoskins Site*, southwest of Kings Valley (5-1-74).

Clatsop County

Astoria, *Astoria Column*, Coxcomb Hill (5-2-74).

Hood River County

Cascade Locks, *Cascade Locks Marine Park*, on Columbia River (5-15-74).

Jackson County

Rogue River vicinity, *Birdseye, David N., House*, U.S. 99, south of Rogue River (5-1-74).

Lincoln County

Newport, *Old Yaquina Bay Lighthouse*, Yaquina Bay State Park (5-1-74).

Marion County

Aurora, *Aurora Colony Historic District*, roughly includes both sides of 99E from Bob's Street to east city limits, and to the northwest to include Market Road and cemetery (4-16-74).
Hubbard vicinity, *Stauffer, John, House and Barn*, northeast of Hubbard off U.S. 99E (5-1-74).

Multnomah County

Portland, *St. Patrick's Roman Catholic Church and Rectory*, 1635 Northwest 19th Avenue (5-1-74).
Portland, *U.S. Customhouse*, 220 Northwest Eighth Avenue (5-2-74).

Polk County

Zena, *Spring Valley Presbyterian Church*, southeast of McCoy (5-8-74).

Pennsylvania

Adams County

Gettysburg, *Lutheran Theological Seminary-Old Dorm*, Seminary Ridge, Lutheran Theological Seminary campus (5-3-74).

Allegheny County

Pittsburgh, *Emmanuel Episcopal Church*, North and Allegheny Avenues (5-3-74).

Berks County

Lobachsville vicinity, *Keim Homestead*, west of Lobachsville (5-1-74).

Fayette County

Uniontown vicinity, *Gaddis, Thomas, Homestead*, off U.S. 119, south of Uniontown (4-26-74).

Indiana County

Georgeville vicinity, *McCormick, John B., House*, west of Georgeville off Pennsylvania 210 (5-3-74).

Montgomery County

Elkins Park, *Anselm Hall*, 915 Spring Avenue (5-8-74).

Washington County

California, *Old Main, California State College*, California State College campus (5-2-74).

Rhode Island

Kent County

Coventry, *Paine House*, Station Street (5-1-74).
Warwick, *Greene-Bowen House*, 698 Buttonwoods Avenue (5-2-74).

Newport County

Little Compton, *Little Compton Common Historic District*, bounded by properties on Simmons Road, Willow Avenue, South Commons Road, Meeting House Lane, West Road, School House Lane; surrounding Common (5-3-74).
Newport, *Commandant' Residence, Quarters Number One, Fort Adams*, Harrison Avenue (5-8-74).
Newport, *Common Burying Ground and Island Cemetery*, Farewell and Warner Streets (5-1-74).

Providence County

Foster, *Foster Center Historic District*, irregular pattern, surrounding intersection of Foster Center Road, Howard Hill Road, and South Killingly Road (5-1-74).
Foster vicinity, *Mount Vernon Tavern*, Plainfield Pike, (Rhode Island 14) (5-8-74).
Georgiaville vicinity, *Smith-Appleby House*, north of Georgiafield off Rhode Island 116 on Stillwater Road (5-1-74).
North Providence, *Olney, Captain Stephen, House*, 138 Smithfield Road (5-1-74).
Providence, *Broadway-Armory Historic District*, bounded by Dean, Carpenter, Bridgham, Durfee, Cranston, Superior, Messer, Barton, Grove, Vinton, Federal, America, and Kenyon Streets (5-1-74).
Providence, *Corliss, John, House*, 201 South Main Street (5-1-74).
Providence, *Roger Williams Park Historic District*, Roger Williams Park (5-2-74).
Providence, *Winsor-Swan-Whitman Farm*, 416 Eaton Street (5-1-74).
Woonsocket, *Woonsocket City Hall*, 169 Main Street (5-1-74).

Washington County

Carolina, *Carolina Village Historic District*, in irregular pattern on both sides on Rhode Island 112 from Shannock Hill Road to Rhode Island 91 (5-2-74).
Hopkinton, *Hopkinton City Historic District*, in irregular pattern surrounding intersection of Hopkinton-Clarks Falls Road, North Road, Route 3, Woodville and Burdickville Roads (5-1-74).
Kingston, *Kingston Village Historic District*, irregular pattern, both sides of Rhode Island 138 (5-1-74).
New Shoreham, *Old Harbor Historic District*, bounded by waterfront and inland in semicircle from Mineral Spring through Continental and Harbor Pond (5-8-74).
Wyoming, *Wyoming Village Historic District*, both sides of Bridge Street and Routes 130 and 3 from Route 138 to Old Nooseneck Road, includes Prospect Street (5-2-74).

South Carolina

Beaufort County

Beaufort, **Marshlands*, 501 Pinckney Street.

Charleston County

Charleston, **Blacklock, William, House*, 18 Bull Street.
Charleston, **Farmers' and Exchange Bank*, 14 East Bay Street.
Charleston, **Huguenot Church*, 136 Church Street.
Charleston, **Manigault, Joseph, House*, 350 Meeting Street.
Charleston, **Old Marine Hospital*, 20 Franklin Street.
Charleston, **Parish House of the Circular Congregational Church*, 150 Meeting Street.
Charleston, **Roper, Robert William, House*, 9 East Battery.
Charleston, **St. Philip's Church*, 146 Church Street.
Charleston, **Unitarian Church*, 6 Archdale Street.

Orangeburg County

Orangeburg vicinity, *White House United Methodist Church*, north of Orangeburg on U.S. 301 (5-13-74).

Sumter County

Stateburg, **Church of the Holy Cross.*

South Dakota

Minnehaha County

Sioux Falls, *Federal Building and U.S. Courthouse*, 400 South Phillips Avenue (5–2–74).

Tennessee

Greene County

Greenville, *Greenville Historic District*, roughly both sides of Main Street, from McKee to railroad tracks and Irish Street to East Church (5–3–74).

Maury County (also in Hickman County)

Williamsport vicinity, *Gordon, John, House*, northwest of Williamsport off Tennessee 50 (4–18–74).

Scott County

Huntsville, *Old Scott County Jail*, Courthouse Square (4–18–74).

Texas

Ellis County

Waxahachie, *Waxahachie Chautauqua Building*, Getzendaner Park (5–3–74).

Wise County

Decatur, *Waggoner Mansion*, 1003 East Main (5–1–74).

Utah

Salt Lake County

Salt Lake City, *Culmer, William, House*, 33 C Street (4–18–74).

Virginia

Amherst County

Clifford, *Winton*, west of Virginia 151 (5–2–74).

Fairfax (independent city)

Fairfax County Courthouse, 4000 Chain Bridge Road (5–3–74).

Loudoun County

Leesburg vicinity, *Oatlands Historic District*, south of Leesburg on U.S. 15 (5–3–74).

Suffolk (independent city)

Riddick House, 510 Main Street (5–2–74).

Washington

Okanogan County

Nespelem, *Chief Joseph Memorial (Nez Perce Cemetery)*, near intersection of Washington 10A and Cache Creek Road (5–15–74).

Skagit County

LaConner, *LaConner Historic District*, roughly bounded by Second, Calhoun, Commercial, and Morris Streets and the Swinomish Channel (4–24–74).

Walla Walla County

Walla Walla, *Fort Walla Walla Historic District*, 77 Wainwright Drive (4–16–74).

West Virginia

Kanawha County

St. Albans, *St. Albans Site*, between U.S. 60 and the Kanawha River (5–3–74).

Wisconsin

La Crosse County

La Crosse, *Cargill, William W., House*, 235 West Avenue South (5–1–74).

Ozaukee County

Cedarburg, *Cedarburg Mill*, 215 East Columbia Avenue (5–8–74).

Cedarburg vicinity, *Concordia Mill*, southeast of Cedarburg at 252 Green Bay Road, Hamilton (4–26–74).

Walworth County

Elkhorn, *Elderkin, Edward, House (Round House)*, 127 South Lincoln (5–3–74).

Wyoming

Park County

Cody vicinity, *Dead Indian Campsite*, north of Cody in Shoshone National Forest (5–3–74).

The following are corrections to previous listings in the FEDERAL REGISTER:

South Carolina

Beaufort County

Beaufort, **Beaufort Historic District*, bounded on the north by Boundary Street, on the west by Hamar and Bladen Streets, and on the south and east by the Beaufort River (12–17–69).

Charleston County

Charleston, **Fireproof Building*, 100 Meeting Street (7–29–69).
Charleston, **Market Hall and Sheds*, 188 Meeting Street (6–4–73).
Charleston, **Russell, Nathaniel, House*, 51 Meeting Street (8–19–71).
Charleston, **Simmons-Edwards House*, 12–14 Legare Street (1–25–71).

Lancaster County

Lancaster, **Lancaster County Courthouse*, 104 North Main Street (2–24–71).
Lancaster, **Lancaster County Jail*, 208 West Gay Street (8–19–71).

Richland County

Columbia, **Hall, Ainsley, House*, 1616 Blanding Street (7–16–70).
Columbia, **Mills Building, South Carolina State Hospital*, 2100 Bull Street (6–5–70).

Sumter County

Pinewood vicinity, **Milford Plantation*, 2 miles west of Pinewood on South Carolina 261 (11–19–71).

The following property has been demolished and removed from the National Register:

New York

Saratoga County

Ballston Spa, *Saratoga County Courthouse Complex*, 46 West High Street.

Historic properties which are either (1) eligible for nomination to the National Register of Historic Places or (2) nominated but not yet listed are entitled to protection under Executive Order 11593. Before an agency of the Federal government may undertake any project which may have an effect on such a property, the Advisory Council on Historic Preservation shall be given an opportunity to comment on the proposal. Authorization for such comment are in section 1(3) and section 2(b) of Executive Order 11593.

The Secretary of the Interior has determined that the following properties may be eligible for inclusion in the National Register of Historic Places and are therefore entitled to protection under section 1(3) and section 2(b) of Executive Order 11593 and other applicable Federal legislation. All determinations of eligibility are made under the Secretary of the Interior's authorities in sections 2(b) and 3(f) of Executive Order 11593. This list is not complete. As required by Executive Order 11593, an agency head shall refer any questionable actions to the Secretary of the Interior for an opinion respecting the property's eligibility for inclusion in the National Register.

Alabama

Dallas County

Selma, *Gill House*, 1109 Selma Avenue.

Madison County

Huntsville, *Lee House*, Red Stone Arsenal.

Alaska

Northwestern District

Little Diomede Island, *Iyapana, John, House*.

Arizona

Cochise County

Sierra Vista, *Garden Canyon Petroglyphs*, Garden Canyon Road.

Yuma County

Yuma, *Southern Pacific Depot*.

Arkansas

Ouachita County

Camden, *Old Post Office*, Washington Street.

California

Imperial County

Glamis vicinity, *Chocolate Mountain Archeological District*.

Marin County

Point Reyes, *Point Reyes Light Station*.

Modoc County

Canby vicinity, *Cuppy Cave*, near Pitt River in Modoc National Forest.

Monterey County

Big Sur, *Point Sur Light Station*.
Pacific Grove, *Point Pinos Light Station*.

San Luis Obispo County

San Luis Obispo, *San Luis Obispo Light Station*.

San Mateo County

Ano Nuevo vicinity, *Pigeon Point Light Station*.
Hillsborough, *Point Montara Light Station*.

Sonoma County

Dry Creek-Warm Springs Valley Archeological District.
Santa Rosa, *Santa Rosa Post Office*.

Colorado

Denver County

Denver, *Eisenhower Memorial Chapel*, Building No. 27, Reeves Street, on Lowry AFB.

Connecticut

Hartford County

Hartford, *Church of the Good Shepherd and Parish House*, intersection of Wyllys Street and Van Block Avenue.
Hartford, *Colt Factory Housing*, Huyshope Avenue between Sequassen and Weehasset Streets.
Hartford, *Colt Factory Housing ("Potsdam Village")*, Curcombe Street between Hendrickxsen Avenue and Locust Street.
Hartford, *Colt Park*, bounded by Wethersfield Avenue, Stonington Street, Wawarme, Curcombe and Marseek streets, and by Huyshope and Van Block avenues.
Hartford, *Colt, Colonel Samuel, Armory, and related factory buildings*, Van Dyke Avenue.
Hartford, *Flat-iron Building (Motto Building)*, intersection of Congress Street and Maple Avenue.

Hartford, *Houses on both sides of Congress Street.*
Hartford, *Houses on Charter Oak Place.*
Hartford, *Houses on Wethersfield Avenue,* between Morris and Wyllys Streets, particularly Nos. 97, 81, 65.

Middlesex County

Middletown, *Mather-Douglas-Santangelo House,* 11 South Main Street.

New London County

New London, *Thames Shipyard,* west bank of Thames River north of the U.S. Coast Guard Academy.

Delaware

Suffolk County

Lewes, *Delaware Breakwater.*
Lewes, *Harbor of Refuge Breakwater.*

District of Columbia

Riggs Bank, 800 17th Street NW.

Florida

Hillsborough County

Tampa, *Feedral Building, U.S. Courthouse Downtown Postal Station,* 601 Florida Avenue.
Tampa, *Firehouse No. 10,* Ybor City.

Georgia

Chatham County

Archeological Site, north end of Skidway Island.

Clay County

Archeological Site WGC–73, downstream from Walter F. George Dam.

Heard County

Philpott Homesite and Cemetery, on bluff above Chattahoochee River where Grayson Trail leads into river.

Stewart County

Rood Mounds.

Sumter County

Americus, *Aboriginal Chert Quarry,* Souther Field.

Hawaii

Moanaloa Valley.

Idaho

Ada County

Boise, *Ada Theater,* 700 Main Street.
Boise, *Alexanders,* 826 Main Street.
Boise, *Falks Department Store,* 100 North Eighth Street.
Boise, *Idaho Building,* 216 North Eighth Street.
Boise, *Idanha Hotel,* 928 Main Street.
Boise, *Simplot Building (Boise City National Bank),* 805 Idaho Street.
Boise, *Union Building,* 712½ Idaho Street.

Illinois

Cook County

Chicago, *Delaware Building,* 155 North Dearborn.
Chicago, *McCarthy Building (Landfield Building),* northeast corner of Dearborn and Washington.
Chicago, *Methodist Book Concern* (later Stop and Shop Warehouse), 12 West Washington.
Chicago, *Ogden Building,* 130 West lake Street.
Chicago, *Oliver Building,* 159 North Dearborn Street.
Chicago, *Springer Block* (Bay, State and Kranz Buildings), 126–46 North State.
Chicago, *Unity Building,* 127 North Dearborn Street.

De Kalb County

De Kalb, *Haish Barbed Wire Factory,* corner of Sixth and Lincoln Streets.

Lake County

Fort Sheridan, *Water Tower, Building 49,* Leonard Wood Avenue.

Indiana

Monroe County

Bloomington, *Carnegie Library.*

Kentucky

Estill County

Fitchburg Iron Furnace, Kentucky 975, in Daniel Boone National Forest.

Jefferson County

Louisville, *Old Louisville Historic District,* bounded on North by Broadway; on the west by Seventh and the Louisville/Nashville Railroad tracks; on the east by Interstate 65 and Brook Street; on the south by Eastern Parkway and Gaulbert Avenue.

Maryland

Anne Arundel County

Skidmore, Sandy Point Shoal Light, on Chesapeake Bay.

Baltimore County

Fort Howard, *Craighill Channel Upper Range Front Light,* on Chesapeake Bay.
Sparrows Point, *Craighill Channel Range Front Light,* on Chesapeake Bay.

Dorchester County

Hoopersville, *Hooper Island Light,* Chesapeake Bay-Middle Hooper Island.

Frederick County

Fort Detrick, *Nallin Farm House* (Fort Detrick Building 1652).

Harford County

Aberdeen, *Gunpowder Meeting House* (Building No. E–5715), Magnolia Road.
Aberdeen, *Presbury House (Quiet Lodge)* (Building No. E–4730), Austin and Parrish Roads.
Havre De Grace, *Havre De Grace Light.*

St. Marys County

Piney Point, *Piney Point Light Station.*
St. Inigoes, *Manor House,* Naval Electronic Systems Test and Evaluation Facility.
St. Marys City, *Point No Point Light,* on Chesapeake Bay.

Talbot County

Tilgman Island, *Sharps Island Light,* on Chesapeake Bay.

Michigan

Livingston County

Fenton, *Fenton Downtown Historic District,* east and west sides of Leroy Street in two blocks bounded by Ellen on the south and Silver Lake on the north, north side of Caroline Street and east side of River Street.

Missouri

Jackson County

Kansas City, *Folly's (Standard) Theater,* 12th and Central Streets.

Montana

Lewis and Clark County

Marysville, *Marysville Historic District.*

Park County

Mammouth, *Chapel at Fort Yellowstone,* Yellowstone National Park.

Nebraska

Madison County

Norfolk, *Federal Building (U.S. Post Office and Courthouse),* corner of Fourth Street and Madison Avenue.

Nevada

Nye County

Emigrant's Trail, approximately 75 miles northwest of Las Vegas on U.S. 95.

Storey County (also in Washoe County)

Sparks vicinity, *Derby Diversion Dam,* on the Truckee River 19 miles east of Sparks, along Interstate 80.

New Hampshire

Grafton County

Bedell Covered Bridge.

New Jersey

Warren County (also in Sussex County)
Old Mine Road Historic District.

New York

Bronx County

New York, *North Brothers Island Light Station,* in center of East River.

Greene County

New York, *Hudson City Light Station,* in center of Hudson River.

Richmond County

New York, *Romer Shoal Light Station,* located in lower bay area of New York Harbor.

Suffolk County

New York, *Fire Island Light Station,* U.S. Coast Guard Station.
New York, *Little Gull Island Light Station,* off North Point of Orient Point, Long Island.
New York, *Plum Island Light Station,* off Orient Point, Long Island.
New York, *Race Rock Light Station,* located south of Fishers Island, 10 miles north of Orient Point.

Ulster County

Kingston vicinity, *Esopus Meadows Light Station,* middle of Hudson River.
New York, *Rondout North Dike Light,* center of Hudson River at junction of Rondout Creek and Hudson River.
New York, *Saugerties Light Station,* Hudson River.

Westchester County

Port Washington vicinity, *Execution Rocks Light Station,* lower southwest portion of Long Island Sound.
White Plains, *Westchester County Courthouse Complex,* corner of Main and Court Streets.

North Carolina

Brunswick County

Southport, *Fort Johnston,* Moore Street.

Cumberland County

Fayetteville, *Veterans Administration Hospital Confederate Breastworks,* 23 Ramsey Street.

Dare County

Buxton, *Cape Hatteras Light,* Cape Hatteras National Seashore.

Hyde County

Ocracoke, *Ocracoke Lighthouse.*

Jones County

Trenton, *Trenton Historic District,* bounded by Trent, Weber and Jones Streets, the

cemetery, Lake View and Market Streets, Brock Mill Pond, Pollock, Jones, and King Streets.

New Hanover County

Wilmington, *Market Street Mansions District*, both sides of Market Street between 17th and 18th Streets.

Ohio

Clermont County

Neville vicinity, *Maynard House*, 2 miles east of Neville off U.S. 52.

Pickaway County

Williamsport vicinity, *The Shack (Daugherty, Harry, House)*, 5.5 miles northwest of Williamsport.

Oregon

Coos County

Charleston, *Cape Arago Light Station.*

Curry County

Port Orford, *Cape Blanco Light Station.*

Douglas County

Winchester Bay, *Umpqua River Light House.*

Klamath County

Crater Lake National Park, *Crater Lake Lodge.*

Lane County

Roosevelt Beach, *Heceta Head Light House.*
Roosevelt Beach, *Heceta Head Light Station.*

Lincoln County

Agate Beach, *Yaquina Head Lighthouse.*

Tillamook County

Tillamook, *Cape Meares Lighthouse.*

Pennsylvania

Brumbaugh Homestead, Raystown Lake Project.

Adams County

Gettysburg, *Barlow's Knoll*, adjacent to Gettysburg National Military Park.
Gettysburg, Gettysburg Battlefield Historic District.

Allegheny County

Bruceton, *Experimental Mine*, U.S. Bureau of Mines, off Cochran Mill Road.
Pittsburgh, *Main Building (A)*, U.S. Bureau of Mines, Pittsburgh Experiment Station, 4800 Forbes Avenue.

Clinton County

Lockhaven, *Apsley House*, 302 East Church Street.
Lockhaven, *Harvey, Judge, House*, 29 North Jay Street.
Lockhaven, *McCormick, Robert, House*, 234 East Church Street.
Lockhaven, *Mussina, Lyons, House*, 23 North Jay Street.

Cumberland County

Carlisle, *Hessian Guardhouse Museum*, corner of Guardhouse and Garrison Lanes.

Mercer County

Greenville vicinity, *Kidd's Mills Historical Area* (Shenago River Lake), via Pennsylvania 58 and Township Road 653.
Greenville vicinity, *New Hamburg Historical Area*, south of Greenville on both banks of the Shenango River, off Pennsylvania 58.

Northampton County

Dorneyville, *King George Inn and two other stone houses*, intersection of Hamilton and Cedar Crest Boulevards.

Westmoreland County

Blairsville vicinity, *Western Division-Pennsylvania Canal* (Conemauth River Lake), east of Blairsville.

Tennessee

Gibson County

Milan, *Browning House*, Line "Z," Milan Army Ammunition Plant.

Jackson County

Gainesboro vicinity, *Ft. Blount-Williamsburg Site*, on Cumberland River.

Texas

Bexar County

Fort Sam Houston, *Pershing House*, Quarters No. 6, Staff Post Road.
Fort Sam Houston, *Post Chapel*, Building 2200 Wilson Street.

Vermont

Windsor County

Windsor, *Post Office Building.*

Washington

Clallam County

Seguim, *New Dungeness Light Station.*

Clark County

Vancouver, *Officers Row*, Fort Vancouver Barracks.

Grays Harbor County

Westport, *Grays Harbor Light Station.*

King County

Burton, *Point Robinson Light Station.*
Seattle, *Alki Point Light Station.*
Seattle, *West Point Light Station.*

Kitsap County

Hansville, *Point No Point Light Station.*

Kittitas County

CleElum vicinity, *Salmon la Sac Guard Station*, 18 miles north of CleElum on County Highway 9235.

Pacific County

Ilwaco, *Cape Disappointment Light Station.*
Ilwaco, *North Head Light Station.*

Pierce County

Fort Lewis Military Reservation, *Wilkes, Captain, July 4, 1841, Celebration Site.*

San Juan County

San Juan Islands, *Patos Island Light Station.*

Snohomish County

Mukilteo, *Mukilteo Light Station.*

West Virginia

Cabell County

Huntington, *Old Bank Building*, 1208 Third Avenue.

Wood County

Parkersburg, *Wood County Courthouse.*

Wisconsin

Door County

Chambers Island, *Chambers Island Lighthouse Dwelling*, northern tip Chambers Island in Green Bay, Lake Michigan.

Wyoming

Goshen County

Torrington, *Union Pacific Depot.*

Puerto Rico

Mona Island, *Sardinero Site and Ball Courts.*

ERNEST A. CONNALLY,
Associate Director,
Professional Services.

[FR Doc.74-12445 Filed 6-3-74;8:45 am]

Office of the Secretary

OIL SHALE ENVIRONMENTAL ADVISORY PANEL

Notice of Meeting

Notice is hereby given that the Oil Shale Environmental Advisory Panel will meet June 12 and 13, 1974 at the Dinaland Country Club, Vernal, Utah. The agenda will include an on the ground tour of the two Federal oil shale tracts in Utah, adoption of policy guidelines to be recommended to the responsible Federal officials, presentations by the local BLM District Office, State and local government units and two Utah lessee groups, recommendations to the USGS Mining Supervisor on a supplemental exploration plan for Colorado Tract C-b and on the full exploration plan for Colorado Tract C-a and discussion of any additional plans submitted to the panel by June 12. The panel will assemble at 8 a.m. on Wednesday, June 12, at the Field House of Natural History, 235 East Main Street, Vernal, Utah. The meeting will conclude at 4 p.m., Thursday, June 13, 1974.

The meeting will be open to the public. Time will be available for a limited number of brief statements by members of the public. Those wishing to make an oral statement should inform the Advisory Panel Chairman prior to the meeting. Any interested person may file a written statement with the Panel for its consideration. The advisory Panel Chairman is Mr. William L. Rogers. Written statements may be submitted at the meeting or mailed to Mr. William L. Rogers, Office of the Secretary, Department of the Interior, Room 688, Building 67, Denver Federal Center, Denver Colorado 80225. Further information concerning this meeting may be obtained from Mr. Henry O. Ash, Department of the Interior, Denver Federal Center, Denver, Colorado at (303) 234-3275. Minutes of the meeting will be available for public inspection 30 days after the meeting at the Office of the Special Assistant to the Secretary, Department of the Interior, Room 688, Building 67, Denver Federal Center, Denver, Colorado 80225.

JACK O. HORTON,
Assistant Secretary
of the Interior.

MAY 29, 1974.

[FR Doc. 74-12734 Filed 6-3-74;8:45 am]

DEPARTMENT OF AGRICULTURE

Forest Service

EAST BRADFIELD TIMBER SALE

Notice of Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of

1969, the Forest Service, Department of Agriculture has prepared a final environmental statement for the East Bradfield Timber Sale, USDA–FS–FES (Adm) 74–42.

The environmental statement concerns a proposed action to harvest approximately 80 million board feet of over-mature Sitka spruce and western hemlock from the East Fork of the Bradfield River drainage located near Wrangell, Alaska.

This final environmental statement was filed with CEQ on May 30, 1974.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service
South Agriculture Bldg., Room 3230
12th St. & Independence Ave., S.W.
Washington, D.C. 20230

USDA Forest Service
Alaska Region
Federal Office Building
Juneau, Alaska 99801

Forest Supervisor, Chatham Area
Tongass National Forest
Federal Building
Sitka, Alaska 99835

Forest Supervisor, Stikine Area
Tongass National Forest
Federal Building
Petersburg, Alaska 99833

Forest Supervisor, Ketchikan Area
Tongass National Forest
Federal Building, Room 313
Ketchikan, Alaska 99901

A limited number of single copies are available upon request to Forest Supervisor, Stikine Area, Tongass National Forest, P.O. Box 309, Petersburg, Alaska 99833.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ guidelines.

GENE S. BERGOFFEN,
Acting Deputy Chief,
Forest Service.

MAY 30, 1974.

[FR Doc.74–12750 Filed 6–3–74;8:45 am]

RED RIVER GORGE PLANNING UNIT

Notice of Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environmental statement for the Red River Gorge Unit, USDA–FS–R8–FES (Adm.)–74–17.

The environmental statement concerns the proposed management direction and resource allocation for a portion of the Daniel Boone National Forest known as the Red River Gorge Planning Unit.

This final environmental statement was transmitted to CEQ on May 24, 1974.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service
So. Agriculture Bldg., Room 3230
12th St. & Independence Ave., SW
Washington, D.C. 20250

USDA, Forest Service
Southern Region
1720 Peachtree Road, NW
Atlanta, Georgia 30309

USDA, Forest Service
Stanton Ranger District
Highway No. 15
Stanton, Kentucky 40380

A limited number of single copies are available upon request to John E. Alcock, Forest Supervisor, Daniel Boone National Forest, 100 Vaught Road, Winchester, Kentucky 40391.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ Guidelines.

DAVID E. KETCHAM,
Acting Deputy Regional Forester.

MAY 24, 1974.

[FR Doc.74–12705 Filed 6–3–74;8:45 am]

Soil Conservation Service

CLAM RIVER WATERSHED PROJECT, MASSACHUSETTS

Notice of Negative Declaration

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, and part 1500.6e of the Council on Environmental Quality Guidelines issued on August 1, 1973, the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Clam River Watershed Project, Berkshire County, Massachusetts.

The environmental assessment of this federal action indicates that the project will not create significant adverse local, regional or national impacts on the environment and that no significant controversy is associated with the project. As a result of these findings, Dr. Benjamin Isgur, State Conservationist, Soil Conservation Service, USDA, 29 Cottage Street, Amherst, Massachusetts 01002, has determined that the preparation and review of an environmental impact statement is not needed for this project.

The project concerns a plan for watershed protection, flood prevention, recreation, and fish and wildlife water storage. The planned works of improvement include conservation land treatment supplemented by one multiple purpose structure, modification of the principal spillway of one floodwater retarding structure and recreational facilities.

The environmental assessment file is available for inspection during regular working hours at the following location:

Soil Conservation Service, USDA
29 Cottage Street
Amherst, Massachusetts 01002

No administrative action on implementation of the proposal will be taken until 15 days after the date of this notice.

(Catalog of Federal Domestic Assistance Program No. 10.904, National Archives Reference Services)

Dated: May 23, 1974.

EUGENE C. BUIE,
Acting Deputy Administrator for Water Resources, Soil Conservation Service.

[FR Doc.74–12701 Filed 6–3–74;8:45 am]

FLAT ROCK CREEK WATERSHED PROJECT, ARKANSAS

Notice of Availability of Draft 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 draft environmental statement for the Flat Rock Creek Watershed Project, Crawford County, Arkansas, USDA–SCS–EIS–WS–(ADM)–74–7(D).

The environmental statement concerns a plan for watershed protection, flood prevention, and recreation. The planned works of improvement include conservation land treatment measures, one floodwater retarding structure, one multiple-purpose structure for flood prevention and recreation, and 7.4 miles of channel work. The channel work consists of concrete lining, clearing and debris removal, and enlargement on 4.2 miles of man-made ditches on ephemeral streams and 3.2 miles of clearing and debris removal on an intermittent stream.

A limited supply is available at the following locations to fill single copy requests:

Soil Conservation Service, USDA, South Agriculture Building, Room 5227, 14th and Independence Ave., SW., Washington, D.C. 20250.

Soil Conservation Service, USDA, Post Office Box 2323, Little Rock, Arkansas 72203.

Copies of the draft environmental statement have been sent to various federal, state, and local agencies for comment as outlined in the Council on Environmental Quality Guidelines. Comments are also invited from others having knowledge of or special expertise on environmental impacts.

Comments concerning the proposed action or requests for additional information should be addressed to M. J. Spears, State Conservationist, Soil Conservation Service, Post Office Box 2323, Little Rock, Arkansas 72203.

Comments must be received on or before July 24, 1974 in order to be considered in the preparation of the final environmental statement.

(Catalog of Federal Domestic Assistance Program No. 10.904, National Archives Reference Services.)

Dated: May 24, 1974.

WILLIAM B. DAVEY,
Deputy Administrator for Water Resources, Soil Conservation Service.

[FR Doc.74–12702 Filed 6–3–74;8:45 am]

NEWMAN LAKE WATERSHED PROJECT, WASHINGTON

Notice of Availability of Draft 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 draft environmental statement for the Newman Lake Watershed Project, Spokane County, Washington, USDA–SCS–ES–WS–(ADM)–74–37(D).

The environmental statement concerns a plan for watershed protection, flood prevention and fish and wildlife. The planned works of improvements include conservation land treatment, supplemented by about 3.8 miles of channel work, a gated outlet structure with fish screens, a water level control structure and stream gage in the channel, improvement of a floodwater barrier along the lake and sink area improvement.

A limited supply of copies is available at the following locations to fill single copy requests:

Soil Conservation Service, USDA, South Agriculture Building, Room 5227, 14th and Independence Avenue, S.W., Washington, D.C. 20250.

Soil Conservation Service, USDA, 360 U.S. Courthouse, Spokane, Washington 99201.

Copies of the draft environmental statement have been sent for comment to various federal, state, and local agencies as outlined in the Council on Environmental Quality Guidelines. Comments are also invited from others having knowledge of or special expertise on environmental impacts.

Comments concerning the proposed action or requests for additional information should be addressed to Galen S. Bridge, State Conservationist, Soil Conservation Service, Room 360, U.S. Courthouse, Spokane, Washington, 99201.

Comments must be received on or before July 24, 1974 in order to be considered in the preparation of the final environmental statement.

(Catalog of Federal Domestic Assistance Program No. 10.904, National Archives Reference Services.)

Dated: May 24, 1974.

WILLIAM B. DAVEY,
Deputy Administrator for Water Resources, Soil Conservation Service.

[FR Doc.74–12703 Filed 6–3–74;8:45 am]

SPRING CANYON WATERSHED PROJECT, WYOMING

Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, Soil Conservation Service, U.S. Department of Agriculture, has prepared a draft environmental statement for the Spring Canyon Watershed Project, Goshen County, Wyoming, USDA–SCS–ES–WS–(ADM)–74–31–(D).

The environmental statement concerns a plan for watershed protection and flood prevention. The planned works of improvement include conservation land treatment supplemented by one floodwater detention reservoir and diversion outlet works.

A limited supply is available at the following locations to fill single copy requests:

Soil Conservation Service, USDA, South Agriculture Building, Room 5227, 14th & Independence Avenue, S.W., Washington D.C. 20250.

Soil Conservation Service, Federal Office Building, P.O. Box 2440, Casper, Wyoming 82601.

Copies of the draft environmental statement have been sent for comment to various federal, state, and local agencies as outlined in the Council on Environmental Quality Guidelines. Comments are also invited from others having knowledge of or special expertise on environmental impacts.

Comments concerning the proposed action or requests for additional information should be addressed to Blaine O. Halliday, State Conservationist, Soil Conservation Service, P.O. Box 2440, Casper, Wyoming 82601.

Comments must be received on or before July 24, 1974 in order to be considered in the preparation of the final environmental statement.

(Catalog of Federal Domestic Assistance Program No. 10.904, National Archives Reference Services.)

Dated: May 23, 1974.

WILLIAM B. DAVEY,
Deputy Administrator for Water Resources, Soil Conservation Service.

[FR Doc.74–12704 Filed 6–3–74;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

BRIDGEWATER STATE COLLEGE

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (37 FR 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 74–00322–99–46040. Applicant: Bridgewater State College, Bridgewater, Massachusetts 62324. Article: Electron Microscope, Model EM 9S–2. Manufacturer: Carl Zeiss, West Germany. Intended use of Article: The article will be used in, or in conjunction with, several biology courses for the training of college freshmen, sophomores, juniors and seniors in the techniques of electron microscopy and the operation of the electron microscope.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the foreign article was ordered (May 30, 1973).

Reasons: The foreign article provides low distortion magnifications of × 140 to × 60,000 with × 140 to × 1,000 in the normal microscope range, which permits an overlap of light and electron microscopy. Domestic instruments from Adam David Company, Langhorne, Pennsylvania and Elektros Incorporated, Tigard, Oregon do not have an equivalent overlap of light and electron microscopy (the Model EMU–4C provides a low distortion magnification as low as × 500 with the × 500 to × 70,000 pole piece: the Model ETEM 101 provides a magnification range of × 600 to × 38,000 in 21 steps). The Department of Health, Education, and Welfare (HEW) advised in its memorandum dated May 6, 1974 that the capability of the article to overlap light and electron microscopy is pertinent to the applicant's intended extensive use in teaching undergraduate biology students the capability of electron microscopy to show cell structure at extended light microscopy magnifications. HEW also advised that domestic transmission electron microscopes do not provide the pertinent capability.

For these reasons, we find that the Model EMU–4C and the Model ETEM–101 are not of equivalent scientific value to the foreign article for the applicant's intended purposes.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which was being manufactured in the United States at the time the article was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

A. H. STUART,
Director,
Special Import Programs Division.

[FR Doc.74–12721 Filed 6–3–74;8:45 am]

National Bureau of Standards

AUTOMOTIVE LIFTS; COMMERCIAL STANDARD

Notice of Intent To Withdraw

In accordance with § 10.12 of the Department's "Procedures for the Development of Voluntary Product Standards" (15 CFR Part 10, as revised; 35 FR 8349 dated May 28, 1970), notice is hereby given of the intent to withdraw Commercial Standard CS 142–65, "Automotive Lifts."

It has been tentatively determined that the standard has become technically inadequate, and in view of the existence of an up-to-date Automotive Lift Institute, Inc., standard identified as American National Standard B 153.1–1974, "Safety

Standard for Construction, Care, and Use of Automotive Lifts," revision of this Commercial Standard would serve no useful purpose.

Any comments or objections concerning the intended withdrawal of this standard should be made in writing and directed to the Office of Engineering Standards Services, National Bureau of Standards, Washington, D.C. 20234, within 30 days of the date of publication this notice. The effective date of withdrawal, if appropriate, will be not less than 60 days after the final notice of withdrawal. Withdrawal action will terminate the authority to refer to this standard as a voluntary standard developed under the Department of Commerce procedures from the effective date of the withdrawal.

Dated: May 29, 1974.

RICHARD W. ROBERTS,
Director.

[FR Doc.74-12684 Filed 6-3-74;8:45 am]

GAGE BLANKS; COMMERCIAL STANDARD

Notice of Intent To Withdraw

In accordance with § 10.12 of the Department's "Procedures for the Development of Voluntary Product Standards" (15 CFR Part 10, as revised; 35 FR 8349 dated May 28, 1970), notice is hereby given of the intent to withdraw Commercial Standard CS 8-61, "Gage Blanks." It has been tentatively determined that this standard serves no useful purpose due to the fact that the subject is adequately covered by a replacement document published by the American National Standards Institute as B47.1, "Gage Blanks (American Gage Design)."

Any comments or objections concerning the intended withdrawal of this standard should be made in writing to the Office of Engineering Standards Services, National Bureau of Standards, Washington, D.C. 20234, within 30 days after publication of this notice. The effective date of withdrawal will be not less than 60 days after the final notice of withdrawal. Withdrawal action terminates the authority to refer to a published standard as a voluntary standard developed under the Department of Commerce procedures from the effective date of withdrawal.

Dated: May 29, 1974.

RICHARD W. ROBERTS,
Director.

[FR Doc.74-12685 Filed 6-3-74;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[FAP 4B3010]

GENERAL MILLS CHEMICALS, INC.

Notice of 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 USC 348(b)(5)), notice is given that a petition (FAP 4B3010) has been filed by General Mills Chemicals, Inc., 2010 East Hennepin Ave., Minneapolis, MN 55413, proposing that § 121.2571 *Components of paper and paperboard in contact with dry food* (21 CFR 121.2571) be amended to provide for safe use of starch-*g*-poly(acrylamide-co-β-methacryloyloxyethyl-trimethylammonium monomethyl sulfate) prepared by radiation induced graft polymerization using either a cobalt 60 source or an electron beam accelerator. The additive is to be used in paper and paperboard intended to contract dry 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: May 23, 1974.

VIRGIL O. WODICKA,
Director, Bureau of Foods.

[FR Doc.74-12718 Filed 6-3-74;8:45 am]

[Docket No. FDC-D-670; DESI 4687; NDA No. 12-216]

SCHERING CORP.

Notice of Opportunity for Hearing on Proposal To Withdraw Approval of New Drug Application

The National Academy of Sciences-National Research Council, Drug Efficacy Study Group evaluated the effectiveness of the drug product described below, found the drug to be less than effective, and submitted its report to the Commissioner of Food and Drugs. Copies of that report have previously been made publicly available and are on display at the office of the Food and Drug Administration's Hearing Clerk. After reviewing the Academy's report and the available data and information, the Commissioner concluded that the drug is less than effective and published his conclusion in the FEDERAL REGISTER of July 22, 1970 (35 FR 11712) that the drug is possibly effective for its recommended use: symptomatic treatment of acute and chronic diarrhea.

NDA 12-216; Sorboquel Tablets; polycarbophil 0.5 gram and thihexinol methylbromide 15 milligrams; Schering Corporation, 60 Orange Street, Bloomfield, New Jersey 07003.

Other drugs were also included in the notice of July 22, 1970, but are not affected by this notice.

Subsequent to the notice, Schering submitted a summary of data from a double blind crossover comparison of sorboquel, polycarbophil, and placebo in oral treatment of chronic diarrheas, and an abstract presenting a summary of results of clinical trials of polycarbophil and Sorboquel. The data are inadequate to characterize any investigation of the combination drug product as adequate and well-controlled in that there is no basis for concluding that the essential elements of an adequate and well-controlled study, as set forth in 21 CFR 314.111(a)(5), have been met. For example, no protocol was presented; therefore, the report does not include information on the method of patient selection used to provide assurance that patients were suitable for the study, assurance that patients were assigned so as to minimize bias, and assurance of comparability of pertinent variables in test and control groups. (21 CFR 314.111(a)(5)(ii)(*a*)(2)). It does not explain methods of observation (21 CFR 314.111(a)(5)(ii)(*a*)(3)) and does not provide a summary of the methods of analysis and evaluation of data including appropriate statistical methods. (21 CFR 314.111(a)(5)(ii)(*a*)(5)). In addition, the data do not comply with the requirements of 21 CFR 3.86 in that there was no comparison of the combination product with a control containing the component thihexinol methylbromide as the only active ingredient.

On the basis of all of the data and information available to him, including the data discussed above, the Director of the Bureau of Drugs is unaware of any adequate and well-controlled clinical investigation, conducted by experts qualified by scientific training and experience, meeting the requirements of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and 21 CFR 314.111(a)(5) and 21 CFR 3.86, demonstrating the effectiveness of the drug.

Therefore, notice is given to the holder(s) of the new drug application(s) and to all other interested persons that the Director of the Bureau of Drugs proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)), withdrawing approval of the new drug application(s) (or if indicated above, those parts of the application(s) providing for the drug product(s) listed above) and all amendments and supplements thereto on the ground that new information before him with respect to the drug product(s), evaluated together with the evidence available to him at the time of approval of the application(s), shows there is a lack of substantial evidence that the drug product(s) will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling.

In addition to the holder(s) of the new drug application(s) specifically named above, this notice of opportunity for hearing applies to all persons who manufacture or distribute a drug product which is identical, related, or similar to a drug product named above, as defined in 21 CFR 310.6. It is the responsibility of every drug manufacturer or distributor to review this notice of opportunity for hearing to determine whether it covers any drug product he manufactures or distributes. Any person may request an

opinion of the applicability of this notice to a specific drug product he manufactures or distributes that may be identical, related, or similar to a drug product named in this notice by writing to the Food and Drug Administration, Bureau of Drugs, Office of Compliance (HFD–300), 5600 Fishers Lane, Rockville, MD 20852.

In addition to the ground(s) for the proposed withdrawal of approval stated above, this notice of opportunity for hearing encompasses all issues relating to the legal status of the drug products subject to it (including identical, related, or similar drug products as defined in § 310.6) e.g., any contention that any such product is not a new drug because it is generally recognized as safe and effective within the meaning of section 201(p) of the act or because it is exempt from part or all of the new drug provisions of the act pursuant to the exemption for products marketed prior to June 25, 1938, contained in section 201(p) of the act, or pursuant to section 107(c) of the Drug Amendments of 1962; or for any other reason.

In accordance with the provisions of section 505 of the act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR 310, 314), the applicant(s) and all other persons subject to this notice pursuant to 21 CFR 310.6 are hereby given an opportunity for a hearing to show why approval of the new drug application(s) should not be withdrawn and an opportunity to raise, for administrative determination, all issues relating to the legal status of a drug product named above and of all identical, related, or similar drug products.

If an applicant or any other person subject to this notice pursuant to 21 CFR 310.6 elects to avail himself of the opportunity for a hearing, he shall file (1) on or before July 5, 1974, a written notice of appearance and request for hearing, and (2) on or before August 5, 1974, the data, information, and analyses on which he relies to justify a hearing, as specified in 21 CFR 314.200. Any other interested person may also submit comments on this notice. The procedures and requirements governing this notice of opportunity for hearing, a notice of appearance and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and a grant or denial of hearing, are contained in 21 CFR 130.14 as published and discussed in detail in the FEDERAL REGISTER of March 13, 1974 (39 FR 9750), recodified as 21 CFR 314.200 on March 29, 1974 (39 FR 11680).

The failure of an applicant or any other person subject to this notice pursuant to 21 CFR 310.6 to file timely written appearance and request for hearing as required by 21 CFR 314.200 constitutes an election by such person not to avail himself of the opportunity for a hearing concerning the action proposed with respect to such drug product and a waiver of any contentions concerning the legal status of any such drug product. Any such drug product may not thereafter lawfully be marketed, and the Food and Drug Administration will initiate appropriate regulatory action to remove such drug products from the market. Any new drug product marketed without an approved NDA is subject to regulatory action at any time.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for the hearing that there is no genuine and substantial issue of fact which precludes the withdrawal of approval of the application, or when a request for hearing is not made in the required format or with the required analyses, the Commissioner will enter summary judgment against the person(s) who requests the hearing, making findings and conclusions, denying a hearing.

All submissions pursuant to this notice shall be filed in quintuplicate with the Hearing Clerk, Food and Drug Administration (HFC–20), Room 6–86, 5600 Fishers Lane, Rockville, MD 20852.

All submissions pursuant to this notice, except for data and information prohibited from public disclosure pursuant to 21 USC 331(j) or 18 USC 1905, may be seen in the office of the Hearing Clerk during regular business hours, Monday through Friday.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 505, 52 Stat. 1052–53, as amended; 21 USC 355), and under authority delegated to the Director of the Bureau of Drugs (21 CFR 2.121).

Dated: May 28, 1974.

J. RICHARD CROUT,
Director, Bureau of Drugs.

[FR Doc.74–12717 Filed 6–3–74;8:45 am]

Social and Rehabilitation Service

NATIONAL ADVISORY COUNCIL ON SERVICES AND FACILITIES FOR THE DEVELOPMENTALLY DISABLED

Notice of Meeting

The National Advisory Council on Services and Facilities for the Developmentally Disabled, created to advise the Secretary on regulations and evaluation of programs for Public Law 91–517, will hold a regular meeting on June 10 and 11, 1974, at the Department of Health, Education, and Welfare North Building, Room 5051, 330 Independence Avenue, SW., Washington, D.C. 20201.

On June 10 the meeting will begin at 9 a.m. and recess at 5:30 p.m.

On June 11 the meeting will reconvene at 8:30 a.m. and adjourn at 5 p.m. The agenda will include a progress report by the Executive Secretary, issues arising in legislation and regulations, participatory discussion with National Constituency Organizations, and a report from the Project on Classification of Exceptional Children. The meeting will be open to the public. Additional information can be obtained by calling the Executive Secretary at 202–245–0772.

FRANCIS X. LYNCH,
Executive Secretary.

MAY 28, 1974.

[FR Doc.74–12722 Filed 6–3–74;8:45 am]

ATOMIC ENERGY COMMISSION

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS SUBCOMMITTEE ON PERRY NUCLEAR POWER PLANT, UNITS 1 & 2

Notice of Meeting

MAY 30, 1974.

In accordance with the purposes of sections 29 and 182 b. of the Atomic Energy Act (42 U.S.C. 2039, 2232 b.), the Advisory Committee on Reactor Safeguards' Subcommittee on Perry Nuclear Power Plant, Units 1 and 2 will hold a meeting on June 28, 1974 in the East Ball Room of the Holiday Inn, 257 East Main Street, Painesville, Ohio 44077. The purpose of this meeting will be to develop information for consideration by the ACRS in its review of the application of the Cleveland Electric Illuminating Company for a permit to construct this nuclear power plant. The facility will be located on Lake Erie in Lake County, Ohio. The plant site is approximately 35 miles northeast of Cleveland and 21 miles southwest of Ashtabula, Ohio.

The following constitutes that portion of the Subcommittee's agenda for the above meeting which will be open to the public:

Friday, June 28, 1974, 1:30 p.m. until the conclusion of business. The Subcommittee will hear presentations by representatives of the Regulatory Staff and Cleveland Electric Illuminating Company and will hold discussions with these groups pertinent to its review of the application of Cleveland Electric Illuminating Company for a permit to construct the Perry Nuclear Power Plant, Units 1 and 2.

In connection with the above agenda item, the Subcommittee will hold Executive Sessions, not open to the public, at approximately 1 p.m. and at the end of the day to consider matters relating to the above application. These sessions will involve an exchange of opinions and discussion of preliminary views and recommendations of Subcommittee Members and internal deliberations for the purpose of formulating recommendations to the ACRS.

In addition to the Executive Sessions, the Subcommittee may hold a closed session with representatives of the Regulatory Staff and Applicant for the purpose of discussing privileged information relating to plant physical security.

I have determined, in accordance with subsection 10(d) of Public Law 92–463, that the above-noted Executive Sessions will consist of an exchange of opinions and formulation of recommendations, the discussion of which, if written, would

fall within exemption (5) of 5 U.S.C. 552(b) and that a closed session may be held, if necessary, to discuss certain documents and information which are privileged and fall within exemption (4) of 5 U.S.C. 552(b). Further, any nonexempt material that will be discussed during the above closed sessions will be inextricably intertwined with exempt material, and no further separation of this material is considered practical. It is essential to close such portions of the meeting to protect the free interchange of internal views, to avoid undue interference with agency or Committee operation, and to avoid public disclosure of proprietary information.

Practical considerations may dictate alterations in the above agenda or schedule.

The Chairman of the Subcommittee is empowered to conduct the meeting in a manner that in his judgment will facilitate the orderly conduct of business, including provisions to carry over an incompleted open session from one day to the next.

With respect to public participation in the open portion of the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda item may do so by mailing 25 copies thereof, postmarked no later than June 21, 1974, to the Executive Secretary, Advisory Committee on Reactor Safeguards, U.S. Atomic Energy Commission, Washington, D.C. 20545. Such comments shall be based upon the Preliminary Safety Analysis Report for this facility and related documents on file and available for public inspection at the Atomic Energy Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20545 and at the Perry Public Library, 3753 Main Street, Perry, Ohio 44081.

(b) Those persons submitting a written statement in accordance with paragraph (a) above may request an opportunity to make oral statements concerning the written statement. Such requests shall accompany the written statement and shall set forth reasons justifying the need for such oral statement and its usefulness to the Subcommittee. To the extent that the time available for the meeting permits, the Subcommittee will receive oral statements during a period of not more than 30 minutes at an appropriate time, chosen by the Chairman of the Subcommittee, between the hours of 1:30 p.m. and 3:30 p.m. on June 28, 1974.

(c) Requests for the opportunity to make oral statements shall be ruled on by the Chairman of the Subcommittee, who is empowered to apportion the time available among those selected by him to make oral statements.

(d) Information as to whether the meeting has been cancelled or rescheduled and in regard to the Chairman's ruling on requests for the opportunity to present oral statements, and the time allotted, can be obtained by a prepaid telephone call on June 27, 1974, to the Office of the Executive Secretary of the Committee (telephone: 301-973-5640) between 8:30 a.m. and 5:15 p.m., e.d.t.

(e) Questions may be propounded only by members of the Subcommittee and its consultants.

(f) Seating for the public will be available on a first-come, first-served basis.

(g) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session.

(h) Persons desiring to attend portions of the meeting where proprietary information is to be discussed may do so by providing to the Executive Secretary, Advisory Committee on Reactor Safeguards, 1717 H Street NW., Washington, D.C. 20545, 7 days prior to the meeting, a copy of an executed agreement with the owner of the proprietary information to safeguard this material.

(i) A copy of the transcript of the open portion of the meeting will be available for inspection on or after July 1, 1974 at the Atomic Energy Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20545, and within approximately nine days at the Perry Public Library, 3753 Main Street, Perry, Ohio 44081. Copies of the transcript may be reproduced in the Public Document Room or may be obtained from Ace Federal Reporters, Inc., 415 Second Street NE., Washington, D.C. 20002 (telephone 202-547-6222) upon payment of appropriate charges.

(j) On request, copies of the Minutes of the meeting will be made available for inspection at the Atomic Energy 1717 H Street NW., Washington, D.C. 1717 H Street NW., Washington, D.C. 20545 after August 28, 1974. Copies may be obtained upon payment of appropriate charges.

JOHN C. RYAN,
Advisory Committee Management Officer.

[FR Doc.74-12872 Filed 6-3-74;8:45 am]

[Docket No. 50-186]

CURATORS OF THE UNIVERSITY OF MISSOURI

Proposed Issuance of Amendment to Facility License

The Atomic Energy Commission ("the Commission") is considering the issuance of an amendment to Facility License No. R-103 to The Curators of the University of Missouri at Columbia, Missouri. The proposed amendment would authorize the University (1) to operate the nuclear research reactor at steady state power levels up to 10 MWt, an increase from 5 MWt, (2) to receive, possess, and use a 100 curie source of antimony-beryllium, and (3) to incorporate revised Technical Specifications in the license. This proposed amendment would revise the license in its entirety to delete the record keeping and reporting requirements from the license because they will be incorporated in the revised Technical Specifications.

The Commission has found that the application for amendment and supplements comply with the requirements of the Atomic Energy Act of 1954, as amended ("the Act"), and the Commission's regulations published in 10 CFR Chapter I. The amendment will be issued after the Commission makes the findings required by the Act and the Commission's regulations which are set forth in the proposed amendment and concludes that the issuance of the amendment will not be inimical to the common defense and security or to the health and safety of the public.

The applicant may file a request for a hearing on or before June 24, 1974, and any person whose interest may be affected by this proceeding may file a petition for leave to intervene. Requests for a hearing and petitions to intervene shall be filed in accordance with the Commission's rules of practice in 10 CFR Part 2. If a request for a hearing or a petition for leave to intervene is filed within the time prescribed in this notice, the Commission will issue a notice of hearing or an appropriate order.

For further details with respect to this amendment, see (1) the application for amendment dated August 25, 1972, and supplements dated October 5, 1973, January 11, 1974, February 28, 1974, and March 13, 1974, (2) the proposed amendment, (3) the revised Technical Specifications, (4) the related Safety Evaluation by the Directorate of Licensing, and (5) the original Safety Evaluation for operation of the MURR dated July 27, 1966, which are available for public inspection at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C. A copy of Items (2), (3), (4), and (5) may be obtained upon request sent to the U.S. Atomic Energy Commission, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing.

Dated at Bethesda, Maryland, this 24th day of May 1974.

For the Atomic Energy Commission.

ROBERT A. PURPLE,
Chief, Operating Reactors Branch No. 1, Directorate of Licensing.

[FR Doc.74-12871 Filed 6-3-74;8:45 am]

[Docket Nos. 50-346A; 50-440A, 50-441A]

TOLEDO EDISON CO. AND CLEVELAND ELECTRIC ILLUMINATING CO.

Notice and Order for Prehearing Conference

Take notice, that pursuant to the Atomic Energy Commission's "Memorandum and Order" dated January 21, 1974, in the matter of the antitrust proceedings involving the Davis-Besse Nuclear Power Station and Perry Plants, Units 1 and 2, and in accordance with § 2.751a of the Commission's rules of practice, a special prehearing conference will be held on this matter on June 14, 1974 at 9:30 a.m., local time, at the Postal Rate Commission, Suite 500, 2000 L Street NW., Washington, D.C.

The subject of this prehearing conference will be: (1) issues in controversy; (2) scope and extent of discovery; (3) consolidation matters; (4) schedule for this proceeding; and (5) such other matters as may aid in this proceeding.

It is so ordered.

Issued this 31st day of May 1974 at Bethesda, Maryland.

ATOMIC SAFETY AND LICENSING BOARD,
JOHN B. FARMAKIDES,
Chairman.

[FR Doc.74-12873 Filed 6-3-74;8:45 am]

CIVIL AERONAUTICS BOARD

[Dockets 25513, 25661, Agreement C.A.B. 24392 R-1 through R-3, Agreement C.A.B. 24398]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Notice of Agreement Relating to North Atlantic, South Pacific and North/Central Pacific Proportional Fares

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 29th day of May, 1974.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations between various air carriers, foreign air carriers and other carriers embodied in the resolutions of the Traffic Conferences of the International Air Transport Association (IATA). The agreement, which was adopted at a meeting held in New York, April 17, 1974, is for effectiveness May 15, 1974 on the Atlantic and North/Central Pacific and for varying dates of effectiveness on the South Pacific.[1] The agreement has been assigned C.A.B. agreement number 24392.

The agreement would revise proportional fares used in constructing through fares between points in North America and points in Europe/Middle East/Africa, across the South Pacific and North/Central Pacific areas. These changes result from the recent six percent domestic fare increase as well as several U.S.-Canada transborder fare increases and result in proportional fares which do not exceed the appropriate published domestic fares between the U.S. point involved and the specified U.S. gateway. We will also approve, insofar as it has indirect application in air transportation, a mail vote agreement which would permit holding normal and economy-class fares between Vancouver, B.C. and points in the South West Pacific to the level of the corresponding Los Angeles/San Francisco/Portland/Seattle fares.

The Board, acting pursuant to sections 102, 204(a), and 412 of the Act, makes the following findings:

1. It is not found that the following resolutions, incorporated in Agreement C.A.B. 24392 as indicated, are adverse to the public interest or in violation of the Act; provided that approval is subject, where applicable, to conditions previously imposed by the Board:

Agreement CAB	IATA No.	Title	Application
24392:			
R-1	015	North Atlantic Proportional Fares—North American	1/2
R-2	015a	South Pacific Proportional Fares—North America	3/1
R-3	015b	North and Central Pacific Proportional Fares—North America	3/1

2. It is not found that the following resolution, which is incorporated in Agreement C.A.B. 24398, and which is indirectly applicable in air transportation as defined by the Act, is adverse to the public interest or in violation of the Act:

Agreement CAB	IATA No.	Title	Application
24398	003x	Special Application Resolution—South Pacific	3/1

Accordingly, it is ordered, That:

1. Agreement C.A.B. 24392, R-1 through R-3 and Agreement C.A.B. 24398 be and hereby are approved; subject, where applicable, to conditions previously imposed by the Board; and

2. The carriers are hereby authorized to file tariffs implementing the approved agreements on not less than one day's notice for effectiveness not earlier than June 1, 1974. The authority granted in this paragraph expires with June 30, 1974.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board:

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.74-12747 Filed 6-3-74;8:45 am]

[Docket No. 22859; Order 74-5-139]

OZARK AIR LINES, INC.

Order of Suspension

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 29th day of May, 1974.

By tariff revisions filed April 29, 1974, and marked to become effective June 1, 1974, Ozark Air Lines, Inc. (Ozark) proposes to increase its domestic air freight rates as follows:

1. Bulk minimum charges from $10 to $12;

2. Adjust general commodity rates systemwide by variously increasing and reducing these rates on a mileage block basis. The increases range from 0.4 to 36 percent (with most below 17 percent) and reductions of from 2 to 16 percent;

3. Specific commodity rates on cut flowers and magazines to equal 70 and 75 percent of the applicable general commodity rate, respectively; and

4. Cancel all other specific commodity rates except some 1,000-pound rates on automobile parts.

In support of its proposal, Ozark asserts, inter alia, that it is attempting to eliminate inconsistencies in its rate structure by establishing more uniform, competitive rates based on a mileage block formula. The carrier has incurred an operating loss exceeding $1,574,000 from its air freight operations for the 12 months ended December 31, 1973. Furthermore, the carrier contends that spiralling costs, especially those related to fuel, have increased its expenses considerably. Even with the proposed rate increase, which it expects will generate more than $525,000 of additional revenue in 1974, Ozark estimates that it will incur an operating loss of $260,000 from its air freight operations.

The proposed rates and charges come within the scope of the Domestic Air Freight Rate Investigation, Docket 22859, and their lawfulness will be determined in that proceeding. The issue now before the Board is whether to suspend the proposal or to permit it to become effective pending investigation.

The Ozark filing is one of a group of rate increases filed in recent weeks. The Board has reviewed these proposed rates in the light of industry costs of carrying air freight (including a full return on investment), which reflect recognition of sharp increases in fuel costs recently experienced. Most of Ozark's proposed rates do not exceed those costs and will be permitted to become effective.

The rates on human remains, however, significantly exceed costs in all markets. In view of the foregoing and upon consideration of all other relevant factors, the Board finds that the proposal, to the extent it results in higher rates for movements of human remains, should be suspended.

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

It is ordered, That: 1. Pending hearing and decision by the Board, the increased rates described in Appendix A[1]

[1] Revisions to proportionals for South Pacific special fare categories are proposed to be effective June 1, 1974 and will reflect changes to currently effective domestic and transborder fares. Revisions to proportionals for South Pacific normal first- and economy-class fares are proposed to be effective July 1, 1974 and will reflect recently filed six percent increases to U.S.-Hawaii fares due to become effective by July 1, 1974. This two-step approach reflects the Board's condition to its recent approval of South Pacific normal fares to require that these IATA through fares from mainland points to South Pacific points not exceed the sum of the local sector fares over Hawaii.

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

hereto are suspended and their use deferred to and including August 29, 1974, unless otherwise ordered by the Board, and that no change be made therein during the period of suspension except by order or special permission of the Board;

2. Copies of this order shall be filed with the tariffs and served upon Ozark Air Lines, Inc.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board:

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.74-12748 Filed 6-3-74;8:45 am]

COMMISSION ON REVISION OF THE FEDERAL COURT APPELLATE SYSTEM

STRUCTURE AND PROCEDURES OF FEDERAL COURT

Notice of Hearing

MAY 29, 1974.

The Commission on Revision of the Federal Court Appellate System will hold hearings in Chicago on June 10 and June 11, 1974 on the structure and internal procedures of the Federal courts of appeal system. The hearings will commence at 10 a.m. in the Court of Appeals Courtroom, 27th Floor, Everett McKinley Dirksen Building, 219 South Dearborn Street, Chicago, Illinois.

Prospective witnesses are invited to communicate with the Executive Director of the Commission at the address listed below as soon as convenient, if they wish to testify:

209 Court of Claims Building
717 Madison Place, NW.
Washington, D.C. 20005
Telephone: (202) 382-2943

A. LEO LEVIN,
Executive Director.

[FR Doc.74-12708 Filed 6-3-74;8:45 am]

DEFENSE MANPOWER COMMISSION

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Defense Manpower Commission on June 14, 1974, at 9:00 a.m. in room 705, 1016 16th Street, NW., Washington, D.C. 20036.

The purpose of the meeting is to discuss the study plan of the Commission, its objectives and phasing.

The meeting will be open to the public. Interested persons wishing to attend should telephone 202/382-1331 by close of business Monday, June 10, 1974.

CURTIS W. TARR,
Chairman.

MAY 31, 1974.

[FR Doc.74-12924 Filed 6-3-74;9:30 am]

DEFENSE NUCLEAR AGENCY

STEMMING AND CLOSURE PANEL (SACPAN)

Notice of Meeting

The next meeting of the Stemming and Closure Panel (SACPAN), sponsored by the Defense Nuclear Agency (DNA), will be held 5-6, June 1974. SACPAN members will be asked to provide advice on on-going and future DNA underground test programs. The meeting will be closed to the public.

JACK R. KELSO,
Acting Executive Secretary, SACPAN.

[FR Doc. 74-12713 Filed 6-3-74;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[OPP-10002]

INSECTICIDES IN FOOD HANDLING ESTABLISHMENTS

Extension of Time Period

The Environmental Protection Agency (EPA) published in the Federal Register of August 10, 1973 (38 FR 21685), a notice concerning definitions and a policy statement regarding insecticides intended for use in food handling establishments. That notice also required that labeling modifications concerning crack and crevice treatments in food areas be made to pesticide products. That notice provided a 6-month period from its date of publication for such labeling modifications to be approved.

Applications for label modifications have been so numerous that it has not been possible to complete the review within the time allocated. For this reason, the time originally established for labeling amendments is hereby extended to October 21, 1974.

The previous notice also discussed the requirement for food additive regulations. A protocol for determining residues in food areas of food handling establishments has been developed through coordination with the Federal Working Group on Pest Management. This protocol is intended for the generation of information to support food additive regulations. A copy of this protocol may be obtained by writing to the Director, Registration Division (HM-567), Attention: Special Registration Section, Environmental Protection Agency, Washington, D.C. 20460.

Dated: May 29, 1974.

JAMES L. AGEE,
Acting Assistant Administrator for Water and Hazardous Materials.

[FR Doc.74-12731 Filed 6-3-74;8:45 am]

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

MASSACHUSETTS COMMISSION AGAINST DISCRIMINATION ET AL.

New Proposed 706 Agencies

Pursuant to § 1601.12(g), Title 29, Chapter 14 of the Code of Federal Regulations as revised and published in the FEDERAL REGISTER, Volume 37, No. 89, pages 9214-9220, May 6, 1972, the Equal Employment Opportunity Commission (hereinafter referred to as the Commission) proposes designation of the agencies listed below as 706 agencies (§ 1601.12(c)), provisional 706 agencies (as defined in § 1601.12(d)(1)), and Provisional Notice agencies (as defined in § 1601.12(d)(2)), for purposes of receiving charges deferred by the Commission pursuant to section 706 (c) and (d) of Title VII of the Civil Rights Act of 1964, as amended, and for purposes of according weight to the final findings and orders of those agencies pursuant to § 1601.12(g)(1), and commences the 15-day period within which any person or organization may file written comments as provided for under § 1601(g)(1). At the expiration of the 15-day period, the Commission may effect designation of each of these agencies by publishing the list of them as an amendment to § 1601.12(k). Additions to the list may be made by the Commission by similar notice and publication. The designated 706 Agency is:

1. Massachusetts Commission Against Discrimination.

The Provisional 706 Agencies are:

1. The Baltimore Community Relations Commission.
2. Bloomington Human Rights Commission.
3. Dade County Fair Housing and Employment Commission.
4. East Chicago Human Relations Commission.
5. Gary Human Relations Commission.
6. Idaho Commission on Human Rights.
7. Kansas Commission on Civil Rights.
8. Kentucky Commission on Human Rights.
9. New York City Commission on Human Rights.
10. Ohio Civil Rights Commission.
11. Oklahoma Human Rights Commission.
12. Philadelphia Commission on Human Relations.
13. Seattle Human Rights Commission.
14. Tacoma Human Rights Commission.
15. Washington State Human Rights Commission.

The Provisional Notice Agencies are:

1. Florida Commission on Human Relations.
2. South Carolina Governors Advisory Commission on Human Relations (Sec. 713(a), 76 stat. 265, 42 U.S.C. Sec. 2000e-12(a)).

Signed this 29th day of May 1974.

JOHN H. POWELL, Jr.,
Chairman.

[FR Doc.74-12767 Filed 6-3-74;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 20053, 20054; File Nos. BPH-7606, 8353]

JAPAT, INC., AND DOWN EAST BROADCASTING, INC.

Memorandum Opinion and Order

In re applications of Japat, Inc., Westbrook, Maine, Docket No. 20053, File No. BPH-7606, requests: 100.9 MHz, #265; 891 W (H & V); 508 feet; Down East Broadcasting, Inc., Westbrook, Maine, Docket No. 20054, File No. BPH-8353, requests: 100.9 MHz, #265; 900 W (H & V); 504 feet, for construction permits.

1. The Commission, by the Chief of the Broadcast Bureau, acting under delegated authority, has before it the above applications which are mutually exclusive since each of the applicants has requested authority to operate on the same FM broadcast channel allocated to the same community.

2. Although both applicants appear to have made substantial efforts to ascertain the community problems of their proposed service areas, neither of them has complied fully with the requirements of our Primer on Ascertainment of Community Problems by Broadcast Applicants, 27 FCC 2d 650 (1971). Specifically, although both applicants assert that the economic life of Westbrook is dominated by the S. D. Warren Company, Japat, Inc., has not interviewed any officials of that company or of the union to which employees of that company belong. This is a serious defect since, as explained in answer 16 of our Primer, supra, "the omission of consultations with leaders of a significant interest group would make the applicant's showing defective, since those consulted would not reflect the composition of the community." See Voice of Dixie, Inc., 45 FCC 2d 1027 (1974). In addition, neither applicant has explained the method used to assure that random sample of members of the general public was consulted to determine relevant community problems. See paragraph 41 of the Primer, 27 FCC 2d 650 (1971), at 667. Thus, appropriate issues will be specified as to both applicants.

3. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, because the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

4. *Accordingly, it is ordered,* That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine the efforts made by the applicants to ascertain the community problems of the area to be served and the means by which the applicants propose to meet those problems.

2. To determine which of the proposals would, on a comparative basis, better serve the public interest.

3. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

5. *It is further ordered,* That the applicants shall file a written appearance stating an intention to appear and present evidence on the specified issues, within the time and in the manner required by § 1.221(c) of the rules.

6. *It is further ordered,* That the hear- applicants shall give notice of the hearing within the time and in the manner specified in § 1.594 of the rules, and shall seasonally file the statement required by § 1.594(g).

Adopted: May 22, 1974.

Released: May 28, 1974.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.74-12729 Filed 6-3-74;8:45 am]

[Docket No. 20005, RM-1635, RM-1849, RM-2045]

PUBLIC UTILITY METERS

Order Extending Time

In the matter of the development of frequency allocations and regulations applicable to the use of radio for the remote reading of public utility meters.

1. The Commission has before it for consideration a Motion for Extension of Time in the above named proceeding filed on behalf of the Utilities Telecommunications Council (UTC) requesting a 60 day extension in the time for filing comments and an additional 30 days for reply comments in response to the Commission's notice of inquiry herein, adopted April 9, 1974.

2. According to UTC, a preliminary examination of the Commission's notice of inquiry reveals that the subject matter is of great interest and importance to the utility industry. UTC says that in order for it to properly evaluate the subject matter and file responsive and meaningful comments, additional time is required for securing data from the various member utilities and for preparing and coordinating the comments.

3. The Commission recognizes the importance of this proceeding to the utility industry and it is our hope to obtain meaningful comments on the several issues raised in the notice of inquiry. We also recognize the difficulty UTC may have in developing comments representing its diverse and widespread membership, as well as its desire to coordinate its proposed filing at the Annual UTC Meeting in June. We believe therefore that good cause has been shown for the requested extension of time and that such extension would not seriously delay the proceeding nor inconvenience other parties intending to file.

4. *Accordingly, it is ordered,* pursuant to authority contained in section 5(d) of the Communications Act of 1934, as amended [47 U.S.C. 155(d)] and § 0.251 (b) of the Commission's rules [47 CFR 0.251(b)] the date for filing comments in this proceeding is extended from May 23, 1974, to July 22, 1974, and the date for filing reply comments is extended from June 3, 1974, to August 21, 1974.

Adopted: May 21, 1974.

Released: May 21, 1974.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] ASHTON HARDY,
General Counsel.

[FR Doc.74-12728 Filed 6-3-74;8:45 am]

[Docket No. 20055; File No. BPH-8066, etc.]

PRAIRIELAND BROADCASTERS ET AL.

Order Designating Applications for Consolidated Hearing on Stated Issues

In re applications of Stephen P. Bellinger, Joel W. Townsend, Ben H. Townsend and Reynold Fischman, d/b as PRAIRIELAND BROADCASTERS, Decatur, Illinois, Docket No. 20055, File No. BPH-8066, Requests: 95.1 MHz, #236; 50 kW (H & V); 500 feet; WBIZ, INCORPORATED, Decatur, Illinois, Docket No. 20056, File No. BPH-8267, Reqeusts: 95.1 MHz, #236; 50 kW (H & V); 500 feet; SUPERIOR MEDIA, INC., Decatur, Illinois, Docket No. 20057, File No. BPH-8351, Requests: 95.1 MHz, #236; 500 kW (H & V); 500 feet; DECATUR BROADCASTING, INC., Decatur, Illinois, Docket No. 20058, File No. BPH-8390, Requests: 95.1 MHz, #236; 50 kW (H & V); 500 feet; L.E.G., Inc., and John G. Cheeks, d/b as SOY COMMUNICATIONS COMPANY, A JOINT VENTURE, Decatur, Illinois, Docket No. 20059, File No. BPH-8682, Requests: 95.1 MHz, #236; 50 kW (H & V); 500 feet, for construction permits.

1. The Commission, by the Chief of the Broadcast Bureau, acting pursuant to delegated authority, has under consideration the above-captioned applications which are mutually exclusive in that operation by the applicants as proposed would result in mutually destructive interference.

2. Examination of the application of Prairieland Broadcasters indicates that the applicant conducted a general audience survey, there is no indication of the number of persons contacted or the method used to insure that a random sample was achieved as required by the Primer on Ascertainment of Community Problems by Broadcast Applicants, 27 FCC 2d 650 (1971). Accordingly, a Suburban[1] issue will be included.

3. The application of WBIZ, Inc., indicates that although its consultations with community leaders was personally conducted by principals or management-level employees, its telephone survey of the general public was made under the direction and supervision of a principal "by two staff members of the Millikin University radio station." Since it is not clear whether the two individuals are also employees or prospective employees of the applicant, the survey does not meet the requirements of answer 11(b)

[1] Suburban Broadcasters, 20 RR 951 (1961).

of the Primer on Ascertainment of Community Problems by Broadcast Applicants, 27 FCC 2d 650 (1971). Accordingly, an issue with respect thereto has been specified.

4. With reference to the general audience survey of Superior Media, Inc., the applicant states that it was conducted by "an experienced interviewer hired by the applicant for this purpose." The applicant further states that the interviewer worked under the direction and supervision of the applicant's stockholders. Since it is not clear whether the interviewer was a representative of a professional research organization, as required by answer 11(b) of the Primer, an issue will be included.

5. Decatur Broadcasting, Inc., will require $109,804 to construct and operate the proposed facility for a period of one year, itemized as follows:

Down payment on equipment	$16,912
Fourteen months' payments on principal and interest	15,643
Land	15,000
Miscellaneous items	4,645
Working capital requirement	54,204
Interest on bank loan at 10.5 percent	3,400
Total	109,804

To meet this requirement, the applicant relies upon existing capital, a bank loan, and stock subscriptions. Existing capital and prepaid expenses total $8,000. However, of the $82,000 in subscriptions and $40,000 loan, only $41,000 has been established as available. The balance sheet of Mr. Christofilakos, dated June 30, 1973, shows inadequate funds to meet his commitment. The balance sheets of Mr. Farrow and Mr. Squires refer to the availability of "marketable securities". However, there is no indication of which specific securities are held or on which exchange those securities traded. Mr. Gair's balance sheet lists stock in a company known as Hen House, Inc. However, the stock is not listed on any major exchange. As a result, only $41,000 of the $82,000 in subscriptions has been established as available. In addition, the bank loan is not acceptable since it requires the firm guarantees of several of the parties to the applicant. The guarantees submitted by these parties were equivocal and therefore unacceptable. Accordingly, an appropriate financial issue will be specified.

6. By letter of March 1, 1974, the Commission noted that the number of interviews which Decatur Broadcasting, Inc., had conducted with community leaders appeared to be inadequate and requested that additional leaders from both the city of Decatur and Macon County be consulted. By amendment received May 3, 1974, the applicant submitted a list of an additional 18 community leaders. However, it appears that a total of 32 community leaders is insufficient to meet the Primer requirements, considering the size of the Decatur community. Moreover, although labor unions are numerous in the Decatur area, apparently no labor leaders were interviewed. Accordingly, an issue will be specified. Voice of Dixie, Inc., 45 FCC 2d 1027 (1974).

7. Soy Communications, Inc.'s application states that interviews with the general public were made by C. Grabb and B. Mowry, under the "general supervision" of L. E. Grabb. L. E. Grabb is president of the applicant; C. Grabb and B. Mowry are not identified. Thus, since a substantial question exists as to whether the requirements of answer 11(b) of the Primer have been met, an issue will be included.

8. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

9. *Accordingly, it is ordered,* That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine the efforts made by the applicants to ascertain the community problems of the area to be served and the means by which the applicants propose to meet those problems.

2. To determine, with respect to the application of Decatur Broadcasting, Inc.:

(a) The source and availability of funds in addition to those noted in paragraph 5, supra;

(b) Whether, in light of the evidence adduced pursuant to (a), above, the applicant is financially qualified to construct and operate as proposed.

3. To determine which of the proposals would, on a comparative basis, best serve the public interest.

4. To determine, in light of the evidence adduced pursuant to the foregoing issues which, if any, of the applications should be granted.

10. *It is further ordered,* That, to avail themselves of the opportunity to be heard, the applicants herein, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall, within 20 days of the mailing of this Order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

11. *It is further ordered,* That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing, either individually or, if feasible and consistent with the rules, jointly, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

Adopted: May 22, 1974.

Released: May 29, 1974.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.74-12727 Filed 6-3-74;8:45 am]

FEDERAL ENERGY OFFICE

PROJECT INDEPENDENCE ADVISORY COMMITTEE

Notice of Establishment

This notice is published in accordance with the provisions of section 9(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463). Following consultation with the Office of Management and Budget, notice is hereby given that it is in the public interest, in connection with the performance of the duties delegated to the Federal Energy Office by Executive Order No. 11748 to establish the Project Independence Advisory Committee.

A description of the nature and purpose of this Committee is contained in its Charter which is published below.

Because of the short time in which we must prepare the Project Independence Report and the complexity of the tasks to be performed by the group, the Office of Management and Budget has authorized filing of the charter seven days after publication of this notice.

CHARTER

PROJECT INDEPENDENCE ADVISORY COMMITTEE

A. *Establishment.* The Administrator, Federal Energy Office, having determined after consultation with the Director, Office of Management and Budget, that it is in the public interest in connection with the performance of duties imposed on the Federal Energy Office by Executive Order #11748, dated December 4, 1973, which delegated to the Administrator, Federal Energy Office, authority vested in the President by the Emergency Petroleum Allocation Act of 1973 (Pub. L. 93-159), and Defense Production Act of 1950 (50 U.S.C. App. 2061 et seq.), as amended, hereby establishes the Project Independence Advisory Committee pursuant to the Federal Advisory Committee Act (Pub. L. 92-463).

B. *Duties, functions and administrative provisions*—1. *Objectives and scope.* The objective of the Project Independence Advisory Committee is to provide independent advice and review to the Federal Energy Office (FEO) with respect to the strategies, goals, and analysis of Project Independence.

2. *Committee tenure.* In view of the goals and purposes of the Committee, it will be expected to continue for two years or 30 days following the submission of the Project Independence Report, whichever comes first.

3. *Official to whom Committee reports.* The Committee will report to the Administrator, Federal Energy Office.

4. *Support services.* Necessary support for the Committee will be furnished by the Federal Energy Office.

5. *Committee duties.* The duties of the Committee are solely advisory and are to provide the Federal Energy Office with direct and timely access to the Committee members' expertise relating to various segments of the economy.

6. *Estimated annual cost.* The estimated annual operating costs for the Committee are $20,000.00 and approximately one-half man years of staff support.

7. *Meetings.* The committee will meet approximately bimonthly during its tenure.

8. *Termination date.* The Committee will terminate two years from date of this Charter or 30 days after the submission of the President's report on Project Independence, whichever comes first, unless prior to those

dates renewal action is taken by the Administrator, FEO.

Dated: May 28, 1974.

JOHN C. SAWHILL,
Administrator.

[FR Doc.74-12672 Filed 5-31-74;8:45 am]

FEDERAL MARITIME COMMISSION

CERTIFICATES OF FINANCIAL RESPONSIBILITY (OIL POLLUTION)

Notice of Certificates Revoked

Notice of voluntary revocation is hereby given with respect to Certificates of Financial Responsibility (Oil Pollution) which had been issued by the Federal Maritime Commission, covering the below indicated vessels, pursuant to Part 542 of Title 46 CFR and section 311(p)(1) of the Federal Water Pollution Control Act, as amended.

Certificate No.	*Owner/Operator and Vessels*
01058	States Steamship Co.: *C. E. Dant.*
01181	Smith Sorensen Tankrederi A/S: *O. B. Sorensen.*
01258	Skibsaktieselskapet Baumare: *Baune.*
01305	Royal Mail Lines, Ltd.: *Majestic.*
01330	Shell Tankers (U.K.), Ltd.: *Mactra.*
01383	Mariehamns Rederi AB, Mariehamn: *Sommaro.*
01450	Hall Brothers Steamship Co., Ltd.: *Cilurnum.*
01515	M. Thorviks Rederi A/S: *Bris.*
01649	Compania Laconia de Navegacion, S.A.: *Capetan Lukis.*
02198	Peninsular & Oriental Steam Navigation Co.: *Opawa.*
02286	China Union Lines, Ltd.: *Taipei Victory.*
02341	Royal Netherlands Steamship Co.: *Chiron Ladon.*
02416	Boland and Cornelius, Inc.: *Harris N. Snyder.*
02449	A/S Ivarans Rederi: *Rio de Janeiro.*
02835	Hongkong Shipowners & Managers Co., Ltd.: *Idalla.*
03083	Overseas Maritime Co., Inc.: *Hongkong Clipper.*
03094	Malaysia Marine Corp. Liberia: *Malaysia Fortune.*
03173	Athina Maritime Co., Ltd. of Monrovia, Liberia: *St. Athina.*
03196	N.V. Motor Scheepvaartmaat Schappis: *Mathilda.*
03329	Hudson Waterways Corp.: *Transoneida, Transontario.*
03391	Societe Maritime Shell: *Siam.*
03544	Herness Shipping Co. A/S: *Naess Meteor, Naess Comet.*
03564	A/S Mosvolds Rederi: *Mosdale.*
03722	Kerr-McGee Corp.: *Tank Barge II, Yon 183.*
03883	Ohio Barge Line, Inc.: *OBL 910-B.*
03916	Mobil Oil Francaise: *Athos.*
04022	Sinclair-Koppers Co.: *SCC 614, SK 100.*
04078	Ina Tankers Corp.: *Noto.*
04339	Bilbao Compania Naviera, S.A.: *John P. G.*
04408	Compania de Navegacion Glofo Azul S.A. of Panama: *Aghios Spyridon.*
04410	Tenneco Oil Co.: *Tenneco 150.*
04423	Marcona Carriers, Ltd.: *San Juan Prospector, San Juan Exporter, San Juan Pathfinder, San Juan Pioneer, San Juan Trader, San Juan Voyager, San Juan Traveler, San Juan Venturer, San Juan Vangard.*
04502	Kotoshiro Gyogyo Kabushiki Kaisha: *Kotoshiro Maru No. 7.*
04504	Sumiyoshi Gyogyo Kabushiki Kaisha: *Sumiyoshi Maru No. 62.*
04601	American Tunaboat Association: *Quo Vadis.*
04630	L. Smit & Co.'s Internationale Sleepdienst: *Barentsz-Zee, Elbe, Hudson, Mississippi, Noordzee, Orinoco, Poolzee, Rode Zee, Smit Salvor, Thames, Tazman Zee, Witte Zee, Zwarte Zee.*
04887	Walsh Stevedoring Co., Inc.: *D.B. 235.*
05039	Inland Oil & Transport Co.: *IOT 6.*
05046	Magnolia Marine Transport Co.: *Miss Kathy.*
05147	Arne Presthus Rederi A/S: *Arne Presthus.*
05399	Martin Marietta Corp.: *J. H. Duffy, Kentucky.*
05494	Moore Terminal & Barge Co., Inc.: *MTB 500.*
05713	W. B. Enterprises, Inc.: *The Independent.*
05791	Kanaris Shipping Enterprises S.A.: *Aegis Legend, Aegis Save I.*
05857	Coral Marine Enterprise Co., S.A.: *Coral Green.*
06318	Heiner Braasch Schiffahrts-Gesellschaft MS "Hamburger Damm" Kommanditgesellschaft: *Hamburger Damm.*
06660	Petroleum Distributing Co., Inc.: *Luminetta.*
06925	Bibby Bulk Carriers, Ltd.: *Toronto City.*
07016	Riverland Barge Co., Inc.: *MV 205.*
07126	Ramses Shipping A/S: *Rubi Binti.*
07162	Camden Shipping Co., Ltd.: *Camden.*
07163	Casterbridge Shipping Co., Ltd.: *Casterbridge.*
07164	Cadogan Shipping Co., Ltd.: *Cadogan.*
07165	Cadwalader Shipping Co. Ltd.: *Cadwalader.*
07492	The Crystal Shipping Co., S.A.: *Dahlia.*
07604	Alfred Tannis Investments, Ltd.: *Alftan, Cranborne.*
07938	Arenad & Cia Ltda.: *Tico.*
07961	Thomas Marine Co.: *Ellis 1256, Ellis 1301.*
08071	Anglo Nordic Bulkships (Management), Ltd.: *Stolt Norness, Stolt Sydness.*
08344	Hammerton Shipping Co. S.A.: *Cape Canaveral.*
08476	Kea Shipping Corp.: *Kassos.*
08572	MS "Cape Charles" Shipping Co., S.A.: *Cape Charles.*
08777	Jebsens (U.K.), Ltd.: *Fonnes.*
08788	I/S Sunore: *Arabella.*

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.74-12755 Filed 6-3-74;8:45 am]

CERTIFICATES OF FINANCIAL RESPONSIBILITY (OIL POLLUTION)

Notice of Certificates Issued

Notice is hereby given that the following vessel owners and/or operators have established evidence of financial responsibility, with respect to the vessels indicated, as required by section 311(p)(1) of the Federal Water Pollution Control Act, and have been issued Federal Maritime Commission Certificates of Financial Responsibility (Oil Pollution) pursuant to Part 542 of Title 46 CFR.

Certificate No.	*Owner/Operator and Vessels*
01150	Chevron Transport Corp.: *L. W. Funkhouser.*
01305	Royal Mail Lines, Ltd.: *Kayeson.*
01383	Mariehamns Rederi AB: *Evofrio.*
01428	Ocean Transport & Trading, Ltd.: *Ras Lanuf, Tantalus, Trollus.*
01861	BP Tanker Co., Ltd.: *British Severn.*
01988	Angfartygsaktiebolaget Tirfing: *Lappland.*
02199	Atlantic Richfield Co.: *Arco Juneau.*
02246	Blue Star Line, Ltd.: *Starman.*
02492	Interstate Oil Transport Co.: *Tide 119.*
02519	S.A. Louis Dreyfus & Cie.: *Alain L.D.*
02528	Marfiel Compania Naviera S.A.: *Holy Cross.*
02526	Vespucio Compania Armadora S.A.: *Holy Trinity.*
02527	Astromarine Corp.: *Mount Athos.*
02715	Allied Towing Corp.: *Gregory.*
02858	Intermarine, Inc.: *Ivory.*
02862	Ocean Shipping & Enterprises, Ltd.: *Ocean Energy.*
02917	Arya National Shipping Lines S.A.: *Arya Far Arya Chehr, Arya Pand, Arya gol.*
02928	PHS Van Ommeren (France): *Port Cros.*
02977	J. Ray McDermott & Co., Inc.: *McDermott Derrick Barge No. 25.*
02982	The Shipping Corp. of India, Ltd.: *Vishva Bandhan, Vishva Amitabh.*
03305	Grand Bassa Tankers, Inc.: *Grand Alliance.*
03387	Deutsche Shell Tanker G.M.b.H.: *Lagena.*
03398	Interessentskapet Norse Mountain: *Norse Queen.*
03471	Nippo Kisen Kabushiki Kaisha: *Hokaku Maru.*
03737	Interocean Shipping, Co.: *Oremar.*
03893	Skaarup Shipping Corp.: *Colon Brown.*
03918	Mobil Shipping & Transportation Co.: *Mobil Venture.*
04160	Marine Transport Co.: *Cad 603.*
04173	Foss Launch & Tug Co.: *Foss 275, Foss 253, Foss 287, Foss 99, Vanliner 286.*
04226	National Marine Service, Inc.: *N.M.S. No. 67, N.M.S. No. 88.*
04404	Lars Rej Johansen: *Joboy.*
04430	Birdsall Shipping Co., Ltd.: *Tropic Flyer.*
04466	Hiwasacho Gyogyo Kyodo Kumiai: *Kyoshinmaru No. 3.*
04468	Kotoshiromaru Gyogyo Kabushiki Kaisha: *Kotoshiromaru No. 7, Kotoshiromaru No. 11.*
04504	Sumiyoshi Gyogyo Kabushiki Kaisha: *Sumiyoshimaru No. 75.*
05130	Naviera Humboldt S.A.: *Yerupaja.*
05278	Twin City Barge & Towing Co.: *TCB 303, TCB 304, TCB 309.*
05383	Lineas Pinillos: *Jalon.*
05432	Lloyd Triestino, Societa' per Azioni di Navigazione: *Mediterranea.*
05762	Consolidated Edison Co. of New York, Inc.: *GM 127.*
05792	Korea Wonyang Fisheries Co., Ltd.: *Kwang Myong 71, Kwang Myong 73.*
05854	Levin Metals Corp.: *Procyon, DE 701, DE 796, DE 202, DE 340, DE 705, DE 438, DE 534.*
05894	Yutana Barge Lines, Inc.: *Yukon, Tanana.*
05895	Black Navigation Co., Inc.: *OB 2, OB 6.*
06494	Great West Towing & Salvage, Ltd.: *Great West No. 3.*

Certificate No.	Owner/Operator and Vessels
06566	Occidental Petroleum Corp.: *N.M.S. 1403, N.M.S. 1406.*
06906	Directia Navigatiei Maritime Navrom: *Dacia.*
07206	Australian Coastal Shipping Commission: *Alnwick Castle.*
07366	Compagnie Maritime des Chargeurs Reunis: *Heraklides 1.*
07404	Hanseatic Shipmanagement, Ltd.: *Samossand, Reefer Trader, Reefer Merchant.*
07550	Erato Shipping, Inc.: *Asia Falcon.*
07582	Msss. Co., S.A.: *Dae Bong No. 1.*
07598	Vroon Shipping (Liberia), Ltd., Monrovia: *European Express, Arabian Express.*
07607	Takebayashi Kisen Co., Ltd.: *Hakuyo Maru.*
07817	Yick Fung Shipping & Enterprises Co., Ltd.: *Drake Sea, Beaufort Sea.*
07880	Logicon, Inc.: *Logicon 2306.*
08057	Carmel Transport Corp.: *Stolt Surf, Stolt Castle, Stolt Crown.*
08263	Selvick Marine Towing Corp.: *Sea Castle.*
08414	I.F.R. Services, Ltd.: *Lapland.*
08726	Scheepvaartbedrijf Arctic: *Arctic.*
08788	I/S Sunore: *Sunny Prince.*
08876	Virginia Transport Corp.: *Virginia Lily.*
08878	Sea Bird Navigation, Inc.: *Fay.*
08903	Union Partenreederei Ms Blumenthal: *Blumenthal.*
08943	Orient Express Container Services, Inc.: *Hong Kong Container.*
08944	Viamares Benignos Navegacion S.A. Panama: *Theano.*
08945	Marlineas Generales S.A. Panama: *Aristokleidis.*
08946	C. Avramides Maritime Enterprises S.A.: *Maria A.*
08950	Chelsea Maritime, Ltd.: *Irene Success.*
08968	Anthemis Shipping Co., Ltd.: *Petingo.*
08970	Naves Maritime Co., Ltd.: *Papageorgis.*
08971	Magnum Maritime Co., Ltd.: *Papamaurice.*
08973	Compania Maritima Elxan, Ltd.: *Spartan Leader.*
08976	Medina Shipping Co.: *World Promise.*
08979	Diakan Truth S.A.: *Diakan Truth.*
08981	Champion Bay Shipping Co., Ltd.: *Rio de Janeiro.*
08982	Fodele Shipping Co.; Ltd.: *Fodele II.*
08985	Agia Anna Corp.: *Hadjanna.*
08987	Ananagel Fortune Compania Naviera S.A. Panama: *Anangel Fortune.*
08988	Cayman Shipping Corp.: *Eaglescliffe, Westcliffe.*
08990	Compagnie Navale des Petroles: *Aldebaran.*
08994	Tranquility Shipping and Trading Corp. S.A.: *Hellas.*
08996	Iphigenia Shipping & Trading Corp.: *Spiro.*
08997	Henrietta Shipping & Trading Corp.: *Apollo XI.*
08998	Gardenia Compania Naviera S.A.: *Kriti Sun.*
08999	Sause Bros. Ocean Towing Co., Inc.: *Coquille.*
09001	Nitto Senpaku Kabushiki Kaisha: *Koa Maru.*
09004	Berman Enterprises, Inc.: *The Independent, Perth Amboy No. 2.*
09005	Kalogeratos Compania Naviera S.A. Panama: *Nissos Kefallinia.*
09006	Stena Line AB.: *Stena Trailer.*
09007	Maganogyros Compania Naviera S.A.: *Aegis President.*
09008	Union Bulk Carriers, Inc.: *Portofino.*
09009	Kaigai Shipping Corp.: *Tripharos.*
09011	Summit Service Corp.: *Performance.*
09012	Antillean Reefers N.V.: *Caracas Bay.*
09013	Caribbean Reefers N.V.: *Aruba Bay.*
09014	United Faith Transport, Inc.: *Golden Venture.*
09015	Kingsland Maritime Corp.: *Scol Eminent.*
09017	Cryotrans Gastanker Gesellschaft Mbh MV "Sophie Schulte" KG.: *Sophie Shculte.*
09018	Sigurd Herlofson & Co. A/S: *Amax Trader.*
09021	Daeyang Shipping Corp., Ltd.: *Daeyang Prosperity.*
09033	Mopas A/S: *Go-Nega.*
09034	Oleoductos Nicaraguenses S.A.: *Rama.*
09035	Tong Shin Navigation, Ltd.: *Tong Shin.*
09037	East Aegean Navigation S.A. Panama: *Aegean Navigator.*
09040	Seiju Kato: *Fukuyoshimaru No. 38.*
09041	A/S S/S Mathilda: *Bow Cecil, Bow Queen.*

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.74-12756 Filed 6-3-74;8:45 am]

INDEPENDENT OCEAN FREIGHT FORWARDER LICENSE

Notice of Applications Filed

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to Section 44(a) of the Shipping Act. 1916 (75 Stat. 522 and 46 USC 841(b)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573.

Auto Overseas, Ltd.
230 West 41st Street
New York, New York 10036

Officers and Directors

Harvey Blackman, President
Nancy Behrens, Vice President
Albert Lefkowitz, Secretary/Treasurer
Paul Zola, Director
Ralph Zola, Director
Irving Zola, Director

Specialty Forwarding Services Inc.
11938 Aviation Blvd.
Inglewood, California 90304

Officers

Mogens D. Hansen, President
Richard W. Beaudet, Vice President

Fernando L. Cancetty
5701 Boulevard East, Apt. 4J
West New York, New Jersey 07093

Magna Forwarding, Inc.
1027 E. Burgrove Street
Carson, California 90746

Officers and Directors

Cayetano Siringo, President/Director
Sofia M. Siringo, Vice President
Marvin E. Chance, Secretary/Treasurer/Director
Garland G. Steven, Director

Robertson Forwarding Co. Inc.
175-14 147th Avenue
Jamaica, New York 11434

Officers

A. Robertson, President
J. Robertson, Secretary

Benjamin C. Federico
Ben Federico Freight Consolidator, Inc.
1015 N. America Way, Dodge Island
Miami, Florida 33132

By the Federal Maritime Commission.

Dated: May 30, 1974.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.74-12757 Filed 6-3-74;8:45 am]

[Docket No. 74-20]

NONCOMPLIANCE WITH REPORTING REQUIREMENTS OF GENERAL ORDERS 5 AND 11

Notice of Intent To Cancel Tariffs

The files of the Federal Maritime Commission contain domestic offshore tariffs filed by the following carriers including their last known addresses:

Alaskan Barge & Salvage, Inc.
Suite 720, First National Building
425 G Street
Anchorage, Alaska 99501

Alaska Marine Lines, Inc.
226 West Lake, Sammanish Boulevard, SE.
Bellevue, Washington 98008

Arison Shipping Company
820 Biscayne Boulevard
Miami, Florida 33132

Atlantic Caribbean Express, Inc.
13175 NE. 6th Avenue, Suite 19
North Miami, Florida 33161

Caribbean Ferry Service, Inc.
Caribbean Towers Building, Suite 23
760 Ponce De Leon Avenue
Miramar, Puerto Rico 00907

Indian Towing Company, Inc.
2200 Surekote Road
New Orleans, Louisiana 70117

Marine and Marketing International Corporation
PO Box 3310
Miami, Florida 33101

Motonaves Florida Lines, S. A.
c/o Florida Motorships Corporation
PO Box 13138—Port Everglades Station
Fort Lauderdale, Florida 33316

Southeast & Caribbean Shipping Co., Inc.
750 NE 7th Avenue
Dania, Florida 33004

Star Shipping Corporation
1177 Brickell Avenue
Miami, Florida 33131

Virgin Islands Container Line
17 Battery Place—Room 600
New York, New York 10004

These carriers have failed to comply with the provisions of §§ 511.2 and 511.3 of the Commission's General Order 5, as amended, and § 512.3 of its General Order 11, as amended. These provisions provide for the submission of annual financial and operating data of all common carriers by water who operate in the

domestic offshore trades of the United States. Authority for these regulations is provided by section 21 of the Shipping Act, 1916, as amended, the pertinent part of which reads as follows:

> That the board may require any common carrier by water, or other person subject to this Act, or any officer, receiver, trustee, lessee, agent, or employee thereof, to file with it any periodical or special report, or any account, record, rate, or change, or any memorandum of any facts and transactions appertaining to the business of such carrier or other person subject to this Act * * *

Although numerous letters have been dispatched to the carriers under reference, the Commission's staff has been unable to persuade them to file the required financial and operating data that is essential to the Commission's purposes in discharging its regulatory responsibilities. Without annual financial and operating data the Commission is unable to determine whether or not the level of the rates shown in the domestic offshore tariffs of the carriers listed above are reasonable, or provide for an unfairly high rate of return, or are so low as to be detrimental to the commerce of the United States. Accordingly, the Commission proposes to cancel their tariffs in the absence of a showing of good cause as to why they should not be canceled.

Now, therefore, it is ordered, That the above carriers advise the Secretary, Federal Maritime Commission, at 1100 L Street, NW., Washington, D.C., 20573, in writing on or before July 5, 1974 of any reasons why the Commission should not cancel their domestic offshore tariffs;

It is further ordered, That a copy of this order be sent by registered mail to the last known address of the carriers listed herein;

It is further ordered, That this notice be published in the FEDERAL REGISTER and a copy thereof filed with all tariffs that may be canceled pursuant to this notice.

By the Commission.

[SEAL] FRANCIS C. HURNEY, *Secretary.*

[FR Doc.74-12758 Filed 6-3-74;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. RP71-122; Docket No. RP74-94-1]

ARKANSAS ELECTRIC COOPERATIVE CO. ET AL.

Order Granting Motion, Setting Petition for Hearing, Consolidating Proceedings, and Establishing Procedures

MAY 24, 1974.

On March 22, 1974, Arkansas Electric Cooperative Corporation (Cooperative), filed a motion in Docket No. RP74-94-1 requesting authorization to transfer volumes of gas which it receives from Arkansas Louisiana Gas Company (Arkla), at two of its power plants to a third plant located at Camden, Arkansas, hereafter referred to as the McClellan plant.

Cooperative stated in its motion that it required the transfer of volumes to permit the McClellan plant to continue operation because its gas supply was cut off by Arkla at that plant on February 20, 1974, when Arkla initiated the implementation of its currently effective curtailment plan. Cooperative further states that its two plants now receiving gas, located at Augusta and Ozark, Arkansas, respectively, are equipped to operate without natural gas and that the volumes they require can be transferred to the McClellan plant without detrimental effect upon any other Arkla customer.

We will grant the instant motion allowing the transfer of delivery points. By doing so, Cooperative will be able to continue at least partial operation of the McClellan plant until such time as the hearings herein are concluded and a decision is rendered regarding the propriety of granting their Petition for Individualized Treatment.

Our authorization of Cooperative's motion is without prejudice to any pending or future proceeding involving the issues of conjunctive billing, group billing, or the practice of permitting multiple delivery points under single contracts or service agreements. Each authorization rests on its own merits. In this particular case, Cooperative is proceeding with prompt dispatch to convert its McClellan plant to use of an alternate fuel. Also, no additional industrial consumption of natural gas will occur over that which is presently allocated under Arkla's curtailment plan. This authorization will expire on October 30, 1974, when Cooperative expects to complete conversion of its McClellan plant to use an alternate fuel, or, when Cooperative's Petition for Individualized Treatment is adjudicated based on facts developed in a formal proceeding as hereinafter provided for, whichever occurs sooner.

On March 28, 1974, Cooperative filed in Docket No. RP74-94-1 the above petition pursuant to Ordering Paragraph (C) of Opinion No. 643 requesting the Commission to authorize an allocation of gas under the Arkla curtailment plan to the McClellan plant based on a percentage of the plant's current requirements since it is alleged by Cooperative that the McClellan plant was not in operation during the three-year period ending September 30, 1971, the period prescribed as the base period for determining customer volumes within a given priority when curtailment necessitates the cutting back of gas deliveries in such priority.

Because of the factual and legal issues presented in the above petition, we find it appropriate to order an evidentiary hearing thereon. In addition, we will order this proceeding to be consolidated with our previously ordered hearing [1] involving the implementation of Arkla's curtailment plan because of common issues of law and fact involved in both proceedings.

The Commission finds. (1) Good cause exists to grant Cooperative's motion requesting authorization to transfer volumes between delivery points.

(2) Good cause exists to set for hearing Cooperative's Petition for Individualized Treatment and to consolidate that petition for purposes of hearing and decision with the proceeding involving the similar requests filed by Mississippi River Transmission Corporation and Cities Service Gas Company and to establish the procedures for the consolidated hearing, all as hereinafter ordered.

The Commission orders. (A) Cooperative's Motion requesting authorization to transfer volumes between delivery points is granted, subject to the terms and conditions set forth in the body of this order.

(B) Cooperative's Petition for Individualized Treatment is hereby consolidated with the proceeding ordered by Order of March 27, 1974, in the above-referenced docket to commence on June 11, 1974, at 10 a.m. (EDT) in a hearing room of the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, concerning the implementation of Arkla's currently effective curtailment plan in accordance with the provisions of Opinion No. 643, 643-A, and 643-B.

(C) On or before June 4, 1974, Cooperative shall file and serve its testimony and exhibits comprising its case-in-chief upon all parties to this proceeding including Commission staff.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.74-12695 Filed 6-3-74;8:45 am]

[1] Order Providing for Hearing and Prescribing Procedures, Arkansas Louisiana Gas Company, Docket No. RP71-122, issued March 27, 1974.

[Docket No. CI74-357]

DAVIS OIL CO. ET AL.

Order Providing for Hearing, Granting Interventions and Prescribing Procedures

MAY 24, 1974.

On December 19, 1973, Davis Oil Company (Operator), et al. (Davis) filed an application for a limited-term certificate of public convenience and necessity with pregranted abandonment authorizing a sale of natural gas to Texas Eastern Transmission Corporation (Texas Eastern) for a period of two (2) years from the date of certification of the sale. The acreage is in the South Thornwell Area, Cameron Parish, Louisiana. The proposed price for the gas is 50.0 cents per Mcf subject to upward Btu adjustment. Davis has been selling gas to Texas Eastern on an emergency basis from the acreage covered by the instant application since October 31, 1973, under Commission Order No. 491, and claims that its application should be granted because of a shortage of firm gas supplies on Texas Eastern's system.

We take note that the Commission in a recent order recognized that an emergency exists on Texas Eastern's system. See Ceja Corporation, ____ FPC ____, Docket No. CI74-278, issued on January 16, 1974. We conclude, therefore, that there is an emergency on Texas Eastern's system which would warrant the is-

suance of a certificate if the price conforms to the public convenience and necessity.

The subject application was filed under Order No. 431[1] and therefore requires evidence to be submitted by the pipeline in the hearing hereinafter ordered (to the extent not hereinabove found to exist) (1) that it has an emergency need for such supply; (2) that it has made every reasonable effort to fill its storage field during the storage injection season; and (3) that, if curtailment is necessary on its system, it has filed a plan pursuant to section 4 of the Natural Gas Act. The proposed sale represents a sizeable volume of gas potentially available to the interstate market and due to the nation's present shortfall of natural gas supplies, it is of critical importance that emergency supplies of gas be made available to interstate pipelines that show a need for such short-term supplies in order to avoid disruption of service to their customers. While the need for such supplies is manifest where the shortfall of supplies renders service on a pipeline's system potentially unreliable, we nevertheless must meet our statutory obligations and determine whether the proposed rate to be paid for such supply is required by the public convenience and necessity criteria of the Act. Atlantic Refining Company v. Public Service Commission of New York, 360 U.S. 378 (1960). We will therefore set this matter for hearing to establish an evidentiary record on the issues heretofore discussed. In that hearing, the record should contain evidence on whether the rate to be paid is "no higher than necessary to elicit the supply of gas" into the interstate market (Nueces Industrial Gas Company, 45 FPC 1224, 1227 (1971)) and whether that rate is in line with the prevailing normal intrastate market (Atlantic Richfield Company, ____ FPC ____, Docket No. CI73-691, order issued August 30, 1973, and ____ FPC ____, order granting rehearing issued October 10, 1973). The normal market price for this supply cannot be established merely on the basis of prices agreed to by affiliates. The price evidence must be based on arm's-length negotiations and competitive bidding through nonaffiliated entities.

Timely petitions to intervene were filed by Texas Eastern, the pipeline purchaser, and by Algonquin Gas Transmission Company (Algonquin). Algonquin, in support of its petition, states that Texas Eastern is its sole supplier of gas supplies.

The Commission finds. (1) Good cause exists for setting for immediate formal hearing the issues involved in the aforementioned pleadings and for establishing the procedures for that hearing all as hereinafter ordered.

(2) The participation of Texas Eastern and Algonquin may be in the public interest.

The Commission orders. (A) Pursuant to the authority of the Natural Gas Act, particularly §§ 7 and 15 thereof, the Commission's rules of practice and procedure, and the Regulations under the Natural Gas Act (18 CFR, Chapter 1) a public hearing shall be held commencing July 30, 1974, at 10 a.m. (EDT) in a hearing room of the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426 concerning the issue of whether a certificate of public convenience and necessity should be granted as requested by the applicant.

(B) On or before July 10, 1974, the applicant and any supporting party shall file with the Commission and serve upon all parties, including the Staff, their testimony and exhibits in support of their position.

(C) An Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose, [see Delegation of Authority (18 CFR 3.5 (d))] shall preside at the hearings in this proceeding and shall prescribe relevant procedural matters not herein provided.

(D) The petitioners hereinabove set forth are permitted to intervene in this proceeding subject to the Rules and Regulations of the Commission; *Provided, however,* That the participation of such interveners shall be limited to matters affecting asserted rights and interests specifically set forth in the petitions to intervene; and, *Provided, further,* That the admission of said interveners shall not be construed as recognition by the Commission that they might be aggrieved because of any order of the Commission entered in this proceeding.

By the Commission.[2]

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.74-12698 Filed 6-3-74;8:45 am]

[Docket No. CI74-405]

EXXON CORP.

Order Establishing Procedures, Setting Hearing Date and Granting Intervention

MAY 24, 1974.

On January 28, 1974, Exxon Corporation (Exxon) filed in Docket No. CI74-405 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to El Paso Natural Gas Company (El Paso) from the South Carlsbad Field, Eddy County, New Mexico (Permian Basin), all as more fully set forth in the application in this proceeding.

Exxon proposes to sell approximately 51,000 Mcf per month to El Paso from the South Carlsbad Com. #3 well for a period of one year at a rate of 60¢ per Mcf (14.65 psia) subject to upward and downward adjustment from 1,000 Btu per cubic foot. The proposed rate is in excess of 35¢ per Mcf established by Commission Opinion No. 662. This application was noticed on February 7, 1974 and was published in the FEDERAL REGISTER on February 14, 1974. On February 28, 1974, El Paso petitioned to intervene in these proceedings.

In Order 431, issued April 15, 1971, the Commission stated, inter alia, that it would consider limited term certificates with pre-granted abandonment, if the pipeline were to demonstrate emergency need. We note, however, that the Commission in a recent order has already held that an emergency exists on El Paso's system. See Superior Oil Co., —— FPC ——, Docket No. CI74-327, issued March 25, 1974. We therefore conclude that there is an emergency on El Paso's system.

The subject application was filed under Order No. 431[1] and therefore requires evidence to be submitted in the hearing hereinafter ordered by the pipeline (to the extent not hereinabove found to exist) (1) that it has an emergency need for such supply; (2) that it has made every reasonable effort to fill its storage field during the storage injection season; and (3) that, if curtailment is necessary on its system, it has filed a plan pursuant to Section 4 of the Natural Gas Act. The proposed sale represents a sizeable volume of gas potentially available to the interstate market and due to the Nation's present shortfall of natural gas supplies, it is of critical importance that emergency supplies of gas be made available to interstate pipelines that show a need for such short-term supplies in order to avoid disruption of service to their customers. While the need for such supplies is manifest where the shortfall of supplies renders service on a pipeline's system potentially unreliable, we nevertheless must meet our statutory obligations and determine whether the proposed rate to be paid for such supply is required by the public convenience and necessity criteria of the Act. Atlantic Refining Company v. Public Service Commission of New York, 360 U.S. 378 (1960). We will therefore set this matter for hearing to establish an evidentiary record on the issues heretofore discussed. In that hearing, the record should contain evidence on whether the rate to be paid is "no higher than necessary to elicit the supply of gas" into the interstate market (Nueces Industrial Gas Company, 45 FPC 1224, 1227 (1971)), and whether that rate is in line with the prevailing normal intrastate market (Atlantic Richfield Company, —— FPC ——, Docket No. CI73-691, order issued August 30, 1973, and —— FPC ——, order granting rehearing issued October 10, 1973). The normal market price for this supply cannot be established merely on the basis of prices agreed to by affiliates. The price evidence must be based on arm's length negotiations and competi-

[1] Section 2.70 of the Commission's general policy and interpretations.

[2] Commissioners Brooke and Smith (both concurring) and Moody (dissenting) submitted separate statements filed as part of the original document.

[1] Section 2.70 of the Commission's General Policy and Interpretations.

tive bidding through nonaffiliated entities.

The Commission finds. (1) Good cause exists to set for formal hearing the application for a limited term certificate herein.

(2) The intervention of El Paso in this proceeding may be in the public interest.

The Commission orders. (A) The application for limited term certificate for sale of natural gas filed in Docket No. CI74–405 is hereby set for hearing.

(B) El Paso is hereby permitted to intervene in this proceeding, subject to the Rules and Regulations of the Commission: Provided, however, that the participation of such intervener shall be limited to matters affecting asserted rights and interests as specifically set forth in said petition for leave to intervene; and Provided, further, that the admission of said intervener 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 contained in and subject to the authority conferred upon the Federal Power Commission by the Natural Gas Act, including particularly §§ 7, 15 and 16 and the Commission's rules and regulations under that Act, a public hearing shall be held commencing July 22, 1974, at 10 a.m. (EDT) at a hearing room of the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, concerning whether the present or future convenience and necessity requires the issuance of a limited term certificate for the sale of natural gas on the terms proposed in this application and whether the issuance of said certificate should be conditioned in any way.

(D) Applicant and all petitioners supporting the application shall, on or before July 15, 1974, file with the Commission and serve on all parties to this proceeding, including Commission Staff, all testimony to be sponsored in support of the instant application.

(E) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose—See Delegation of Authority, 18 CFR 3.5(d)—shall preside at the hearings in this proceeding and shall prescribe relevant procedural matters not herein provided.

By the Commission.[2]

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.74–12697 Filed 6–3–74;8:45 am]

[Docket No. RI74–104]

GULF OIL CORP.

Order Providing for Hearing on and Suspension of Proposed Change in Rate, and Allowing Rate Change To Become Effective Subject To Refund

MAY 24, 1974.

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 I), 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] MARY B. KIDD, *Acting Secretary.*

[2] Commissioners Brooke, Smith (both concurring) and Moody (dissenting) submitted separate statements filed as part of the original document.

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	
RI74–104..	Gulf Oil Corp.....	138	[1] 2 to 14	West Texas Gathering Co. (Emperor Devonian and Emperor Wolfcamp Fields, Winkler County, Tex.) (Permian Basin).	$2,599	4–23–74	.....	6–3–74	[3] 42.0	42.1575	

* Unless otherwise stated, the pressure base is 14.65 lb/in²a.
[1] Amendment to prior increase to include tax reimbursement that was omitted from prior filing.
[2] Applicable only to production from the Emperor Devonian and Emperor Wolfcamp Fields.
[3] Suspended in Docket No. RI74–104.

The proposed rate increase of Gulf Oil Corporation reflects tax reimbursement that was inadvertently omitted from a prior increase which is currently under suspension until June 3, 1974, in Docket No. RI74–104. The proposed tax increase is suspended for the same period of time and in the same proceeding that Gulf's underlying rate is suspended.

[FR Doc.74–12693 Filed 6–3–74;8:45 am]

TECHNICAL ADVISORY COMMITTEE TASK FORCES

Order of Renewals of National Gas Survey

MAY 24, 1974.

This order renews the terms of three Distribution-Technical Advisory Committee Task Forces (Facilities, Finance, and Regulation and Legislation) of the Federal Power Commission's National Gas Survey, from and after May 25, 1974, to and including a date not later than December 31, 1974.

These Task Forces were established pursuant to Commission order issued May 25, 1972, 37 FR 11210. This order is in accord with earlier Commission orders issued February 23, 1971, 36 FR 3851, April 6, 1971, 36 FR 6922, May 10, 1971, 36 FR 8910, and December 21, 1971, 36 FR 25183. These Task Forces are affected by later Commission orders amending prior Survey orders issued April 25, 1972, 37 FR 8578, June 27, 1972, 37 FR 13306 and December 19, 1972, 37 FR 28658. As so constituted, they are consistent with the provisions of applicable statutory and Executive order requirements.

By notice published May 9, 1974, 39 FR 16517, the Chairman of the Commission has determined and certified that renewal of these Task Forces for the period set forth herein is necessary in the public interest in connection with the performance of duties imposed upon the Commission by law.

Pursuant to section 14(a)(1) of the Federal Advisory Committee Act, 86 Stat. 776, and Office of Management and Budget (OMB) Circular No. A–63, "Advisory Committee Management", revised March 27, 1974, paragraph 7, the Federal Power Commission, prior to the termination date of May 25, 1974, of these Task Forces, requested renewal thereof through December 31, 1974, by letter

dated May 6, 1974, to OMB. Subsequently, OMB ascertained that the renewal of the subject Task Forces is in accord with the requirements of the Federal Advisory Act, 86 Stat 770, et seq., and granted the request for renewal.

The Federal Power Commission hereby determines that the continued establishment of the Task Forces herein is in the public interest in connection with the performance of duties imposed on the Commission by law. Reports by the Task Forces have been submitted to the Commission through their respective Technical Advisory Committees. It is contemplated that they will be published, along with the reports of their parent Advisory Committees and the Commission's report prior to December 31, 1974. The rapidly developing energy crisis and long-term energy strategy has been more fully delineated since commencement of this Survey in 1971. It is clear, therefore, that certain aspects of the present gas shortage originally studied by the Survey require further investigation and analysis.

The Commission establishes and continues these Task Forces in accordance with the provisions of this order, and the provisions of an earlier Commission order issued February 23, 1973, 38 FR 5940, which restates, for convenience purposes, the content of the Commission's order of February 23, 1971, so as to reflect in one order format provisions of succeeding orders of this Commission which have changed portions of the February 23, 1971, order as necessary from time-to-time by reason of Commission determinations and subsequently enacted Executive orders and the Federal Advisory Committee Act.

1. *Purpose.* The purposes of the Technical Advisory Task Forces are set forth in the Commission's April 6, 1971, Order Establishing National Gas Survey Technical Advisory Committees and Designating Initial Membership. The Technical Advisory Committee Task Forces are organizationally subordinate to their respective Technical Advisory Committees.

The Commission's order issued February 23, 1973, states in part as follows:

> To assist the actions of the Commissioners and Commission staff, the Commission will use various advisory committees which shall be conducted under the general direction of the Commission. All will be conducted pursuant to the general requirements as set forth in this order. The Commission contemplates the issuance of specific order or orders from time-to-time establishing each committee and denominating its membership and chairmanship.
>
> The advice of all committees shall be limited to matters relating solely to the planning and carrying out of the National Gas Survey. The Commission will have complete responsibility for the National Gas Survey with respect to its conduct, scope, the ultimate recommendations and the acceptance of the final report. In discharging these responsibilities, the Commission will approve the Survey's objectives, scope of work, organization and schedule of performance, make any required policy determinations and give its advice directed toward the coordination and cooperation between the Survey and any intergovernmental, state, industry, agency or representative, including any other expertise as required.

2. *Membership.* With respect to each Task Force, the Task Force Chairman (who shall be designated Director), the Deputy Director, the FPC Survey Coordinating Representative and Secretary, the FPC Representative and the other Task Force members, shall be selected by the Chairman of the Commission with the approval of the Commission, and are designated in the Appendix [1] hereto, and any additional persons that may be designated to serve on the Task Forces shall be selected by the Chairman of the Commission, with the approval of the Commission, provided, however, the Chairman of the Commission may select and designate additional persons to serve in the capacity of Alternate FPC Survey Coordinating Representative and Secretary. The person or persons who are designated as the FPC Survey Coordinating Representative and Secretary shall be full-time salaried officers or employees of the Commission. The FPC Survey Coordinating Representative and Secretary, or alternates, shall be designated by the Chairman and serve as Secretary of the Task Force Committee for which selected. The Directors, Deputy Directors, FPC Survey Coordinating Representatives and Secretaries and alternates, the FPC Representatives and the other Task Force members, as selected and approved in accordance with this order, are designated in the Appendix hereto.

The following paragraphs of the aforementioned Commission order, issued February 23, 1973, are hereby incorporated by reference:

3. Conduct of Meetings.
4. Minutes and Records.
5. Secretary of the Committee.
6. Location and Time of Meetings.
7. Advice and Recomendations Offered by the Committee.
8. Duration of the Committee.

Neither the Executive Advisory Committee, the respective Technical Advisory Committees, the Coordinating Committee, nor such other committee or committees as may be established shall be permitted to receive, compile or discuss data or reports showing the current or projected nonpublic commercial operations of identified business enterprises. Data or reports of a nonpublic nature that are requested from identified business enterprises shall be submitted directly to the Director of the National Gas Survey, or to such person on his staff as designated by the Director, and such data or reports will be composited with that submitted by other identified business enterprises and reported on a composite basis and the provisions of section 8(b) of the Natural Gas Act, 15 U.S.C. 717(g), and the Freedom of Information Act, 5 U.S.C. 552(b)(4), shall apply.

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

The Technical Advisory Committee Task Forces, as established, continued, and described by this order, shall terminate not later than December 31, 1974.

The Secretary of the Commission shall file with the Chairman, Committee on Commerce, United States Senate, Chairman, Interstate and Foreign Commerce Committee, House of Representatives, and Librarian, Office of Management and Budget, Department of Justice, Office of Legal Counsel and the Library of Congress, copies of this order, as constituting the charter of the National Gas Survey Committees hereinabove described.

This order is effective May 26, 1974.

The Secretary of the Commission shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.74-12694 Filed 6-3-74;8:45 am]

NATIONAL POWER SURVEY TECHNICAL ADVISORY COMMITTEE ON THE IMPACT OF INADEQUATE ELECTRIC POWER SUPPLY

Notice of Meeting

Agenda for a meeting of the Technical Advisory Committee on the Impact of Inadequate Electric Power Supply to be held at the Federal Power Commission Offices, 825 North Capitol Street NE., Washington, D.C., 10 a.m., June 18, 1974, Room 5200.

1. Meeting opened by FPC Coordinating Representative.
2. Objectives and purposes of meeting.

a. Correction and additions to minutes of previous meeting.
b. Discussion of the May 6, 1974 memorandum "Definition of Shortfall" by Rene H. Males and Frank J. Alessio.
c. Report on Dr. Steizer's meeting with large industrial firms.
d. Report on conditions in Great Britain during the recent electric power shortage.
e. Setting of timetable for drafting committee report.
f. Other business.
g. Set date of next meeting.

3. Adjournment.

This meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee—which statements, if in written form, may be filed before or after the meeting, or if oral, at the time and in the manner permitted by the committee.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-12690 Filed 6-3-74;8:45 am]

[Dockets Nos. RM74-22, E-8589, E-8550, et al.]

NEW ENGLAND POWER POOL ET AL.

Notice of Extension of Time

MAY 21, 1974.

On May 20, 1974, Richmond Power and Light of the City of Richmond, Indiana

(Richmond), filed a motion for an extension of time to and including May 23, 1974, within which to file comments pursuant to paragraph (A) of the notice issued April 30, 1974, in the above-designated matter.

Upon consideration, notice is hereby given that the time is extended to and including May 22, 1974, within which Richmond may file its comments in the above-designated matter.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 74-12691 Filed 6-3-74;8:45 am]

[Docket No. CI74-289]

PATRICIA J. MITCHELL

Order Providing for Formal Hearing and Establishing Procedures

MAY 24, 1974.

On November 5, 1973, Patricia J. Mitchell (Applicant) filed in Docket No. CI74-289 an application pursuant to section 7(c) of the Natural Gas Act and § 2.70 of the Commission's general policy and interpretations thereunder for a limited-term certificate of public convenience and necessity with pre-granted abandonment authorizing the sale of natural gas to Transcontinental Gas Pipe Line Corporation (Transco) from acreage in Live Oak County, Texas. The limited-term certificate application provides for Applicant to sell to Transco approximately 30,000 Mcf per month at a rate of 50.0 cents per Mcf. Applicant requests authorization of the proposed sale to Transco for a term of 12 months from the date of delivery. Applicant will commence deliveries to Transco pursuant to § 157.29 of the Commission's Regulations, and such sale will not exceed 60 days from the date of first delivery.

In Order 431, issued April 15, 1971, the Commission stated, inter alia, that it would consider limited term certificates with pre-granted abandonment, if the pipeline were to demonstrate emergency need. We note, however that the Commission in a recent order has already held that an emergency exists on Transco's system. See Texaco, Inc., —— FPC ——, Docket No. CI74-185, issued November 30, 1973. We therefore conclude that there is an emergency on Transco's system.

The subject application was filed under Order No. 431[1] and therefore requires evidence to be submitted in the hearing hereinafter ordered by the pipeline (to the extent not hereinabove found to exist) (1) that it has an emergency need for such supply; (2) that it has made every reasonable effort to fill its storage field during the storage injection season; and (3) that, if curtailment is necessary on its system, it has filed a plan pursuant to Section 4 of the Natural Gas Act. The proposed sale represents a sizeable volume of gas potentially available to the interstate market and due to the Nation's present shortfall of natural gas supplies, it is of critical importance that emergency supplies of gas be made available to interstate pipelines that show a need for such short-term supplies in order to avoid disruption of service to their customers. While the need for such supplies is manifest where the shortfall of supplies renders service on a pipeline's system potentially unreliable, we nevertheless must meet our statutory obligations and determine whether the proposed rate to be paid for such supply is required by the public convenience and necessity criteria of the Act. Atlantic Refining Company v. Public Service Commission of New York, 360 U.S. 378 (1960). We will therefore set this matter for hearing to establish an evidentiary record on the issues heretofore discussed. In that hearing, the record should contain evidence on whether the rate to be paid is "no higher than necessary to elicit the supply of gas" into the interstate market (Nueces Industrial Gas Company, 45 FPC 1224, 1227 (1971), and whether that rate is in line with the prevailing normal intrastate market (Atlantic Richfield Company, —— FPC ——, Docket No. CI73-691, order issued August 30, 1973, and —— FPC ——, order granting rehearing issued October 10, 1973). The normal market price for this supply cannot be established merely on the basis of prices agreed to by affiliates. The price evidence must be based on arm's-length negotiations and competitive bidding through non-affiliated entities.

No petitions to intervene have been filed in this proceeding; however, a letter in support of the application was filed by Transco on November 23, 1973, in Docket No. CI74-289.

The Commission finds. (1) Good cause exists to set for formal hearing the application for a limited term certificate herein.

The Commission orders. (A) The application for limited term certificate for sale of natural gas filed in Docket No. CI74-289 is hereby set for hearing.

(B) Pursuant to the authority contained in and subject to the authority conferred upon the Federal Power Commission by the Natural Gas Act, including particularly §§ 7, 15, and 16, and the Commission's rules and regulations under that Act, a public hearing shall be held commencing June 25, 1974, at 10 a.m. (e.d.t.) at a hearing room of the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, concerning whether the present or future convenience and necessity requires the issuance of a limited term certificate for the sale of natural gas on the terms proposed in this application and whether the issuance of said certificate should be conditioned in any way.

(C) Applicant and all petitioners supporting the application shall, on or before June 18, 1974, file with the Commission and serve on all parties to this proceeding, including Commission Staff, all testimony to be sponsored in support of the instant application

(D) A presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose—See Delegation of Authority, 18 CFR 3.5(d)—shall preside at the hearings in this proceeding and shall prescribe relevant procedural matters not herein provided.

By the Commission.[2]

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.74-12699 Filed 6-3-74;8:45 am]

[Docket No. RI74-238]

SUN OIL CO.

Order Providing for Hearing on and Suspension of Proposed Change in Rate, and Allowing Rate Change To Become Effective Subject To Refund

MAY 24, 1974.

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 I], 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 §1.54-102 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] MARY B. KIDD,
Acting Secretary.

[1] Section 2.70 of the Commission's general policy and interpretations.

[2] Commissioners Brooke, Smith (both concurring) and Moody (dissenting) submitted separate statements filed as part of the original document.

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	
RI74-238..	Sun Oil Co	174	10	El Paso Natural Gas Co. (Coyanosia (Devonian) Field, Pecos County, Tex.) (Permian Basin).	----------	4-29-74	5-30-74	(4)	----------	----------	
	do		3 11		$36,206	4-29-74	5-30-74	(4)	19.3278	3 3 24.5	
	do		3 12		143,500	4-29-74	----------	10-30-74	3 24.5	45.0	

* Unless other wise stated, the pressure base is 14.65 lb/in²a.
1 Contract amendment dated Dec. 20, 1973.
2 Applicable only to production from the J. O. Neal, No. 4 well, pursuant to Supplement No. 10.
3 Subject to Btu adjustment.
4 Accepted 30 days after filing as shown in the "Effective Date Unless Suspended" column.

The proposed rate increase of Sun Oil Company (Sun) to 45.0 cents per Mcf is suspended for five months because it exceeds the applicable area ceiling rate in the Permian Basin Area.

[FR Doc.74-12692 Filed 6-3-74;8:45 am]

[Docket No. CI74-406]

TEXAS EASTERN EXPLORATION CO.

Order Providing for Hearing, Granting Interventions, and Prescribing Procedures

MAY 24, 1974.

On January 28, 1974, Texas Eastern Exploration Co. (Exploration Co.), filed an application for a limited term certificate of public convenience and necessity with pregranted abandonment authorizing a sale of natural gas to Texas Eastern Transmission Co. (Texas Eastern), for a period of two years from the date of FPC certification. The acreage is in the South Thornwell Field, Cameron Parish, Louisiana. The proposed price for the gas is 50.0 cents per Mcf subject to upward and downward Btu adjustment. Exploration Co. has been selling gas from the acreage covered by the instant application since October 31, 1973, and claims that their application should be granted because of a shortage of firm gas supplies on Texas Eastern's system.

We take note that the Commission in a recent order recognized that an emergency exists on Texas Eastern's system. See Ceja Corporation —— FPC —— Docket No. CI74-278 issued on January 16, 1974. We conclude, therefore, that there is an emergency on Texas Eastern's system which would warrant the issuance of a certificate if the price conforms to the public convenience and necessity.

The subject application was filed under Order No. 431 [1] and therefore requires evidence to be submitted, in the hearing hereinafter ordered, by the pipeline (to the extent not hereinabove found to exist), (1) that it has an emergency need for such supply; (2) that it has made every reasonable effort to fill its storage field during the storage injection season; and (3) that, if curtailment is necessary on its system, it has filed a plan pursuant to section 4 of the Natural Gas Act. The proposed sale represents a sizeable volume of gas potentially available to the interstate market and due to the Nation's present shortfall of natural gas supplies, it is of critical importance that emergency supplies of gas be made available to interstate pipelines that show a need for such short-term supplies in order to avoid disruption of service to their customers. While the need for such supplies is manifest where the shortfall of supplies renders service on a pipeline's system potentially unreliable, we nevertheless must meet our statutory obligations and determine whether the proposed rate to be paid for such supply is required by the public convenience and necessity criteria of the Act, Atlantic Refining Company v. Public Service Commission of New York, 360 U.S. 378 (1960). We will therefore set this matter for hearing to establish an evidentiary record on the issues heretofore discussed. In that hearing, the record should contain evidence on whether the rate to be paid is "no higher than necessary to elicit the supply of gas" into the interstate market [Nueces Industrial Gas Company, 45 FPC 1224, 1227 (1971)], and whether that rate is in line with the prevailing normal intrastate market (Atlantic Richfield Company, —— FPC ——, Docket No. CI73-691, order issued October 10, 1973). The normal market price for this supply cannot be established merely on the basis of prices agreed to by affiliates. The price evidence must be based on arms-length negotiations and competitive bidding through non-affiliated entities.

On February 28, 1974, Texas Eastern filed a petition to intervene, alleging that it should be granted intervenor status by virtue of the fact that they are the purchaser of the gas herein involved.

Also on the same date, Philadelphia Gas Works (Philadelphia) submitted a petition to intervene, claiming the requisite interest in the proceeding because it purchases quantities of gas from Texas Eastern.

Both petitions to intervene, timely filed, will be granted as participation by both parties may be in the public interest and no other party to the proceeding can adequately represent their interest.

The Commission finds. (1) Good cause exists for setting for immediate formal hearing the issues involved in the aforementioned pleadings and for establishing the procedures for that hearing all as hereinafter ordered.

(2) The participation of Texas Eastern and Philadelphia may be in the public interest.

The Commission orders. (A) Pursuant to the authority of the Natural Gas Act, particularly §§ 7 and 15 thereof, the Commission rules of practice and procedure, and the Regulations under the Natural Gas Act (18 CFR, Chapter 1), a public hearing shall be held commencing July 2, 1974, at 10 a.m. (e.d.t.) in a hearing room of the Federal Power Commission, 825 North Capital Street, NE., Washington, D.C. 20426 concerning the propriety of issuing a certificate of public convenience and necessity to the applicant for the limited term sale of natural gas as requested in its application filed herein on January 28, 1974.

(B) On or before June 18, 1974, applicant and any supporting party shall file and serve its testimony and exhibits comprising its case-in-chief in support of its application upon all parties to this proceeding including Commission Staff.

(C) An Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose, [see Delegation of Authority, 18 CFR, 3.5(d)] shall preside at the hearings in this proceeding and shall prescribe relevant procedural matters not herein provided.

(D) The petitioners hereinabove set forth are permitted to intervene in this proceeding subject to the Rules and Regulations of the Commission; Provided, however, that participation of such intervenors shall be limited to matters affecting asserted rights and interests specifically set forth in the petition to intervene; and, Provided, further, that the admission of said intervenors shall not be construed as recognition by the Commission that it might be aggrieved because of any order of the Commission entered in this proceeding.

By the Commission.[2]

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.74-12696 Filed 6-3-74;8:45 am]

[Docket No. CI74-256]

TEXAS EASTERN EXPLORATION CO.

Order Providing for Hearing, Granting Interventions, and Prescribing Procedures

MAY 24, 1974.

On October 17, 1973, Texas Eastern Exploration Company (Exploration Co.),

[1] Section 2.70 of the Commission's general policy and interpretations.

[2] Commissioners Brooke, Smith (both concurring) and Moody (dissenting) submitted separate statements filed as part of the original document.

filed an application for a limited term certificate of public convenience and necessity with pregranted abandonment authorizing a sale of natural gas to Texas Eastern Transmission Company (Texas Eastern), for a period of one year from the date of certification of the sale. The acreage is in the Hospital Bayou Field, Lafourche Parish, South Louisiana. The proposed price for the gas is 50.0 cents per Mcf subject to upward and downward Btu adjustment. Exploration Co. has been selling gas to Texas Eastern on an emergency basis from the acreage covered by the instant application since September 28, 1973, and claims that their application should be granted because of a shortage of firm gas supplies on Texas Eastern's system.

We take further note that the Commission in a recent order recognized that an emergency exists on Texas Eastern's System. See Ceja Corporation, ____ FPC ____, Docket No. CI74-278, issued on January 16, 1974. We conclude, therefore, that there is an emergency on Texas Eastern's System which would warrant the issuance of certificates if the price conforms to the public convenience and necessity.

The subject application was filed under Order No. 431 [1] and therefore requires evidence to be submitted in the hearing hereinafter ordered by the pipeline (to the extent not hereinabove found to exist) (1) that it has an emergency need for such supply; (2) that it has made every reasonable effort to fill its storage field during the storage injection season; and (3) that, if curtailment is necessary on its system, it has filed a plan pursuant to Section 4 of the Natural Gas Act. The proposed sale represents a sizeable volume of gas potentially available to the interstate market and due to the Nation's present shortfall of natural gas supplies, it is of critical importance that emergency supplies of gas be made available to interstate pipelines that show a need for such short-term supplies in order to avoid disruption of service to their customers. While the need for such supplies is manifest where the shortfall of supplies renders service on a pipeline's system potentially unreliable, we nevertheless must meet our statutory obligations and determine whether the proposed rate to be paid for such supply is required by the public convenience and necessity criteria of the Act, Atlantic Refining Company v. Public Service Commission of New York, 360 U.S. 378 (1960). We will therefore set this matter for hearing to establish an evidentiary record on the issues heretofore discussed. In that hearing, the record should contain evidence on whether the rate to be paid is "no higher than necessary to elicit the supply of gas" into the interstate market, [Nueces Industrial Gas Company, 45 FPC 1224, 1227 (1971)], and whether that rate is in line with the prevailing normal intrastate market, (Atlantic Richfield Company, ____ FPC ____, Docket No. CI73-691, order issued August 30, 1973 ____ FPC ____, order granting rehearing issued October 10, 1973). The normal market price for this supply cannot be established merely on the basis of prices agreed to by affiliates. The price evidence must be based on arm's-length negotiations and competitive bidding through non-affiliated entities.

A timely petition to intervene was tendered by Algonquin Gas Transmission Company (Algonquin), on November 7, 1973, alleging that Algonquin should be granted intervenor status by virtue of the fact that their natural gas supplies are obtained solely from Texas Eastern, who is the proposed purchaser of the gas supply involved here.

A late petition to intervene was received November 12, 1973, from Texas Eastern, which claimed sufficient interest in the proceeding as buyer of the gas.

Both petitions to intervene will be granted since participation of both parties may be in the public interest and no other party to the proceeding could adequately represent their respective interests.

The Commission finds. (1) Good cause exists for setting for immediate formal hearing the issues involved in the aforementioned pleadings and for establishing the procedures for that hearing all as hereinafter ordered.

(2) The participation of Texas Eastern and Algonquin may be in the public interest.

The Commission orders. (A) Pursuant to the authority of the Natural Gas Act, particularly §§ 7 and 15 thereof, the Commission rules of practice and procedure, and the Regulations under the Natural Gas Act (18 CFR, Chapter 1) a public hearing shall be held commencing June 27, 1974, at 10 a.m. (EDT) in a hearing room of the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426 concerning the propriety of issuing a certificate of public convenience and necessity to the applicant for the limited term sale of natural gas as requested in its application filed herein on October 17, 1973.

(B) On or before June 13, 1974, applicant shall file and serve its testimony and exhibits comprising its case-in-chief in support of its application upon all parties to this proceeding including Commission staff.

(C) An Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose, [see Delegation of Authority, (18 CFR, 3.5 (d))] shall preside at the hearings in this proceeding and shall prescribe relevant procedural matters not herein provided.

(D) The petitioners hereinabove set forth are permitted to intervene in this proceeding subject to the Rules and Regulations of the Commission; Provided, however, that the participation of such intervenors shall be limited to matters affecting asserted rights and interests specifically set forth in the petition 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 because of any order of the Commission entered in this proceeding.

By the Commission.[2]

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.74-12700 Filed 6-3-74;8:45 am]

[1] Section 2.70 of the Commission's general policy and interpretations.

FEDERAL RESERVE SYSTEM

FIDELITY UNION BANCORPORATION

Order Approving Acquisition of Bank

Fidelity Union Bancorporation, Newark, New Jersey, 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 USC 1842(a)(3)) to acquire all of the voting shares of Colonial First National Bank, Red Bank, New Jersey ("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 USC 1842(c)).

Applicant, the fourth largest bank holding company and banking organization in New Jersey, controls four banks with aggregate deposits of approximately $916 million, representing 4.8 percent of the total deposits in commercial banks in the State.[1] Acquisition of Bank would increase applicant's share of State deposits by 1.5 percentage points to a total of 6.3 percent, but would not alter applicant's ranking among the State's other banking organizations. The four largest multibank holding companies in New Jersey control 26.5 percent of total commercial bank deposits in the State while the remaining five multibank holding companies control 13.5 percent of such deposits. The lead banks in these institutions compete with substantially larger banks located in New York and Philadelphia for commercial business and for personal accounts of a large number of persons who work in one area and live in another.[2]

Bank holds aggregate deposits of approximately $294 million and operates a total of 18 banking offices, 16 of which are located in Monmouth County and 2 of which are located in Mercer County.

[2] Commissioners Brooke, Smith (both concurring) and Moody (dissenting) submitted separate statements filed as part of the original document.

[1] Unless otherwise noted, all banking data are as of June 30, 1973, and reflect bank holding company formations and acquisitions approved through March 30, 1974.

[2] See Board's Order of April 7, 1972, approving application of Midlantic Banks, Inc., Newark, New Jersey, to acquire Citizens National Bank, Englewood, New Jersey. 58 *Federal Reserve Bulletin* 475 (1972).

The relevant geographic markets for analysis of the competitive effects of the proposed acquisition are the Asbury Park and Freehold banking markets.[3] In the Asbury Park market, Bank is the third largest of 12 banking organizations and holds deposits of approximately $170 million, representing 19 percent of the market deposits. In the Freehold market, Bank is the second largest of seven banking organizations and holds deposits of approximately $60 million, representing about 40 percent of market deposits. Applicant does not have a subsidiary bank located in either of the relevant markets. Applicant's banking subsidiary closest to Bank (National Bank of New Jersey) has an office situated less than 8 miles away from an office of Bank. However, neither of these institutions derive an appreciable amount of deposits or loans from the service area of the other, nor do any of Applicant's other subsidiaries compete with Bank to any significant extent. As a result, there appears to be no meaningful competition existing between Applicant and Bank. Accordingly, the Board concludes that the proposed transaction would not have a significantly adverse effect on existing competition.

Although applicant is not presently represented in the area served by Bank, it appears to have the financial and managerial resources to establish branch offices in Monmouth County. However, many of the communities that are now open to branching or that will soon be open to branching (due to changes in the State branching and protection statutes) have population and deposits per banking office ratios below the State average, or the communities are not centrally located in the county so as to serve as a desirable location for a bank office. Furthermore, there has been significant branching activity by the existing banks in Monmouth County, with the result that many of the attractive sites for branch offices have been preempted. Thus, it appears unlikely that Applicant will enter the relevant markets by de novo branching. With respect to foothold entry into the markets, it appears that Applicant would be unable to enter Monmouth County through such means because of the unavailability of an appropriate entry vehicle. Most banks in either market are larger than Bank, or already subsidiaries of other bank holding companies, or newly chartered banks with charters prohibiting merger or acquisition by a bank holding company for the first five years; the remaining two banks have specifically rejected proposed affiliation with Applicant. Therefore, the Board concludes that consummation of the proposed transaction would not have significantly adverse effect on potential competition with the relevant markets.

Consideration relating to the financial and managerial resources and future prospects of applicant, its subsidiaries, and Bank are regarded as satisfactory and consistent with approval of the application.

Applicant proposes to introduce new services and improve certain services presently offered by Bank. These services would include: introducing no-charge checking (with a minimum balance) with overdraft privileges and bank credit card services; providing the maximum interest rates allowable on regular savings accounts, maximum interest rates on 4-year savings certificates and lower rates on auto and other consumer loans. Affiliation with Applicant should also enhance Bank's capability to provide construction financing, large commercial loans, farm lending, computer services, and international and trust services. These considerations relating to the convenience and needs of the communities to be served lend weight toward approval. It is the Board's judgment that consummation of the proposal would be in the public interest, and that the application should be approved.

On the basis of the record,[4] the application is approved for the reasons summarized above. The transaction shall not be made (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 the Federal Reserve Bank of New York pursuant to delegated authority.

By order of the Board of Governors,[5] effective May 24, 1974.

[SEAL] CHESTER B. FELDBERG,
Secretary of the Board.

[FR Doc.74-12715 Filed 6-3-74;8:45 am]

GENERAL FINANCIAL SYSTEMS, INC.

Order Denying Acquisition of Bank

General Financial Systems, Inc., Riviera Beach, 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 USC 1842(a)(3)) to acquire 55 percent or more of the voting shares of Jupiter National Bank, Jupiter, Florida ("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 § 3(b) of the Act. The time for filing comments and views has expired, and the application and all comments received have been considered in light of the factors set forth in section 3(c) of the Act (12 USC 1842(c)).

Applicant controls three banks with aggregate deposits of $189.5 million, representing approximately 1 percent of total deposits in commercial banks in Florida.[1] In addition, Applicant owns between 15 percent and 24.9 percent of each of six other banks ("affiliated banks"), with aggregate deposits of approximately $70.8 million, including two banks which are located in the West Palm Beach County banking market. Through its subsidiary and affiliated banks, Applicant holds approximately 19 percent of the total deposits in commercial banks in the West Palm Beach County banking market[2] and ranks thereby as the largest banking organization in the market. In the northernmost part of the market, which includes the Jupiter area, Applicant's position appears to be substantial.

Bank would be located in Jupiter in the West Palm Beach County banking market, where applicant is presently represented by three subsidiary banks and two affiliated banks. Applicant's closest banking subsidiary is located 1.7 miles north of the proposed site of Bank and one of applicant's affiliated banks is located about six miles south of the proposed site of Bank. There are no banks located in the area between these two banks and the proposed site of Bank, and residents of Jupiter must pass by one of Applicant's banks in order to reach the nearest unaffiliated competing bank. Moreover, the service area of Bank would completely overlap the service areas of these other two banks, and applicant's banks would be the most convenient source of banking services to area residents. Since this acquisition involves the establishment of a proposed new bank, no existing competition would be eliminated and no immediate increase in concentration of banking resources would result in any relevant area. However, as the proposal appears to preempt a location which would be attractive to competing banking organizations not represented in the area, approval of the application would foreclose the probable development of competition in the future and would entrench applicant's already significant competitive position in the area. By preempting Bank's site, the proposal would eliminate the likelihood that another banking organization would establish a de novo bank in the Jupiter area, which would serve to increase competition by introducing an alternative source of banking services to Applicant's subsidiary and affiliated banks now in the area. Such an alternative would also

[3] The Asbury market is approximated by the eastern and coastal portions of Monmouth County, not extending beyond 10 miles inland. The Freehold market is approximated by six communities and part of a seventh in central Monmouth County. The deposit data for these markets is as of June 30, 1972.

[4] Dissenting Statement of Governors Brimmer and Bucher filed as part of the original document. Copies available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or to the Federal Reserve Bank of New York.

[5] Voting for this action: Vice Chairman Mitchell and Governors Sheehan, Holland, and Wallich. Voting against this action: Governors Brimmer and Bucher. Absent and not voting: Chairman Burns.

[1] Banking data are as of June 30, 1973, adjusted to reflect holding company acquisitions and formations approved by the Board through March 31, 1974.

[2] Approximated by the upper two-thirds of Palm Beach County.

have the salutary competitive effect of preserving the possibility of the area's banking resources becoming less concentrated.

The U.S. Supreme Court, in another context, has noted that "if concentration is already great, the importance of . . . preserving the possibility of eventual deconcentration is correspondingly great." [3]

This principle is particularly relevant when considering the possible deconcentration of an area such as Jupiter. Given the present competitive structure in the Jupiter area, the effect of the elimination of the possibility of deconcentration as a result of applicant's de novo entry may be to substantially lessen competition. The Board has previously denied applications in which a bank holding company sought to acquire a de novo bank where the bank holding company was already the dominant banking organization in the area of the proposed new bank.[4] Even in a case where a real need for a new bank has been clearly demonstrated,[5] the Board has taken such action. In one such case, the Board noted:

> Determination of the competitive effects of a proposed holding company acquisition, whether the proposal is one to acquire an existing bank or a new bank to be organized under the holding company's direction, turns on the issue of whether consummation of the proposal will result in a substantially less competitive banking market than is likely to exist or develop in the event that the proposal is not consummated. In the present case, consummation of the proposal would result in expansion of the dominant banking organization in Milwaukee County and would tend to preclude entry which could lessen the extent of Applicant's dominance in the county, and provide competition to offices of Applicant's present subsidiaries which serve the immediate area.[6]

In the instant case, the record discloses that another banking organization has applied for a bank charter in the Jupiter area. It appears that Jupiter is a growing area with favorable prospects for the future. However, as of June 1972, there were more banking offices per capita in the area than on a Statewide basis and, through the addition of Bank, the population per banking office ratio would be decreased further. In light of those characteristics, it is noted that entry into a commercial banking market is somewhat restricted, and chartering authorities in acting upon an application for a new bank charter consider whether there are sufficient banking alternatives for area residents. Thus, approval of the proposal herein would necessarily tend to perpetuate applicant's dominance in the Jupiter area and may present significant obstacles to the entry into the area by an alternative banking organization. On the basis of the record, it appears probable that consummation of Applicant's proposal would result in a substantially less competitive and significantly more concentrated banking market in the Jupiter area than would likely develop if the proposal were not consummated. Accordingly, the Board is precluded from approving the application unless such anticompetitive effects are clearly outweighed in the public interest by the proposal's effect in meeting the convenience and needs of the community to be served.

The financial and managerial resources and future prospects of applicant and its subsidiary banks appear generally satisfactory in view of Applicant's commitment to inject additional equity capital into its three subsidiary banks. Bank, as a proposed new bank, has no financial or operating history; however, its prospects as a subsidiary of applicant appear favorable. Therefore, considerations relating to the banking factors are consistent with approval of the application. While there is no evidence in the record to indicate that the major banking needs of the community are not being adequately served, Bank would provide an additional source of full banking services. However, such benefits would be similarly derived from another organization establishing a new bank in the area, and the Board does not regard this slight increase in convenience flowing from Applicant's proposal as outweighing the adverse competitive effects inherent in the proposed transaction.

On the basis of all relevant facts in the record,[7] and in light of the factors set forth in section 3(c) of the Act, it is the Board's judgment that the proposed acquisition would have adverse effects on competition, without any significant offsetting benefits under considerations relating to the banking factors or the convenience and needs of the communities to be served. Accordingly, the Board concludes that consummation of the proposal would not be in the public interest and that the application should be, and the application is hereby denied.

By order of the Board of Governors,[8] effective May 24, 1974.

[SEAL] CHESTER B. FELDBERG,
Secretary of the Board.

[FR Doc.74-12714 Filed 6-3-74;8:45 am]

MIDATLANTIC BANKS, INC.

Order Approving Acquisition of Bank

Midatlantic Banks, Inc., Newark, New Jersey, a bank holding company within the meaning of the Bank Holding Company Act, has applied for approval of the Board of Governors of the Federal Reserve System, under section 3(a)(3) of the Act (12 USC 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 Cranbury, Cranbury, New Jersey ("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 application has been considered in light of the factors set forth in section 3(c) of the Act (12 USC 1842(c)).

Applicant, the second largest banking organization in New Jersey, controls eight banks with aggregate deposits of $1.3 billion, which represents approximately 7 percent of total deposits in commercial banks in the State.[1] Acquisition of Bank (deposits of $40.8 million) would not significantly increase deposit concentration or Applicant's share of total commercial bank deposits in New Jersey and its rank among banking organizations in the State would be unchanged.

Bank has three offices located in the New Brunswick and Trenton markets. Bank controls 0.3 percent of deposits and is the smallest of nineteen banks operating in the New Brunswick market.[2] A subsidiary of Applicant ranks tenth in the New Brunswick market with 4.4 percent of the market's deposits; the nearest offices of the two banks are 14.5 miles apart. Upon consummation of the proposal, Applicant would still rank tenth with 4.7 percent of total deposits. Presently, the four largest banks in the New Brunswick market control 46.1 percent of market deposits. Also, if the proposal were approved, home office protection would be eliminated from Cranbury as of January 1, 1975.[3]

Bank controls 2.4 percent of deposits and is the ninth largest of thirty banks

[3] United States v. Philadelphia National Bank, 374, U.S. 321, 365, n. 42 (1963).

[4] Application of First at Orlando Corporation, Orlando, Florida, to acquire Citrus First National Bank of Leesburgh, Florida (1973 Federal Reserve Bulletin 302).

[5] Application of First Wisconsin Bankshares Corporation to acquire shares of proposed First Wisconsin National Bank of Greenfield (54 Federal Reserve Bulletin 1024 (1968)).

[6] Id. at 1026-1027.

[7] Dissenting Statement of Governors Bucher and Wallich filed as part of the original document. Copies available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or to the Federal Reserve Bank of Atlanta.

[8] Voting for this action: Vice Chairman Mitchell and Governors Brimmer, Sheehan, and Holland. Voting against this action: Governors Bucher and Wallich. Absent and not voting: Chairman Burns.

[1] Banking data are as of December 31, 1973, adjusted to reflect holding company acquisitions and formations approved through March 31, 1974.

[2] The New Brunswick market includes all of Middlesex County except the communities of Cranbury, Dunellen, Middlesex, Piscataway, Plainsboro, and Plainfield, and also includes East Millstone, Franklin and Millstone in Somerset County.

[3] Commencing January 1, 1975, branch office protection will be completely eliminated in New Jersey. Concurrently, the principal office of each State bank and National bank that is a subsidiary of a multi-bank holding company is to be considered a branch office under the State's branching law. Accordingly,

operating in the Trenton market.[4] Presently, the four largest banks in the Trenton market control 57.2 percent of the market deposits. Applicant is not presently represented in the Trenton market, but an application to open a branch there has recently been approved.

There is no substantial existing competition between any of applicant's banking subsidiaries and Bank. While both applicant's New Brunswick subsidiary and Bank have applied to open additional offices in the New Brunswick market, there is no reasonable likelihood of substantial future competition developing between any of applicant's banking subsidiaries and Bank due to the large number of competitors in the markets and the combined small share of deposits held by applicant's subsidiary and Bank in the New Brunswick market. Accordingly, it is concluded that consummation of the proposed acquisition would not have any significant adverse effect on existing or potential competition in any relevant area.

The financial and managerial resources and future prospects of Applicant, its subsidiary banks, and Bank are regarded as satisfactory, particularly in view of Applicant's commitment to add capital to its subsidiary banks. This latter factor weighs in support of approval of the application. Considerations relating to the convenience and needs of the communities to be served lend sufficient weight to warrant approval of the application.

It is the judgment of the Federal Reserve Bank of New York that the proposed acquisition would be in the public interest and the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transactions shall not be made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after that date, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of New York pursuant to delegated authority.

By order of the Federal Reserve Bank of New York, acting for the Board of Governors of the Federal Reserve System pursuant to delegated authority, effective May 20, 1974.

[SEAL] FRED W. PIDERIT, Jr.,
Vice President,
Federal Reserve Bank of New York.

MAY 20, 1974.

[FR Doc.74-12716 Filed 6-3-74;8:45 am]

[4] If the proposal were consummated, the main office of The First National Bank of Cranbury would be considered a branch office as of January 1, 1975. Inasmuch as no other bank is presently headquartered in Cranbury Township, protection would be eliminated in the municipality at that time.

[4] The Trenton market includes Mercer County plus communities located in Hunterdon, Somerset, Middlesex (including Cranbury), Monmouth and Burlington Counties in New Jersey and Bucks County in Pennsylvania.

GENERAL SERVICES ADMINISTRATION

[Federal Property Management Regs.; Temporary Reg. F-222]

SECRETARY OF DEFENSE

Delegation of Authority

1. *Purpose.* This regulation delegates authority to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government in a gas rate proceeding.

2. *Effective date.* This regulation is effective March 11, 1974.

3. *Delegation.* a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 USC 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government before the California Public Utilities Commission in a proceeding involving the Pacific Gas and Electric Company gas rate increase applications (Nos. 54616, 54617, and 54618).

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and, further, shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

ARTHUR F. SAMPSON,
Administrator of General Service.

MAY 23, 1974.

[FR Doc.74-12706 Filed 6-3-74;8:45 am]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 74-33]

ESTABLISHMENT OF ADVISORY SUBCOMMITTEE

Notice of Determination

Pursuant to section 9(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), the Administrator of NASA has determined that the establishment of the following advisory subcommittee is in the public interest in connection with the performance of duties imposed upon NASA by law:

Ad Hoc Advisory Subcommittee for Evaluation of Advanced Applications Flight Experiment (AAFE) Proposals

The functions of this Subcommittee will be the review and evaluation of AAFE proposals. The reason for establishing this Subcommittee is to obtain advice for NASA as to the scientific and technical merit of the proposed research.

The Space Science and Applications Steering Committee, under which the Subcommittee will operate, is a NASA internal committee, composed wholly of government employees.

BOYD C. MYERS II,
Assistant Associate Administrator for Organization and Management, National Aeronautics and Space Administration.

MAY 30, 1974

[FR Doc.74-12724 Filed 6-3-74;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

AMERICAN STATISTICAL ASSOCIATION ADVISORY COMMITTEE ON STATISTICAL POLICY

Notice of Public Meeting

Pursuant to Public Law 92-463, notice is hereby given of a meeting of the American Statistical Association Advisory Committee on Statistical Policy to be held in Room 5104, New Executive Office Building, 726 Jackson Place NW., Washington, D.C., on Friday, June 7, 1974, at 9:30 a.m.

The purpose of the meeting is to obtain advice associated with the responsibilities of the Statistical Policy Division of the Office of Management and Budget. The meeting will be open to public observation and participation.

VELMA N. BALDWIN,
Assistant to the Director for Administration.

[FR Doc.74-12850 Filed 6-3-74;8:45 am]

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on May 29, 1974 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

The symbol (x) identifies proposals which appear to raise no significant issues, and are to be approved after brief notice through this release.

Further information about the items on this Daily List may be obtained from the Clearance Office, Office of Management and Budget Washington, D.C. 20503 (202-395-4529).

NEW FORMS

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education, Application for Federal Assistance (Nonconstruction Programs), Instructions for Migratory Programs, ESEA,

Form OE 362, Annual, Caywood/Lowry, SEA's and LEA's.

Instructions for Financial Status Report for Adult Education State Programs—FY 1973 Carry-over Funds and FY 1974 Funds, Form oe 365, Annual, Caywood/Lowry, State agencies providing Adult Basic Education.

Instructions for Annual Adult Education Performance Report, Form OE 365–1, Annual Caywood/Lowry 56 State agencies.

National Assessment of Educational Progress, Form OE 2371, Single time, Planchon, Student and adults (26–35).

DEPARTMENT OF THE INTERIOR

National Park Service, Mandatory (Wilderness Use) Permit Systems—Who Doesn't Comply and Why? Form ____, Single time, Planchon, Back country users in No. Cascades Nat. Parks.

National Park Service, Backcountry Use Survey, Form ____, Occasional, Planchon, Individuals.

Grand Canyon User Survey, Form ____, Single time, Planchon, Individuals traversing Colorado River, thru G.C.

Roadside Questionnaires — Great Smoky Mountains, National Park Visitor Survey, Form ____, Single time, Planchon, Individuals.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration, Medical Exemption Petition (Operational Questionnaire), Form FAA 8500–20, Occasional, Sheftel, Airmen.

National Highway Traffic Safety Administration, Driving Exposure Survey Questionnaire, Form ____, Single time, Collins, Owners of N.C. registered motor vehicles.

Departmental, Press Service Postal Reply Card, Form ____, Occasional, Sheftel, Weekly newspapers in U.S.

REVISIONS

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education, Application for Basic Institutional Development Program, Title III, HEA of 1965, Form OE 1049, Annual, Lowry, Institutions of higher education.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration, Aircraft Registration Eligibility, Identification, and Activity Report, Form AC 8050–73, Annual, Sheftel, Aircraft owners.

EXTENSIONS

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service, Application for License (Poultry Product Inspector-Grader), Form PY 157, Occasional, Evinger, Employees of poultry processors.

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service Regulations — Determinations of Wage Rates—Sugar beets and Sugarcane, Form ____, Occasional, Evinger, Sugar beet and sugarcane producers.

User Survey Card, Form ASCS 647, Occasional, Evinger, Individuals.

Request for Agreement, Form ASCS 649, Annual, Evinger, Farms.

Public Access Agreement, Form ASCS 646, Annual, Evinger, Farms.

Economic Research Service, Egg and Poultry Prices, FOB City to Retail Stores, Washington, D.C., Form ____, Monthly, Lowry, Poultry and Egg dealers and retail stores.

Statistical Reporting Service, Poultry Slaughter and Processing Report (Non-Federally Inspected Plants), Form ____, Anual, Evinger, Poultry slaughter plants.

GENERAL SERVICES ADMINISTRATION

Financial Status Report, Form ____, Occasional, Caywood, State and local governments.

Request for Advance or Reimbursement, Form ____, Occasional, Caywood, State and local governments.

Report of Federal Cash Transactions, Form ____, Occasional, Caywood, State and local governments.

Application for Federal Assistance (Construction), Form ____, Occasional, Caywood, State and local governments.

Application for Federal Assistance (Short Form), Form ____, Occasional, Caywood, State and local governments.

Application for Federal Assistance (Nonconstruction), Form ____, Occasional, Caywood, State and local governments.

GENERAL SERVICES ADMINISTRATION

Preapplication for Federal Assistance Form ____, Occasional, Caywood, State and local governments.

Outlay Report and Request for Reimbursement for Construction Programs, Form ____, Occasional, Caywood, State and local governments.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.74–12836 Filed 6–3–74;8:45 am]

LABOR ADVISORY COMMITTEE ON STATISTICS

Notice of Public Meeting

Pursuant to Public Law 92–463, notice is hereby given of a meeting of the Labor Advisory Committee on Statistics to be held in Room 10104, New Executive Office Building, 726 Jackson Place NW., Washington, D.C., on Thursday, June 13, 1974 at 9:30 a.m.

The purpose of the meeting is to obtain advice on the content of several important Federal statistical programs and on possible improvements in planning for Federal statistical programs. The meeting will be open to public observation and participation.

VELMA N. BALDWIN,
Assistant to the Director for Administration.

[FR Doc.74–12707 Filed 6–3–74;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

BBI, INC.

Notice of Suspension of Trading

MAY 28, 1974.

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 May 29, 1974 through June 7, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74–12741 Filed 6–3–74;8:45 am]

[70–5506]

NEW ENGLAND POWER CO. AND NEW ENGLAND ELECTRIC SYSTEM

Notice of Proposed Issue and Sale of Common Stock to Holding Company

Notice is hereby given that New England Electric System ("NEES"), a registered holding company, and New England Power Company ("NEPCO"), one of the NEES electric utility subsidiary companies, have filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(b), 9(a), 10, and 12 of the Act and Rule 42 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.

NEPCO proposes to issue and sell to NEES, its sole common stockholder, 750,000 additional shares of common stock, $20 par value per share, and NEES proposes to acquire such shares for cash at $40 per share, or a total consideration of $3,000,000. Upon such issuance and sale, NEPCO will have outstanding 5,824,896 shares of common stock of an aggregate par value of $116,497,920.

As of May 7, 1974, NEPCO had outstanding $108,000,000 of short-term notes. The proceeds from the issuance and sale of the additional common stock will be applied to the payment of then outstanding short-term notes payable evidencing borrowings made for capitalizable construction expenditures or to reimburse the treasury therefor.

Expenses in connection with the proposed issuance and sale of common stock are estimated at $4,900 for NEPCO and $200 for NEES. It is stated that the proposed issuance and sale of the common stock require authorization by the Massachusetts Department of Public Utilities, The New Hampshire Public Utilities Commission and the Vermont Public Service Board 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 persons may, not later than June 25, 1974, request in writing that a hearing be held in respect of such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified should the Commission 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 (air mail if the person being served is located more than 500 miles from the point of mailing) upon the applicants-declarants 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 any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-12742 Filed 6-3-74;8:45 am]

[File No. S7-524; Release 34-10824]

NEW YORK STOCK EXCHANGE RULE

Notice of Proposed Amendment

The Securities and Exchange Commission today announced that it has received the following letter on a proposed amendment to New York Stock Exchange Rule 440A.11:

MAY 7, 1974.

MR. LEE A. PICKARD,
Director, Securities and Exchange Commission, 500 North Capitol NW., Washington, D.C. 20549.

DEAR MR. PICKARD: Pursuant to Rule 17a-8, we enclose herewith three copies of a proposed amendment to Rule 440A.11. For reference purposes you will also find the language of Rule 440A.10 since that language is referred to in Rule 440A.11. The proposed amendment was adopted in principle by the Board at its meeting of May 2, 1974.

The proposed amendment would eliminate the language in Rule 440A.11 which permits the reduction of investment advisory fees in consideration of Exchange listed commissions received and would substitute new language which would prohibit such a reduction. Two implementation dates would be provided in the rule. First the rule would be implemented for any new contract arrangement on a date two weeks following the effective date of the rule. Second, the rule would be implemented for existing contracts on a date three months following the effective date of the amendment.

The proposed amendment would respond to a frequently voiced criticism that Exchange members have an unfair advantage over non-members in competing for investment advisory business by virtue of their ability to offset the investment advisory fee in consideration of brokerage commissions received.

The proposed amendment would also apply equally to members and non-member broker-dealers who have qualified for a non-member discount pursuant to Article XV, section 2 and Rule 385 of the Exchange Constitution and Rules. It would therefore correct the situation which the Commission commented on in its letter of August 21, 1973 to the Exchange with regard to amendments then proposed to Rule 385 as follows:

To the extent a non-member money manager credits any of the access discount it received on transactions for a customer against advisory fees owed by that customer, such customer does receive a commission rate advantage. While such an arrangement appears inconsistent with the original objectives of non-member access, the Commission believes it would be unfair to restrict the use of such an arrangement by non-members while permitting its use by exchange members.

The proposed amendment would treat both members and non-members who have qualified for a non-member discount alike. Each would be prohibited from reducing investment advisory fees in consideration of commissions received. These prohibitions would not, however, apply with respect to arrangements made in connection with orders for which commissions are now competitively determined, i.e., orders of $2,000 or less or orders in excess of $300,000. Similarly the rule would not apply to arrangements made on and after the date on which commissions with respect to all orders may be competitively determined.

The proposed amendment to Rule 440A.11 will again be considered by the Board at its regular meeting on June 6, 1974. It is therefore requested that the Commission respond to this submission as promptly as possible in advance of that date.

Any questions on this matter should be directed to Henry P. Poole, Vice President and General Counsel.

Sincerely,

JAMES E. BUCK.

cc: Mr. Harvey A. Rowen
Subcommittee on Commerce and Finance
Enclosures.

PROPOSED AMENDMENT TO RULE 440A.11

New language in italics—Deleted language in brackets [ ]

* * * * *

STATISTICAL AND INVESTMENT ADVISORY SERVICES

* * * Supplementary Material: [Also See Rule 369(3)(F)(p-2369).]

.10 To whom furnished.—A member or member organization may furnish:

(1) To a professional non-member (i.e., broker-dealer in securities or commodities, insurance company, investment advisor, investment manager, bank, trust company, foundation, professional trustee, or one engaged in any closely allied activity), statistical and investment advisory services:

(A) prepared by the member or member organization; or

(B) prepared by others and reissued by the member or member organization in his or its own name with the consent of the original issuer or publisher, provided the reissuing member or member organization is not required to pay for such consent.

(EXCEPTION: This policy does not prohibit the furnishing by a member or member organization to a non-member professional (i.e., broker-dealer in securities or commodities, insurance company, investment adviser, investment manager, bank, trust company, foundation, professional trustee, or one engaged in any closely allied activity), of publications of nominal cost, i.e., aggregating not more than approximately $30 per year, per non-member professional.)

(2) To another member or member organization or to a non-member customer who is a non-professional, statistical or investment advisory services:

(A) prepared by the member or member organization; or

(B) prepared by others and reissued by the member or member organization.

The meaning of "statistical investment advisory services" above is restricted to publications or services intended to aid professional or non-professional clients of member organizations in investment decisions concerning securities or commodities. All such publications or services must be clearly and prominently identified as being a publication or service of the original issuing member organization. (The name of the original issuing member organization may be omitted if the distributing member organization clears its listed business through the issuing member organization.)

.11 Such service which is prepared or reissued by the member or member organization consistent with .10 above, may be furnished by the member or member organization to another member or member organization or to a non-member [either free of cost or on a fee basis. If such service is furnished on a fee basis, the fee may be adjusted in accordance with commission business received from the other member or member organization or from the non-member.] *Provided, however,* That where a fee for such service has been published, such fee shall be charged to and paid by the member or member organization or the non-member receiving such service. Any contract or arrangement entered into after (2 weeks following effective date), 1974, pursuant to which such service is to be furnished for the published fee, shall provide that such fee may not be adjusted in accordance with commission business received from the other member or member organization or from the non-member. Members and member organizations furnishing such service pursuant to a contract or arrangement in effect on (2 weeks following effective date), 1974 providing for the furnishing of such services for the published fee which is adjusted in accordance with the commission business received from the other member or member organization or from the non-member shall as promptly as possible and in no event later than (3 months following effective date) 197 to terminate all such adjustments.

The fee for investment advisory service may be based on a percentage of the principal amount of the funds involved but may not be based upon the profits realized.

[Different fees may be charged to different customers for the same or equivalent statistical service.]

The Commission wishes to solicit the written views of all interested persons concerning the proposed amendment of NYSE Rule 440A.11 set forth above. Such views should be submitted to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capi-

tol Street, NW. Washington, D.C. 20549, no later than July 1, 1974. Reference should be made to File Number S7-524.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

MAY 24, 1974.

[FR Doc.74-12743 Filed 6-3-74;8:45 am]

TARIFF COMMISSION

[337-38]

EXPANDED, UNSINTERED POLYTETRAFLUORETHYLENE IN TAPE FORM

Notice of Investigation, Denial of Motion To Dismiss, and Hearing

A complaint was filed with the Tariff Commission on August 29, 1972, on behalf of W. L. Gore & Associates, Inc., of Newark, Delaware, alleging there to be importation and sale in the United States of expanded, unsintered polytetrafluorethylene in tape form and alleging that such importation and sale are unfair methods of competition and unfair acts within the meaning of section 337 of the Tariff Act of 1930 (19 USC 1337) for the reason that expanded, unsintered polytetrafluorethylene tape is covered by the claims of U.S. Patent No. 3,664,915. The complainant alleges that the effect or tendency of the unfair methods or acts is to destroy or substantially injure an industry, efficiently and economically operated, in the United States in violation of the provisions of section 337 of the Tariff Act of 1930 (19 USC 1337). Johnson and Johnson, Inc., New Brunswick, New Jersey; Anchor Packing Co., Philadelphia, Pennsylvania; Pamsco Asbestos & Rubber Co. (formerly known as U.S. Indestructible Gasket Co.), New York, New York; and Nopitape, Inc., Hackensack, New Jersey, have been named as importers and distributors of the subject products by the complainant.

Having conducted a preliminary inquiry with respect to the matters alleged by the said complainant, the United States Tariff Commission, on May 23, 1974, *Ordered:* That for the purposes of section 337 of the Tariff Act of 1930, an investigation is instituted with respect to the alleged violations in the importation and sale in the United States of expanded, unsintered polytetrafluorethylene in tape form made in accordance with the claims of US Patent No. 3,664,915 owned by the complainant, W. L. Gore and Associates, Inc.

That a public hearing be held on July 22, 1974, at 10 a.m., EDT, in the Hearing Room, U.S. Tariff Commission Building, 8th and E Streets, NW., Washington, D.C. All parties concerned will be afforded an opportunity to be present, to produce evidence, and to be heard concerning the subject matter of the investigation. Interested parties desiring to appear and give testimony at the hearing should notify the Secretary of the Commission, in writing at least five days in advance of the opening of the hearing.

Public notice of the receipt of the complaint and initiation of the preliminary inquiry was published in the FEDERAL REGISTER on September 19, 1972 (37 FR 19164). The complaint and supplemental complaint were served upon the parties named in the complaint and have been available for inspection by interested persons continually since issuance of the notice of preliminary inquiry, at the Office of the Secretary, located in the U.S. Tariff Commission Building and in the New York City office of the Commission, located in Room 437 of the Customhouse.

By order of the Commission.

Issued: May 29, 1974.

[SEAL] KENNETH R. MASON, *Secretary.*

[FR Doc.74-12683 Filed 6-3-74;8:45 am]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[V-74-31]

ALABAMA BY-PRODUCTS CORP.

Notice of Application for Variance and Interim Order; Grant of Interim Order

I. Notice of application. Notice is hereby given that Alabama By-Products Corporation, Post Office Box 10246, Birmingham, Alabama 35202 has made application pursuant to section 6(d) of the Williams-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1596; 29 U.S.C. 655), and 29 CFR 1905.11 for a variance, and interim order pending a decision on the application for a variance, from the standards prescribed in 29 CFR 1910.106(b)(2)(ii)(b) concerning shell-to-shell spacing between above-ground tanks.

The address of the place of employment that will be affected by the application is as follows:

The site of former Ketona Chemical Corporation's plant at Ketona, Alabama

The applicant certifies that employees who would be affected by the variance have been notified of the application by posting a copy of all places where notices to employees are normally posted. Employees have also been informed of their right to petition the Assistant Secretary for a hearing.

Regarding the merits of the application, the applicant contends that it will be providing a place of employment as safe as that required by 29 CFR 1910.106(b)(2)(ii)(b) which requires that the shell-to-shell spacing between above-ground tanks used for storage of flammable liquids be no less than one sixth of the sum of the tank diameters.

The applicant has 4 fuel storage tanks located in pairs 275.74 feet apart. Two aluminum tanks have 500,000 and 1,000,000 gallon capacities and diameters of 50 and 67 feet respectively. They are spaced 11 feet apart. Two steel tanks have 945,000 and 1,932,000 gallon capacities and diameters of 60 and 85 feet respectively. They are separated by 10.3 feet.

The applicant states that these four tanks have been used only occasionally for fuel storage in the past 15 years. However, because of the present fuel allocation system the applicant and several local companies are finding it necessary to use the tanks for fuel storage or they will lose their monthly allotment. The tanks have recently been inspected and found to be structurally sound and in good condition for storing fuel.

A copy of the application will be made available for inspection and copying upon request at the Office of Compliance Programming, U.S. Department of Labor, 1726 M Street NW., Room 210, Washington, D.C. 20210, and at the following Regional and Area Offices:

U.S. Department of Labor
Occupational Safety and Health Administration
1375 Peachtree Street, NE
Suite 587
Atlanta, Georgia 30309

U.S. Department of Labor
Occupational Safety and Health Administration
Todd Mall, 2047 Canyon Road
Birmingham, Alabama 35216

All interested persons, including employers and employees, who believe they would be affected by the grant or denial of the application for a variance are invited to submit written data, views and arguments relating to the pertinent application no later than July 5, 1974. In addition, employers and employees who believe they would be affected by a grant or denial of the variance may request a hearing on the application no later than July 5, 1974, in conformity with the requirements of 29 CFR 1905.15. Submission of written comments and requests for a hearing should be in quadruplicate, and must be addressed to the Office of Compliance Programming at the above address.

II. *Interim order.* It appears from the application for a variance and interim order, that an adequate distance between the tanks is being provided for employee safety, that an interim order is necessary to prevent undue hardship to the applicant pending a decision on the variance. Therefore, it is ordered, pursuant to authority in section 6(d) of the Williams-Steiger Occupational Safety and Health Act of 1970, and 29 CFR 1905.11(c) that Alabama By-Products Corporation be, and it is hereby, authorized to use the tanks described in the application for the storage of fuel, in lieu of meeting the spacing requirements of 29 CFR 1910.106(b)(2)(ii)(b).

Alabama By-Products Corporation shall give notice of this interim order to employees affected thereby, by the same means required to be used to inform them of the application for a variance.

Effective date. This interim order shall be effective as of June 4, 1974, and shall remain in effect until a decision is rendered on the application for variance.

Signed at Washington, D.C., this 23rd day of May, 1974.

JOHN STENDER,
Assistant Secretary of Labor.

[FR Doc.74-12738 Filed 6-3-74;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice 521]

ASSIGNMENT OF HEARINGS

MAY 30, 1974.

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 June 4, 1974.

MC 126034 Subs 1, 3, and 4, Bucks County Construction Company now assigned June 18, 1974, at Washington, D.C., is cancelled.

I&S M 27312, Restructured Rates and Charges, Central States Territory, I&S M 27312 Sub 2, Restructured Rates and Charges, Indiana Motor Rate and Tariff Bureau, now assigned June 6, 1974, at Washington, D.C., is postponed to July 9, 1974, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC-138879 Sub 1, Mobile Truck Control, Inc., now assigned June 5, 1974, at Birmingham, Ala., is cancelled and reassigned for hearing on June 5, 1974, in the Ramada Inn, 600 Beltline Highway, I-65 and Airport Boulevard, Mobile, Ala.

MC 20872 Sub-15, Lime City Trucking Company, Inc., now assigned June 10, 1974, at Indianapolis, Indiana, is postponed indefinitely.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74-12760 Filed 6-3-74;8:45 am]

FOURTH SECTION APPLICATION FOR RELIEF

MAY 30, 1974.

An application, as summarized below, has been filed requesting relief from the requirements of Section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the General Rules of Practice (49 CFR 1100.40) and filed on or before June 17, 1974.

FSA No. 42837—*Soda Ash Between Points in Southern Territory.* Filed by M. B. Hart, Jr., Agent (No. A6337), for interested rail carriers. Rates on sodium (soda) ash, in carloads, as described in the application, between points in southern territory.

Grounds for relief—Market competition.

Tariff—Supplement 58 to Southern Freight Association, Agent, tariff 822-G, I.C.C. No. S-1068. Rates are published to become effective on July 10, 1974.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74-12762 Filed 6-3-74;8:45 am]

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY—ELIMINATION OF GATEWAY LETTER NOTICES

MAY 30, 1974.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's *Gateway Elimination Rules* (49 CFR 1065(a)), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission on or before June 14, 1974. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will not operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

No. MC-11207 (Sub-No. E3) (Correction), filed April 25, 1974, published in the FEDERAL REGISTER May 9, 1974. Applicant: DEATON, INC., P.O. Box 938, Birmingham, Ala. 35201. Applicant's representative: C. N. Knox (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building board, insulation board, fiberboard, pulpboard, and wallboard*, and *parts, materials, and accessories* incidental to the transportation and installation thereof, from the plant and warehouse sites of the United States Gypsum Company in Pittsylvania County, Va., located at or near Danville, Va., to points in Oklahoma and Texas, and to points in Arkansas in and west of the counties of Phillips, Arkansas, Lonoke, Faulkner, Van Buren, Searcy, and Boone. The purpose of this filing is to eliminate the gateway of Greenville, Miss. The purpose of this correction is to include Little Rock and Fort Smith, Ark., in the sought destination territory.

No. MC-11727 (Sub-No. E1), filed April 25, 1974. Applicant: JAMES H. RUSSELL, Washington Highway, Smithfield, R.I. 02917. Applicant's representative: Francis E. Barrett, Jr., 10 Industrial Park Road, Hingham, Mass. 02043. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), between New York, N.Y., on the one hand, and, on the other, Providence, R.I., points in that part of Massachusetts on and east of U.S. Highway 5, and points in that part of Connecticut on and east of U.S. Highway 5, and those on U.S. Highway 1 between the New York-Connecticut State line and New Haven (except those in Fairfield County). The purpose of this filing is to eliminate the gateway of Newark, N.J.

No. MC-15821 (Sub-No. E1), filed May 13, 1974. Applicant: GRAF BROS., INC., 111 State Street, Boston, Mass. 02109. Applicant's representative: Kenneth B. Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), (a) beginning at the Massachusetts-New Hampshire State line and extending northward along New Hampshire Highway 125 to its intersection with U.S. Highway 202 and thence along U.S. Highway 202 to the New Hampshire-Massachusetts State line, on the one hand, and, on the other, points in Massachusetts (except those points north of a line from Swampscott over Massachusetts Highway 114, to the intersection with Massachusetts Highway 2, and thence along Massachusetts Highway 2 to the Berkshire-Franklin County line, thence along the Berkshire-Franklin County line to the Massachusetts-Vermont State line, (b) between points in New Hampshire on, east, and south of U.S. Highway 202, on the one hand, and, on the other, points in Norfolk, Plymouth, Bristol, and Barnstable Counties, Mass. The purpose of this filing is to eliminate the gateway of Boston, Mass.

No. MC-16682 (Sub-No. E1), filed May 9, 1974. Applicant: MURAL TRANSPORT, INC., 2900 Review Avenue, Long Island City, N.Y. 11101. Applicant's representative: Robert L. Shapiro (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, (a) between New York, N.Y., on the one hand, and, on the other, points in Illinois and Michigan; (b) between New York, N.Y., on the one hand, and, on the other, points in Delaware, Maryland, Ohio, and the District of Columbia; (c) from Syracuse, N.Y., to points in Delaware; (d) from Flemington, N.J., to points in Connecticut and Massachusetts; and (e) from Flemington, N.J., to points in Illinois and Michigan. The purpose of this filing is to

eliminate the gateways of in (a) and (e) Syracuse, N.Y.; in (d) New York, N.Y., and (b) and (c) Flemington, N.J.

No. MC–25798 (Sub-No. E12), filed April 28, 1974. Applicant: CLAY HYDER TRUCKING LINES, INC., P.O. Box 1186, Auburndale, Fla. 33823. Applicant's representative: Tony G Russell (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen strawberries in containers*, from points in Tennessee on and west of a line beginning at U.S. Highway 411 at the Tennessee-Georgia State line, thence north along U.S. Highway 411 to its intersection with Tennessee Highway 33, thence north along Tennessee Highway 33 to its intersection with U.S. Highway 25E, thence along U.S. Highway 25E to the Tennessee-Virginia State line, to points in Maryland, Delaware, New Jersey, Connecticut, Rhode Island, Massachusetts, the District of Columbia and points in Virginia on and east of a line beginning at the Virginia-North Carolina State line and thence north along U.S. Highway 505 to its intersection with U.S. Highway 15, thence north on U.S. Highway 15 to Virginia Highway 20, thence north on Virginia Highway 20 to its intersection with U.S. Highway 250, thence west on U.S. Highway 250 to the Virginia-West Virginia State line. The purpose of this filing is to eliminate the gateway of Hendersonville, N.C.

No. MC–27580 (Sub-No. E1), filed April 28, 1974. Applicant: JOSEPH CORY DELIVERY SERVICE, INC., 110 First Street, Jersey City, N.J. 07302. Applicant's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, uncrated, from Jersey City, N.J., to points in Connecticut (except Fairfield County), Pennsylvania (except Pike, Monroe, Northampton, Carbon, Lehigh, Bucks, Montgomery, Philadelphia, Delaware, and Chester Counties), and New York (except Rockland, Orange, Westchester, and Putnam Counties). The purpose of this filing is to eliminate the gateway of New York, N.Y.

No. MC–44639 (Sub-No. E1), filed May 4, 1974. Applicant: L & M EXPRESS CO., INC., 220 Ridge Rd., Lyndhurst, N.J. 07071. Applicant's representative: Herman B. J. Weckstein, One Woodbridge Center, Woodbridge, N.J. 07095. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wearing apparel and materials and supplies used in the manufacture of wearing apparel* (except liquid commodities, in bulk), between Crew, Va., and New York, N.Y. The purpose of this filing is to eliminate the gateway of Whiteford, Md.

No. MC–48551 (Sub-No. E1), filed May 9, 1974. Applicant: P & D LUMBER HANDLING CO., Box 69, Phoenixville, Pa. 19460. Applicant's representative: Alan Kahn, 2 Penn Center Plaza, Suite 1920, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber* from Wilmington, Del., to New York, N.Y. The purpose of this filing is to eliminate the gateway of Philadelphia, Pa.

No. MC–60437 (Sub-No. E1), filed May 6, 1974. Applicant: EDGAR J. MASON, doing business as MASON'S TRANSFER, operated by NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, Minn. 55359. Applicant's representative: Allan L. Tummerman (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned fruit, canned fruit products, and canned tomato juice and puree*, from Biglerville, Pa., to points in Indiana, Kentucky, Maryland, New York, Ohio, Pennsylvania, Virginia, and West Virginia. The purpose of this filing is to eliminate the gateways of the plantsites, warehouses, or storage facilities used by C. H. Musselman Company in Virginia (except Winchester) and in that part of West Virginia within 15 miles of Inwood, W. Va.

No. MC–105457 (Sub-No. E4), filed May 1, 1974. Applicant: THURSTON MOTOR LINES, INC., P.O. Box 10638, Charlotte, N.C. 28201. Applicant's representative: John V. Luckadoo (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), restricted in each instance against the transportation of traffic moving between any of the points authorized in No. MC–105457 (Sub-No. 19A) to be served in the carrier's regular-route operations.

(1) Between Aberdeen, N.C., on the one hand, and, on the other, Amelia, Arlington, Ashland, Berryville, Blackstone, Blackwater, Bridgewater, Bristol, Broadway, Burgess, Burkeville, Calverton, Charlottesville, Clintwood, Crozier, Culpeper, Dahlgren, Damascus, Dillwyn, Edinburg, Elkton, Fairfax, Fredericksburg, Gate City, Glade Spring, Grundy, Harrisonburg, Hightown, Hillsboro, Honaker, Kilmarnock, Lebanon, Louisa, Luray, Madison, Manassas, Marion, Marshall, Middleburg, Montpelier, Norton, Orange, Port Royal, Powhatan, Quantico, Riverton, Scottsville, Sparta, Staunton, Tappahannock, Tazewell, Walkerton, Warrenton, Warsaw, Washington, Waynesboro, Wilson, Winchester, and Woodstock, Va.

(2) Between Ahoskie, N.C., on the one hand, and, on the other, Altavista, Amelia, Amherst, Appomattox, Arlington, Ashland, Bedford, Berryville, Blacksburg, Blackstone, Blackwater, Bluefield, Bridgewater, Bristol, Broadway, Brookneal, Burkeville, Calverton, Charlotte C.H., Charlottesville, Chase City, Clarksville, Clifton Forge, Clintwood, Columbia, Covington, Crozier, Culpeper, Cumberland, Dahlgren, Damascus, Dillwyn, Edinburg, Elkton, Fairfax, Farmville, Floyd, Fredericksburg, Galax, Gate City, Glade Spring, Glasgow, Gretna, Grundy, Harrisonburg, Hightown, Hillsboro, Hillsville, Honaker, Hot Springs, Independence, Ivanhoe, Keysville, Lebanon, Lexington, Louisa, Luray, Lynchburg, McDowell, Madison, Manassas, Marion, Marshall, Martinsville, Middleburg, Montpelier, New Castle, Norton, Orange, Pearisburg, Port Royal, Powhatan, Pulaski, Quantico, Radford, Raphine, Riverton, Roanoke, Rocky Mount, Roseland, Scottsville, South Boston, Sparta, Staunton, Stuart, Tappahannock, Tazewell, Troutville, Victoria, Walkerton, Warrenton, Warsaw, Washington, Waynesboro, Wilson, Winchester, Woodstock, and Wytheville, Va.

(3) Between Albemarle, N.C., on the one hand, and, on the other, Amelia, Arlington, Ashland, Berryville, Blackstone, Blackwater, Bridgewater, Bristol, Broadway, Burgess, Burkeville, Calverton, Charlottesville, Clintwood, Crozier, Culpeper, Cumberland, Dahlgren, Damascus, Dillwyn, Edinburg, Elkton, Fairfax, Farmville, Fredericksburg, Gate City, Glade Spring, Grundy, Harrisonburg, Hillsboro, Honaker, Kilmarnock, Lebanon, Luray, Madison, Manassas, Marion, Marshall, Middleburg, Montpelier, Norton, Orange, Pearisburg, Port Royal, Powhatan, Quantico, Radford, Riverton, Scottsville, Sparta, Tappahannock, Tazewell, Walkerton, Warrenton, Warsaw, Washington, Waynesboro, Wilson, Winchester, and Woodstock, Va.

(4) Between Asheboro, N.C., on the one hand, and, on the other, Amelia, Arlington, Ashland, Berryville, Blackstone, Blackwater, Bristol, Burgess, Burkeville, Calverton, Clintwood, Crozier, Culpeper, Cumberland, Dahlgren, Dillwyn, Edinburg, Fairfax, Farmville, Fredericksburg, Gate City, Grundy, Hillsboro, Honaker, Kilmarnock, Luray, Madison, Manassas, Marshall, Middleburg, Montplier, Norton, Port Royal, Powhatan, Quantico, Riverton, Scottsville, Sparta, Tappahannock, Walkerton, Warrenton, Warsaw, Washington, Wilson, Winchester, and Woodstock, Va.

(5) Between Bayboro, N.C., on the one hand, and, on the other, Altavista, Amelia, Amherst, Appomattox, Arlington, Ashland, Bedford, Berryville, Blacksburg, Blackstone, Blackwater, Bluefield, Bridgewater, Bristol, Broadway, Brookneal, Burgess, Burkeville, Calverton, Charlotte C.H., Charlottesville, Chase City, Clarksville, Clifton Forge, Clintwood, Columbia, Covington, Crozier, Culpeper, Cumberland, Dahlgren, Damascus, Dillwyn, Edinburg, Elkton, Fairfax, Farmville, Floyd, Fredericksburg, Galax, Gate City, Glade Spring, Glasgow, Gretna, Grundy, Harrisonburg, Hightown, Hillsboro, Hillsville, Honaker, Hot Springs, Independence, Ivanhoe, Keysville, Kilmarnock, Lebanon, Lexington, Louisa, Luray, Lynchburg, McDowell, Madison, Manassas, Marion, Marshall, Martinsville, Middleburg, Montpelier,

New Castle, Norton, Orange, Pearisburg, Port Royal, Raphine, Riverton, Roanoke, Rocky Mount, Roseland, Scottsville, South Boston, Sparta, Staunton, Stuart, Tappahannock, Tazewell, Troutville, Victoria, Walkerton, Warrenton, Warsaw, Washington, Waynesboro, Wilson, Winchester, Woodstock, and Wytheville, Va.

(6) Between Belhaven, N.C., on the one hand, and, on the other, Altavista, Amelia, Amherst, Appomattox, Arlington, Ashland, Bedford, Berryville, Blacksburg, Blackstone, Blackwater, Bluefield, Bridgewater, Bristol, Broadway, Brookneal, Burkeville, Calverton, Charlotte C.H., Charlottesville, Chase City, Clarksville, Clifton Forge, Clintwood, Columbia, Covington, Crozier, Culpeper, Cumberland, Dahlgren, Damascus, Dillwyn, Edinburg, Elkton, Fairfax, Farmville, Floyd, Fredericksburg, Galax, Gate City, Glade Spring, Glasgow, Gretna, Grundy, Harrisonburg, Hightown, Hillsboro, Hillsville, Honaker, Hot Springs, Independence, Ivanhoe, Keysville, Kilmarnock, Lebanon, Lexington, Louisa, Luray, Lynchburg, McDowell, Madison, Manassas, Marion, Marshall, Martinsville, Middleburg, Montpelier, New Castle, Norton, Orange, Pearisburg, Port Royal, Powhatan, Pulaski, Quantico, Rarford, Raphine, Riverton, Roanoke, Rocky Mount, Roseland, Scottsville, South Boston, Sparta, Staunton, Stuart, Tappahannock, Tazewell, Troutville, Victoria, Walkerton, Warrenton, Warsaw, Washington, Waynesboro, Wilson, Winchester, Woodstock, and Wytheville, Va.

(7) Between Burgaw, N.C., on the one hand, and, on the other, Altavista, Amelia, Amherst, Appomattox, Arlington, Ashland, Bedford, Berryville, Blacksburg, Blackstone, Blackwater, Bluefield, Bridgewater, Bristol, Broadway, Brookneal, Burgess, Burkeville, Calverton, Charlotte C.H., Charlottesville, Chase City, Clarksville, Clifton Forge, Cintwood, Columbia, Covington, Crozier, Culpeper, Cumberland, Dahlgren, Damascus, Dillwyn, Edinburg, Elkton, Fairfax, Farmville, Fredericksburg, Glade Spring, Glasgow, Grundy, Harrisonburg, Hightown, Hillsville, Honaker, Hot Springs, Independence, Ivanhoe, Keysville, Kilmarnock, Lebanon, Lexington, Louisa, Luray, Lynchburg, McDowell, Madison, Manassas, Marion, Marshall, Middleburg, Montpelier, New Castle, Norton, Orange, Pearisburg, Port Royal, Powhatan, Pulaski, Quantico, Raphine, Riverton, Roanoke, Roseland, Scottsville, South Boston, Sparta, Staunton, Tappahannock, Tazewell, Troutville, Victoria, Walkerton, Warrenton, Warsaw, Washington, Waynesboro, Wilson, Winchester, and Woodstock, Va.

(8) Between Burlington, N.C., on the one hand, and, on the other, Arlington, Ashlong, Blackwater, Burgess, Calverton, Crozier, Dahlgren, Edinburg, Fairfax, Fredericksburg, Kilmarnock, Manassas, Marshall, Middleburg, Montepelier, Port Royal, Quantico, Sparta, Tappahannock, Walkerton, Warrenton, and Warsaw, Va.

(9) Between Carthage, N.C., on the one hand, and, on the other, Amelia, Arlington, Ashland, Berryville, Blackstone, Blackwater, Bridgewater, Bristol, Broadway, Burgess, Burkeville, Calverton, Charlottesville, Clintwood, Crozier, Culpeper, Dahlgren, Damascus, Dillwyn, Edinburg, Elkton, Fairfax, Fredericksburg, Gate City, Glade Spring, Grundy, Harrisonburg, Hightown, Hillsboro, Honaker, Kilmarnock, Lebanon, Louisa, Luray, Madison, Manassas, Marshall, Middleburg, Montpelier, Norton, Orange, Port Royal, Powhatan, Quantico, Riverton, Scottsville, Sparta, Staunton, Tappahannock, Tazewell, Walkerton, Warrenton, Warsaw, Washington, Waynesboro, Wilson, Winchester, and Woodstock, Va.

(10) Between Carrboro, N.C., on the one hand, and, on the other, Arlington, Ashland, Berryville, Blackwater, Broadway, Burgess, Calverton, Crozier, Culpeper, Dahlgren, Edinburg, Fairfax, Fredericksburg, Harrisonburg, Hightown, Hillsboro, Kilmarnock, McDowell, Madison, Manassas, Marshall, Middleburg, Montpelier, Port Royal, Quantico, Riverton, Sparta, Tappahannock, Walkerton, Warrenton, Warsaw, Washington, Wilson, Winchester, and Woodstock, Va.

(11) Between Cherry Point, N.C., on the one hand, and, on the other, Altavista, Amelia, Amherst, Appomattox, Arlington, Ashland, Bedford, Berryville, Blacksburg, Blackstone, Blackwater, Bluefield, Bridgewater, Bristol, Broadway, Brookneal, Burgess, Burkeville, Calverton, Charlotte C.H., Charlottesville, Chase City, Clarksville, Clifton Forge, Clintwood, Columbia, Covington, Crozier, Culpeper, Cumberland, Dahlgren, Damascus, Dillwyn, Edinburg, Elkton, Fairfax, Farmville, Fredericksburg, Galax, Gate City, Glade Spring, Glasgow, Gretna, Grundy, Harrisonburg, Hightown, Hillsboro, Hillsville, Honaker, Hot Springs, Independence, Ivanhoe, Keysville, Kilmarnock, Lebanon, Lexington, Louisa, Luray, Lynchburg, McDowell, Madison, Manassas, Marion, Marshall, Martinsville, Middleburg, Montpelier, New Castle, Norton, Orange, Pearisburg, Port Royal, Powhatan, Pulaski, Quantico, Radford, Raphine, Riverton, Roanoke, Rocky Mount, Roseland, Scottsville, South Boston, Sparta, Staunton, Stuart, Tappahannock, Tazewell, Troutville, Victoria, Walkerton, Warrenton, Warsaw, Washington, Waynesboro, Wilson, Winchester, Woodstock, and Wytheville, Va.

(12) Between Clarkton, N.C., on the one hand, and, on the other, Amelia, Appomattox, Arlington, Ashland, Berryville, Blacksburg, Blackstone, Blackwater, Bridgewater, Bristol, Broadway, Burgess, Burkeville, Calverton, Charlotte C.H., Charlottesville, Clifton Forge, Clintwood, Columbia, Crozier, Culpeper, Cumberland, Dahlgren, Damascus, Dillwyn, Edinburg, Elkton, Fairfax, Farmville, Floyd, Fredericksburg, Gate City, Glade Spring, Glasgow, Grundy, Harrisonburg, Hightown, Hillsboro, Honaker, Hot Springs, Independence, Ivanhoe, Keysville, Kilmarnock, Lebanon, Lexington, Louisa, Luray, McDowell, Madison, Manassas, Marion, Marshall, Middleburg, Montpelier, Norton, Orange, Port Royal, Powhatan, Pulaski, Quantico, Radford, Raphine, Riverton, Roseland, Scottsville, Sparata, Staunton, Tappahannock, Tazewell, Victoria, Walkerton, Warrenton, Warsaw, Washington, Waynesboro, Wilson, Winchester, and Woodstock, Va.

(13) Between Clinton, N.C., on the one hand, and, on the other, Amelia, Amherst, Appomattox, Arlington, Ashland, Berryville, Blackstone, Blackwater, Bridgewater, Bristol, Broadway, Burgess, Burkeville, Calverton, Charlottesville, Chase City, Clifton Forge, Clintwood, Columbia, Covington, Crozier, Culpeper, Cumberland, Dahlgren, Damascus, Dillwyn, Edinburg, Elkton, Fairfax, Farmville, Fredericksburg, Gate City, Glade Spring, Glasgow, Grundy, Harrisonburg, Hightown, Hillsboro, Honaker, Hot Springs, Keysville, Kilmarnock, Lebanon, Lexington, Louisa, Luray, Lynchburg, McDowell, Madison, Manassas, Marion, Marshall, Middleburg, Montpelier, Norton, Orange, Powhatan, Quantico, Raphine, Riverton, Roseland, Scottsville, Sparta, Staunton, Tappahannock, Tazewell, Victoria, Walkerton, Warrenton, Warsaw, Washington, Waynesboro, Wilson, Winchester, and Woodstock, Va.

(14) Between Dunn, N.C., on the one hand, and, on the other, Amelia, Arlington, Ashland, Berryville, Blackstone, Blackwater, Bridgewater, Bristol, Broadway, Burgess, Calverton, Charlottesville, Clintwood, Crozier, Culpeper, Dahlgren, Damascus, Dillwyn, Edinburg, Elkton, Fairfax, Fredericksburg, Gate City, Glade Spring, Grundy, Harrisonburg, Hightown, Hillsboro, Honaker, Kilmarnock, Louisa, Luray, McDowell, Madison, Manassas, Marshall, Middleburg, Montpelier, Norton, Orange, Port Royal, Powhatan, Quantico, Riverton, Roseland, Scottsville, Sparta, Staunton, Tappahannock, Walkerton, Warrenton, Warsaw, Washington, Waynesboro, Wilson, Winchester, and Woodstock, Va.

(15) Between Durham, N.C., on the one hand, and, on the other, Arlington, Ashland, Berryville, Blackwater, Broadway, Burgess, Calverton, Crozier, Culpeper, Dahlgren, Edinburg, Fairfax, Fredericksburg, Hightown, Hillsboro, Kilmarnock, Luray, McDowell, Madison, Manassas, Marshall, Middleburg, Montpelier, Port Royal, Quantico, Riverton, Sparta, Tappahannock, Walkerton, Warrenton, Warsaw, Washington, Winchester, and Woodstock, Pa.

(16) Between Edenton, N.C., on the one hand, and, on the other, those points in Virginia listed in (5) above.

(17) Between Elizabeth City, N.C., on the one hand, and, on the other, Altavista, Amelia, Amherst, Appomattox, Arlington, Ashland, Bedford, Berryville, Blacksburg, Blackstone, Blackwater, Bluefield, Bridgewater, Bristol, Broadway, Brookneal, Burkeville, Calverton, Charlotte C.H., Charlottesville, Chase City, Clarksville, Clifton Forge, Clintwood, Covington, Culpeper, Cumberland, Dahlgren, Damascus, Dillwyn, Edinburg, Elkton, Fairfax, Farmville, Floyd, Fredericksburg, Galax, Gate City, Glade Spring, Glasgow, Gretna, Grundy, Harrisonburg, Hightown, Hillsboro, Hillsville, Honaker, Hot Springs, Independence, Ivanhoe, Keysville, Lebanon, Lexington, Luray, Lynchburg, McDowell, Madison,

Manassas, Marion, Marshall, Martinsville, Middleburg, New Castle, Norton, Orange, Pearisburg, Powhatan, Pulaski, Quantico, Radford, Raphine, Riverton, Roanoke, Rocky Mount, Roseland, Scottsville, South Boston, Sparta, Staunton, Stuart, Tazewell, Troutville, Victoria, Warrenton, Washington, Waynesboro, Wilson, Winchester, Woodstock, and Wytheville, Va.

(18) Between Elizabethtown, N.C., on the one hand, and, on the other, Amelia, Arlington, Ashland, Berryville, Blackstone, Blackwater, Bridgewater, Bristol, Broadway, Burgess, Burkeville, Calverton, Charlottesville, Clifton Forge, Clintwood, Columbia, Crozier, Culpeper, Cumberland, Dahlgren, Damascus, Dillwyn, Edinburg, Elkton, Fairfax, Farmville, Fredericksburg, Gate City, Glade Spring, Glasgow, Grundy, Harrisonburg, Hightown, Hillsboro, Honaker, Hot Springs, Independence, Ivanhoe, Keysville, Kilmarnock, Lebanon, Lexington, Louisa, Luray, McDowell, Madison, Manassas, Marion, Marshall, Middleburg, Montpelier, Norton, Orange, Port Royal, Powhatan, Quantico, Radford, Raphine, Riverton, Roseland, Scottsville, Sparta, Staunton, Tappahannock, Tazewell, Victoria, Walkerton, Warrenton, Warsaw, Washington, Waynesboro, Wilson, Winchester, and Woodstock, Va.

(19) Between Fairview, N.C., on the one hand, and, on the other, those points in Virginia listed in (5) above.

(20) Between Farmville, N.C., on the one hand, and, on the other, Altavista, Amelia, Amherst, Appomattox, Arlington, Ashland, Bedford, Berryville, Blacksburg, Blackstone, Blackwater, Bluefield, Bridgewater, Bristol, Broadway, Brookneal, Burgess, Burkeville, Calverton, Charlotte C.H., Charlottesville, Clarksville, Clifton Forge, Clintwood, Columbia, Covington, Crozier, Culpeper, Cumberland, Dahlgren, Damascus, Dillwyn, Edinburg, Elkton, Fairfax, Farmville, Fredericksburg, Galax, Gate City, Glade Spring, Glasgow, Gretna, Grundy, Harrisonburg, Hightown, Hillsboro, Hillsville, Honaker, Hot Springs, Independence, Ivanhoe, Keysville, Kilmarnock, Lebanon, Lexington, Louisa, Luray, Lynchburg, McDowell, Madison, Manassas, Marion, Marshall, Martinsville, Middleburg, Montpelier, New Castle, Norton, Orange, Pearisburg, Port Royal, Powhatan, Pulaski, Quantico, Radford, Raphine, Riverton, Roanoke, Rocky Mount, Roseland, Scottsville, South Boston, Sparta, Staunton, Stuart, Tappahannock, Tazewell, Troutville, Victoria, Walkerton, Warrenton, Warsaw, Washington, Waynesboro, Wilson, Winchester, Woodstock, and Wytheville, Va.

(21) Between Fayetteville, N.C., on the one hand, and, on the other, Amelia, Arlington, Ashland, Berryville, Blackstone, Blackwater, Bridgewater, Bristol, Broadway, Burgess, Burkeville, Calverton, Charlottesville, Clintwood, Columbia, Crozier, Culpeper, Cumberland, Dahlgren, Damascus, Dillwyn, Edinburg, Elkton, Fairfax, Farmville, Fredericksburg, Gate City, Glade Spring, Grundy, Harrisonburg, Hightown, Hillsboro, Honaker, Kilmarnock, Lebanon, Louisa, Luray, McDowell, Madison, Manassas, Marshall, Middleburg, Montpelier, Norton, Orange, Port Royal, Powhatan, Quantico, Riverton, Scottsville, Sparta, Staunton, Tappahannock, Warrenton, Warsaw, Washington, Waynesboro, Wilson, Winchester, and Woodstock, Va.

(22) Between Fremont, N.C., on the one hand, and, on the other, Altavista, Amelia, Amherst, Arlington, Ashland, Bedford, Berryville, Blacksburg, Blackstone, Blackwater, Bluefield, Bridgewater, Bristol, Broadway, Burgess, Burkeville, Calverton, Charlottesville, Clifton Forge, Clintwood, Columbia, Covington, Crozier, Culpeper, Cumberland, Dahlgren, Damascus, Dillwyn, Edinburg, Elkton, Fairfax, Farmville, Fredericksburg, Gate City, Glade Spring, Glasgow, Grundy, Harrisonburg, Hightown, Hillsboro, Honaker, Hot Springs, Independence, Ivanhoe, Keysville, Kilmarnock, Lebanon, Lexington, Louisa, Luray, Lynchburg, McDowell, Madison, Manassas, Marion, Marshall, Middleburg, Montpelier, New Castle, Norton, Orange, Pearisburg, Port Royal, Powhatan, Pulaski, Quantico, Raphine, Riverton, Roanoke, Rocky Mount, Roseland, Scottsville, Sparta, Staunton, Tappahannock, Tazewell, Troutville, Victoria, Walkerton, Warrenton, Warsaw, Washington, Waynesboro, Wilson, Winchester, and Woodstock, Va.

(23) Between Fuquay Varina, N.C., on the one hand, and, on the other, Amelia, Arlington, Ashland, Berryville, Blackstone, Blackwater, Bridgewater, Bristol, Broadway, Burgess, Burkeville, Calverton, Charlottesville, Clintwood, Crozier, Culpeper, Cumberland, Dahlgren, Damascus, Dillwyn, Edinburg, Elkton, Fairfax, Farmville, Fredericksburg, Gate City, Glade Spring, Grundy, Harrisonburg, Hightown, Hillsboro, Honaker, Kilmarnock, Lebanon, Louisa, Luray, McDowell, Madison, Manassas, Marshall, Middleburg, Montpelier, Norton, Orange, Port Royal, Powhatan, Quantico, Riverton, Scottsville, Sparta, Staunton, Tappahannock, Walkerton, Warrenton, Warsaw, Washington, Waynesboro, Wilson Winchester, and Woodstock, Va.

(24) Between Goldsboro, N.C., on the one hand, and, on the other, Altavista, Amelia, Amherst, Appomattox, Arlington, Ashland, Bedford, Berryville, Blackstone, Blackwater, Bridgewater, Bristol, Broadway, Brookneal, Burgess, Burkeville, Calverton, Charlotte C.H., Charlottesville, Clifton Forge, Clintwood, Columbia, Covington, Crozier, Culpeper, Cumberland, Damascus, Dillwyn, Edinburg, Elkton, Fairfax, Farmville, Fredericksburg, Gate City, Glade Spring, Glasgow, Grundy, Harrisonburg, Hightown, Hillsboro, Honaker, Hot Springs, Keysville, Kilmarnock, Lebanon, Lexington, Louisa, Luray, Lynchburg, McDowell, Madison, Manassas, Marion, Marshall, Middleburg, Montpelier, Norton, Orange, Port Royal, Powhatan, Quantico, Raphine, Riverton, Roseland, Scottsville, Sparta, Staunton, Tappahannock, Tazewell, Victoria, Walkerton, Warrenton, Warsaw, Washington, Waynesboro, Wilson, Winchester, and Woodstock, Va.

(25) Between Grandy, N.C., on the one hand, and, on the other, Altavista, Amelia, Amherst, Appomattox, Arlington, Ashland, Bedford, Berryville, Blacksburg, Blackstone, Blackwater, Bluefield, Bridgewater, Bristol, Broadway, Brookneal, Burkeville, Calverton, Charlotte C.H., Charlottesville, Chase City, Clarkesville, Clifton Forge, Clintwood, Covington, Crozier, Culpeper, Cumberland, Dahlgren, Damascus, Dillwyn, Edinburg, Elkton, Fairfax, Farmville, Floyd, Fredericksburg, Galax, Gate City, Glade Spring, Glasgow, Gretna, Grundy, Harrisonburg, Hightown, Hillsboro, Hillsville, Honaker, Hot Springs, Independence, Ivanhoe, Keysville, Lebanon, Lexington, Luray, Lynchburg, McDowell, Madison, Manassas, Marion, Marshall, Martinsville, Middleburg, Montpelier, Norton, Orange, Pearisburg, Port Royal, Powhatan, Pulaski, Quantico, Radford, Raphine, Riverton, Roanoke, Rocky Mount, Roseland, Scottsville, South Boston, Sparta, Staunton, Stuart Tazewell, Troutville, Victoria, Warrenton, Warsaw, Washington, Waynesboro, Wilson, Winchester, Woodstock, and Wytheville, Va.

(26) Between Greensboro, N.C., on the one hand, and, on the other, Arlington, Ashland, Blackwater, Burgess, Calverton, Crozier, Dahlgren, Edinburg, Fairfax, Fredericksburg, Kilmarnock, Luray, Manassas, Marshall, Middleburg, Montpelier, Port Royal, Quantico, Sparta, Tappahannock, Walkerton, Warrenton, Warsaw, and Woodstock, Va.

(27) Between Greenville, N.C., on the one hand, and, on the other, those points in Virginia listed in (5) above.

(28) Between Henderson, N.C., on the one hand, and, on the other, Arlington, Ashland, Berryville, Blackwater, Bridgewater, Broadway, Burgess, Calverton, Charlottesville, Clintwood, Culpeper, Dahlgren, Edinburg, Elkton, Fairfax, Fredericksburg, Gate City, Grundy, Harrisonburg, Hightown, Hillsboro, Kilmarnock, Louisa, McDowell, Madison, Manassas, Marshall, Middleburg, Montpelier, Orange, Port Royal, Pulaski, Quantico, Riverton, Sparta, Staunton, Tappahannock, Walkerton, Warrenton, Warsaw, Washington, Waynesboro, and Winchester, Va.

(29) Between Holly Ridge, N.C., on the one hand, and, on the other, those points in Virginia listed in (5) above except Floyd, Va.

(30) Between Jacksonville, N.C., on the one hand, and, on the other, Altavista, Amelia, Amherst, Appomattox, Arlington, Ashland, Bedford, Berryville, Blacksburg, Blackstone, Blackwater, Bluefield, Bridgewater, Broadway, Brookneal, Burgess, Burkeville, Calverton, Charlotte C.H., Charlottesville, Chase City, Clarksville, Clifton Forge, Clintwood, Columbia, Covington, Crozier, Culpeper, Cumberland, Dahlgren, Damascus, Dillwyn, Edinburg, Elkton, Fairfax, Farmville, Fredericksburg, Gate City, Glade Spring, Glasgow, Gretna,

Grundy, Harrisonburg, Hightown, Hillsboro, Hillsville, Honaker, Hot Springs, Independence, Ivanhoe, Keysville, Kilmarnock, Lebanon, Lexington, Louisa, Luray, Lynchburg, McDowell, Madison, Manassas, Marion, Marshall, Middleburg, Montpelier, New Castle, Norton, Orange, Pearisburg, Port Royal, Powhatan, Pulaski, Quantico, Raphine, Riverton, Roanoke, Rocky Mount, Roseland, Scottsville, South Boston, Sparta, Staunton, Stuart, Tappahannock, Tazewell, Troutville, Victoria, Walkerton, Warrenton, Warsaw, Washington, Waynesboro, Wilson, Winchester, Woodstock, and Wytheville, Va.

(31) Between Kinston, N.C., on the one hand, and, on the other, those points in Virginia listed in (5) above except Floyd, Galax, Hillsville, Martinsville, Radford, and Stuart, Va.

(32) Between Laurinburg, N.C., on the one hand, and, on the other, Amelia, Arlington, Ashland, Berryville, Blacksburg, Blackstone, Blackwater, Bluefield, Bridgewater, Bristol, Broadway, Burgess, Burkeville, Calverton, Charlottesville, Clintwood, Columbia, Crozier, Culpeper, Cumberland, Dahlgren, Damascus, Dillwyn, Edinburg, Elkton, Fairfax, Farmville, Fredericksburg, Galax, Gate City, Glade Spring, Grundy, Harrisonburg, Hightown, Hillsboro, Hillsville, Honaker, Independence, Ivanhoe, Keepville, Kilmarnock, Lebanon, Louisa, Luray, McDowell, Madison, Manassas, Marion, Marshall, Middleburg, Montpelier, Norton, Orange, Pearisburg, Port Royal, Powhatan, Pulaski, Quantico, Radford, Raphine, Riverton, Scottsville, Sparta, Staunton, Tappahannock, Tazewell, Victoria, Walkerton, Warrenton, Warsaw, Washington, Waynesboro, Wilson, Winchester, Woodstock, and Wytheville, Va.

(33) Between Lillington, N.C., on the one hand, and, on the other, Amelia, Arlington, Ashland, Berryville, Blackstone, Blackwater, Bridgewater, Bristol, Broadway, Burgess, Burkeville, Calverton, Charlottesville, Clintwood, Columbia, Crozier, Culpeper, Cumberland, Dahlgren, Damascus, Dillwyn, Edinburg, Elkton, Fairfax, Farmville, Fredericksburg, Gate City, Glade Spring, Grundy, Harrisonburg, Hightown, Hillsboro, Honaker, Keysville, Kilmarnock, Lebanon, Louisa, Luray, McDowell, Madison, Manassas, Marshall, Middleburg, Montpelier, Port Royal, Powhatan, Quantico, Riverton, Scottsville, Sparta, Staunton, Tappahannock, Tazewell, Victoria, Walkerton, Warrenton, Warsaw, Washington, Waynesboro, Wilson, Winchester, and Woodstock, Va.

(34) Between Louisburg, N.C., on the one hand, and, on the other, Amelia, Arlington, Ashland, Berryville, Blackstone, Blackwater, Bridgewater, Bristol, Broadway, Burgess, Burkeville, Calverton, Charlotte C.H., Charlottesville, Clifton Forge, Clintwood, Columbia, Covington, Crozier, Culpeper, Cumberland, Dahlgren, Damascus, Dillwyn, Edinburg, Elkton, Fairfax, Farmville, Fredericksburg, Gate City, Glade Spring, Grundy, Harrisonburg, Hightown, Hillsboro, Honaker, Hot Springs, Kilmarnock, Lebanon, Louisa, Luray, McDowell, Madison, Manassas, Marion, Marshall, Middleburg, Montpelier, Norton, Orange, Port Royal, Powhatan, Quantico, Riverton, Roseland, Scottsville, Sparta, Staunton, Tappahannock, Tazewell, Victoria, Walkerton, Warrenton, Warsaw, Washington, Waynesboro, Wilson, Winchester, and Woodstock, Va.

(35) Between Lumberton, N.C., on the one hand, and, on the other, Amelia, Arlington, Ashland, Berryville, Blackstone, Blackwater, Bridgewater, Bristol, Broadway, Burgess, Burkeville, Calverton, Charlottesville, Clintwood, Columbia, Crozier, Culpeper, Cumberland, Dahlgren, Damascus, Dillwyn, Edinburg, Elkton, Fairfax, Farmville, Fredericksburg, Galax, Gate City, Glade Spring, Grundy, Harrisonburg, Hightown, Hillsboro, Honaker, Independence, Kilmarnock, Lebanon, Louisa, Luray, McDowell, Madison, Manassas, Marion, Marshall, Middleburg, Montpelier, Norton, Orange, Port Royal, Powhatan, Quantico, Radford, Riverton, Roseland, Scottsville, Sparta, Staunton, Tappahannock, Tazewell, Victoria, Walkerton, Warrenton, Warsaw, Washington, Waynesboro, Wilson, Winchester, and Woodstock, Va.

(36) Between Manns Harbor, N.C., on the one hand, and, on the other, those points in Virginia listed in (5) above except Burgess and Kilmarnock, Va.

(37) Between Monroe, N.C., on the one hand, and, on the other, those points in Virginia listed in (5) above.

(38) Between Morehead City, N.C., on the one hand, and, on the other, those points in Virginia listed in (5) above.

(39) Between Morven, N.C., on the one hand, and, on the other, Arlington, Ashland, Berryville, Blacksburg, Blackwater, Bridgewater, Bristol, Broadway, Burgess, Calverton, Charlottesville, Clifton Forge, Clintwood, Columbia, Covington, Culpeper, Dahlgren, Damascus, Edinburg, Elkton, Fairfax, Fredericksburg, Gate City, Glade Spring, Glasgow, Grundy, Harrisonburg, Hightown, Hillsboro, Honaker, Hot Springs, Independence, Kilmarnock, Lebanon, Lexington, Louisa, Luray, McDowell, Madison, Manassas, Marion, Marshall, Middleburg, Montpelier, Norton, Orange, Pearisburg, Port Royal, Quantico, Radford, Raphine, Riverton, Scottsville, Sparta, Staunton, Tappahannock, Tazewell, Walkerton, Warrenton, Warsaw, Washington, Waynesboro, Winchester, and Woodstock, Va.

(40) Between Murfreesboro, N.C., on the one hand, and, on the other, those points in Virginia listed in (5) above.

(41) Between New Bern, N.C., on the one hand, and, on the other, those points in Virginia listed in (5) above except Floyd, Va.

(42) Between Pittsboro, N.C., on the one hand, and, on the other, Arlington, Ashland, Berryville, Blackstone, Blackwater, Broadway, Burgess, Calverton, Clintwood, Crozier, Culpeper, Dahlgren, Edinburg, Elkton, Fairfax, Fredericksburg, Harrisonburg, Hightown, Hillsboro, Kilmarnock, Louisa, Luray, McDowell, Madison, Manassas, Marshall, Middleburg, Montpelier, Orange, Port Royal, Quantico, Riverton, Sparta, Tappahannock, Walkerton, Warrenton, Warsaw, Washington, Wilson, Winchester, and Woodstock, Va.

(43) Between Plymouth, N.C., on the one hand, and, on the other, those points in Virginia listed in (5) above, except Burgess and Kilmarnock, Va.

(44) Between Pollocksville, N.C., on the one hand, and on the other, those points in Virginia, except Bristol, Floyd, and Radford, Va.

(45) Between Raleigh, N.C., on the one hand, and, on the other, Amelia, Arlington, Ashland, Berryville, Blackstone, Blackwater, Bridgewater, Bristol, Broadway, Burgess, Burkeville, Calverton, Charlottesville, Clintwood, Columbia, Crozier, Culpeper, Cumberland, Dahlgren, Damascus, Dillwyn, Edinburg, Elkton, Fairfax, Farmville, Fredericksburg, Gate City, Glade Spring, Grundy, Harrisonburg, Hightown, Hillsboro, Honaker, Kilmarnock, Lebanon, Louisa, Luray, McDowell, Madison, Manassas, Marion, Marshall, Middleburg, Montpelier, Norton, Orange, Port Royal, Powhatan, Quantico, Riverton, Scottsville, Spara, Staunton, Tappahannock, Tazewell, Victoria, Walkerton, Warrenton, Warsaw, Washington, Waynesboro, Wilson, Winchester, and Woodstock, Va.

(46) Between Richlands, N.C., on the one hand, and, on the other, those points in Virginia listed in (5) above except Floyd, Galax, Gretna, Hillsville, Martinsville, Radford, and Stuart, Va.

(47) Between Rich Square, N.C., on the one hand, and, on the other, those points in Virginia listed in (5) above.

(48) Between Rockingham, N.C., on the one hand, and, on the other, Amelia, Arlington, Ashland, Berryville, Blacksburg, Blackstone, Blackwater, Bluefield, Bridgewater, Bristol, Broadway, Burgess, Calverton, Charlottesville, Clintwood, Crozier, Culpeper, Dahlgren, Damascus, Edinburg, Elkton, Fairfax, Floyd, Fredericksburg, Gate City, Glade Spring, Grundy, Harrisonburg, Hightown, Hillsboro, Honaker, Independence, Ivanhoe, Kilmarnock, Lebanon, Louisa, Luray, McDowell, Madison, Manassas, Marion, Marshall, Middleburg, Montpelier, Norton, Pearisburg, Port Royal, Powhatan, Pulaski, Radford, Riverton, Scottsville, Sparta, Staunton, Tappahannock, Tazewell, Walkerton, Warrenton, Warsaw, Washington, Wilson, Winchester, and Woodstock, Va.

(49) Between Rocky Mount, N.C., on the one hand, and, on the other, those points in Virginia listed in (5) above, except Clarksville and South Boston, Va.

(50) Between Roxboro, N.C., on the one hand, and, on the other, Arlington, Ashland, Berryville, Blackwater, Burgess, Calverton, Dahlgren, Fairfax, Fredericksburg, Hillsboro, Kilmarnock, Manassas, Marshall, Middleburg, Port Royal, Quantico, Sparta, Tappahannock, Walkerton, Warrenton, and Warsaw, Va.

(51) Between Salisbury, N.C., on the one hand, and, on the other, Arlington, Ashland, Berryville, Blacksburg, Black-

water, Bridgewater, Broadway, Burgess, Calverton, Clintwood, Crozier, Culpeper, Dahlgren, Edinburg, Elkton, Fairfax, Floyd, Fredericksburg, Harrisonburg, Hillsboro, Kilmarnock, Luray, Madison, Manassas, Marshall, Middleburg, Montpelier, Orange, Port Royal, Quantico, Riverton, Sparta, Tappahannock, Walkerton, Warrenton, Warsaw, Washington, and Woodstock, Va.

(52) Between Sanford, N.C., on the one hand, and, on the other, Amelia, Arlington, Ashland, Berryville, Blackstone, Blackwater, Bridgewater, Bristol, Broadway, Burgess, Burkeville, Calverton, Charlottesville, Clintwood, Crozier, Culpeper, Dahlgren, Damascus, Dillwyn, Edinburg, Elkton, Fairfax, Fredericksburg, Gate City, Glade Spring, Grundy, Harrisonburg, Hightown, Hillsboro, Honaker, Independence, Kilmarnock, Lebanon, Louisa, Luray, McDowell, Madison, Manassas, Marshall, Middleburg, Montpelier, Norton, Orange, Port Royal, Powhatan, Riverton, Scottsville, Sparta, Staunton, Tappahannock, Walkerton, Warrenton, Warsaw, Washington, Wilson, Winchester, and Woodstock, Va.

(53) Between Scotland Neck, N.C., on the one hand, and, on the other, those points in Virginia listed in (5) above.

(54) Between Smithfield, N.C., on the one hand, and, on the other, Amelia, Appomattox, Arlington, Ashland, Berryville, Blackstone, Blackwater, Bridgewater, Bristol, Broadway, Burgess, Burkeville, Calverton, Charlottesville, Clintwood, Columbia, Covington, Crozier, Culpeper, Cumberland, Dahlgren, Damascus, Dillwyn, Edinburg, Elkton, Fairfax, Farmville, Fredericksburg, Gate City, Glade Spring, Gretna, Grundy, Harrisonburg, Hightown, Hillsboro, Hillsville, Honaker, Hot Springs, Kilmarnock, Lebanon, Louisa, Luray, McDowell, Madison, Manassas, Marion, Marshall, Middleburg, Montpelier, Norton, Orange, Port Royal, Powhatan, Quantico, Raphine, Riverton, Roseland, Scottsville, Sparta, Staunton, Tappahannock, Tazewell, Victoria, Walkerton, Warrenton, Warsaw, Washington, Waynesboro, Wilson, Winchester, Woodstock, and Wytheville, Va.

(55) Between Tabor City, N.C., on the one hand, and, on the other, those points in Virginia listed in (5) above, except Altavista, Bedford, Brookneal, Clarksville, Gretna, Martinsville, Rocky Mount, and South Boston, Va.

(56) Between Tarboro, N.C., on the one hand, and, on the other, those points in Virginia listed in (5) above.

(57) Between Troy, N.C., on the one hand, and, on the other, Amelia, Arlington, Ashland, Berryville, Blackstone, Blackwater, Bristol, Burgess, Burkeville, Calverton, Clintwood, Crozier, Culpeper, Cumberland, Dahlgren, Damascus, Dillwyn, Edinburg, Fairfax, Farmville, Fredericksburg, Gate City, Glade Spring, Grundy, Hillsboro, Honaker, Kilmarnock, Lebanon, Luray, Madison, Manassas, Marion, Marshall, Middleburg, Montpelier, Norton, Port Royal, Powhatan, Quantico, Riverton, Scottsville, Sparta, Tappahannock, Tazewell, Walkerton, Warrenton, Warsaw, Washington, Wilson, Winchester, and Woodstock, Va.

(58) Between Vandemere, N.C., on the one hand, and, on the other, those points in Virginia listed in (5) above, except Pearisburg and Port Royal, Va.

(59) Between Shallotte, N.C., on the one hand, and, on the other, those points in Virginia listed in (5) above, except Altavista, Bedford, Brookneal, Clarksville, Gretna, New Castle, Roanoke, Rocky Mount, South Boston, and Troutville, Va.

(60) Between Southport, N.C., on the one hand, and, on the other, those points in Virginia lised in (5) above, except Gretna, Martinsville, Rocky Mount, and South Boston, Va.

(61) Between Sunbury, N.C., on the one hand, and, on the other, those points in Virginia listed in (5) above, except Burgess, Columbia, Crozier, Kilmarnock, Louisa, Montpelier, Sparta, Tappahannock, Walkerton, and Warsaw, Va.

(62) Between Swanquarter, N.C., on the one hand, and, on the other, those points in Virginia listed in (5) above, except Burgess and Kilmarnock, Va.

(63) Between Swansboro, N.C., on the one hand, and, on the other, those points in Virginia listed in (5) above.

(64) Between Wadesboro, N.C., on the one hand, and, on the other, Arlington, Ashland, Berryville, Blacksburg, Blackwater, Bridgewater, Bristol, Broadway, Burgess, Calverton, Charlottesville, Clifton Forge, Clintwood, Covington, Culpeper, Dahlgren, Damascus, Edinburg, Elkton, Fairfax, Fredericksburg, Gate City, Glade Spring, Glasgow, Grundy, Harrisonburg, Hightown, Hillsboro, Honaker, Hot Springs, Independence, Kilmarnock, Lebanon, Lexington, Louisa, Luray, McDowell, Madison, Manassas, Marion, Marshall, Middelburg, Montpelier, Norton, Orange, Port Royal, Quantico, Radford, Raphine, Riverton, Scottsville, Sparta, Staunton, Tappahannock, Tazewell, Walkerton, Warrenton, Warsaw, Washington, Waynesboro, Winchester, and Woodstock, Va.

(65) Between Wallace, N.C., on the one hand, and, on the other, Altavista, Amelia, Amherst, Appomattox, Arlington, Ashland, Bedford, Berryville, Blackstone, Blackwater, Bridgewater, Bristol, Broadway, Burgess, Burkeville, Calverton, Charlotte C. H., Charlottesville, Chase City, Clarksville, Clifton Forge, Clintwood, Columbia, Covington, Crozier, Culpeper, Cumberland, Dahlgren, Damascus, Dillwyn, Edinburg, Elkton, Fairfax, Farmville, Fredericksburg, Gate City, Glade Spring, Glasgow, Grundy, Harrisonburg, Hightown, Hillsboro, Honaker, Hot Springs, Independence, Keysville, Kilmarnock, Lebanon, Lexington, Louisa, Luray, Lynchburg, McDowell, Madison, Manassas, Marion, Marshall, Middleburg, Montpelier, New Castle, Norton, Orange, Port Royal, Powhatan, Quantico, Raphine, Riverton, Roseland, Scottsville, Sparta, Staunton, Tappahannock, Tazewell, Victoria, Walkerton, Warrenton, Warsaw, Washington, Waynesboro, Wilson, Winchester, and Woodstock, Va.

(66) Between Warrenton, N.C., on the one hand, and, on the other, Altavista, Arlington, Ashland, Berryville, Blackwater, Bridgewater, Bristol, Broadway, Burgess, Calverton, Charlottesville, Clifton Forge, Clintwood, Crozier, Culpeper, Cumberland, Dahlgren, Dillwyn, Edinburg, Elkton, Fairfax, Fredericksburg, Gate City, Glade Spring, Grundy, Harrisonburg, Hightown, Hillsboro, Honaker, Hot Springs, Kilmarnock, Lebanon, Louisa, Luray, McDowell, Madison, Manassas, Marion, Marshall, Middleburg, Montpelier, Norton, Orange, Pearisburg, Port Royal, Quantico, Radford, Riverton, Roseland, Scottsville, Sparta, Staunton, Tappahannock, Tazewell, Walkerton, Warrenton, Warsaw, Washington, Waynesboro, Winchester, and Woodstock, Va.

(67) Between Warsaw, N.C., on the one hand, and, on the other, Altavista, Amelia, Amherst, Appomattox, Arlington, Ashland, Bedford, Berryville, Blackstone, Blackwater, Bridgewater, Bristol, Broadway, Burgess, Burkeville, Calverton, Charlottesville, Chase City, Clifton Forge, Clintwood, Columbia, Covington, Crozier, Culpeper, Cumberland, Dahlgren, Damascus, Dillwyn, Edinburg, Elkton, Fairfax, Farmville, Fredericksburg, Gate City, Glade Spring, Glasgow, Grundy, Harrisonburg, Hightown, Hillsboro, Honaker, Hot Springs, Keysville, Kilmarnock, Lebanon, Lexington, Louisa, Luray, Lynchburg, McDowell, Madison, Manassas, Marion, Marshall, Middleburg, Montpelier, Norton, Orange, Port Royal, Powhatan, Quantico, Raphine, Riverton, Roseland, Scottsville, Sparta, Staunton, Tappahannock, Victoria, Walkerton, Warrenton, Warsaw, Washington, Waynesboro, Wilson, Winchester, and Woodstock, Va.

(68) Between Washington, N.C., on the one hand, and, on the other, those points in Virginia listed in (5) above except Blackwater, Bristol, Damascus, and Gate City, Va.

(69) Between Whiteville, N.C., on the one hand, and, on the other, Amelia, Amherst, Appomattox, Arlington, Ashland, Berryville, Blacksburg, Blackstone, Blackwater, Bluefield, Bridgewater, Bristol, Broadway, Burgess, Burkeville, Calverton, Charlotte C.H., Charlottesville, Chase City, Clifton Forge, Clintwood, Columbia, Crozier, Culpeper, Cumberland, Dahlgren, Damascus, Dillwyn, Edinburg, Elkton, Fairfax, Farmville, Floyd, Fredericksburg, Galax, Gate City, Glade Spring, Glasgow, Grundy, Harrisonburg, Hightown, Hillsboro, Hillsville, Honaker, Hot Springs, Independence, Ivanhoe, Keysville, Kilmarnock, Lebanon, Lexington, Louisa, Luray, McDowell, Madison, Manassas, Marion, Marshall, Middleburg, Montpelier, Norton, Orange, Pearisburg, Port Royal, Powhatan, Pulaski, Quantico, Radford, Raphine, Riverton, Roseland, Scottsville, Sparta, Staunton, Stuart, Tappahannock, Victoria, Walkerton, Warrenton, Warsaw, Washington, Waynesboro, Wilson, Winchester, and Woodstock, Va.

(70) Between Willimaston, N.C., on one hand, and, on the other, those points in Virginia listed in (5) above.

(71) Between Wilmington, N.C., on the one hand, and, on the other, those points listed in (5) above except Brookneal, Floyd, Gretna, Roanoke, Rocky Mount, South Boston, and Troutville, Va.

(72) Between Wilson, N.C., on the one hand, and, on the other, Appomattox, Brookneal, Charlotte C.H., Chase City, Clarksville, Floyd, Galax, Gretna, Hillsville, Ivanhoe, Martinsville, Radford, Rocky Mount, South Boston, Stuart, and Wytheville, Va.

(73) Between Windsor, N.C., on the one hand, and, on the other, those points in Virginia listed in (5) above except Burgess, Va.

(74) Between Zebulon, N.C., on the one hand, and, on the other, Amelia, Appomattox, Arlington, Ashland, Berryville, Blackwater, Bridgewater, Bristol, Broadway, Burgess, Burkeville, Calverton, Charlottesville, Clintwood, Crozier, Culpeper, Dahlgren, Damascus, Edinburg, Elkton, Fairfax, Fredericksburg, Gate City, Glade Spring, Grundy, Harrisonburg, Hightown, Hillsboro, Honaker, Hot Springs, Kilmarnock, Lebanon, Louisa, Luray, McDowell, Madison, Manassas, Marion, Marshall, Middleburg, Montpelier, Norton, Orange, Port Royal, Powhatan, Quantico, Riverton, Roseland, Sparta, Staunton, Tappahannock, Tazewell, Walkerton, Warrenton, Warsaw, Washington, Waynesboro, Winchester, and Woodstock, Va. The purpose of this filing is to eliminate the gateways at Roanoke Rapids and Charlotte, N.C.

No. MC–103051 (Sub-No. E1), filed May 10, 1974. Applicant: FLEET TRANSPORT COMPANY, INC., P.O. Box 90408, Nashville, Tenn. 37209. Applicant's representative: Russell E. Stone (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Oils and fats and blends thereof*, from points in North Carolina to points in Kentucky (except Jefferson County), Mississippi, Arkansas, and Illinois (except Jacksonville and points within 5 miles thereof, Champaign, and Chicago). (2) *Vegetable oils and vegetable oil shortening*, from Savannah, Ga., to Chattanooga, Tenn. (3) *Vegetable oils, animal oils, and fats and blends thereof* (except tall oil or naval stores), from points in Florida to points in Kentucky (except Jefferson County), Arkansas, Michigan, Illinois (except Jacksonville and points within 5 miles thereof, Champaign, and Chicago), Indiana, Ohio (except Columbus and Cincinnati), Pennsylvania, West Virginia, and New York. (4) *Oils and fats and blends thereof*, in bulk, in tank vehicles, from points in South Carolina (except animal oils and grease, from Society Hill and Bennettsville), to points in Mississippi, Kentucky, Arkansas, Michigan, Illinois (except Jacksonville and points within five miles thereof, Champaign, and Chicago) and Indiana. (5) *Vegetable oils, animal oils, and fats and blends thereof*, from points in Kentucky (except Jefferson County), to points in Georgia, South Carolina, and Florida. (6) *Oils and fats and blends thereof*, from points in Virginia (except vegetable oils) from Portsmouth, Va., to Chattanooga, Tenn., to points in Alabama, Arkansas, and Mississippi. (7) *Vegetable oils, animal oils, and fats and blends thereof* (except tall oil or naval stores), in bulk, in tank vehicles, from points in Arkansas to points in Georgia, North Carolina, New York (except Rochester), South Carolina, Virginia (except cottonseed oil, soybean oil, and peanut oil to Suffolk, Va.), Florida, Pennsylvania, Maryland, West Virginia, and New Jersey. (8) *Vegetable oils, animal oils, and fats and blends thereof*, from points in Illinois (except Jacksonville and points within 5 miles thereof, Champaign and Chicago), to points in Alabama, Georgia, South Carolina, Florida, and North Carolina. (9) *Vegetable oil, animal oil, and fats and blends thereof*, in bulk, in tank vehicles, from points in Indiana to points in Alabama, Georgia, South Carolina, and Florida. (10) *Vegetable oil, animal oils, and fats and blends thereof*, in bulk, in tank vehicles, from points in Ohio (except Columbus and Cincinnati), to points in Alabama, Georgia, South Carolina, Florida. The purpose of this filing is to eliminate the gateways of Chattanooga, Tenn., in proposal numbers 1, 3, 4, 5, 6, 7 8, 9, 10, and in proposal number 2.

No. MC–107002 (Sub-No. E5), filed April 18, 1974. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: John J. Borth (same as above). Authority sought to operate as a *common carrier*, by motor vericle, over irregular routes, transporting: *Chemicals*, in bulk, in tank or hopper-type trailers, from Mobile, Ala., to points in Illinois, Iowa, Kansas, Missouri, Ohio, Wisconsin, Indiana, Michigan, and Kentucky. The purpose of this filing is to eliminate the gateway of a point in Arkansas at the junction of Interstate Highway 55 and Arkansas Highway 18 (which is within 10 miles of Barfield, Ark.) (except points in eastern Kentucky which are served via the Decatur, Ala., gateway).

No. MC–107478 (Sub-No. E7), filed April 16, 1974. Applicant: OLD DOMINION FREIGHT LINE, P.O. Drawer 2006, High Point, N.C. 27261. Applicant's representative: John T. Coon (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), between Martinsville, Va., on the one hand, and, on the other, points in Georgia and South Carolina on, east, and south of a line beginning at the Alabama-Georgia State line, and extending east along Georgia Highway 62 to Albany, thence along Georgia Highway 257 to its intersection with Georgia Highway 32, thence along Georgia Highway 32 to its intersection with Georgia Highway 107, thence along Georgia Highway 107 to Fitzgerald, thence along U.S. Highway 319 to McRae, thence along U.S. Highway 280 to Mt. Vernon, thence along Georgia Highway 56 to Swainsboro, thence along U.S. Highway 80 to its intersection with Georgia Highway 23, thence along Georgia Highway 23 to Millen, thence along Georgia Highway 21 to Sylvania, thence along U.S. Highway 301 to Allendale, S.C., thence along South Carolina Highway 641 to its intersection with South Carolina Highway 64, thence along South Carolina Highway 64 to its intersection with U.S. Highway 21, thence along U.S. Highway 21 to its intersection with South Carolina Highway 210, thence along South Carolina Highway 210 to Lake Marion, thence along Lake Marion to the Santee River, thence along the Santee River to the Atlantic Ocean. The purpose of this filing is to eliminate the gateway of Charleston, S.C., and points within 15 miles thereof.

No. MC–110525 (Sub-No. E39), filed May 8, 1974. Applicant: CHEMICAL LEAMAN TANK LINES, INC., P.O. Box 200, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals* as defined in *The Maxwell Co., Extension—Addyston*, 63 M.C.C. 677, in bulk, in tank vehicles, from the District of Columbia to points in Ohio. The purpose of this filing is to eliminate the gateways of Morgantown and Natrium, W. Va.

No. MC–110525 (Sub-No. E132), filed May 8, 1974. Applicant: CHEMICAL LEAMAN TANK LINES, INC., P.O. Box 200, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals* as defined in *The Maxwell Co., Extension—Addyston*, 63 M.C.C. 677 (except bituminous products and materials), in bulk, in tank vehicles, from the District of Columbia to points in Montana. The purpose of this filing is to eliminate the gateways of Morgantown and Natrium, W. Va., and Addyston, Ohio.

No. MC–110525 (Sub-No. E133), filed May 8, 1974. Applicant: CHEMICAL LEAMAN TANK LINES, INC., P.O. Box 200, Downington, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals*, in bulk, in tank vehicles, from the District of Columbia to points in Nebraska. The purpose of this filing is to eliminate the gateway of Institute, W. Va.

No. MC–110525 (Sub-No. E134), filed May 8, 1974. Applicant: CHEMICAL LEAMAN TANK LINES, INC., P.O. Box 200, Downington, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same as above). Authority sought to operate as a *common carrier*, by motor vehicle,

over irregular routes, transporting: *Liquid chemicals* as defined in *The Maxwell Co., Extension—Addyston*, 63 M.C.C. 667 (except bituminuous products and materials), in bulk, in tank vehicles, from the District of Columbia to points in Nevada. The purpose of this filing is to eliminate the gateways of Morgantown and Natrium, W. Va., and Addyston, Ohio.

No. MC–110525 (Sub-No. E135), filed May 8, 1974. Applicant: CHEMICAL LEAMAN TANK LINES, INC., P.O. Box 200, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals*, in bulk, in tank vehicles, from the District of Columbia to points in Bergen, Essex, Hudson, Middlesex, Morris, Passaic, Somerset, Union, and Warren Counties, N.J. The purpose of this filing is to eliminate the gateways of Lima and Philadelphia, Pa.

No. MC–110525 (Sub-No. E136), filed May 8, 1974. Applicant: CHEMICAL LEAMAN TANK LINES, INC., P.O. Box 200, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals* as defined in *The Maxwell Co., Extension—Addyston*, 63 M.C.C. 677 (except bituminous products and materials), in bulk, in tank vehicles, from the District of Columbia to points in New Mexico. The purpose of this filing is to eliminate the gateways of Morgantown and Natrium, W. Va., and Addyston, Ohio.

No. MC–110525 (Sub-No. E138), filed May 8, 1974. Applicant: CHEMICAL LEAMAN TANK LINES, INC., P.O. Box 200, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals* as defined in *The Maxwell Co., Extension-Addyston*, 63 M.C.C. 667 (except bituminous products and materials), in bulk, in tank vehicles, from the District of Columbia to points in North Dakota. The purpose of this filing is to eliminate the gateways of Natrium and Morgantown, W. Va., and Addyston, Ohio.

No. MC–110525 (Sub-No. E140), filed May 8, 1974. Applicant: CHEMICAL LEAMAN TANK LINES, INC., P.O. Box 200, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals*, in bulk, in tank vehicles, from the District of Columbia to points in Oklahoma. The purpose of this filing is to eliminate the gateway of Institute, W. Va.

No. MC–110525 (Sub-No. E141), filed May 8, 1974. Applicant: CHEMICAL LEAMAN TANK LINES, INC., P.O. Box 200, Downingtown, Pa. 19355. Applicant's representative: Thomas J. O'Brien (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals* as defined in *The Maxwell Co., Extension—Addyston*, 63 M.C.C. 677 (except bituminous products and materials), in bulk, in tank vehicles, from the District of Columbia to points in Oregon. The purpose of this filing is to eliminate the gateways of Morgantown and Natrium, W. Va., and Addyston, Ohio.

No. MC–110525 (Sub-No. E143), filed May 8, 1974. Applicant: CHEMICAL LEAMAN TANK LINES, INC., P.O. Box 200, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals* as defined in *The Maxwell Co., Extension—Addyston*, 63 M.C.C. 677 (except bituminous products and materials), in bulk, in tank vehicles, from the District of Columbia to points in South Dakota. The purpose of this filing is to eliminate the gateways of Morgantown and Natrium, W. Va., and Addyston, Ohio.

No. MC–110525 (Sub-No. E144), filed May 8, 1974. Applicant: CHEMICAL LEAMAN TANK LINES, INC., P.O. Box 200, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals* as defined in *The Maxwell Co., Extension—Addyston*, 63 M.C.C. 677, in bulk, in tank vehicles, from the District of Columbia to points in Texas. The purpose of this filing is to eliminate the gateway of Institute, W. Va.

No. MC–110525 (Sub-No. E145), filed May 8, 1974. Applicant: CHEMICAL LEAMAN TANK LINES, INC., P.O. Box 200, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals* as defined in *The Maxwell Co., Extension—Addyston*, 63 M.C.C. 677 (except bituminous products materials), in bulk, in tank vehicles, from the District of Columbia to points in Utah. The purpose of this filing is to eliminate the gateways of Morgantown and Natrium, W. Va., and Addyston, Ohio.

No. MC–110525 (Sub-No. E148), filed May 8, 1974. Applicant: CHEMICAL LEAMAN TANK LINES, INC., P.O. Box 200, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals* as defined in *The Maxwell Co., Extension—Addyston*, 63 M.C.C. 677 (except bituminous products and materials), in bulk, in tank vehicles, from the District of Columbia to points in Wyoming. The purpose of this filing is to eliminate the gateways of Morgantown, and Natrium, W. Va., and Addyston, Ohio.

No. MC–110525 (Sub-No. E149), filed May 8, 1974. Applicant: CHEMICAL LEAMAN TANK LINES, INC., P.O. Box 200, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals* as defined in *The Maxwell Co., Extension—Addyston*, 63 M.C.C. 677, in bulk, in tank vehicles, from points in Florida to points in Connecticut. The purpose of this filing is to eliminate the gateways of Institute, W. Va., and Newark, N.J.

No. MC–110525 (Sub-No. E150), filed May 8, 1974. Applicant: CHEMICAL LEAMAN TANK LINES, INC., P.O. Box 200, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals* as defined in *The Maxwell Co., Extension—Addyston*, 63 M.C.C. 677, in bulk, in tank vehicles, from those points in Florida on and east of U.S. Highway 319, to points in Idaho. The purpose of this filing is to eliminate the gateways of Institute, W. Va., and Addyston, Ohio.

No. MC–110525 (Sub-No. E151), filed May 8, 1974. Applicant: CHEMICAL LEAMAN TANK LINES, INC., P.O. Box 200, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals* as defined in *The Maxwell Co., Extension—Addyston*, 63 M.C.C. 677, in bulk, in tank vehicles, from those points in Florida on and east of Florida Highway 121 to points in Iowa. The purpose of this filing is to eliminate the gateway of Institute, W. Va.

No. MC–110525 (Sub-No. E168), filed May 8, 1974. Applicant: CHEMICAL LEAMAN TANK LINES, INC., P.O. Box 200, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals* as defined in *The Maxwell Co., Extension—Addyston*, 63 M.C.C. 677, in bulk, in tank vehicles, from those points in Florida on and east of a line beginning at the Florida-Georgia State line, thence along U.S. Highway 221 to junction Florida Highway 361, thence along Florida Highway 361 to Piney Pt., Fla., to those points in Utah on and west of a line beginning at the Utah-Idaho State line, thence along U.S. Highway 91 to Levan, thence along Utah Highway 28 to Salina, thence along U.S. Highway 89 to the Utah-Arizona State line. The purpose of this filing is to eliminate the gateways of Institute, W. Va., and Addyston, Ohio.

No. MC–110525 (Sub-No. E173), filed May 8, 1974. Applicant: CHEMICAL LEAMAN TANK LINES, INC., P.O. Box 19335, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals* as defined in *The Maxwell Co., Extension—Addyston*, 63 M.C.C. 677, in bulk, in tank vehicles, from those points in Florida on and east of a line beginning at the Florida-Georgia State line, thence along U.S. Highway 221 to junction Florida Highway 361, thence along Florida Highway 361 to Piney Pt., Fla., to points in Wyoming. The purpose of this filing is to eliminate the gateway of Institute, W. Va., and Addyston, Ohio.

No. MC–110525 (Sub-No. E178), filed May 8, 1974. Applicant: CHEMICAL LEAMAN TANK LINES, INC., P.O. Box 200, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals* (except bituminous products and materials), from points in Georgia to points in Delaware. The purpose of this filing is to eliminate the gateway of Greensboro, N.C.

No. MC–110525 (Sub-No. E180), filed May 8, 1974. Applicant: CHEMICAL LEAMAN TANK LINES, INC., P.O. Box 200, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals* (except bituminous products and materials), in bulk, in tank vehicles, from points in Georgia to points in Idaho. The purpose of this filing is to eliminate the gateways of Copperhill, Tenn., and Addyston, Ohio.

No. MC–111729 (Sub-No. E2), filed May 3, 1974. Applicant: PUROLATOR COURIER CORP., 2 Nevada Drive, Lake Success, N.Y. 11040. Applicant's representative: Peter L. Badanes (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Business papers* and *records* used in the preparation of punch cards, and *reports* and *other business papers*, and *records* containing information obtained from punch cards or pertaining to the use thereof (except cash letters), subject to the restriction that no service shall be performed for any bank, banking institution, or savings and loan association, between Chicago, Ill., and Lexington, Ky. The purpose of this filing is to eliminate the gateway of Cincinnati, Ohio.

No. MC–112822 (Sub-No. E15), filed April 21, 1974. Applicant: BRAY LINES, INC., P.O. Box 1191, Cushing, Okla. 74023. Applicant's representative: Robert A. Stone (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from points in that part of California on, north, and west of a line beginning at the Arizona-California State line and extending along U.S. Highway 66 to junction California Highway 58, thence along California Highway 58 to junction U.S. Highway 395, thence south along U.S. Highway 395 to junction California Highway 74, thence west along California Highway 74 to the Pacific Ocean, to points in Iowa and Nebraska. The purpose of this filing is to eliminate the gateway of points in Idaho.

No. MC–113843 (Sub-No. E6), filed May 8, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from points in Rhode Island to points in Nebraska. The purpose of this filing is to eliminate the gateway of Le Roy, N.Y.

No. MC–113843 (Sub-No. E7), filed May 8, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from points in Massachusetts to points in Colorado. The purpose of this filing is to eliminate the gateway of Le Roy, N.Y.

No. MC–113843 (Sub-No. E8), filed May 8, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from points in Rhode Island to points in Colorado. The purpose of this filing is to eliminate the gateway of Le Roy, N.Y.

No. MC–113843 (Sub-No. E11), filed May 8, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen fruits and berries, frozen fruits and berry concentrates*, from points in Massachusetts to points in Texas. The purpose of this filing is to eliminate the gateway of Geneva, N.Y.

No. MC–113843 (Sub-No. E12), filed May 8, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen fruits and berries, and frozen fruit and berry concentrates*, from points in Rhode Island to points in Texas. The purpose of this filing is to eliminate the gateway of Geneva, N.Y.

No. MC–113843 (Sub-No. E13), filed May 8, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen fish*, from New Bedford, Mass., to Cincinnati and Dayton, Ohio. The purpose of this filing is to eliminate the gateway of Pittsburgh, Pa.

No. MC–113843 (Sub-No. E14), filed May 8, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned meats, meat products, and meat by-products*, as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except liquid commodities in bulk, in tank vehicles), from Boston, Mass., to points in Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, and Wisconsin. The purpose of this filing is to eliminate the gateway of the plantsite and storage facilities of Dutffy-Mott Co., Inc., at or near Hamlin, N.Y.

No. MC–113843 (Sub-No. E24), filed May 8, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to ophicle, over irregular routes, transporting: *Frozen foods*, from points in Massachusetts, to points in Nebraska. The purpose of this filing is to eliminate the gateway of Le Roy, N.Y.

No. MC–113843 (Sub-No. E14), filed May 8, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor erate as a *common carrier*, by motor vevehicle, over irregular routes, transporting: *Frozen foods*, from points in Massachusetts, to points in Minnesota. The purpose of this filing is to eliminate the gateway of Le Roy, N.Y.

No. MC–113843 (Sub-No. E24), filed May 8, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from points in Massachusetts, to points in Nebraska. The purpose of this filing is to eliminate the gateway of Le Roy, N.Y.

No. MC–114045 (Sub-No. E97), filed May 10, 1974. Applicant: TRANS-COLD EXPRESS, INC., P.O. Box 5842, Dallas, Texas 75222. Applicant's representative:

J. B. Stuart (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, *Frozen pies and frozen bakery products*, from Lake City and Pottstown, Pa., to points in Arizona, California, Nevada, New Mexico, Oregon, anl Utah. The purpose of this filing is to eliminate the gateway of Tulsa, Okla.

No. MC–114045 (Sub-No. E102), filed May 10, 1974. Applicant: TRANS-COLD EXPRESS, INC., P.O. Box 5842, Dallas, Texas 75222. Applicant's representative: J. B. Stuart (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen dairy products*, from Lake City and Pottstown, Pa., to points in Oregon and Utah. The purpose of this filing is to eliminate the gateway of Oklahoma City, Okla.

No. MC–113843 (Sub-No. E25), filed May 8, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from points in Massachusetts to points in Minnesota. The purpose of this filing is to eliminate the gateway of Le Roy, N.Y.

No. MC–113843 (Sub-No. E26), filed May 8, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from points in Rhode Island to points in Minnesota. The purpose of this filing is to eliminate the gateway of Le Roy, N.Y.

No. MC–113843 (Sub-No. E14), filed May 8, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from points in Connecticut to points in Colorado. The purpose of this filing is to eliminate the gateway of Le Roy, N.Y.

No. MC–114045 (Sub-No. E98), filed May 10, 1974. Applicant: TRANS-COLD EXPRESS, INC., P.O. Box 5842, Dallas, Texas 75222. Applicant's representative: J. B. Stuart (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cheese*, from South Fulton, Tenn., to points in Idaho, Montana, Oregon, Utah, Washington, and Wyoming. The purpose of this filing is to eliminate the gateway of Oklahoma City, Okla.

No. MC–114045 (Sub-No. E100), filed May 10, 1974. Applicant: TRANS-COLD EXPRESS, INC., P.O. Box 5842, Dallas, Texas 75222. Applicant's representative: J. B. Stuart (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen fruits, frozen berries*, and *frozen vegetables*, from points in Virginia (except Exmore), to points in California. The purpose of this filing is to eliminate the gateway of points in Texas, Oklahoma, or Arkansas.

No. MC–114045 (Sub-No. E102), filed May 10, 1974. Applicant: TRANS-COLD EXPRESS, INC., P.O. Box 5842, Dallas, Texas 75222. Applicant's representative: J. B. Stuart (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dairy products*, as described in Section B of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, in vehicles equipped with mechanical refrigeration, from Lewisburg, Tenn., to points in Idaho, Montana, Oregon, Utah, Washington, and Wyoming. The purpose of this filing is to eliminate the gateway of Wichita, Hutchinson, or Hillsboro, Kans.

No. MC–114045 (Sub-No. E106), filed May 10, 1974. Applicant: TRANS-COLD EXPRESS, INC., P.O. Box 5842, Dallas, Texas 75222. Applicant's representative: J. B. Stuart (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen dairy products*, in mechanically refrigerated vehicles, from Pittsburgh and Saltsburgh, Pa., to points in Idaho, Oregon, Utah, Washington, and Wyoming. The purpose of this filing is to eliminate the gateway of Wichita, Hutchinson, or Hillsboro, Kans.

No. MC–114045 (Sub-No. E107), filed May 10, 1974. Applicant: TRANS-COLD EXPRESS, INC., P.O. Box 5842, Dallas, Texas 75222. Applicant's representative: J. B. Stuart (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen pies and frozen bakery products*, from points in Virginia (except Winchester), to points in Arizona, California, Colorado, Nevada, New Mexico, Oregon, Utah, and Washington. The purpose of this filing is to eliminate the gateway of Tulsa, Okla.

No. MC–114045 (Sub-No. E108), filed May 10, 1974. Applicant: TRANS-COLD EXPRESS, INC., P.O. Box 5842, Dallas, Texas 75222. Applicant's representative: J. B. Stuart (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen dairy products*, from Winchester, Va., to points in Idaho, Oregon, Utah, and Washington. The purpose of this filing is to eliminate the gateway of Oklahoma City, Okla.

No. MC–114045 (Sub-No. E109), filed May 10, 1974. Applicant: TRANS-COLD EXPRESS, INC., P.O. Box 5892, Dallas, Texas 75222. Applicant's representative: J. B. Stuart (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products*, as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk), from Eagle Pass, Laredo, Brownsville, El Paso, Palestine, Fort Worth, and Dallas, Tex., to points in Ohio. The purpose of this filing is to eliminate the gateway of Louisville, Ky.

No. MC–116063 (Sub-No. E2), filed May 3, 1974. Applicant: WESTERN COMMERCIAL TRANSPORT, INC., P.O. Box 270, Fort Worth, Texas 76101. Applicant's representative: W. H. Cole (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal fats* and *vegetable oils*, in bulk, in tank vehicles, from points in Minnesota to points in Texas on and east of U.S. Highway 277. The purpose of this filing is to eliminate the gateway of Sherman, Tex.

No. MC–119665 (Sub-No. E1), filed May 6, 1974. Applicant: APD TRANSPORT CORPORATION, 1 Rurl Road, Maspeth, N.Y. 11378. Applicant's representative: Morton E. Kiel, 5 World Trade Center, Suite 6193, New York, N.Y. 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except those of unusual value, Classes A and B explosives, commodities requiring special equipment, and those injurious or contaminating to other lading, between points in Nassau County and those in Suffolk County within 50 miles of the New York, N.Y., commercial zone, on the one hand, and, on the other, points in Rockland County, N.Y., and points in Somerset, Mercer, Morris, Middlesex, Union, Essex, Hudson, Bergen, and Passaic Counties, N.J. Restriction: The operations authorized herein are subject to the following conditions: No service shall be rendered in the transportation of any package or article weighing more than 70 pounds; no service shall be provided in the transportation of packages or articles weighing in the aggregate more than 150 pounds from one consignor to one consignee on any one day. The purpose of this filing is to eliminate the gateway of Maspeth, N.Y.

No. MC–123048 (Sub-No. E12), filed May 15, 1974. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., P.O. Box A, Racine, Wis. 53401. Applicant's representative: Paul L. Martinson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural implements*, other than hand, as defined by the Commission, from Menomonie, Wis., to points in Alabama, Arkansas, Indiana, Georgia, Kentucky, Louisiana, Mississippi, Ohio, Tennessee, Texas, West Virginia, and the Lower Peninsula of Michigan, restricted to traffic originating at the plant site and storage facilities of Kasten Manufacturing Corp., at Menomonie, Wis. The purpose of this filing is to eliminate the gateway of Rockford, Ill.

No. MC–123048 (Sub-No. E13), filed May 15, 1974. Applicant: DIAMOND

TRANSPORTATION SYSTEM, INC., P.O. Box A, Racine, Wis. 53401. Applicant's representative: Paul L. Martinson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural implements*, from Menomonie, Wis., to points in Arizona, California, Idaho, New Mexico, Oregon, Utah, Washington, and Wyoming, restricted to traffic originating at the plant site and storage facilities of Kasten Manufacturing Corp., at Menomonie, Wis. The purpose of this filing is to eliminate the gateway of Owatonna, Minn.

No. MC–123048 (Sub-No. E14), filed May 15, 1974. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., P.O. Box A, Racine, Wis. 53401. Applicant's representative: Paul L. Martinson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural implements and parts thereof* when moving with shipments of agricultural implements (except tractors, tractor parts, and tractor attachments), from Menomonie, Wis., to points in Delaware, Maryland, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, South Carolina, and Virginia, restricted to traffic originating at the plant site and storage facilities of Kasten Manufacturing Corp., at Menomonie, Wis. The purpose of this filing is to eliminate the gateway of Rochelle, Ill.

No. MC–123048 (Sub-No. E19), filed May 15, 1974. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., P.O. Box A, Racine, Wis. 53401. Applicant's representative: Paul L. Martinson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Farm implements* (except commodities the transportation of which because of size, shape, or weight require the use of special equipment or special handling), from the plant site and warehouse facilities of Smalley Manufacturing Co., at Manitowoc, Wis., to points in Colorado. The purpose of this filing is to eliminate the gateway of Owatonna, Minn.

No. MC–123048 (Sub-No. E20), filed May 15, 1974. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., P.O. Box A, Racine, Wis. 53401. Applicant's representative: Paul L. Martinson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Farm implements* (except commodities which because of size, shape, or weight require the use of special equipment or special handling), from St. Nazianz, Wis., to points in Colorado, Kansas, North Dakota, and South Dakota; restricted to shipments originating at St. Nazianz, Wis. The purpose of this filing is to eliminate the gateway of Owatonna, Minn.

No. MC–123048 (Sub-No. E21), filed May 15, 1974. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., P.O. Box A, Racine, Wis. 53401. Applicant's representative: Paul L. Martinson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Farm machinery* (except commodities which because of size, shape, or weight require the use of special equipment or special handling), from St. Nazianz, Wis., to points in Arizona, California, Idaho, Montana, New Mexico, Oklahoma, Oregon, Utah, Washington, and Wyoming, restricted to shipments originating at St. Nazianz, Wis. The purpose of this filing is to eliminate the gateway of Owatonna, Minn.

No. MC–123048 (Sub-No. E40), filed May 15, 1974. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., P.O. Box A, Racine, Wis. 53401. Applicant's representative: Paul L. Martinson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural implements* (except commodities the transportation of which because of size or weight require special equipment or special handling), from Appleton, Wis., to points in Arizona, California, Nevada, New Mexico, Oregon, Washington, Wyoming, and Utah. The purpose of this filing is to eliminate the gateway of Crown Point, Ind.

No. MC–123048 (Sub-No. E41), filed May 15, 1974. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., P.O. Box A, Racine, Wis. 53401. Applicant's representative: Paul L. Martinson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Farm tractors and farm machinery* (except commodities the transportation of which because of size or weight require special equipment or special handling), from Racine, Wis., to points in Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming. The purpose of this filing is to eliminate the gateway of Crown Point, Ind.

No. MC–135444 (Sub-No. E1), filed May 10, 1974. Applicant: SOUTHERN OHIO TRUCK LINES, INC., 85 East Gay St., Columbus, Ohio 43215. Applicant's representative: Earl N. Merwin (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Paper and paper mill products*, from Erie, Pa., Rochester and Buffalo, N.Y., and Toledo, Ohio, to Columbus, Connersville, and Madison, Ind. (2) The *commodities* described in (1) above, from Erie, Pa., to points in Adams, Auglaize, Brown, Butler, Champaign, Clark, Clermont, Clinton, Darke, Fayette, Greene, Hamilton, Highland, Logan, Madison, Mercer, Miami, Montgomery, Pickaway, Pike, Preble, Ross, Shelby, and Warren Counties, Ohio. (3) The *commodities* described in (1) above, from Rochester, N.Y., to points in Adams, Allen, Auglaize, Brown, Butler, Champaign, Clark, Clermont, Clinton, Darke, Delaware, Fairfield, Fayette, Franklin, Greene, Hamilton, Hardin, Highland, Hocking, Jackson, Logan, Madison, Marion, Mercer, Miami, Montgomery, Pickaway, Pike, Preble, Ross, Scioto, Shelby, Union, Van Wert, Vinton, and Warren Counties, Ohio. (4) The *commodities* described in (1) above from Buffalo, N.Y., to points in Adams, Auglaize, Brown, Butler, Champaign, Clark, Clermont, Clinton, Darke, Fayette, Franklin, Greene, Hamilton, Highland, Logan, Madison, Mercer, Miami, Montgomery, Pickaway, Pike, Preble, Ross, Scioto, Shelby, Union, and Warren Counties, Ohio. (5) The *commodities* described in (1) above, from Toledo, Ohio, to points in Brown, Butler, Clermont, Clinton, Darke, Greene, Hamilton, Highland, Miami, Montgomery, Preble, and Warren Counties, Ohio. The purpose of this filing is to eliminate the gateway of Hamilton, Ohio.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.74–12764 Filed 6–3–74;8:45 am]

[Notice 77]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

MAY 29, 1974.

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–67, (49 CFR Part 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 6461 (Sub-No. 13 TA), filed May 17, 1974. Applicant: B-LINE TRANSPORT CO., INC., Mail: P.O. Box 13206 (Box zip 99213), E. 7100 Broadway, Spokane, Wash. 99206. Applicant's representative: Max Gray (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Insulating materials*, between plant site at or near Tacoma, Wash., and points in Washington, that part of Oregon on and north of the 44th parallel, that part of Montana on and west of a direct north

and south line extending from the northwest corner of Wyoming to the United States and Canada and those in Boundary, Bonner, Kootenai, Benewah, Shoshone, Latah, Nez Perce, Clearwater, Lewis, Idaho, Adams, Washington, Valley, Payette, Gem, Boise, Custer, Ada, Canyon and Elmore Counties, Idaho, for 180 days. SUPPORTING SHIPPER: United States Gypsum Company, 525 South Virgil, Los Angeles, Calif. SEND PROTESTS TO: L. D. Boone, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 6049 Federal Office Bldg., Seattle, Wash. 98104.

No. MC 35831 (Sub-No. 5 TA), filed May 20, 1974. Applicant: E. A. HOLDER, INC., P.O. Box 6625, Fort Worth, Tex. 76115. Applicant's representative: Billy R. Reid, 6108 Sharon Road, Fort Worth, Tex. 76116. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Concrete pipe and concrete products*, from the plantsites of Gifford-Hill-American, Incorporated, located in Texas, to points in Arkansas, Louisiana, New Mexico, and Oklahoma, for 180 days. SUPPORTING SHIPPER: Gifford-Hill-American, Incorporated, P.O. Box 1571, 1004 Meyers Road, Grand Prairie, Tex 75050. SEND PROTESTS TO: H. C. Morrison, Sr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 9A27 Federal Building, 819 Taylor St., Fort Worth, Tex. 76102.

No. MC 65802 (Sub-No. 55 TA), filed May 20, 1974. Applicant: LYNDEN TRANSPORT, INC., P.O. Box 433, Lynden, Wash. 98264. Applicant's representative: James T. Johnson, 1610 IBM Building, Seattle, Wash. 98101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber products*, between ports of entry on the International Boundary line between the United States and Canada at or near Blaine, Lynden, and Sumas, Wash., on the one hand, and, on the other, points in Oregon and Washington, restricted to traffic moving in foreign commerce, for 180 days. SUPPORTING SHIPPERS: Seaboard Lumber Export, Inc., Box 3603, 4540 W. Marginal Way SW., Seattle, Wash. 98124; Antrim Yards, Ltd., P.O. Box 5822, Vancouver, British Columbia, Canada; Garka Mill Co., Inc., 60 State St., Marysville, Wash. 98270; M. D. Truck Lumber Co., Ltd., 355 Mulgrave Place, W. Vancouver, British Columbia, Canada. SEND PROTESTS TO: L. D. Boone, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 6049 Federal Office Building, 909 1st Avenue, Seattle, Wash. 98104.

No. MC 87103 (Sub-No. 10 TA), filed May 17, 1974. Applicant: MILLER TRANSFER AND RIGGING CO., P.O. Box 6077, Akron, Ohio 44312. Off: 3917 State Rt., Edinburg, Ohio 58227. Applicant's representative: Edward P. Bocko (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Metal working lathes;* and (2) *electronic control consoles*, moving in connection therewith or moving separately, on air-ride vehicles having a manufacturer's rated capacity not exceeding 16,000 pounds, from the plant site and storage facilities of the Warner & Swasey Co., Cleveland Turning Machine Division, located at or near points in Cuyahoga County, Ohio, to points in Alabama, Arkansas, Connecticut, Delaware, District of Columbia, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, and Wisconsin, for 180 days.

NOTE.—Applicant Miller has indicated that it does not intend to tack the authority herein sought, however, in the absence of any restriction, tacking could be feasible with the authority in Docket MC-87103, Miller Transfer and Rigging Co., MC 118884, Reliable Machinery Haulers, Inc., and various Subs, and Engel Trucking, Inc., at MC 129918.

SUPPORTING SHIPPER: The Warner & Swasey Co., 5701 Carnegie Avenue, Cleveland, Ohio 44103. 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 109689 (Sub-No. 268 TA), filed May 16, 1974. Applicant: W. S. HATCH CO., Off.: 643 South 800 West, Woods Cross, Utah 84087. Applicant's representative: Mark K. Boyle, 345 South State Street, Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum crude oil*, in bulk, from Cedar Rim Field near Riverton in Fremont County, Wyo., to The Arizona Fuels Refinery at or near Fredonia, Ariz., for 180 days. SUPPORTING SHIPPER: Arizona Fuels Corp., 159 East 3900 South, Salt Lake City, Utah 84107. SEND PROTESTS TO: District Supervisor Lyle D. Helfer, Bureau of Operations, Interstate Commerce Commission, 5301 Federal Building, 125 South State Street, Salt Lake City, Utah 84138.

No. MC 109689 (Sub-No. 269 TA), filed May 16, 1974. Applicant: W. S. HATCH CO., a Corporation, Off.: 643 South 800 West, Woods Cross, Utah 84087. Applicant's representative: Mark K. Boyle, 345 South State Street, Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid gilsonite asphalt sealer*, in bulk, from Grand Junction, Colo., to points in Montana, Wyoming, Colorado, New Mexico, Texas, Oklahoma, Kansas, Nebraska, North Dakota, South Dakota, and Missouri, for 180 days. SUPPORTING SHIPPER: Gilsabind Corporation, N. 7326 Division, Spokane, Wash. 99208. SEND PROTESTS TO: District Supervisor Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 5301 Federal Building, 125 South State Street, Salt Lake City, Utah 84138.

No. MC 113024 (Sub-No. 129 TA), filed May 21, 1974. Applicant: ARLINGTON J. WILLIAMS, INC., R.D. No. 2, S. DuPont Highway, Smyrna, Del. 19977. Applicant's representative: Samuel W. Earnshaw, 833 Washington Bldg., Washington, D.C. 20005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Synthetic crude rubber*, in bags, on pallets, from LaPlace, La., to McCook, Nebr., and Wilmington, Del., under a continuing contract or contracts with Electric Hose & Rubber Company, Wilmington, Del., for 180 days. SUPPORTING SHIPPER: Mr. Fred H. Evick, Director of Distribution, Electric Hose & Rubber Company, Box 910, Wilmington, Del. 19899. SEND PROTESTS TO: William L. Hughes, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 814-B Federal Building, Baltimore, Md. 21201.

No. MC 116935 (Sub-No. 17 TA), filed May 17, 1974. Applicant: COMMERCIAL FURNITURE DISTRIBUTORS, INC., 107 Trumbull Street, Elizabeth, N.J. 27206. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture and parts thereof*, between the facilities of Commercial Furniture Distributors, Inc., located at Elizabeth, N.J., on the one hand, and, on the other, points in New York and Connecticut, for 180 days. SUPPORTING SHIPPERS: Cole, Div. of Litton Industries, Inc., 626 Loucks Mill Rd., York, Pa. 17405; InterRoyal Corporation, One Park Avenue, New York, N.Y. 10016; Ethan Allen, Inc., Ethan Allen Drive, Danbury, Conn. 06810; and Krebs, Stengel & Co., 200 Lexington Ave., New York, N.Y. SEND PROTESTS TO: District Supervisor Robert E. Johnston, Interstate Commerce Commission, Bureau of Operations, 9 Clinton St., Newark, N.J. 07102.

No. MC 124236 (Sub-No. 71 TA), filed May 20, 1974. Applicant: CHEMICAL EXPRESS CARRIERS, INC., 1200 Simons Building, Dallas, Tex. 75201. Applicant's representative: Leroy Hallman, 4555 First National Bank Building, Dallas, Tex. 75202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, from Houston, Tex., to points in Arkansas, Louisiana, Mississippi, New Mexico, Oklahoma, Alabama, Florida, and Georgia, for 180 days.

NOTE.—Carrier does not intend to tack authority.

SUPPORTING SHIPPER: Ideal Basic Industries, Inc. Division Ideal Cement Company, 821 Seventeenth Street, Denver, Colo. 82020. SEND PROTESTS TO: District Supervisor Gerald T. Holland, Interstate Commerce Commission, Bureau of Operations, 1100 Commerce Street, Room 13C12, Dallas, Tex. 75202.

No. MC 128007 (Sub-No. 63 TA), filed May 15, 1974. Applicant: HOFER, INC., P.O. Box 583, 4032 Parkview Dr., Pittsburg, Kans. 66762. Applicant's representative: Clyde N. Christey, 641 Harrison Street, Topeka, Kans. 66603. Authority sought to operate as a *common car-*

rier, by motor vehicle, over irregular routes, transporting: (1) *dry feed ingredients,* from points in Webb County, Tex., to points in Kansas, Oklahoma, Arkansas, Missouri, New Mexico, and Louisiana; (2) *fish meal,* from Cameron, Holmwood, Abbeville, Morgan City, Empire and Dulac, La., Moss Point and Pascagoula, Miss., to points in Texas; and (3) *soybean meal,* from Memphis, Tenn., Little Rock, Newport, Pine Bluff, Wilson, and Van Buren, Ark., Clarksdale, Greenwood, Greenville, Jackson, Hollandale, Marks, and Vicksburg, Miss., to points in Louisiana, for 180 days. SUPPORTING SHIPPER: J. Paul Smith Co. Brokers, 518 Fort Worth Club Bldg., Fort Worth, Tex. 76102. SEND PROTESTS TO: M. E. Taylor, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 501 Petroleum Building, Wichita, Kans. 67202.

No. MC 128012 (Sub-No. 2 TA), filed May 20, 1974. Applicant: R. E. McCORMACK AND D. L. McCORMACK, doing business as McCORMACK TRUCK LINES, 2608 Eagle Lane, Route 3, Box 118, Oklahoma City, Okla. 73107. Applicant's representative: Rufus H. Lawson, 106 Bixler Building, 2400 NW. 23rd Street, Oklahoma City, Okla. 73107. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Canned juices and citrus products and canned goods,* from points in Hidalgo, Cameron, Willacy, and Starr Counties, Tex., to points in Arkansas, California, and Oklahoma, for 180 days. SUPPORTING SHIPPERS: Hale Halsell Co., Leroy James, Buyer, 9111 East Pine St., Tulsa, Okla.; Jim McMannis & Assoc., Frank Kelly, G. M., 1608 Linwood Blvd., Oklahoma City, Okla.; Love and Law, Inc., Geo. Parker, Vice Pres., P.O. Box 1517, Oklahoma City, Okla. 73101; and Texsun Corporation, Manuel R. Chacon, P.O. Box 327, Weslaco, Tex. 78596. SEND PROTESTS TO: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Rm. 240, Old P.O. Bldg., 215 NW. Third, Oklahoma City, Okla. 73102.

No. MC 133119 (Sub-No. 54 TA), filed May 20, 1974. Applicant: HEYL TRUCK LINES, INC., P.O. Box 206, 235 Mill Street, Akron, Iowa 51001. Applicant's representative: A. J. Swanson, 521 So. 14th Street, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Bananas and agricultural commodities* exempt from economic regulation under Section 203(b)(6) of the Act, when transported in mixed loads with bananas, restricted to the transportation of traffic having an immediate prior movement by water, from Mobile, Ala., (1) to points in Illinois, Iowa, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, and Wisconsin, and (2) to ports of entry on the International Boundary between the United States and Canada located in Minnesota, North Dakota, and Montana, for 180 days. SUPPORTING SHIPPER: Del Monte Banana Company, Ben E. Klein, Vice President of Marketing, 1201 Brickell Avenue, Miami, Fla. 33101. SEND PROTESTS TO: District Supervisor Carroll Russell, Interstate Commerce Commission, Bureau of Operations, Suite 620 Union Pacific Plaza, 110 North 14th Street, Omaha, Nebr. 68102.

No. MC 134105 (Sub-No. 8 TA), filed May 17, 1974. Applicant: CELERYVALE TRANSPORT, INC., Route 1, Box 96, Ft. Lupton, Colo. 80621. Applicant's representative: Jack H. Blanshan, 29 S. LaSalle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products, and articles distributed by meat packing houses,* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsite and storage facilities utilized by American Beef Packers, Inc. located at or near Cactus, Tex., to points in Alabama, Arkansas, Colorado, Florida, Georgia, Louisiana, Mississippi, and Texas, restricted to the transportation of traffic originating at the above specified origin and destined to the named destinations, for 180 days. SUPPORTING SHIPPER: American Beef Packers, Inc., 7000 W. Center Road, Omaha, Nebr. SEND PROTESTS TO: District Supervisor Roger L. Buchanan, Bureau of Operations, Interstate Commerce Commission, 2022 Federal Building, Denver, Colo. 80202.

No. MC 135760 (Sub-No. 18 TA), filed May 13, 1974. Applicant: COAST REFRIGERATED TRUCKING CO., INC., P.O. Box 188, Holly Ridge, N.C. 28445. Applicant's representative: Herbert Alan Dubin, 1819 H Street NW., Washington, D.C. 20006. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Frozen foods and materials, supplies, equipment, and ingredients* used in the manufacturing, packaging, and distribution of frozen foods (except in bulk), between points in Alabama, Arkansas, Delaware, Connecticut, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, and Washington, D.C., restricted to those shipments originating at or destined to the plant and warehouse facilities of The Quaker Oats Company in or near Jackson, Tenn., for 180 days. SUPPORTING SHIPPER: The Quaker Oats Company, Frozen Foods, Merchandise Mart Plaza, Chicago, Ill. 60654. SEND PROTESTS TO: Archie W. Andrews, District Supervisor, Interstate Commerce Commission, Bureau of Operations, P.O. Box 26896, Raleigh, N.C. 27611.

No. MC 138991 (Sub-No. 3 TA), filed May 20, 1974. Applicant: K. J. TRANSPORTATION, INC., P.O Box 9764, Rochester, N.Y. 14623. Applicant's representative: S. Michael Richards, 44 North Avenue, Webster, N.Y. 14580. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Macaroni and egg noodle products,* from Rochester, N.Y., to points in Ohio, Massachusetts, lower peninsula of Michigan; points in Pennsylvania on and west of U.S. Highway 15 and Shenandoah, Pa.; Milwaukee, Wis.; St. Paul, Minn.; Chicago, Ill.; Baltimore, Md.; Providence, R.I.; Hartford and E. Hartford, Conn.; and Weirton, W. Va., for 180 days. SUPPORTING SHIPPER: Bravo Macaroni Company, 89 Canal Street, Rochester, N.Y. 14601. SEND PROTESTS TO: District Supervisor Morris H. Gross, Interstate Commerce Commission, Bureau of Operations, Room 104 O'Donnell Bldg., 301 Erie Blvd. W., Syracuse, N.Y. 13202.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.74-12763 Filed 6-3-74;8:45 am]

[Notice 1]

TEMPORARY AUTHORITY TERMINATION

MAY 30, 1974.

The temporary authorities granted in the dockets listed below have expired as a result of final action either granting or denying the issuance of a Certificate or Permit in a corresponding application for permanent authority, on the date indicated below:

Temporary authority application	Final action or certificate or permit	Date of action
MC-10655 (Sub-No. 13)	MC-10655 (Sub-No. 14)	Aug. 6, 1973
MC-13087 (Sub-No. 34)	MC-13087 (Sub-No. 36)	Aug. 15, 1973
MC-17051 (Sub-No. 8)	MC-17051 (Sub-No. 9)	Aug. 31, 1973
MC-83835 (Sub-No. 81)	MC-83835 (Sub-No. 84)	Aug. 29, 1973
MC-93840 (Sub-No. 9)	MC-93840 (Sub-No. 10)	Aug. 3, 1973
MC-99780 (Sub-No. 20)	MC-99780 (Sub-No. 21)	Aug. 28, 1973
MC-100449 (Sub-No. 25)	MC-100449 (Sub-No. 28)	Aug. 16, 1973
MC-100795 (Sub-No. 1)	MC-100795 (Sub-No. 2)	Aug. 23, 1973
MC-103051 (Sub-No. 259)	MC-103051 (Sub-No. 265)	Aug. 21, 1973
MC-103191 (Sub-No. 36)	MC-103191 (Sub-No. 37)	Aug. 31, 1973
MC-103993 (Sub-No. 676)	MC-103993 (Sub-No. 701)	Aug. 21, 1973
MC-103993 (Sub-No. 677)	MC-103993 (Sub-No. 701)	Do.
MC-103721 (Sub-No. 21)	MC-103721 (Sub-No. 19)	Aug. 9, 1973
MC-107002 (Sub-No. 424)	MC-107002 (Sub-No. 428)	Aug. 28, 1973
MC-107064 (Sub-No. 86)	MC-107064 (Sub-No. 90)	Aug. 6, 1973
MC-107496 (Sub-No. 831)	MC-107496 (Sub-No. 843)	Aug. 28, 1973
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MC-108382 (Sub-No. 16)	MC-108382 (Sub-No. 17)	Aug. 1, 1973
MC-109397 (Sub-No. 284)	MC-109397 (Sub-No. 278)	Aug. 3, 1973
MC-109637 (Sub-No. 387)	MC-109637 (Sub-No. 391)	Aug. 6, 1973
MC-111346 (Sub-No. 4)	MC-111346 (Sub-No. 3)	Aug. 23, 1973
MC-112617 (Sub-No. 297)	MC-112617 (Sub-No. 299)	Aug. 29, 1973
MC-114106 (Sub-No. 89)	MC-114106 (Sub-No. 94)	June 13, 1973
MC-114106 (Sub-No. 93)	MC-114106 (Sub-No. 94)	Do.
MC-115654 (Sub-No. 17)	MC-115654 (Sub-No. 16)	June 21, 1973
MC-115703 (Sub-No. 5)	MC-115703 (Sub-No. 6)	Sept. 5, 1973
MC-115876 (Sub-No. 22)	MC-115876 (Sub-No. 23)	Apr. 13, 1973
MC-115898 (Sub-No. 3)	MC-115898 (Sub-No. 4)	June 26, 1973
MC-116077 (Sub-No. 328)	MC-116077 (Sub-No. 329)	June 6, 1973
MC-116938 (Sub-No. 7)	MC-116938 (Sub-No. 8)	June 14, 1973
MC-124692 (Sub-No. 101)	MC-124692 (Sub-No. 94)	June 13, 1973
MC-133065 (Sub-No. 16)	MC-133065 (Sub-No. 17)	Apr. 10, 1973
MC-135750 (Sub-No. 3)	MC-135750 (Sub-No. 4)	Apr. 30, 1973

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74-12761 Filed 6-3-74;8:45 am]

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TUESDAY, JUNE 4, 1974
WASHINGTON, D.C.

Volume 39 ■ Number 108

PART II

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

■

OVER-THE-COUNTER DRUGS

Antacid and Antiflatulent Products

Title 21—Food and Drugs

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

SUBCHAPTER D—DRUGS FOR HUMAN USE

PART 331—ANTACID PRODUCTS FOR OVER-THE-COUNTER (OTC) HUMAN USE

PART 332—ANTIFLATULENT PRODUCTS FOR OVER-THE-COUNTER (OTC) HUMAN USE

Final Order for Antacid and Antiflatulent Products Generally Recognized as Safe and Effective and Not Misbranded

Pursuant to procedures promulgated in the FEDERAL REGISTER of May 11, 1972 (37 FR 9464), a review of the safety and effectiveness of over-the-counter (OTC) antacid drugs has been undertaken by the Food and Drug Administration.

Notice inviting submission of data and information, published and unpublished, and other information pertinent to the safety and effectiveness of OTC antacid products was published in the FEDERAL REGISTER of January 5, 1972 (37 FR 102). An additional period was allowed for submission of such data and information in paragraph 18 of the preamble to the final procedural regulations published in the FEDERAL REGISTER of January 5, 1972 May 11, 1972 (37 FR 9464).

The conclusions and recommendations of the OTC Antacid Drug Panel and a proposed monograph for OTC antacid drugs was published in the FEDERAL REGISTER of April 5, 1973 (38 FR 8714). A tentative final order pertaining to monographs for OTC antacid and OTC antiflatulent products was published in the FEDERAL REGISTER of November 12, 1973 (38 FR 31260). Notice of a public hearing on the November 12, 1973 tentative final order was published in the FEDERAL REGISTER of January 8, 1974 (39 FR 1359), and the public hearing was held on January 21, 1974. A revision of the November 12, 1973 tentative final order containing a modification of the antacid in vitro test was published in the FEDERAL REGISTER of January 22, 1974 (39 FR 2488).

In addition, a notice of proposed rule making to establish general conditions for OTC drugs listed as generally recognized as safe and effective and as not misbranded was published in the FEDERAL REGISTER of April 5, 1973 (38 FR 8714). The final order on this proposal was published in the FEDERAL REGISTER of November 12, 1973 (38 FR 31258) and became effective on December 12, 1973.

In view of the fact that the regulations for drugs for human use were recodified in the FEDERAL REGISTER of March 29, 1974 (39 FR 11680), the following preamble will identify, as necessary, both prior and current designations for the convenience of the reader.

Objections and requests for a hearing on the tentative final order were submitted by a number of persons. On January 21, 1974, the Commissioner of Food and Drugs held a public hearing to receive oral and written statements on the tentative final order. At the hearing, the Commissioner stated that he would allow 10 days for parties to submit any additional written comments to the Hearing Clerk on any of the hearing issues except that 30 days would be allowed for comments on the proposed effective date of the final order.

The Commissioner stated at the public hearing that the in vitro test in the tentative final order required revision. The test was republished in the FEDERAL REGISTER of January 22, 1974 (39 FR 2488) as a new tentative final order, with further opportunity for objections and/or requests for a public hearing on this aspect of the matter. Nine objections were received on the revised in vitro test. One request for a hearing on the revised test was made, but was subsequently withdrawn.

The Commissioner has reviewed all written and oral comments including the objections filed, the hearing record, and all other comments, pertaining to the tentative final order. Where pertinent, the Commissioner has also again reviewed the scientific information contained in the record of this proceeding. The Commissioner has reached the following conclusions and decisions.

GENERAL COMMENTS

1. There were numerous comments that the antacid monograph should be interpretive, not substantive.

The Commissioner dealt with this issue in paragraphs 85 to 91 of the preamble to the final order establishing the procedures for the OTC drug review published in the FEDERAL REGISTER of May 11, 1972 (37 FR 9464) and paragraph 3 of the preamble to the tentative final order for OTC antacid drugs published in the FEDERAL REGISTER of November 12, 1973 (38 FR 31260). No new points were presented in the comments, and the Commissioner reaffirms the earlier statements. Every court which has to this time considered the issue has found in favor of the substantive application of the OTC drug monographs. The new monographs will be enforceable regulations requiring uniform compliance. The alternative would serve to negate the entire review process. A direct challenge to the legal authority of the Food and Drug Administration to promulgate substantive OTC drug monographs has recently been dismissed in Smart v. Food and Drug Administration (N.D. Calif., C–73–0118–RHS, April 24, 1974), and a second court has also held that section 701(a) of the act authorizes substantive rulemaking, National Nutritional Foods Association v. Weinberger (S.D. N.Y., 73 Civ 3448, April 5, 1974).

2. There were comments that a fuller description of the panel meetings (summary minutes) and/or the transcripts of the panel meetings should be made available.

The Commissioner dealt with this matter in paragraph 37 of the preamble to the final regulation establishing the OTC drug review procedures, published in the FEDERAL REGISTER of May 11, 1972 (37 FR 9464) and paragraph 8 of the preamble to the November tentative final order. The Commissioner has concluded that, when viewed in light of the report and data on file with the Hearing Clerk, the minutes amply serve their intended purpose and the transcript of the closed portion of the Panel meetings should not be made public.

Some of the comments reflected an erroneous impression about the role of a panel in the OTC drug review. Pursuant to section 9(b) of the Federal Advisory Committee Act, the OTC drug review panels are utilized solely for advisory functions. Determinations of action to be taken and policy to be expressed with respect to matters upon which an advisory committee reports or makes recommendations to the Food and Drug Administration must be made solely by the Commissioner. Once the panel has issued its report, its advisory functions are completed. Thus, the purpose of the summary minutes is to maintain a full and accurate record of the panel's reasoning and judgments and to minimize the circulation of speculative and misleading information as to the current status of the review. They constitute part of the public record in order to assist any interested person in formulating meaningful comment on the panel report and the proposed monograph. They have no independent substantive status.

Once the panel has issued its report to the Commissioner, it is the legal responsibility of the Commissioner to review and evaluate it, and to issue a proposed order, tentative final order, and final order reflecting his own conclusions and decisions. This responsibility is independent of the recommendations contained in the panel minutes and report, and it is possible that the Commissioner may adopt conclusions and make decisions contrary to a panel's recommendations.

The transcripts of all open portions of the Antacid Panel meetings are available at cost from the recording company. The Commissioner has concluded that the transcripts of closed portions of the panel meetings should not be released. This conclusion was recently upheld in Smart v. Food and Drug Administration, supra, in which the United States District Court for the Northern District of California held that the deliberative portions of the Antacid Panel were properly closed to the public and that the transcripts of those portions are confidential and are not required to be released under the Freedom of Information Act or the Federal Advisory Committee Act.

The legal justification for closing the deliberative portion of the Antacid Panel's discussions—i.e., the discussion during which the Panel determined its conclusions and recommendations—and retaining the transcripts of those closed portions as confidential may be found in section 10 of the Federal Advisory Committee Act and exemption (5) of the Freedom of Information Act. Section 10(a)(1) of the Federal Advisory Committee Act provides that each advisory

committee meeting shall be open to the public. Section 10(d) then provides that subsection (a)(1) shall not apply to any advisory committee meeting which the head of the agency determines is concerned with matters listed in 5 U.S.C. 552(b), and requires that any such determination shall be in writing and shall contain the reasons therefor.

The authority to close Food and Drug Administration advisory committee meetings has been delegated to the Commissioner, subject to the concurrence of the office of General Counsel 21 CFR 2.120(a)(18). In exercising his authority to close portions of advisory committee meetings pursuant to this delegation, the Commissioner has acted on the basis of the guidelines established by the Office of Management and Budget and the Department of Justice as set out in the FEDERAL REGISTER of January 23, 1973 (38 FR 2306). The Commissioner's formal written determination to close a portion of a meeting is published together with the notice of the meeting in the FEDERAL REGISTER.

The basis on which the purely deliberative portions of the Antacid Panel discussion have been closed pursuant to section 10(d) of the Federal Advisory Committee Act is that the discussion has been concerned with matters covered by 5 U.S.C. 552(b)(5), i.e., internal communications. As the Attorney General's Memorandum of June 1967 on this portion of the Freedom of Information Act states: "* * * internal communications which would not routinely be available to a party in litigation with the Agency, such as internal drafts, memoranda between officials or agencies, opinions and interpretations prepared by agency staff personnel or consultants for the use of the agency, and records of the deliberations of the agency or staff groups, remain exempt so that free exchange of ideas will not be inhibited. As the President stated upon signing the new law, 'officials within the government must be able to communicate with one another fully and frankly without publicity.' "

All of the Antacid Panel members were, of course, consultants to the Food and Drug Administration and, as such, government employees during their period of actual work on the Panel. The discussion within the Panel therefore stands on no different footing than a discussion within an internal FDA staff meeting.

At the same time, the Commissioner recognizes that, consistent with the Federal Advisory Committee Act, advisory committee proceedings should remain open to public view and participation to the maximum extent feasible. It is for this reason that all interested persons were provided an opportunity to make written submissions to the Panel and to present oral views to the Panel. The Commissioner concluded, however, that the deliberations of the Panel during which their conclusions and recommendations are determined could not reasonably be made in open session, and thus that it was essential to avoid undue interference with the regulatory process that they be closed to the public.

The primary reason for closing such deliberative portions of advisory committee meetings is, of course, because of the regulatory nature of the action being considered. With respect to OTC antacid drugs, the issues involved the possibility of specific regulatory action against an individual product—e.g., relabeling the drug, requiring new testing by the manufacturer, or removing the product from the market completely. The Panel discussion included a continuous admixture of deliberations on interim regulatory decisions and thus much of the committee discussion had to be closed to protect the integrity of the regulatory process.

Once the Antacid Panel made its recommendations they were subject to all of the public procedures set out in § 330.10. The Panel's deliberations were the first step in a complex rulemaking proceeding, and there was thereafter still an opportunity for presentation of data and views to the Food and Drug Administration as the proposed regulation was considered pursuant to the public procedures required by the Administrative Procedure Act.

3. There was comment that the administrative record as defined by the Food and Drug Administration in the notice for the public hearing improperly excluded transcripts of the Antacid Panel meetings. The comment stated that the transcripts contained the deliberations of the Panel, including reasonings and facts supporting their decisions, and that it was an essential part of the administrative record. The comment stated that, without such information, it was impossible fully to develop the issues.

The designation of the "administrative record" is in paragraph 82 of the preamble to the final regulations as published in the FEDERAL REGISTER of May 11, 1972 (37 FR 9464). The record includes the panel reports and minutes, but excludes the transcript of the panel deliberations. Elsewhere in this issue of the FEDERAL REGISTER the Commissioner is proposing to amend § 330.10 to incorporate this provision directly in the regulations.

The Commissioner is obligated to base his conclusion with respect to a monograph on the entire administrative record. In the case of the antacid monograph, the Commissioner has not read or referred to or relied upon the words recorded in the transcript of the Antacid Panel meetings. Instead, he has relied solely upon the minutes of the panel meetings, the data and information submitted to and considered by the Panel, the Panel report, the comments submitted on that report, the tentative final order, the objections submitted on the tentative final order, the transcript of and material submitted at the public hearing, and comments filed subsequent to the public hearing. This constitutes the administrative record specified in paragraph 82 of the preamble to the procedural regulations of May 11, 1972, and is the sole basis on which the decisions and orders in the tentative final order and final order were made by him.

Thus, whether the transcript of the OTC antacid panel is made public is irrelevant to the Commissioner's decision on the OTC antacid drug monograph, because it does not form a part of the administrative record on which that decision has been based.

The irrelevance of these transcripts can perhaps best be described by an analogy. The transcripts reflect deliberations and debates among a group of individuals prior to arriving at a final recommendation. The group, in this instance, is deliberating upon recommendations with respect to regulatory policy that will ultimately have the force and effect of law. Their deliberations are therefore directly analogous to the deliberations of a panel of judges of a United States Court of Appeals. It is obvious that the judges who hear a case deliberate among themselves with respect to the issues involved. Moreover, it would not be unusual that there will be several drafts of an opinion, and that the final decision might be quite different from the initial discussions or even tentative drafts. The final opinion written by the court, however, is the only document appealable to or reviewed by the United States Supreme Court. The deliberations of the Court of Appeals, and their various drafts reflecting intermediate considerations and positions, are not a part of the record and are not reviewed by the Supreme Court. The final opinion must stand or fall on its own merits. The same is true of the final report of the OTC Antacid Panel. It stands or falls on its own merits, and is either supported or unsupported by the medical and scientific evidence submitted to and considered by the Panel.

The logic of this position is further compelled by the fact that not all Panel deliberations were recorded or transcribed. Although some transcription or recording occurred with the Antacid Panel, it was necessarily incomplete. Panel members frequently conferred by telephone with each other, discussed matters over lunch and dinner, and talked about them during breaks and in the corridors. Moreover, the major reflective consideration of the issues involved would be likely to have occurred before and after meetings, when the Panel members individually reviewed the data and information and formed their conclusions with respect to it. Thus, any transcript of Panel deliberations would reflect only a part, and perhaps a small part, of the consideration given to the matter, of the reasoning which lies behind the recommendations ultimately made, and thus of the entire deliberative process. It would therefore be highly improper to consider the transcripts of Panel meetings in determining the validity of the final OTC antacid drug monograph.

4. There was comment that the administrative record should not properly be closed prior to the final order, and that a letter of objection providing new information for the public hearing should be part of the administrative record. The comment argued that no notice was given that the ability to introduce new evidence

and information on antacids ended when the comment period on the proposal closed. The comment stated that, if the agency wished to close the administrative record, it should make a change in the monograph procedures.

The Commissioner believes that the existing regulations make it clear that new evidence could only be submitted up through the 60 day comment period on the proposed monograph. The purpose of the hearing before the Commissioner on the tentative final order is solely to review the administrative record already compiled, and not to submit new evidence. However, in view of the fact that the present regulations do not explicitly state this requirement, the Commissioner concluded to accept all proffered information in this instance and to amend the regulations to clarify this matter. An appropriate proposed change in the regulations is published elsewhere in this issue of the FEDERAL REGISTER.

5. There was comment that the phrase "ethical drug" or "ethical labeling" is an inappropriate designation in § 331.31 and § 332.31 (formerly § 130.305(f) and § 130.306(d)) because it is an outmoded term. It was suggested that a more appropriate phrase would be "practitioner labeling" or "labeling for professional person." A comment also objected that, under the monograph, such labeling would be provided only to physicians.

The Commissioner believes that both of these points are sound. Such labeling will be designated in the future as "professional labeling" or "labeling for health professionals". This will include all health professionals who prescribe, administer, or dispense medications.

6. There was comment that the 30 days allowed for comment on the January tentative final monograph was "patently unconscionable and unreasonable", because the comments had to be received by the Food and Drug Administration on the 30th day. It was stated that "private parties cannot be held responsible for the vagaries of the U.S. Mail".

The 30 day period is provided for in § 330.10(a)(7) of the regulations (formerly § 130.301(a)(7)). Requiring the comments to be received at the Food and Drug Administration by the 30th day was done so that the agency could promptly begin preparing for a hearing or final order. Under the circumstances, the Commissioner concludes that requiring the comments to be received within 30 days at the Food and Drug Administration was not unreasonable.

7. There was a comment filed after the hearing requesting that magnesium trisilicate be listed as an antiflatulent in the antiflatulent monograph.

The Commissioner stated in paragraph 67 of the preamble to the tentative final order that any other claimed antiflatulent ingredient should be submitted when the call for data for miscellaneous internal products was published. That notice was published in the FEDERAL REGISTER of November 16, 1973 (38 FR 31696). The Commissioner realizes that magnesium trisilicate was reviewed by the Antacid Panel, but only as an antacid ingredient. Reviewing the submitted magnesium trisilicate antiflatulent data would require reopening the administrative record. Since the Miscellaneous Internal Panel will review all antiflatulents, there is no reason to disrupt the orderly consideration of this monograph. The Commissioner therefore concludes that this matter is properly handled by the Miscellaneous Internal Panel. The person submitting this comment should promptly submit all pertinent data and information to that Panel if he has not already done so.

8. In the comments to the tentative final order, a proposal was made that the Food and Drug Administration establish a "third class of drugs" which would be available only from a pharmacist or pharmacy and for which a pharmacist or pharmacy would maintain a patient dispensing record.

The Antacid Panel never considered the issue of the third class of drugs, and this issue is not properly a part of the OTC drug review. Elsewhere in this issue of the FEDERAL REGISTER the Commissioner is publishing a notice which states his conclusion that there is no health or safety justification for establishing a third class of drugs at this time.

GENERAL CONDITIONS

There were numerous comments on the general conditions for OTC drugs established in § 330.1 (formerly § 130.302). That final order was published in the FEDERAL REGISTER of November 12, 1973 (38 FR 31258) and became effective on December 12, 1973.

9. Most of these comments concerned the question whether § 330.1(i) should be revised to include a reference to pharmacists on OTC drug labels where there is a drug interaction potential.

The Commissioner is publishing his conclusions on this matter elsewhere in this issue of the FEDERAL REGISTER.

10. There was a proposal to add the words "consult your poison control center" to the accidental overdose warning under § 330.1(g) (formerly § 130.302(g)).

The Commissioner is publishing a proposal on this matter elsewhere in this issue of the FEDERAL REGISTER.

11. There was comment that the drug interaction warning contained in § 330.1 (i) (formerly § 130.302(i)) had been moved from the antacid monograph to the general conditions for OTC drugs without notice and opportunity for public comment.

The Commissioner published this warning as a proposal in the FEDERAL REGISTER of April 5, 1973 (37 FR 8714), with time for public comment. It was transferred from one section to another because of its broad applicability to all OTC drugs. This procedure was therefore entirely proper. In any event, the Commissioner heard comments on this matter at the January 21, 1974 public hearing and is now publishing a further notice on the matter elsewhere in this issue of the FEDERAL REGISTER.

12. There was comment that the agency has the authority to require the quantitative labeling of active ingredients.

The Commissioner stated in paragraph 11 of the preamble to the tentative final order that such authority does not presently exist under the Federal Food, Drug, and Cosmetic Act. No specific response to this preamble statement was included in the comment received. The regulation requests that manufacturers voluntarily place such information on their label, § 330.1(j) (formerly § 130.302(j)). There are also bills (S. 3012 and H.R. 12847) pending before Congress to amend the act to provide for quantitative labeling of active ingredients for OTC drug products.

IN VITRO ACID NEUTRALIZING TEST

13. A number of written comments were filed on the November tentative final order dealing with the in vitro test procedure proposed in that notice.

The Commissioner notes that the modification of the in vitro test published in the FEDERAL REGISTER of January 22, 1974 (39 FR 2488) answered many of the issues raised. Accordingly, only the comments filed in response to the January republication and revision of the test have been considered in preparing this final order. The only request for a hearing on the revised test has subsequently been withdrawn.

14. One comment urged the Commissioner to add more specifications, such as particular types of equipment and additional controls, to the in vitro test because it has too many variables and cannot be considered a simple test.

The Antacid Panel proposed a simple test for the present and recommended that the Food and Drug Administration and industry do research to find an in vivo test. The Commissioner concurs now and that research should promptly begin on an in vivo test. With that approach in mind, the Commissioner does not believe that the in vitro test should be unnecessarily complicated by requiring special equipment and specifications for which no justifications have been shown.

15. One comment submitted a proposed in vitro test which the comment contended would be reproducible and more like an in vivo test.

The proposed test is also an in vitro test. No data were submitted to show that this test is more accurate or reproducible, or more closely parallels in vivo results, than the in vitro test in the final order. For that reason, the Commissioner believes that it would be inappropriate at this time to consider adopting this proposed in vitro test which no one has had an opportunity to review or comment upon. However, the agency will conduct studies and review the proposed test as it considers the development of an in vivo test.

16. Two comments indicated that the change in the test from the November tentative final order to the January revision resulted in a significant change in philosophy. They noted that the earlier proposal included a titration based on time, and the latter included a back titration technique that removed consideration of time and relative reactivity of the product.

The Commissioner concludes that the new procedure does not eliminate time as a factor. The preamble to the January revision stated that the procedure in the November tentative final order would have been extremely difficult to validate because of the variable time factor in the revised procedure retains the variation in time as a critical test factor in that the product must demonstrate adequate neutralizing capacity within the 15 minutes allowed. The Commissoner concludes that the 15 minute back titration technique is consistent with the clinical significance of the product and its rate of reactivity. As stated in paragraph 34 of the preamble to the November tentative final order, the acid neutralizing capacity of a product is only one factor in selecting an antacid.

17. There was comment that the in vitro test had been burdened with arbitrary modifications that set it potentially at variance with correspondng tests already in the United States Pharmacopeia.

United States Pharmacopeia standards determine strength, quality, and purity of designated products and are not a test of effectiveness. The Food and Drug Administration's in vitro acid neutralizing test is a single test that is dose related, requires the acid neutralizing capacity to be determined in 15 minutes, applies to all products which are labeled as antacids, and is concerned with the product's total effectiveness in terms of its acid neutralizing capacity. The Commissioner therefore concludes that the in vitro effectiveness test is not at variance with the United States Pharmacopeia standards for strength, quality, and purity of certain antacids.

18. There was comment that the preamble to the November tentative final order stated in paragraph 37 that the two United States Pharmacopeia tests were not used because they were only concerned with total consumption of acid and not with duration, whereas the preamble to the January revision stated that the in vitro test must be based on a back titration technique since it was impossible to validate the procedure using the test in the November tentative final order. The comment states that, based on these changes, the Food and Drug Administration test no longer purports to measure a duration of activity and offers no advantages over the United States Pharmacopeia method.

The Commissioner notes that there is no single United States Pharmacopeia method. In fact, for the 12 official products listed as antacids in United States Pharmacopeia XVIII, page xxxix, there are no acid consuming capacity tests identified for five and for the other seven, four use a similar test that differs primarily in the acid used, one uses a very simple test, and the other two have a more complicated procedure that takes four hours for the antacid to neutralize the acid. Basically, the United States Pharmacopeia procedures are for individual products, are not dose related, allow one or more hours for the acid to react with the antacid, and are determinations of strength, quality and purity. As explained above in paragraph 17 of this preamble, the Food and Drug Administration's in vitro test determines effectiveness for all antacid drug products.

19. There was comment that it was inappropriate to include an in vitro acid neutralization capacity test as a basis of general recognition of safety and effectiveness, because there is no substantial evidence to prove that a product which passes the test is safe and effective, nor are there any data correlating the in vitro test to in vivo results. The comment contended that, since there are no data, there can be no basis on which experts can conclude that the in vitro test measures safety and effectiveness.

The Antacid Panel found that there was a substantial scientific basis on which to create an in vitro test for measuring effectiveness. To support their position, they cited seven publications concerning gastric secretion and antacid activity. The Commissioner has reviewed the literature and concurs with the judgment that there are sufficient data on which to base an in vitro test. However, the Commissioner recognizes, as the Panel did, that the industry, academia and agency should promptly seek to develop an in vivo antacid test.

20. There was comment that the in vitro test should not be applied to products that are not designed to neutralize the total stomach acidity. The comment contended that a floating antacid that claims to neutralize the stomach contents that are refluxed into the upper esophageal tract should be tested differently. The comment proposed an in vitro test similar to that published in the November tentative final order.

The Commissioner has found that adequate evidence to prove effectiveness for a product that floats and only reduces the acidity in the upper stomach and lower esophageal tract has not been presented (see paragraphs 60 and 61 below and paragraph 25 in the preamble to the November tentative final monograph). To allow marketing of the product while data are being obtained on this category III active ingredient, the method for measuring the acid neutralizing capacity submitted will be reviewed by the Commissioner as an exemption request to the in vitro test. If adequate data for effectiveness are presented it will be possible to review the proposed in vitro test as an amendment to the monograph.

21. One comment complained that antacid capsules have not been provided for in the test procedures.

The Commissioner concludes that capsules may be tested in the same manner as tablets. This additional provision has been added to the final order.

22. There was comment that the requirement that each antacidl ingredient contribute at least 25 percent of the total effectiveness of the product should not be calculated on the basis of four times the amount of the ingredient present but on the basis of the amount actually contained in the dosage being tested. The percentage of contribution should then be calculated from the amount of acid neutralization of the ingredient in relationship to the amount of acid neutralization of the whole dosage unit.

The Commissioner concurs that this is a more scientific approach. The final order has been changed accordingly.

23. There was comment that the acid neutralizing test is being interpreted in two different ways. One interpretation is that the 25 percent requirement applies to the 5 milliequivalent minimum, i.e., one-fourth of the 5 milliequivalents means that each active ingredient must reduce 1.25 milliequivalents to be considered an active ingredient. Another interpretation is that four times the amount of the ingredient must neutralize the same amount of acid as a total drug product to reach the 25 percent minmum.

The Commissioner advises that the proposed procedure was to take four times the amount of each active ingredient and test it against the total drug product to determine the 25 percent. As now revised, the 25 percent requirement is to be based on a comparison of the acid neutralizing capacity of the amount of the ingredient in the product with the total acid neutralizing capacity of the product (not with the minimum value required by the monograph for an antacid). Thus, the standard for measuring the 25 percent requirement remains the total acid neutralizing capacity of the entire product. As stated in paragraph 22 of this preamble, the Commissioner has amended the test to clarify the basis for calculating the 25 percent minimum.

24. One comment proposed that the number of active ingredients be limited to four and that the 25 percent requirement be deleted. In the 10 days allowed after the hearing, a comment was received which opposed any arbitrary limit on the degree of activity or number of active ingredients allowed in a proprietary medication.

For the reasons stated in paragraph 30 of the preamble to the tentative final order, the Commissioner concludes that each active ingredient should make a minimum contribution of 25 percent of the acid neutralizing capacity to the final product. The 25 percent figure was based on the conclusion that any ingredient in an antacid should contribute to the acid neutralizing effect. If only the number of ingredients were limited, three of the labeled active ingredients could be used in such small amounts that the contribution of each to the product's effectiveness would be insignificant. The consumer would then be misled because the label would list four ingredients when in fact only one made a significant contribution to the therapeutic effect.

The comments have failed to supply any data to support any safety or effectiveness reason for not adopting the proposed 25 percent requirement or for adopting a different requirement. The Commissioner concludes that the 25 percent requirement will provide the consumer with safe and effective antacid

combination drugs that are not misleading.

25. There was comment that the words "magnetic stirrer" were not specific enough because the stirring speed is a critical factor and the shaded pole motor stirrer normally found in laboratories will vary too much. The comment proposed that a direct current motor controlled by a solid state direct current power pack attached to an accurate tachometer be specified.

The Commissioner realizes that stirring speed is important to the evaluation, but is also of the opinion that the laboratory should be given the responsibility of determining how it wishes to obtain the necessary stirring speed. It would be arbitrary for the Commissioner to designate a particular type of equipment if a laboratory can properly conduct the test using other equipment.

26. There was comment that the 100 ml. and 250 ml. beakers are not large enough to accommodate more effective antacids or those which foam.

The Commissioner realizes that many factors effect analytical tests such as the proposed in vitro test. In an effort to standardize the test it has been necessary to designate the beaker size just as do the United States Pharmacopeia and the National Formulary in their methods of analysis. However, the Commissioner recognizes that there may be a manufacturer who cannot test his antacid in these sizes of beakers. A manufacturer may request an exemption stating the size of the beaker he desires to use and data validating the test using the different beaker size.

27. One comment stated that the tablet comminuting device must be specified because the type of device and the speed of action control the amount of surface area and therefore the rate of reactivity of the product.

The Commissioner does not believe that a specific comminuting device should be designated at this time because no data have been presented to show that erroneous results will occur or that the test provides information more closely related to in vivo results if such a device is used. It would be arbitrary for the Commissioner to require the purchase and use of a specific piece of equipment when insufficient data have been collected to determine its effect on the test.

28. There was a comment that "distilled water" should be specified.

The Commissioner agrees, and "distilled water" has been specified in the final order.

29. There was comment that the sieve size should be designated as the United States standard since there are nonstandard sieves available.

The Commissioner agrees, and the United States standard designation has been added in the final order.

30. There was comment that the use of 0.5 and 1.0 Normal hydrochloric acid affects results obtained because the reaction rate of any reaction can be increased by increasing the concentration of the reactants. The comment also pointed out that the acid concentration in the stomach is closer to 0.1 Normal than 0.5 or 1.0 Normal.

The in vitro tests conducted by the Food and Drug Administration have shown no difference between 0.1 Normal and 1.0 Normal. Results of these tests are on file with the Hearing Clerk as part of the administrative record. However, these tests show that the increase in volume resulting from the use of 0.1 Normal complicates the test procedure because large pipets and burets would have to be used. Based on the Agency's findings, the normalities will remain the same. The increase in volume caused by the use of 0.1 Normal hydrochloric acid makes the test more cumbersome and awkward to conduct without a corresponding increase in accuracy.

31. There was comment that the pH meter should be calibrated between pH 1.1 and pH 7.0 instead of exactly at pH 4.0, because the calibration between 1 and 7 will allow for a more accurate determination of higher values. No data were submitted to support the statement.

The Commissioner has determined that calibration of the pH meter at 4.0 is sufficient to assure the accuracy of the test. Therefore, he will not change the calibration. The final order provides only for checking the operation of the meter at pH 1 since there is no need to calibrate the meter twice. The analyst need only calibrate the meter and then assure himself that it is operational at another pH, i.e., pH 1.

32. There were comments stating that the temperature should be controlled since it is the simplest of specifications and is used in most laboratory tests. The comment proposed that the test should be conducted at body temperature, 37° C.

The Commissioner agrees that this is a variable that can be eliminated and yet not complicate the test. However, during testing, the Food and Drug Administration has shown that there is no difference between 25° C and 37° C. It is more appropriate to use room temperature since it requires less equipment. The Commissioner has therefore, concluded that the temperature will be designated at 25° C±3° in the final order.

33. There was comment that the disintegration test should be altered for chewable tablets.

The Commissioner advises that, under § 331.1(b) (the disintegration test), the proposed disintegration test does not apply to chewable tablets. The Commissioner does not believe that a disintegration test for chewable tablets is necessary. It would be inappropriate to require a chewable tablet to disintegrate in the same manner as a swallowed tablet because the chewable tablet labeling instructs the consumer to reduce the particle size of the tablet. The disintegration test for a swallowed tablet is merely a test to assure that it be reduced to particle size on swallowing.

34. One comment stated that it is inappropriate to adopt a 10 minute standard for the disintegration of swallowed antacid tablets, because there is no substantial evidence to indicate that passing or failing the test will affect the tablet's safety or efficacy, nor are there any data indicating that the 10 minute test is correlated to in vivo results.

The Commissioner concludes that the position taken in this comment would allow the swallowed tablets to have any disintegration time or to use the United States Pharmacopeia standard of 30 minutes. The Panel in their recommendation concerning the in vitro test stated that, on the fasting stomach, a tablet that takes 30 minutes to dissolve probably would be ineffective because it would be gone from the stomach in half that time. Most of the antacid has left the stomach 15 minutes after ingestion. An undissolved tablet cannot be effective. The 10 minute standard should not create a hardship since it only requires that tablets that fail to pass the disintegration test must be labeled as chewable tablets so that the consumer will know that he must physically reduce the tablet size to get the benefit of the active ingredients.

35. There was comment that, if a tablet does not disintegrate in 10 minutes or less, the manufacturer should have the option of testing the whole tablet according to the preliminary antacid test. The comment contended that, if the whole tablet passes the preliminary test, the manufacturer may recommend swallowing on the label.

The Commissioner concludes that a tablet which fails to disintegrate and yet passes the preliminary antacid test is more properly handled through a new drug application or an amendment to the monograph. No data have been presented to explain why a tablet would fail to pass the disintegration test, and yet pass the in vitro test. If such a condition did exist, data to show in vivo effectiveness would need to be presented.

36. There were comments that the method of comminuting the tablets to pass through a number 20 U.S. mesh sieve would allow a person to finely powder the tablet. One comment provided data to show that cement, if finely powdered, would pass the in vitro test.

The Commissioner advises that the test was not designed to allow the use of a fine powder. For this reason a lower limit has been placed on the particle size in the final order, to prevent the comminuting of tablets to a fine powder.

37. There was comment that ethanol, when used as a wetting agent, may reduce the acid neutralizing capacity of a product.

The Commissioner concludes that, although ethanol may have an effect, it is not significant. The Commissioner has therefore decided to allow the discretionary use of ethanol as a wetting agent. Some comments have stated that particles float on the top of the test solution and the ethanol will reduce the surface tension and decrease the number of particles that float, but in Food and Drug Administration tests few products exhibited this tendency and it is doubtful that the use of ethanol will be required. The person conducting the test must determine if a wetting agent is necessary.

38. There was comment that the density and not the specific gravity should be used in testing liquid samples.

The Commissioner concludes that the comment is correct in that the proper designation for the calculation figure is density. The final order has been changed accordingly.

39. There was comment that, because the concentrated antacids would exceed the 30 milliequivalent titration, the procedure should allow for a greater number of milliequivalents to be used.

The Commissioner doubts that there are many antacids with neutralizing capacities greater than 30 milliequivalents. No data were presented to the Food and Drug Administration concerning such a product. Therefore the Commissioner believes that it is proper to provide for an exemption from the in vitro procedure for a stronger antacid, or an amendment to the test if necessary, upon the petition of a manufacturer.

40. There was comment that the United States Pharmacopeia XVIII simulated gastric fluid test solution contains enzymes which are not necessary for the test and increases its expense.

The cost of the enzymes would be approximately twenty cents per test, which is not significant. At the present time, however, there is no scientific justification for adding the enzymes other than the fact that they are present in the stomach. The Commissioner believes that future testing in this area should address itself to this issue. Until scientific evidence is forthcoming on why enzymes must be in the test solution, the Commissioner has concluded that the simulated gastric fluid test solution shall not contain enzymes. The final order has been modified accordingly.

41. There was comment that the stirring speed for the in vitro test should be eliminated because it has no direct reference to similar in vivo action.

Data submitted in response to the January tentative final monograph and some Food and Drug Administration testing showed that a test with no established stirring speed would allow a procedure that provides for an infinite number of results depending on the stirring speed. The test must be reproducible, and therefore a stirring speed must be identified.

42. There was a comment requesting an exemption for a product from the 10 minute time period required in the acid neutralizing capacity test contained in the November tentative final order.

The Commissioner stated at the hearing that a revised tentative final monograph acid neutralizing test was being published and that, if a deviation from that test was required, an exemption should be requested pursuant to § 331.29 (formerly § 130.305(a)(1)(iii) after the final order was published.

43. There was comment that the in vitro test should be validated by appropriate bodies.

The Commissioner has had the test reviewed and validated by Food and Drug Administration laboratories and has determined that it is valid. The validation studies have been filed with the Hearing Clerk.

ACTIVE INGREDIENTS

44. There was comment that bismuth salts protect the mucous membranes of the stomach and duodenum and that they should be allowed to be used in combination with other antacids.

Bismuth salts are included in the monograph as active ingredients with potential acid neutralizing properties and can be used in a combination as long as they contribute 25 percent of the total acid neutralizing capacity of an antacid product. Based on the fact that no data were submitted to prove that bismuth salts are effective as protectants to the mucosal membrances, the Commissioner does not recognize the bismuth salts as having been proved effective for such purposes. Data would have to be presented to demonstrate effectiveness for this particular use to allow such a labeling claim.

45. There was comment that an exemption should be provided from § 330.1 (g) (formerly § 130.302(g)) for sodium bicarbonate powder. The powder is used as a food product, tooth cleanser, and mouth wash, as well as an antacid, and therefore an accidental overdose warning appearing in § 330.1(g) (formerly § 130.302(g)) is inappropriate because of the nature of the product.

The Commissioner recognizes the many uses of sodium bicarbonate (baking soda) as a food and for various other purposes. The Commissioner therefore believes that it would be proper to exempt sodium bicarbonate powder from the general accidental overdose warning contained in § 330.1(g) (formerly § 130.302(g)) because of its extremely low potential for injury from an overdose. The product labeling must, however, fully comply with the antacid monograph, including directions for use, all applicable warnings, etc.

INDICATIONS

46. There was comment that the words "upset stomach" should be included in Category I.

The Commissioner considered this issue in detail in paragraph 49 of the preamble to the tentative final order and no new data or information were presented to support a change in that decision. Accordingly, no change has been made in the monograph with respect to this matter.

47. There was comment that justification for the term "upset stomach" should not require clinical trials to establish a relationship between consumer language and acidity.

A clinical trial to establish a relationship between what consumers regard as "upset stomach" symptoms and OTC antacid drugs would be an appropriate approach to justify this claim. Another valid approach to justify approval of use of the claim "upset stomach" for an antacid is a statistically valid consumer survey to determine how the consumer interprets the term "upset stomach". The Commissioner's present conclusion that the term "upset stomach" has not been justified is based on the fact that this phrase is used by consumers to describe the symptoms relieved by completely different products. Paragraph 49 of the preamble to the tentative final order discussed a marketing study where this phrase was applied by consumers to five products, only two of which were simple antacids.

It would not be sufficient to show a particular product which uses this claim to consumers and to ask for what symptoms it should be used. The question is what the phrase means to the consumer, not what words does the consumer think of to describe an advertised brand name product or a class of products.

DIRECTIONS FOR USE

48. There were comments to the effect that the term "as needed" should be used to describe dosage in antacid labeling instead of labeling requiring a specific dosage schedule by time interval or time period. It was further proposed that no other directions for use would be needed since the warning would express the maximum dose.

The Commissioner concludes that the directions for use in antacid labeling properly indicate the specific dosage and time periods for which the product is recommended. It would be improper to recommend that any antacid be used "as needed," since this would promote unrestricted use.

The Commissioner has also concluded that the proposed phrase "except on the advice and supervision of a physician" is confusing, and that it should be revised to read "or as directed by a physician."

WARNINGS

49. There were comments that § 331.30 (b) (formerly § 130.305(c)) and § 330.1 (g) and (i) (formerly § 130.302 (g) and (i)) contain warning statements which a manufacturer should be able to consolidate and simplify. There was also a request that, when a manufacturer develops warning statements, they be submitted to the Food and Drug Administration with an understanding that the statement is approved unless the manufacturer is otherwise notified.

The Commissioner agrees that there may be certain products that would require more than one of the warnings specified, and that clearer labeling may be provided by consolidating such statements. The Commissioner has decided that any two or more warning statements may be combined provided that the resulting statement uses all of the specific words contained in the monograph in the order specified, and provides a clear and readable warning which the consumer can understand. This will permit deletion of duplicative phrases without losing uniformity in warning terminology. Thus, the warnings in § 331.30 (b) (4) and (5) may properly be combined to read "Do not use this product except under the advice and supervison of a physician if you have kidney disease or if you are on a sodium restricted diet," since none of the operative words or phrases are eliminated or rearranged. If

any manufacturer is concerned about a combination of warnings he intends to use, he is encouraged to submit it to the Bureau of Drugs for review and comment.

50. There was comment that the language used in a warning should not be mandatory because the manufacturer may use minor variations in words which would allow clearer understanding by consumers.

The Commissioner believes that uniformity in labeling language is essential to consumers. For this reason, the combining of warnings is permitted only where it will retain uniform terminology. Allowing minor word variations, or rearrangement of the same words, would result in dissimilar or confusing warnings which would not be in the best interest of the public. The Commissioner has also included in the final monograph standard headings for the labeling sections on warnings, drug interaction precautions, and directions, to promote such labeling uniformity. However, the Commissioner recognizes there may be circumstances where warnings can be improved. A manufacturer may seek an amendment to the monograph if he concludes that a warning or other labeling should be revised.

51. There was comment that including the phrase "except under the advice and supervision of a physician" should not be required to appear in both the maximum dosage statement and any additional warnings, since this would be duplicative.

The Commissioner concludes that the consolidation of warnings discussed in paragraph 49 of this preamble will permit a manufacturer to eliminate duplication of common phrases in warning statements.

52. There was comment that two of the warning statements name specific diseases and that physicians do not always inform a patient of his specific disease condition. The comment suggested that, because the patient may not know his disease, the labeling should warn against consumption of additional quantities of the active ingredients involved (i.e., potassium and magnesium) rather than against use of the OTC drug in specific disease conditions. There were no data submitted to support this comment.

The Commissioner concludes that, although the monograph necessarily determines the safety and effectiveness of antacid drug products in terms of their active ingredients, consumers are more likely to be told and to remember their disease conditions than a list of prohibited chemical ingredients. No data were submitted to show that physicians ordinarily provide a list of prohibited ingredients to patients that would allow them to use such labeling, or in any event that physicians are more likely to do this than to inform the patient of his disease. Under § 330.10(a)(3)(v) (formerly § 130.301 (a)(3)(v)), labeling must be likely to be read and understood by the ordinary individual including the individual of low comprehension. The Commissioner concludes that this labeling meets that requirement.

53. There were numerous comments that the 5 percent level which determines whether a warning is necessary relating to constipation and laxation in § 331.30 (b) and (c) (formerly § 130.305(c) (2) and (3)) is arbitrary and incapable of scientific validation.

The Commissioner concludes that any manufacturer is capable of conducting a well-controlled clinical study on the maximum recommended dose to determine whether it causes laxation in more than 5 percent of the users, and thus that scientific verification is entirely reasonable. If more than 5 percent of the users of an OTC antacid are suffering from constipation or laxation, that is a significant fact which merits a warning, because antacids are often used by the adult population, many of whom already have irregular bowel habits or other gastrointestinal problems. Many antacids are also recommended by physicians at much higher dosages than those appearing on the label, and such a warning would be important to inform the consumer that he may experience bowel irregularity.

54. There were also comments that the 5 percent level is unreasonable because OTC medications are intended for use only for a short period of time and therefore significant constipation or laxation is unlikely.

The Commissioner concludes that it is important that the manufacturer be required to demonstrate that laxation or constipation is unlikely. If in fact it is unlikely, the required test will demonstrate this fact and the warning will be inapplicable.

55. One comment stated that the 5 percent rule could result in labeling for a product indicating that it could cause both constipation and laxation in a patient population because different people react differently to the same ingredient. It was proposed that the 5 percent cut-off level be raised to 15 percent to identify the effect more clearly.

The Commissioner concludes that if a product is capable of causing both effects at the maximum daily dose in 5 percent of the patient population such information should properly be provided to the consumer in the label. No data were presented to show that any such product exists. The Commissioner rejects the proposed 15 percent cut-off level because these products are often used by people greatly in excess of the amount recommended in the label and because consumers should be alerted to any significant side effect that will affect a substantial number of users. No justification was provided for the proposed 15 percent cut-off level.

56. There was comment that the provisions relating to the warnings required by § 331.30(b)(4)) formerly § 130.301(c)(4)) when the magnesium level exceeds 50 milliequivalents a day should be revised to state that they are applicable only where the level exceeds 150 milliequivalents per day.

The summary minutes for the early meetings of the Antacid Panel reveal that the Panel initially considered 150 milliequivalents per day of magnesium as the level for requiring a warning. However, upon reconsideration the Panel reduced the amount to 50 milliequivalents because of the following considerations. The normal individual consumes from 20 to 40 mEq of magnesium per day and about one third of that is absorbed into the body. If a consumer is taking a magnesium-containing antacid, anywhere from 15 to 30 percent of that magnesium is absorbed. If a person does not have normal renal function it is possible to have hypermagnesmia toxicity, i.e. the level of magnesuim in the body may reach a toxic level.

The Commissioner agrees fully with the Panel's reasoning and therefore finds the warning for 50 mg. is appropriate. The primary target population for antacids is adults, many of whom suffer from kidney problems or take doses larger than those recommended in labeling. Therefore the safety factor becomes significant. The normal individual with no renal problem can easily tolerate 150 mg. of magnesium a day, but for a patient who has renal failure large doses of an antacid could present a serious problem that is avoidable by the warning contained in the final order.

57. One comment stated that it is appropriate to provide information on the salt content for an antacid, but that the more appropriate approach would be to label the product as "low in sodium" when the product contains less than 5 milliequivalents in the recommended dose. The comment recommended removal of the warning statement required on a product containing greater than 5 milliequivalents of sodium in the recommended dose.

The Commissioner is concerned that a statement "low in sodium" might be read by consumers as a claim that the product has advantages in relation to other antacids, which in fact may not be true. Such labeling would also remove the sodium warning from high sodium-containing products and thus fails to designate products that are not appropriate for a sodium-restricted diet. For these reasons, the Commissioner concludes that it is more appropriate to require the sodium warning and thus allow the doctor and patient to review whether a product containing more than 5 milliequivalents of sodium is appropriate for use.

58. There were comments that the Food and Drug Administration has ignored the drug interaction warnings required in prescription drug package inserts and some of the more recent scientific literature. There was specific comment that aluminum ingredients interfere with the absorption of tetracycline.

The Commissioner has reviewed the literature citations contained in Evaluations of Drug Interactions, 1973, the Antacid Panel Report, and the package insert labeling for prescription drugs. He concludes that there is adequate scientific evidence that the aluminum compounds may interfere with tetracycline and that a drug interaction warning statement should be required on the label.

The Commissioner concludes that it is important that consumers understand the basis for this warning. Accordingly, the final monograph has been revised to require that this information be contained in a separate labeling section headed "Drug Interaction Precautions." This will advise consumers of the reason why these two types of products should not be used concurrently. The manufacturer is, of course, also free to add additional explanatory information to the effect that use of the product may prevent the proper absorption of tetracycline.

PROFESSIONAL LABELING

59. A number of comments requested that the acid neutralizing capacity be removed from the labeling for health professionals (§ 331.31(a)(1)) (formerly § 130.305(f)(1)) because the acid neutralizing test has undergone numerous changes and may not correlate with in vivo results.

For the reasons already summarized above, the Commissioner believes that the in vitro test is an excellent means of determining effectiveness, which closely correlates with in vivo results. Nevertheless, the Commissioner is concerned that confusion could occur in the near future if the acid neutralizing capacity were required to be in professional labeling, because of required reformulations and efforts to find an improved in vitro or in vivo standard. The Commissioner has therefore concluded that manufacturers will not be required to state the acid neutralizing capacity in professional labeling until 2 years from the effective date of the monograph. This will give industry an opportunity to conduct all necessary tests and to propose an improved in vitro test or an in vivo test with even greater reliability.

COMBINATIONS WITH NONANTACID ACTIVE INGREDIENTS

60. There was comment that alginic acid is effective for the treatment of reflux esophagitis. An article by McHardy, G. and L. Balart, "Reflux Esophagitis in the Elderly, with Special Reference to Antacid Therapy", American Geriatrics Society, 20: 293, 1972 concerning a summary of 100 patient case reports was cited as support for this comment.

The Commissioner notes that even the comment admits that alginic acid is not a potent antacid and that its unusual characteristic of floating is the factor that may aid in the management of patients with esophagitis. The Commissioner rejected this comment in paragraph 25 of the preamble to the tentative final order, and no significant new or additional data or information have been submitted. This ingredient is not sufficiently effective to meet, by itself, the requirements for effectiveness set out in the final order. The problem continues to be that no well controlled studies have been submitted demonstrating that alginic acid is otherwise clinically effective in combination with an effective antacid. Until such studies are available, alginic acid will not be included in the antacid monograph.

61. Another comment supporting the use of alginic acid as a Category I ingredient took exception to the findings of the Commissioner in paragraph 25 of the tentative final order. First, it was stated that, as long as a study shows that an antacid/alginic acid combination has the same effectiveness as an antacid alone in treating regurgitation and epigastric gas, the combination product should be approved. Second, the comment argued that there is incontrovertible evidence that the alginic acid floats. Third, it was proposed that the concern of the Antacid Panel about the effectiveness of the product when a patient is in a reclining position can be eliminated by including in the labeling directions a caution statement stating that the user should not recline. Fourth, there was comment that an additional study by Grossman, A. E., et al., "Reflux Esophagitis, a Comparison of Old and New Medical Management", Journal of the Kansas Medical Society, 74: 423–424, 1973, shows that the combination is equivalent to the standard antacid in relieving regurgitation and epigastric gas.

The first point deals with a study in which the antacid/alginic acid combination product shows little difference from the antacid alone. Pursuant to § 330.10(a)(4)(iv) (formerly § 130.301(a)(4)(iv)), the use of an active ingredient, alginic acid, in a combination drug must be shown to contribute to the effect of the product, i.e., the combination must result in a more effective product than the antacid alone. The alginic acid has no acid neutralizing capacity, and the referenced study clearly does not show that the alginic acid/antacid combination is more effective than an antacid alone or that alginic acid contributes to the claimed alleviation of symptoms. Thus, the available data fail to provide adequate evidence that alginic acid contributes to the effectiveness of the product.

The second point deals with whether floating, by itself, constitutes effectiveness. No scientific evidence has been submitted to show that floating is in any way related to clinical effectiveness, and in view of the study showing a lack of clinical effectiveness of alginic acid it is doubtful whether such proof can be obtained.

The third point referred to the fact that reclining may reduce the effectiveness of a floating product. The Commissioner concludes that consideration of any proposed warning or other labeling is properly deferred until studies are conducted to determine the clinical effectiveness of a floating alginic acid/antacid combination drug and its relationship to the position of the patient.

There is no indication in the article that the subjects were assigned so as to eliminate bias nor to assume comparability in the test group and control of pertinent variables such as duration of disease, age and sex. The most critical issue was the failure to minimize bias on the part of the subject and observer because the control in the study was a commercially available antacid that had different ingredients and would be easily distinguishable by the subject and the dispensing health professional. There is no indication that any effort was made to blind the study. The method of evaluation is explained but it was subjective in all subjects unless they had shown esophagitis in the initial esophagoscopy. Only one-half the patient population had shown esophagitis and both the antacid and antacid/alginic acid group showed objective improvement in esophagitis at the end of the one month study period. The study had attempted to measure four parameters: (1) Epigastric to retrosternal distress, (2) regurgitation, (3) epigastric gas and (4) motor symptoms of swallowing. The statistical analysis according to the investigators showed no significant difference in three out of the four comparisons between the antacid and the antacid/alginic acid product. The investigators also noted that the frequency of antacid administration used in the study may not have been adequate to produce therapeutic response in all patients. The investigators also concluded that the antacid/alginic acid combination "may" be beneficial in patients with retrosternal or epigastric gas. As indicated above, the article reporting the study does not meet a number of requirements of § 314.111(a)(5) (formerly § 130.12(a)(5)). The study does not answer the question whether alginic acid is effective alone or in combination in the treatment of retrosternal or epigastric distress. Until well-controlled studies are conducted in accordance with § 314.111(a)(5) (formerly § 130.13(a)(5)) to show clinical effectiveness, it will not be possible for the Commissioner to include this ingredient in the monograph.

62. There was comment that the use of a product containing an antacid and a salicylate for gastrointestinal symptoms, even if accompanied by pain symptoms, is not safe. To support the position, material previously provided as a comment on the proposal was resubmitted.

The Commissioner discussed this material in paragraphs 62 through 66 of the preamble to the tentative final order. No additional data of information were submitted. The Commissioner therefore reiterates the conclusions stated on this matter in the tentative final order.

The Commissioner notes that all of the evidence of safety of an analgesic/antacid combination drug is derived from studies and experience with products intended for administration in solution. Accordingly, the monograph has been modified to limit this combination to this type of product.

63. There was comment that the Commissioner in paragraph 66 of the preamble to the tentative final order had failed to evaluate properly an unpublished study on an antacid/analgesic combination. The comment stated that the Commissioner erred when he concluded that there was no statistically significant increase of blood loss, that the blood loss was not clinically significant, and that the bleeding resulting from an analgesic/antacid drug response normally continues for the duration of the treatment period. The comment

stated that, based on the incorrect evaluation of this study, the Commissioner's conclusion should be reversed.

The Commissioner has again reviewed this matter and has determined that his evaluation of the deficiencies in the study cited in this comment are correctly explained in paragraph 66 of the preamble to the tentative final order. First, the statistical significance of the differences in bleeding shown in that study is in dispute, and in any event is not the important issue. The important question bearing on safety is the medical significance of the amount of bleeding shown in the study. Second, the amount of blood loss shown is not clinically significant (Matsumoto, K. K. and M. I. Grossman, "Quantitive Measurement of Gastrointestinal Blood Loss During Ingestion of Aspirin," Proceedings of the Society for Experimental Biology and Medicine, 102: 517–519, 1959) and is within the range of blood loss found in normal individuals (Danhof, I. E., "Blood Loss from the Gastrointestinal Tract I. Normal Occult Loss," Bulletin of the Medical Staff of the Methodist Hospital of Dallas, 5: 35–38, 1972). Third, although a patient with pathological gastrointestinal lesions caused by cancer or ulcers bleeds irregularly and at widely varying times from day to day, the available evidence supports the conclusion that the blood loss caused in normal individuals by salicylate is continuous. (Croft, D. N. and P. H. N. Wood, "Gastric Mucosa and Susceptibility to Occult Gastrointestinal Bleeding Caused by Aspirin," British Medical Journal I, 137–141, 1967). Fourth, the single study on which the comment relies is not supported by substantial other well-controlled studies contained in the record. Fifth, the record does not contain any significant number of case histories of such acute bleeding caused by this widely marketed type of product consumed in large quantities by a substantial body of the public for many years. If a significant medical problem existed it would be expected to have been reported by now.

64. One comment stated that the Food and Drug Administration has misinterpreted the OTC combination drug policy as to an antacid/analgesic combination, because the policy requires that each ingredient contribute to each effect. The comment contended that each ingredient in the antacid/analgesic combination would need to be shown to contribute to both effects, e.g., the antacid ingredient would also need to be effective for a headache.

The Commissioner advises that the comment misinterprets the plain meaning of the OTC combination policy contained in § 330.10(a)(4)(iv) (formerly § 130.301(a)(4)(iv)) and explained in paragraphs 63–66 of the preamble to the final regulations establishing the procedures for the OTC drug review published in the FEDERAL REGISTER of May 11, 1972 (37 FR 9664). The policy states that each active ingredient must make a contribution to the effect claimed for it, and not that each active ingredient must contribute to all effects claimed for the product. To adopt the approach suggested by the comment would require removal of all dual purpose combination drugs from the market because rational concurrent therapy could only be found where all the ingredients had the same effects. The Commissioner states that this was not the intent of the regulation and that such a policy would be unreasonable from a medical standpoint.

One person who opposed the combination as irrational stated at the public hearing that he would concurrently prescribe an analgesic and an antacid for a patient who exhibited the concurrent symptoms of acid indigestion and headache. He stated, however, that he would prescribe an analgesic other than a salicylate, and also expressed concern about the fixed dosage contained in existing antacid/analgesic combinations.

The Commissioner concludes that this comment supports his determination that an antacid/analgesic combination constitutes rational concurrent therapy. Symptoms justifying use of these drugs often occur concurrently. The combination of these drugs meets each requirement of § 330.10(a)(4)(iv) (formerly § 130.301(a)(4)(iv)). The antacid monograph determines the effective dose for the antacid component of this combination, and the internal analgesic monograph will determine the effectiveness dose for the analgesic component. Thus, the fixed combination will be within the effective dosage range for both ingredients when administered concurrently according to the label directions for use.

The Commissioner notes that the safety of analgesic ingredients is currently being reviewed by the Internal Analgesic Panel. The final antacid monograph provides that any safe and effective analgesic, as determined by the internal analgesic monograph, may be used in combination with an antacid for concurrent analgesic and antacid symptoms. Accordingly, the safety, effectiveness, and appropriate labeling of the analgesic component of an antacid/analgesic combination remains under consideration at this time, and will be the subject of a further review and determination by the Commissioner in accordance with the procedures specified in § 330.10 (formerly § 130.301).

65. There was comment that the dosages of the active ingredients in an analgesic/antacid combination would be irrational because of an insufficient amount of antacid or analgesic. The comment states that the combination provides about one-fourth of the antacid needed in treating ulcers or hypersecretion.

The dosage of antacid contained in the combination product must meet the antacid in vitro test which has been designated as the standard of effectiveness for an OTC antacid. The Commissioner has determined that the combination antacid/analgesic is not appropriate for peptic ulcer therapy and under the final monograph it cannot lawfully be promoted for antacid use alone. Moreover, consumer labeling may not lawfully promote any antacid for peptic ulcer therapy under the final monograph. Accordingly, this comment raises issues based on an incorrect interpretation of the monograph.

66. There was comment that banning combinations for the concurrent symptoms of constipation and acid indigestion and yet approving those for the concurrent symptoms of acid indigestion and headache was irrational.

The Commissioner concludes that there is a significant target population that suffers from acid indigestion and headache at the same time. There was no information submitted to indicate that this is true with acid indigestion and constipation.

67. One comment stated that an antacid/analgesic combination should not be used only as an antacid, citing the Medical Letter, 15: 36, April 13, 1973.

The Commissioner concurs, and the labeling for the combination required in the proposal, the tentative final order, and the final order clearly so states.

68. There was comment at the hearing that the response to a questionnaire mailed to 275 gastroenterologists showed that 44 percent replied indicating that an antacid/analgesic (salicylate) combination was irrational.

The Commissioner concludes that the flaws in this mail survey make the results unreliable and irrelevant to the issues being considered. First, the mail survey used an obviously biased questionnaire. The questionnare set out quotations from the report of the Antacid Panel that were incomplete and taken out of context and thus presented an incomplete picture. The results must therefore be disregarded as unacceptable evidence on which to base any decision. Second, the mail survey did not include the requirements for a combination drug set out in § 330.10(a)(4)(iv) (formerly § 130.301(a)(4)(iv)) of the regulations. Accordingly, there was no standard against which to judge the appropriateness of the combination involved. Third, the mail survey included no scientific data on which the respondents might base an opinion. The information available to the Commissioner in the administrative record of this proceeding does not indicate that any of the respondents based their conclusions upon scientific evidence. Fourth, the mail survey did not ask whether any of the respondents had observed gastrointestinal bleeding that had been proved to be causally related to an antacid/analgesic combination drug. The information available to the Commissioner in the administrative record of this proceeding does not indicate that any of the respondents stated that they had found any such situation. Fifth, the courts have ruled that the opinions and anecdotal views of physicians are an insufficient basis for a decision that a combination drug meets the legal and scientific requirements of the Federal Food, Drug, and Cosmetic Act. See Upjohn Company v. Finch, 422 F. 2d 944 (6th Cir. 1970) and Weinberger v. Hynson, Westcott and Dunning, 412 U.S. 609 (1973). This principle applies regardless whether the phy-

sicians may approve or disapprove of a particular combination drug. Unsubstantiated opinion is no substitute for well-grounded scientific evidence. Sixth, the mail questionnaire focused upon a particular brand of a marketed product rather than upon a request for scientific evidence relating to a type of combination drug. This reference introduced further subjective factors into the response, relating to the labeling and advertising for the particular brand product mentioned, unrelated to the scientific and medical issues involved. Accordingly, the Commissioner concludes that this mail survey is entitled to little or no weight with respect to this matter.

69. One comment objected to comments made to the Antacid Panel by the Assistant General Counsel, Food and Drug Division, Department of HEW, and to the participation of the Assistant General Counsel in this matter because, prior to his government employment, he had provided legal advice to a client who had manufactured an antacid/analgesic combination drug.

The Commissioner has thoroughly reviewed this matter and has concluded that no impropriety has occurred. The Assistant General Counsel has stated that he had not advised the company involved on any of the issues involved in the OTC Review and that he has followed the guidelines for disqualification which he established in testimony before the Senate Committee on Commerce on September 17, 1971, which exceed the requirements of the law. A copy of that testimony has been included as part of the administrative record of this proceeding.

Moreover, the Commissioner reiterates that the decision on both the tentative final order and this final order with respect to the antacid/analgesic combination involves medical and scientific issues for which he is responsible, and not legal issues. The Commissioner advises that, in considering the status of the combination, his decision has been based upon sound scientific evidence and reasoning rather than upon theoretical possibilities, particularly in light of the long marketing history of this type of product without any significant reported safety problem. The criteria for a combination drug are established in § 330.10 (a)(4)(iv) (formerly § 130.301(a)(4)(iv)) of the regulations in readily-understandable terms, and the Commissioner has applied those criteria as they are written. The Commissioner and his medical advisers have reviewed the administrative record in this proceeding, and the Commissioner personally presided over the public hearing at which the status of an analgesic/antacid combination drug was a major issue. Thus, full responsibility for the decision on this matter rests with the Commissioner, and not with the Assistant General Counsel, the Antacid Panel, or any other persons.

70. There was comment that the population to which the antacid/analgesic combination is directed contains a large number of individuals who are at an increased risk from salicylates because of underlying diseases. The comment conceded that an analgesic and antacid would be appropriate treatment for a person with hyperacidity and headache.

The Commissioner concurs with the comment that an antacid and an analgesic given concurrently would be the drugs of choice for a person with hyperacidity and headache. The Commissioner concludes that the data submitted support a fixed dosage combination for OTC use for this purpose and that in fact for many people the combination may be safer than taking the individual ingredients separately. There is some evidence that whatever harmful effect may result from salicylate may be reduced by buffering it with an antacid ingredient. Such a protective effect could not occur unless ingestion is at least simultaneous and may not occur without prior admixture. The Internal Analgesic Panel is considering appropriate labeling for analgesic ingredients, including whether warnings may be appropriate for salicylates to prevent use in situations where it could be harmful.

71. There was comment that, where there is inclusion of a salicylate, a warning statement concerning peptic ulcer would be appropriate on the antacid/analgesic combination.

The Commissioner will not comment on this issue at this time because the Internal Analgesic Panel is considering appropriate labeling for analgesic ingredients. As already noted above, the Commissioner will address this issue in the course of reviewing that Panel's recommendations.

72. There was comment that the finding that an antacid/analgesic combination is irrational for antacid use alone should not apply where sodium acetylsalicylate is used in a highly buffered solution.

This matter was fully considered in paragraph 64 of the preamble to the November tentative final order. To accept this comment would be to allow the use of a salicylate in a product that is represented only for antacid use. Until adequate and well-controlled studies are presented to show that a salicylate is effective for relief of upper gastrointestinal symptoms, it would be misleading for a product to represent that a salicylate is useful for relief of acid indigestion or other symptoms for which antacids are effective.

73. There was comment that data had been presented to show that sodium acetylsalicylate in a highly buffered solution is beneficial in the relief of symptoms of upper gastrointestinal discomfort. The comment stated that the acetylsalicylate has a therapeutic effect on the inflamed gastrointestinal tissue, and that if more data are needed the ingredient should be placed in Category III while the data are being collected. The data submitted were derived from experiments in laboratory animals. They included studies showing that aspirin lessened experimental peritonitis in the mouse and rat in addition to a study in cats. These studies indicate that aspirin may have an anti-inflammatory effect in the viscera. The comment stated that additional evidence conclusively establishing the precise role which acetylsalicylates play in the relief of upper gastrointestinal symptoms will require further development in methodology.

The Commissioner concludes that this data base, limited to studies in laboratory animals, is not adequate evidence to allow the use of an antacid claim for a salicylate or to justify continued marketing for this use pending further testing. There are also other data which indicate that salicylates may cause gastrointestinal bleeding. It may well be that the dosage and method of administration determine the effect a salicylate will have, but until well controlled studies can adequately resolve the issue the Commissioner concludes that a product containing a salicylate may not be labeled for antacid use alone.

74. There was comment that the antacid monograph in § 331.30(g)(3) (formerly § 130.305(g)(3)) failed to recognize professional labeling for antacid/antiflatulent combinations.

The comment is correct. A new provision has been added to § 331.31(b) stating that an antacid/antiflatulent combination may contain the professional labeling allowed for antacids and antiflatulents, i.e., peptic ulcer and postoperative gas pain.

75. There was comment that the inactive ingredient(s) should be listed on OTC drug labels.

The Commissioner reiterates the conclusion stated in paragraph 28 of the preamble to the tentative final order that the issue of listing inactive ingredients on OTC labels would be considered by the National Drug Advisory Committee. This matter is inappropriate as a subject matter for the individual OTC monographs. The Federal Food, Drug, and Cosmetic Act does not presently permit the Food and Drug Administration to require the labeling of all inactive ingredients.

ANTIFLATULENT

76. There was comment that it was inappropriate to create an antiflatulent monograph in the tentative final order and that a new call for data should have been published.

The Commissioner is of the opinion that it was proper to consider the status of the ingredient simethicone since the record before him fully addressed the issue and opportunity for comment and a public hearing on the matter were provided. Paragraph 67 of the preamble to the tentative final order stated that any other ingredient for consideration as an antiflatulent should be submitted to the Miscellaneous Internal Panel.

77. There was comment objecting to the limitation of antacid products containing simethicone to a use solely for concurrent symptoms of gas associated with heartburn, sour stomach or acid indigestion. The comment requested that the monograph allow an antacid claim alone, even though the product also contains the antiflatulent ingredient. This comment was based on the view that both

ingredients have their effect on the same organ system for relief of related or often indistinguishable symptoms.

The Commissioner notes that this comment raises the issues of what is a combination drug and how it shall be labeled. Section 330.10(a)(4)(iv) of the regulations states that an OTC product may combine two or more safe and effective active ingredients when each active ingredient makes a contribution to the claimed effect(s). Simethicone combined with an antacid has been adjudged safe and effective. Each makes a contribution to the product's effects, but each ingredient is pharmacologically different in that each has a different mode and method of action. The antacid reduces the acid level of the stomach. The simethicone reduces the surface tension of the bubbles that are present in the stomach allowing them to break up or create a larger gas mass which is more easily expelled from the gastrointestinal tract, a mechanism of action that is wholly different from that of the antacid. Since each of these ingredients has an independent pharmacologic action of its own, they are each marketed commercially as single ingredients.

Section 330.10(a)(4)(iv) of the regulations also states that a combination drug shall bear adequate directions for use and provide rational concurrent therapy for a significant proportion of the target population. In paragraph 63 of the preamble to the final procedural regulations published in the FEDERAL REGISTER of May 11, 1972 (37 FR 9464) the explanation was made that "There is no sound medical or scientific reason to have an active ingredient in a combination unless it makes a contribution to the claimed effect." In this case simethicone reduces the gas and the antacid reduces the acid level of the stomach contents. Thus, the target population for the combination product must be those who have acid indigestion, sour stomach, heartburn and gas. Otherwise, both ingredients would not be necessary. For gas alone, simethicone would be sufficient; and for acid indigestion alone, an antacid would be sufficient.

Section 330.1(a)(4)(v) of the regulations states that the "Labeling shall be clear and truthful in all respects and may not be false and misleading in any particular. It shall state the intended uses and results of the product . . ." Here, the combination is useful if the consumer has both conditions, acid indigestion and gas. Failure to include both conditions on the label of the product would result in a label that was not clear and truthful. If the consumer has no gas, he is not part of the target population for which the combination is intended. Failure to include both indications would mean that the label would not inform the consumer of the results he could expect, relief from acid indigestion and gas.

The comment contends that many consumers have the need for the antacid and antiflatulent together and do not realize that both symptoms are present, and that for this reason the product need only be labeled as an antacid. No data were presented to support the comment. The sole basis for the comment is the fact that the combination product has been marketed as an antacid for years and simethicone has a wide margin of safety. The purpose of the OTC drug review is to evaluate the safety and effectiveness and labeling of OTC drug products on the basis of scientific evidence, so that consumers will be able to make more rationale OTC drug purchases. An underlying premise of the OTC drug review, and, indeed, of the sale of drugs over-the-counter rather than on prescription, is that the consumer is capable of making an intelligent choice of a drug product if he posseses adequate information about the products offered for treatment of specific conditions or symptoms. To omit the effects of an active ingredient from the label is inconsistent with that premise and defeats the very purpose for which the OTC drug review has been undertaken.

The Commissioner notes that a related question has been raised concerning the limitation to be placed on the combination product containing antacid and analgesic ingredients. There the view has been expressed that the combination should not be permitted because it is not rational therapy for an individual who has a condition for which the antacid alone is appropriate treatment. The Commissioner agrees with that view, but has concluded that labeling which clearly indicates that the combination is to be used only when concurrent symptoms of acid indigestion and headache are present is sufficient to enable the consumer to exercise a reasoned judgment as to the appropriateness of the combination. Accordingly, a combination antacid-analgesic product must be indicated in its labeling and promotion for use solely for the concurrent symptoms of headache and acid indigestion. Section 331.15 (b) [formerly § 130.305(g)(2)].

The Commissioner sees no basis for reaching a different result with respect to a combination of antacid and antiflatulent ingredients. That the concurrent symptoms which that combination is intended to treat affect the same organ system rather than different systems does not argue in favor of labeling which fails to indicate what is the fact, that the combination is intended as therapy for two distinct conditions of that one system. Similarly, that some consumers may be unaware that their discomfort is caused by both gas and acid indigestion rather than just by acid indigestion is not a cogent reason for labeling the combination only as an antacid any more than it is a valid basis for representing the drug solely as an antiflatulent. There is no evidence that consumers universally, or even generally, assume that the discomfort associated with gas and acid indigestion together is caused by acid indigestion alone, so that promoting the combination exclusively as an antacid would at least provide sufficient information to those suffering from those two concurrent symptoms to enable them to purchase a product intended to treat them both. Even if there were such evidence, there would still be no acceptable reasons for allowing convenience or marketing considerations to prevail over the objective of clear and truthful labeling by not advising the consumer that the product is in fact intended to treat two conditions. Finally, the contention that simethicone may not be harmful to one who does not need it does not support the desired result of not openly informing the consumer of the purpose of a drug to treat a condition or symptom which the consumer may not have. The goal of clear and truthful labeling of OTC drugs is not limited to those situations where it is necessary to avoid adverse consequences. The consumer should always be informed of the purpose of an OTC drug so that he can make up his own mind to the extent that his knowledge permits. His freedom of choice should not be qualified because the manufacturer assumes that some consumers lack adequate knowledge, or because, in the manufacturer's opinion, the choice is unimportant.

Based on these considerations, the Commissioner concludes that an antacid/antiflatulent combination must contain both indications.

78. There was comment that the maximum daily dose of simethicone established in the antiflatulent monograph in the tentative final order is too low and that there are data available showing usage at much higher dosages under the supervision of a physician.

The Commissioner concurs that the dosage used by physicians has exceeded 500 milligrams, but points out that there are no data on OTC use of this ingredient at higher dosages. Because of the complete lack of data concerning higher OTC dosages the Commissioner has decided that the daily dose for OTC use will be set at 500 milligrams at this time and that there will be no dosage limitation on professional labeling. If data are presented at the Miscellaneous Internal Panel to justify changing these dosages, appropriate changes will be made.

79. There was comment that § 332.30 (a) (formerly § 130.306(b)) improperly allows the manufacturer to use all commonly existing descriptive terms such as bloating, flatulence, colic, belching, etc. to describe an antiflatulent.

The Commissioner advises that this is an erroneous interpretation of the monograph. The monograph is not intended to allow the use of such words as bloating, colic, belching, etc. The monograph allows use only of the word "antiflatulent" or the statement "to alleviate or relieve symptoms of gas." Those are the only terms that can properly be used for OTC antiflatulent drugs.

80. There was comment that endoscopic and radioscopic examinations should be added to the professional labeling indications for OTC antiflatulent drugs.

The Commissioner agrees that it is appropriate to add endoscopy as an indication but concludes that there are insufficient data to support a radiologic

indication at this time. Data on the latter indication may be submitted to the Internal Miscellaneous Panel and will be considered as part of that proceeding.

81. There was comment that § 332.15 (formerly § 130.306(e)) does not provide for labeling for health professionals.

The Commissioner concurs, and a clarifying sentence has been added as § 332.31 (b).

EFFECTIVE DATE OF MONOGRAPH

82. There were a number of comments requesting an extension of the effective date of the final monograph beyond the 6 months indicated in the proposal, because of the shortages that exist in packaging material and the energy situation as it affects the OTC drug industry. In support of these comments, data have been submitted from 15 companies concerning their ability of relabel and reformulate. The comments requested that, for products where no reformulation is necessary, the product labeling ordered by the manufacturer 6 months after the effective date would be in compliance, and for those products where reformulation is necessary, all labeling ordered 18 months after the effective date would be in compliance.

After reviewing the data and considering the comments the Commissioner concludes that it is reasonable to establish the following conditions for the effective date of the final monograph. The effective date of the monograph will be July 5, 1974, with the following exceptions. The effective date for all labeling for products not receiving an extension of the effective date for reformulation shall be June 5, 1975. Where reformulation is necessary, and if sufficient data and reasons are supplied, the Commissioner will grant an extension of the effective date for reformulation and relabeling for up to two years after the date of publication in the FEDERAL REGISTER.

The Commissioner has set the above effective dates because he concludes that most manufacturers can within 12 months after the date of publication order new labeling and have their products in compliance in the market place. The Commissioner believes that the most reasonable way of dealing with reformulation problems is to extend the date for compliance of a product where the manufacturer is able to demonstrate that he is having significant problems in reformulation and needs additional time to bring his product into compliance.

Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 201, 502, 505, 701, 52 Stat. 1040–42 as amended, 1055–56 as amended by 70 Stat. 919 and 72 Stat. 948; 21 U.S.C. 321, 352, 355, 371) and the Administrative Procedure Act (secs. 4, 5, 10, 60 Stat. 238 and 243 as amended; 5 U.S.C. 553, 554, 702, 703, 704) and under authority delegated to him (21 CFR 2.120), and based upon the administrative record in this proceeding, the Commissioner hereby makes the following determinations pursuant to § 330.10(a)(6)–(9) (formerly § 130.301(a)(6)–(9)) of the conditions under which OTC antacid drug products are not generally recognized as safe and effective or are misbranded (Category II), or for which there are insufficient data available to classify such conditions at this time and for which further testing must be undertaken to justify continued marketing (Category III):

COMMISSIONER'S DETERMINATION OF CONDITIONS UNDER WHICH OTC ANTACID DRUG PRODUCTS ARE NOT GENERALLY RECOGNIZED AS SAFE AND EFFECTIVE OR ARE MISBRANDED (CATEGORY II)

The Commissioner determines that the use of antacids under the following conditions is unsupported by scientific data, and in many instances by sound theoretical reasoning. The Commissioner concludes that the ingredients, labeling, and combination drugs involved shall not be permitted in interstate commerce effective as of 6 months after publication of the final monograph in the FEDERAL REGISTER, until scientific testing supports their use and they are approved by the Food and Drug Administration by amendment of the monograph or by a new drug application.

A. *Active ingredients.* No active ingredients that are not included in the monograph or in Category III have been shown by adequate and reliable scientific evidence to be safe and effective for antacid use.

B. *Labeling.* It is not truthful and accurate to make claims or to use indications on the package label that the product may directly affect "nervous or emotional disturbances", "excessive smoking", "food intolerance", "consumption of alcoholic beverages", "acidosis", "nervous tension headaches", "cold symptoms", and "morning sickness of pregnancy", since the relationship of such phenoma to gastric acidity is both unproven and unlikely.

C. *Drugs combining antacid and other active ingredients.* 1. Antacid-analgesic combinations are irrational for antacid use alone and therefore shall not be labeled or marketed for such use. There is a lack of evidence of effectiveness of any analgesic ingredient for any antacid indication.

2. It is not safe and effective concurrent therapy to add an anticholinergic ingredient to an OTC antacid product, because optimal use of antacids and anticholinergic drugs requires independent adjustment of dosages of each drug, because the addition of an anticholinergic drug in a concentration large enough to have detectable pharmacologic effects would result in a compound too toxic for use in self-medication, and because amounts of anticholinergics safe for OTC use have not been shown to affect gastric secretion or upper gastrointestinal symptoms. Since elderly persons number prominently among antacid users, cycloplegia and urinary retention induced by anticholinergic drugs is a definite risk. Thus, a fixed combination of antacid and anticholinergic will result, regardless of how formulated, in a mixture that is either unsafe or ineffective.

For the same reasons, it also is not safe and effective concurrent therapy to combine antacids with sedative-hypnotic ingredients.

3. It is not rational concurrent therapy for a significant portion of the target population for the label to claim that a combination product (e.g., mineral oil and magnesium hydroxide) is to be used both as an antacid and as a laxative, if the laxative claim is based upon use of a non-antacid laxative ingredient. (Active antacid ingredients will be reviewed by the OTC Laxative Panel to determine whether they are effective as laxatives at higher doses than those used for antacid action.)

4. There are no reliable scientific data showing that the addition of an antipeptic agent to an antacid product increases the product's effectiveness as an antacid or is otherwise effective as a means of managing upper gastrointestinal symptoms. No claim for antipeptic activity will be considered truthful and accurate until it is substantiated both by scientifically valid in vitro tests showing that the antipeptic action is substantially greater than that of an agent with only antacid action (such as sodium bicarbonate), and it is proved by studies that the antipeptic activity is clinically meaningful and therefore contributes significantly to the product's effectiveness.

5. The addition of proteolytic agents or bile or bile salts to antacid products is unsafe. Since pepsin is presumably involved in the pathogenesis of peptic ulcer, the addition of pepsin to antacid products may be potentially harmful. Since bile and bile salts can damage gastric mucosa, and since they may be involved in the pathogenesis of gastric ulcer, these substances should not be permitted in antacid products.

6. The addition of an antiemetic to an antacid product is not rational concurrent therapy for a significant portion of the target population.

COMMISSIONER'S DETERMINATION OF OTC ANTACID DRUG PRODUCT CONDITIONS FOR WHICH THE AVAILABLE DATA ARE INSUFFICIENT TO PERMIT FINAL CLASSIFICATION AT THIS TIME (CATEGORY III)

The Commissioner determines that adequate and reliable scientific evidence is not available at this time to permit final classification of the following conditions of use of OTC antacid drug products.

A. *Active ingredients.* These ingredients have either no or negligible antacid action, and there is inadequate evidence of their effectiveness for their non-antacid action in the relief of upper gastrointestinal symptoms or in their adjuvant or corrective properties. Marketing under these conditions may continue for a period of 2 years after the date of publication of this determination if the manufacturer or distributor of the product promptly undertakes adequate testing to prove effectiveness, and if any product that claims to be an antacid (i.e., neutralize stomach acid) meets the in vitro antacid effectiveness standard

contained in the monograph. Products which do not meet both of these requirements shall be subject to the requirements for Category I products. If testing is promptly undertaken but data adequate to prove effectiveness are not submitted to the Food and Drug Administration within the 2-year period, the ingredients listed in this category will no longer be permitted, even in a product that meets the in vitro antacid effectiveness standard, because of a lack of evidence that these ingredients make a meaningful contribution to the claimed effect for the product.

1. *Alginic acid.* Although the ingestion of alginic acid-containing products may produce a layer of material floating on top of the gastric contents, the available evidence is insufficient to demonstrate clinical effectiveness. The studies are fragmentary, uncontrolled, and few in number. No evidence is presented as to reproducibility of results. There is insufficient evidence that alginic acid-containing antacid products, even if they do produce a floating layer on top of the gastric contents, are clinically beneficial. Indeed, such evidence as there is indicates that these products do not increase the pH of gastric contents as a whole. Since regurgitation of gastric contents is particularly apt to occur when patients are lying down rather than in the upright position, alginic acid-containing products may be less beneficial than a standard antacid which is more likely to increase the pH throughout the gastric contents.

Alginic acid is safe in amounts usually taken orally (e.g., 4 grams per day) in antacid products.

2. *Attapulgite (activated).* This ingredient is safe in the amounts usually taken orally in antacid products.

3. *Charcoal, activated.* Charcoal is presently considered safe in amounts usually taken orally in antacid products, but study is specifically needed to determine whether the charcoal used contains benzpyrene or methylcholanthrane type carcinogens. Since charcoal-containing products may decrease absorption of certain oral drugs, the label shall bear the following drug interaction precaution: "Drug Interaction Precautions: Do not take this product if you are presently taking any prescription drug."

4. *Gastric mucin.* This ingredient is safe in the amounts usually taken orally in antacid products.

5. *Kaolin.* Kaolin is safe in amounts usually taken orally in antacid products. Since kaolin affects gastro-intestinal absorption, kaolin interferes with the absorption of lincomycin, and therefore the label shall bear the following drug interaction precaution: "Drug Interaction Precautions: Do not take this product if you are presently taking a prescription antibiotic drug containing lincomycin."

6. *Methylcellulose.* Methylcellulose is safe in amounts usually taken orally e.g., 2 grams per day in antacid products).

7. *Pectin.* Pectin is safe in the amounts usually taken orally in antacid products.

8. *Carboxy methylcellulose.* Carboxy methylcellulose is safe in amounts usually taken (e.g., 3 grams per day) in antacid products.

B. *Labeling.* Marketing under the following labeling conditions may continue for a period of 2 years after the date of publication of this determination subject to the same requirements specified above for the use of Category III ingredients.

1. OTC products containing ingredients listed in Category I or III are often used to treat symptoms that are not known to be related to acidity of gastric contents. These products may or may not qualify as antacids by the in vitro acid neutralizing test. The symptoms include "indigestion", "gas", "upper abdominal pressure", "full feeling", "nausea", "excessive erructations", "upset stomach", and the like. Some of these symptoms are vague, most are poorly understood as to pathophysiological mechanism, and none has been shown by adequate and reliable scientific evidence to be caused by or alleviated by changes in gastric acidity.

2. Claims or indications which link certain signs and symptoms, such as "sour breath", "upper abdominal pressure", "full feeling", "nausea", "stomach distress", "indigestion", "upset stomach", and "excessive eructations" with normal or hypernormal gastric acidity, are unproven since the relationship of such signs and symptoms to gastric acidity is unknown or dubious and there is no adequate and reliable scientific evidence to support these claims. Such claims or indications encourage the user to draw conclusions as to the cause or intermediation of such symptoms, a conclusion that even the medical profession is incapable of drawing at this time.

3. The evidence currently available is inadequate to support the claim that such properties as "floating", "coating", defoaming", "demulcent", and "carminative" contribute to the relief of upper gastrointestinal symptoms. The continued use of such claims, or ones closely allied to them, requires additional studies both to confirm the claimed specific action and to demonstrate clinical significance.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 201, 502, 505, 701, 52 Stat. 1040–42 as amended, 1050–53 as amended, 1055–56 as amended by 70 Stat. 919 and 72 Stat. 948; 21 U.S.C. 321, 352, 355, 371) and the Administrative Procedure Act (secs. 4, 5, 10, 60 Stat. 238 and 243 as amended; 5 U.S.C. 553, 554, 702, 703, 704) and under authority delegated to the Commissioner (21 CFR 2.120) and based upon the administrative record in this proceeding, Title 21 of the Code of Federal Regulations is amended by adding Parts 331 and 332 (formerly §§ 130.305 and 130.306) to Subchapter D to read as follows:

Subpart A—General Provisions

Sec.
331.1 Scope.

Subpart B—Active Ingredients

331.10 Antacid active ingredients.
331.11 Listing of specific active ingredients.
331.15 Combination with nonantacid active ingredients.

Subpart C—Testing Procedures

331.20 Apparatus and reagents.
331.21 Determination of percent contribution of active ingredients.
331.22 Reagent standardization.
331.23 Temperature standardization.
331.24 Tablet disintegration test.
331.25 Preliminary antacid test.
331.26 Acid neutralizing capacity test.
331.29 Test modifications.

Subpart D—Labeling

331.30 Labeling of antacid products.
331.31 Professional labeling.

Subpart A—General Provisions

§ 331.1 Scope.

An over-the-counter antacid product in a form suitable for oral administration is generally recognized as safe and effective and is not misbranded if it meets each of the following conditions and each of the general conditions established in § 330.1 of this chapter.

Subpart B—Active Ingredients

§ 331.10 Antacid active ingredients.

(a) The active antacid ingredients of the product consist of one or more of the ingredients permitted in § 331.11 within any maximum daily dosage limit established, each ingredient is included at a level that contributes at least 25 percent of the total acid neutralizing capacity of the product, and the finished product contains at least 5 mEq. of acid neutralizing capacity and results in a pH of 3.5 or greater at the end of the initial 10-minute period as measured by the method established in § 331.25. The method established in § 331.21 shall be used to determine the percent contribution of each antacid active ingredient.

(b) This section does not apply to an antacid ingredient specifically added as a corrective to prevent a laxative or constipating effect.

§ 331.11 Listing of specific active ingredients.

(a) Aluminum-containing active ingredients:

(1) Aluminum carbonate.

(2) Aluminum hydroxide (or as aluminum hydroxide-hexitol stabilized polymer, aluminum hydroxide-magnesium carbonate codried gel, aluminum hydroxide-magnesium trisilicate codried gel, aluminum-hydroxide sucrose powder hydrated).

(3) Dihydroxyaluminum aminoacetate and dihydroxyaluminum aminoacetic acid.

(4) Aluminum phosphate, maximum daily dosage limit 8 grams.

(5) Dihydroxyaluminum sodium carbonate.

(b) Bicarbonate-containing active ingredients: Bicarbonate ion; maximum

daily dosage limit 200 mEq. for persons up to 60 years old and 100 mEq. for persons 60 years or older.

(c) Bismuth-containing active ingredients:

(1) Bismuth aluminate.
(2) Bismuth carbonate.
(3) Bismuth subcarbonate.
(4) Bismuth subgallate.
(5) Bismuth subnitrate.

(d) Calcium-containing active ingredients: Calcium, as carbonate or phosphate; maximum daily dosage limit 160 mEq. calcium (e.g., 8 grams calcium carbonate).

(e) Citrate-containing active ingredients: Citrate ion, as citric acid or salt; maximum daily dosage limit 8 grams.

(f) Glycine (aminoacetic acid).

(g) Magnesium-containing active ingredients:

(1) Hydrate magnesium aluminate activated sulfate.
(2) Magaldrate.
(3) Magnesium aluminosilicates.
(4) Magnesium carbonate.
(5) Magnesium glycinate.
(6) Magnesium hydroxide.
(7) Magnesium oxide.
(8) Magnesium trisilicate.

(h) Milk solids, dried.

(i) Phosphate-containing active ingredients:

(1) Aluminum phosphate; maximum daily dosage limit 8 grams.
(2) Mono or dibasic calcium salt; maximum daily dosage limt 2 grams.
(3) Tricalcium phosphate; maximum daily dosage limit 24 grams.

(j) Potassium-containing active ingredients:

(1) Potassium bicarbonate (or carbonate when used as a component of an effervescent preparation); maximum daily dosage limit 200 mEq. of bicarbonate ion for persons up to 60 years old and 100 mEq. of bicarbonate ion for persons 60 years or older.
(2) Sodium potassium tartrate.

(k) Sodium-containing active ingredients:

(1) Sodium bicarbonate (or carbonate when used as a component of an effervescent preparation); maximum daily dosage limit 200 mEq. of sodium for persons up to 60 years old and 100 mEq. of sodium for persons 60 years or older, and 200 mEq. of bicarbonate ion for persons up to 60 years old and 100 mEq. of bicarbonate ion for persons 60 years or older. The warning required by § 330.1(g) concerning overdoses is not required on a product containing only sodium bicarbonate powder.
(2) Sodium potassium tartrate.

(l) Silicates:

(1) Magnesium aluminosilicates.
(2) Magnesium trisilicate.

(m) Tartrate-containing active ingredients. Tartaric acid or its salts; maximum daily dosage limit 200 mEq. (15 grams) of tartrate.

§ 331.15 Combination with nonantacid active ingredients.

(a) An antacid may contain any generally recognized as safe and effective nonantacid laxative ingredient to correct for constipation caused by the antacid. No labeling claim of the laxative effect may be used for such a product.

(b) An antacid may contain any generally recognized as safe and effective analgesic ingredient(s), if it is indicated for use solely for the concurrent symptoms involved, e.g., headache and acid indigestion, and is marketed in a form intended for ingestion as a solution.

(c) An antacid may contain any generally recognized as safe and effective antiflatulent ingredient if it is indicated for use solely for the concurrent symptoms of gas associated with heartburn, sour stomach or acid indigestion.

Subpart C—Testing Procedures

§ 331.20 Apparatus and reagents.

(a) pH meter, equipped with glass and saturated calomel electrodes.
(b) Magnetic stirrer.
(c) Magnetic stirring bars (about 40 mm. long and 10 mm. in diameter).
(d) 50 ml. buret.
(e) Buret stand.
(f) 100 ml. beakers.
(g) 250 ml. beakers.
(h) 10 ml., 20 ml. and 30 ml. pipets calibrated to deliver.
(i) Tablet comminuting device.
(j) A number 20 and 100 U.S. standard mesh sieve.
(k) Tablet disintegration apparatus.
(l) 0.1 N, 0.5 N and 1.0 N hydrochloric acid.
(m) 0.5 N sodium hydroxide.
(n) Standard pH 4.0 buffer solution (0.05 M potassium hydrogen phthalate).
(o) 95 percent ethanol.
(p) Distilled Water.

§ 331.21 Determination of percent contribution of active ingredients.

To determine the percent contribution of an antacid active ingredient, place an accurately weighed amount of the antacid active ingredient equal to the amount present in a unit dose of the product into a 250 ml. beaker. If wetting is desired, add not more than 5 ml. of 95 percent ethanol and mix thoroughly to wet the sample (ethanol may affect the acid neutralizing capacity). Add water to a volume of 70 ml. and mix on magnetic stirrer at 300±30 r.p.m. for about one minute. Analyze the sample according to the procedure set forth in § 331.26 and calculate the percent contribution of the antacid active ingredient in the total product as follows:

$$\text{Percent contribution} = \frac{\text{Total mEq. Antacid Active Ingredient} \times 100}{\text{Total mEq. Antacid Product}}$$

§ 331.22 Reagent standardization.

Standardize the sodium hydroxide (NaOH) and Hydrochloric acid (HCl) solutions according to the procedures in the United States Pharmacopeia XVIII (NaOH page 1036 and HCl page 1034) or the Official Methods of Analysis of the Association of Official Analytical Chemists, 11th Ed., 1970, (NaOH page 876 and HCl page 873).[1]

§ 331.23 Temperature standardization.

All tests shall be conducted at 25° C± 3°.

§ 331.24 Tablet disintegration test.

A tablet disintegration test shall be performed on tablets that are not to be chewed following the procedures described in the United States Pharmacopeia XVIII (page 932). If the label states the tablet may be swallowed, it must disintegrate within a 10-minute time limit pursuant to the test procedure using simulated gastric fluid test solution without enzymes, the United States Pharmacopeia XVIII page 1026, rather than water as the immersion fluid.

§ 331.25 Preliminary antacid test.

(a) *pH meter.* Standardize the pH meter at pH 4.0 with the standardizng buffer and check for proper operation at pH 1 with 0.1 N HCl.

(b) *Dosage form testing*—(1) *Liquid sample.* Place an accurately weighed (calculate density) and well mixed amount of the antacid product equivalent to the minimum labeled dosage; e.g., 5 ml., into a 100 ml. beaker. Add sufficient water to obtain a total volume of about 40 ml. and mix on magnetic stirrer at 300±30 r.p.m. for about one minute. Analyze the sample according to the procedure set forth in § 331.25.

(2) *Chewable and non-chewable tablet sample.* Place an accurately weighed amount of a tablet composite equivalent to the minimum labeled dosage into a 100 ml. beaker. (The composite shall be prepared by determining the average weight of not less than 20 tablets and then comminuting the tablets sufficiently to pass through a number 20 U.S. standard mesh sieve and held by a number 100 U.S. standard mesh sieve.) Mix the sieved material to obtain a uniform sample. If wetting is desired, add not more than 5 ml. of 95 percent ethanol and mix to wet the sample thoroughly (ethanol may effect the acid neutralizing capacity). Add water to a volume of 40 ml. and mix on magnetic stirrer at 300±30 r.p.m. for about one minute. (Capsules should be tested in the same manner using the sieved capsule powder as the sample.) Analyze the sample according to the procedure set forth in § 331.25.

(3) *Effervescent sample.* Place an amount equivalent to the minimum labeled dosage into a 100 ml. beaker. Add 10 ml. water and swirl the beaker gently while allowing the reaction to subside. Add another 10 ml. of water and swirl the beaker gently. Wash down the walls of the beaker with 20 ml. of water and

[1] Copies may be obtained from: Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044.

mix on magnetic stirrer at 300±30 r.p.m. for about one minute. Analyze the sample according to the procedure set forth in § 331.25.

(4) *Chewing gum samples with antacid in coating.* Place the number of pieces of gum equivalent to the minimum labeled dosage in a 100 ml. beaker. Add 40 ml. of water and mix on magnetic stirrer at 300±30 r.p.m. for about 2 to 3 minutes. Analyze the sample according to the procedure set forth in § 331.25.

(c) *Test procedure.* (1) Add 10.0 ml. 0.5 N HCl to the test solution while stirring on the magnetic stirrer at 300±30 r.p.m.

(2) Stir for exactly 10 minutes after addition of acid.

(3) Read and record pH.

(4) If pH is below 3.5, the product shall not be labeled as an antacid. If the pH is 3.5 or greater, determine the acid neutralizing capacity according to the procedure set forth in § 331.26.

§ 331.26 Acid neutralizing capacity test.

(a) *pH meter.* Standardize the pH meter at pH 4.0 with the standardizing buffer and check for proper operation at pH 1 with 0.1 N HCl.

(b) *Dosage form testing*—(1) *Liquid sample.* Place an accurately weighed (calculate density) and well mixed amount of product equivalent to the minimum labeled dosage (e.g., 5 ml., etc.) into a 250 ml. beaker. Add sufficient water to obtain a total volume of about 70 ml. and mix on the magnetic stirrer at 300±30 r.p.m. for about one minute. Analyze the sample according to the procedure set forth in § 331.26.

(2) *Chewable and non-chewable tablet sample.* Place an accurately weighed amount of a tablet composite equivalent to the minimum labeled dosage into a 250 ml. beaker. (The composite shall be prepared by determining the average weight of not less than 20 tablets and then comminuting the tablets sufficiently to pass through a number 20 U.S. standard mesh sieve and held by a number 100 U.S. standard mesh sieve. Mix the sieved material to obtain a uniform sample.) If wetting is desired, add not more than 5 ml. of 95 percent ethanol and mix to wet the sample thoroughly (ethanol may effect the acid neutralizing capacity). Add water to a volume of 70 ml. and mix on magnetic stirrer at 300±30 r.p.m. for about one minute. (Capsules should be tested in the same manner using the sieved capsule powder as the sample.) Analyze the sample according to the procedure set forth in § 331.26.

(3) *Effervescent sample.* Place an amount equivalent to the minimum labeled dosage into a 250 ml. beaker. Add 10 ml. water and swirl the beaker gently while allowing the reaction to subside. Add another 10 ml. of water and swirl the beaker gently. Wash down the walls of the beaker with 50 ml. of water and mix on magnetic stirrer at 300±30 r.p.m. for about one minute. Analyze the sample according to the procedure set forth in § 331.26.

(4) *Sample and test procedure for chewing gum with antacid in coating.* Assay six pieces of gum individually in the following manner.

(i) Place one piece of gum in a 250 ml. beaker and add 50 ml. of water.

(ii) Pipette in 30.0 ml. of 1.0 N HCl and stir on magnetic stirrer at 300±30 r.p.m.

(iii) Stir for exactly 10 minutes after addition of acid.

(iv) Stop the stirrer and remove the gum using a long needle or similar utensil.

(v) Rinse the long needle or utensil and the gum with 20 ml. of water into the sample beaker.

(vi) Stir for exactly 5 additional minutes.

(vii) Begin titrating immediately and in a period of time not to exceed 5 minutes titrate the excess 1.0 N HCl with 0.5 N NaOH to stable pH of 3.5.

(viii) Check sample solution 10 to 15 seconds after obtaining pH 3.5 to determine that the pH is stable.

(ix) Average the results of the six individual assays and calculate the total mEq. based on the minimum labeled dosage as follows:

mEq./piece of gum = (30.0 ml.) (normality of HCl) − (ml. of NaOH) (normality of NaOH)

mEq./piece of gum = (30.0 ml.) (normality of HCl) − (ml. of NaOH) (normality of NaOH).

mEq. dose = (number of pieces of gum in minimum dosage) × (mEq./piece of gum).

(c) *Acid neutralizing capacity test procedure (except chewing gum).* (1) Pipette 30.0 ml. of 1.0 N HCl into the sample solution while stirring on the magnetic stirrer at 300±30 r.p.m.

(2) Stir for exactly 15 minutes after addition of acid.

(3) Begin titrating immediately and in a period not to exceed an additional 5 minutes titrate the excess 1.0 N HCl with 0.5 N NaOH to stable pH of 3.5.

(4) Check the sample solution 10 to 15 seconds after obtaining pH 3.5 to make sure the pH is stable.

(5) Calculate the number of mEq. of acid neutralized by the sample as follows:

Total mEq. = (30.0 ml.) (normality of HCl) − (ml. of NaOH) (N of NaOH).

Use appropriate factors, i.e., density, average tablet weight, etc., to calculate the total mEq. of acid neutralized per minimum labeled dosage.

§ 331.29 Test modifications.

The formulation and/or mode of administration of certain products may require modification of this in vitro test. Any proposed modification and the data to support it shall be submitted to the Food and Drug Administration for approval prior to use.

Subpart D—Labeling

§ 331.30 Labeling of antacid products.

(a) *Indications.* The labeling of the product represents or suggests the product as an "antacid" to alleviate the following symptoms: "Heartburn," "sour stomach," and/or "acid indigestion."

(b) *Warnings.* The labeling of the product contains the following warnings, under the heading "Warnings", which may be combined but not rearranged to eliminate duplicative words or phrases if the resulting warning is clear and understandable:

(1) "Do not take more than (maximum recommended daily dosage, broken down by age groups if appropriate, expressed in units such as tablets or teaspoonfuls) in a 24-hour period, or use the maximum dosage of this product for more than 2 weeks, except under the advice and supervision of a physician."

(2) For products which cause constipation in 5 percent or more of persons who take the maximum recommended dosage: "May cause constipation."

(3) For products which cause laxation in 5 percent or more of persons who take the maximum recommended dosage: "May have laxative effect."

(4) For products containing more than 50 mEq. of magnesium in the recommended daily dosage: "Do not use this product except under the advice and supervision of a physician if you have kidney disease."

(5) For products containing more than 5 mEq. sodium in the maximum recommended daily dose: "Do not use this product except under the advice and supervision of a physician if you are on a sodium restricted diet."

(6) For products containing more than 25 mEq. potassium in the maximum recommended daily dose: "Do not use this product except under the advice and supervision of a physician if you have kidney disease."

(7) For products containing more than 5 gm per day lactose in a maximum daily dosage: "Do not use this product except under advice and supervision of a physician if you are allergic to milk or milk products."

(c) *Drug interaction precautions.* The labeling of the product contains the following drug interaction precautions, under the heading "Drug Interaction Precautions":

(i) If the product is an aluminum containing antacid: "Do not take this product if you are presently taking a prescription antibiotic drug containing any form of tetracycline."

(d) *Directions for use.* The labeling of the product contains the recommended dosage, under the heading "Directions", per time interval (e.g., every 4 hours) or time period (e.g., 4 times a day) broken down by age groups if appropriate, followed by "or as directed by a physician."

(e) *Statement of sodium containing ingredients.* The labeling of the product contains the sodium content per dosage unit (e.g., tablet, teaspoonful) if it is 0.2 mEq. (5 mg.) or higher.

§ 331.31 Professional labeling.

(a) The labeling of the product provided to health professionals (but not to the general public):

(1) Shall after June 4, 1976 contain the neutralizing capacity of the product as calculated using the procedure set forth in § 331.26 expressed in terms of the dosage recommended per minimum time interval or, if the labeling recommends more than one dosage, in terms of the minimum dosage recommended

per minimum time interval. For compliance purposes, the value determined by the acid neutralizing test at any point in time shall be at least 90 percent of the labeled value. No product shall be marketed with an acid neutralizing capacity below 5 mEq.

(2) May contain an indication for the symptomatic relief of hyperacidity associated with the diagnosis of peptic ulcer, gastritis, peptic esophagitis, gastric hyperacidity, and hiatal hernia.

(b) Professional labeling for an antacid-antiflatulent combination may contain the information allowed for health professionals for antacids and antiflatulents.

PART 332—ANTIFLATULENT PRODUCTS FOR OVER-THE-COUNTER HUMAN USE

Subpart A—General Provisions

Sec.

332.1 Scope.

Subpart B—Active Ingredients

332.10 Antiflatulent active ingredients.
332.15 Combination with non-antiflatulent active ingredients.

Subpart C—[Reserved]

Subpart D—Labeling

332.30 Labeling of antiflatulent products.
332.31 Professional labeling.

Subpart A—General Provisions

§ 332.1 Scope.

An over-the-counter antiflatulent product in a form suitable for oral administration is generally recognized as safe and effective and is not misbranded if it meets each of the following conditions and each of the general conditions established in § 330.1 of this chapter.

Subpart B—Active Ingredients

§ 332.10 Antiflatulent active ingredients.

Simethicone; maximum daily dose 500 mg. There is no dosage limitation at this time for professional labeling.

§ 332.15 Combination with non-antiflatulent active ingredients.

An antiflatulent may contain any generally recognized as safe and effective antacid ingredient(s) if it is indicated for use solely for the concurrent symptoms of gas associated with heartburn, sour stomach or acid indigestion.

Subpart C—[Reserved]

Subpart D—Labeling

§ 332.30 Labeling of antiflatulent products.

(a) *Indications.* The labeling of the product represents or suggests the product as an "antiflatulent" and/or "to alleviate or relieve the symptoms of gas."

(b) *Directions for use.* The labeling of the product contains the recommended dosage per time interval (e.g., every 4 hours) or time period (e.g., 4 times a day) broken down by age groups if appropriate, followed by "except under the advice and supervision of a physician." The words "or as needed" may be used after the recommended dosage per time interval or time period.

§ 332.31 Professional labeling.

(a) The labeling of the product provided to health professionals (but not to the general public) may contain as additional indications postoperative gas pain or for use in endoscopic examination.

(b) Professional labeling for an antiflatulent-antacid combination may contain information allowed for health professionals for antacids and antiflatulents.

Effective date. This order shall become effective on July 5, 1974, except that all labeling for products not receiving an extension of the effective date for reformulation shall become effective on June 4, 1975, and where reformulation is necessary and an extension is granted shall become effective on June 4, 1976. The labeling of a product to health professionals shall after June 4, 1976, contain the neutralizing capacity of the product as calculated using the procedure set forth in § 331.26.

Dated: May 29, 1974.

A. M. SCHMIDT,
Commissioner of Food and Drugs.

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DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 330]

CLASSIFICATION OF OVER-THE-COUNTER (OTC) DRUGS

Proposal To Designate the Contents and the Time of Closing of the Administrative Record

In the FEDERAL REGISTER of May 11, 1972 (37 FR 9464), the Commissioner of Food and Drugs promulgated procedures governing the review and classification of over-the-counter (OTC) drug products. Questions have recently been raised about the contents of the administrative record on the basis of which the decision is made with respect to the status of an OTC drug product pursuant to these procedures, and the point beyond which new factual information may no longer be submitted for consideration in the administrative process. The Commissioner has concluded that it is appropriate to publish a proposal to add provisions to the regulations to settle these matters.

THE CONTENTS OF THE ADMINISTRATIVE RECORD

Comments filed on the proposed OTC drug review procedures, published in the FEDERAL REGISTER of January 5, 1972 (37 FR 85) had suggested that the final regulation should designate the administrative record on which the administrative decision would be based, for purposes of court appeal. The Commissioner responded in paragraph 82 of the preamble to the final regulation (37 FR 9471) that:

> The record for any court appeal will include all pertinent documentation of the proceeding, including the panel report(s), summary minutes, proposed monograph, tentative final monograph, transcript of oral hearing, final monograph, all comments or objections filed with the Hearing Clerk on the proposed and tentative final monographs, and all data and information received by the panel and made publicly available through the Hearing Clerk. The record for appeal will be compiled by the Office of General Counsel. There is no need to specify these details in the regulations.

A comment on the proposal had also requested that a full transcript of each panel meeting be made public, which presumably would then have been a part of the administrative record. The Commissioner responded to this comment in paragraph 37 of the preamble to the final regulation, stating that a verbatim transcript of all panel meetings would not be necessary in view of the extensive procedural safeguards set out in the regulation and the fact that the OTC drug panels only report recommendations to the Commissioner, who must then make the final decisions after full public procedure.

Thus, the preamble to the final OTC drug review procedural regulations explicitly designated the contents of the administrative record and excluded any transcript that may be made of any panel meeting.

The Commissioner published in the FEDERAL REGISTER of January 8, 1974 (39 FR 1359) a notice of a public hearing to be held on the tentative final order for OTC antacid drug products, pursuant to the provisions of § 330.10(a)(8) (formerly § 130.301(a)(8)) of the regulations. The notice reiterated the content of the administrative record as designated in the preamble to the final order establishing the procedural regulations for the OTC drug review.

In response to this notice, an objection was received on the designation of the administrative record. The objection contended that the complete transcript of the meetings of the Panel should be included as part of the administrative record. The Food and Drug Administration replied that such transcripts are exempt from public disclosure under the Freedom of Information Act, 5 U.S.C. 552(b)(5), and that in any event they are not considered by the Commissioner in the formulation of his decisions and orders and thus do not properly constitute part of the administrative record. The Food and Drug Administration stated that, in order to avoid any possible confusion on this matter, the procedural regulations would be amended explicitly to state this fact.

The Commissioner is obligated to base his decision with respect to a monograph on the entire administrative record. In the case of the final antacid monograph, which is published elsewhere in this issue of the FEDERAL REGISTER, the Commissioner has not at any time read or referred to or relied upon the words recorded in the transcripts of the Antacid Panel meetings. Rather, he has relied solely upon the minutes of the Panel meetings, the data and information submitted to and considered by the Panel, the Panel report, the comments submitted on that report, the tentative final order, the objections submitted on the tentative final order, the transcript of and material submitted at the public hearing, and comments permitted to be filed subsequent to the public hearing. This constitutes the administrative record specified in the notice of May 11, 1972, and is the sole basis on which the proposal, the tentative final order, and the final order were made by the Commissioner. The Commissioner has concluded that the same procedure will be followed for his consideration of future OTC drug monographs.

The irrelevance of the transcripts of the panel deliberations can perhaps best be described by an analogy. The transcripts reflect deliberations and debates among a group of individuals prior to arriving at a final recommendation. The group, in this instance, is deliberating upon recommendations with respect to regulatory policy that will ultimately have the force and effect of law. Their deliberations are therefore directly analogous to the deliberations of a panel of judges of a United States Court of Appeals. It is obvious that the judges who hear a case deliberate among themselves with respect to the issues involved. Moreover, it would not be unusual that there will be several drafts of an opinion, and that the final decision might be quite different from the initial discussions or even tentative drafts. The final opinion written by the court, however, is the only document appealable to or reviewed by the United States Supreme Court. The deliberations of the Court of Appeals, and their various drafts reflecting intermediate considerations and positions, are not a part of the record and are not reviewed by the Supreme Court. The final opinion must stand or fall on its own merits. The same is true of the final reports of the OTC drug review panels. They stand or fall on their own merits, and are either supported or unsupported by the medical and scientific evidence submitted to and considered by the panel.

The logic of this position is further compelled by the fact that not all panel deliberations are recorded or transcribed. Although some transcription or recording occurs with most of the OTC drug review panels, it is necessarily incomplete. Panel members frequently confer by telephone with each other, discuss matters over lunch and dinner, and talk about them during breaks and in the corridors. Moreover, the major reflective consideration of the issues involved would be likely to occur before and after meetings, when the panel members individually review the data and information and form their conclusions with respect to it. Thus, any transcript of panel deliberations would reflect only a part, and perhaps a small part, of the consideration given to the matter, of the reasoning which lies behind the recommendations ultimately made, and thus of the entire deliberative process. It would therefore be highly improper to consider the transcripts of panel meetings in determining the validity of the final OTC antacid drug monograph.

Moreover, the purely deliberative portions of a panel's discussion during which it formulates its conclusions and recommendations are lawfully closed to the public and any transcripts relating to this portion of the meetings are therefore properly retained as confidential under 5 U.S.C. 552(b)(5) rather than as part of the public administrative record.

The legal justification for closing the deliberative portion of a panel's discussions, i.e., the discussion during which the panel determines its conclusions and recommendation—and retaining the transcripts of those closed portions as confidential may be found in section 10 of the Federal Advisory Committee Act and exemption (5) of the Freedom of Information Act. Section 10(a)(1) of the Federal Advisory Committee Act provides that each advisory committee meeting shall be open to the public. Section 10(d) then provides that paragraph (a)(1) shall not apply to any advisory committee meeting which the head of the agency determines is concerned with matters listed in 5 U.S.C. 552(b), and requires that any such determination shall be in writing and shall contain the reasons therefor.

The authority to close the Food and Drug Administration advisory committee meetings has been delegated to the Commissioner, subject to the concurrence of the office of General Counsel. 21 CFR 2.120(a)(18). In exercising his authority to close portions of advisory committee meetings pursuant to this delegation, the Commissioner has acted on the basis of the guidelines established by the Office of Management and Budget and the Department of Justice as set out in the FEDERAL REGISTER of January 23, 1973 (38 FR 2306). The Commissioner's formal written determination to close a portion of a meeting is published together with the notice of the meeting in the FEDERAL REGISTER.

The basis on which the purely deliberative portions of panel discussions have been closed pursuant to section 10 (d) of the Federal Advisory Committee Act is that the discussions are concerned with matters covered by 5 U.S.C. 552(b)(5), i.e., internal communications. As the Attorney General's Memorandum of June 1967 on this portion of the Freedom of Information Act states:

> * * * internal communications which would not routinely be available to a party in litigation with the agency, such as internal drafts, memoranda between officials or agencies, opinions and interpretations prepared by agency staff personnel or consultants for the use of the agency, and records of the deliberations of the agency or staff groups, remain exempt so that free exchange of ideas will not be inhibited. As the President stated upon signing the new law, "officials within the government must be able to communicate with one another fully and frankly without publicity."

All of the panel members are, of course, consultants to the Food and Drug Administration and, as such, government employees during their period of actual work on the panel. The discussion within a panel therefore stands on no different footing than a discussion within an internal Food and Drug Administration staff meeting.

At the same time, the Commissioner recognizes that, consistent with the Federal Advisory Committee Act, advisory committee proceedings should remain open to public view and include participation to the maximum extent feasible. It is for this reason that all interested persons are provided an opportunity to make written submissions to each panel and to present oral views to the panel. The Commissioner has concluded, however, that the deliberations of the panels during which their conclusions and recommendations are determined could not reasonably be made in open session, and thus that it is essential to avoid undue interference with the regulatory process that they be closed to the public.

The primary reason for closing such deliberative portions of advisory committee meetings is, of course, because of the regulatory nature of the action being considered. With respect to the OTC drug review, the issues involve the possibility of specific law enforcement action against an individual product, e.g., requiring relabeling of the drug or new testing by the manufacturer, or removing the product from the market completely. The panel discussions include a continuous admixture of deliberations on interim regulatory decisions, and thus much of the panel discussion is closed to protect the integrity of the regulatory process.

Accordingly, the Commissioner proposes to amend § 330.10 to designate the contents of the administrative record upon which his decision on a monograph shall be based, and to exclude the transcripts of any panel meetings from that designation. The decision will be required to be based solely upon the administrative record so designated and not upon any data, information, or materials not included as part of such record. Court appeal will then be based solely upon that record and the information it contains.

CLOSING OF THE ADMINISTRATIVE RECORD

The notice published in the FEDERAL REGISTER of January 8, 1974 (39 FR 1359) announcing the public hearing on the tentative final order for OTC antacid drug products also stated that, since this was a hearing on the administrative record, only data and information submitted at an earlier stage in the proceeding would be considered. The notice stated that any new data or information could be discussed only if such material were first submitted to the Commissioner with a petition to reopen the administrative record to include such new material, justifying why it was not submitted earlier, and the Commissioner granted the petition.

One objection was received to this notice, contending that this requirement was not included in § 330.10 (formerly § 130.301) of the regulations. In reply, the Food and Drug Administration stated that, although it believed that the procedural regulations made it clear that new evidence could not for the first time be submitted at the public hearing on the tentative final order, such evidence would be accepted as an exception on that occasion and that the procedural regulations would then be amended to prevent recurrence of this problem in the future.

It is standard procedural practice before all administrative bodies and courts that the record in any proceeding is closed at some specified point in time to prevent continuous submission of new data and information. Thereafter in the proceeding, arguments and contentions may be made solely on the basis of the data and information already contained in the record, and new data or information can be filed only with the permission of the presiding officer upon sound justification why the material was not submitted earlier.

The Commissioner concludes that, in the OTC drug review, submission of new data and information should be permitted only through the 60-day period permitted under § 330.10(a)(6) (formerly § 130.301(a)(6)) for comment on the proposed monograph. Thereafter, all rebuttal comments, objections, and statements at the oral hearing must be based solely upon the administrative record developed through that time. Permission to submit additional data or information may be granted, in the sole discretion of the Commissioner, on the basis of a petition to reopen the administrative record to include such material. Any such petition shall demonstrate good cause why such material could not have been obtained and submitted in response to the initial call for data and information or as part of the comments on the proposed monograph. If such a petition is not granted, such material is properly submitted with a subsequent petition to amend the monograph.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 201, 502, 505, 701, 52 Stat. 1040–42 as amended, 1050–53 as amended, 1055–56 as amended by 70 Stat. 919 and 72 Stat. 948; (21 U.S.C. 321, 352, 355, 371)) and the Administrative Procedure Act (secs. 4, 10, 60 Stat. 238 and 243 as amended; (5 U.S.C. 553, 702, 703, 704)) and under authority delegated to him (21 CFR 2.120), the Commissioner proposes to amend 21 CFR Part 330 by redesignating § 330.10(a)(10) through (13) as (a)(11) through (14) and by adding a new § 330.10(a)(10) to read as follows:

§ 330.10 Procedures for classifying OTC drugs as generally recognized as safe and effective and not misbranded, and for establishing monographs.

* * * * *

(a) * * *

(10) *Administrative record.* (i) All data and information to be considered in any proceeding pursuant to this section shall be submitted in response to the request for data and views pursuant to paragraph (a)(2) of this section or accepted by the panel during its deliberations pursuant to paragraph (a)(3) of this section or submitted to the Hearing Clerk as part of the comments during the 60-day period permitted pursuant to paragraph (a)(6) of this section. Thereafter, no new data or information may be submitted for inclusion in the administrative record of such proceeding except as provided in paragraph (a)(10)(ii) of this section.

(ii) New data or information not previously submitted for inclusion in the administrative record may be submitted for such inclusion only with a petition to the Commissioner requesting that the administrative record be reopened to include such material. The Commissioner may grant or deny such petition in his discretion. Any such petition shall demonstrate good cause why such material could not be obtained and submitted within the time specified in paragraph (a)(10)(i) of this section. If such a petition is denied, such material is properly submitted with a petition to amend the monograph pursuant to paragraph (a)(12) of this section.

(iii) The Commissioner shall make all decisions and issue all orders pursuant to this section solely on the basis of the

administrative record, and shall not consider data or information not included as part of the administrative record.

(iv) The administrative record shall consist solely of the following material: All notices and orders published in the FEDERAL REGISTER, all data and views submitted in response to the request published pursuant to paragraph (a)(2) of this section or accepted by the panel during its deliberations pursuant to paragraph (a)(3) of this section, all minutes of panel meetings, the panel report(s), all comments and rebuttal comments submitted on the proposed monograph pursuant to paragraph (a)(6) of this section, all objections submitted on the tentative final monograph pursuant to paragraph (a)(7) of this section, the complete record of any oral public hearing conducted pursuant to paragraph (a)(8) of this section, all other comments requested at any time by the Commissioner, all data and information for which the Commissioner has reopened the administrative record, and all other material which the Commissioner includes in the administrative record as part of the basis for his decision.

* * * * *

Interested persons may, on or before July 5, 1974 file with the Hearing Clerk, Food and Drug Administration, Room 6–86, 5600 Fishers Lane, Rockville, MD 20852, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: May 29, 1974.

A. M. SCHMIDT,
Commissioner of Food and Drugs.

[FR Doc.74–12663 Filed 6–3–74;8:45 am]

[21 CFR Part 330]

OTC DRUGS

Proposed General Conditions

In the FEDERAL REGISTER of November 12, 1973 (38 FR 31258) the Commissioner of Food and Drugs promulgated general conditions for OTC drugs that are generally recognized as safe and effective and are not misbranded. Section 330.1(g) (formerly § 130.302(g)) included a general warning: "Keep this and all drugs out of the reach of children. In case of accidental overdose, contact a physician immediately." Section 330.1(i) (formerly § 130.302(i)) included the following drug interaction warning: "Warning: Do not take this product concurrently with a prescription drug except on the advice of a physician." The effective date of that order was December 12, 1973.

A number of written comments were received in response to that order. The Commisisoner also entertained comments on § 330.1 (g) and (i) and related issues at the public hearing that was held on January 21, 1974, pursuant to the notice published in the FEDERAL REGISTER of January 8, 1974 (39 FR 1359). In view of these written and oral comments, the Commissioner has concluded to reopen this matter and to propose a new version of the general warning in § 330.1(g) and to revoke the drug interaction warning in § 330.1(i).

There was comment that the words "consult your poison control center" should be added to the general warning under § 330.1(g) (formerly § 130.302(g)).

The Commissioner concurs that it would be in the best interest of the consumer to have knowledge that there is more than one source of professional assistance available. For that reason the Commissioner proposes to amend the statement to read: "Keep this and all drugs out of the reach of children. In case of accidental overdose, seek professional assistance or contact your poison control center immediately".

Many of the comments relating to the drug interaction warning under § 330.1 (i) (formerly § 130.302(i)) stated that the pharmacist is a qualified health professional who is available, able, and educated to give advice to consumers concerning OTC products and drug interactions.

The Commissioner agrees that the pharmacist is a qualified health professional and does have knowledge about drug interactions and OTC medications.

There was also comment that, because of his knowledge and availability, the pharmacist should be included as a source of information in the drug interaction warning statement in § 330.1(i).

The Commissioner believes that the consumer should have available every source of reliable, helpful drug information. The proposal and final order stated that the patient's physician should be consulted on possible drug interactions because only he would be certain to know the identity of any prescription drugs being taken concurrently by the patient. It has been brought to the Commissioner's attention that other health professionals, such as physicians' assistants, nurses, nurse practitioners, dentists, and pharmacists, also may have this information and may be more readily available for consultation.

After a great deal of discussion and review, the Commissioner has concluded that the proper way to handle possible drug interactions is to require that the labeling include a separate section headed "Drug Interaction Precautions," stating the specific or general interaction problem involved with that particular OTC drug. Thus, in the final monograph on OTC antacid drugs published elsewhere in this issue of the FEDERAL REGISTER, a drug interaction precaution has been included for all aluminum-containing OTC antacid drug products stating that they should not be used concurrently with tetracycline. The same format will be used for other specific drug interactions found to exist in other monographs. Where known drug interactions exist but are not limited to a specific drug, the precaution statement shall be phrased in terms of general drug categories, such as has been required for charcoal which has been determined to be in Category III under the final order on OTC antacid drug products.

The Commissioner believes that this approach is more consistent with the concept of OTC drug labeling and with providing the most complete and useful information to consumers in concise terms. It directly advises the consumer that the drugs described are not to be used concurrently because of a possible drug interaction.

The purpose of OTC medication is to permit consumers to engage in self-medication without medical or other professional supervision, or in any event with the least amount of supervision feasible. Directing that consumers consult health professionals of any type would seem appropriate only if it is concluded that this is the only possible method of assuring the safe and effective use of the drug. Accordingly, although the Commissioner recognizes the availability of useful drug information through all health professionals, he concludes that it is unnecessary and inappropriate that they be designated on the label in any manner with respect to this particular matter in view of the availability of fully informative labeling which obviates such reference.

The Commissioner recognizes that all health professionals will continue to be a source of sound information on drugs, and encourages recent trends toward training of such persons in pharmacology and toxicology. The Commissioner also recognizes that, on occasion, a physician will wish to direct a patient to continue to use an OTC drug concurrently with a prescription drug contrary to a drug interaction precaution, where they are administered in a way that precludes interaction or other circumstances necessitate such action. In addition, consumers will be fully informed and protected by these labeling precautions.

The Commissioner has considered whether a standard format for a drug interaction precaution should be adopted. In view of the fact that no standard format for label warnings or other label statements has been prescribed in the section on general conditions, the Commissioner has concluded that there is no need to establish such a standard format in this instance. The format utilized in the final order for antacid drug products published elsewhere in this issue of the FEDERAL REGISTER will be utilized in future monographs except where good reason exists to vary from it. Accordingly, the Commissioner is proposing to revoke the warning as it presently exists in § 330.1(i) (formerly § 130.302(i)) of the regulations.

There were some comments by pharmacy organizations that a so-called "third class of drugs," under the control of pharmacists should be created by the Food and Drug Administration. The term "third class of drugs" has a slightly different meaning to different organizations. Some organizations would have the product dispensed only in a phar-

macy, others would have the product dispensed only by a pharmacist, and still others would require that the pharmacist keep a drug dispensing record similar to prescription drug records. The particular mechanics of a third class of drugs are not a significant issue as related to the Commissioner's appraisal of this proposal. Some comments specified that all OTC drugs with a drug interaction warning should be in this third class of drugs, and contended that the two issues are inseparable.

The Commissioner has spent a great deal of time reviewing the comments and discussing this issue with various groups, both in and out of the profession of pharmacy. The Federal Food, Drug, and Cosmetic Act requires that OTC drugs be safe and effective for lay use. Although the act permits imposition of whatever limitations or restrictions are necessary to assure the safe use of any drug, including restrictions on the channels of distribution, no controlled studies or other adequate research data have been supplied to support the position that any class of OTC drugs must be dispensed only by pharmacists in order to assure their safe use. It would be inappropriate to restrict the sale of OTC drugs to pharmacies based on anything less than proof that a significant safety issue was involved.

There were a number of comments stating that creating a third class of drugs would create an economic monopoly and an anticompetitive situation. The Department of Justice opposed any such restriction on antitrust grounds.

The Commissioner believes that these concerns are valid. Restricting the sale of some or all OTC drugs only to pharmacies would decrease the number of outlets where the consumer could purchase OTC products, limit competition, and raise some OTC drug prices, with no attendant public benefit. There is at this time no public health concern that would justify the creation of a third class of drugs to be dispensed only by a pharmacist or in a pharmacy. The "third class of drug" issue at this time is solely an economic issue. The Commissioner therefore categorically rejects the establishment of a third class of drugs at this time.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 201, 502, 505, 701, 52 Stat. 1040–1042, as amended, 1050–1053 as amended, 1055–1056 as amended by 70 Stat. 919 and 72 Stat. 948; (21 U.S.C. 321, 352, 355, 371)), the Administrative Procedure Act (secs. 4, 5, 10, 60 Stat. 238 and 243 as amended; (5 U.S.C. 553, 554, 702, 703, 704)) and under authority delegated to the Commissioner (21 CFR 2.120), it is proposed that 21 CFR Part 330 be amended by revoking § 330.1(i) and by revising § 330.1(g) to read as follows:

§ 330.1 General conditions for general recognition as safe, effective and not misbranded.

* * * * *

(g) The labeling contains the general warning: "Keep this and all drugs out of the reach of children. In case of accidental overdose, seek professional assistance or contact a poison control center immediately." The Food and Drug Administration will grant an exemption from this general warning where appropriate upon petition.

* * * * *

(i) [Revoked]

* * * * *

Interested persons are invited to submit their comments in writing (preferably in quintuplicate) regarding this proposal on or before August 5, 1974. Comments should be filed with the Hearing Clerk, Food and Drug Administration, Rm. 6–86, 5600 Fishers Lane, Rockville, MD 20852, and may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: May 29, 1974.

A. M. SCHMIDT,
Commissioner of Food and Drugs.

[FR Doc.74–12665 Filed 6–3–74;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. FDC–D–135, etc.; NDA 1–875, etc.]

OVER-THE-COUNTER ANTACID DRUG PRODUCTS

Opportunity for Hearing on Proposal To Withdraw Approval of New Drug Applications

Elsewhere in this issue of the FEDERAL REGISTER the Commissioner of Food and Drugs is promulgating a final order determining the conditions under which over-the-counter (OTC) antacid drug products are generally recognized as safe and effective and are not misbranded, and which therefore may be marketed without an approved new drug application. After the applicable effective date of that order, any over-the-counter antacid product must either comply with such conditions or, if it does not, be shown to be safe and effective and not misbranded for its claimed uses pursuant to an approved new drug application.

The Director of the Bureau of Drugs has reviewed all new drug applications for OTC antacid products, whether pre-1962 or post-1962, and concludes that none of those described below, specifically or by reference, either complies with all of the conditions for safety, effectiveness, and labeling stated in the final order on OTC antacid drug products, or contains the evidence required by the act to support any conditions of use other than those permitted by that order.

On the basis of all of the data and information now available to him, the Director of the Bureau of Drugs is unaware of any adequate and well-controlled clinical investigation conducted by experts qualified by scientific training and experience meeting the requirements of section 505 of the Act, § 314.111(a)(5) (formerly § 130.12(a)(5)), and, where applicable, 21 CFR 3.86 for fixed combination drugs, demonstrating the effectiveness of the drugs for any condition of use other than those permitted by the final order on OTC antacid products published elsewhere in this issue of the FEDERAL REGISTER; or of adequate tests by all methods reasonably applicable to show that any of the conditions required or excluded for safety reasons by the final order on OTC antacid drug products should not be so required or excluded. To the extent that the labeling of products subject to or covered by NDA's differs from the applicable labeling requirements set forth in the final order on OTC antacid products, the Director concludes, on the basis of the information before him and on a fair evaluation of all material facts, that such labeling is false and misleading. Accordingly, the Director concludes that it is necessary to withdraw approval of the new drug applications and to determine the new drug status of the affected products.

It is unnecessary for any manufacturer or distributor of an antacid drug product which complies with the requirements of 21 CFR Part 331 or the interim requirements for Category III drug products specificd in the Commissioner's final order on OTC antacid drugs, published elsewhere in this issue of the FEDERAL REGISTER, to submit a supplemental or abbreviated or full new drug application covering such a product. In accordance with § 330.10, any such product may lawfully be marketed without an approved new drug application. Accordingly, reformulation and/or relabeling to meet such requirements is sufficient for the continued lawful marketing of any OTC antacid drug product subject to this notice.

1. The following new drug applications were subject to the NAS–NRC Drug Efficacy Study, for which the Food and Drug Administration's conclusions were deferred pending results of the OTC drug review in this class:

NDA	Drug	Firm
1–875...	Chooz Chewing Gum.	Pharmaco, Inc., Kenilworth, N.J. 07033.
1–952...	Kamat tablets....	Cole Pharmacal Co., Inc., St. Louis, Mo. 63178.
2–436...	Amphojel tablets..	Wyeth Laboratories; division of American Home Products Corp., Philadelphia, Pa. 19101.
2–545...	Ge usil liquid.....	Warner-Chilcott Laboratories, division of Warner-Lambert Co., Morris Plains, N.J. 07950.
3–807...	Magsal suspension.	Endo Laboratories, Inc., Garden City, Long Island, N.Y. 11530.
4–380...	G usiltablets....	Warner-Chilcott Laboratories, division of Warner-Lambert Co., Morris Plains, N.J. 07950.
5–668...	Alglyn tablets, Alglyn magma, Belglun tablets.	Brayten Pharmaceutical Co., Chattanooga, Tenn. 37409.
6–547...	Alzinox tablets....	Smith, Miller, & Patch, New Brunswick, N.J. 08902.
6–738...	Carmethose suspension, Carmethose magnesium oxdie tablets, Carmethose-Trasentine.	Ciba Pharmaceutical Co., division of Ciba-Geigy Corp., Summit, N.J. 07901.
7–706...	Resinate capsules, Resinate tablets.	Merrell-National Laboratories, division of Richardson-Merrell, Inc., Cincinnati, Ohio 45215.
7–911...	Kolantyl tablets..	Merrell-National Laboratories, division of Richardson-Merrell, Inc., Cincinnati, Ohio 45215.
8–431...	Dimacid B tablets.	Otis Chapp and Son, Inc., Cambridge, Mass. 02139.
8–467...	Kolantyl Gel.....	Merrell-National Laboratories, division of Richardson-Merrell, Inc., Cincinnati, Ohio 45215.
9–100...	Rolaids Antacid Mint tablets.	American Chicle Co., division of Warner-Lambert Co., Morris Plains, N.J. 07950.
12–165..	Rolaids Antacid Mint with HMAS.	American Chicle Co., division of Warner-Lambert Co., Morris Plains, N.J. 07950.
12–298..	"A" Plus tablets..	Vick Chemical Co., division of Richardson-Merrell, Inc., New York, N.Y. 10017.

2. Notices for new drug applications for OTC antacid products for which approval has previously been withdrawn on the ground of failure to file reports required pursuant to section 505(j) of the act appeared in the FEDERAL REGISTER as follows:

a. Docket FDA–D–135 published in the FEDERAL REGISTER of July 24, 1970 (35 FR 11929).

b. Docket FDC–D–259 published in the FEDERAL REGISTER of April 6, 1971 (36 FR 6529).

c. Docket FDC–D–269 (Docket number originally published incorrectly as FDC–D–259; correction published in the FEDERAL REGISTER of November 24, 1971 (36 FR 22324) to read FDC–D–269) published in the FEDERAL REGISTER of August 6, 1971 (36 FR 14493) and republished in the FEDERAL REGISTER of September 23, 1971 (36 FR 18885).

d. Docket FDC–D–445 published in the FEDERAL REGISTER of March 18, 1972 (37 FR 5711).

e. Docket FDC–D–393 published in the FEDERAL REGISTER of March 28, 1972 (37 FR 6342).

f. Docket FDC–D–492 published in the FEDERAL REGISTER of August 8, 1972 (37 FR 15948).

Those notices stated that, at the time of their publication, conclusions concerning safety and effectiveness of the particular products had not yet been reached, and thus those notices did not constitute a determination of the new drug status of the drug products subject to the NDAs or of any identical, similar or related drug products. Notice is hereby given to all manufacturers and distributors of OTC antacid drug products that the legal status of all such OTC antacid drug products has now been determined by the final order on this class of drugs published elsewhere in this issue of the FEDERAL REGISTER, including all drugs identical, related, or similar to drugs for which the new drug applications were withdrawn previously in the above FEDERAL REGISTER notices.

3. The following new drug applications were approved after 1962 or otherwise were not considered by the NAS-NRC in the Drug Efficacy Study:

NDA	Drug	Firm
1–650...	Citralka liquid....	Parke, Davis & Co., Detroit, Mich. 48232.
3–304...	Bismakaolin suspension.	Vale Chemical Co., Inc., Allentown, Pa. 18102.
9–329...	Duplexin tablets..	Whitehall Laboratories division of American Home Products Corp., New York, N.Y. 10017.
15–183..	Equilet Antacid tablets.	Mission Pharmacal Co., San Antonio, Tex. 78296.

Therefore, notice is given to the holder(s) of all of the new drug application(s) specified and referenced above and to all other interested persons that the Director of the Bureau of Drugs pro-

poses to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)), withdrawing approval of the new drug application(s) and all amendments and supplements thereto and determining the new drug status of the affected products on the grounds that, on the basis of new information before him with respect to the drug product(s), evaluated together with the evidence available to him at the time of approval of the application(s), (1) there is a lack of substantial evidence that the drug product(s) will have the effect it purports or is represented to have for any condition of use prescribed, recommended, or suggested in the labeling, other than those permitted by the final order on OTC antacid drug products; and (2) such drug is not shown to be safe for use except under the conditions of use required for safety reasons, and is not shown to be safe for use under the conditions of use excluded for safety reasons, by the final order on OTC antacid drug products; and (3) the labeling of the drug product(s), to the extent it differs from the applicable labeling requirements of the final order on OTC antacid drug products, based on a fair evaluation of all material facts, is false or misleading.

In addition to the holder(s) of the new drug application(s) specifically named above or included by reference to notices previously withdrawing approval, this notice of opportunity for hearing applies to all persons who manufacture or distribute a drug product which is identical, related, or similar to a drug product named or referenced above, as defined in 21 CFR 310.6. It is the responsibility of every drug manufacturer or distributor to review this notice of opportunity for hearing to determine whether it covers any drug product he manufactures or distributes. Any person may request an opinion of the applicability of this notice to a specific drug product he manufactures or distributes that may be identical, related, or similar to a drug product named or included by reference in this notice by writing to the Food and Drug Administration, Bureau of Drugs, Office of Compliance (HFD–300), 5600 Fishers Lane, Rockville, MD 20852.

In addition to the ground(s) for the proposed withdrawal of approval stated above, this notice of opportunity for hearing encompasses all issues relating to the legal status of the drug products subject to it (including identical, related, or similar drug products as defined in § 310.6), e.g., any contention that any such product is not a new drug because it is generally recognized as safe and effective within the meaning of section 201(p) of the act or because it is exempt from part or all of the new drug provisions of the act pursuant to the exemption for products marketed prior to June 25, 1938, contained in section 201 (p) of the act, or pursuant to section 107 (c) of the Drug Amendments of 1962; or for any other reason.

In accordance with the provisions of section 505 of the act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR 310, 314), the applicant(s) and all other persons subject to this notice pursuant to 21 CFR 310.6 are hereby given an opportunity for a hearing to show why approval of the new drug application(s) should not be withdrawn and an opportunity to raise, for administrative determination, all issues relating to the legal status of a drug product named above and of all identical, related, or similar drug products.

If an applicant or any other person subject to this notice pursuant to 21 CFR 310.6 elects to avail himself of the opportunity for a hearing, he shall file (1) on or before July 5, 1974, a written notice of appearance and request for hearing, and (2) on or before August 5, 1974, the data, information ,and analyses on which he relies to justify a hearing, as specified in 21 CFR 314.200. Any other interested person may also submit comments on this notice. The procedures and requirements governing this notice of opportunity for hearing, a notice of appearance and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and a grant or denial of hearing, are contained in 21 CFR 130.14 and discussed in detail as published in the FEDERAL REGISTER of March 13, 1974 (39 FR 9750), recodified as 21 CFR 314.200, published in the FEDERAL REGISTER of March 29, 1974 (39 FR 11680).

The failure of an applicant or any other person subject to this notice pursuant to 21 CFR 310.6 to file timely written appearance and request for hearing as required by 21 CFR 314.200 constitutes an election by such person not to avail himself of the opportunity for a hearing concerning the action proposed with respect to such drug product and a waiver of any contentions concerning the legal status of any such drug product. Any such drug product may not lawfully be marketed except in compliance with 21 CFR Part 331 or the interim requirements for Category III drug products specified in the Commissioner's final order on OTC antacid drugs, published elsewhere in this issue of the FEDERAL REGISTER. The Food and Drug Administration will initiate appropriate regulatory action to remove such noncomplying drug products from the market promptly after the applicable effective date established in that order.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for the hearing that there is no genuine and substantial issue of fact which precludes the withdrawal of approval of the application, or when a request for hearing is not made in the required format or with the required analyses, the Commissioner will enter summary judgment against the person(s) who requests the hearing, making findings and conclusions, denying a hearing.

All submissions pursuant to this notice shall be filed in quintuplicate with the Hearing Clerk, Food and Drug Administration (HFC–20), Room 6–86, 5600 Fishers Lane, Rockville, MD 20852.

All submissions pursuant to this notice except for data and information prohibited from public disclosure pursuant to 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the office of the Hearing Clerk during regular business hours, Monday through Friday.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052–53, as amended (21 U.S.C. 355)), and under authority delegated to the Director of the Bureau of Drugs (21 CFR 2.121).

Dated: May 29, 1974.

A. M. SCHMIDT,
Commissioner of Food and Drugs.

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PART III



DEPARTMENT OF LABOR

Office of the Secretary

■

Comprehensive Manpower Program and Grants to Areas of High Unemployment

Title 29—Labor

SUBTITLE A—OFFICE OF THE SECRETARY OF LABOR

COMPREHENSIVE MANPOWER PROGRAM AND GRANTS TO AREAS OF HIGH UNEMPLOYMENT

On Tuesday, March 19, 1974, the Department of Labor published regulations in the FEDERAL REGISTER (39 FR 10374) implementing Titles I and II of the Comprehensive Employment and Training Act of 1973 (Public Law 93-203, 87 Stat. 839). At that time, the Department invited interested persons to submit comments on the regulations, and stated that the comments received by May 4, 1974 would be evaluated to determine whether the regulations should, in any respect, be amended.

Numerous comments were received by the Department pursuant to this invitation. The Department studied these comments carefully, and established an evaluation procedure to allow consideration of each comment on its own merits and in relation to other comments received on the same or similar subjects.

This evaluation procedure has resulted in a decision to amend the regulations in certain respects. These amendments are described below and are incorporated in a set of revised regulations published today. Also incorporated in the revised regulations are the Department's regulations for 1974 summer programs originally published in the FEDERAL REGISTER, Monday, May 13, 1974, (39 FR 17182). Comments will, of course, be received on the summer regulations, as provided in the May 13, 1974 publication.

A short explanatory statement accompanies each amendment description. A description of the amendments follows:

In § 94.4, *Definitions*, the definition of "capital improvement" has been amended to make certain that capital improvements may be made only to existing facilities. This is consistent with the Department's view that funds under the Act should be used primarily for service to participants rather than for auxiliary costs;

The definition of "community-based organizations" has been amended to make clear that only organizations which provide manpower services are to be included. The amendment makes the definition in the regulations consistent with the definition found in the Act;

A definition of "grantee" has been added, so that one term may be used, where appropriate, to refer to various types of grantees under the Act;

The definition of "placement" has been amended to make it consistent with the definition of placement utilized by the employment service. In addition, a definition of "self-placement" has been included, to cover those situations where a participant in a program under the Act is placed through the participant's independent efforts, rather than through the efforts of the program;

The definitions of "programs of demonstrated effectiveness" and "client community" are amended to delete the reference to "low income families." These deletions reflect the Department's view that the purpose of the Act is to utilize available resources in a manner which will provide services for those individuals most in need of them, and that under the Act, such individuals are properly described by the term "economically disadvantaged," rather than by the term "low income." The definitions of "client community" and "programs of demonstrated effectiveness," therefore, retain their reference to the term "economically disadvantaged";

The definition of "subgrantee" is amended to include "private-non-profit agencies." This amendment corrects an error in the original publication; and

The definition of "unemployed persons" which is used for Title II purposes is amended to bring it into closer conformity with the Title I definition of unemployed persons.

In § 95.2, *Allocation of funds*, the language in paragraphs (b)(4)(i) and (b)(5)(i) is amended to provide that a prime sponsor's formula allocation in any particular year will be dependent, in part, upon the prior year's "manpower allotment" for that prime sponsor, rather than upon the prior year's formula allocation for that prime sponsor. The "manpower allotment" of a prime sponsor may be greater, in any year, than the amount of funds received only pursuant to the formula allocation. This new language is included to assure consistency with the Act.

In § 95.3, *Eligibility for funds*, the term "joint and several responsibility" has been deleted from paragraph (b)(1), which establishes the requirements for prime sponsorship agreements between States and eligible units of local governments. The purpose of the deletion is to conform the language in this paragraph to the language setting out similar responsibilities for consortia of local governments;

The language in paragraph (c) which permits incentive funds for a consortium that comprises a substantial portion of a labor market has been amended to read, "substantial portion of a functioning labor market." This amendment was made to conform to the language in § 95.3(a)(4) which sets forth the basic requirements for consortia receiving funds under the regulations; and

The language in paragraph (e) which sets limits on the authority of one prime sponsor to provide services in another prime sponsor's area has been clarified.

In § 95.11, *Notification of intent to apply for prime sponsorship; consortium agreements*, the reference in paragraph (a) to Part II of OMB Circular A-102 has been deleted, as Part II of the circular is not necessary for the Department to be able to obtain required information. Similar deletions are made elsewhere in the regulations;

The requirement in paragraph (c)(8) that every member of a consortium sign a grant agreement has been amended to permit the signing to be done by only one member of the consortium. This was done to permit greater flexibility in consortium agreements; and

The requirement in paragraph (c)(10) that a consortium agreement set out the responsibilities reserved to consortium members has been amended to require each such member to formally approve the comprehensive manpower plan developed by the consortium. The purpose of this amendment is to make certain that every member of a consortium does, in fact, agree to the comprehensive manpower plan, even if all members do not sign the grant agreement. This requirement is not mandated, however, for consortium agreements validly entered into and approved under the March 19, 1974 regulations.

In § 95.13, *Planning process; advisory councils*, the Planning Council membership requirements set out in paragraph (c)(3) are amended to make clear that women and persons of limited English speaking ability should be considered for membership. A similar amendment is made in paragraph (d)(2)(iii) for membership on the State Manpower Services Council; and

The membership requirements in paragraph (e) for joint planning and services councils have been amended to make clear that the membership must reflect the requirements of both the Prime Sponsor Planning Council and the State Manpower Services Council, except for the one-third (1/3) representation of prime sponsors.

In § 95.14, *Content and description of grant application*, the requirement of paragraph (b)(2)(i)(E)(3) that a copy of a State's Special Grant narrative description be included in the general program description is deleted, as such information is not related to a State's responsibilities as a prime sponsor and will be obtained in the Special Grant provisions of the regulations, specifically in § 95.52(b)(2(2(ii). Language is added to § 95.14(b)(2)(i)(E) that will require a Governor to describe the arrangements for the provision of services in all geographical areas under the State's jurisdiction. This addition is consistent with a State's responsibilities as a prime sponsor; and

The language describing the forms used in the grant application is revised to better describe the forms.

In § 95.15, *Comments and publication procedures relating to submission of grant application*, the language in paragraph (c)(1) is amended to require a prime sponsor to submit a summary of the grant application to Indian prime sponsors and labor organizations. This additional requirement is added to provide for coordination between sponsors of programs under the Act and to assure that appropriate labor organizations will be made aware of prime sponsor plans; and

The language in paragraph (d) is amended to require prime sponsors to provide copies of comments on prime sponsor plans to the Governor to assist him in coordinating manpower services throughout the State.

In § 95.17(b)(5), *Standards for reviewing grant application*, the language relating to the participation of the population to be served and community-based organizations in the planning process has been amended so that the prime sponsor is not required to have participation of these groups in both of the methods enumerated in this section.

In § 95.20, *Use of alternative prime sponsors; services by the Secretary*, language was added to reflect the intent that participants will not be adversely affected by action taken by the Department against a prime sponsor.

In § 95.21, *Modification of grant agreement*, language is added to make the denial of a modification to a grant agreement subject to appeal, as are all other modifications.

In § 95.22(d), *ARDM required modification*, the language has been amended so that an ARDM may require a modification to bring a prime sponsor's plan into conformity with the provisions of the regulations or the prime sponsor's approved plan. While comments received pursuant to a plan may be grounds for an ARDM required modification, ARDMs should not be limited to this situation, as they were in the publication of the regulations on March 19, 1974.

In § 95.32, *Eligibility for participation in a Title I program*, a paragraph (e) has been added to provide for special consideration of disabled veterans and veterans of the Vietnam era for participation in Title I programs to emphasize the Department's special concern for returning Vietnam-era veterans. The veterans may be treated in the same manner as other program participants, and any special consideration given to veterans should be described in the Title I program narrative in § 95.14(b)(2)(i)(E)(4).

In § 95.33, *Types of manpower program activity available*, the description of "Work Experience" programs has been placed in a new paragraph (d)(4) and has been clarified so that it may be more easily distinguished from subsidized employment programs. Under the new description, "Work Experience" programs emphasize programs of a short-term or part-time nature for individuals not easily placed in regular or public service employment; and

Participant benefits available for work experience program described in paragraph (d)(4)(vi) have been broadened to allow the payment of either wages or allowances, at the prime sponsor's discretion This amendment is consistent with the Department's view that prime sponsors should have the broadest possible flexibility in developing their programs and that "Work Experience" programs may be structured by a prime sponsor as either training or employment programs.

In § 95.34, *Training Allowances*, the language in (g)(1) relating to public assistance recipients is amended to delete references to the Work Incentive Program (WIN), established under Part C, Title IV of the Social Security Act. These deletions were made to avoid confusion in the use of terminology which has a specific meaning for the WIN program, and to make clear that any public assistance recipient enrolled in a program under the Act receives an incentive allowance; and

The provision for waiver of allowances in paragraph (j) is amended to more clearly identify the criteria for waivers and to distinguish between individual and project-size waivers. Individual waivers may be granted only in exceptional circumstances and with the agreement of the participants. The requirement in (j)(2)(i), previously applicable for any waiver, that participants have resources from concurrent employment or from other sources, is deleted.

In § 95.37, *Prime sponsor review*, language has been added to require prime sponsors to provide a review procedure for all participants under any Title of the Act and to advise participants of their rights under the Department of Labor's hearings procedures in Part 98.

In § 95.42, *Cooperative relationships between prime sponsor and other manpower agencies*, a new paragraph (c) has been added to encourage coordination between prime sponsors under the Act and sponsors under the WIN program.

In § 95.52, *Grant application for special grants to Governors*, the detailed requirements for the State Manpower Services narrative, found originally in paragraph (b)(3)(iii), are transferred to § 95.56(c). A summary of each requirement is retained in § 95.52. The purpose of the amendment is to place the actual requirements in the program operations section, § 95.56.

In § 95.53, *Application approval and disapproval; grant agreement*, a new paragraph (d) has been added to require Governors to provide summaries of their special grant agreements to prime sponsors within the State. The purpose of this amendment is to aid coordination.

In § 95.54, *Modifications; limitations on use of funds for special grants to the Governors*, is amended to establish the same categories of modifications for special grants as are provided for modifications generally in §§ 95.21 and 95.22.

In § 95.57, *Funding; grant administration*, a new paragraph (b)(1) has been added to exempt State Manpower Services and the State Manpower Services Council from the administrative cost ceiling of § 98.12(e)(1) that formerly pertained. The purpose of this amendment is to recognize that these two activities may require higher administrative costs; and

A new paragraph (b)(2) has been added to require vocational education boards to use the allowance payment system established by prime sponsors in whose jurisdiction vocational education programs are conducted, or to establish a method of payment in cooperation with a prime sponsor if the prime sponsor does not already have an allowance payment system.

In § 96.1, *Scope and Purpose*, paragraph (d) is deleted from Part 96 because it pertained only to the amendments of Part 96 found in the March 19, 1974, publication of regulations under the Act.

In § 96.11, *Eligible applicant notification*, the wording was revised to conform to similar language in Part 95 regarding the notice of intent to apply and the forwarding of a grant application package to the eligible applicant.

In § 96.12, *Content and description of grant application*, the format was revised to be consistent with the grant application description in § 95.14.

In § 96.13, *Comment and publication procedures relating to submission of grant application*, language is added to apply this section to fiscal year 1975 as well as to fiscal year 1974. This section had previously been intended to pertain to an initial fiscal year 1974 grant application when it was anticipated that fiscal year 1974 and 1975 grants would be funded separately;

In paragraph (b)(1), a requirement for eligible applicants to send a summary of the application to appropriate Indian prime sponsors is added in order to provide for coordination between sponsors of programs under the Act;

In paragraph (e) the requirement for the eligible applicant to "respond to any comment" has been changed to require the eligible applicant to acknowledge all comments and to provide responses to substantive comments. The intent of this change is to reduce the paper work burden on eligible applicants with regard to responding to comments, but to preserve the intent of the comment procedures for an exchange of views between the prime sponsor and the public.

In § 96.14, *Submission of grant application*, the summary of the narrative description is transferred to § 96.12, and the format is revised to be consistent with similar procedures in Part 95;

Paragraph (b)(2) is deleted, as it duplicates the requirement contained in § 96.13(e); and

Paragraphs (b)(3) and (4) are deleted, as the ARDM need only receive copies of substantive comments and responses from an eligible applicant.

In § 96.15, *Application approval*, the wording in paragraph (b) is revised to conform with similar provisions in Part 95 regarding approval procedures.

In § 96.16, *Application disapproval*, a statement is added to paragraph (c) to indicate that application disapproval is subject to the hearings process in Subpart C of Part 98. This statement was added for clarification only, and does not reflect a change of policy.

In § 96.17, *Use of alternative eligible applicants*, language is added to require that efforts be made to prevent the disruption of services to participants in cases where an application is disapproved.

In § 96.18, *Modification of grant agreements*, paragraph (d) is revised to indicate that disapproval of a modification request is subject to the hearings process in Subpart C of Part 98. The statement is for clarification only and reflects no change in policy.

In § 96.19, *Modification of Comprehensive Title II Plan*, the provision of paragraph (b)(1), requiring a major modification when an eligible applicant

adds or deletes a subgrantee, is removed. Major modifications are not being required in such instances in order to allow grantees greater flexibility.

The time period for notification of approval or tentative disapproval in paragraph (b)(3) is changed from 30 days to 10 days, to be consistent with the provision in § 95.22; and

In paragraph (c) language is added to conform the minor modification process in Part 96 with that in Part 95.

Paragraph (d) is revised to indicate that the ARDM may require a modification in order to assure compliance with the regulations and the Comprehensive Title II Plan. This revision is consistent with that made in § 95.22 and is made to clarify the purpose of "ARDM required" modifications.

In § 96.26, *Special limitations on programs and participant selection,* paragraphs (a) "Political activities" and (b) "Sectarian activities" are transferred to Part 98 because they are applicable to all Titles, unless specifically excepted in a part of the regulations.

§ 96.37, *Maintenance of a merit system,* is deleted from Part 96 because the personnel provisions in Part 98 are applicable to all Titles, unless specifically excepted. The remaining sections of Subpart C of Part 96 have been renumbered accordingly.

In § 96.37, previously § 96.38, *Use of Title II funds for programs under Titles I and III–A; Summer Employment Programs,* a statement is added to paragraph (a) to except the ten percent administrative limitation on Title II funds, when used for programs under other Titles. The limitation on administrative costs would not be appropriate for certain types of Title I activities.

In § 96.47, *Comment and publication procedures relating to submission of Indian grant applications,* the requirement for the applicant to "respond to any comment" is changed to "acknowledge any comment" with the intent of reducing paper work requirements of Indian applicants.

In § 98.8, *Quarterly Progress Report,* Paragraph (b) is revised to more clearly describe the data contained on the Quarterly Progress Report; and

Paragraph (e) which required the Quarterly Progress Report to be "submitted" to coincide with the ending dates of Federal fiscal year quarters, is amended to require only that such reports be prepared on a quarterly basis.

In § 98.9, *Quarterly Summary of Client Characteristics,* the name of the form is changed by adding the word "quarterly" and a new requirement that separate reports be required for Titles I and II. These changes were to clarify the reporting requirements.

In § 98.12, *Allowable Federal costs,* specific language is added to paragraph (b)(1) to restrict building repairs, maintenance, and capital improvements to existing facilities. This was the intent of the previous language, and the change is made to make the intent clear;

A new paragraph (b)(2) is added providing that funds provided under the Act shall not be used for matching under other Federal laws except where authorized under a specific law. The use of funds granted under one Title of the Act can be used for matching funds under another Title. This change is being made to clarify the use of funds under the Act for matching; and

Language is added to paragraphs (e)(3) and (6) explaining types of administrative costs which should not be included under the cost categories explained in these sections. This change is to clarify the types of costs which should be considered administrative and not program costs.

In § 98.13, *Allocation of allowable costs among program activities,* paragraph (d) is amended to permit the payment of allowances in work experience programs. This is being done to allow the option of paying wages or allowances under work experience programs.

In § 98.18, *Retention of record,* a new paragraph (a) is added and the paragraphs redesignated. The new paragraph, which requires that data be kept for each program participant, was inadvertently omitted in the March 19, 1974, publication of these regulations; and

A new paragraph (b)(5) replaces the previous paragraph (e). The previous paragraph contained a general reference to OMB Circular A–102 requirements concerning public access to records. The new paragraph specifies the degree of access to information which identifies or can be used to identify applicants, participants or their immediate families. The new language provides more specific guidance concerning access to records.

A new § 98.22, *Nepotism,* is established which contains general prohibitions against one member of a family hiring other members of the family to an administrative position funded under the Act. The section does not, however, pertain to Title II programs, for which there are separate nepotism provisions.

A new § 98.23, *Special limitation on participant selection,* is established to apply the prohibition against political activities and employment in secular facilities to all Titles of the Act. These provisions were previously contained in § 96.26 and applied only to Title II. This change is being made to broaden the coverage of these prohibitions to all Titles of the Act.

These revised regulations, which shall take effect July 5, 1974, read as follows:

PART 94—GENERAL PROVISIONS FOR PROGRAMS UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

Sec.

94.1 Scope and purpose of the Act.
94.2 Format for the regulations promulgated under the Act.
94.3 Consolidated table of contents for Parts 94–98.
94.4 Definitions.

AUTHORITY: Comprehensive Employment and Training Act of 1973 (Pub. L. 93–203, sec. 602(a), 87 Stat. 839), unless otherwise noted.

§ 94.1 Scope and purpose of the Act.

(a) It is the purpose of the Act to provide job training and employment opportunities for economically disadvantaged, unemployed and underemployed persons, and to assure that training and other services lead to maximum employment opportunities and enhance self-sufficiency. The purposes of the Act are to be accomplished by the establishment of a flexible and decentralized system of Federal, State and local programs.

(b) The Act is comprised of six titles, as follows:

(1) Title I establishes a program to provide comprehensive manpower services throughout the Nation, including the development and creation of job opportunities, and the training, education and other services needed to enable individuals to secure and retain employment at their maximum capacity.

(2) Title II authorizes public service employment and manpower training programs for unemployed and underemployed persons in areas of substantial unemployment.

(3) Title III provides for the establishment and administration by the Secretary of Labor of:

(i) Special programs for Indians, migrant workers and seasonal farmworkers;

(ii) Manpower services for youth, offenders, older workers, persons of limited English-speaking ability and other special target groups; and

(iii) Research, training and evaluation of programs and activities conducted under the Act.

(4) Title IV establishes a Job Corps within the Department of Labor to provide residential and non-residential manpower services for low-income disadvantaged young men and women.

(5) Title V, establishes a National Commission for Manpower Policy. The responsibilities of the Commission include the examination of national manpower issues, the suggestions of ways and means of dealing with such issues and advising the Secretary on national manpower issues.

(6) Title VI, sets forth the general provisions, including applicable definitions, under the Act.

§ 94.2 Format for the regulations promulgated under the Act.

(a) The regulations promulgated to carry out the Act are set forth in Parts 94 through 98 of Title 29, Code of Federal Regulations.

(b) As each substantive Title of the Act provides for the establishment of a specific type of program, the regulations promulgated in Parts 94 through 98 provide for a separate part for each basic type of activity (e.g., Part 95 deals with comprehensive manpower programs; Part 96 deals with Title II programs). Two parts are also included which deal with general matters relating to the Act: Part 94 deals with basic explanatory and definitional matters, and Part 98 deals with general administrative matters.

(c) Statutory authority for the regulations contained in this Part 94 may

be found in section 602(a) of the Act, as well as other substantive provisions of the Act. Applicable statutory provisions, other than section 602(a), are noted generally in these regulations.

§ 94.3 Consolidated table of contents for Parts 94–98.

The table of contents for Parts 94–98 is as follows:

PART 94—GENERAL PROVISIONS FOR PROGRAMS UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

Sec.
94.1 Scope and purpose of the Act.
94.2 Format for the regulations promulgated under the Act.
94.3 Consolidated table of contents for Parts 94–98.
94.4 Definitions.

PART 95—PROGRAMS UNDER TITLE I OF THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

SUBPART A—GENERAL

95.1 Scope and purpose of Part 95.
95.2 Allocation of funds.
95.3 Eligibility for funds.
95.4 Data base for determining eligibility.

SUBPART B—GRANT PLANNING, APPLICATION AND MODIFICATION PROCEDURES

95.10 General.
95.11 Notification of intent to apply for prime sponsorship; consortium agreements.
95.12 Prime sponsor designation.
95.13 Planning process; advisory councils.
95.14 Content and description of grant application.
95.15 Comment and publication procedures relating to submission of grant application.
95.16 Submission of grant application.
95.17 Standards for reviewing grant applications.
95.18 Application approval; grant agreement.
95.19 Application disapproval.
95.20 Use of alternative prime sponsors; services by the Secretary.
95.21 Modification of grant agreement.
95.22 Modification of Comprehensive Manpower Plan.

SUBPART C—PROGRAM OPERATION

95.30 General.
95.31 Basic responsibilities of prime sponsors.
95.32 Eligibility for participation in a Title I Program.
95.33 Types of manpower program activity available.
95.34 Training allowances.
95.35 Wages; minimum duration of training and reasonable expectation of employment.
95.36 General benefits for program participants.
95.37 Prime sponsor review.
95.38 Non-Federal status of participants.
95.39 Safety and health requirements for participants.
95.40 Training for lower wage industries; relocation of industries.
95.41 Prime sponsor contracts and subgrants.
95.42 Cooperative relationships between prime sponsor and other manpower agencies.

SUBPART D—SPECIAL GRANTS TO GOVERNORS

95.50 General.
95.51 Distribution of funds.
95.52 Grant application.
95.53 Application approval and disapproval; grant agreement.
95.54 Modifications; Limitations on use of funds.
95.55 Governor's distribution of vocational education funds.
95.56 Program operations.
95.57 Funding; grant administration.
95.58 Nonfinancial agreement between prime sponsor and Vocational Education Board.
95.59 Coordination with prime sponsor.

PART 96—PROGRAMS UNDER TITLE II OF THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

SUBPART A—GENERAL

96.1 Scope and purpose.
96.2 Allocation of funds.
96.3 Eligibility for funds.

SUBPART B—GRANT APPLICATION

96.10 General.
96.11 Eligible applicant notification.
96.12 Content and description of grant application.
96.13 Comment and publication procedures relating to submission of grant application.
96.14 Submission of grant application.
96.15 Application approval.
96.16 Application disapproval.
96.17 Use of alternative eligible applicants.
96.18 Modification of grant agreements.
96.19 Modification of Comprehensive Title II Plan.

SUBPART C—PROGRAM OPERATION

96.20 General.
96.21 Basic responsibilities of eligible applicants.
96.22 Basic responsibilities of program agents; relationship with eligible applicants.
96.23 Acceptable public employment positions.
96.24 Maintenance of effort.
96.25 Responsibility for selecting participants.
96.26 Special limitations on programs and participant selection.
96.27 Eligibility for participation in a Title II Program.
96.28 Special consideration for most severely disadvantaged persons.
96.29 Serving significant segments of the population.
96.30 Groups to be provided special consideration.
96.31 Training and supportive services.
96.32 Linkages with other manpower programs.
96.33 Placement goals.
96.34 Compensation for participants.
96.35 Working conditions for participants.
96.36 Retirement benefits for participants.
96.37 Use of Title II funds for programs under Titles I and III–A; summer employment program.
96.38 Limitation on funds.

SUBPART D—SPECIAL CONDITIONS FOR GRANTS TO INDIANS TRIBES ON FEDERAL AND STATE RESERVATIONS

96.40 General.
96.41 Distribution of funds.
96.42 Eligibility for funds.
96.43 Assistance by the Secretary.
96.44 Nepotism.
96.45 Nondiscrimination.
96.46 Subgrants.
96.47 Comments and publication procedures relating to submission of Indian grant applications.

PART 97 SPECIAL FEDERAL PROGRAMS AND RESPONSIBILITIES UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

SUBPART A—1974 SUMMER PROGRAM FOR ECONOMICALLY DISADVANTAGED YOUTH

Sec.
97.1 Scope and purpose.
97.2 Definitions.
97.3 Allocations of funds.
97.4 Eligibility for funds.
97.5 Notification of intent.
97.6 Application for grants; standards for reviewing grant applications.
97.7 Application approval and disapproval.
97.8 Use of alternative sponsors and services by the Secretary.
97.9 Content and description of grant application.
97.10 Modification of the grant agreement; modification of the program plan.
97.11 Basic responsibilities of sponsors.
97.12 Eligibility for participation.
97.13 Types of manpower services available in the summer program for economically disadvantaged youth.
97.14 Participant benefits.
97.15 Sponsor review.
97.16 Non-Federal status of participants.
97.17 Worksite standards; safety and health requirements for participants.
97.18 Training for lower wage industries and relocation of industries.
97.19 Sponsor contracts and subgrants.
97.20 Cooperative relationships between sponsors and other manpower agencies.
97.21 Reporting requirements.
97.22 Terminal date for 1974 summer program.

PART 98—ADMINISTRATIVE PROVISIONS FOR PROGRAMS UNDER TITLE I AND TITLE II OF THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

SUBPART A—GRANT ADMINISTRATION

98.1 General.
98.2 Payment.
98.3 Letter of credit.
98.4 Payment by Treasury check.
98.5 Financial management systems.
98.6 Audit.
98.7 Reporting requirements in general.
98.8 Quarterly Progress Report.
98.9 Quarterly Summary Client Characteristics.
98.10 Report of Federal Cash Transactions.
98.11 Reallocation of funds.
98.12 Allowable Federal costs.
98.13 Allocation of allowable costs among program activities.
98.14 Basic personnel standards for grantees.
98.15 Adjustments in payments.
98.16 Termination of grant.
98.17 Grant close-out procedures.
98.18 Retention of records.
98.19 Program income.
98.20 Procurement standards.
98.21 Nondiscrimination and equal employment opportunities.
98.22 Nepotism.
98.23 Special limitation on participant selection.

SUBPART B—ASSESSMENT AND EVALUATION

98.30 General.
98.31 Responsibilities of the prime sponsor or eligible applicant.
98.32 Responsibilities of the Secretary.
98.33 Limitation.
98.34 Consultation with the Secretary of Health, Education, and Welfare.

SUBPART C—HEARINGS AND JUDICIAL REVIEW

98.40 Purpose and policy.
98.41 Review of plans and applications; violations.

Sec.
98.42 Complaints; filing of formal allegations; dismissal.
98.43 Form.
98.44 Contents of formal allegations; amendment.
98.45 Investigations.
98.46 Opportunity for hearings; when required.
98.47 Hearings.
98.48 Initial certification, decisions and notices.
98.49 Judicial review.

§ 94.4 Definitions.

The following definitions consistent with 601(a) of the Act, apply to Parts 94 through 98, inclusive;

(a) "Act" shall mean the Comprehensive Employment and Training Act of 1973 (Pub. L. 93–203, 87 Stat. 839).

(b) "Allocation" shall mean the distribution of funds among prime sponsors or eligible applicants according to the formulas contained in the Act.

(c) "ARDM" shall mean the Department of Labor's Assistant Regional Director for Manpower, or his designee, having the responsibility for the area in which a prime sponsor or eligible applicant is located.

(d) (1) "Area of substantial unemployment" shall mean any area, other than in relation to an Indian tribe, which:

(i) has a population of at least 10,000 persons,

(ii) qualifies for a minimum allocation of $25,000 under Title II of the Act, and

(iii) has a rate of unemployment of at least 6.5 percent for a period of three consecutive months, as determined by the Secretary of Labor at least once each fiscal year.

(2) "Area of substantial unemployment" shall mean, in relation to an Indian tribe, an Indian reservation, as a whole, with a rate of unemployment of at least 6.5 percent for a period of three consecutive months, as determined by the Secretary of Labor at least once each fiscal year.

(e) "Balance of county" shall mean the area within the jurisdiction of a county, as a prime sponsor or eligible applicant, that is not included in the comprehensive manpower plan of another prime sponsor or eligible applicant.

(f) "Balance of State" shall mean the area within the jurisdiction of a State, as a prime sponsor or eligible applicant, which is not included in the comprehensive manpower plan of another prime sponsor or eligible applicant.

(g) "Capital improvement" shall mean any modification, addition, or restoration which increases the usefulness, productivity, or serviceable life of an existing building, structure, or major item of equipment which is classified for accounting purposes as "fixed asset" and the recorded value is increased by the cost of the improvement and subject to depreciation.

(h) "Certification" shall mean a legally binding statement that certain requirements have been fulfilled.

(i) "Chief elected official" and "chief executive officer" shall include their designees.

(j) "Client community" shall mean the group or groups of people to be served by a program or program activity; for example, the unemployed, persons of limited English speaking ability, farm workers, migrants and economically disadvantaged.

(k) "Community-based organizations" shall mean organizations which are representative of communities or significant segments of communities and which provide manpower services (for example, Opportunities Industrialization Centers, Urban League, Jobs for Progress, Mainstream, Community Action Agencies and other community organizations).

(l) "Compensation" as applied to a participant in a Title II program shall mean the wages and salary payable, but does not include fringe benefits or supportive services.

(m) "Consortium" shall mean an agreement among local units of government, consistent with the requirements of § 95.3, to plan and operate a comprehensive manpower program under the Act.

(n) "Contractor" shall mean any person, corporation, partnership, or similar entity or a public agency, which enters into a contract with the Department, with a grantee, or with a subgrantee under the Act.

(o) "Construction" shall mean the erection, installation, or assembly of a new facility or a major addition, expansion, or extension of an existing facility, and the related site preparation, excavation, filling and landscaping or other land improvements.

(p) "Department" shall mean the United States Department of Labor and includes each of its operating agencies and other organizational units.

(q) "Dependent" shall mean:

(1) any relative who is a member of the immediate household of, and for whom the participant has or has assumed, a responsibility for support: *Provided,* That, the following relatives need not be members of the participant's household, if the participant is the head of family:

(i) Parents of the participant head of family;

(ii) Children of the participant head of family;

(iii) Relatives of the participant head of family who are unemployable because of physical or mental disability; or

(2) Any individual who:

(i) Is currently being supported by the participant head of family and is a member of the participant's immediate household; and

(ii) During the preceding twelve months, earned less than $750.

(r) "Economically disadvantaged" shall mean a person who is a member of a family:

(1) Which receives cash welfare payments; or

(2) Whose annual income in relation to family size does not exceed the poverty level determined in accordance with criteria established by the Office of Management and Budget (OMB).

(s) "Eligible applicant" for purposes of Title II shall mean a prime sponsor or an Indian tribe on a Federal or State reservation which includes areas of substantial unemployment.

(t) "Employing agency" for purposes of public service employment programs shall mean any employer designated by an eligible applicant, program agent, or other subgrantee, or by the Secretary of Labor, to employ participants pursuant to public service employment programs under the Act. The term shall include an eligible applicant, program agent, or other subgrantee when acting as an employer.

(u) "Federal reservation" shall mean lands which have been set aside for Indian tribes and for which the United States is trustee, as identified by the Bureau of Indian Affairs, including nontrust land under the tribal jurisdiction.

(v) "Governor" shall mean the chief executive officer of a State, or his designee.

(w) "Grantee" shall mean any individual or organization, including a prime sponsor under Title I or Title III of the Act, or an eligible applicant under Title II of the Act, which receives a grant from the Department to establish or operate any program or activity under the Act.

(x) "Health care" includes but is not limited to preventive and clinical medical treatment, voluntary family planning services, nutritional services, and appropriate psychiatric, psychological and prosthetic services, to the extent any such treatment or services are necessary to enable a participant to obtain or retain employment under the Act.

(y) "Indian tribe" shall mean a tribe, group or band of American Indians or Alaskan natives identified on the basis of historical, geographical or cultural characteristics, or subpart of such a tribe, group or band.

(z) "Low-income level" shall mean an annual income of $7,000 with respect to income in 1969; for any later year it shall mean that amount which bears the same relationship to $7,000 as the Consumer Price Index for that year bears to the Consumer Price Index for 1969, rounded to the nearest $1,000.

(aa) "Obligation" shall mean the amount of Federal funds which the Department has legally committed and authorized a prime sponsor or eligible applicant to expend.

(bb) "Offender" shall mean any person who is confined in any type of correctional institution, including a community-based facility, or who is subject to any stage of the judicial, correctional or probationary process where manpower training and services may be beneficial, as determined by the Secretary of Labor, after consultation with judicial, correctional, probationary or other appropriate authorities.

(cc) "OMB" shall mean the Office of Management and Budget.

(dd) "Participant" shall mean an individual who qualifies and receives services or takes part in activities under provisions of the Act.

(ee) "Placement" shall mean the hiring into unsubsidized employment by an

employer of an individual referred by the prime sponsor or its subgrantee or contractor for a job or an interview, providing that the prime sponsor subgrantee or contractor completed all of the following steps:

(1) made prior arrangements with the employer for referral of an individual or individuals;

(2) referred an individual who had not been specifically designated by the employer;

(3) verified from a reliable source, preferably the employer, that the individual had entered on a job; and

(4) recorded the transaction on an employer form or other appropriate form.

There are three levels of placement based on the expected duration of the job:

(i) Short-term placements in jobs which are expected to have a duration of three days or less;

(ii) Mid-term placements in jobs which are expected to have a duration from four days to one-hundred-fifty days; and

(iii) Long-term placements in jobs which are expected to have a duration of more than one-hundred-fifty days.

Placement does not include referral to another program activity, enrollment in education or training courses not supported under the Act, or entrance into the Armed Forces. The transitioning of a participant into unsubsidized employment which does not meet the definition of "placement" above, shall be classified as "self-placement." Self placement shall mean the hiring of an individual in unsubsidized employment, which is a result of his own effort. This can occur after intake service or a referral by the prime sponsor or any of its contractors or subgrantees, or at the outset of program participation as a result of intake and assessment or after receiving program services.

(ff) "Poverty level" shall mean the annual income threshold below which families are considered to live in poverty, as determined in accordance with criteria established by the Director of the Office of Management and Budget.

(gg) "Prime sponsor" shall mean a unit of government, combinations of units of government, or a rural Concentrated Employment Program grantee, as set forth in § 95.3, which has entered into a grant with the Department to provide comprehensive manpower services under Title I of the Act.

(hh) "Professional work" shall mean work performed by an individual acting in a bona fide professional capacity, as such term is used in section 13(a)(1) of the Fair Labor Standards Act.

(ii) "Program agent" for purposes of Title II shall mean a subgrantee which is a unit of, or a combination of units of, general local government having a population of 50,000 or more, and which has an area of substantial unemployment within the jurisdiction.

(jj) "Program of demonstrated effectiveness" shall mean a manpower program, including a program conducted by a community based organization, which has a history of providing manpower services to the economically disadvantaged and has demonstrated the capacity to meet contractual goals at reasonable costs.

(kk) "Public service" shall mean service normally provided by government and includes, but is not limited to, work in such fields as beautification, conservation, crime prevention and control, education, environmental quality, fire protection, health care, housing and neighborhood improvements, manpower services, park, street and other public facility maintenance, pollution control, prison rehabilitation, public safety, recreation, rural development, solid waste removal, transportation, veteran outreach and other fields of human betterment and community improvement. It excludes building and highway construction work (except that which is normally performed by the prime sponsor or eligible applicant) and other work which inures primarily to the benefit of a private profit making organization.

(ll) "Rate of unemployment" shall mean the number of unemployed persons, as a percentage of the total number of persons in the civilian labor force, as determined by the Secretary.

(mm) "Secretary" shall mean the Secretary of the United States Department of Labor, or his designee.

(nn) "SESA" shall mean the State employment security agencies affiliated with the United States Employment Service, established by the Wayner-Peyser Act of 1933, as amended. The term shall include the system of public employment service offices and Unemployment Insurance offices.

(oo) "Significant segments" shall mean those groups identified in a prime sponsor's comprehensive manpower plan as being most in need of the services to be provided by the Act.

(pp) "Special veteran" for Title II shall mean an individual who served in the Armed Forces in Indochina or Korea, including the waters adjacent thereto, on or after August 5, 1964, who received other than a dishonorable discharge.

(qq) "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

(rr) "State reservation" shall mean an Indian reservation recognized by the State in which it is located.

(ss) "Subgrantee" shall mean any governmental unit or private nonprofit agency which receives a grant from a prime sponsor or eligible applicant under the Act.

(tt) "Sufficient size and scope" shall mean an area or combination of area, other than an Indian reservation, which has a population of 10,000 or more persons and qualifies for a minimum allocation under Title II of $25,000.

(uu) "Supportive or manpower services" shall mean services which are designed to contribute to the employability of participants, enhance their employment opportunities, assist them to retain employment, and facilitate their movement into permanent employment not subsidized under the Act.

(vv) "Underemployed person" shall mean a person who is working part-time but seeking full-time work or who are working full-time but receiving wages below the poverty level. For purposes of Title II and public service employment, persons who are working part-time for the employing agency may be considered underemployed and, as such, be hired only if their selection does not violate the maintenance of effort requirements of the Act.

(ww) "Unemployed person" shall mean for Title I activities except in the case of welfare recipients:

(1) A person who is without a job and who wants and is available for work, defined as follows:

(i) A person who is without a job is a person who did not work during the calendar week preceding the week in which the determination of his eligibility for participation is made. Except in the case of persons described in paragraph (ww)(2) of this section, the determination of who wants and is available for work will be made by the prime sponsor or his designee and persons who have been discouraged from seeking work but are currently available for work, shall not be excluded from eligibility.

(ii) If a person is confined in a jail, penitentiary or other correctional institution and there is a reasonable expectation that release will follow the completion of training within a reasonable time, he shall be considered unemployed.

(iii) A person is not to be considered to be available for work if he is without a job because of participation in an ongoing strike or lock-out at his usual place of employment.

(2) In the case of welfare recipients, and except for purposes of section 103 and 202 of the Act, the term "unemployed person" shall mean an adult who, or whose family, receives supplemental security income or money payments pursuant to a State plan approved under the Social Security Act, Title IV (Aid to Families with Dependent Children), or under the Social Security Act, Title XVI (Supplemental Security Income for the Aged, Blind and Disabled), or would be eligible for such payments according to the standards set forth at 45 CFR Part 233 and 20 CFR Part 416 if both parents were not present in the home, and

(i) Who is available for work, and

(ii) Who is either without a job or working in a job providing insufficient income to enable such a person and his family to be self-supporting without welfare assistance.

(xx) "Unemployed person" shall mean for Title II activities:

(1) A person who is without a job and who wants and is available for work. Except in the case of persons described in (2) below, the determination of who wants and is available for work will be made by the prime sponsor or his designee, and persons who have been discouraged from seeking work but are currently available for work, shall not be excluded from eligibility.

(2) Except for purposes of sections 103 and 202 of the Act, an adult who, or whose family, receives supplemental security income or money payments pursuant to a State plan approved under the Social Security Act, Title IV (Aid to Families with Dependent Children), or under the Social Security Act, Title XVI (Supplemental Security Income for the Aged, Blind and Disabled) or would be eligible for such payments according to the standards set forth at 45 CFR Part 233 and 20 CFR Part 416 if both parents were not present in the home, and

(i) Is available for work, and

(ii) Who is either without a job or working on a job providing insufficient income to enable such a person and his family to be self-supporting without welfare assistance.

(3) A person is "without a job" if, during the 30 days preceding his application, he has worked no more than 10 hours or has earned no more than $30 in any calendar week.

(4) A person is not to be considered available for work if he is without a job because of participation in an ongoing strike or lock-out at his usual place of employment.

(yy) "Unemployment compensation" shall mean the compensation payable for weeks of unemployment in accordance with the provisions of a State or Federal law, including but not limited to the unemployment compensation laws of the several States, the Railroad Unemployment Insurance Act and 5 USC Ch. 85 (Federal employees and ex-servicemen's unemployment compensation). This term shall also extend to payments to unemployed individuals under the Disaster Relief Act and other Federal Acts providing assistance to unemployed individuals either as supplemental to State unemployment compensation or in lieu of such compensation.

(zz) "Unit of general local government" shall mean any city, municipality, county, town, township, parish, village or other general purpose political subdivision which has the power to levy taxes and spend funds, as well as general corporate and police powers.

(aaa) "Unsubsidized employment" shall mean employment not financed from funds provided under the Act.

(bbb) "Wagner-Peyser Act" shall mean "An act to provide for the establishment of a national employment system and for cooperation with the States in the promotion of such system, and for other purposes," approved June 6, 1933, (48 Stat. 113), as amended (29 U.S.C. 49 et seq.).

PART 95—PROGRAMS UNDER TITLE I OF THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

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Subpart A—General

§ 95.1 Scope and purpose of Part 95.

(a) This Part 95 contains the Department of Labor's regulations for the establishment and provision of comprehensive manpower services, including public service employment, under Title I of the Act.

(b) This Part 95 should be read in conjunction with Parts 94 through 98 of this Title 29, Code of Federal Regulations. These parts, in total, comprise the regulations promulgated by the Secretary pursuant to the authority in the Act.

(c) Definitions for abbreviations and major terms may be found in Part 94.

(d) Statutory authority for the regulations contained in this Part 95 may be found in section 602(a) of the Act, as well as other substantive provisions of the Act. Applicable statutory provisions, other than section 602(a), are noted generally in these regulations.

§ 95.2 Allocation of funds.

(a) *General.* (1) This § 95.2 sets out the procedures for allocating funds under Title I of the Act. Of the funds available for Title I in any fiscal year, 80 percent shall be allocated according to the procedures set forth in paragraph (b) of this section. The remaining 20 percent shall be allocated as set out in paragraphs (c) and (d) of this section (sec. 103).

(2) Allocations made to prime sponsors under this section shall be published in the FEDERAL REGISTER as soon as possible after the enactment of any fiscal year appropriation. The Secretary may publish preliminary allocations to assist prime sponsors in planning for programs under Title I of the Act.

(3) The Secretary may reallocate Title I funds as provided in § 98.11.

(b) *Prime sponsor basic allocations.* (1) Eighty percent of the funds available under Title I of the Act shall be allocated as provided in this paragraph (b). Funds provided pursuant to this paragraph are for prime sponsors, as defined in § 95.3, except for a limited number of prime sponsors which are rural Concentrated Employment Programs (CEP). This paragraph (b) does not apply to rural CEPs.

(2) One percent of the amount available under this paragraph (b) shall be allocated by the Secretary to State prime sponsors for the costs incurred in staffing and servicing State Manpower Services Councils. If such funds exceed the amount needed for these costs, the excess may be used to carry out State services under section 106 of the Act. Allocations under this paragraph shall be made according to the paragraph (b)(4) allocation formula.

(3) Not less than $2,000,000 of the funds under this paragraph (b) shall be allocated among Guam, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands, consistent with the factors set out in (b)(4).

(4) Subject to the requirements of paragraph (b)(5) of this section, funds remaining after application of paragraphs (b) (2) and (3) shall be allocated to prime sponsors according to the following basic formula:

(i) Fifty percent of the funds subject to formula allocation shall be allocated on the basis of each prime sponsor area's proportion of the manpower funds allotted for all prime sponsor areas in the prior fiscal year;

(ii) Thirty-seven and one-half percent of the funds subject to formula allocation shall be allocated on the basis of a prime sponsor's proportion of the total number of unemployed persons (as defined by the Bureau of Labor Statistics) in all prime sponsor areas;

(iii) Twelve and one-half percent of the funds subject to the allocation formula shall be allocated on the basis of a prime sponsor's proportion of the number of adults in low income families in all prime sponsor areas.

(5) (i) No prime sponsor shall be allocated an amount under the paragraph (b) (4) allocation formula which is more than 150 percent of the amount of the manpower allotment obligated in the prior fiscal year for the area served by the prime sponsor; except that if the amount so allocated is less than 50 percent of the amount of manpower funds to which it is entitled under the (b) (4) allocation formula, such allocation shall be increased to 50 percent of its entitlement under the formula.

(ii) If any prime sponsor, pursuant to the paragraph (b) (4) and (5) allocation formula, is allocated less than 90 percent of the manpower allotment that was obligated to that area in the previous fiscal year, that prime sponsor shall, to the extent feasible, be provided an amount from the Secretary's discretionary fund, set out in paragraph (d) of this section, that will bring its funding during the current fiscal year to the 90 percent level.

(c) *Additional prime sponsor allocations.* This paragraph describes those prime sponsor allocations that are not subject to the basic allocation procedures of paragraph (b).

(1) *Consortia incentive funds.* In order to encourage consortia, as defined in § 95.3, that also comprise substantial portions (e.g., 75 percent) of labor market areas, the Secretary may use up to 5 percent of the funds available for Title I of the Act to provide additional funding for such consortia. Consortia which do not serve such areas shall not be eligible for additional funds. Prior to making decisions concerning these funds, the Assistant Regional Director for Manpower (ARDM) shall consult with the Governors of the appropriate States and afford them an opportunity to make recommendations.

(2) *State manpower services allocations.* The Secretary shall allocate to the States, according to the paragraph (b) (4) allocation formula, 4 percent of the funds available under Title I of the Act, to enable the States to provide services, as set out in Subpart D of this Part 95.

(3) *Allocations for rural CEP prime sponsors.* The Secretary shall fund a limited number of prime sponsors which are rural CEPs from any funds available to carry out Title I, except funds allocated under paragraph (b).

(4) *Vocational education allocation.* The Secretary shall allocate to the Governors, according to the paragraph (b) (4) allocation formula, 5 percent of the funds available under Title I to provide financial assistance for vocational education. Each Governor shall allocate these funds as required in Subpart D of this Part 95.

(d) *Secretary's discretionary fund.* Any funds available under Title I that are not allocated under paragraphs (b) and (c) shall be first utilized by the Secretary to assure each prime sponsor, including a limited number of rural CEP prime sponsors, of funding at the 90 percent level, as set out in paragraph (b) (5) (ii) of this § 95.2. The Secretary shall utilize the remainder of the funds available under this paragraph at his discretion, taking into consideration (1) the provision of incentive funds for multijurisdictional agreements entered into by States, as set out in § 95.3 (b) and (d); (2) continued funding through prime sponsors of programs of demonstrated effectiveness; and (3) other factors the Secretary deems necessary to the carrying out of his responsibilities under the Act.

§ 95.3 Eligibility for funds.

(a) Funds may be allocated by the Secretary to prime sponsors (sec. 102). Prime sponsors are:

(1) States;

(2) Units of general local government which have a population of 100,000 or more persons;

(3) (i) Consortia consisting of general local governments which are (A) located in reasonable proximity to each other; (B) each of which retains responsibility for operation of the program; (C) at least one of which has a population of 100,000 or more persons; and (D) which, as a consortium, can plan and operate a comprehensive manpower program that provides administrative and programmatic advantage over the other methods of delivering services under the Act;

(ii) A consortium, under this paragraph (a) (3), which consists of units of local government in more than one State, may be approved by the ARDM after the approval of the Governors of the States involved has been obtained.

(iii) No consortium agreement will be approved if one of the parties to the agreement is a unit of local government which is not eligible to be a prime sponsor under the Act and if, in addition, the effect of the agreement is to render ineligible the prime sponsor otherwise responsible for serving the area of the ineligible local government; provided, however, that nothing in this paragraph shall prohibit the otherwise responsible prime sponsor from granting its consent to such a consortium agreement;

(4) Any unit of general local government, or any combination of such units, without regard to population, which, in exceptional circumstances, is determined by the Secretary, after giving serious consideration to comments from the prime sponsor otherwise responsible for the area and the Governor, (i) to serve a substantial portion (e.g., 75 percent) of a functioning labor market area or to be a rural area with a high level of unemployment, and (ii) to have demonstrated that (A) it has the capability for effectively carrying out a comprehensive manpower program under the Act, evidenced by its effective operation of programs such as CEP or other multicomponent programs, (B) there is a special need for services provided by the Act (e.g., the area has a high proportion of such groups within the population as older workers, high school dropouts, or has a high unemployment rate, substantial outmigration or unique commuting problems), and (C) it will afford administrative and programmatic advantages over other methods of delivering services under the Act; and

(5) A limited number of CEP grantees existing at the time of enactment of the Act, serving rural areas having a high level of unemployment which the Secretary determines have demonstrated through prior performance, a special capability for carrying out programs in such areas and are designated for that purpose.

(b) (1) A State may enter into an agreement with any unit of local government within the State that has a population of at least 100,000 persons in order to provide services within a designated area. Such an agreement may be approved by the ARDM when, to the extent consistent with State and local law, each party signatory to the consortium agreement accepts responsibility for the operation of the program, and the ARDM believes that the parties will, pursuant to the agreement, plan and operate a comprehensive manpower program which provides administrative and programmatic advantages over other methods of delivering services under the Act. All requirements for consortia in Parts 94 through 98 apply to such State multijurisdictional agreements unless otherwise stated.

(2) Incentive funds may be provided for an agreement under paragraph (1) if the agreement includes every eligible prime sponsor in the State.

(c) A consortium which comprises a substantial portion of a functioning labor market (e.g., 75 percent) shall be eligible for incentive funds, as provided in § 95.2(c) (1) of this part. The ARDM shall make such determinations, taking into consideration the definition and listing of labor market areas published by the Department, and the recommendations of the Governors.

(d) Incentive funds for consortia or State agreements shall be a nationally uniform percentage increase of the amount due them under § 95.2(b) (4), but shall not exceed 10 percent of the amount.

(e) No State, unit of general local government, or consortium may apply or be designated as a prime sponsor for any area within its jurisdiction that is also within the jurisdiction of another prime sponsor unless that other prime sponsor consents or fails to submit an approvable comprehensive manpower plan, or has its plan terminated, in whole or in part, by the Secretary.

(f) Any unit of general local government that does not intend to be served by the prime sponsor which would normally serve it under Title I shall inform that prime sponsor of its determination.

§ 95.4 Data base for determining eligibility.

In order to determine prime sponsor eligibility, the Secretary shall use the 1970 official Census or certified up dates as published by the U.S. Bureau of the Census.

Subpart B—Grant Planning, Application, and Modification Procedures

§ 95.10 General.

This Subpart B provides the procedures for obtaining and modifying a grant to operate programs under Title I of the Act. Specifically, this subpart describes the procedures in the grant award process—from a prime sponsor's initial intent to apply, through the grant application process, to review by the Department, approval or disapproval of the grant, and modification. This subpart also describes the functions of prime sponsor Manpower Planning Councils and State Manpower Services Councils.

§ 95.11 Notification of intent to apply for prime sponsorship; consortium agreements.

(a) For Fiscal Year 1975, an applicant interested in receiving financial assistance shall submit to the ARDM, the Governor, and the appropriate State A–95 clearinghouses (see OMB Circular A–95), a notification of intent to apply for prime sponsorship in the format described in this part. In subsequent fiscal years, the Preapplication for Federal Assistance, Part I, prescribed by OMB Circular A–102, shall be used. In either case, submission shall be by a date set by the Secretary (section 102(c)).

(b) All prime sponsor notifications of intent, including those from consortia, shall include the following:

(1) Name and address of each prime sponsor applicant;

(2) Geographical area to be served;

(3) Population to be served;

(4) Name of any ineligible unit of general local government, located within the prime sponsor applicant's jurisdiction, that has informed the prime sponsor applicant that it will not be participating in the prime sponsor applicant's plan;

(5) Certification that each prime sponsor applicant, except for a CEP prime sponsor, has required governmental authority as defined in § 94.4 and will comply with all requirements of law and regulation; and

(6) The signature of the chief elected official(s) or chief executive officer(s), as appropriate, of each prime sponsor applicant. For a consortium, the signature of the chief elected official or chief executive officer of each consortium member is required.

(c) In addition to prime sponsor notifications of intent from consortia of local governments, each consortium shall, prior to execution of the grant, submit to the ARDM for his approval, a formal agreement which includes the following:

(1) A statement that the agreement has been formed under the Comprehensive Employment and Training Act of 1973. Either an agreement shall be written to establish a consortium arrangement for the express purpose of conducting a program under the Act or an existing joint power or other agreement shall be amended to include reference to the Act as part of the agreement;

(2) Identification of the units of government which are parties signatory to the agreement (i.e., the governmental units that are members of a consortium; not those governmental units that are merely served by a consortium);

(3) Identification of any ineligible governmental unit which would normally be within the jurisdiction of the consortium but has informed the members of the agreement of its desire not to have services provided through the consortium;

(4) Geographical areas which will be served through the agreement;

(5) Population to be served;

(6) Certification that State and local law permits services under the consortium agreement to be provided within the entire geographical area covered by the agreement, including within the jurisdiction of any local government located within the geographical area covered by the agreement (i.e., that the agreement is not prevented by State or local law from taking effect in the entire geographical area which it intends to serve);

(7) An attached letter from each unit's chief legal officer assuring that each party signatory has the legal authority, under State or local law, to enter into a consortium agreement (these letters are made part of the agreement);

(8) A statement that one of the following procedures will be used for signing grant agreements with the Department:

(i) That grant agreements with the Department shall be signed by the chief elected official or chief executive officer of each party to the consortium agreement; or

(ii) That, pursuant to a specific designation in the consortium agreement, grant agreements with the Department shall be signed by the chief elected official or chief executive officer of one or more of the parties to the consortium agreement, or by the chief executive officer of the administrative unit established under paragraph (e)(1) of this section;

(9) Certification that to the extent consistent with State or local law, each party signatory to the consortium agreement accepts responsibility for the operation of the program (i.e., each member of the consortium, rather than any administrative arm, has ultimate responsibility for the program's operation and success);

(10) A description of the powers, functions and responsibilities reserved by the parties to the consortium agreement, specifying the process by which decisions will be made, the process by which each party to the agreement will review and approve the Comprehensive Manpower Plan, and the procedure by which chief elected officials will participate in the planning and operation of the program, if they so desire. However, no agreement that has been validly entered into prior to the addition of this § 95.11(c)(10) need be modified to include this provision.

(11) A statement of the powers, functions and responsibilities which will be delegated to an administrative entity to operate the program and the name and organizational structure of that entity.

(d) In signing grant agreements with the Department, the authorized consortium signator(s) shall certify that the procedures described in the consortium agreement pursuant to paragraph (c)(10) of this section have been utilized.

(e)(1) The consortium shall be the prime sponsor under the Act. An administrative unit or one member of the consortium must be designated to operate the program.

(2) The division of powers, functions, and responsibilities between the consortium members and the administrative unit must be workable and clearly delineated. The administrative units may be delegated the power to enter into contracts and subgrants and other necessary agreements. to receive and expend funds, to employ personnel, to organize and train staff, to develop procedures for program planning, operation, assessment and fiscal management, to evaluate program performance and determine resulting need to reallocate resources, and to modify the grant agreement with the Department. The administrative arm of the consortium should have responsibility for the entire operation of the program, but the consortium members shall reserve to the consortium the right of evaluation and the decision to reprogram funds.

(f) A consortium established under these regulations shall have a stated duration at least equal to the period of the grant.

(g) All prime sponsor notifications of intent from applicants which are eligible only in exceptional circumstances, as defined in § 95.3(a)(4) of this Part 95, shall, in addition to the requirements of paragraph (b), include in their notifications of intent a statement and justification that they meet the requirements of § 95.3(a)(4). Consortia formed in exceptional circumstances shall also submit an agreement as required in paragraph (c).

§ 95.12 Prime sponsor designation.

Upon receipt of a completed notification of intent, the ARDM shall determine whether the applicant is eligible to be designated as a prime sponsor and shall notify the applicant of his determination. For Fiscal Year 1975, the designation shall be by letter or telegram. For subsequent fiscal years, Exhibit M–2, Notice of Preapplication Review Action, OMB Circular A–102 will be used. A grant application package (§ 95.14(b)) shall be sent to each applicant designated as being eligible for prime sponsorship.

§ 95.13 Planning process; advisory councils.

(a) *General.* To receive financial assistance under Title I of the Act, a prime sponsor applicant shall submit an approvable Comprehensive Manpower Plan, as set out in § 95.14 of this Part 95. In developing and modifying such a plan, a prime sponsor applicant shall utilize the advisory councils set out in this section. (sections 104, 106, and 107)

(b) *Planning process.* The prime sponsor shall establish a planning process for the development of its Comprehensive Manpower Plan. That process shall utilize, as appropriate, the advisory councils established in this section and shall also assure the participation in program planning of community-based organizations and the population to be served.

(c) *Prime sponsor Manpower Planning Council.* (1) Each prime sponsor (and prime sponsor applicant) shall appoint a Manpower Planning Council representative of the geographic area to be served. The Planning Council function is advisory. The Council's advisory authority does not free the prime sponsor from its final decisionmaking responsibilities under the Act.

(2) The Planning Council shall advise the prime sponsor in the settting of basic goals, policies, and procedures for its program under the Act. It shall make recommendations regarding program plans, and provide for continuing analyses of needs for employment, training, and related services in such areas. Planning Councils should monitor all manpower programs under the Act and provide for objective evaluations of other manpower and related programs operating in the prime sponsor's areas, for the purpose of improving the utilization and coordination of the delivery of such services. The procedures for evaluating programs not funded by the Act will be developed in cooperation with the agencies affected. The Planning Council shall make recommendations based upon its analyses to the prime sponsor, which will consider them in the content of its overall decisionmaking responsibility.

(3) Each prime sponsor shall, to the extent practical, include as appointments to its Planning Council members who are representative of the client community (e.g., women, persons of limited English-speaking ability and other minority groups), community-based organizations, the Employment Service, education and training agencies and institutions, business, organized labor, and where appropriate, agriculture. Persons representative of other interested groups may also be appointed. The prime sponsor shall appoint a chairman of the Planning Council and provide professional, clerical, and technical staff to serve it. Funds for supportive services and related staff costs for the Planning Council may be made available from a prime sponsor's basic allocation.

(d) *State Manpower Services Council.* (1) A State prime sponsor shall establish, in addition to its Planning Council under paragraph (c) of this section, a State Manpower Services Council (SMSC) representative of the geographic area to be served. The SMSC function is advisory and does not relieve the State of its final decisionmaking responsibilities under the Act. The SMSC shall review and monitor all manpower activities within the State, including those of prime sponsors, and advise and make recommendations concerning manpower activities to the Governor, prime sponsors, State manpower agencies, and the public.

(2) Consistent with the requirements of section 107 of the Act, the Governor shall appoint Council members, as follows:

(i) At least one-third of the membership of the Council shall be composed of representatives of prime sponsors who have been designated in accordance with procedures agreed upon by such prime sponsors. (All prime sponsors within the State need not be presented; whatever the size of the Council, one-third of its membership shall be representatives of prime sponsors within the State.)

(ii) One representative shall be appointed from each of the following: the State Board of Vocational Education, the State Employment Service, and any State agency the Governor believes has an interest in manpower or manpower-related services within the State.

(iii) Representatives shall be appointed from organized labor, business and industry, the general public, community-based organizations, and from the population to be served under the Act (including representation of women, persons of limited English-speaking ability, and other minority groups when such persons represent a significant portion of the client population).

(3) The Governor shall appoint a chairman for the Council and provide the Council with professional, technical, and clerical staff. The Council shall meet as it deems necessary.

(4) Council responsibilities shall include, but not be limited to:

(i) Reviewing prime sponsor plans, proposed modifications, and comments thereon;

(ii) Reviewing State agency plans for providing services to prime sponsors;

(iii) Making recommendations for effective coordination of all manpower and manpower-related programs and supportive services within the State;

(iv) Monitoring continuously (A) the operation of programs conducted by prime sponsors in the State and (B) the availability, responsiveness, adequacy, and effective coordination of State services provided by all manpower-related agencies;

(v) Submitting an annual report, which will be a public document, to the Governor, prime sponsors, State manpower agencies, and such other reports and information to the Governor and prime sponsors as it believes necessary to effectively carry out the Act.

(e) *Combined planning and services councils.* In any State where the State is the only prime sponsor, the prime sponsor Planning Council may also perform the functions of the State Manpower Services Council. In such instances, the membership of the prime sponsor's Planning Council shall reflect the membership requirements of the State Manpower Services Council, in addition to meeting the membership requirements of a Prime Sponsor Planning Council, except that the provision of § 95.13(d)(2)(i) is not required.

§ 95.14 Content and description of grant application.

(a) *General.* (1) This section describes the grant application which prime sponsor applicants will use to apply for funds under Title I of the Act. If an applicant is also applying for funds under Title II of the Act, additional requirements set out in Part 96 must also be followed. Procedures for special State grants under Title I are in Subpart D of this Part 95 (sec. 106).

(2) A copy of all forms and instructions are contained in the Forms Preparation Handbook.

(b) *Grant application forms.*—(1) *Application for Federal assistance.* The application for Federal assistance identifies the prime sponsor applicant and the amount of funds requested; it provides information concerning the area to be served and the number of people expected to benefit from the program. The form provided in OMB Circular A–102, Part I of a grant application for nonconstruction, is being used.

(2) *Comprehensive Manpower Plan.* The Comprehensive Manpower Plan is a statement of how the prime sponsor applicant intends to use Title I funds, and to coordinate its activities with other manpower programs and services operating within its jurisdiction. The Comprehensive Manpower Plan consists of the Narrative Description of the Program, the Program Transition Schedule (for Fiscal Year 1975 only), the Project Operating Plan, and the Program and Occupational Summaries for Public Service Employment, all described below. For consortium prime sponsors, the approved consortium agreement will be a part of the plan.

(i) *Narrative Description of Program.* The Narrative Description of the Program provides for a narrative outline of the proposed program under the Act. It identifies and explains the manpower problems within the prime sponsor's jurisdiction, describes proposed program activities and delivery systems to deal with those problems, and projects the results which may be expected from the program. The Narrative Description of the Program requires a detailed statement on the program including the following specific items. The Forms Preparation Handbook gives detailed instructions for these and other items on the Narrative Description of the Program:

(A) *Objectives and needs for assistance.* (*1*) Policy statement on purpose of program;

(*2*) Description of economic condition;

(*3*) Description of labor force characteristics;

(*4*) Assessment of skill shortages;

(5) Definition of manpower needs;
(6) Statement of groups to be served;
(7) Statement on consideration of priority groups; and
(8) Statement of goals to be accomplished.

(B) *Results and benefits expected.* (1) Statement relating planned results to needs;
(2) Description of "other activities" in the Project Operating Plan;
(3) Statement of how training and services will provide participants with economic self-sufficiency; and
(4) Explanation of how training will lead to employment and enhance career development.

(C) *Approach.* (1) Description of the planning system and participation of community based organizations;
(2) Statement of strategy for accomplishing goals;
(3) Description of each program activity and service;
(4) Description of methods to be used to recruit, select, and determine eligibility of participants, including any special consideration given to veterans;
(5) Description of how persons of limited English-speaking ability will be served if they represent a significant portion of a prime sponsor's program;
(6) Description of consideration given programs of demonstrated effectiveness;
(7) Description of prime sponsor's administrative system;
(8) Description of allowance payment system;
(9) Explanation of any system for accounting for placements;
(10) Explanation of reasons specific delivery agents were selected including area skill centers and justification when other than existing facilities have been selected;
(11) Description of vocational education training and services funded by State Special Grants;
(12) Description of coordination with deliverers of manpower services not supported by the Act;
(13) Justification of administrative costs planned; and

(D) *Geographic location served.* Description of the geographical locations to be served.

(E) *Additional items relating to State applicants.* (1) A description of arrangements for serving all geographic areas under its jurisdiction, except for areas served by other prime sponsors;
(2) Description of the functions of the State Manpower Services Council;
(3) Description of State Manpower Services to be undertaken.

(F) *Public Service Employment Programs.* (1) Description of target population characteristics and significant segments which need special attention;
(2) Description of unmet public service needs and priorities;
(3) Comparison of types of jobs in public service needs described above;
(4) Justification of funding and job allocation by area;
(5) Description of results and benefits expected;
(6) Description of strategy for matching jobs to special veterans skills;
(7) Description of plan for providing services to significant segments, specifically disabled and special veterans and welfare recipients;
(8) Orientation procedures for participants;
(9) Description of determination of rates of compensation when they differ from what is normally paid by employer;
(10) Description of actions to insure compliance with personnel procedures and collective bargaining agreements for jobs above entry level;
(11) Plans to improve and expand employment and advancement opportunities of the target population; and

(ii) *Program Transition Schedule.* The Program Transition Schedule, required only in the plan for Fiscal Year 1975, requires the prime sponsor to list the categorical manpower programs currently funded under the Manpower Development and Training Act (MDTA), the Economic Opportunity Act (EOA), and the Emergency Employment Act (EEA) indicating those which will be phased into the operation of activities under the Act and those to be phased out. Current programs under MDTA and EOA may be continued only through December 31, 1974, unless the ARDM approves an extension under special circumstances. The prime sponsor shall also describe the system for ensuring continuity of service for those individuals enrolled in the categorical programs operating at the time of transition.

(iii) *Project Operating Plan.* The Project Operating Plan requires a prime sponsor to provide a quantitative statement of planned expenditures, enrollment levels, and outcomes for program participants. It requires a prime sponsor to indicate planned expenditures by cost category (administration, allowances, wages, fringe benefits, training, and services) and by program activity (classroom training, on-the-job training, public service employment, work experience, services to clients, and other activities). It requires also an identification of the number of individuals to be served within the significant segments of the population.

(iv) *Public Service Employment Occupational Summary.* The Occupational Summary requires a prime sponsor operating a public service employment program under the Act to provide a description of proposed job opportunities, occupations and wages, including a comparison of such wages with wages for similar nonsubsidized jobs in the employing agency. The prime sponsor shall submit separate summaries for such program under Title I and title II of the Act.

(v) *Public Service Employment Program Summary.* The Program Summary presents a distribution of public service employment jobs, and funds to be provided to prime sponsors and subgrantees. It designates the areas to be served and the population of each area. The prime sponsor shall submit separate summaries for such programs under Title I and Title II of the Act.

(3) *Assurances and Certifications.* The Assurances and Certifications form is a signature sheet on which the prime sponsor assures and certifies that it will comply with the Act, the regulations of the Department, other applicable laws, and applicable circulars from the Office of Management and Budget (OMB) and the General Services Administration (GSA). The Assurances and Certifications form is contained in the Forms Preparation Handbook. Following is a summary of the items which are described in detail on that form:

(i) Compliance with the Act and regulations;
(ii) Compliance with OMB Circulars A–87, A–95, A–102;
(iii) Legal authority;
(iv) Non-discrimination;
(v) Compliance with Title VI of the Civil Rights Act of 1964;
(vi) Compliance with the Uniform Relocation Assistance and Real Property Acquisitions Act of 1970;
(vii) Compliance with the Hatch Act and restrictions on politicial activities;
(viii) Prohibition on use of position for private gain;
(ix) Access of Comptroller General and Secretary to records and documents pertaining to the Act;
(x) Non-support of religious facilities;
(xi) Maintenance of required health and safety standards;
(xii) Provision of appropriate workman's compensation to participants;
(xiii) Use of funds under the Act to supplement, rather than supplant, funds otherwise available, prohibition on displacement of employed workers by participants employed under the Act, and prohibition on impairment of existing contracts for services;
(xiv) Training only in occupations which have reasonable expectations for unsubsidized employment and which provides for the development of participants' potential consistent with their capabilities;
(xv) Compliance with reporting and recordkeeping requirements of the Act and regulations;
(xvi) Provision of required administrative and accounting controls;
(xvii) Compliance with applicable standards for working conditions;
(xviii) Additional assurances for Title I programs, as required by the Act;
(xix) Additional assurances for public service employment programs, and all activities funded under Title II, as required by the Act;
(xx) Special certifications for State grantees, as required by the Act.

§ 95.15 Comments and publication procedures relating to submission of grant application.

(a) As provided in paragraphs (b) and (c) of this section, each prime sponsor applicant shall, no later than the date of its submission of an application to the ARDM, provide an opportunity for comment on the application (secs. 105(c)(2) and 108).

(b) (1) Each prime sponsor shall publish a summary of the grant application package, including the proposed allocation of funds, in a newspaper or newspapers (including minority newspapers, where feasible) which will provide for a general circulation throughout the area to be served by the prime sponsor's plan. Such publication shall be for three consecutive issues and shall include an address and appropriate hours when the complete grant application will be available for review and the place where comments may be directed. The publication shall be made 30 days prior to the submission of the application to the ARDM, except that for Fiscal Year 1975 the publication shall be no later than the date of submission of the application to the ARDM.

(2) The information published shall include the following:

(i) the goals provided in the Project Operating Plan;

(ii) the significant segments of the population to be served, and number of planned participants in each segment;

(iii) the program activities and services to be provided by the program in each geographical area and the funds to be planned for each activity and service;

(iv) the total funds in the grant and distribution by cost categories.

(c) (1) In addition to general newspaper circulation, each prime sponsor applicant shall provide a copy of its application for the purpose of commenting thereon to the Governor and the appropriate State and sub-State A–95 clearinghouse(s). It shall provide a summary to appropriate units of general local government with a population of at least 10,000 persons, to Indian prime sponsors, and to labor organizations where appropriate.

(2) For grants for Fiscal Year 1975, a prime sponsor applicant shall submit a copy of its application to the appropriate State and sub-State A–95 clearinghouse(s) at the same time it submits its application to the ARDM. The copy of the application sent to the clearinghouse(s) shall be accompanied by the following statement: "Due to the time constraints on implementation of Titles I and II of the Comprehensive Employment and Training Act of 1973, the program plan(s) required by section 105, 106, and 205 of the Act is (are) being submitted to the clearinghouse(s) and the Department of Labor simultaneously. Clearinghouses are requested to forward any comments directly to the Assistant Regional Director for Manpower. This review and comment procedure has been approved by the Office of Management and Budget only for Fiscal Year 1974 Title II and Fiscal Year 1975 Titles I and II program approval cycles."

(d) Comments pursuant to paragraphs (b) and (c) of this section shall be made to the prime sponsor applicant and the ARDM within 30 days of publication. The prime sponsor shall provide copies of these comments to its Advisory Council and the Governor.

(e) A prime sponsor applicant shall acknowledge any comment made pursuant to this section. It shall inform any party submitting a substantive comment of whether any plan revision will be made in response to the comment and the reasons for the prime sponsor's determination. All substantive comments and responses will be transmitted to the ARDM with the grant application, unless the comments are received after the application's submission, in which case they will be sent separately to the ARDM.

§ 95.16 Submission of grant application.

(a) Each prime sponsor applicant shall submit its grant application to the ARDM on or before a date set by the Secretary.

(b) A grant application shall include all items set out in § 95.14 of this Part 95.

§ 95.17 Standards for reviewing grant applications.

(a) A grant application will be reviewed to determine if it meets the requirements of the Act, the regulations promulgated under the Act, and other applicable law.

(b) In reviewing a grant application as provided in paragraph (a) of this section, the ARDM shall determine whether:

(1) The application is complete.

(2) The needs and priorities identified in the application are supported and justified by the documentation provided by the prime sponsor.

(3) The planned expenditures for program activities are substantiated by documentation of the needs and priorities identified in the application.

(4) The performance goals identified in the application are reasonable in light of past program experience in the same or similar activities and the documentation provided by the prime sponsor.

(5) Appropriate arrangements have been made to involve the population to be served and community-based organizations in the planning process, through representation on the Prime Sponsor Manpower Planning Council or through participation in the specific planning of the program.

(6) The prime sponsor applicant's selection of the method of delivery of services is supported by adequate documentation based on availability and capability of delivery agents and appropriateness of services for the population to be served (sec. 105(a)(3)(B)).

(7) Maximum efforts have been made to meet the goals of the prior year's plan; such efforts shall include monitoring, evaluation, and remedial activities.

(8) The administrative costs in the application are reasonable and provide, to the maximum extent feasible, for Federal funds to be expended for direct program activities and services, and, if administrative costs exceed 20 percent of total costs, whether the prime sponsor has cited an adequate reason and provided supporting documentation.

(9) The prime sponsor has adequate internal administrative controls, accounting requirements, personnel standards, monitoring and evaluation procedures, availability for in-service training and technical assistance, and such other policies as may be necessary to promote the effective use of funds provided under Title I of the Act.

(10) All parties required to be afforded an opportunity to comment on comprehensive manpower plans have been afforded such an opportunity; and

(11) Any comment on a comprehensive manpower plan evidences non-compliance with the Act, the regulations promulgated pursuant to the Act, or any other applicable law.

§ 95.18 Application approval; grant agreement.

(a) An application for a grant shall be approved if it meets the requirements of the Act, the regulations promulgated under the Act, other applicable law, and if the ARDM determines that the prime sponsor has demonstrated maximum efforts to meet the goals of the prior year's plan.

(b) An application for a grant from a consortium, or pursuant to a State multijurisdictional agreement, shall be approved if, in addition, an agreement among the parties has been submitted to and approved by the ARDM.

(c) A prime sponsor applicant and the Governor shall be notified of action taken on the application. If an application is approved, the ARDM shall provide the prime sponsor with a grant agreement, consisting of the Grant Signature Sheet and the Assurances and Certification Form, and the Comprehensive Manpower Plan which is included by reference. The Comprehensive Manpower Plan shall be attached to the grant agreement.

(d) The Grant Signature Sheet specifies the amount obligated by the Department, the term of the grant, and is signed by the ARDM and the prime sponsor.

§ 95.19 Application disapproval.

(a) An application for a grant shall be disapproved if it fails to meet any requirement of the Act, the regulations promulgated under the Act, or any other applicable law (secs. 105 and 108).

(b) No application shall be disapproved solely because of the percentage of total funds devoted to any allowable program activity.

(c) No application for a grant shall be disapproved until:

(1) The prime sponsor applicant has been notified that its application fails to meet a requirement of the Act, regulations promulgated under the Act, or other applicable law; and

(2) The prime sponsor applicant is provided with suggestions as to those corrective steps which may be utilized to remedy any defect found in the application; and

(3) The prime sponsor applicant has been provided a reasonable opportunity, but not less than 30 days, to remedy any defect found in the application, but has failed to do so.

(d) When an application is disapproved, a notice of disapproval shall be transmitted to the prime sponsor and the Governor, accompanied by a statement of the grounds of the disapproval. Such disapproval shall not be effective until

notice and opportunity for a hearing has been provided, as required in Subpart C of Part 98.

§ 95.20 Use of alternative prime sponsors; services by the Secretary.

If an application is not filed, as required, or is denied, or if a grant is terminated in whole or in part during a fiscal year, the Secretary may make provision for the funds so released to be used by the State or another alternative prime sponsor to service the area originally to be served by the primary prime sponsor, or the Secretary may serve such an area directly. In so doing, the Secretary shall make every effort to minimize or prevent any disruption in participant activities (sec. 110(a)).

§ 95.21 Modification of grant agreement.

(a) The Grant Signature Sheet shall be used as the instrument to modify an existing grant agreement when there is a change in (1) the term of the grant, (2) the amount funded by the grant, or (3) the assurances and certifications included in the grant agreement. All modifications of the grant agreement are major modifications (secs. 105 and 108).

(b) When the term or amount funded by the grant is changed, the prime sponsor shall also submit revised portions of its Comprehensive Manpower Plan to specifically identify the changes.

(c) When the term or amount funded by a grant is changed, the comments and publication procedures provided in § 95.15 shall be followed.

(d) A denial of a prime sponsor's request for a grant modification shall be subject to the appeal procedures set out in Part 98.

§ 95.22 Modification of Comprehensive Manpower Plan.

(a) *General.* Prime sponsors may make two types of modifications to Comprehensive Manpower Plans: major and minor. An ARDM may require a modification as described in paragraph (d) of this section.

(b) *Major plan modification.* (1) When a plan modification falls into one of the following categories, it will be considered to be major plan modification:

(i) For grants of $100,000 or less:

(A) When the cumulative transfer of funds among program activities or cost categories exceeds $5,000.

(B) When the cumulative number of individuals to be served, planned enrollment levels for program activities, planned placement terminations, or individuals to be served within significant client groups is to be increased or decreased by 15 percent or more.

(ii) For grants of over $100,000.

(A) When the cumulative transfer of funds among program activities or cost categories exceeds $10,000 or 5 percent of the total grant budget whichever is greater.

(B) When the cumulative number of individuals to be served, planned enrollment levels for program activities, planned placement terminations, or individuals to be served within significant client groups is to be increased or decreased by 15 percent or more.

(2) A prime sponsor desiring a major modification shall submit a revised Project Operating Plan and a narrative explanation of the proposed changes to the ARDM. This modification will be forwarded for comment to the Governor and to other interested units of local government and a summary published in a newspaper of general circulation (including minority newspapers, where feasible) in the prime sponsor's area. The ARDM shall notify the prime sponsor of final approval or of tentative disapproval within 10 days of receipt of the proposed modification. Final ARDM action on disapproval shall be taken within 30 days of the receipt of the proposed modification. Appeal of any such determination may be obtained through the procedures set out in Part 98 of the regulations.

(c) *Minor plan modification.* A prime sponsor may make any change in its Project Operating Plan which is not set out in paragraph (b) of this section without prior approval, but must show any such change in the first Quarterly Progress Report submitted to the Department after the change has been made. At the same time that this report is submitted, an updated Project Operating Plan will also be submitted. Only those lines and columns affected by the modification shall be shown.

(d) *ARDM required modification.* After consultation with a prime sponsor, modifications may be required by the ARDM as necessary to assure compliance with the regulations and the approved plan (secs. 105 and 108).

Subpart C—Program Operations

§ 95.30 General.

This subpart sets out the program operation requirements for comprehensive manpower services under Title I of the Act. The utilization of funds under Title I is conditioned upon adherence to the Act, the regulations promulgated under the Act, and other applicable law.

§ 95.31 Basic responsibilities of prime sponsors.

A prime sponsor shall be responsible for:

(a) Compliance with plans and assurances;

(b) Compliance with Part 98 of these regulations;

(c) Establishing priorities for receipt of assistance authorized under the Act taking into account the priorities identified by the Secretary and the significant groups represented among the economically disadvantaged, unemployed, and underemployed residing within its jurisdiction;

(d) Designing program operating activities which are, to the maximum extent feasible, consistent with every participant's fullest capabilities and will lead to employment opportunities enabling every participant to become economically self-sufficient, and will contribute to the occupational development or upward mobility of every participant (secs. 101 and 603(9)).

(e) Advising every participant of his rights and responsibilities prior to entering the program and granting the opportunity for an informal hearing as provided in § 95.37; and

(f) Making maximum efforts to achieve the provisions of its plan.

§ 95.32 Eligibility for participation in a Title I program.

(a) A person who is economically disadvantaged, unemployed or underemployed (as defined in § 94.4) may, subject to paragraph (b) of this section, participate in a program offered by the prime sponsor under Title I of the Act (secs. 105(a), and 108(d)).

(b) For the purpose of participating in a public service employment program under Title I of the Act, participation is permitted for persons who reside, as defined in paragraph (c) of this section, anywhere within the geographical area covered by the prime sponsor's comprehensive manpower plan who are unemployed or underemployed, and are otherwise eligible for participation consistent with the requirements of secs. 205(c) and 208 of the Act (sec. 105(a)(5)).

(c) For the purpose of defining residence in paragraph (b) of this section, the term residence shall mean an individual's permanent dwelling place or home, both at the time the individual applies and is selected for participation in a public service employment program under Title I of the Act. In determining whether a particular place is an individual's dwelling place or home, the intention of the individual is the key element. Maintenance of an "address" is not necessarily the same as maintenance of a dwelling place or home.

(d) Citizenship will not be used as a criterion to prevent permanent residents, including permanent resident aliens, from participating in a program to the extent consistent with applicable State or local law.

(e) Prime sponsors will give special consideration to the needs of qualified disabled veterans and veterans of the Vietnam-era who served on or after August 5, 1964, and meet the eligibility requirements in paragraph (a) of this section.

§ 95.33 Types of manpower program activity available.

(a) A prime sponsor may provide any type of manpower program activity which is consistent with the purposes of Title I of the Act. Such program activities include but are not limited to the development and creation of job opportunities, and the training education and other services needed to enable an individual to secure and retain employment at his maximum capacity. Program activities should be primarily directed toward the placement of individuals in unsubsidized employment, either directly at the outset of program participation as a result of intake assessment or indi-

rectly through provision of training or services (sec. 101).

(b) A prime sponsor may, consistent with these regulations, determine the operating levels and program activities in its area. It may select any of the program activities described in paragraph (d) of this section or devise other activities within the framework of the Act. No prime sponsor plan will be disapproved solely because of the percentage of funds devoted to a particular program activity (sec. 108(c)).

(c) A prime sponsor shall develop special program provisions for persons of limited English-speaking ability when such persons constitute a significant portion of a prime sponsor's program. The prime sponsor shall establish operating procedures to ensure (sec. 301(b)):

(1) Teaching occupational skills in the primary language of such persons for occupations which do not require a high proficiency in English;

(2) Developing new employment opportunities for persons limited in English-speaking ability;

(3) Developing opportunities for promotion within existing employment situations for such persons;

(4) Disseminating appropriate information and providing job placement and counseling assistance in the primary language of such persons;

(5) Conducting training and employment programs in the primary language of such persons; and

(6) Conducting programs designed to increase the English-speaking ability of such persons.

(d) The basic types of manpower services available to a prime sponsor include, but are not limited to; the following:

(1) *Classroom training.* (i) This program activity includes any training conducted in an institutional setting designed to provide individuals with the technical skills and information required to perform a specific job or group of jobs. It may also include training designed to enhance the employability of individuals by upgrading basic skills, through the provision of courses in, for instance, remedial education, training in the primary language of persons of limited English-speaking ability, or English-as-a-second-language training.

(ii) Occupational training shall be designed for occupations in which skills shortages exist (sec. 105(a)(6) and for which there is reasonable expectation of employment (sec. 603(10)). In making these determinations, a prime sponsor shall utilize available community resources such as the local SESA office, the National Alliance of Businessmen, etc.

(iii) Allowances and other benefits as provided in § 95.34 may be paid to participants receiving training or education, provided that such allowances are not paid for any course having a duration in excess of 104 weeks (sec. 111(a)).

(iv) Vocational education services may be supported with funds provided through (A) the prime sponsor's Title I grant or (B) special grants to Governors for vocational education and services in prime sponsor areas. In order to obtain services under (d)(2) of this section the prime sponsor will negotiate nonfinancial agreements with State Vocational Education Boards utilizing the procedures described in Subpart D of this Part 95.

(2) *On-the-job training.* (i) On-the-job training (OJT) refers to training conducted in a work environment designed to enable individuals to learn a bonafide skill and/or qualify for a particular occupation through demonstration and practice. Such training may be conducted on a "hire first, train later" basis, or with ultimate placement with an employer other than the training organization. OJT may involve individuals at the entry level of employment or be used to upgrade present employees into occupations requiring higher skills. Training shall be designed to lead to the maximum development of participants' potentials and to their economic self-sufficiency.

(ii) *Inducements to employers.* Prime sponsors may provide payments or other inducements to public or private employers for the bonafide training and related costs of enrolling individuals in the program; provided that payments to employers organized for profit are only made for the costs of recruiting, training and supportive services which are over and above those normally provided by the employer. Direct subsidization of wages for participants employed by private employers organized for profit is not an allowable expenditure (sec. 101(5)).

(iii) *Labor organization consultation.* Appropriate labor organizations should be consulted in the design and conduct of on-the-job training programs where collective bargaining agreements exist with the employer.

(iv) *Participant benefits.* Wages and other benefits provided to OJT participants shall be in accordance with conditions specified in § 95.35 of this subpart.

(3) *Public Service Employment.* (i) This program activity includes training, services, and other activities incident to the subsidized employment of individuals in the public sector. Operating conditions and allowable expenditures, except for residency requirements, applicable when Title I funds are used for this activity are the same as those used for this activity when Title II funds are used, as enumerated in Part 96 of these regulations.

(ii) *Participants benefits.* Wages and benefits for persons in a public service employment program shall be as provided in Part 96.

(4) *Work experience.* (i) This program activity is designed to enhance the future employability of youth or to increase the potential of adults in obtaining a planned occupational goal.

(ii) Work experience activities for youth include part-time work for students attending school, short-term employment for students during summer, short-term employment for out-of-school youth adjusting to a work setting and in transition from school to a job setting; short-term employment for recent graduates; and short-term or part-time employment for those youth who have no definite occupational goal and for whom no training or job opportunity immediately exists.

(iii) Work experience activities for adults include part-time or short-term employment for the chronically unemployed, retired persons, recently discharged military individuals, institutional residents and inmates, and others who have not been working in the competitive labor population for extended periods of time. In addition, it may include short-term employment while a definite occupational goal and a training or job opportunity is being developed.

(iv) Program outcomes for work experience participants include (A) return to school; (B) enrollment in post secondary education; (C) enlistment in the military services; and (D) enrollment in manpower training.

(v) Work experience in the private for profit sector is prohibited.

(vi) *Participant benefits.* Each participant in a work experience activity shall receive allowances or wages. Wages shall be commensurate with such factors as the types of work performed, the geographical region of the program, and the skill proficiency of the participant, provided that a participants' hourly rate of pay shall be at least the highest of (A) the minimum wage prescribed by State or local law for similar employment or (B) the minimum hourly wage set out under sec. 6(a)(1) of the Fair Labor Standards Act of 1938, as amended. Participants in work experience activities shall be provided workmen's compensation and, as appropriate, other manpower services. Allowances shall be provided as in § 95.34 of this subpart.

(5) *Services to clients.* This program activity is designed to provide supportive and manpower services which are needed to enable indviduals to obtain or retain employment or to participate in other manpower program activities leading to their eventual placement in unsubsidized employment. Such services include, but are not limited to the following:

(i) *Manpower Services:* (A) Outreach;
(B) Intake and assessment;
(C) Orientation;
(D) Counseling;
(E) Job development;
(F) Job placement; and
(G) Transportation; and

(ii) *Supportive Services:* (A) Health care and medical services;
(B) Child care;
(C) Residential support;
(D) Assistance in securing bonds;
(E) Family planning services, provided that such services are made available to an enrollee only on a voluntary basis, and are not to be a prerequisite for participation in, or receipt of, any services or benefit from the program; and
(F) Legal services.

(6) *Other activities.* These are program activities which do not fit into any of the above categories, including, but not limited to, the following:

(i) Removal of artificial barriers to employment;

(ii) Job restructuring;

(iii) Revision or establishment of merit systems; and

(iv) Development and implementation of affirmative action plans.

§ 95.34 Training allowances.

(a) *The payment system.* To assure accountability and uniformity, and to facilitate the necessary coordination with other programs, the system for payment of allowances under the Act shall be maintained as a unified system (sec. 111(a)). In addition, the delivery system selected by the prime sponsor shall incorporate a procedure to obtain information concerning receipt of unemployment compensation by participants. The prime sponsor in selecting the delivery system for the payment of participant allowances should give consideration to the use of existing agencies which have experience in operating an allowance payment system. The payment system shall include the following elements:

(1) Determination of entitlement and computation of amount to be paid;

(2) Issuance and distribution of payments;

(3) Maintenance of payment records and preparation of required reports;

(4) Maintenance of a system to detect and collect overpayments; and

(5) Arrangements with other agencies to obtain necessary information to minimize duplication of unauthorized payments. This shall include arrangements with:

(i) The State employment security agency for verification of unemployment compensation benefits;

(ii) Local welfare agencies for verification of public assistance payments;

(iii) Training facilities for submittal of payment requests and certification of attendance; and

(iv) Other units of government for verification of training allowances under other Federal, State or local programs.

(b) *Selection of delivery agent.* The prime sponsor is required to provide a unified allowance payment system either directly or through contract with an organization it considers appropriate for its particular circumstances. The prime sponsor may want to give consideration to the Unemployment Insurance Service when selecting the delivery agent for allowance payments.

(c) *Eligibility for allowances.* Allowances may be paid to participants receiving classroom training, work experience or education under Title I of the Act.

(d) *Application for unemployment compensation.* Participants should be encouraged to apply for unemployment compensation benefits if they are not already receiving such benefits.

(e) *Basic allowances.* Basic allowances for one week, when added to unemployment compensation payments, if any, shall equal whichever is the highest of:

(1) The minimum wage prescribed by State or local law for employment in the prime sponsor's area; or

(2) The minimum hourly wage set out under section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended, multiplied by the number of hours of training, in which the trainee attends as required, or is absent for good cause; provided that for the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific, the provisions of the Fair Labor Standards applicable to those areas shall pertain.

(f) *Dependents allowances.* Basic allowances shall be increased by $5 per week for each dependent over two, up to a maximum of four additional dependents, for a total maximum basic allowance increase of $20 for six or more dependents.

(g) *Incentive allowances for persons receiving public assistance or who are in institutions.* (1) Incentive allowances, at the rate of $30 per week, are in lieu of basic allowances and shall be paid to participants receiving public assistance or whose needs or income are taken into account in determining such public assistance payments to others. Such allowances shall be disregarded in determining the amount of public assistance payments individuals are entitled to receive under Federal or federally assisted public assistance programs (sec. 111(a)).

(2) Incentive allowances, in lieu of basic allowances, but not in excess of such allowances, may be paid institutionalized persons, including prison inmates participating in program activities. The determination as to whether such allowances will be paid, and the amounts thereof, shall be made by the prime sponsor in consultation with officials of the institutions. In the case of prison inmates, all or part of such payments, as determined by the prime sponsor and the head of the institution, may be held in reserve and delivered upon the participant's release from the institution.

(h) *Additional allowances.* Additional reasonable allowances may be provided to participants in any program activity for meals, travel, transportation, subsistence, emergency, and other purposes.

(i) *Adjustments in allowances.* (1) No allowance to which an individual may otherwise be entitled shall be diminished in any respect because of receipt of a separation payment provided under any collective bargaining agreement.

(2) An individual's allowance may be adjusted upward to the degree that the local cost of living exceeds the national norm, as approved by the ARDM.

(3) Allowances may be reduced pro rata for part-time participation in any activity under Title I.

(4) Payment of participant allowances may be reduced pro rata for absence without good cause.

(5) Periodic increases may be provided as an incentive to participation.

(j) *Waivers of allowance payments.* (1) The payment of all or part of the basic weekly allowance described in this section, except for allowances under paragraph (g)(1) of this section, may be waived for all participants in a specific course or project under conditions described in the approved comprehensive manpower plan in accordance with paragraph (j)(2) of this section. In exceptional circumstances, individual waivers may be granted with agreement of the participant.

(2) The criteria for a waiver of allowance payments, as provided in paragraph (j)(1), of this section are as follows:

(i) The waiver will increase the number of individuals which may be served and otherwise promote the purposes of the Act.

(ii) Such waiver will be applied to the total enrollment in the course or project and will not be imposed on an individual basis, except as provided in paragraph (j)(1) of this section.

(3) The prime sponsor will notify in writing affected participants in cases of such waivers.

(k) *Repayments.* Prime sponsors may require participants to repay the amount of any overpayment of allowances under this part. Any overpayment not repaid may be set off against any future allowance or other benefits under the Act to which the participant may become entitled. Where the overpayment was made in the absence of fault on the part of the participant, repayment shall be waived where such recovery would be against equity and good conscience or would otherwise defeat the purposes of the program.

§ 95.35 Wages; minimum duration of training and reasonable expectation of employment.

(a) *Wages.* (1) Participants in public service employment programs shall be paid wages as required by Part 96 of these regulations.

(2) Participants in work experience who receive wages shall be paid wages as required by § 95.33(d)(4)(vi).

(3) Participants in on-the-job training shall be compensated by the employer at such rates, including periodic increases, as are reasonable considering such factors as industry, geographical region, and trainee proficiency (sec. 111(b)). In no event shall the rate be less than the highest of the following:

(i) The minimum wage rate specified in section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended;

(ii) The State or local minimum wage for the most nearly comparable covered employment;

(iii) The prevailing rates of pay for persons employed in similar occupations by the same employer; or

(iv) The minimum entrance rate for inexperienced workers in the same occupation in the establishment or, if the occupation is new to the establishment, the prevailing entrance rate for the occupation among other establishments in the community or area or, any minimum rate required by an applicable collective bargaining agreement.

(4) For hours spent in the production of goods or services, the rate of compensation to be paid to trainees by employers, public or private, shall be specified in a written agreement entered into by

the training or employing facility and the prime sponsor.

(5) Wages in the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific shall be consistent with applicable provisions of the Fair Labor Standards Act of 1938, as amended.

(b) *Duration of training.* An individual shall not be referred for training in an occupation which requires less than two weeks of preemployment training unless there are immediate employment opportunities available in that occupation (sec. 603(8)). Furthermore, no allowances will be paid for any course having a duration in excess of 104 weeks (sec. 111(a)).

(c) *Reasonable expectation of employment.* An individual shall not be referred to training unless the prime sponsor determines, after utilizing available and appropriate community resources, that there is a reasonable expectation of employment for such an individual in the occupation for which the person is being trained (sec. 603(10)).

§ 95.36 General benefits for program participants.

Each participant in a training or employment program under Title I of the Act shall be assured of appropriate workmen's compensation (sec. 603(6)). Each participant in an on-the-job training or public service employment program under Title I of the Act shall be assured of health insurance, unemployment insurance, retirement benefits (except as indicated in § 96.36) and other benefits at the same levels and to the same extent as other employees in the employment situation, and to working conditions and promotional opportunities neither more nor less favorable than such other employees enjoy (secs. 208(a)(4) and 603(5)).

§ 95.37 Prime sponsor review.

Each prime sponsor shall establish a procedure for resolving any issue arising between it and a participant under any Title of the Act. Such procedures shall include an opportunity for an informal hearing, and a prompt determination of any issue which has not been resolved. When the prime sponsor proposes to take an adverse action against a participant, such procedures shall also include a notice setting forth the grounds for any adverse action proposed to be taken by the prime sponsor and giving the participant an opportunity to respond. No individual subject to the issue resolution requirements of this section may initiate the hearing procedures of Part 98 until all remedies under this section have been exhausted. Final determinations made as a result of the review process shall be provided to the participant in writing. Such notice shall include the procedures by which the participant may appeal the final determination, as set forth in Subpart C of Part 98.

§ 95.38 Non-Federal status of participants.

Participants in a program under Title I shall not be deemed Federal employees for any purpose including Federal tort claims and shall not be subject to the provisions of law relating to Federal employment, including those relating to hours of work, rates of compensation, leave, unemployment compensation, and Federal employment benefits.

§ 95.39 Safety and health requirements for participants.

Participants shall not be required or permitted to work, be trained, or receive services in buildings or surroundings or under conditions which are unsanitary or hazardous or dangerous to their safety or health. In the case of participants employed or trained for jobs which are inherently dangerous (e.g., fire or police jobs), participants will be assigned in accordance with appropriate health and safety practices (sec. 603(5)).

§ 95.40 Training for lower wage industries; relocation of industries.

No participant may be enrolled in any activity or service under this Act in any lower wage industry in jobs where prior skill or training is typically not a prerequisite to hiring and where labor turnover is high, nor may any authority conferred by this Act be used to assist in any relocation of an establishment from one area to another unless the Secretary determines that such relocation will not result in an increase in unemployment in the area of original location or any other area where it conducts business operations (sec. 604(a)).

§ 95.41 Prime sponsor contracts and subgrants.

(a) *Contracts.* Contracts may be entered into between the prime sponsor and any party, public or private, for purposes set forth in an approved Comprehensive Manpower Plan.

(b) *Subgrants.* Subgrants may be entered into only between the prime sponsor and units of State and local general government, public agencies and nonprofit organizations.

(c) *Prime sponsor responsibility for development, approval and operation of contracts and subgrants.* The prime sponsor is responsible for development, approval and operation of all contracts and subgrants and shall require that its contractors and subgrantees adhere to the requirements of the Act, regulations promulgated under the Act, and other applicable law. It shall require contractors and subgrantees to maintain effective control and accountability over all funds, property and other assets covered by the contract or subgrant (sec. 105(a)(1)(B)).

(d) *Cancellation.* If a contractor or subgrantee does not comply with any requirement of the Act, the regulations promulgated under the Act, and other applicable law, the prime sponsor shall cancel the contract or subgrant. The prime sponsor may cancel for noncompliance with additional conditions established by the prime sponsor for the contract or subgrant.

(e) *Continuity of service when contract or subgrant is cancelled.* If a contract or subgrant is cancelled, the prime sponsor shall develop procedures for assuring continuity of service to participants and provide adequate notice to affected staff of the change (sec. 105(a)(1)(B)).

(f) *Contracts and subgrants extending beyond the term of the grant.* The nature of certain training programs may make it necessary for contracts or subgrants to be entered into by the prime sponsor which will extend beyond the term of the grant under the Act. The prime sponsor is authorized to enter into contracts or subgrants which extend past the termination date of the grant but such extension shall not exceed one year and shall be subject to the provisions of § 98.15 and § 98.16. In such cases, the grantee shall continue to be responsible for the administration of such contracts and subgrants.

§ 95.42 Cooperative relationship between prime sponsor and other manpower agencies.

(a) Each prime sponsor shall, to the extent feasible, establish cooperative relationships or linkages with other manpower and manpower-related agencies in the area within its jurisdiction, in particular, with agencies operating programs funded through the Department (sec. 105(a)(3)(D)).

(b) Prime sponsors shall, to the extent feasible, notify the appropriate apprenticeship agency of training activities in apprenticeable occupations (sec. 105(a)(3)(D)).

(c) Any prime sponsor which intends to provide services under the Act to recipients of Aid to Families with Dependent Children (AFDC) should coordinate such services with the local sponsor of the Work Incentive Program, if any, to assure that the delivery of services under this Act is consistent with the WIN requirements. The provision of comprehensive manpower services to recipients of AFDC who are required to register for the WIN program may be affected by provisions of Title IV of the Social Security Act. Limitations on length of training, requirements to accept work in lieu of training, and other regulatory requirements may affect the AFDC recipient's participation in programs under the Act.

Subpart D—Special Grants to Governors

§ 95.50 General.

(a) Funds shall be allocated to each State through a special grant for the support of:

(1) Vocational education services for prime sponsors;

(2) The State Manpower Services Council; and

(3) State manpower services.

(b) Funds available under paragraph (a) of this section shall be granted to each Governor in accordance with the formula allocation set out in § 95.2 of these regulations. Each Governor shall distribute these funds as provided in § 95.55 (secs. 103, 106, 107, and 112).

(c) Provisions generally applicable in these regulations shall apply to special

grants under this subpart unless otherwise provided.

§ 95.51 Distribution of funds.

(a) Five percent of the funds available under Title I of the Act shall be allocated to the Governors of the States to provide needed vocational education services for prime sponsors through State Vocational Education Boards as set out in § 95.2. These services are to be provided to participants under Title I of the Act.

(b) State Manpower Services Councils shall be supported with funds as set forth in § 95.2(b)(2).

(c) State manpower services provided under section 106 of the Act shall be funded as set forth in § 95.2(c)(2).

§ 95.52 Grant application.

(a) Upon notification by the Secretary of the amount of funds available for a special grant to the State, the Governor shall submit a Special Grant Application to the ARDM on a date set by the Secretary. The ARDM shall determine whether the application shall be approved and shall notify the Governor of his determination.

(b) The Special Grant Application shall contain the following:

(1) *Application for Federal Assistance.* The form provided in OMB Circular A–102 for Part I of a grant application for nonconstruction projects is being used for the application for the special grant.

(2) *Special Grant Plan.* This plan consists of:

(i) *Special Grant Project Operating Plan.* This form will be used for the Special Grant to Governors. The POP for Special Grants is a multiprogram form providing for financial and statistical entries for vocational education projects channeled through the Governor's office, State Manpower Services Council activities, and State Manpower Services program activities. All of the three categories will be funded by one grant.

(ii) *Special Grant Program Narrative.* The narrative for the special grant will be composed of three separate sections as follows:

(A) *Vocational Education Services Program Narrative.* The program narrative contains (*1*) an explanation of the method used to allocate funds to prime sponsor areas and the rationale for the method used, (*2*) a summary of all agreements required in § 95.56 between individual prime sponsors and the Vocational Education Board and (*3*) a copy of each such agreement. The summary should follow the procedures established for the development of individual program narratives supporting each nonfinancial agreement. If all of the nonfinancial agreements are not available when the application is submitted, the Governor shall describe the training and services which he expects to be supplied by the Vocational Education Board to each prime sponsor. Nonfinancial agreements received after the grant is made will be forwarded to the ARDM.

(B) *State Manpower Services Council Program Narrative.* A description of the arrangements for the State Manpower Services Councils follows:

(*1*) A listing of members of the Council, identifying the group each member represents;

(*2*) Identification of the chairman;

(*3*) A statement of the procedures which will be followed in reviewing prime sponsor plans and making recommendations which will provide more effective overall coordination of manpower services in the State;

(*4*) A description of the system to be used in monitoring other prime sponsors and State manpower services;

(*5*) A description of the types of data, materials, and information which will be included in the annual report to the Governor;

(*6*) If the Governor plans to use part of the funds authorized for the Council under section 103(d) of the Act (one percent of the allocation) for section 106 (State services), the specific use of the funds shall also be described, including the amount and objectives to be accomplished.

(C) *State Manpower Services Program Narrative.* The narrative for this part will provide a specific description for each activity, the planned costs, and the planned results. The Program Narrative Description form contained in the Forms Preparation Handbook requires a detailed statement on the program including the following items:

(*1*) Explanation of steps taken to assure cooperation of State agencies with prime sponsors in implementing the program;

(*2*) Description of State plan for sharing of manpower resources and facilities for most efficient and economical operation;

(*3*) Coordination of programs financed under Wagner-Peyser Act to provide assistance to individuals in accordance with policies of this Act;

(*4*) An explanation of the arrangements made by the State to assist the Secretary under 38 U.S.C. 2012(a) in requiring each contractor, and subcontractor in Title I programs under the Act to list all suitable employment openings in State Employment Service local offices. Fulfillment of this responsibility shall be based upon information developed by the Secretary (sec. 106(b)(5));

(*5*) Description of any arrangements for planning areas to serve geographical regions within the State;

(*6*) Description of provisions for coordination of the manpower and related services to be provided by the State in areas to be served by prime sponsors other than the State, including the exchange of information and coordination of manpower plans;

(*7*) A description of any of the activities allowable under section 106(c) of the Act, that the State chooses to provide, detailing those activities to be undertaken and the costs and goals of such activities, including:

(*i*) A description of allowable services being delivered under the Act throughout the State, by State agencies responsible for employment, training, and related services (sec. 106(c)(1));

(*ii*) A description of special programs and services for rural areas outside major labor market areas (sec. 106(c)(2));

(*iii*) A description of the extent to which information will be developed and published regarding economic, industrial, and labor market conditions;

(*iv*) A description of information and technical assistance to be provided to prime sponsors in the State; and

(*v*) A description of any model training and employment programs.

(iii) *Assurances and certifications.* The assurances and certifications form applicable to Title I and Title II grants will be included in the special grant application and agreement.

§ 95.53 Application approval and disapproval; grant agreement.

(a) The ARDM shall approve any grant application which meets the following standards and requirements:

(1) It contains all the required forms, information, and certifications required by the regulations; and

(2) It meets the conditions for approval of grant applications under Subpart B of this Part 95.

(b) A special grant agreement shall be signed when the grant application is approved by the ARDM. This agreement is composed of a Special Grant Signature Sheet and an Assurances and Certifications Form and the special Grant Plan which is included by reference. The special Grant Plan shall be attached to the grant agreement.

(c) An application for a special grant shall be disapproved if it fails to meet any requirement of the Act, the regulations promulgated under the Act, or any other applicable law. All other conditions set forth in § 95.19 shall apply to the disapproval of special grants.

(d) Upon approval, the Governor shall provide a summary of the Special Grant to each prime sponsor in the State.

§ 95.54 Modifications; limitations on use of funds.

A modification to a Governor's special grant may be accomplished in three different ways depending upon the magnitude of the modification:

(a) *Modification of grant agreement.* (1) The Grant Signature Sheet shall be used as the instrument to modify an existing grant agreement when there is a change in (i) the term of the grant, (ii) the amount funded by the grant, or (iii) the assurances and certifications included in the grant agreement. All modifications of the grant agreement are major modifications (secs. 105 and 108).

(2) When the term or amount funded by the grant is changed, the prime sponsor shall also submit revised portions of its special Grant Plan to specifically identify the changes.

(3) When the term or amount funded by a grant is changed, the Governor shall provide a summary of the change to each prime sponsor in the State.

(4) The request for modification will consist of the following: a grant signa-

ture sheet; a Project Operating Plan (one for the total project and one for each prime sponsor whose plan is changed); and a program narrative justifying the proposed modification.

(5) A denial of a prime sponsor's request for a grant modification shall be subject to the appeal procedures set out in Part 98.

(b) *Major plan modification.* (1) When a plan modification falls into one of the following categories, it will be considered to be major plan modification:

(i) When the cumulative amount of transfers among cost categories exceeds $10,000 or 5 percent of the grant, whichever is greater; or

(ii) When there is a 15 percent cumulative change in the number of program participants.

(iii) A Governor desiring a major modification shall submit a revised Project Operating Plan and a narrative explanation of the proposed changes to the ARDM. The ARDM shall notify the prime sponsor of final approval or of tentative disapproval within 10 days of receipt of the proposed modification. Final ARDM action on disapproval shall be taken within 30 days of the receipt of the proposed modification. Appeal of any such determination may be obtained through the procedures set out in Part 98 of the regulations.

(c) *Minor Modifications.* Any other modifications shall be considered a minor modification and as such can be made without the prior notification and approval of the ARDM. Such a modification shall be included in the Quarterly Progress Report and a revised Project Operating Plan reflecting only the items to be modified.

(d) *Limitation on use of funds.* (1) Funds for vocational education services may not be used for any other activities included in this special grant.

(2) Funds for State Manpower Services Councils may be used for State manpower services to the extent such funds are not needed for this council.

§ 95.55 Governor's distribution of vocational education funds.

(a) Upon notification of the funds available to his State for vocational education, the Governor shall inform the Vocational Education Board and each prime sponsor of the amount of funds available to be spent in each prime sponsor's area. If a prime sponsor elects not to use all or part of the funds provided for its area, it shall notify the Governor who will redistribute the funds among other eligible prime sponsors.

(b) The Governor shall determine the amount of funds to be made available in each prime sponsor's area assuring that such funds do not increase by more than 20 percent the amount of funds available to that prime sponsor's area under the basic allocation formula set out in § 95.2(b).

§ 95.56 Program operations.

(a) *Vocational education services and activities.* (1) The Governor shall provide vocational education funds he receives by special grant to the State Vocational Education Board as described in § 95.55 of this Subpart D. The State Vocational Education Board will then provide the training and services detailed in a nonfinancial agreement with the prime sponsor as described in § 95.58 of this Subpart D. This agreement will be developed at the local level between prime sponsors and the Vocational Education Board to provide vocational education services and activities to prime sponsor participants eligible under this Part 95. The agreement will then be forwarded to the Governor, to become part of his special grant application which shall be submitted to the ARDM.

(2) Vocational education services which may be provided by a State Vocational Education Board include, but are not limited to, basic or general education, educational programs conducted for offenders, institutional training, and supportive services. The services provided must be consistent with the provisions of the Act and regulations.

(3) If no Vocational Education Board exists within a State, the Governor may provide financial assistance to an alternate agency which serves the same purpose as a State Vocational Education Board.

(b) *State Manpower Services Council.* The Governor shall, from funds available under § 95.2(b)(2), provide staff and other necessary services in support of the Manpower Services Council in performing its functions under § 95.13(d).

(c) *State manpower services.* Funds provided under § 95.2(c)(2) of these regulations are to be used for the following:

(1) Activities required to be performed by State prime sponsors:

(i) Assurance that the State agencies providing manpower and manpower-related services either independently or as subgrantees or contractors will cooperate with prime sponsors and eligible applicants in implementation of the program.

(ii) Development of methods for the sharing of resources and facilities in order to carry out manpower programs throughout the State. The administration of such programs will be designed to meet the needs of the area with minimum duplication and in the most efficient and economical manner.

(iii) Coordination of programs financed under the Wagner-Peyser Act in accordance with such rules, regulations, and guidelines as the Secretary determines necessary for the purpose of providing coordinated and comprehensive assistance to those individuals requiring manpower and manpower-related services to achieve their full occupational potential in accordance with the policies of the Act;

(iv) Arrangements to assist the Secretary under 38 U.S.C. 2012(a) in requiring each contractor and subcontractor in Title I programs under the Act to list all suitable employment openings in the State Employment Service local offices. Fulfillment of this responsibility shall be based upon information developed by the Secretary (sec. 106(b)(5));

(v) Arrangements for planning areas to service geographical regions within the State, including a description of the roles and responsibilities of the planning area with particular emphasis on the steps taken to assure that plans of all State agencies for delivery of services have been effectively coordinated.

(vi) Coordination of the manpower and related services to be provided by the State in areas to be serviced by prime sponsors other than the State, and that provision has been made for the establishment of mechanisms to (A) provide for the exchange of information between States and local governments on State, intrastate, and regional planning in areas such as economic development, human resource development, education, and such other areas that may be relevant to manpower planning; and (B) promote the coordination of all manpower plans in a State so as to eliminate conflict, duplication, and overlapping between manpower services under the Act and manpower services provided under other statutory authority.

(2) Activities which may be provided at the option of the State (sec. 106(c)) as follows:

(i) Provision of allowable services under the Act which are being delivered throughout the State by State agencies responsible for employment and training and related services;

(ii) The provision of financial assistance for special programs and services designed to meet the needs of rural areas outside major labor market areas;

(iii) Development and publication of information regarding economic, industrial, and labor market conditions, including but not limited to job opportunities and skill requirements, labor supply in various skills, occupations, and economic and business development and location trends;

(iv) Provision of services without reimbursement and upon request to any prime sponsor serving an area within the State, such information and technical assistance to assist any such prime sponsor in developing and implementing its programs under the Act; and

(v) Development of special model training and employment programs and related services, including programs for offenders similar to programs described in section 301(c) of this Act.

§ 95.57 Funding; grant administration.

(a) *Funding.* Special grants will be funded in the same way as basic grants under this Part 95.

(b) *Grant administration.* The requirements relating to grant administration contained in Part 98 are applicable to special grants to Governors, except as provided in Subpart D of Part 95.

(1) The overall 20 percent limitation on funds used for administration as set out in § 98.12(e)(1) shall not apply to the special grant.

(i) Funds provided for vocational education services through the special grant are subject to the provisions of the 20 percent limitation on use of funds § 98.12(e)(1).

(ii) There is no administrative cost limitation on funds for State Manpower Services Councils or State manpower services.

(2) When funds for vocational education services are used for the payment of allowances to participants, the method of payment utilized must be that of the prime sponsor whose participants are receiving such allowances.

(i) Where the prime sponsor has an established delivery system for the payment of allowances pursuant to § 95.34, the Vocational Education Board shall transfer the required funds to the agency administering that system.

(ii) Where the prime sponsor has no allowance payment delivery system, the method of payment shall be developed between the prime sponsor and the Vocational Education Board, subject to the requirements of § 95.34.

(c) *Reports for special grants.* (1) A Quarterly Progress Report containing financial and statistical data is required. The Governor will supply to each prime sponsor to which he is providing services a Quarterly Progress Report for funds expended in its area and will submit a summary Quarterly Progress Report, with copies of the individual prime sponsor reports attached, to the ARDM. These reports will be submitted for each Federal fiscal year quarter, to be submitted no later than 30 days after the end of the reporting quarter. Instructions for completion of this report are in the Forms Preparation Handbook.

§ 95.58 Nonfinancial agreement between prime sponsor and Vocational Education Board.

(a) Upon notification of the funds available for its area, the prime sponsor shall develop a financial, statistical, and narrative plan for the expenditure of such funds by the Vocational Education Board in the prime sponsor's area. This plan shall be developed consistent with the prime sponsor's Comprehensive Manpower Plan and shall be submitted to the Vocational Education Board for its approval. When approved, the plan will be signed by both the prime sponsor and the Board and will constitute a nonfinancial agreement.

(b) The Vocational Education Board shall provide services to the prime sponsor upon receipt of the necessary funds from the Governor. The nonfinancial agreement will consist of the following three sections:

(1) Prime sponsor vocational education nonfinancial agreement signature sheet;

(2) Vocational education Project Operating Plan; and

(3) Vocational education program narrative.

(c) After the agreement is signed, a copy will be sent to the Governor for his review and approval.

(d) The Governor shall develop procedures for the prime sponsors and the Vocational Education Board to follow when they desire to modify the nonfinancial agreement.

(e) The Governor shall develop procedures to assure that the Vocational Education Board provides services consistent with the Governor's vocational education plan and the nonfinancial agreements between the Board and the prime sponsors.

§ 95.59 Coordination with prime sponsor.

(a) The financial and statistical information from the approved Nonfinancial Agreement Project Operating Plan will be entered into the relevant columns of the prime sponsor's basic grant Project Operating Plan as provided in the Forms Preparation Handbook. If the Comprehensive Manpower grant has been signed prior to final approval of the Vocational Education Agreement, a modified prime sponsor's grant Project Operating Plan will be submitted when the vocational education information is available.

(b) Information provided by the Vocational Education Quarterly Progress Report, supplied to the prime sponsor from the Governor, will be entered in the prime sponsor's basic grant Quarterly Progress Report.

PART 96—PROGRAMS UNDER TITLE II OF THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

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AUTHORITY: Comprehensive Employment and Training Act of 1973 (Pub. L. 93-203, sec. 602(a), 87 Stat. 839), unless otherwise noted.

Subpart A—General

(a) This part contains the Department of Labor's regulations providing for the establishment and operation of public service employment programs, and other manpower programs, under Title II of the Act.

(b) Definitions for every abbreviation and major term may be found in Part 94 of these regulations.

(c) Statutory authority for the regulations contained in this part is found in the provisions of section 602(a) of the Act, and in such other provisions of the Act as are noted at the end of each substantive provision of these regulations.

§ 96.2 Allocation of funds.

(a) Funds appropriated under Title II of the Act are available only for areas of substantial unemployment and may be allocated by the Secretary only to eligible applicants (secs. 204(a) and 204(c)).

(b)(1) At least 80 percent of the funds available under Title II shall be allocated among eligible applicants in accordance with a ratio comparing the number of unemployed persons residing in areas of substantial unemployment within each eligible applicant's jurisdiction to the number of unemployed persons residing in all areas of substantial unemployment (sec. 202(a)).

(2) Funds not allocated as provided in paragraph (b)(1) of this section, may be distributed by the Secretary at his discretion taking into account the severity of unemployment in such areas and may include additional areas of substantial unemployment designated by the Secretary after the initial allocation of Title II funds (sec. 202(b)).

(c) An eligible applicant shall distribute to a program agent those funds that are allotted to the elegible applicant due to the level of unemployment within the program agent's jurisdiction, unless the program agent declines to operate a program under Title II of the Act, in which case, the eligible applicant will make other arrangements to serve that jurisdiction (sec. 204(d)(1)).

§ 96.3 Eligibility for funds.

(a) Funds shall be allocated by the Secretary only to eligible applicants. Eligible applicants are those prime sponsors and Indian tribes on Federal or State reservations, as defined in § 94.4, which include areas of substantial unemployment (sec. 204(a)).

(b) For the purpose of allocating funds, the term "eligible applicant" shall include any entity which is eligible to be a prime sponsor under Title I of the Act and Indian tribes on Federal or State reservations as described in § 96.42 (sec. 204(b)).

(c) A State shall not qualify as an eligible applicant for any geographical area within the jurisdiction of any other eligible applicant within the State unless the non-State eligible applicant has not submitted an approvable application for Title II funds (secs. 204(d)(3) and 102(b)(1,2)).

(d) A unit of general local government shall not qualify as an eligible applicant with respect to any area within the jurisdiction of another eligible unit of general local government unless such smaller unit has not submitted an approvable application for such areas (secs. 204(b) and 102(b)(2)).

(e) (1) Eligible applicants shall distribute funds to program agents, as provided in § 96.2(c) of this Part 96 (sec. 204(d)(1)).

(2) No program agent shall receive or continue to receive funds for any area of substantial unemployment within the jurisdiction of another program agent unless the ARDM determines that the smaller program agent has not carried out its administrative responsibility for developing, funding, overseeing, and monitoring programs within its area, consistent with the application for financial assistance developed by the eligible applicant (secs. 204(d)(3) and 102(b)(2)).

(f)(1) An eligible applicant or program agent, other than a State, whose entire jurisdiction qualifies as an area of substantial unemployment shall, to the extent feasible, allocate funds for identifiable subareas which meet the unemployment rate requirement of areas of substantial unemployment in § 94.4. Such allocation to subareas shall be based on the ratio of the number unemployed persons residing in each subarea to the total number of unemployed persons within the eligible applicant or program agent's jurisdiction.

(2) Where the eligible applicant is a State that has an unemployment rate for its jurisdiction of at least 6.5 percent, the State shall, to the extent feasible, allocate its funds under Title II to individual areas of substantial unemployment within its jurisdiction. Such allocations shall be based on the ratio of the number of unemployed persons residing in each individual area of substantial unemployment to the sum of unemployed persons residing in all such areas of substantial unemployment within its jurisdiction.

(g) If an eligible applicant finds that there is an area of substantial unemployment within its jurisdiction that has not been designated by the Secretary to receive assistance, it may recommend that such area be considered for assistance by the Secretary. In making any such recommendation, the eligible applicant must include a precise geographical definition of the area to be served and its population. Such a recommendation shall be submitted to the ARDM. The Secretary shall, within a reasonable time, make a determination of the recommendation and inform the eligible applicant of the determination and the reasons therefor.

Subpart B—Grant Application

§ 96.10 General.

This Subpart B provides the procedures for obtaining grants to operate programs under Title II of the Act.

§ 96.11 Eligible applicant notification.

(a) Eligible applicants shall be notified of their eligibility for grants under Title II. At that time, eligible applicants shall inform the ARDM, the Governor, and the appropriate State and substate clearinghouse(s), as provided in OMB Circular A–95, of its intention to apply for a grant. If a potentially eligible applicant desires to apply for a grant and so notifies the ARDM and is so designated as eligible, a complete application package with forms and instructions will be forwarded to the eligible applicant.

(b) For Fiscal Year 1974 grants, eligible applicants shall follow procedures contained in the "Announcement of Proposed Financial Assistance and Request for Notice of Intent to Apply for Prime Sponsorship" published at 39 FR 2743, January 23, 1974.

§ 96.12 Content and description of grant application.

(a) *General.* (1) This section describes the grant application which eligible applicants will use to apply for public service employment funds under Title II of the Act.

(2) A copy of all forms and instructions are contained in the Form Preparation Handbook.

(b) *Grant application forms.*

(1) *Application for Federal assistance.* The application for Federal assistance identifies the eligible applicant and the amount of funds requested; it provides information concerning the area to be served and the number of people expected to benefit from the program. The form provided in OMB Circular A–102 for Part I of a grant application for nonconstruction is being used.

(2) *The Comprehensive Title II Plan.* The Comprehensive Title II Plan is a statement of how the eligible applicant intends to use Title II funds within its jurisdiction. The Comprehensive Title II Plan consists of the Narrative Description of the Program, the Project Operating Plan and the Program and Occupational Summaries for Public Service Employment, all described below.

(i) *Narrative Description of Program.* The Narrative Description of the Program provides for a narrative outline of the proposed program under Title II. The Narrative Description of the program requires a detailed statement of the program including topics listed below. The Forms Preparation Handbook gives detailed instructions for these and other items on the Narrative Description of the program:

(A) Program objectives; (B) need for assistance; (C) results and benefits expected; (D) approach; (E) geographic area served; (F) a description of title I and II activities to be financed by title II funds (G) the methods, based solely on the criteria estabilshed by these regulations, which were used by the eligible applicant in making determinations under § 96.3(f); and (H) description of the strategy for matching jobs to special veterans.

(ii) *Project Operating Plan.* The Project Operating Plan requires a prime sponsor to provide a quantitative statement of planned expenditures, enrollment levels, and outcomes for program participants. It also requires a prime sponsor to indicate planned expenditures by cost category and by program activity.

(iii) *Public Service Employment Occupational Summary.* The Occupational Summary requires a prime sponsor operating a public service employment program under the Act to provide a description of proposed job opportunities, occupations and wages, including a comparison of such wages with wages for similar nonsubsidized jobs in the employing agency.

(iv) *Public Service Employment Program Summary.* The Program Summary presents a distribution of public service employment jobs, and funds to be provided to eligible applicants and subgrantees. It designates the areas to be served and the population of each area.

(v) *Assurances and Certifications.* The Assurances and Certifications form is a signature sheet on which the eligible applicant assures and certifies that it will comply with the Act, the regulations of the Department, other applicable laws, and applicable circulars from the Office of Management and Budget (OMB) and the General Services Administration (GSA). The Assurances and Certifications form is contained in the Forms Preparation Handbook.

§ 96.13 Comment and publication procedures relating to submission of grant application.

(a) For Fiscal Years 1974 and 1975, each eligible applicant that plans to apply for a grant shall, no later than the date of its submission of an application to the ARDM, provide an opportunity to comment on its application to the following:

(1) The Governor;

(2) Officials of appropriate units of general local government within the eligible applicant's jurisdiction;

(3) Appropriate State and sub-state A–95 clearinghouse(s);

(4) Officials of labor organizations representing employees who are engaged in similar work in the same areas as that proposed to be performed by the eligible

applicant (sec. 206). For Fiscal Year 1976 and subsequent years, each eligible applicant shall provide for a 30-day comment period as set forth in § 95.15 of Part 95.

(b)(1) Each eligible applicant shall provide a copy of its application, for the purpose of commenting thereon, to the Governor, and the State and appropriate sub-state A–95 clearinghouse(s). It shall also provide a summary to appropriate units of general local government with a population of at least 10,000 persons, appropriate Indian prime sponsors and officials of appropriate labor organizations described in paragraph (a)(4). Units of general local government with a population of less than 10,000 persons may comment through the publication procedure set out in paragraph (c).

(2) For applications under Title II for Fiscal Years 1974 and 1975, the copy sent to the clearinghouse(s) shall be accompanied by the following statement: Due to the time constraints on implementation of Titles I and II of the Comprehensive Employment and Training Act of 1973, the program plan(s) required by section 205 of the Act is (are) being submitted to the clearinghouse(s) and the Department of Labor simultaneously. Clearinghouses are requested to forward any comments directly to the Assistant Regional Director for Manpower. This review and comment procedure has been approved by the Office of Management and Budget only for Fiscal Year 1974 title II and Fiscal Year 1975 titles I and II program approval cycles."

(c) Each eligible applicant shall publish its program summary in a newspaper or newspapers (including minority newspapers, where feasible) which will provide for general circulation throughout the areas to be served by the eligible applicant's plan. Such publication shall be for 3 consecutive issues and shall include an address and appropriate hours when the complete grant application will be available for review and the place where comments may be directed. The publication shall be made 30 days prior to the submission of the application to the ARDM, except that for Fiscal Years 1974 and 1975 the publication shall be no later than the date of submission of the application to the ARDM.

(d) Comments pursuant to paragraphs (b) and (c) of this section shall be made to the eligible applicant and the ARDM within 30 days of publication.

(e) The eligible applicant shall acknowledge any comment made pursuant to this section. It shall inform any party submitting a substantive comment of whether any plan revision will be made in response to the comment and the reasons for the eligible applicant's determination. All substantive comments and responses will be transmitted to the ARDM with the grant application, unless the comments are received after the application's submission, in which case they will be sent separately to the ARDM and the prime sponsor.

§ 96.14 Submission of grant application.

(a) Each eligible applicant shall submit its grant application to the ARDM on or before a date set by the Secretary.

(b) A grant application shall include all items set out in § 96.12 of this Part 96.

§ 96.15 Application approval.

(a) An application for a grant shall be approved if it meets the requirement of the Act, other applicable law, and the regulations promulgated in this Part 96 (sec. 206).

(b) An eligible applicant and the Governor shall be notified of action taken on the application. If an application is approved, the ARDM shall provide a grant agreement to the eligible applicant consisting of the Grant Signature Sheet and the Assurances and Certifications Form. The Grant Signature Sheet specifies the amount of funds obligated by the Department and the term of the grant. It is signed by the ARDM and the eligible applicant. The Comprehensive Title II Plan is incorporated by reference in the grant agreement and will be attached to it.

§ 96.16 Application disapproval.

(a) An application for a grant shall be disapproved if it fails to meet any requirement of the Act, other applicable law or the regulations promulgated in this Part 96.

(b) No application for a grant shall be disapproved until:

(1) The eligible applicant has been notified that its application fails to meet a requirement of the Act, other applicable law, or the regulations promulgated under the Act.

(2) The eligible applicant has been provided with suggestions as to those corrective steps which may be utilized to remedy any defect found in the application; and

(3) An eligible applicant has been provided with a reasonable time, but not less than 30 days, to remedy any defect found in the application, but has failed to do so.

(c) When an application is disapproved, a notice of disapproval shall be transmitted to the eligible applicant and the Governor accompanied by a statement of the grounds for the disapproval. Such disapproval shall not be effective until notice and opportunity for a hearing has been provided, as required in Subpart C of Part 98.

§ 96.17 Use of alternative eligible applicants.

If an application is not filed, as required, or is denied, or if a grant is terminated in whole or in part during a fiscal year, the Secretary may make provision for the funds so released to be used by one or more alternative eligible applicants to serve the area originally to be served by the primary eligible applicant, or the Secretary may serve such an area directly. In so doing, the Secretary shall make every effort to minimive or prevent any disruption in participant activities.

§ 96.18 Modification of grant agreements.

(a) The Grant Signature Sheet shall be used as the instrument to modify an existing grant agreement when there is a change in (1) the term of the grant, (2) the amount funded by the grant, or (3) the assurances and certifications included in the grant agreement. All modifications to the grant agreement are major modifications.

(b) When the term or amount funded by the grant is changed, the eligible applicant shall also submit revised portions of its Comprehensive Title II Plan to specifically identify the changes.

(c) When a modification to a grant agreement is requested, the comments and publication procedures provided in § 96.13 shall be followed (sec. 206).

(d) A denial of a prime sponsor's request for a grant modification shall be subject to the appeals procedures set out in Part 98.

§ 96.19 Modification of Comprehensive Title II Plan.

(a) *General.* Eligible applicants may make two types of modifications to comprehensive Title II Plans: major and minor. An ARDM may require a modification in certain instances.

(b) *Major plan modification.* When a plan modification falls into one of the following categories it will be considered to be a major plan modification:

(1) For grants of $100,000 or less:

(i) When the cumulative transfer of funds among program activities or cost categories exceeds $5,000.

(ii) When the cumulative number of individuals to be served, planned enrollment levels for program activities, planned placement termination, or individuals to be served within significant client groups is to be increased or decreased by 15 percent or more.

(2) For grants of over $100,000:

(i) When the cumulative transfer of funds among program activities or cost categories exceeds $10,000 or 5 percent of the total grant budget whichever is greater.

(ii) When the cumulative number of individuals to be served, planned enrollment levels for program activities, planned placement terminations or individuals to be served within significant client groups is to be increased or decreased by 15 percent or more.

(3) An eligible applicant desiring a major modification shall submit a revised Project Operating Plan and a narrative explanation of the proposed changes to the ARDM. This modification will be forwarded for comment to the Governor and appropriate interested units of general local government and labor organizations as appropriate in accordance with procedures set forth in § 96.13, and published in a newspaper or newspapers of general circulation (including minority newspapers when feas-

ible) in the eligible applicant's area. The ARDM shall notify the eligible applicant of final approval or of tentative disapproval within 10 days of the receipt of the proposed modification. Appeal of any such determination may be obtained through the procedures set out in Part 98 of this title.

(c) *Minor plan modification.* An eligible applicant may make any change in its Project Operating Plan which is not set out in paragraph (b) of this section without prior approval, but must show any such change in the first Quarterly Progress Report submitted to the Department after the change has been made. At the same time that this report is submitted, an updated Project Operating Plan will also be submitted. Only those lines and columns affected by the modification shall be shown.

(d) *Modification required by ARDM.* After consultation with an eligible applicant, modification may be required by the ARDM as necessary to assure compliance with the regulations and the Comprehensive Title II Plan.

Subpart C—Program Operation

§ 96.20 General.

This Subpart C sets out the program operation requirements for eligible applicants and subgrantees. The utilization of funds under Title II of the Act is conditioned upon adherence to the requirements of this subpart, as well as adherence to the Act, other applicable law, and other terms and conditions of the regulations promulgated in this part.

§ 96.21 Basic responsibilities of eligible applicants.

An eligible applicant is responsible for:

(a) Requesting, receiving and administering funds within its jurisdiction (secs. 203(a) and 205(c)(1));

(b) Allocating funds and jobs equitably among public agencies within its jurisdiction (sec. 205(c)(23));

(c) Developing a plan to effectively implement a program of transitional public employment and related training and manpower services (sec. 203(a));

(d) Developing, to the greatest extent possible, new careers and opportunities for career advancement for participants (sec. 205(c)(4));

(e) Performing reviews at 6-month intervals on the status of each participant to assure that the participant's job has potential for advancement or suitable continued employment (sec. 207(a));

(f) Administering or supervising all activities under its approved plan including the establishment of hearing procedures, as set out in § 95.37 of this Title, (sec. 205(c)(1));

(g) Assuring that the program will, to the extent feasible, contribute to the elimination of artificial barriers to employment and occupational advancement within its jurisdiction (sec. 205(c)(18)); and

(h) Assuring that employing agencies take reasonable measures to provide information about their job openings with the employment service (sec. 205(c)(5)).

§ 96.22 Basic responsibilities of program agents; relationship with eligible applicants.

(a) A program agent, as defined in § 94.4, shall be delegated by the eligible applicant the administrative responsibility for developing, funding, overseeing and monitoring programs with respect to the funds made available to it under Title II of the Act.

(b) A program agent shall carry out its functions consistent with the grant application developed by the eligible applicant in cooperation with the program agent and shall be responsible to the eligible applicant for carrying out its program in a manner consistent with the application (sec. 204(d)(2)).

(c) Irreconcilable differences between an eligible applicant and a program agent shall be submitted to the ARDM.

§ 96.23 Acceptable public employment positions.

(a) Funds provided under Title II shall only be used to fund public service needs which have not been met and to implement new public services (sec. 201).

(b) In developing job opportunities under this Part 96 the following requirements shall apply:

(1) The jobs provided must meet public service needs as defined in the Act and the regulations promulgated in this Part 96 (sec. 205(a));

(2) Program emphasis shall be on transitional employment: jobs which are likely to lead to regular, unsubsidized employment or opportunities for continued training (secs. 201 and 205(b)(4));

(3) Jobs shall be provided, to the extent feasible, in occupational fields which are most likely to expand within the public or private sector as the unemployment rate recedes (sec. 205(c)(6));

(4) Jobs shall be allocated equitably to agencies of State and local government and subdivisions thereof, such as educational agencies, within the eligible applicant's jurisdiction, taking into account the number of unemployed persons within each area, their needs and skill levels, the needs of the agencies, and the ratio of jobs in the area at each governmental level (sec. 205(c)(23);

(5) Jobs will not be "deadend," but will contribute to career advancement and the development of the employment potentials of participants. Opportunities for continued training are to be provided to support the upward mobility of participants (secs. 205(a), 205(c)(4), and 208(a)(6)).

(6) No more than one-third of the participants in any program may be employed in a bona fide professional capacity as defined in 29 CFR 541.3 issued pursuant to section 13(a)(1) of the Fair Labor Standards Act of 1938, as amended. The exception to this limitation is the hiring of classroom teachers. (Generally, according to the F.L.S.A., a professional is an individual (i) with a professional education, usually requiring more education than a Bachelor's degree or whose work is original and creative in an artistic field; (ii) at least 80 percent of whose work requires discretion and judgment and is intellectual in nature, and (iii) who earns at least $140 a week ($125 in Puerto Rico, Virgin Islands, or American Samoa). A less stringent test applies to individuals earning $200 or more a week. Lawyers, doctors and teachers working as such are professional without regard to their earnings (for further explanation see 29 CFR 541.3) (sec. 205(c)(22));

(7) The program excludes employment in building and highway construction work (except that which is normally performed by the prime sponsor or eligible applicant) and other work which inures primarily to the benefit of a private profit-making organization.

(8) Jobs in each job category shall in no way infringe upon the promotional opportunities which would otherwise be available to persons currently employed in public service jobs not subsidized under Title II (sec. 205(c)(24));

(9) No job will be filled in other than an entry level position in each job category until applicable personnel procedures and collective bargaining agreements have been complied with (sec. 205(c)(24); and

(10) To the extent feasible, the public services provided by the jobs should be designed to serve the residents of the areas of substantial unemployment out assistance under this title (sec. 205(c)(3)).

§ 96.24 Maintenance of effort.

(a) Employment funded under Title II of the Act shall only be in addition to employment which would otherwise be financed by the eligible applicant without assistance under this title (sec. 205(c)(25)).

(b) To assure maintenance of effort, a public service employment program under Title II of the Act:

(1) Shall result in an increase in employment opportunities over those which would otherwise be available;

(2) Shall not result in the displacement of currently employed workers, including partial displacement such as a reduction in hours of non-overtime work, wages, or employment benefits;

(3) Shall not impair existing contracts for service or result in the substitution of Federal funds for other funds in connection with work that would otherwise be performed; and

(4) Shall not substitute public service jobs for existing federally assisted jobs (sec. 208(a)(1)).

§ 96.25 Responsibility for selecting participants.

(a) Eligible applicants, program agents and other subgrantees, and employing agencies shall be responsible for the selection of participants. To meet this requirement, employing agencies must provide adequate documentation of each applicant's eligibility, and retain in the participant's folder the information on which this documentation of eligibility is based. Employing agencies shall also retain for a reasonable period of time the applications of persons not selected for

participation and the reasons for their non-selection (sec. 205(c)(2)).

(b) Adequate documentation shall consist of a signed, and dated, complete application for employment, including the last date of employment, which attests that the information the application contains is true, to the best of the eligible applicant's knowledge.

§ 96.26 Special limitations on programs and participant selection.

(a) *Place of residence*—(1) *General.* (i) At the time of both application and selection, program participants shall reside in an area of substantial unemployment within the jurisdiction of the eligible applicant or program agent (sec. 205(c)(3)).

(ii) When an eligible applicant receives additional funds as a subgrantee of an adjoining eligible applicant, the recipient eligible applicant shall use these additional funds to hire residents of the eligible area or areas within the donor eligible applicant's jurisdiction. A formal subgrant agreement shall be executed in such cases.

(2) *Consortia of eligible applicants.* In a case where two or more eligible applicants form a consortium to operate a Title II program, within the geographical boundaries of the consortium, residents of any designated area of substantial unemployment within the boundaries of the consortium may be employed at any site within such boundaries; provided that the total amount of funds available for residents of each area of substantial unemployment of each participating eligible applicant equals the amount of funds that the area would have received if the consortium had not been formed.

(3) *Consortia of units of general local government formed in order to qualify as program agents; multijurisdictional eligible applicants.* The provisions of paragraph (c) (1) and (2) shall apply to consortia of units of general local government formed in order to qualify as program agents and to multijurisdictional eligible applicants.

(b) *Political patronage.* No program will be funded if the eligible applicant discriminates with respect to political affiliation. Specifically, no eligible applicant, subgrantee or employing agency may select, reject, or promote a participant based on that individual's political affiliation or beliefs. The selection or advancement of employees as a reward for political services or as a form of political patronage, whether or not the political service or patronage is partisan in nature, is discrimination based on political belief or affiliation, and is prohibited (sec. 208(f)).

(c) *Nepotism*—(1) *Restriction.* No eligible applicant, subgrantee, or employing agency may hire a person into a Title II funded position if a member of his or her immediate family is employed in an administrative capacity for the same eligible applicant, subgrantee or employing agency. However, where a State or local statute regarding nepotism exists which is more restrictive than this policy, the eligible applicant should follow the State or local statute in lieu of this policy.

(2) *Definitions.* (i) For purposes of this section, the term "member of the immediate family" includes: wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent and stepchild.

(ii) For the purposes of this section, the term "administrative capacity" includes those who have selection, hiring or supervisory responsibilities for Title II participants, or operational responsibility for the program.

(d) *Nondiscrimination generally.* (1) Every grant made pursuant to this part shall contain a certification statement signed by the grantee concerning the provision of equal employment opportunity under the grant.

(2) No discrimination shall be permitted in any program under this part with respect to race, creed, color, national origin, sex, age, handicap, political affiliation, or beliefs (sections 208(f), 612(a) and 603(1); Vocational Rehabilitation Act).

§ 96.27 Eligibility for participation in a Title II program.

(a) A person residing, as defined in paragraph (d), in an area of substantial unemployment who has been unemployed for at least 30 days prior to application or who is underemployed is eligible to participate in a program under Title II of the Act (secs. 201 and 205(a)).

(b) A person participating in a public employment program under section 5 or section 6 of the Emergency Employment Act at the time of the grant award under this Act who is currently, or was at the time of his selection for such participation, geographically eligible may be transferred into the Title II grant program covering that geographical area, provided that maximum efforts have been made to place such an individual in unsubsidized employment or training.

(c) A participant in an employment program under this Part 96 may change jobs within a particular eligible applicant's jurisdiction without an intervening period of unemployment, but may not be employed in a job for any other eligible applicant without an intervening period of unemployment of at least 30 days.

(d) For the purpose of this section, the term resident shall mean an individual's dwelling place or home, both at the time the individual applies and is selected for participation in a program under Title II of the Act. In determining whether a particular place is an individual's dwelling place or home, the intention of the individual is the key element. Maintenance of an "address" is not necessarily the same as the manitenance of a dwelling place or home.

(e) Citizenship will not be used as a criterion to prevent permanent residents, including permanent resident aliens, from participating in a program under Title II to the extent consistent with applicable State law.

(f) These regulations do not authorize the hiring of any person when any other person is on lay off from the same or any substantially equivalent job (sec. 205(c)(8)).

§ 96.28 Special consideration for most severely disadvantaged persons.

Special consideration in filling transitional public service jobs under Title II of the Act shall be given to unemployed persons who are the most severely disadvantaged in terms of the length of time they have been unemployed and their prospects for finding employment without assistance under title II (sec. 205(c)(7)).

§ 96.29 Serving significant segments of the population.

(a) The significant segments of an eligible applicant's population shall be served on an equitable basis. For example, individuals from each significant segment could be placed in programs under Title II in a manner consistent with their incidence in the unemployed population of the eligible applicant or other measures of equity could be utilized (secs. 205(c)(2) and 208(b)).

(b) Each eligible applicant shall monitor its program to assure that the significant segments of its population are being served in accordance with the requirements of this section.

§ 96.30 Groups to be provided special consideration.

(a) *Veterans.* Special consideration shall be given to veterans who served in the Armed Forces in Indochina or Korea, or the waters adjacent thereto, on or after August 5, 1964, and who received other than a dishonorable discharge. These veterans shall be hired in a proportion at least equal to their incidence in the unemployed and underemployed population. In order to insure special consideration for veterans, all job vacancies under Title II, except those to which former employeyes are being recalled, must be listed with the State employment service at least 48 hours before such vacancies are filled. During this period, the employment service will refer special veterans. Upon request, the employment service may also refer members or other significant segments. All other applicants are to be referred after the 48-hour period. A list of job openings, with the exception of those to which former employees are being recalled, shall be made available from time to time by the eligible applicant, to veterans organizations for the purpose of making those jobs known to the veterans described in this paragraph (sec. 205(c)(5)).

(b) *Welfare recipients.* In designing an eligible applicant's plan and placing individuals in employment under this Part 96, special consideration shall be given to welfare recipients.

(c) *Former manpower trainees.* Special consideration shall be given, in developing an eligible applicant's plan and placing individuals in employment under this Part 96, to persons who have participated in manpower training programs and for whom work opportunities are not otherwise immediately available (sec. 205(c)(9)).

§ 96.31 Training and supportive services.

Eligible applicants, subgrantees, and employing agencies may use granted funds to purchase necessary training and supportive services from public or private organizations, provided that such contracts are not entered into with private-for-profit organizations for the employment of participants.

§ 96.32 Linkages with other manpower programs.

An eligible applicant shall, where appropriate, maintain or provide linkages with upgrading and other manpower program for the purpose of (1) providing public service employment participants who want to pursue work with the employer, in the same or similar work, with opportunities to do so and to find permanent, upwardly mobile careers in that field, and (2) providing those persons so employed, who do not wish to pursue permanent careers in such field, with opportunities to seek, prepare for, and obtain work in other fields.

§ 96.33 Placement goals.

(a) Public service employment programs under the act shall to the extent feasible, be designed to enable all individuals to move from such employment programs into unsubsidized full-time jobs in the private or public sector, and shall emphasize the development of new careers and career development opportunities (secs. 201 and 205).

(b) Each eligible applicant, program agent, and subgrantee shall be responsible for efforts to place all participants in unsubsidized employment in both the private sector and the public sector, or in training programs.

(c) To carry out the intent of paragraph (b), each eligible applicant, program agent and subgrantee shall, to the extent consistent with law and applicable collective bargaining agreements, have the goal of accomplishing on an annual basis at least one of the following:

(1) Placing half of the cumulative participants in unsubsidized private or public sector employment; or

(2) Placing participants in half the vacancies occurring in suitable occupations in an eligible applicant, program agent, or subgrantee's permanent work force which are not filled by promotion from within the agency.

§ 96.34 Compensation for participants.

(a) *Minimum wage for participants.* Each participant shall be paid at a rate no less than the highest of the following:

(1) The minimum wage which would be applicable to the employee under the Fair Labor Standards Act of 1938, if section 6(a)(1) of the Act applied to the participant and if he were not exempt under section 13 thereof;

(2) The State or local minimum wage for the most nearly comparable covered employment; or

(3) The prevailing rate of pay for persons employed in similar public occupations by the same employer (sec. 208(a)).

(b) *Limitations on participant's salary.* Compensation to any participant from Title II Federal funds is limited to a maximum full-time rate of $10,000 per year, plus the cost of fringe benefits to the extent they do not exceed those paid to workers earning $10,000 a year. This limitation shall also be applicable for participants in public service employment funded under other titles of the Act.

§ 96.35 Working conditions for participants.

(a) Title II participants shall enjoy working conditions and promotional opportunities neither more nor less favorable than those enjoyed by other employees similarly employed (sec. 208(a)(4)).

(b) When a participant is eligible for a promotion of general salary increase that would mean a salary in excess of $10,000, the participant is entitled to it if other employees similarly employed would be promoted. The employer must pay the amount above $10,000 from his own funds as well as a prorated share of the increased fringe benefits. Funds from other titles of the Act shall not be used to supplement the maximum salary limitation for participants.

(c) Every participant must be advised prior to entering upon employment of the name of his employer, and of his rights and benefits in connection with his employment (sec. 208(a)(8)).

(d) No participant will be required or permitted to work in buildings or surroundings or under working conditions which are unsanitary, hazardous or dangerous to his health or safety. In the case of participants employed in jobs inherently dangerous, e.g., fire or police jobs, participants will be assigned to work in accordance with reasonable safety practices. The provisions of section 2(a)(3) of Public Law 89-286 (relating to health and safety conditions) shall apply to such programs or activity (sec. 208(a)(5)).

(e) Participants shall receive the same fringe benefits as other employees of the employing agency similarly employed (e.g., workmen's compensation, health insurance, unemployment insurance, vacations) (sec. 208(a)(4)).

§ 96.36 Retirement benefits for participants.

(a) While the mass payment of retirement benefits is not encouraged, the Act does not prohibit payment into the retirement fund on behalf of title II participants where such payments are warranted.

(b) Expenditures may be made from Title II funds for payments under the Social Security Act.

(c) Expenditures for retirement fund payments for Title II participants may be made under any of the following conditions:

(1) Payments are for retirement benefits that are part of a consolidated package, including such benefits as health insurance and workmen's compensation, if separation of the benefits is not allowed;

(2) Payments are for participants who are immediately hired as regular employees (that is attain regular employee status, although salary is subsidized by Title II funds);

(3) Payments are for participants whom the employing agency or another employer intends to hire into permanent jobs at some future date, provided that:

(i) Payments on behalf of such participants are made into and retained in a reserve account, and not paid into the retirement fund until the participant has acquired regular employee status; and

(ii) If regular employment occurs with other than the employing agency, retirement fund payments may be allowed only if the participant is employed within the State, and the retirement benefits are portable; and

(4) Payments are for retirement benefits required by Federal, State, or local law, or for retirement plans set up by State or local law which will not permit the exclusion of Title II participants from coverage.

§ 96.37 Use of Title II funds for programs under Titles I and III–A; summer employment programs.

(a) Funds available to an eligible applicant may, at its option, be utilized for residents of the areas of substantial unemployment designated under this Part 96 for programs authorized under Title I and part A of Title III of the Act. Where Title II funds are used for activities authorized under other Titles of the Act, all provisions under this part 96, except § 96.38(a), shall apply in addition to those provisions applicable for programs under Title I and Part A of Title III (sec. 210).

(b) An eligible applicant planning to use Title II funds for a summer program shall reflect that decision in its Comprehensive Title II Plan or any modification thereof. The eligible applicant shall specify that the Plan provision or modification is being proposed for the purpose of using Title II funds for its summer program, and shall further specify the amount of Title II funds intended for such use.

§ 96.38 Limitation on funds.

(a) Not less than 90 percent (90 percent) of the funds appropriated pursuant to Title II of the Act which are used by an eligible applicant for public service employment programs shall be expended for wages and fringe benefits to persons employed in public service jobs (sec. 203(b)).

(b) The remaining 10 percent (10%) may be used for administration, training, or supportive services to participants in public service employment.

(c) An eligible applicant which does not itself administer the entire program may not retain the entire 10 percent (10 percent) mentioned in paragraph (b) for its own use unless this is agreed to by its subgrantees. At least 5 percent

(5 percent) of a subgrantee's grant must be available to it for costs other than wages and fringe benefits.

Subpart D—Special Conditions for Grants to Indian Tribes on Federal and State Reservations

§ 96.40 General.

This subpart D contains special conditions for grants to Indian tribes on Federal and State reservations. To the extent that any provision of this subpart D differs from any other provision of this Part 96, the provision of this subpart D shall govern. In all other matters the requirements of Part 96, apply to this subpart D.

§ 96.41 Distribution of funds.

(a) Funds for programs under Title II of the Act for Indian tribes on Federal and State reservations shall be determined as follows:

(1) Funds for use under this subpart D shall be determined on the basis of a ratio taking the total number of unemployed Indians on all Federal and State Indian reservations which have areas of substantial unemployment and comparing this number with the total number of unemployed persons in all eligible applicant jurisdictions under this Part 96.

(2) Funds determined under paragraph (a)(1) of this section shall be allotted for use in the individual Indian reservations which have areas of substantial unemployment on the best available estimates of the population or unemployment on each such reservation as compared to the total population or total unemployment on all such reservations.

(b) Funds shall only be granted for individual reservations which either have a population of at least 1,000 Indians or are entitled to a title III grant of at least $50,000. Reservations which do not meet either of these requirements may, however, be combined to qualify for funds as provided in § 96.42 of this part (sec. 204(c)).

(c) An eligible applicant which represents more than one reservation shall further allocate funds for use among reservations in accordance, to the extent feasible, with the amounts indicated by the Secretary for each reservation.

(d) Within a single reservation, or a consortium of small reservations, the eligible applicant shall allocate granted funds, taking into consideration, to the extent feasible, differences in unemployment among identifiable areas within the reservation (sec. 204(c)).

§ 96.42 Eligibility for funds.

(a) An independently eligible applicant, shall be an Indian tribe on a Federal or State reservation which includes areas of substantial unemployment. Such tribe must represent at least 1,000 persons or be entitled to a title III grant of at least $50,000, and have a governing body possessing the substantive powers which will enable it to carry out a program under this Part 96. A governing body having substantive powers is a body consisting of duly elected representatives who have the authority to provide services and to enter into contracts, and grants on behalf of the individuals who elected them, and who are recognized as having such authority by the appropriate Federal or State agencies (sec. 204(c)).

(b) If an Indian tribe does not have a governing body capable of performing the functions set out in paragraph (a) of this section, or if an Indian tribe declines to administer a program under this part, the eligible applicant for the identified area may be:

(1) The governing body of another reservation on which the tribe is located;

(2) The governing body of another reservation where several Indian tribes have combined into a consortium; or

(3) An intertribal council or organization, business council, statewide or regional organization; or another eligible applicant under this Part 96 within the same geographic area; provided that:

(i) The Indian tribe agrees to such eligible applicant;

(ii) The prospective eligible applicant operates the program in a manner consistent with the requirements of this Subpart D; and

(iii) Such body or organization is capable of performing the functions described in paragraph (a) of this section.

(c) Where a determination is made by the Secretary that a designated Indian eligible applicant does not have the capability to administer a program, the Secretary may reassign that responsibility to another eligible applicant acceptable to the tribe, provided that such applicant is capable of performing the function described in paragraph (a) of this section.

§ 96.43 Assistance by the Secretary.

If an Indian tribe which is an eligible applicant under this subpart D is unable to submit an application to carry out a program under this Part 96, the Secretary shall assist such eligible applicant in preparing, submitting, and implementing a program (sec. 207(c)).

§ 96.44 Nepotism.

(a) No eligible applicant or subgrantee under this subpart D shall hire, or permit the hiring of, any person in a position funded under title II of the Act if a member of the person's immediate family is employed in an administrative capacity by the eligible applicant. For the purposes of this section, the term "immediate family" means wife, husband, son, daughter, mother, father, brother, and sister; the term "administrative capacity" means persons who have selection, hiring, or supervisory responsibilities for participants in a program under this Part 96, or operational responsibility for the program.

(b) If a subgrantee under this Subpart D has a population of less than 1,000 persons and cannot hire program participants without an immediate family member being included, the ARDM may waive the requirement of paragraph (a) of this section if adequate justification is received from such subgrantee that no other persons within the subgrantee's jurisdiction are eligible and available for participation.

(c) Where a tribal policy regarding nepotism exists which is more restrictive than this policy, the eligible applicant shall follow the tribal rule in lieu of this policy.

§ 96.45 Non-Discrimination.

Section 96.26(d) shall be applicable to Indian programs funded pursuant to title II of the Act, except to the extent that such provisions conflict with 42 U.S.C. 2000e(b).

§ 96.46 Subgrants.

In addition to the requirements concerning subgrants, Indian tribes may require that subgrantees agree, to the maximum extent feasible, to hire qualified Indians to provide services called for pursuant to the subgrant in accordance with 42 U.S.C. 2000e–2(i).

§ 96.47 Comment and publication procedures relating to submission of Indian grant applications.

(a) Each eligible Indian applicant who plans to apply for a grant shall, no later than the date of its submission of an application to the ARDM, provide an opportunity to comment on its application to the following officials in accordance with section 206 of the Act:

(1) The Governor;

(2) Appropriate officials of units of general local government; and

(3) Officials of labor organizations representing employees who are engaged in similar work in the same area.

(b) Comments by those individuals and officials listed in paragraph (a) of this section shall be made available to the eligible applicant and the ARDM within thirty days of the receipt of notice of the opportunity to comment.

(c) Eligible Indian applicants shall acknowledge any comments made pursuant to this section by providing the commenting party with appropriate information and notice regarding the actions or revisions the applicant intends to take or adopt, if any, due to the comment. All such comments and responses shall be transmitted to the ARDM.

PART 97—SPECIAL FEDERAL PROGRAMS AND RESPONSIBILITIES UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

Subpart A—1974 Summer Program for Economically Disadvantaged Youth

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AUTHORITY: Pub. L. 93-203, sec. 602(a), 87 Stat. 839, unless otherwise noted.

Subpart A—1974 Summer Program for Economically Disadvantaged Youth

§ 97.1 Scope and purpose.

(a) This subpart A contains the policies, rules, and regulations of the Department in implementing and administering the 1974 summer programs for economically disadvantaged youth funded under Title III, section 304(a), of the Comprehensive Employment and Training Act (hereinafter referred to as the Act).

(b) Programs funded under this subpart A shall be designed by summer sponsors, defined in § 97.4, to provide summer employment and other activities and services authorized under Title I of the Act.

(c) Subpart A should be read in conjunction with Parts 94 through 98 of this Title 29, Code of Federal Regulations. These parts, in total, comprise the regulations promulgated by the Secretary pursuant to the authority in the Act. The provisions of Part 95, however, only apply to this subpart A as indiciated in specific sections of those regulations. The administrative provisions of Part 98 shall apply to this subpart A.

§ 97.2 Definitions.

Definitions for abbreviations and major terms used in this subpart A may be found in Part 94 of this title. In addition:

(a) The term "EEA" means the Emergency Employment Act of 1971, as amended;

(b) The term "EOA" means the Economic Opportunity Act of 1964, as amended; and

(c) The term "Indian or native American organization" includes Indian tribes, bands, and groups, and native American groups.

§ 97.3 Allocation of funds.

(a) The funds available under this subpart A shall be allocated to summer sponsors, defined in § 97.4, based upon the criteria set forth in paragraphs (b), (c), and (d) of this section.

(b) Allocations of funds available for summer sponsors who are prospective or actual prime sponsors under Title I of the Act shall be based on the following formula:

(1) Fifty percent of such funds shall be allocated so that each sponsor receives the same percentage of the 1974 summer funds available under this subpart A, as it received as a percentage of the funds available for the EOA and EEA summer program in 1973;

(2) Thirty-seven and one-half percent of the funds shall be allocated based on the ratio of the number of unemployed persons in the sponsor's area in 1973 to the total number of unemployed persons in the United States in that year; and

(3) Twelve and one-half percent of the funds shall be allocated based on the ratio of the number of adults in low income families in the summer sponsor's area in 1969 to the total number of adults in low income families in the United States for that year; and

(4) No prime sponsor area shall be allocated less than 90 percent of the funds allocated to the area under the EOA and EEA summer program of 1973.

(c)(1) The total allocation to Indian and native American sponsors of programs funded under this subpart shall be equal to the same percentage of the funds available for Indian and native American sponsors under the EOA and EEA summer program in 1973.

(2) The allocation to each eligible Indian or native American organization shall be based upon the amount of funds each Indian or native American organization received under the EOA and EEA summer program in 1973. Specifically, each Indian or native American organization shall receive the same percentage of the funds available for each organization under this Subpart A as it received as a percentage of the funds available for all Indian and native American organizations under EOA and EEA summer programs in 1973.

(d) The allocation of funds to Guam, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands shall be based upon the criteria set forth in paragraph (c) of this section.

§ 97.4 Eligibility for funds.

Funds under this subpart A shall be allocated by the Secretary to summer sponsors who may be:

(a) Prospective or actual prime sponsors under Title I of the Act; or

(b) Indian tribes, bands, groups, or other Indian organizations and native American organizations which received funds under the EOA and EEA summer program in 1973.

§ 97.5 Notification of intent.

An eligible summer sponsor desiring financial assistance for a program under this subpart A shall, for the purpose of providing its notification of intent, submit to the appropriate ARDM (A listing of the ARDM's and the States within each Region is contained in the FEDERAL REGISTER, Volume 39, No. 16, Part IV of January 23, 1974.), the Preapplication for Federal Assistance Part I, prescribed by OMB Circular A-102. To facilitate the earliest implementation of the summer youth program, an eligible summer sponsor should file a Preapplication for Federal Assistance not later than May 31, 1974; however, a Preapplication for Federal Assistance shall not be submitted any later than June 12, 1974, unless the ARDM, for good cause, permits an extension of time.

§ 97.6 Application for grants and standards for reviewing grant applications.

(a) A program shall be undertaken under this subpart A, upon execution of an agreement between a summer sponsor and the ARDM. Upon receipt of a Preapplication for Federal Assistance, the ARDM shall send a grant application package to each eligible summer sponsor. The grant application shall be submitted to the ARDM not later than June 15, 1974, unless the ARDM, for good cause, permits an extension of time.

(b) Each grant application shall be reviewed by the appropriate ARDM using the standards described in § 95.17 of this title.

§ 97.7 Application approval and disapproval.

Each grant application shall be approved or disapproved under the provisions and conditions described in § 95.18 of this title.

§ 97.8 Use of alternative sponsors and services by the Secretary.

If a grant application is not filed, or is denied, or terminated, the Secretary may make provision for the use of an alternative sponsor, or provide services himself, as described in § 95.20 of this title.

§ 97.9 Content and description of grant application.

(a) The content of an application for programs funded under this subpart A shall be identical to the content of an application for Title I programs, as set forth in § 95.14(b) of this title, except that:

(1) The Program Narrative Description for programs under this subpart A shall be in accordance with the requirements of paragraph (b) of this section, rather than in accordance with the requirements of § 95.14(b)(2)(i) of this title.

(2) The Program Transition Schedule, set forth in § 95.14(b)(2)(ii) of this title shall be deleted; and

(3) The Public Service Employment Occupational Summary shall be prepared as provided in paragraph (c) of this section, rather than as set forth in § 95.14(b)(2)(iv) of this title.

(b) The Program Narrative Description shall consist of:

(1) A policy statement on the purpose of the program funded under this subpart A;

(2) A statement of the goals to be accomplished;

(3) A description of the number and characteristics of the participants to be served by (i) sex and (ii) age: 14 to 15, 16 to 17, 18 to 22;

(4) A description of each program activity and service;

(5) A description of the methods to be used to recruit, select, and determine the eligibility of participants;

(6) A description of the geographical area to be served; and

(7) The Public Service Employment Program description, as applicable, and described in § 95.14(b)(2)(i)(F) of this title.

(c) The Public Service Employment Occupational Summary forms shall be submitted separately for on-the-job training, for work experience, and for public service employment, as appropriate, and shall be prepared as described in § 95.14(b)(2)(iv) of this title except that for on-the-job training and for work experience activities the comparison of wages shall not be included.

§ 97.10 Modification of the grant agreement; modification of the program plan.

(a) A summer sponsor desiring a modification to an existing grant agreement shall follow the procedure described in § 95.21 of this title.

(b) A summer sponsor desiring a major modification as defined in § 95.22(b) shall submit a revised project operating plan and a narrative explanation of the proposed changes to the ARDM. The ARDM shall notify the sponsor of final approval or tentative disapproval within 10 days of receipt of the proposed modification. An appeal of such determination may be obtained through the procedures set out in Part 98 of this Title 29, Code of Federal Regulations.

(c) A summer sponsor shall follow the procedure described in § 95.22(c) of this title in making a minor modification to programs funded under this Subpart A. However, a sponsor shall show such modifications on the end of summer progress report.

(d) An ARDM may require a modification as described in § 95.22(d) of this title.

§ 97.11 Basic responsibilities of sponsors.

A sponsor of a program funded under this subpart A shall be responsible for the compliances and provisions described in § 95.31 of this title.

§ 97.12 Eligibility for participation.

Each participant in a program funded under this subpart A shall be at time of enrollment:

(a) Economically disadvantaged, as defined in § 94.4; and

(b) A youth, 14 years of age through 22 years of age.

§ 97.13 Types of manpower services available in the summer program for economically disadvantaged youth.

(a) A program funded under this subpart A may include any activity or service specified in § 95.33 of this title.

(b) The requirements for Work Experience activities, as described in § 95.33(d)(3)(ii) of this title, are amended for programs funded under this subpart A to read as provided in paragraph (c) of this section.

(c) *Work Experience.* This program activity is to be designed to enhance the future employability of youth or to increase the potential of youth in obtaining a planned occupational goal.

(1) Work Experience activities for youth include part-time work for students attending school; short-term employment for out-of-school youth adjusting to a work setting and in transition from school to a job setting; short-term employment for recent graduates; and short-term or part-time employment for veterans, institutional residents and inmates under special work release agreements. In addition, it may include short-term employment while a training or job opportunity is being developed. Work Experience activities in the private for-profit sector shall be prohibited.

(2) Program outcomes for work experience participants include (i) return to school; (ii) enrollment in post secondary education; (iii) enlistment in the military services; (iv) enrollment in a manpower training activity; and (v) placement in subsidized or unsubsidized employment.

§ 97.14 Participant benefits.

(a) Participants in classroom training in programs funded under this subpart A shall receive allowances and other benefits as described in § 95.33(d)(1)(iii) of this title.

(b) Participants in on-the-job training in programs funded under this subpart A shall receive wages and other benefits as described in § 95.33(d)(2)(iv) of this title.

(c) Participants in transitional public service employment activities in programs funded under this subpart A shall receive wages and benefits as described in § 95.33(d)(3)(iii) of this title.

(d) Each participant in a work experience activity shall receive wages at a rate of pay commensurate with such factors as the types of work performed, the geographical region of the program, and the skill proficiency of the participant, provided that no participant's hourly rate of pay shall be less of whichever is the highest of the minimum wage prescribed for similar employment by State or local law or an hourly wage of $2 an hour. However, wages in the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands shall be consistent with applicable provisions of the Fair Labor Standards Act of 1938, as amended.

(e) Participants in work experience activities shall be provided workmen's compensation and, as appropriate, other manpower services.

(f) Participants in work experience activities at Federal worksites shall be provided coverage by the Federal Employees Compensation Act.

§ 97.15 Sponsor review.

Each sponsor of a program funded under this subpart A shall establish a procedure as described in § 95.37 of this title for resolving any issue arising between it and a participant in a program funded under this subpart A.

§ 97.16 Non-Federal status for participants.

Participants in a program funded under this subpart A shall not be deemed Federal employees as provided for in § 95.38 of this title.

§ 97.17 Worksite standards; safety and health requirements for participants.

(a) The placement of participants on a Federal worksite for work experience activities does not constitute Federal employment, except for purposes of the Federal Employees Compensation Act and the Federal Tort Claims Act.

(b) No participant under 18 years of age will be employed in any occupation which the Secretary has found, pursuant to his authority under the Fair Labor Standards Act, to be particularly hazardous for persons between 16 and 18 years of age (see Part 570, subpart E of this title).

(c) Participants who are 14 and 15 years of age will participate only in accordance with the limitations imposed by §§ 31–35 of subpart C, Part 570, of this title.

(d) Participants shall be provided safe and healthful working conditions as described by the provisions of § 95.39 of this title.

(e) No participant shall be compensated for more than 40 hours per week.

§ 97.18 Training for lower wage industries and relocation of industries.

No participant may be enrolled in any activity or service provided by a program funded under this subpart A in any lower wage industry job as described by the provisions of § 95.40 of this title.

§ 97.19 Sponsor contracts and subgrants.

A sponsor of a program funded under this subpart A may enter into contracts or subgrants under the provisions described in § 95.41 of this title.

§ 97.20 Cooperative relationships between sponsors and other manpower agencies.

Each sponsor shall, to the extent feasible, establish cooperative relationships or linkages with other manpower and manpower-related agencies as described in § 95.42 of this title.

§ 97.21 Reporting requirements.

(a) Each summer sponsor shall submit two reports to the ARDM: an End-of-Summer Progress Report, and a Summary of Client Characteristics Report.

(b) The End-of-Summer Progress Report (The Quarterly Progress Report Form generally used by a sponsor of a comprehensive manpower program, but labeled by the project sponsor as End-of-Summer Progress Report) will be used to summarize the accomplishments of the program. It constitutes the summer sponsor's statement of accomplishments and costs incurred and contains

a certification of the correctness of the items reported. The End-of-Summer Report will be submitted not later than 30 days after the termination of the program, but in no case later than October 15, 1974.

(c) The Summary of Client Characteristics Report shall contain aggregate characteristics data on all participants in programs funded under this Subpart A. (This report is the Quarterly Summary of Client Characteristics Report regularly submitted by a sponsor of a Title I funded program, but labelled specifically for the Summer Program for Economically Disadvantaged Youth.) The summary is to be submitted to the ARDM with the End-of-Summer Progress Report appropriately marked, "Summer Program for Economically Disadvantaged Youth." The information for age characteristics on line 04 of the Summary of Client Characteristics Report shall be broken out on the back of the report by the following age groups:

(i) 14–15 years;
(ii) 16–17 years; and
(iii) 18–21 years.

§ 97.22 Terminal date for 1974 summer program.

No program under this subpart A shall continue beyond October 1, 1974.

PART 98—ADMINISTRATIVE PROVISIONS FOR PROGRAMS UNDER TITLE I AND TITLE II OF THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

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AUTHORITY: Comprehensive Employment and Training Act of 1973 (Pub. L. 93–203, sec. 602(a), 87 Stat. 839), unless otherwise noted.

Subpart A—Grant Administration

§ 98.1 General.

(a) This subpart A describes Federal requirements relating to the administration of grants by grantees (secs. 603(14) and 613).

(b) The Secretary will provide each grantee with the specific procedures to be followed to comply with the requirements of this subpart A (secs. 603(14) and 613).

§ 98.2 Payment.

Advance payments will be made by either a letter of credit or by U.S. Treasury check to grantees that demonstrate the willingness and ability to establish procedures which will minimize the time between the transfer of funds to them and their disbursement of such funds.

§ 98.3 Letter of credit.

(a) Grants will be financed by means of a letter of credit when the following conditions are met:

(1) The grant is for $250,000 or more;

(2) A continuing relationship exists for at least 12 months;

(3) The grantee can assure that the timing and amount of drawdowns will be as close as possible to disbursement needs;

(4) The grantee's accounting system will meet the recordkeeping and reporting requirements of this subpart.

§ 98.4 Payment by Treasury check.

(a) A grantee which does not meet the requirements for the letter of credit will be paid by Treasury check. The ARDM will determine whether such payment will be made on an advance or reimbursement basis. In making such a determination, the ARDM will consider the adequacy of the grantee's accounting and recordkeeping system with regard to items 3b and 3c of Attachment J of OMB Circular A–102.

(b) Advance by Treasury check will provide for advanced payments through use of predetermined payment schedules or upon the request of the grantee. When the request method is used, payments will be made to a grantee based upon a schedule contained on the Request for Advance or Reimbursement.

§ 98.5 Financial management systems.

(a) Each grantee and subgrantee shall maintain a financial management system which will provide accurate, current and complete disclosure of the financial results of each program activity by title of the Act, including Title II program activities by each area of substantial unemployment, provide the ability to evaluate the effectiveness of program activities and meet the reporting requirements of this subpart.

(b) Each grantee and subgrantee shall maintain its fiscal accounts in a manner sufficient to permit the reports required by the Secretary to be prepared therefrom.

§ 98.6 Audit.

(a) The Secretary of Labor, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the State and local government and their subgrantees and contractors which are pertinent to a specific grant program under the Act for the purpose of making surveys, audits, examinations, excerpts, and transcripts (sec. 613(2)).

(b) The Secretary shall be responsible for scheduling surveys, audits or examinations of grantees and their subgrantees and contractors.

(c) The Secretary shall, with reasonable frequency, survey, audit or examine, or arrange for the survey, audit or examination of grantees and their subgrantees and contractors using city or state auditors; or certified or licensed public accountants. Such surveys, audits, or examinations shall normally be conducted annually but not less than once every two years.

(d) Surveys, audits and examinations will conform to the standards for Audit of Governmental Organizations, Programs, Activities, and Functions, issued by the Comptroller General of the United States and guides issued by the Secretary. Surveys, audits or examinations contracted by the Secretary will conform, at a minimum to the first element of the Comptroller General's Standards: an audit to determine: (1) Whether financial operations are properly conducted, (2) whether the financial reports are fairly presented, and (3) whether the available information indicates that the entity has not complied with applicable laws, regulations, and administrative requirements. Existing audit systems, where acceptable under the Comptroller General's Standards, such as State audits of city and county activities, will be used to the maximum possible extent (sec. 613(1)).

§ 98.7 Reporting requirements in general.

Each grantee will be required to submit three periodic reports which will be used by the Secretary to assess its performance in carrying out the objectives of the Act. These three reports are: (a) The Quarterly Progress Report, (b) The Quarterly Summary of Client Characteristics, and (c) The Report of Federal Cash Transactions (secs. 313(b) and 613). Detailed descriptions of these forms are in the Forms Preparation Handbook.

§ 98.8 Quarterly Progress Report.

(a) The Quarterly Progress Report will be used to measure accomplishments in achieving objectives stated in the Project Operating Plan. It also constitutes the grantee's statement of costs incurred and contains its certification of the correctness of the costs reported.

(b) A grantee shall include the following items in the report together with a comparison of the same items as they appear in the Project Operating Plan for the period of the report:

(1) The total number of individuals served with granted funds during the grant period;

(2) The total number of individuals (participants) placed on self-sustaining employment at termination from the project and the number entering school, other training or military service;

(3) The level of enrollment and accrued expenditures associated with the program activities;

(4) The distribution of total accrued expenditures among cost categories; and

(5) The number of individuals within each significant segment of the population being served by the program.

(c) If performance goals are not being achieved, the ARDM may request additional information from grantees including reasons for the failure to achieve such goals.

(d) The Quarterly Progress Report will also permit grantees to report on objectives and accomplishments other than those established by the Secretary. If a prime sponsor or eligible applicant elects to include these other activities in its report, they will be used by the Secretary in his evaluation of the performance of the prime sponsor or eligible applicant's program.

(e) The Quarterly Progress Report will be prepared to coincide with the ending dates of Federal fiscal year quarters.

This report should be sent by the grantee to be received by the ARDM no later than 30 days after the end of the reporting period. If a grantee's grant period ends at a date other than the Federal fiscal year quarter, a fifth report, covering the entire grant period will be required.

(f) The Quarterly Progress Report will be submitted by the grantee to the Governor of the State.

(g) Accountability must be maintained by the grantee for each of the activities authorized under the Act. Therefore, a separate report will be required for Title I and Title II programs.

(h) The Secretary reserves the right to require the submittal of this report by grantees more frequently than quarterly in cases of major deviation from the Project Operating Plan.

(i) Specific procedures for meeting these reporting requirements will be furnished to each grantee in the Forms Preparation Handbook.

§ 98.9 Quarterly Summary of Client Characteristics.

(a) The Quarterly Summary of Client Characteristics contains aggregate characteristics data on all participants in the program. The Summary is to be submitted to the ARDM with the Quarterly Progress Report.

(b) The Summary will include characteristics data aggregated for all participants, those who terminated from the program and those who entered unsubsidized employment.

(c) The Summary will also aggregate wages before enrollment in the program and after placement and show the median wage for these two categories.

(d) A separate report will be required for Title I and Title II.

(e) Specific reporting procedures and appropriate definitions will be furnished to each grantee in the Forms Preparation Handbook.

§ 98.10 Report of Federal cash transactions.

(a) Each grantee shall submit periodically a report of Federal cash transactions. The report will be used to monitor cash advances and to obtain disbursement information. This report will be submitted monthly by each grantee receiving an annual grant totalling $1 million or more, and quarterly by other grantees (sec. 613(3)).

(b) Specific reporting procedures will be furnished to each grantee in the Forms Preparation Handbook.

§ 98.11 Reallocation of funds.

(a) *General.* The Secretary may reallocate funds from a grantee under the circumstances and in accordance with the procedures described in this section (secs. 103(i) and 602(b)).

(b) *Reallocation based on nonperformance.* (1) Pursuant to sec. 103(i) of the Act, when the Secretary considers through review of the grantee's reports, monitoring or auditing of the program that its performance may be inadequate or that it may have failed to comply with the Act or regulations, he shall give due notice and opportunity for a public hearing as provided in § 98.47.

(2) If the Secretary then decides to reallocate funds based on a ground set forth in paragraph (b)(1) of this section, he shall:

(i) Revoke the grantee's plan for the area, in whole or in part;

(ii) Make no further payments under this Act to the grantee, to the extent which he deems necessary; and

(iii) Notify the grantee of the amount of funds which shall be returned from unexpended funds paid to the grantee during that fiscal year.

(3) The Secretary shall make provision for the reallocation of funds to be used by the State or other alternative prime sponsor to service the area which was served by the prime sponsor before the reallocation, or the Secretary may serve such an area directly (§ 95.20).

(c) *Reallocation based on need.* (1) In a limited number of circumstances, the Secretary may determine that the unobligated portion of a grantee's grant should be reallocated to another area because the funds are not needed where they were originally allocated. Such reallocations may be made only after the ninth month of the fiscal year for which the grant was made.

(2) Before reallocating funds as set forth in paragraph (c)(1) of this section, the Secretary must determine that:

(i) The grantee's plan will be carried out without expending all the funds previously made available for that plan; and

(ii) The excess funds identified under paragraph (c)(2)(i) of this section cannot reasonably be expected to be needed in the following grant period.

(d) *Reallocation.* When the Secretary determines that funds should be reallocated based on the criteria in paragraph (c) of this section, he will take the following actions:

(1) *Notice of intent to reallocate funds.* When the Secretary determines that a reallocation is appropriate, he will notify the grantee and the appropriate Governor of the proposed action to remove funds from the grant. The notice shall include the basis for the proposed reallocation.

(2) *Comments by prime sponsor or eligible applicant and the Governor.* The grantee and the Governor will be invited to submit comments on a proposed reallocation of funds out of their area. These comments shall be submitted to the appropriate ARDM within 30 days of receipt of the notice. The Secretary shall consider these comments before making a final determination to reallocate.

(3) *Notification of final determination.* After reviewing any comments submitted by the grantee or Governor, the Secretary will notify them of his decision. A final decision to reallocate funds of a grantee will be published in the FEDERAL REGISTER and a modification will be made to the grant.

(4) *Reallocation procedures.* In reallocating such funds to supplement other grantee grants, the Secretary shall first consider the need for additional funds by other grantees within the same State. A decision to increase a grantee's grant with reallocated funds will not be made without prior consultation with the grantee as to how the funds will be expended, and prior notification to the Governor. Such a decision will be published in the FEDERAL REGISTER with an announcement of the grantee(s) receiving additional allocations and the amounts.

§ 98.12 Allowable Federal costs.

(a) *General.* Federal funds granted under the Act may be expended only for purposes permitted under the provision of Subpart 1–15.7 of Title 41 of the Code of Federal Regulations (OMB Circular A–87), except as modified in these regulations. Costs are intended to be directed to increase the employability of participants.

(b) *Restriction on use of funds.* (1) Federal funds used for public service employment programs under Title I and for any programs under Title II of the Act shall not be used for the acquisition of or for the rental or leasing of supplies, equipment, materials or real property, whether these expenses are budgeted as a direct cost, indirect cost, or overhead cost (sec. 208(a)(7)).

(2) No funds granted under the Act may be used, directly or indirectly, as a contribution for the purpose of obtaining Federal funds under any other law of the United States which requires a contribution from the grantee in order to receive such funds, except if authorized under that law. However, the use of funds granted under the Act as a matching contribution in order to obtain additional funds under the Act is not prohibited.

(c) *Expenditures for repairs, maintenance and capital improvements and construction.* (1) Title I funds may be expended for building repairs, maintenance and capital improvements to existing facilities. Such costs shall be reported against the administration category. These costs must relate to a facility or building which is used primarily for programs under the Act (sec. 602(b)).

(2) No funds for construction are allowable except as part of a training program in construction occupations and then such costs are allowable only for materials. Construction costs for training programs shall be allowable only when such construction would not normally be performed by an outside contractor.

(d) *Allowable cost categories.* Allowable costs shall be reported against the following cost categories: Administration; wages; training; fringe benefits; allowances; and services (sec. 101).

(1) Costs are allowable to a particular cost category to the extent of benefits received by such category.

(2) All grantees are required to plan, control, and report expenditures against the aforementioned cost categories.

(e) *Costs allowable by each cost category.* Within the restrictions set forth under paragraph (b) of this section, the following are the costs which will be allowable by cost category:

(1) *Administrative costs.* Administrative costs shall be limited to those necessary to effectively operate the program. Such costs include overall program administration as well as program activity administration costs incurred by prime sponsors, subgrantees, and contractors. Costs should not generally exceed 20 percent of the total planned costs for a grant, unless the Program Narrative Description under § 95.14(b)(2)(i) sets forth an explanation of how such additional costs have been determined and a detailed documentation to support that amount (sec. 108(d)(2)).

(i) *Direct and indirect costs.* Included in administrative costs are both direct and indirect costs. Direct costs are those which can be specifically identified as relating to the project and indirect costs are those computed by application of an indirect cost rate. In determining the reasonableness of indirect costs, reliance will be placed on procedures established pursuant to OMB Circular A–87, including reliance on determinations made by other Federal agencies under arrangement made pursuant to A–87.

(ii) *Types of costs.* (A) Administrative costs include, but are not limited to salaries, wages, and fringe benefits of program administrators; salaries; wages, and fringe benefits of staff not involved in the direct provision of services or training to participants; costs of consumable office supplies used by program staff; costs incurred in the development, preparation, presentation, management and evaluation of the program; the costs of establishing and maintaining accounting and management information systems; cost incurred in the establishment and maintenance of State Manpower Services Councils, and Prime Sponsor Planning Councils; travel of program administrators; rent, utilities, custodial services and indirect costs allowable to the program; training of staff and technical assistance to contractor and subgrantee staff; costs of assistance to contractor and subgrantee staff; costs of equipment and material to be used by staff participants excluding training equipment and materials; capital improvements as permitted by these regulations; publication of Comprehensive Manpower Plan; and audit services. Prime sponsors may be able to lower these costs by using participants in the administration of the program. In such event, wages and fringe benefits or allowances for such persons shall be charged to subsidized employment, either transitional or for work experience.

(2) *Wages.* All wages paid to participants receiving on-the-job training in public or private nonprofit organization, and all wages paid to participants in transitional subsidized employment and in work experience will be allowed. Wages paid to participants while receiving on-the-job training from a private employer organized for profit cannot be supported by funds under the Act (sec. 101(5)).

(3) *Training.* Training costs include, but are not limited to the following: Salaries and fringe benefits of personnel engaged in providing training and/or counseling, tuition and entrance fees, books, and other teacher's aids, and equipment and materials used in the training of participants. For example: Administration of a training program or facility is not considered to be a training cost, including: Supervision of trainers, rental of facilities and utilities, general administrative supplies, cost of allowance payment processing including staff salaries, cost of equipment not used directly in training and any other cost which is not directly associated with training of participants.

(4) *Fringe benefits.* Fringe benefit costs for participants include, but are not limited to the following: annual, sick, court and military leave pursuant to an approved leave system; employer's contribution for social security, employees' life and health insurance plans; unemployment insurance; workmen's compensation insurance; and retirement benefits provided such benefits are granted under an approved plan.

(5) *Allowances.* All allowances paid to program participants pursuant to § 95.34 of these regulations shall be charged to this cost category.

(6) *Services. Services;* costs include, but are not limited to the following pursuant to § 95.33:

(i) Cost of supportive services such as child care, health care and medical services, residential support, assistance in securing bonds and family planning.

(ii) Cost of manpower services such as outreach, intake and assessment, orientation, counseling, job development, and job placement.

(iii) Administrative costs involved in furnishing of services to participants are not considered to be services costs. This includes any costs such as rental of facilities and utilities, salary of administrative staff, general administrative supplies or other costs which do not relate directly to the furnishing.

§ 98.13 Allocation of allowable costs among program activities.

The program activities against which program costs shall be planned, controlled and reported upon are: Classroom training; on-the-job training; public service employment; work experience; services to participants and other activities. The cost categories under each of these activities are defined in § 98.12(d). The extent to which these cost categories are chargeable to specific program activities is set forth below (sec. 101).

(a) *Classroom training.* Cost categories chargeable are: administration, training allowances, and services.

(b) *On-the-job-training.* Cost categories chargeable area: administration, training, services, wages (with public or private nonprofit employers only), and fringe benefits.

(c) *Public service employment.* Cost categories chargeable are: administration, wages, fringe benefits, services and training.

(d) *Work experience.* Cost categories chargeable are: administration, training, services, allowances, wages and fringe benefits.

(e) *Services to paricipants.* Cost categories chargeable are:

(1) *Allowances.* This includes all allowances paid for short periods of time to participants who are registered for training, but are waiting for startup of a component.

(2) *Services.* This includes all manpower and supportive services which are not part of another program activity and which are provided to participants by a prime sponsor, eligible applicant, contractor or subgrantee.

(3) *Administration.* This includes all allowable administrative costs directly associated with this activity and a pro rata share of each prime sponsor or eligible applicant's administrative costs under the Act not directly associated with any program activity.

(f) *Other activities.* Costs catergories chargeable area: administration, training, allowances, and services.

§ 98.14 Basic personnel standards for grantees.

(a) Each prime sponsor and eligible applicant shall assure that it will maintain personnel policies and practices for

its employees in accord with State and local laws and regulations that adequately reflects the merit principles declared in the Intergovernmental Personnel Act of 1970 (Pub. L. 91–648). Prime sponsors may meet its requirement by certifying compliance with the uniform Federal Standards for a Merit System of Personnel Administration (45 CFR Part 70) including any amendments thereto (sec. 604(14)).

(b) Except as provided in paragraph (c) of this section, any prime sponsor or eligible applicant's personnel system that has not been certified previously as meeting these standards for other Federal grant programs shall certify that it will take necessary action to provide for merit based personnel system coverage within a reasonable period.

(c) Any non-governmental prime sponsor or administrative unit for a consortium is not subject to the requirements of paragraph (b) of this section unless they are governmental units.

(d) Prime sponsors and eligible applicants are encouraged to include on their staffs individuals who are representative of the population to be served by the program.

§ 98.15 Adjustments in payments.

(a) If any funds are expended by a grantee, subgrantee, or employing agency in violation of the Act, the regulations or grant conditions, the Secretary may make necessary adjustments in payments on account of such expenditures (sec. 108 (b)(2)).

(b) The Secretary may draw back unexpended funds which have been made available in order to assure that they will be used in accordance with the purposes of the Act, or to prevent further unauthorized or illegal expenditures (secs. 103 (h) and 108(b)(2)).

§ 98.16 Termination of grant.

(a) If a grantee violates or permits a subgrantee or an employing agency to violate the regulations, or grant terms or conditions which the Secretary has issued or shall subsequently issue during the period of the grant, the Secretary may terminate the grant in whole or in part unless the grantee causes such violation to be corrected within a period of 30 days after receipt of notice specifying the violation or the determination of the Secretary, pursuant to a hearing under Part 98, if a hearing has been held.

(b) Termination shall be affected by a notice of termination which shall specify the extent of termination and the date upon which such termination becomes effective. Upon receipt of notice of termination, the grantee shall: (1) Discontinue further commitments of grant funds to the extent that they relate to the terminated portion of the grant; (2) promptly cancel all subgrants, agreements, and contracts utilizing funds under this grant to the extent that they relate to the terminated portion of the grant; (3) settle, with the approval of the Secretary, all outstanding claims arising from such termination; (4) submit, within a reasonable period of time after the receipt of the notice of termination, a termination settlement proposal which shall include a final statement of all unreimbursed costs related to the terminated portion of the grant, but in case of terminations under paragraph (a) of this section will not include the cost of preparing a settlement proposal (secs. 108(b)(2), 110(b), and 602 (b)).

§ 98.17 Grant closeout procedures.

(a) The closeout of a grant is the process by which a Federal grantor agency determines that all applicable administrative actions and all required work of the grant have been completed by the grantee and the grantor. The following procedures will be complied with during this process of determination.

(b) Upon completion of the legal grant period or at such other termination date determined by the Secretary, the following steps will be taken by each grantee:

(1) An immediate refund to the ARDM of any unencumbered balance of cash drawn down from the letter of credit or advanced by treasury checks.

(2) An immediate refund to the ARDM of any interest income earned on the granted money except as provided in § 98.19.

(3) A final Quarterly Progress Report will be prepared for each grant and Title under which programs were conducted under the Act.

(4) A final Report of Federal Cash Transactions shall be prepared and sent to the ARDM.

(5) A final Summary of Client Characteristics Report shall be prepared and sent to the ARDM.

(6) Upon closeout, the regional office will insure that:

(1) Prompt payment is made to the prime sponsor or eligible applicant for reimbursement of costs under the grant being closed out.

(2) After the final reports are received, a settlement is made for any upward or downward adjustments which are made to the Federal share of the costs.

(3) The letter of credit is cancelled.

(4) Final program and fiscal audits are performed as soon as possible after the completion of termination date of the grant.

§ 98.18 Retention of records.

(a) Grantees are required to maintain records on each program participant. The following types of information shall be recorded:

(1) Personal identifying information.

(2) Residence.

(3) Work history of the participant.

(4) Program activities in which the client participated.

(5) Supportive services received by the participant.

(6) Status of participant at termination from program.

Specific items, instructions, and definitions are contained in the Forms Preparation Handbook.

(b) Pursuant to the provisions set forth in Attachment C of Office of Management and Budget Circular A–102, the following shall apply with regard to the retention of records pertaining to any grant program under this Act (secs. 603(12) and 613).

(1) Financial records, supporting documents, statistical records and all other pertinent records shall be retained for a period of 3 years. No Federal requirements for records retention which exceed those established by State or local governments shall be otherwise imposed, with the following qualifications:

(i) Records shall be retained beyond the 3-year period if audit findings have not been resolved.

(ii) Records for nonexpendable property acquired with Federal grant funds shall be retained for 3 years after its disposition.

(iii) When grant program records are transferred to or maintained by the Secretary, the 3-year retention requirement will not be applicable to the grantee which had administered that grant program.

(2) The retention period shall start from the date of submission of the annual or final expenditure report, whichever applies to the particular grant.

(3) The substitution of microfilm copies in lieu of original records may be authorized by the ARDM upon request of the grantee.

(4) The Secretary will request State and local prime sponsors to transfer grant records to the Department's custody when it is determined that such records have long-term retention value. However, suitable arrangements to avoid duplicate recordkeeping shall be made where the Department and any grantee needs such records for joint use.

(5) The grantee agrees to maintain the confidentiality of any information regarding applicants, project participants or their immediate families that identifies or may be used to identify them, and which may be obtained through application forms, interviews, tests, reports from public agencies or counselors, or any other source. Without the permission of the applicant or participant, such information shall be divulged only as necessary for purposes related to the performance or evaluation of the grant, to persons having responsibilities under the grant, including those furnishing services to the project under subgrant or contract, and to governmental authorities to the extent necessary for the proper administration of law.

§ 98.19 Program income.

(a) The State and any agency or instrumentality of a State which is a grantee shall not be held accountable for interest earned on grant-in-aid funds pending their disbursement for program purposes under the Act (OMB Circular A–102).

(b) Units of local government shall be required to return to the Federal Government interest earned on advances of grant-in-aid funds in accordance with a decision of the Comptroller General of the United States (42 Comp. Gen. 289).

(c) Proceeds from the sale of real and personal property, either provided by the Federal Government or purchased in whole or in part with Federal funds, shall be handled in accordance with Attachment N of OMB Circular A–102 pertaining to Property Management.

(d) Royalties received from copyrights and patents during the grant period shall be retained by the grantee and be added to the funds already committed to the program. After termination or completion of the grant, the Federal share of royalties in excess of $200 received annually shall be returned to the Federal grantor agency (OMB Circular A–102).

(e) All other program income earned during the grant period shall be retained by the grantee and, in accordance with the grant agreement, shall be added to funds committed to the project and be used to further program objectives (OMB Circular A–102).

(f) The prime sponsor shall record the receipt and expenditure of revenues (such as taxes, special assessments, levies, fines, etc.) as a part of grant project transactions.

§ 98.20 Procurement standards.

The standards to be used for the procurement of supplies, equipment, and other material and services with Federal grant funds are those described in Attachment O of OMB Circular A–102. These standards are furnished to assure that such materials and services are obtained in compliance with the provisions of applicable Federal laws and Executive Orders.

§ 98.21 Nondiscrimination and equal employment opportunities.

(a) No person shall on the ground of race, creed, color, handicap (as defined in paragraph (g) of this section), national origin, sex, political affiliation, or beliefs be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under the Act (secs. 603(1), 612, and Vocational Rehabilitation Act, sec. 504).

(b) When the Secretary determines that a grantee has failed to comply with the requirements of paragraph (a) of this section, he shall notify the grantee of the noncompliance and request the grantee to secure compliance. If within a reasonable time, not to exceed 60 days, the grantee fails or refuses to secure compliance, the Secretary may terminate financial assistance under the Act and:

(1) May refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted;

(2) May exercise the powers and functions provided by Title VI of the Civil Rights Act of 1964 (42, USC 2000(d)); and

(3) May take other actions as may be provided by law.

(c) When a matter under this section is referred to the Attorney General, or when the Secretary of Labor believes that a pattern or practice of discrimination exists, the Attorney General may bring a civil action in any appropriate United States District Court, including injunctive relief.

(d) The Secretary shall enforce the provisions of paragraph (a) of this section with regard to discrimination on the basis of sex in accordance with section 602 of the Civil Rights Act of 1964. Section 603 of such Act shall apply with respect to any action taken by the Secretary to enforce these provisions.

(e) This section shall not be construed as affecting any other legal remedy that a person may have if that person is excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in connection with any program or activity receiving assistance under the Act.

(f) The grantee shall be responsible for assuring that no discrimination prohibited by this section occurs in any program for which it has responsibility, and shall establish an effective mechanism for this purpose. The grantee may, as one possible means of establishing this mechanism, assign the responsibility for administering the Equal Employment Opportunity (EEO) program to one individual and requires subgrantees and contractors to prepare affirmative action plans. In such cases, the grantee may include in its comprehensive manpower plan a description of its EEO program and the related affirmative action plans of its subgrantees and contractors, including the procedures established for monitoring these activities.

(g) The term "Handicapped individual" means any individual who (1) has a physical or mental disability which for such individual constitutes or results in a substantial handicap to employment, and (2) can reasonably be expected to benefit in terms of employability from an activity under the Act.

§ 98.22 Nepotism.

The provisions of this section shall apply to all activities under the Act except that the nepotism requirements for Title II, found in § 96.26(c) and § 96.44 shall not be superseded.

(1) *Restriction.* No grantee, subgrantee or contractor may hire a person into an administrative position funded under the Act if a member of his or her immediate family is employed in an administrative capacity for the same grantee, subgrantee or contractor: *Provided, however,* That nothing in this paragraph shall be construed to prohibit an otherwise eligible individual from participating in any program under the Act. Where a State or local statute regarding nepotism exists which is more restrictive than this policy the eligible applicant should follow the State or local statute in lieu of this policy.

(2) *Definitions.* (i) For purpose of this section, the term "member of the immediate family" includes: Wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in law, aunt, uncle, niece, nephew, stepparent, and stepchild.

(ii) For the purposes of this section, the term "administrative capacity" includes those who have selection, hiring or supervisory responsibilities for Title II participants, or operational responsibility for the program.

§ 98.23 Special limitations on participant selection.

(a) (1) *Political activities.* No program under this part may involve political activities, and neither the program nor the funds provided therefor, nor the personnel employed in the administration of the program, shall be in any way or to any extent engaged in the conduct of political activities in contravention of Chapter 15 of Title 5, United States Code. Prohibited activities under this section include, but are not necessarily limited to the assignment of any participant by an eligible applicant or subgrantee or employing agency to work for or on behalf of a partisan political activity; to take part in voter registration activities; or to participate in other partisan political activities such as lobbying, collecting funds, making speeches, assisting at meetings and doorbell ringing, and distributing political pamphlets in an effort to persuade others of any political view.

(2) Participants employed in the administration of the program and participants whose principal employment is in connection with an activity financed by other Federal grants or loans are covered by the Hatch Act. Other participants are not precluded from taking an active part in political management or in a political campaign outside of working hours, provided they do not identify themselves as spokesman for any Title II funded program. All participants may take part in non-partisan activities outside of working hours (sec. 208(g)).

(b) *Sectarian activities.* No participant in any program under this part may be employed in the construction, operation, or maintenance of such part of any facility as is used or will be used for sectarian instruction or as a place of religious worship (sec. 208(h)).

Subpart B—Assessment and Evaluation

§ 98.30 General.

This Subpart B sets forth the assessment and evaluation responsibilities of the grantees (§ 98.31) and the Secretary of Labor (§ 98.32). The grantee shall, as part of its general responsibility to carry out the purposes and provisions of the Act, establish adequate program management for the purposes of examining, in a systematic fashion, the performance of its program in meeting the goals and objectives contained in the plan and measuring the effectiveness and impact of its program in resolving manpower problems identified in that plan (secs. 105 (a)(1)(b) and 603 (14)).

The Secretary shall assess grantees to determine whether they are carrying out the purposes and provisions of the Act in accordance with their approved

plans. The Secretary shall also evaluate the overall programs and activities conducted under the Act to aid in the overall administration of the Act (secs. 311(c)(d) and 313(b)).

§ 98.31 Responsibilities of the prime sponsor or eligible applicant.

(a) As prescribed under subpart A of this Part 98, the grantee shall submit periodic reports on the performance of its program in relation to its plan as required by the Secretary (secs. 313(b) and 603(12)). The grantee shall implement and maintain the necessary recordkeeping required to complete these periodic reports. While such recordkeeping will support reports to the Secretary, it is principally for the use of the grantee to provide basic internal management information.

(b) The grantee is required to establish internal program management procedures (sec. 603(14)). Such procedures shall be used by the grantee in the monitoring of day-to-day operations, to periodically review the performance of the program in relation to program goals and objectives, and to measure the effectiveness and impact of program results in terms of participants, program activities, and the community. The objective of such procedures shall be the improvement of overall program management and effectiveness.

(c) The grantee shall monitor all activities for which it has been provided funds under the Act to determine whether the assurances and certifications made in its plans and the purposes and provisions of the Act are being met, and to identify problems which may require the grantee to take corrective action in order to assure such compliance. The grantee shall fulfill this monitoring function through the use of internal evaluative procedures, the examination of program data, or through such special analysis or checking as it deems necessary and appropriate (secs. 105 (a) and (b), 108(d), and 603).

(d) The grantee shall cooperate with the Secretary's evaluation and assessments by providing special reports on program activities and operations as requested; the findings of evaluations of effectiveness and impact; and access to its records and program operations.

(e) When the grantee finds that operations do not equal planned performance, it shall develop and implement appropriate corrective action.

§ 98.32 Responsibilities of the Secretary.

(a) As used in this section, the term "assessment" refers to the Federal review of plans and performance of individual grantees, and the term "evaluation" refers to the Federal study of the overall effectiveness and impact of programs and activities under the Act.

(b) The Secretary has the responsibility to determine that the grantee is operating in general accordance with its approved plan in carrying out the purposes and provisions of the Act, and has demonstrated maximum efforts to implement the provisions in its prior year's plan.

(1) The Secretary shall assess the grantee's program and activities in order to determine compliance with assurances and certifications of its plan, compliance with the purposes and provisions of the Act, and performance in the achievement of goals and objectives specified in the approved plan (secs. 105, 108(d), and 603).

(2) Such assessment shall be conducted through the review of required periodic reports and shall be supplemented by special reports from the grantee, the examination of records maintained by the prime sponsor or eligible applicant, selective on-site reviews including in certain instances, the investigation of allegations or complaints, or other examination as deemed necessary and appropriate by the Secretary (secs. 311(c)(d), 313(a)(b), 603(12), and 108).

(3) Assessment may also be conducted for purposes of the offering of technical assistance and/or recommendations for corrective actions to grantees as considered necessary.

(c) The Secretary has the responsibility to provide for the continuing evaluation of all programs and activities conducted pursuant to the Act. Such studies shall include examination of:

(1) Cost in relation to effectiveness;

(2) Impact on communities and participants;

(3) Implication for related programs;

(4) Extent to which needs of various age groups are met;

(5) Adequacy of mechanisms for the delivery of services;

(6) Comparative effectiveness of grantee programs with similar programs conducted by the Secretary under sec. 110 or Title III;

(7) Opinions of participants about the strengths and weaknesses of the programs;

(8) Relative and comparative effectiveness of programs under this Act and Part C of Title IV of the Social Security Act (Work Incentive Program for Welfare recipients) (sec. 313(a) and (b));

(9) The effectiveness of programs in meeting the employment needs of disadvantaged, unemployed, and underemployed persons; and

(10) The extent to which artificial barriers restricting employment and advancement opportunities in agencies receiving funds under the Act have been removed.

(d) The Secretary shall compile, on a State, regional and national basis, information obtained from periodic reports or special reports, surveys, or samples required from grantees, including information on:

(1) Enrollee characteristics, including age, sex, race, health, education level, and previous work and employment experience;

(2) Duration in training and employment situations including information on the duration of program participation for at least a year following the termination of participation in Federally-assisted programs and comparable information on other employees or trainees or participating employers; and

(3) Total dollar cost per trainee, including breakdown between salary or allowance, training and supportive services, and administrative costs (sec. 313(b)).

(e) Evaluation carried out in accordance with paragraph (d) of this section may be conducted directly by Department of Labor staff or through contract, grant or other arrangement, as the Secretary deems necessary or appropriate (sec. 311(c)).

§ 98.33 Limitation.

No prime sponsor or eligible applicant nor the Secretary shall, in arranging for evaluation of any program under the act, utilize for such evaluation any non-governmental individual institution, or organization which is associated with that program as a consultant, technical advisor or in any similar capacity (sec. 604(c)).

§ 98.34 Consultation with the Secretary of Health, Education, and Welfare.

The Secretary shall consult with the Secretary of Health, Education, and Welfare with respect to arrangements for services of a health, education, or welfare character in plans under this Act. This consultation shall focus on the relationship of such services to be delivered under this Act with those being delivered under other applicable laws for which the Secretary of Health, Education, and Welfare is responsible.

Subpart C—Hearings and Judicial Review

§ 98.40 Purpose and policy.

(a) The regulations set forth in this Subpart C contain the procedures established by the Secretary for carrying out his responsibilities under the Act for the review of comprehensive manpower plans and applications for financial assistance, and for the receipt, investigation, hearing and determination of questions of noncompliance with the requirements of the Act and the regulations promulgated under the authority of the Act (sec. 108).

(b) It is the policy of the Secretary to receive information concerning alleged violations of any title of the Act and the regulations promulgated pursuant thereto from any person, or any unit of Federal, State or local government. Assistance in the filing of a formal allegation may be secured from the appropriate Regional Solicitor, by any person who desires and needs such assistance.

(c) A participant in a program under the Act must exhaust the administrative remedies established by the prime sponsor or eligible applicant for resolving matters in dispute prior to utilizing the procedures under this subpart C. The filing of such a complaint shall not, however, automatically act as a stay of the decision rendered by the prime sponsor or eligible applicant. A participant may initiate an action under this subpart within 30 days of any final decision by a grantee.

§ 98.41 Review of plans and applications; violations.

(a) The Secretary shall not finally disapprove any Comprehensive Manpower Plan or application for financial assistance submitted under any title of the Act, or any modifications, or amendments thereof, without first affording the grantee submitting the plan or application reasonable notice and opportunity for a hearing as provided in § 98.47 et seq.

(b) When information available to the Secretary indicates that a grantee may be:

(1) Maintaining a pattern of practice of discrimination in violation of sec. 603 (1) or sec. 612(a) of the Act or otherwise failing to serve equitably the economically disadvantaged, unemployed, or underemployed persons in the area it serves;

(2) Incurring unreasonable administrative costs in the conduct of activities and program, as determined pursuant to regulation;

(3) Failing to give due consideration to continued funding of programs of demonstrated effectiveness including those previously conducted under provisions of law repealed by sec. 614 of the Act; or

(4) Otherwise materially failing to carry out the purposes and provisions of the Act or regulations issued pursuant to the Act; he shall, before taking final action on such grounds, notify the grantee of his proposed action and provide the grantee a reasonable time within which to respond. All further proceedings shall be conducted as provided in § 98.47 et seq.

(c) Every other person claiming legal injury because of any action under the Act may be heard only by initiating a complaint under § 98.42.

§ 98.42 Complaints; filing of formal allegations; dismissal.

(a) Every complaint by any complainant, whether in writing or not, shall be filed as a formal allegation before the commencement of any investigation or corrective action is required under this part.

(b) All formal allegations shall be filed with the appropriate ARDM. A formal allegation so filed may be withdrawn only with the consent of the Secretary.

(c) A formal allegation pending more than 6 months after filing because the complainant has failed to cooperate or make himself available during investigation of the matter may be dismissed by the ARDM upon notice to the last known address of the complainant.

§ 98.43 Form.

(a) Every formal allegation shall be in writing and signed by the complainant, and shall be sworn to before a Notary Public, or other duly authorized person. A formal allegation need not be in any particular form, but should be neat, legible and suitable for flat filing.

§ 98.44 Contents of formal allegations; amendment.

(a) The formal allegation should contain the following:

(1) The full name and address of the person making the charge.

(2) The full name and address of the party against whom the formal allegation is made (hereinafter referred to as the respondent(s)).

(3) A clear and concise statement of the facts, including pertinent dates, constituting the alleged unlawful practice.

(4) Where known, the provisions of the Act, regulations, Comprehensive Manpower Plan, and application of the grantee believed to have been violated.

(5) A statement disclosing whether proceedings involving the act complained of have been commenced before a State or local authority, and, if so, the date of such commencement and the name of the authority.

(6) A statement that the administrative procedures established by the grantee have been, if applicable, followed to completion by the complainant.

(b) Notwithstanding the provisions of paragraph (a) of this section, a formal allegation will be considered to have been filed when the ARDM receives from the complainant a written statement sufficiently precise to both identify those against whom the allegations are made, and to fairly afford the respondent an opportunity to prepare a defense. A formal allegation may be amended to cure technical defects or omissions, including failure to swear to the allegation, or to clarify and amplify allegations made therein, and such amendments relate back to the original filing date. An amendment alleging additional acts not directly related to or growing out of the subject matter of the original formal allegation will be permitted only where at the date of the amendment the allegation could not have been timely filed as a separate formal allegation and the rights of any respondent will not be prejudiced.

§ 98.45 Investigations.

(a) The ARDM will make a prompt investigation of each formal allegation filed as provided in this part. The investigation may include, where appropriate, a review of pertinent practices and policies of any grantee, the circumstances under which the possible noncompliance with the Act or regulations issued thereunder occurred, and other factors relevant to a determination as to whether the respondent has failed to comply with requirements of the Act, the regulations, and the Comprehensive Manpower Plan.

(1) If an investigation pursuant to paragraph (a) of this section indicates to the ARDM a failure to comply with the Act, the regulations, or the Comprehensive Manpower Plan, the ARDM will so inform the respondent and the complainant and the matter, will if possible, be resolved by informal means. If informal resolution does not occur within a reasonable period of time, action will be taken as provided in this part or as otherwise provided by law.

(2) If an investigation does not warrant action pursuant to paragraph (a) (1) of this section, the ARDM will so inform the respondent and the complainant in writing.

(b) No grantee, participant, respondent or other persons shall intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by the Act, the regulations, the Comprehensive Manpower Plan, or the application of an eligible applicant because he has made a complaint, formal allegation, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this part. The identity of every complainant shall be kept confidential except to the extent necessary to carry out the purpose of this part, including the conduct of any investigation hearing, or judicial proceeding arising thereunder.

§ 98.46 Opportunity for hearings; when required.

An opportunity for a public hearing shall be extended in each of the following instances:

(a) When the ARDM receives a formal allegation from an affected unit of general local government that a grantee has changed its Comprehensive Manpower Plan so that it no longer complies with sec. 105 of the Act, or that in the administration of the plan there is a failure to comply substantially with any provision of the plan or with the requirements of secs. 603 and 604 of the Act and the matter has not been resolved informally within a reasonable period of time; or

(b) After the completion of an investigation, pursuant to § 98.45, or any formal allegation which indicates there is substantial evidence of facts supporting a conclusion of probable cause that a violation of the Act, or regulations issued pursuant thereto, has occurred or is occurring, or is about to occur, and the matter has not been resolved by informal means; or

(c) When the Secretary has reasonable cause to believe that a violation set forth in § 98.41(b) has occurred, or when the Secretary determines that fairness and the effective operation of programs under the Act would be furthered by an opportunity for a public hearing, including a finding under § 98.41 that a hearing should be provided.

§ 98.47 Hearings.

(a) *Opportunity for hearing.* Whenever an opportunity for a hearing is required by the Act, or § 98.46, and the issue has not been resolved informally, the Secretary or ARDM shall give reasonable notice by registered or certified mail, return receipt requested, to the affected respondent and complainant, if any. This notice shall advise the respondent of the allegations to be heard, the proposed remedial actions which may be taken, and the matters of fact or law asserted as the basis for the action. The notice shall (1) fix a date not less than 20 days after the date of such notice within which the respondent may request the Secretary or ARDM that the matter be scheduled for hearing, or (2)

advise the respondent and the complainant that the matter in question has been set by a Hearings Officer for hearing at a stated place and time. The time and place shall be fixed by a Hearings Officer in accordance with paragraph (b) and shall be subject to change for cause. A respondent may waive a hearing and submit written information and argument for the record. The failure of a respondent to request a hearing under this section or to appear at a hearing for which a date has been set shall be deemed to be a waiver of the right to a hearing under the Act and this part, and shall be respondent's consent to the making of a decision on the basis of such information as is available.

(b) *Time and place of hearings.* Hearings shall be held in Washington, D.C., at a time fixed by a Hearing Officer. At the request of the respondent or Department, and upon a determination by the Hearings Officer that the relative conveniences of the respondent and Department so warrant, and no issue presented involved a determination which has been made at the Department's national office, the Hearings Officer may select a place for hearing in the city of the regional office of the Department.

(c) *Right to counsel.* In all proceedings under this section, the respondent and the Department shall have the right to be represented by counsel.

(d) *Procedures, evidence, and record.* (1) The hearing, decision, and any administrative review thereof shall be conducted in conformity with section 5–8 of the Administrative Procedure Act, and in accordance with such rules of procedure as are proper (and not inconsistent with this section) relating to the conduct of the hearing, giving of notices subsequent to those provided for in paragraph (a) of this section, taking of testimony, exhibits, arguments and briefs, requests for findings, and other related matters. Both the Department and the respondent shall be entitled to introduce all relevant evidence on the issues as stated in the notice for hearing or as determined by the Hearings Officer conducting the hearings at the outset of or during the hearing.

(2) Technical rules of evidence shall not apply to hearings conducted pursuant to this part, but rules or principles designed to assure production of the most credible evidence available, and to subject testimony to test by cross-examination, shall be applied where reasonably necessary by the Hearings Officer conducting the hearing. The Hearings Officer may exclude irrelevant, immaterial, or unduly repetitious evidence. All documents and other evidence offered or taken for the record shall be open to examination by the parties and opportunity shall be given to refute facts and arguments advanced on either side of the issues. A transcript shall be made of the oral evidence except to the extent the substance thereof is stipulated for the record. All decisions shall be based upon the hearing record and written findings shall be made.

(3) The general provisions governing discovery as provided in the Rules of Civil Procedure for the United States District Court, Title V, 28 U.S.C., Rules 26 through 37, may be made applicable in any hearing conducted under this part to the extent that the Hearing Officer concludes that their use would promote the efficient advancement of the hearing.

(4) When a public officer is a respondent in a hearing in his official capacity and during its pendency dies, resigns, or otherwise ceases to hold office, the proceeding does not abate and his successor is automatically substituted as a party. Proceedings following the substitution shall be in the name of the substituted party, but any misnomer not affecting the substantive rights of the parties shall be disregarded. An order of substitution may be entered at any time, but the omission to enter such an order shall not affect the substitution.

(e) *Consolidated or joint hearings.* In cases in which the same or related facts are asserted to constitute noncompliance with this part with respect to two or more programs to which this part applies or noncompliance with this part and the regulations of one or more other Federal departments or agencies, the Secretary may, by agreement with such other departments or agencies, where applicable, provide for the conduct of consolidated or joint hearings, and for the application to such hearings of rules of procedure not inconsistent with this part. Final decisions in such cases, insofar as this part is concerned, shall be made in accordance with § 98.48.

(f) *Hearing Officers.* Hearings shall be held before an Administrative Law Judge of the Department or by such other person as may be designated by the Secretary.

§ 98.48 Initial certification, decisions, and notices.

(a) *Authority of hearing officer to render decision.* The Administrative Law Judge or other designated hearing officer is authorized to make an initial decision unless the Secretary otherwise limits this authority in a particular case.

(b) *Decisions and certifications by hearing officers.* The Administrative Law Judge, or other persons designated to hear the matter, shall make an initial decision, if so authorized (see § 98.47(f)), or certify the entire record including his recommended findings of fact, conclusions of laws, and proposed decision to the Secretary for a final decision, and a copy of such initial decision of certification shall be mailed to the respondent and the complainant. When an initial decision is made the respondent may, within 30 days of mailing of such notice of initial decision, file with the Secretary his exceptions to the initial decision, with his reasons therefor. In the absence of exceptions, the Secretary may on his own motion within 45 days after the initial decision serve on the respondent a notice that he will review the decision. Upon the filing of such exceptions or of such notice of review, the Secretary shall review the initial decision and issue his own decision thereon including the reasons therefor. The decision of the Secretary shall be mailed promptly to the respondent and the complainant, if any. In the absence of either exceptions or a notice of review, the initial decision shall constitute the final decision of the Secretary.

(c) *Decisions on record or review by the Secretary.* Whenever a record is certified to the Secretary for decision or he reviews an initial decision pursuant to paragraph (a) of this section, the respondent shall be given reasonable opportunity to file with him briefs or other written statements of its contentions. A copy of the final decision of the Secretary shall be given in writing to the respondent and to the complainant, if any.

(d) *Decisions on record where a hearing is waived.* Whenever a hearing is waived under this part, a decision shall be made by the Secretary on the record and a copy of such decision shall be given in writing to the respondent, and to the complainant, if any.

(e) *Rulings required.* Each decision of an Administrative Law Judge or the Secretary shall set forth his ruling on each finding, conclusion, or exception presented, and shall identify the requirement or requirements imposed by or pursuant to the Act of regulations issued thereunder with which it is found that the respondent has failed to comply.

(f) *Content of orders.* The final decision may provide for suspension or termination of, or refusal to grant or continue Federal financial assistance, in whole or in part, under the program involved in accordance with the Act, and may contain such terms, conditions, and other provisions as are consistent with and will effectuate the purposes of the Act and regulations issued thereunder, including provisions designed to assure that no Federal financial assistance will thereafter be extended under such program to the respondent determined by such decision to be in default in its performance of an assurance given by it pursuant to the Act or regulations issued thereunder, or to have otherwise failed to comply with the Act or regulations issued thereunder, unless and until it corrects its noncompliance, and satisfies the Secretary that it will fully comply with the Act and regulations issued thereunder.

§ 98.49 Judicial review.

Action taken pursuant to section 108 of the Act is subject to judicial review as provided in section 109 of the Act. All other action initiated under the Act and regulations issued thereunder shall be final upon a determination by the Secretary.

Signed in Washington, D.C. this 28th day of May 1974.

PETER J. BRENNAN,
Secretary of Labor.

[FR Doc.74–12641 Filed 6–3–74;8:45 am]

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PART IV



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

■

Estuarine Sanctuary Guidelines

Title 15—Commerce and Foreign Trade

CHAPTER IX—NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 921—ESTURAINE SANCTUARY GUIDELINES

The National Oceanic and Atmospheric Administration (NOAA) on March 7, 1974, proposed guidelines (15 CFR Part 921) pursuant to section 312 of the Coastal Zone Management Act of 1972 (Pub. L. 92–583, 86 Stat. 1280), hereinafter referred to as the "Act," for the purpose of establishing the policy and procedures for the nomination, selection and management of estuarine sanctuaries.

Written comments were to be submitted to the Office of Coastal Environment (now the Office of Coastal Zone Management), National Oceanic and Atmospheric Administration, before April 8, 1974, and consideration has been given those comments.

The Act recognizes that the coastal zone is rich in a variety of natural, commercial, recreational, industrial and esthetic resources of immediate and potential value to the present and future well-being of the nation. States are encouraged to develop and implement management programs to achieve wise use of the resources of the coastal zone, and the Act authorizes Federal grants to the States for these purposes (sections 305 and 306).

In addition, under section 312 of the Act, the Secretary of Commerce is authorized to make available to a coastal State grants of up to 50 per centum of the cost of acquisition, development and operation of estuarine sanctuaries. The guidelines contained in this part are for grants under section 312.

In general, section 312 provides that grants may be awarded to States on a matching basis to acquire, develop and operate natural areas as estuarine sanctuaries in order that scientists and students may be provided the opportunity to examine over a period of time ecological relationships within the area. The purpose of these guidelines is to establish the rules and regulations for implementation of this program.

The National Oceanic and Atmospheric Administration is publishing herewith the final regulations describing the procedures for applications to receive grants for estuarine sanctuaries under section 312 of the Act. The final regulations and criteria were revised from the proposed guidelines based on the comments received. A total of fifty (50) States, agencies, organizations and individuals submitted responses to the proposed section 312 guidelines published in the FEDERAL REGISTER on March 7, 1974. Of those responses received, eight (8) offered no comment or were wholly favorable as to the nature and content of the guidelines as originally proposed. Forty-two (42) commentators submitted suggestions concerning the proposed section 312 guidelines.

The following summary analyzes key comments received on various sections of the proposed regulations and presents the rationale for the responses made.

Section 921.2 *Definitions*. Three comments requested that the term "estuary" be defined. Although the term is defined in the Act and also in the regulations dealing with Coastal Zone Management Program Development Grants (Part 920 of this chapter) published November 29, 1973, it has been added to these regulations and broadened slightly to include marine lagoons with restricted freshwater input such as might occur along the south Texas coast.

Two other comments requested that the "primary purpose" referred to in § 921.2(b) be clearly defined. Although elaborated upon in § 921.3(a), for the purpose of clarity this change has been made.

Section 921.3 *Objectives and Implementation*. Several comments suggested that the estuarine sanctuary program objectives were too narrowly defined and specifically that they should be broadened to include the acquisition and preservation of unique or endangered estuaries for wildlife or ecological reasons. Although the Act (section 302) declares it the nation's policy to preserve, protect, develop, and where possible, to restore or enhance coastal resources, this is perceived to be achievable through State actions pursuant to sections 305 and 305. While it is recognized that the creation of an estuarine sanctuary may in fact serve to preserve or protect an area or biological community, the legislative history of section 312 clearly indicates the estuarine sanctuary program was not intended to duplicate existing broad purpose Federal preservation programs, such as might be accommodated by use of the Land and Water Conservation Fund Act. Instead, both in the Act as well as its legislative history, the objective is defined as preserving representative estuarine areas for long-term research and educational uses.

Three other comments suggested the objectives of the program should be enlarged to include the restoration of environmentally degraded areas. This, too, is perceived to be a State requirement separate from section 312. In addition, adequate authority for restoring degraded water areas now exists (for example, Pub. L. 92–500 in addition to sections 302, 305 and 306 of the Act). No significant additional benefit would appear to result from declaring an area an estuarine sanctuary for the purposes of restoration.

A few comments indicated that the examples of sanctuary use were too heavily weighted toward scientific uses to the exclusion of educational uses. Public education concerning the value and benefits of, and the nature of conflict within the coastal zone, will be essential to the success of a coastal zone management program. The section has been changed to reflect an appropriate concern for educational use.

Some commentators suggested changes in or additions to the specific examples of sanctuary uses and purposes. These examples were taken from the Senate and House Committee Reports and are considered sufficient to reflect the kinds of uses intended within an estuarine sanctuary.

Several comments were received pertaining to § 921.3(c) involving the restrictions against overemphasis of destructive or manipulative research. Ten comments indicated that the section was too weak and would not provide sufficient long-term protection for the sanctuary ecosystem. Several commentators specifically recommended deleting the words "would not normally be permitted" and inserting in their place "will not be permitted." In contrast, three respondents indicated that the potential use of estuarine sanctuaries for manipulative or destructive research was too restricted, and that these uses should be generally permitted if not encouraged.

The legislative history of section 312 clearly indicates that the intent of the estuarine sanctuary program should be to preserve representative estuarine areas so that they may provide long-term (virtually permanent) scientific and educational use. The uses perceived are compatible with what has been defined as "research natural areas." In an era of rapidly degrading estuarine environments, the estuarine sanctuary program will ensure that a representative series of natural areas will be available for scientific or educational uses dependent on that natural character, for example, for baseline studies, for use in understanding the functioning of natural ecological systems, for controls against which the impacts of development in other areas might be compared, and as interpretive centers for educational purposes. Any use, research or otherwise, which would destroy or detract from the natural system, would be inappropriate under this program.

In general, the necessity of or benefit from permitting manipulative or destructive research within an estuarine sanctuary is unclear. While there is a legitimate need for such kinds of research, ample opportunity for manipulative or destructive research to assess directly man's impact or stresses on the estuarine environment exists now without the need for creation or use of an estuarine sanctuary for this purpose. In contrast, a clear need exists for natural areas to serve as controls for manipulative research or research on altered systems.

The section on manipulative research has been changed to reflect the concern for continued maintenance of the area as a natural system. However, the modifier "normally" has been retained because, within these limits, it is not felt necessary to preclude all such uses; the occasion may rarely arise when because of a thoroughly demonstrated direct benefit, such research may be permitted.

Several comments suggested that the program should include degraded estuarine systems, rather than be limited to areas which are "relatively undisturbed by human activities." Such areas would permit research efforts designed to restore an estuarine area. As indicated

above, an ample legislative mandate to restore environmentally degraded areas already exists; the benefits to be derived from declaring such areas estuarine sanctuaries would be marginal. Indeed, it would appear that if restoration efforts cannot occur without estuarine sanctuary designation, then, given the limited resources of this program, such efforts would not be feasible.

A few commentators suggested that the phrase (§ 921.3(e)) "if sufficient permanence and control by the State can be assured, the acquisition of a sanctuary may involve less than the acquisition of a fee simple interest" be more clearly defined. Explanatory language has been added to that section.

Section 921.4 *Zoogeographic Classification.* Because the classification scheme utilized plants as well as animals, two commentators suggested that zoogeographic be changed to biogeographic. This change is reflected in the final regulations.

One comment suggested that selection of sanctuaries should depend on the pressures and threats being brought to bear upon the natural areas involved even if this meant selecting several sanctuaries from one classification and none from another.

The legislative history of section 312 clearly shows the intent to select estuarine sanctuaries on a rational basis which would reflect regional differentiation and a variety of ecosystems. The biogeographic classification system, which reflects geographic, hydrographic, and biologic differences, fulfills that intention. A scheme which would abandon that system, or another similar one, and would not fulfill the requirements of providing regional differentiation and a variety of ecosystems, would not be consistent with the intended purpose of the Act.

A few comments received suggested that the biogeographic classification scheme be enlarged by the addition of a new class reflecting an area or State of special concern or interest to the respondent. (No two commentators suggested the same area.) It is felt that adequate national representation is provided by the biogeographic scheme proposed, and that the changes offered were in most cases examples of sub-categories that might be utilized.

One comment suggested a specific change in the definition of the "Great Lakes" category. Portions of that suggestion have been incorporated into the final rules.

Two commentators requested assurance that sub-categories of the biogeographic scheme will in fact be utilized. The final language substitutes "will be developed and utilized" for "may be developed and utilized."

Section 921.5 *Multiple Use.* Several comments were received pertaining to the multiple use concept. Three commentators suggested that the multiple use directive was contrary to or absent from the Act and should be omitted. Ten respondents felt the concept should be more explicitly defined and restricted so that the primary purpose of the sanctuary would be more clearly protected. In contrast, two commentators felt that the definition might prove too restrictive and should be broadened. Several commentators suggested that examples of anticipated multiple use might be appropriate.

While recognizing that it is not always possible to accommodate more than a single use in an environmentally sensitive area, it is not the intention to unnecessarily preclude the uses of sanctuary areas where they are clearly compatible with and do not detract from the long-term protection of the ecosystem for scientific and educational purposes. The language of § 921.5 has been changed accordingly.

Section 921.6 *Relationship to Other Provisions of the Act and to Marine Sanctuaries.* Several comments were received which commended and stressed the need for close coordination between the development of State coastal zone management programs, especially and land and water use controls, and the estuarine sanctuary program.

The relationship between the two programs is emphasized: estuarine sanctuaries should provide benefit—both short-term and long-term—to coastal zone management decision-makers; and State coastal zone management programs must provide necessary protection for estuarine sanctuaries. This necessary coordination is discussed not only in the estuarine sanctuary regulations, but will also be addressed in an appropriate fashion in guidelines and rules for Coastal Zone Management Program Approval Criteria and Administrative Grants.

Three commentators discussed the need for swift action by both State and Federal governments to establish and acquire estuarine sanctuaries. The Office of Coastal Zone Management intends to pursue the program as swiftly as available manpower restraints will permit.

A few comments sought reassurance that the estuarine sanctuaries program will in fact be coordinated with the Marine Sanctuaries Program (Title III, Pub. L. 92-532). The guidelines have been changed to reflect that both programs will be administered by the same office.

Subpart B—Application for Grants

Section 921.10 *General.* One reviewer indicated uncertainty about which State agency may submit applications for grants under section 312. Although individual States may vary in the choice of individual agencies to apply for an estuarine sanctuary, because of the necessity for coordination with the State coastal zone management program the entity within the State which is the certified contact with the Office of Coastal Zone Management, NOAA, responsible for the administration of the coastal zone management program must endorse or approve an estuarine sanctuary application.

Appropriate language has been included to ensure this coordination.

Section 921.11 *Initial Application for Acquisition, Development and Operation Grants.* Two comments requested that the source and nature of acceptable matching funds should be explicitly identified.

OMB Circular A-102 generally defines and identifies legitimate "match" for Federal grant projects. In general, reference should be made to that document. However, the section has been expanded in response to some specific and frequent questions.

Two comments stressed the need for increased availability of research funds to adequately utilize the potential of estuarine sanctuaries. While not an appropriate function of the estuarine sanctuary program, the Office of Coastal Zone Management is discussing the necessity of adequate funding with appropriate agencies.

One comment suggested that the term "legal description" of the sanctuary (§ 921.11(a)) is not appropriate for all categories of information requested. The word "legal" has been omitted.

Three reviewers indicated that the Act provides no basis for consideration of socio-economic impacts (§ 921.11(i)) and that this criterion seemed inappropriate to selecting estuarine sanctuaries. Apparently these reviewers misunderstood the intention of this requirement. The information in this section is necessary for preparation of an environmental impact statement which will be prepared pursuant to NEPA. Although required in the application, such information is not a part of the selection criteria, which are addressed in Subpart C, § 921.20.

One similar comment was received with regard to consideration of existing and potential uses and conflicts (§ 921.11(h)). This item is also discussed under selection criteria (§ 921.20(h)). It is intended that this criterion will only be considered when choosing between two or more sanctuary applications within the same biogeographic category which are of otherwise equal merit.

One comment drew attention to an apparent typographic error in § 921.11 (m) where the term "marine estuaries" seems out of context. This has been corrected.

Two commentators suggested that public hearings should be required in the development of an estuarine sanctuary application. Although such a hearing is deemed desirable by the Office of Coastal Zone Management, it would not always seem to be necessary. The language in § 920.11(1) has been changed to reflect the sincere concern for the adequate involvement of the public, which is also addressed under a new § 920.21.

One respondent suggested that a new section be added requiring the applicant to discuss alternative methods of acquisition or control of the area, including the designation of a marine sanctuary, in place of establishing an estuarine sanctuary. A new section (§ 920.11(n)) has been added for this purpose.

Section 921.12 *Subsequent Application for Development and Operation Grants.* Three commentators expressed concern that the intent of § 921.12 be more clearly expressed. Appropriate changes have been made.

One comment was made that a provision should be included to use existing Federally owned land for the purpose of the estuarine sanctuary program. A section has been added for that purpose.

Section 921.20 *Criteria for Selection.* One comment suggested that the consideration of conflict with existing or potential competing uses should not be included as a selection criterion. As discussed above, this criterion is considered appropriate.

Another reviewer suggested the addition of a new criterion, consideration of "the need to protect a particular estuary from harmful development." As discussed earlier, this criterion is not considered appropriate. Such a basis for determining selection would lead to a reactionary, random series of estuarine sanctuaries, rather than the rationally chosen representative series mandated in the legislative history.

Two reviewers commented that the limitation on the Federal share ($2,000,000 for each sanctuary) was too low and would severely restrict the usefulness of the program. However, this limitation is provided by the Act.

Another commentator suggested that § 921.20(g) was unnecessarily restrictive in that it might prevent selecting an estuarine sanctuary in an area adjacent to existing preserved lands where the conjunction might be mutually beneficial. The language of § 921.20(g) does not preclude such action, but has been changed to specifically permit this possibility.

Two commentators inquired whether the reference to a "draft" environmental impact statement (§ 921.20, last paragraph) indicated an intention to avoid further compliance with NEPA. It is the firm intention of the Office of Coastal Zone Management to fully comply in all respects with NEPA. The word "draft" has been struck.

Three reviewers addressed the problems of providing adequate public participation in the review and selection process. In addition to the change in § 920.11(1), a new section has been added to address this issue.

SUBPART D—OPERATION

Section 921.30 *General.* One commentator suggested that during contract negotiations, there should be a meeting between the applicant agency and proposed sanctuary management team, and representatives of the Office of Coastal Zone Management. The general provisions have been broadened to provide for this suggestion.

Two comments were submitted which urged that some discretion be exercised in the use and access to the sanctuary by scientists and students. Two other comments were received which requested specific protection for use by the general public. The guidelines have been changed to include these suggestions.

One comment was received suggesting language to clarify § 921.30(g), This was incorporated into the guidelines.

Two commentators expressed concern for enforcement capabilities and activities to ensure protection of the estuarine sanctuaries. A new section has been added which addresses this issue.

Finally, one suggestion was received that a vehicle for change in the management policy or research programs should be provided. A new section has been added for that purpose.

Accordingly, having considered the comments received and other relevant information, the Secretary concludes by adopting the final regulations describing the procedure for applications to receive estuarine sanctuary grants under section 312 of the Act, as modified and set forth below.

Effective date: June 3, 1974.

Dated: May 31, 1974.

ROBERT M. WHITE,
Administrator.

Subpart A—General

Sec.

921.1 Policy and objectives.
921.2 Definitions.
921.3 Objectives and implementation of the program.
921.4 Biogeographic classification.
921.5 Multiple use.
921.6 Relationship to other provisions of the Act and to marine sanctuaries.

Subpart B—Application for Grants

921.10 General.
921.11 Application for initial acquisition, development and operation grants.
921.12 Application for subsequent development and operation grants.
921.13 Federally owned lands.

Subpart C—Selection Criteria

921.20 Criteria for selection.
921.21 Public participation.

Subpart D—Operation

921.30 General.
921.31 Changes in the sanctuary boundary, management policy or research program.
921.32 Program review.

AUTHORITY: Sec. 312 of the Coastal Zone Management Act of 1972 (Pub. L. 92-583, 86 Stat. 1280).

Subpart A—General

§ 921.1 Policy and Objectives.

The estuarine sanctuaries program will provide grants to States on a matching basis to acquire, develop and operate natural areas as estuarine sanctuaries in order that scientists and students may be provided the opportunity to examine over a period of time the ecological relationships within the area. The purpose of these guidelines is to establish the rules and regulations for implementation of the program.

§ 921.2 Definitions.

(a) In addition to the definitions found in the Act and in the regulations dealing with Coastal Zone Management Program Development Grants published November 29, 1973 (Part 920 of this chapter) the term "estuarine sanctuary" as defined in the Act, means a research area which may include any part or all of an estuary, adjoining transitional areas, and adjacent uplands, constituting to the extent feasible a natural unit, set aside to provide scientists and students the opportunity to examine over a period of time the ecological relationships within the area.

(b) For the purposes of this section, "estuary" means that part of a river or stream or other body of water having unimpared connection with the open sea where the seawater is measurably diluted with freshwater derived from land drainage. The term includes estuary-type areas of the Great Lakes as well as lagoons in more arid coastal regions.

(c) The term "multiple use" as used in this section shall mean the simultaneous utilization of an area or resource for a variety of compatible purposes or to provide more than one benefit. The term implies the long-term, continued uses of such resources in such a fashion that other uses will not interfere with, diminish or prevent the primary purpose, which is the long-term protection of the area for scientific and educational use.

§ 921.3 Objectives and implementation of the program.

(a) General. The purpose of the estuarine sanctuaries program is to create natural field laboratories in which to gather data and make studies of the natural and human processes occurring within the estuaries of the coastal zone. This shall be accomplished by the establishment of a series of estuarine sanctuaries which will be designated so that at least one representative of each type of estuarine ecosystem will endure into the future for scientific and educational purposes. The primary use of estuarine sanctuaries shall be for research and educational purposes, especially to provide some of the information essential to coastal zone management decision-making. Specific examples of such purposes and uses include but are not limited to:

(1) To gain a thorough understanding of the ecological relationships within the estuarine environment.

(2) To make baseline ecological measurements.

(3) To monitor significant or vital changes in the estuarine environment.

(4) To assess the effects of man's stresses on the ecosystem and to forecast and mitigate possible deterioration from human activities.

(5) To provide a vehicle for increasing public knowledge and awareness of the complex nature of estuarine systems, their values and benefits to man and nature, and the problems which confront them.

(b) The emphasis within the program will be on the designation as estuarine sanctuaries of areas which will serve as natural field laboratories for studies and investigations over an extended period. The area chosen as an estuarine sanctuary shall, to the extent feasible, include water and land masses constituting a natural ecological unit.

(c) In order that the estuarine sanctuary will be available for future studies, research involving the destruction of any portion of an estuarine sanctuary which would permanently alter the nature of the ecosystem shall not normally be

permitted. In the unusual circumstances where permitted, manipulative field research shall be carefully controlled. No experiment which involves manipulative research shall be initiated until the termination date is specified and evidence given that the environment will be returned to its condition which existed prior to the experiment.

(d) It is anticipated that most of the areas selected as sanctuaries will be relatively undisturbed by human activities at the time of acquisition. Therefore, most of the areas selected will be areas with a minimum of development, industry or habitation.

(e) If sufficient permanence and control by the State can be assured, the acquisition of a sanctuary may involve less than the acquisition of a fee simple interest. Such interest may be, for example, the acquisition of a conservation easement, "development rights", or other partial interest sufficient to assure the protection of the natural system. Leasing, which would not assure permanent protection of the system, would not be an acceptable alternative.

§ 921.4 Biogeographic classification.

(a) It is intended that estuarine sanctuaries should not be chosen at random, but should reflect regional differentiation and a variety of ecosystems so as to cover all significant variations. To ensure adequate representation of all estuarine types reflecting regional differentiation and a variety of ecosystems, selections will be made by the Secretary from the following biogeographic classifications:

1. *Arcadian.* Northeast Atlantic coast south to Cape Cod, glaciated shoreline subject to winter icing; well developed algal flora; boreal biota.

2. *Virginian.* Middle Atlantic coast from Cape Cod to Cape Hatteras; lowland streams, coastal marshes and muddy bottoms; characteristics transitional between 1 and 3; biota primarily temperate with some boreal representatives.

3. *Carolinian.* South Atlantic coast, from Cape Hatteras to Cape Kennedy; extensive marshes and swamps; waters turbid and productive; biota temperate with seasonal tropical elements.

4. *West Indian.* South Florida coast from Cape Kennedy to Cedar Key; and Caribbean Islands; shoreland low-lying limestone; calcareous sands, marls and coral reefs; coastal marshes and mangroves; tropical biota.

5. *Louisianian.* Northern Gulf of Mexico, from Cedar Key to Mexico; characteristics of 3, with components of 4; strongly influenced by terrigenous factors; biota primarily temperate.

6. *Californian.* South Pacific coast from Mexico to Cape Mendocino; shoreland influenced by coastal mountains; rocky coasts with reduced fresh-water runoff; general absence of marshes and swamps; biota temperate.

7. *Columbian.* North Pacific coast from Cape Mendocino to Canada; mountaineous shoreland; rocky coasts; extensive algal communities; biota primarily temperate with some boreal.

8. *Fiords.* South coast Alaska and Aleutians; precipitous mountains; deep estuaries, some with glaciers; shoreline heavily indented and subject to winter icing; biota boreal to sub-Arctic.

9. *Subarctic.* West and north coasts of Alaska; ice stressed coasts; biota Arctic and sub-Arctic.

10. *Insular.* Larger islands, sometimes with precipitous mountains; considerable wave action; frequently with endemic species; larger island groups primarily with tropical biota.

11. *Great Lakes.* Great Lakes of North America; bluff-dune or rocky, glaciated shoreline; limited wetlands; freshwater only; biota a mixture of boreal and temperate species with anadromous species and some marine invaders.

(b) Various sub-categories will be developed and utilized as appropriate.

§ 921.5 Multiple use.

(a) While the primary purpose of estuarine sanctuaries is to provide long-term protection for natural areas so that they may be used for scientific and educational purposes, multiple use of estuarine sanctuaries will be encouraged to the extent that such use is compatible with this primary sanctuary purpose. The capacity of a given sanctuary to accommodate additional uses, and the kinds and intensity of such use, will be determined on a case by case basis. While it is anticipated that compatible uses may generally include activities such as low intensity recreation, fishing, hunting, and wildlife observation, it is recognized that the exclusive use of an area for scientific or educational purposes may provide the optimum benefit to coastal zone management and resource use and may on occasion be necessary.

(b) There shall be no effort to balance or optimize uses of an estuarine sanctuary on economic or other bases. All additional uses of the sanctuary are clearly secondary to the primary purpose and uses, which are long-term maintenance of the ecosystem for scientific and educational uses. Non-compatible uses, including those uses which would cause significant short or long-term ecological change or would otherwise detract from or restrict the use of the sanctuary as a natural field laboratory, will be prohibited.

§ 921.6 Relationship to other provisions of the act and to marine sanctuaries.

(a) The estuarine sanctuary program must interact with the overall coastal zone management program in two ways: (1) the intended research use of the sanctuary should provide relevant data and conclusions of assistance to coastal zone management decision-making, and (2) when developed, the State's coastal zone management program must recognize and be designed to protect the estuarine sanctuary; appropriate land and water use regulations and planning considerations must apply to adjacent lands. Although estuarine sanctuaries should be incorporated into the State coastal zone management program, their designation need not await the development and approval of the management program where operation of the estuarine sanctuary would aid in the development of a program.

(b) The estuarine sanctuaries program will be conducted in close cooperation with the marine sanctuaries program (Title III of the Marine Protection, Research Act of 1972, Pub. L. 92–532, which is also administered by the Office of Coastal Zone Management, NOAA), which recognizes that certain areas of the ocean waters, as far seaward as the outer edge of the Continental Shelf, or other coastal waters where the tide ebbs and flows, or of the Great Lakes and their connecting waters, need to be preserved or restored for their conservation, recreational, ecologic or esthetic values. It is anticipated that the Secretary on occasion may establish marine sanctuaries to complement the designation by States of estuarine sanctuaries, where this may be mutually beneficial.

Subpart B—Application for Grants

§ 921.10 General.

Section 312 authorizes Federal grants to coastal States so that the States may establish sanctuaries according to regulations promulgated by the Secretary. Coastal States may file applications for grants with the Director, Office of Coastal Zone Management, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, Rockville, Maryland 20852. That agency which has been certified to the Office of Coastal Zone Management as the entity responsible for administration of the State coastal zone management program may either submit an application directly, or must endorse and approve applications submitted by other agencies within the State.

§ 921.11 Application for initial acquisition, development and operation grants.

(a) Grants may be awarded on a matching basis to cover the costs of acquisition, development and operation of estuarine sanctuaries. States may use donations of land or money to satisfy all or part of the matching cost requirements.

(b) In general, lands acquired pursuant to this section, including State owned lands but not State owned submerged lands or bay bottoms, that occur within the proposed sanctuary boundary are legitimate costs and their fair market value may be included as match. However, the value of lands donated to or by the State for inclusion in the sanctuary may only be used to match other costs of land acquisition. In the event that lands already exist in a protected status, their value cannot be used as match for sanctuary development and operation grants, which will require their own matching funds.

(c) Development and operation costs may include the administrative expenses necessary to monitor the sanctuary, to ensure its continued viability and to protect the integrity of the ecosystem. Research will not normally be funded by Section 312 grants. It is anticipated that other sources of Federal, State and

private funds will be available for research in estuarine sanctuaries.

(d) Initial applications should contain the following information:

(1) Description of the proposed sanctuary include location, boundaries, size and cost of acquisition, operation and development. A map should be included, as well as an aerial photograph, if available.

(2) Classification of the proposed sanctuary according to the biogeographic scheme set forth in § 921.4.

(3) Description of the major physical, geographic and biological characteristics and resources of the proposed sanctuary.

(4) Identification of ownership patterns; proportion of land already in the public domain.

(5) Description of intended research uses, potential research organizations or agencies and benefits to the overall coastal zone management program.

(6) Demonstration of necessary authority to acquire or control and manage the sanctuary.

(7) Description of proposed management techniques, including the management agency, principles and proposed budget including both State and Federal shares.

(8) Description of existing and potential uses of and conflicts within the area if it were not declared an estuarine sanctuary; potential use, use restrictions and conflicts if the sanctuary is established.

(i) Assessment of the environmental and socio-economic impacts of declaring the area an estuarine sanctuary, including the economic impact of such a designation on the surrounding community and its tax base.

(9) Description of planned or anticipated land and water use and controls for contiguous lands surrounding the proposed sanctuary (including if appropriate an analysis of the desirability of creating a marine sanctuary in adjacent areas).

(10) List of protected sites, either within the estuarine sanctuaries program or within other Federal, State or private programs, which are located in the same regional or biogeographic classification.

(i) It is essential that the opportunity be provided for public involvement and input in the development of the sanctuary proposal and application. Where the application is controversial or where controversial issues are addressed, the State should provide adequate means to ensure that all interested parties have the opportunity to present their views. This may be in the form of an adequately advertised public hearing.

(ii) During the development of an estuarine sanctuary application, all landowners within the proposed boundaries should be informed in writing of the proposed grant application.

(iii) The application should indicate the manner in which the State solicited the views of all interested parties prior to the actual submission of the application.

(e) In order to develop a truly representative scheme of estuarine sanctuaries, the States should attempt to coordinate their activities. This will help to minimize the possibility of similar estuarine types being proposed for designation in the same region. The application should indicate the extent to which neighboring States were consulted.

(f) Discussion, including cost and feasibility, of alternative methods for acquisition, control and protection of the area to provide similar uses. Use of the Marine Sanctuary authority and funds from the Land and Water Conservation Fund Act should be specifically addressed.

§ 921.12 Application for subsequent development and operation grants.

(a) Although the initial grant application for creation of an estuarine sanctuary should include initial development and operation costs, subsequent applications may be submitted following acquisition and establishment of an estuarine sanctuary for additional development and operation funds. As indicated in § 921.11, these costs may include administrative costs necessary to monitor the sanctuary and to protect the integrity of the ecosystem. Extensive management programs, capital expenses, or research will not normally be funded by section 312 grants.

(b) After the creation of an estuarine sanctuary established under this program, applications for such development and operation grants should include at least the following information:

(1) Identification of the boundary.

(2) Specifications of the management program, including managing agency and techniques.

(3) Detailed budget.

(4) Discussion of recent and projected use of the sanctuary.

(5) Perceived threats to the integrity of the sanctuary.

§ 921.13 Federally owned lands.

(a) Where Federally owned lands are a part of or adjacent to the area proposed for designation as an estuarine sanctuary, or where the control of land and water uses on such lands is necessary to protect the natural system within the sanctuary, the State should contact the Federal agency maintaining control of the land to request cooperation in providing coordinated management policies. Such lands and State request, and the Federal agency response, should be identified and conveyed to the Office of Coastal Zone Management.

(b) Where such proposed use or control of Federally owned lands would not conflict with the Federal use of their lands, such cooperation and coordination is encouraged to the maximum extent feasible.

(c) Section 312 grants may not be awarded to Federal agencies for creation of estuarine sanctuaries in Federally owned lands; however, a similar status may be provided on a voluntary basis for Federally owned lands under the provisions of the Federal Committee on Ecological Preserves program.

Subpart C—Selection Criteria

§ 921.20 Criteria for selection.

Applications for grants to establish estuarine sanctuaries will be reviewed and judged on criteria including:

(a) Benefit to the coastal zone management program. Applications should demonstrate the benefit of the proposal to the development or operations of the overall coastal zone management program, including how well the proposal fits into the national program of representative estuarine types; the national or regional benefits; and the usefulness in research.

(b) The ecological characteristics of the ecosystem, including its biological productivity, diversity and representativeness. Extent of alteration of the natural system, its ability to remain a viable and healthy system in view of the present and possible development of external stresses.

(c) Size and choice of boundaries. To the extent feasible, estuarine sanctuaries should approximate a natural ecological unit. The minimal acceptable size will vary greatly and will depend on the nature of the ecosystem.

(d) Cost. Although the Act limits the Federal share of the cost for each sanctuary to $2,000,000, it is anticipated that in practice the average grant will be substantially less than this.

(e) Enhancement of non-competitive uses.

(f) Proximity and access to existing research facilities.

(g) Availability of suitable alternative sites already protected which might be capable of providing the same use or benefit. Unnecessary duplication of existing activities under other programs should be avoided. However, estuarine sanctuaries might be established adjacent to existing preserved lands where mutual enhancement or benefit of each might occur.

(h) Conflict with existing or potential competing uses.

(i) Compatibility with existing or proposed land and water use in contiguous areas.

If the initial review demonstrates the feasibility of the application, an environmental impact statement will be prepared by the Office of Coastal Zone Management in accordance with the National Environmental Policy Act of 1969 and implementing CEQ guidelines.

§ 921.21 Public participation.

Public participation will be an essential factor in the selection of estuarine sanctuaries. In addition to the participation during the application development process (§ 921.11(e)), public participation will be ensured at the Federal level by the NEPA process and by public hearings where desirable subsequent to NEPA. Such public hearings shall be held by the Office of Coastal Zone Management in the area to be affected by the proposed sanctuary no sooner than 30 days after it issues a draft environmental impact

statement on the sanctuary proposal. It will be the responsibility of the Office of Coastal Zone Management, with the assistance of the applicant State, to issue adequate public notice of its intention to hold a public hearing. Such public notice shall be distributed widely, especially in the area of the proposed sanctuary; affected property owners and those agencies, organizations or individuals with an identified interest in the area or estuarine sanctuary program shall be notified of the public hearing. The public notice shall contain the name, address and phone number of the appropriate Federal and State officials to contact for additional information about the proposal.

Subpart D—Operation

§ 921.30 General.

Management of estuarine sanctuaries shall be the responsibility of the applicant State or its agent. However, the research uses and management program must be in conformance with these guidelines and regulations, and others implemented by the provisions of individual grants. It is suggested that prior to the grant award, representatives of the proposed sanctuary management team and the Office of Coastal Zone Management meet to discuss management policy and standards. It is anticipated that the grant provisions will vary with individual circumstances and will be mutually agreed to by the applicant and the granting agency. As a minimum, the grant document for each sanctuary shall:

(a) Define the intended research purposes of the estuarine sanctuary.

(b) Define permitted, compatible, restricted and prohibited uses of the sanctuary.

(c) Include a provision for monitoring the uses of the sanctuary, to ensure compliance with the intended uses.

(d) Ensure ready access to land use of the sanctuary by scientists, students and the general public as desirable and permissible for coordinated research and education uses, as well as for other compatible purposes.

(e) Ensure public availability and reasonable distribution of research results for timely use in the development of coastal zone management programs.

(f) Provide a basis for annual review of the status of the sanctuary, its value to the coastal zone program.

(g) Specify how the integrity of the system which the sanctuary represents will be maintained.

(h) Provide adequate authority and intent to enforce management policy and use restrictions.

§ 921.31 Changes in the sanctuary boundary, management policy or research program.

(a) The approved sanctuary boundaries; management policy, including permissible and prohibited uses; and research program may only be changed after public notice and the opportunity of public review and participation such as outlined in § 921.21.

(b) Individuals or organizations which are concerned about possible improper use or restriction of use of estuarine sanctuaries may petition the State management agency and the Office of Coastal Zone Management directly for review of the management program.

§ 921.32 Program review.

It is anticipated that reports will be required from the applicant State on a regular basis, no more frequently than annually, on the status of each estuarine sanctuary. The estuarine sanctuary program will be regularly reviewed to ensure that the objectives of the program are being met and that the program itself is scientifically sound. The key to the success of the estuarine sanctuaries program is to assure that the results of the studies and research conducted in these sanctuaries are available in a timely fashion so that the States can develop and administer land and water use programs for the coastal zone. Accordingly, all information and reports, including annual reports, relating to estuarine sanctuaries shall be part of the public record and available at all times for inspection by the public.

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