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PART I



A REMINDER:

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MEMORANDUM OF OCTOBER 29, 1974

[Presidential Determination No. 75–2]

Eligibility of Kenya, the Malagasy Republic, and Mauritius to Make Cash Purchases of Defense Articles and Defense Services Under The Foreign Military Sales Act as Amended

Memorandum for the Secretary of State

THE WHITE HOUSE, *Washington, October 29, 1974.*

Pursuant to the authority vested in me by Section 3(a)(1) of the Foreign Military Sales Act, as amended, I hereby find that the cash sale of defense articles and defense services to the Governments of Kenya, the Malagasy Republic, and Mauritius will strengthen the security of the United States and promote world peace.

You are directed on my behalf to report this finding to the Congress.

This finding, which amends Presidential Determination No. 73–10 of January 2, 1973 (38 F.R. 7211), as amended by Presidential Determinations No. 73–12 of April 26, 1973 (38 F.R. 12799), and No. 74–9 of December 13, 1973 (39 F.R. 3537), shall be published in the FEDERAL REGISTER.

Gerald R. Ford

[FR Doc.74–26561 Filed 11–8–74;2:10 pm]

MEMORANDUM OF OCTOBER 29, 1974

[Presidential Determination No. 75–3]

Military Assistance and Sales to Turkey

Memorandum for the Secretary of State

THE WHITE HOUSE, *Washington, October 29, 1974.*

By virtue of the authority vested in me by Section 6 of Public Law 93–448, I hereby determine that the suspension of the provisions of that section, section 505(d) of the Foreign Assistance Act of 1961, as amended, and sections 3(c) and 3(d) of the Foreign Military Sales Act, as amended, in the case of Turkey will further negotiations for a peaceful solution of the Cyprus conflict, and I, therefore, suspend the provisions of those sections.

You are requested, on my behalf, to report this determination to the Congress.

This determination shall be published in the FEDERAL REGISTER.

Gerald R. Ford

[FR Doc.74–26562 Filed 11–8–74;2:10 pm]

rules and regulations

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

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

Title 14—Aeronautics and Space

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER B—PROCEDURAL REGULATIONS

[Reg. PR-141, Amdt. 23]

PART 302—RULES OF PRACTICE IN ECONOMIC PROCEEDINGS

Definition of "Parties"

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., November 7, 1974.

The Office of Consumer Affairs was established in December 1970 to serve as the Board's point of contact with users of air transportation and to achieve the Board's policy goal of an informed public. To a large degree, the office has been concerned with consumer complaints and advice to the Board concerning consumer matters. The office has been highly effective in focusing attention on the problems and requirements of users of air transportation. On review of its functions, we believe that its effectiveness would be enhanced by enabling it to participate directly as a party in appropriate Board proceedings.

The public interest is of course represented by counsel for the Bureau of Economics, the Bureau of Operating Rights, or the Bureau of Enforcement. These bureaus participate and take positions based on a broad range of concerns and reflecting all aspects of the public interest. But while their evaluation of policy factors encompasses consumer concerns, participation by the office directly and exclusively occupied with these matters would permit a more thorough exploration of consumer issues. In addition, it would give both the Administrative Law Judges and the Board the benefit of the specialized knowledge and expertise which that office is in a unique position to acquire.

We are therefore here amending our Rules of Practice to provide for participation of this office as a party in Board proceedings. In addition, by OR-90, issued simultaneously herewith, we are amending our Organization Regulations, Part 384, to redesignate the Office of Consumer Affairs the "Office of the Consumer Advocate" and to reflect, in the description of its role, the office's enlarged functions.

Since this regulation is a rule of agency organization and practice, the Board finds that notice and public procedure hereon are unnecessary and that it may become effective immediately.

Accordingly, the Civil Aeronautics Board hereby amends Part 302 of its Procedural Regulations (14 CFR Part 302) effective November 7, 1974, as follows:

Amend § 302.9 to read as follows:

§ 302.9 Parties.

The term "party" wherever used in this part shall include any individual, firm, partnership, corporation, company, association, joint stock association, or body politic, and any trustee, receiver, assignee or legal successor thereof, and shall include the Bureaus of the Board and the Office of the Consumer Advocate in any proceeding.

(Sec. 204(a) of the Federal Aviation Act of 1958, as amended, 72 Stat. 743; (49 U.S.C. 1324); Pub. L. 92-463, 86 Stat. 770, 5 U.S.C. App. I)

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.74-26469 Filed 11-11-74;8:45 am]

SUBCHAPTER E—ORGANIZATION REGUATIONS

[Regulation OR-90, Amdt. 5]

PART 384—STATEMENT OF ORGANIZATION, DELEGATION OF AUTHORITY, AND AVAILABILITY OF RECORDS AND INFORMATION

Redesignation of Office of Consumer Affairs as "Office of the Consumer Advocate" and Amendment of Description of Functions

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., November 7, 1974.

By PR-141, issued simultaneously herewith, the Board has adopted a rule providing for participation of the Office of Consumer Affairs as a party in appropriate proceedings. Consistent with that action, we are here amending the description of the functions of that office to reflect the office's role as a party in proceedings and as advisor to the Board on consumer matters. We are also redesignating that office the "Office of the Consumer Advocate."

Since this regulation is a rule of agency organization and practice, the Board finds that notice and public procedure hereon are unnecessary and that it may become effective immediately.

In consideration of the foregoing, the Civil Aeronautics Board hereby amends Part 384 of the Organizational Regulations (14 CFR Part 384) effective November 7, 1974, as follows:

Amend § 384.7 to read as follows:

§ 384.7 Organization and delegation of authority.

* * * * *

(a) * * *

(7) The Office of the Consumer Advocate, which operates programs and provides services designed to achieve the Board's policy goal of an informed public, particularly air travelers, shippers, and individual investors in any phase of air transportation; which advises the Board with respect to the concerns of users of air transportation; and which, where appropriate, participates in proceedings before the Board to insure presentation of those concerns.

* * * * *

(Sec. 204(a) of the Federal Aviation Act of 1958, as amended, 72 Stat. 743; (49 U.S.C. 1324); Pub. L. 92-463, 86 Stat. 770, 5 U.S.C. App. I.)

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.74-26470 Filed 11-11-74;8:45 am]

Title 13—Business Credit and Assistance

CHAPTER I—SMALL BUSINESS ADMINISTRATION

[Rev. 4, Amdt. 3]

PART 108—LOANS TO STATE AND LOCAL DEVELOPMENT COMPANIES

Interest Rate; Effective Date; Correction

The item concerning interest rates as published in the FEDERAL REGISTER on September 19, 1974 (39 FR 33689) is hereby corrected. It now reads as follows: Interest rate.

On August 23, 1974, Pub. L. 93-386 (88 Stat. 742) was approved establishing the rate of interest on section 7(a) business loans on a cost of money formula. Therefore, in keeping with the change the following amendment is made to Revision 4, § 108.502-1(h) covering loans to local development companies.

This change involves a matter peculiarly within the responsibility of the Agency; the desire to coordinate policies affecting all the Agency's programs; and the maintenance of the historical consistency of the interest rate in the affected program with the rate for section 7(a) business loan program. Further, comparatively recent comments had been solicited and considered.

This amendment is effective as of September 19, 1974.

§ 108.502-1 Section 502 loans.

* * * * *

(h) *Interest rate.* Interest rate on a direct section 502 loan to a development company and on SBA's share of a section 502 loan made in participation with another lending institution shall be at a rate determined annually by the Administrator consistent with the rate set for section 7(a) business loans. For the purposes of this paragraph, bank's share of the guaranteed participation shall be the

entire amount of the loan until such time as SBA shall actually purchase its participation.

* * * * *

Dated: November 5, 1974.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.74-26437 Filed 11-11-74;8:45 am]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 33-5536, IC-8568]

PART 230—RULES AND REGULATIONS, SECURITIES ACT OF 1933

Investment Company Advertising and Statement Required in Prospectus

On January 18, 1973, the Securities and Exchange Commission published notice (Securities Act Release No. 5357) (published in FEDERAL REGISTER for February 14, 1973 (38 FR 4417) that it had under consideration the amendment of Rule 134 under the Securities Act of 1933 (the "Act") (17 CFR 230.134, 15 U.S.C. 77a et seq.) and the adoption of Rule 425B (17 CFR 230.425b) under the Act. All interested persons were invited to submit their views and comments on the proposals. The notice was published prior to commencement of the mutual fund distribution hearings in February in order to provide concrete proposals as a basis for discussion at the hearings. The comment period was extended two weeks after the close of the hearings to April 20, 1973 [1] so that those wishing to comment might have an opportunity to consider the discussion of the proposals at the hearings. The Commission has considered the written comments and the relevant presentations at the hearings and has determined to adopt the amendment of Rule 134 in the form set forth below which incorporates the substance of proposed new Rule 425B, making adoption of that separate rule unnecessary.

The amendments adopted pursuant to sections 2(10)(b) and 19(a) of the Act (15 U.S.C. 77b(10)(b), 77s(a)) [2] are another in the series of Commission efforts designed to allow a wider degree of advertising by mutual funds. Rule 134 which was adopted in 1955 [3] was amended in 1972 to permit a general description of an investment company.[4] At the same time, the Commission adopted Rule 135A (17 CFR 230.135a) expanding investment company generic advertising and Rule 434A (17 CFR 230.434a) to permit investment companies to use summary prospectuses.[5] These steps reflect the fact that mutual fund distribution differs in many ways from the underwriting of other securities and that investment companies are subject to comprehensive regulation under the Investment Company Act of 1940. The adoption of these amendments is not intended, and should not be construed, to indicate any change in the Commissions views with respect to general publicity concerning offerings subject to the registration requirement of the Securities Act of 1933.

Amend Rule 134 as revised in response to comments. As proposed, amended Rule 134(a)(3)(C) (17 CFR 230.134(a)(3)(iii)) would have permitted an investment company with an effective registration statement to include in its advertisements not only a general description of an investment company as permitted by the May 1972 amendment, but also a description of its own special attributes. Such a description could consist of its investment objectives and policies, services and method of operation and the advertisement could also include identification of the company's principal officers and directors and a description of the background of key personnel of its adviser, the company's date of incorporation, its total net asset value and any design or illustration contained in the prospectus not involving performance figures. In addition, the proposals would have required that the advertisement also contain a statement of the sales charge, advisory and other fees and a coupon which the reader could mail to receive a prospectus. They also would have required that the prospectus sent in response contain a statement stressing the importance of reading the prospectus as required by proposed rule 425B.

Several provisions of the amended rule vary from the January 1973 proposal. The provisions were narrowed in only one respect—the provision permitting identification of fund directors and key personnel of the adviser was deleted. Several commentators pointed out the possibility that this provision might lend itself to abuse through appointments to boards of directors of celebrities with no investment expertise. Also, while investment company directors are responsible for the general management of the company, prospective investors may not understand the generally limited extent to which directors influence specific investment decisions. Moreover, the names of key advisory personnel would not generally appear to be meaningful to potential investors. Accordingly, under the amended rule only the principal officers of the fund, i.e., those with the primary responsibility for its management, may be named. In order to avoid any ambiguity, the amended rule defines the term "principal officers." The amended rule was also changed to make it clear that the new textual material and pictorial illustrations may be used only by open-end investment companies whose securities are the subject of a continuous offering pursuant to an effective registration statement.

Attention-getting headlines in tombstones have long been permitted by interpretation, as noted in the May 1972 release announcing adoption of earlier rule changes.[6] Permission to include illustrations which appear in the investment company's prospectus is, of course, a further step in what the Commission in Release No. 5248 called a "logical extension" of the attention-getting headline interpretation. Both illustrations and headlines, as well as designs, are now specifically permitted on the basis that they are devices for attracting the reader's attention. The Commission recognizes that such attention-getting devices are a necessity if investment companies are to compete with other investment management arrangements in advertising for the attention of investors. However, those devices must be limited to attracting attention and may not be employed to make or imply any promise of benefits, which would constitute an attempt to "sell" the investment company securities through the advertisement. Obviously, advertising represents a step in the overall distribution process. Nevertheless, there is a significant difference, which is crucial in terms of the legal requirements of section 2(10)(b) (of the Act) and Rule 134, between selling a product from the face of an advertisement and attracting the reader's attention and stimulating his interest in obtaining the legally-sanctioned selling document, the statutory prospectus. It is the latter advertising purpose which these rule changes are designed to permit and encourage.

Many of those commenting on the proposals pointed out that the required statement of the sales charges, management fees and other expenses in an expanded advertisement would be cumbersome and have an unduly negative impact. The rule as adopted requires only that the advertisement direct the reader's attention to the prospectus for information on such charges, fees, and expenses.

The proposed requirement that each advertisement contain a coupon which would be used to obtain a prospectus has been made optional. Thus, investment companies need not bear the expense of sending prospectuses to the idly curious. Instead, companies may include a statement that the prospectus provides more

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[1] Securities Act Release No. 5379, Investment Company Act Release No. 7738.

[2] Section 2(10) defines "prospectus" as, "any prospectus, notice, circular, advertisement, letter or communication, written or by radio or television, which offers any security for sale or confirms the sale of any security, except that * * *

(b) A notice, circular, advertisement, letter or communication in respect to a security shall not be deemed to be a prospectus if it states from whom a written prospectus meeting the requirements of section 10 may be obtained and, in addition, does no more than identify the security, state the price thereof, state by whom orders will be executed, and contain such other information as the Commission by rules or regulations deemed necessary or appropriate in the public interest and for the protection of investors and subject to such terms and conditions as may be prescribed therein, may permit."

Section 19(a) gives the Commission authority, among other things, to make such rules and regulations as may be necessary to carry out the provisions of the Act.

[3] Securities Act Release No. 3568 (August 29, 1955) (20 FR 6524).

[4] Securities Act Release No. 5248 (May 9, 1972) (37 FR 10072).

[5] *Ibid.*

[6] Securities Act Release No. 5248 (37 FR 10072).

complete information along with directions for obtaining the prospectus.

Proposed Rule 425B would have required that each prospectus sent in response to a coupon request from an advertisement pursuant to amended Rule 134 contain a statement stressing the importance of reading the prospectus before making an investment decision. To avoid adding another legend to the prospectus cover, the legend will instead have to be contained in the expanded advertisement. Accordingly, the Commission is withdrawing proposed Rule 425B and is adding the legend which the proposal would have required to the statement required by amended Rule 134 along with the admonition "send no money." This is in keeping with the rationale of the rule amendment—that the purpose of tombstone advertising is to focus the reader's attention on the statutory prospectus.

Joint tombstones of funds in the same complex have been permitted by interpretation for some time. While the proposed amendment did not provide for joint tombstones, the rule as adopted codifies past interpretations and explicity permits funds having the same investment adviser or principal underwriter to use such joint tombstones.

The rule has also been amended to permit inclusion in a tombstone advertisement of the fund's and its investment adviser's period of existence and the aggregate investment company net assets under the adviser's management as well as the adviser's logo or corporate symbol. If the applicable requirements of the rule are satisfied, the specified items pertaining to the investment adviser may be included in the advertisement whether or not comparable information is provided with respect to the investment company itself.

The amended rule would not permit inclusion of any performance data, since such information might constitute a selling argument. However, the Commission is aware that some observers believe inclusion of performance figures to be the fairest way to get the most significant information about funds to the public before they are influenced by other material. The Commission will continue to study this question in connection with its review of the methods of measurement and presentation of performance and its consideration of the adequacy of the Statement of Policy. Development of clearer and more readily understood illustrations of performance to be used in sales literature may aid in resolving the performance-in-advertising controversy.

Staff interpretations and comments. The views of Commission staff members concerning proposed investment company advertisements are sometimes sought by means of telephone inquiries, often shortly before publication is intended. This practice makes it difficult for the staff to focus upon the total context of an advertisement and can, in some instances, result in delayed publication. To avoid such delays, requests for staff comments should ordinarily be submitted in writing well in advance of the date on which publication is intended. Such requests are subject to the Commission's rule and procedure for interpretive and no-action requests.[7] Public availability of staff responses should make the staff's views more widely known and thereby avoid the necessity of frequent inquiries in connection with investment company advertising. Commission Action:

1. Proposed Rule 425B (17 CFR 230.425b) under the Act is hereby withdrawn.

2. Pursuant to the authority in sections 2(10)(b) and 19(a) of the Securities Act of 1933, the Securities and Exchange Commission hereby amends paragraph (a)(3)(iii) of § 230.134 of Chapter II of Title 17 of the Code of Federal Regulations to read as follows:

§ 230.134 Communications not deemed a prospectus.

(a) * * *

(3) * * *

(iii) In the case of an investment company registered under the Investment Company Act of 1940, the company's classification and subclassification under that Act, whether it is a balanced, specialized, bond, preferred stock or common stock fund and whether in the selection of investments emphasis is placed upon income or growth characteristics, and a general description of an investment company including its general attributes, methods of operation and services offered: *Provided,* That such description is not inconsistent with the operation of the particular investment company for which more specific information is being given, identification of the company's investment advisor, any logo, corporate symbol or trademark of the company or its investment adviser, and any graphic design or device or an attention-getting headline, not involving performance figures, designed to direct the reader's attention to textual material included in the communication pursuant to other provisions of this section; and, with respect to an open-end investment company whose registration statement under this Act is effective and whose securities are the subject of a continuous offering pursuant to such registration statement, (A) a description of such company's investment objectives and policies, services, and method of operation; (B) identification of the company's principal officers; (C) the year of incorporation or organization or period of existence of the company, its investment adviser, or both; (D) the company's aggregate net asset value as of the most recent practicable date; (E) the aggregate net asset value as of the most recent practicable date of all registered investment companies under the management of the company's investment adviser; and (F) any pictorial illustration contained in the company's prospectus and not involving performance figures: *Provided,* (G) That if any material permitted by clauses (A) through (F) is included, such communication shall also contain either (*1*) the following legend in 12 point boldface type:

For more complete information about (Name of Company), including sales charges, management fees, and other expenses, see our prospectus. It is important to read the prospectus carefully before you decide to invest. A copy of the prospectus may be obtained from your securities dealer or by writing to (Distributor's Address). Send no money;

or (*2*) a coupon which the reader may mail to receive a prospectus, with the following legend in 12 point boldface type:

For more complete information about (Name of Company), including sales charges, management fees and other expenses, mail this coupon and we will send you our prospectus. It is important to read the prospectus carefully before you decide to invest. Send no money;

except that investment companies which do not charge a sales load may omit the words, "sales charges," from both legends.

(H) For purposes of clause (B) of this new subdivision (iii), "principal officers" means the president, secretary, treasurer, any vice-president in charge of a principal business function and any other person who performs similar policy making functions for the company on a regular basis.

(I) In the case of two or more registered investment companies having the same investment adviser or principal underwriter, the same information described in this subdivision (iii) may be included as to each such company in a joint communication on the same basis as it is permitted in communications dealing with individual companies under this subdivision (iii);

* * * * *

(Secs. 2(10)(b), 19(a), 48 Stat. 74, 85, sec. 209, 48 Stat. 908, (15 U.S.C. 77b(10)(b), 77s(a)))

The foregoing shall become effective on December 10, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

NOVEMBER 4, 1974.

[FR Doc.74-26467 Filed 11-11-74;8:45 am]

[7] See Securities Act Release Nos. 5098 (October 29, 1970) and 5127 (January 25, 1971) (36 FR 2600).

Title 21—Food and Drugs

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

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

[FRL 292-8]

PART 121—FOOD ADDITIVES

Subpart C—Food Additives Permitted in Feed and Drinking Water of Animals or for the Treatment of Food-Producing Animals

PROCYAZINE

A petition (FAP 5H5057) was filed by CIBA-GEIGY Corporation, PO. Box 11422, Greensboro, NC 27409, in accord-

ance with provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348), proposing establishment of a food additive tolerance (21 CFR Part 121) for residues of the herbicide procyazine (2-[[4-chloro-6-(cyclopropylamino) - 1,3,5-triazin-2-yl]amino] - 2 - methylpropanenitrile) in sweet corn cannery waste at 0.2 part per million to provide for residues that may occur from use of the herbicide in a proposed experimental program involving application to growing corn.

The Reorganization Plan No. 3 of 1970, published in the FEDERAL REGISTER of October 6, 1970 (35 FR 15623), transferred (effective December 2, 1970) to the Administrator of the Environmental Protection Agency the functions vested in the Secretary of Health, Education, and Welfare for establishing tolerances for pesticide chemicals under sections 406, 408, and 409 of the Federal Food, Drug, and Cosmetic Act, as amended (21 U.S.C. 346, 346a, and 348).

Having evaluated the data in the petition and other relevant material, it is concluded that:

1. Residues of the herbicide will result in sweet corn cannery waste from carryover and concentration under agricultural uses provided for by an experimental permit under the Federal Insecticide, Fungicide, and Rodenticide Act. (For a related document, see this issue of the FEDERAL REGISTER, page 39906.)

2. The proposed tolerance should be established to coincide with the experimental permit.

Therefore, pursuant to provisions of the Act (sec. 409(c) (1), (4), 72 Stat. 1786; 21 U.S.C. 348(c) (1), (4)), the authority transferred to the Administrator of the Environmental Protection Agency (35 F.R. 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticide Programs (39 F.R. 18805), Part 121 is amended by adding the following new section to Subpart C:

§ 121.349 Procyazine.

A tolerance of 0.2 part per million is established for residues of the herbicide procyazine (2-[[4-chloro-6-(cyclopropylamino)-1,3,5-triazin - 2-yl]amino]-2-methylpropanenitrile) in sweet corn cannery waste, resulting from application of the herbicide to the growing sweet corn. Such residues may be present therein only as a result of the application of the herbicide to the growing sweet corn treated under an experimental program, which expires November 6, 1975, and on which said corn a temporary pesticide tolerance for the herbicide expiring the same date has been established. Residues remaining in or on the above commodity after expiration of this tolerance will not be considered actionable if the pesticide is legally applied during the term and in accordance with provisions of the temporary permit/food additive tolerance.

Any person who will be adversely affected by the foregoing order may at any time on or before December 12, 1974 file with the Hearing Clerk, Environmental Protection Agency, Room 1019E, 4th & M Streets, SW., Waterside Mall, Washington, D.C. 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on November 12, 1974.

(Sec. 409(c) (1), (4), 72 Stat. 1786; (21 U.S.C. 348(c) (1), (4)))

Dated: November 6, 1974.

HENRY J. KORP,
Deputy Assistant Administrator
For Pesticide Programs.

[FR Doc.74-26405 Filed 11-11-74;8:45 am]

SUBCHAPTER C—DRUGS
SUBCHAPTER D—DRUGS FOR HUMAN USE

BENZATHINE PHENOXYMETHYL PENICILLIN

Technical Changes and Updating

In a notice of proposed rulemaking published in the FEDERAL REGISTER of May 6, 1974 (39 FR 15879), and corrected by notice published in the FEDERAL REGISTER of June 10, 1974 (39 FR 20399), the Commissioner of Food and Drugs proposed to amend 21 CFR Parts 141a and 146a as they apply to benzathine phenoxymethyl penicillin and to amend 21 CFR Part 149h by including monographs from Parts 141a and 146a which provide for the certification of benzathine phenoxymethyl penicillin drug products that are currently being marketed. In addition to recodification, certain revisions and updating of the monographs were proposed. Interested persons were invited to submit their comments in response to the notice of proposed rulemaking within 60 days. No comments were received. Accordingly, the Commissioner concludes that the antibiotic drug regulations should be amended as set forth below.

As a result of the overall recodification of antibiotic drug monographs for human use published in the FEDERAL REGISTER of May 30, 1974 (39 FR 18922), §§ 141a.83, 141a.87, 146a.105, and 146a.-109 were recodified as §§ 440.57a(b), 440.157(b), 440.57a(a), and 440.157(a) respectively, and that change is reflected in this document. The monographs for antibiotic drugs for veterinary use were not recodified in the May 30, 1974 recodification document. Therefore, reference to §§ 141a.99 and 146a.19 is the same as in the May 6, 1974 proposal.

The bulk drug monograph has been redesignated as § 440.57 in this document since the existing § 440.57a denotes a sterile drug according to the new scheme of regulation numbering and the sterility requirement is deleted from this monograph.

Therefore, under provisions of the Federal Food, Drug, and Cosmetic Act (secs. 507, 512(n), 59 Stat. 463, as amended, 82 Stat. 350–351; 21 U.S.C. 357, 360b(n)) and under authority delegated to the Commissioner (21 CFR 2.120), Chapter I of Title 21 of the Code of Federal Regulations is amended as follows:

PART 141a—PENICILLIN AND PENICILLIN-CONTAINING DRUGS FOR VETERINARY USE; TESTS AND METHODS OF ASSAY

§ 141a.99 [Revoked]

1. By revoking § 141a.99 *Benzathine phenoxymethyl penicillin for aqueous injection veterinary.*

PART 146a—CERTIFIED PENICILLIN AND PENICILLIN-CONTAINING DRUGS FOR VETERINARY USE

§ 146a.19 [Revoked]

2. By revoking § 146a.19 *Benzathine phenoxymethyl penicillin for aqueous injection veterinary.*

PART 440—PENICILLIN ANTIBIOTIC DRUGS

3. By adding a new section to read as follows:

§ 440.57 Benzathine phenoxymethyl penicillin.

(a) *Requirements for certification—*(1) *Standards of identity, strength, quality and purity.* Benzathine phenoxymethyl penicillin is the benzathine salt of phenoxymethyl penicillin. It is so purified and dried that:

(i) Its potency is not less than 1,060 units and not more than 1,240 units per milligram.

(ii) It passes the safety test.

(iii) Its moisture content is not less than 5.0 percent and not more than 8.0 percent.

(iv) Its pH in a saturated aqueous solution is not less than 4.0 and not more than 6.5.

(v) Its phenoxymethyl penicillin content is not less than 62.3 percent and not more than 72.5 percent.

(vi) It is crystalline.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on the batch for potency, safety, moisture, pH, phenoxymethyl penicillin content, and crystallinity.

(ii) Samples required: 10 packages, each containing approximately 300 milligrams.

(b) *Tests and methods of assay—*(1) *Potency.* Use either of the following methods; however, the results obtained from the iodometric assay shall be conclusive:

(i) *Microbiological agar diffusion assay.* Proceed as directed in § 436.105 of

this chapter, preparing the sample for assay as follows: Dissolve an accurately weighed representative portion of the sample in sufficient absolute methyl alcohol to give a solution of convenient concentration. Immediately further dilute with 1 percent potassium phosphate buffer, pH 6.0 (solution 1), to the reference concentration of 1.0 unit of phenoxymethyl penicillin per milliliter (estimated).

(ii) *Iodometric assay.* Proceed as directed in § 436.204 of this chapter.

(2) *Safety.* Proceed as directed in § 436.33 of this chapter.

(3) *Moisture.* Proceed as directed in § 436.201 of this chapter.

(4) *pH.* Proceed as directed in § 436.202 of this chapter, using a saturated aqueous solution prepared by adding approximately 30 milligrams per milliliter.

(5) *Phenoxymethyl penicillin content.* Accurately weigh approximately 50 milligrams of sample, dissolve in absolute methyl alcohol, and dilute to 100 milliliters with absolute methyl alcohol. Treat a portion of the phenoxymethyl penicillin working standard in the same manner. Using a suitable spectrophotometer equipped with a quartz cell and absolute methyl alcohol as the blank, determine the absorbance at 276 nanometers. Calculate the percent phenoxymethyl in § 436.203(a) of this chapter.

$$\text{Percent phenoxymethyl penicillin} = \frac{\text{Absorbance of sample} \times \text{Weight in milligrams of standard} \times \text{Percent phenoxymethyl penicillin in standard}}{\text{Absorbance of standard} \times \text{Weight in milligrams of sample}}$$

§ 440.57a [Revoked]

4. By revoking § 440.57a *Sterile benzathine phenoxymethyl penicillin (benzathine phenoxymethyl penicillin salt).*

5. By revising § 440.157 to read as follows:

§ 440.157 Benzathine phenoxymethyl penicillin oral suspension.

(a) *Requirements for certification—*(1) *Standards of identity, strength, quality, and purity.* Benzathine phenoxymethyl penicillin oral suspension contains benzathine phenoxymethyl penicillin and one or more suitable dispersing agents, buffer substances, preservatives, colorings, and flavorings. Each milliliter contains benzathine phenoxymethyl penicillin equivalent to 17.7 milligrams (30,000 units) or 35.4 milligrams (60,000 units) of phenoxymethyl penicillin. Its potency is satisfactory if it is not less than 90 percent and not more than 120 percent of the number of milligrams of phenoxymethyl penicillin that it is represented to contain. Its pH is not less than 6.0 and not more than 7.0. The benzathine phenoxymethyl penicillin used conforms to the standards prescribed by § 440.57(a)(1).

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The benzathine phenoxymethyl penicillin used in making the batch for potency, safety, moisture, pH, phenoxymethyl penicillin content, and crystallinity.

(*b*) The batch for potency and pH.

(ii) Samples required:

(*a*) The benzathine phenoxymethyl penicillin used in making the batch: 10 packages, each containing approximately 300 milligrams.

(*b*) The batch: A minimum of 6 immediate containers.

(b) *Tests and methods of assay—*(1) *Potency.* Use either of the following methods; however, the results obtained from the iodometric assay shall be conclusive:

(i) *Microbiological agar diffusion assay.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows: Dissolve an accurately measured representative volume of the sample in sufficient absolute methyl alcohol to give a solution of convenient concentration. Immediately further dilute an aliquot with 1 percent potassium phosphate buffer, pH 6.0 (solution 1), to the reference concentration of 1.0 unit of phenoxymethyl penicillin (estimated).

(ii) *Iodometric assay.* Proceed as directed in § 436.204 of this chapter, using a representative aliquot of the drug prepared for assay as described in paragraph (b)(2) of that section.

(2) *pH.* Proceed as directed in § 436.202 of this chapter, using the undiluted suspension.

Effective date. This order shall become effective on December 12, 1974.

(Secs. 507, 512(n), 59 Stat. 463, as amended, 82 Stat. 350–351; (21 U.S.C. 357, 360b(n)))

Dated: November 5, 1974.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.74-26449 Filed 11-11-74;8:45 am]

SUBCHAPTER D—DRUGS FOR HUMAN USE

PART 440—PENICILLIN ANTIBIOTIC DRUGS

Benzylpenicilloyl-Polylysine

Correction

In FR Doc. 74-22610 appearing at page 35346, in the issue of Tuesday, October 1, 1974, § 440.10(b)(1)(i)(*c*) should read as follows:

(b) * * *

(1) * * *

(i) * * *

(*c*) *Preparation of standard and sample solutions—*(*1*) *Standard solution (standard lipine solution* (2.5×10^{-4} M)). Transfer an accurately weighed portion of 54.8 milligrams of lysine dihydrochloride to a 100-milliliter volumetric flask. Dissolve and dilute to mark with citrate buffer. Make an accurate tenfold dilution of this solution with citrate buffer. The resulting standard solution is 2.5×10^{-4} M with respect to lysine.

SUBCHAPTER F—BIOLOGICS

PART 600—BIOLOGICAL PRODUCTS; GENERAL

Temperatures During Shipment

The Commissioner of Food and Drugs proposed to amend § 600.15 (21 CFR 600.15) (formerly 21 CFR 273.505) in the FEDERAL REGISTER of April 4, 1973 (38 FR 8600, corrected on May 7, 1973 (38 FR 11354)), to require that live measles, mumps and rubella virus vaccines, when prepared as single products or multiple component products, be maintained during shipment at a specified temperature, 10° C or colder, in order to ensure the safety, purity and potency of such products. The proposed shipping temperature was selected as a practical upper limit consistent with maintaining the quality of these products during shipment. Five comments were received concerning the proposal and in response to two comments an additional paragraph concerning "exemptions" has been added to § 600.15.

1. Two comments indicated that reference in the preamble of the proposal to the word "refrigeration" for a storage temperature of 10° C or colder may cause confusion, since it is inconsistent with the definition of a "refrigerated temperature," i.e., 2° C to 8° C, set forth in the National Formulary and the United States Pharmacopeia.

The term "refrigeration" in the proposal was used in the general sense to indicate that special efforts would be needed to keep the products cold. The Commissioner recognizes that the N.F. and U.S.P. definitions are generally accepted throughout the pharmaceutical community. However, since there is no reference to "refrigeration" in the regulation itself, no amendment in the final order is necessary. In order to clarify the scope of this regulation, it should be noted that it does not apply to temperatures required during storage, which are prescribed in § 610.53 (21 CFR 610.53) and in the compendia, but rather to temperatures required during shipment, which are prescribed in § 600.15.

2. Two comments from manufacturers argued that the proposed amendment is unnecessarily restrictive with respect to their products which are stable at temperatures above 10° C. For this reason, an exemption for such products was requested. The Commissioner agrees that if a manufacturer has shown that his particular product maintains its safety, purity, and potency at temperatures other than those prescribed for shipment in § 600.15, an exemption or modification may be appropriate for the specific manufacturer's product. Likewise, such exemption or modification should be permitted not only with respect to the subject vaccines, but for other products now subject to § 600.15 which have been shown by the manufacturer to be stable above those temperatures presently prescribed. Accordingly, a new paragraph

(b) has been added to § 600.15 to provide for such exemption upon approval by the Director, Bureau of Biologics, on a product-by-product basis, in the form of an amendment to the product license.

3. One comment urged that as an alternative to prescribing a fixed shipping temperature, shipment of the products above 10° C be permitted for a specific period of time determined by each manufacturer based on the properties of the product, provided that the label on shipping containers and individual packages of such products contain a warning statement that "The temperature of this product must not be allowed to rise above 10° C for a period longer than (*insert period of time*)."

The Commissioner finds that the recommendation is inadequate. As stated in the preamble of the proposal, data before the Commissioner establish that continuous cold storage of the products is necessary to ensure that there is no loss of potency. The effect of removal from cold storage is unpredictable due to variances in the temperature of the environment to which these products are removed and the length of time they remain at that temperature. Temperatures can be expected to vary widely in different climates and weather conditions. Therefore, a uniform label storage statement does not provide a reliable means for assuring a temperature that will not compromise the product. It should be noted, however, that the Commissioner's order does not preclude removal of products from cold storage for short periods of time, as long as the temperature of the product does not rise above 10° C. Procedures must be developed by distributors of these measles, mumps and rubella virus vacines to ensure compliance with the temperature requirement. Such procedures are not unusual and are regularly used by distributors of other products subject to loss of potency or other similar alteration.

In the interest of having specific shipping temperature information readily accessible to everyone transporting the vaccines listed in § 600.15, the Commissioner will issue a proposal in the near future to amend § 610.61 (21 CFR 610.61) to require that such information be listed on the package label.

Having considered the comments received and all relevant material regarding specified shipping temperatures for live measles, mumps and rubella virus vaccines, the Commissioner concludes that the proposal should be adopted as modified (1) by designating the list of products as paragraph (a), (2) by amending the listing in the second column to quantify the expression "a temperature which will maintain ice continuously in a solid state" to a temperature of "0° C or colder" for poliovirus vaccine live, oral types 1, 2, 3, smallpox vaccine, liquid, and yellow fever vaccine, and (3) by adding a new paragraph (b) to provide for exemptions.

Therefore, pursuant to the provisions of 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), § 600.15 is revised as follows:

§ 600.15 Temperatures during shipment.

The following products shall be maintained during shipment at the specified temperatures:

(a) *Products.*

Product:	*Temperature*
Cryoprecipitated antihemophilic factor (human)	−18° C or colder.
Measles, mumps, and rubella virus vaccine, live	10° C or colder.
Measles and rubella virus vaccine, live	Do.
Measles-smallpox vaccine, live	Do.
Measles virus vaccine, live, attenuated	Do.
Mumps virus vaccine, live	Do.
Poliovirus vaccine, live, oral, type 1	0° C or colder.
Poliovirus vaccine, live, oral, type 2	Do.
Poliovirus vaccine, live, oral, type 3	Do.
Poliovirus vaccine, live, oral, trivalent	Do.
Red blood cells (human), frozen	−65° C or colder.
Red blood cells (human), liquid	Between 1° and 10° C.
Rubella and mumps, virus, live	10° C or colder.
Rubella virus vaccine, live	Do.
Single donor plasma (human), frozen	−18° C or colder.
Smallpox vaccine, liquid	0° C or colder.
Source plasma (human)	−5° C or colder.
Whole blood (human)	Between 1° and 10° C.
Yellow fever vaccine	0° C or colder.

(b) *Exemptions.* Exemptions or modifications shall be made only upon written approval, in the form of an amendment of the product license, issued by the Director, Bureau of Biologics.

Effective date. This order shall become effective on December 12, 1974.

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

Dated: November 5, 1974.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.74-26450 Filed 11-11-74;8:45 am]

Title 40—Protection of the Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

[FRL 291-6]

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

Opacity Provisions

On June 29, 1973, the United States Court of Appeals for the District of Columbia in "Portland Cement Association v. Ruckelshaus," 486 F. 2d 375 (1973) remanded to EPA the standard of performance for Portland cement plants (40 CFR 60.60 et seq.) promulgated by EPA under section 111 of the Clean Air Act. In the remand, the Court directed EPA to reconsider among other things the use of the opacity standards. EPA has prepared a response to the remand. Copies of this response are available from the Emission Standards and Engineering Division, Environmental Protection Agency, Research Triangle Park, N.C. 27711, Attn: Mr. Don R. Goodwin. In developing the response, EPA collected and evaluated a substantial amount of information which is summarized and referenced in the response. Copies of this information are available for inspection during normal office hours at EPA's Office of Public Affairs, 401 M Street SW., Washington, D.C. EPA determined that the Portland cement plant standards generally did not require revision but did not find that certain revisions are appropriate to the opacity provisions of the standards. The provisions promulgated herein include a revision to § 60.11, Compliance with Standards and Maintenance Requirements, a revision to the opacity standard for Portland cement plants, and revisions to Reference Method 9. The bases for the revisions are discussed in detail in the Agency's response to the remand. They are summarized below.

The revisions to § 60.11 include the modification of paragraph (b) and the addition of paragraph (e). Paragraph (b) has been revised to indicate that while Reference Method 9 remains the primary and accepted means for determining compliance with opacity standards in this part, EPA will accept as probative evidence in certain situations and under certain conditions the results of continuous monitoring by transmissometer to determine whether a violation has in fact occurred. The revision makes clear that even in such situations the results of opacity readings by Method 9 remain presumptively valid and correct.

The provisions in paragraph (e) provide a mechanism for an owner or operator to petition the Administrator to establish an opacity standard for an affected facility where such facility meets all applicable standards for which a performance test is conducted under § 60.8 but fails to meet an applicable opacity standard. This provision is intended primarily to apply to cases where a source installs a very large diameter stack which causes the opacity of the emissions to be

greater than if a stack of the diameter ordinarily used in the industry were installed. Although this situation is considered to be very unlikely to occur, this provision will accommodate such a situation. The provision could also apply to other situations where for any reason an affected facility could fail to meet opacity standards while meeting mass emission standards, although no such situations are expected to occur.

A revision to the opacity standard for Portland cement plants is promulgated herein. The revision changes the opacity limit for kilns from 10 percent to 20 percent. This revision is based on EPA's policy on opacity standards and the new emission data from Portland cement plants evaluated by EPA during its reconsideration. The preamble to the standards of performance which were promulgated on March 8, 1974 (39 FR 9308) sets forth EPA's policy on opacity standards: (1) Opacity limits are independent enforceable standards; (2) where opacity and mass/concentration standards are applicable to the same source, the mass/concentration standards are established at a level which will result in the design, installation, and operation of the best adequately demonstrated system of emission reduction (taking costs into account); and (3) the opacity standards are established at a level which will require proper operation and maintenance of such control systems. The new data indicate that increasing the opacity limits for kilns from 10 percent to 20 percent is justified, because such a standard will still require the design, installation, and operation of the best adequately demonstrated system of emission reduction (taking costs into account) while eliminating or minimizing the situations where it will be necessary to promulgate a new opacity standard under § 60.11(e).

In evaluating the accuracy of results from qualified observers following the procedures of Reference Method 9, EPA determined that some revisions to Reference Method 9 are consistently able to evaluation showed that observers trained and certified in accordance with the procedures prescribed under Reference Method 9 are consistently able to read opacity with errors not exceeding ± 7.5 percent based upon single sets of the average of 24 readings. The revisions to Reference Method 9 include the following:

1. An introductory section is added. This includes a discussion of the concept of visible emission reading and describes the effect of variable viewing conditions. Information is also presented concerning the accuracy of the method noting that the accuracy of the method must be taken into account when determining possible violations of applicable opacity standards.

2. Provisions are added which specify that the determination of opacity requires averaging 24 readings taken at 15-second intervals. The purpose for taking 24 readings is both to extend the averaging time over which the observations are made, and to take sufficient readings to insure acceptable accuracy.

3. More specific criteria concerning observer position with respect to the sun are added. Specifically, the sun must be within a 140° sector to the observer's back.

4. Criteria concerning an observer's position with respect to the plume are added. Specific guidance is also provided for reading emissions from rectangular emission points with large length to width ratios, and for reading emissions from multiple stacks. In each of these cases, emissions are to be read across the shortest path length.

5. Provisions are added to make clear that opacity of contaminated water or steam plumes is to be read at a point where water does not exist in condensed form. Two specific instructions are provided: One for the case where opacity can be observed prior to the formation of the condensed water plume, and one for the case where opacity is to be observed after the condensed water plume has dissipated.

6. Specifications are added for the smoke generator used for qualification of observers so that State or local air pollution control agencies may provide observer qualification training consistent with EPA training.

In developing this regulation we have taken into account the comments received in response to the September 11, 1974 (39 FR 35852) notice of proposed rulemaking which proposed among other things certain minor changes to Reference Method 9. This regulation represents the rulemaking with respect to the revisions to Method 9.

The determination of compliance with applicable opacity standards will be based on an average of 24 consecutive opacity readings taken at 15 second intervals. This approach is a satisfactory means of enforcing opacity standards in cases where the violation is a continuing one and time exceptions are not part of the applicable opacity standard. However, the opacity standards for steam electric generators in 40 CFR 60.42 and fluid catalytic cracking unit catalyst regenerators in 40 CFR 60.102 and numerous opacity standards in State implementation plans specify various time exceptions. Many State and local air pollution control agencies use a different approach in enforcing opacity standards than the six-minute average period specified in this revision to Method 9. EPA recognizes that certain types of opacity violations that are intermittent in nature require a different approach in applying the opacity standards than this revision to Method 9. It is EPA's intent to propose an additional revision to Method 9 specifying an alternative method to enforce opacity standards. It is our intent that this method specify a minimum number of readings that must be taken, such as a minimum of ten readings above the standard in any one hour period prior to citing a violation. EPA is in the process of analyzing available data and determining the error involved in reading opacity in this manner and will propose this revision to Method 9 as soon as this analysis is completed. The Agency solicits comments and recommendations on the need for this additional revision to Method 9 and would welcome any suggestions particularly from air pollution control agencies on how we might make Method 9 more responsive to the needs of these agencies.

These actions are effective on November 12, 1974. The Agency finds good cause exists for not publishing these actions as a notice of proposed rulemaking and for making them effective immediately upon publication for the following reasons:

(1) Only minor amendments are being made to the opacity standards which were remanded.

(2) The U.S. Court of Appeals for the District of Columbia instructed EPA to complete the remand proceeding with respect to the Portland cement plant standards by November 5, 1974.

(3) Because opacity standards are the subject of other litigation, it is necessary to reach a final determination with respect to the basic issues involving opacity at this time in order to properly respond to this issue with respect to such other litigation.

These regulations are issued under the authority of sections 111 and 114 of the Clean Air Act, as amended (42 U.S.C. 1857c–6 and 9).

Dated: November 1, 1974.

JOHN QUARLES,
Acting Administrator.

Part 60 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

1. Section 60.11 is amended by revising paragraph (b) and adding paragraph (e), reading as follows:

§ 60.11 Compliance with standards and maintenance requirements.

* * * * *

(b) Compliance with opacity standards in this part shall be determined by conducting observations in accordance with Reference Method 9 in Appendix A of this part. Opacity readings of portions of plumes which contain condensed, uncombined water vapor shall not be used for purposes of determining compliance with opacity standards. The results of continuous monitoring by transmissometer which indicate that the opacity at the time visual observations were made was not in excess of the standard are probative but not conclusive evidence of the actual opacity of an emission, provided that the source shall meet the burden of proving that the instrument used meets (at the time of the alleged violation) Performance Specification 1 in Appendix B of this part, has been properly maintained and (at the time of the alleged violation) calibrated, and that the resulting data have not been tampered with in any way.

* * * * *

(e) (1) An owner or operator of an affected facility may request the Admin-

istrator to determine opacity of emissions from the affected facility during the initial performance tests required by § 60.8.

(2) Upon receipt from such owner or operator of the written report of the results of the performance tests required by § 60.8, the Administrator will make a finding concerning compliance with opacity and other applicable standards. If the Administrator finds that an affected facility is in compliance with all applicable standards for which performance tests are conducted in accordance with § 60.8 of this part but during the time such performance tests are being conducted fails to meet any applicable opacity standard, he shall notify the owner or operator and advise him that he may petition the Administrator within 10 days of receipt of notification to make appropriate adjustment to the opacity standard for the affected facility.

(3) The Administrator will grant such a petition upon a demonstration by the owner or operator that the affected facility and associated air pollution control equipment was operated and maintained in a manner to minimize the opacity of emissions during the performance tests; that the performance tests were performed under the conditions established by the Administrator; and that the affected facility and associated air pollution control equipment were incapable of being adjusted or operated to meet the applicable opacity standard.

(4) The Administrator will establish an opacity standard for the affected facility meeting the above requirements at a level at which the source will be able, as indicated by the performance and opacity tests, to meet the opacity standard at all times during which the source is meeting the mass or concentration emission standard. The Administrator will promulgate the new opacity standard in the FEDERAL REGISTER.

2. In § 60.62, paragraph (a)(2) is revised to read as follows:

§ 60.62 Standard for particulate matter.

(a) * * *

(2) Exhibit greater than 20 percent opacity.

* * * * *

3. Appendix A—Reference Methods is amended by revising Reference Method 9 as follows:

APPENDIX A—REFERENCE METHODS

* * * * *

METHOD 9—VISUAL DETERMINATION OF THE OPACITY OF EMISSIONS FROM STATIONARY SOURCES

Many stationary sources discharge visible emissions into the atmosphere; these emissions are usually in the shape of a plume. This method involves the determination of plume opacity by qualified observers. The method includes procedures for the training and certification of observers, and procedures to be used in the field for determination of plume opacity. The appearance of a plume as viewed by an observer depends upon a number of variables, some of which may be controllable and some of which may not be controllable in the field. Variables which can be controlled to an extent to which they no longer exert a significant influence upon plume appearance include: Angle of the observer with respect to the plume; angle of the observer with respect to the sun; point of observation of attached and detached steam plume; and angle of the observer with respect to a plume emitted from a rectangular stack with a large length to width ratio. The method includes specific criteria applicable to these variables.

Other variables which may not be controllable in the field are luminescence and color contrast between the plume and the background against which the plume is viewed. These variables exert an influence upon the appearance of a plume as viewed by an observer, and can affect the ability of the observer to accurately assign opacity values to the observed plume. Studies of the theory of plume opacity and field studies have demonstrated that a plume is most visible and presents the greatest apparent opacity when viewed against a contrasting background. It follows from this, and is confirmed by field trials, that the opacity of a plume, viewed under conditions where a contrasting background is present can be assigned with the greatest degree of accuracy. However, the potential for a positive error is also the greatest when a plume is viewed under such contrasting conditions. Under conditions presenting a less contrasting background, the apparent opacity of a plume is less and approaches zero as the color and luminescence contrast decrease toward zero. As a result, significant negative bias and negative errors can be made when a plume is viewed under less contrasting conditions. A negative bias decreases rather than increases the possibility that a plant operator will be cited for a violation of opacity standards due to observer error.

Studies have been undertaken to determine the magnitude of positive errors which can be made by qualified observers while reading plumes under contrasting conditions and using the procedures set forth in this method. The results of these studies (field trials) which involve a total of 769 sets of 25 readings each are as follows:

(1) For black plumes (133 sets at a smoke generator), 100 percent of the sets were read with a positive error[1] of less than 7.5 percent opacity; 99 percent were read with a positive error of less than 5 percent opacity.

(2) For white plumes (170 sets at a smoke generator, 168 sets at a coal-fired power plant, 298 sets at a sulfuric acid plant), 99 percent of the sets were read with a positive error of less than 7.5 percent opacity; 95 percent were read with a positive error of less than 5 percent opacity.

The positive observational error associated with an average of twenty-five readings is therefore established. The accuracy of the method must be taken into account when determining possible violations of applicable opacity standards.

1. *Principle and applicability.*

1.1 Principle. The opacity of emissions from stationary sources is determined visually by a qualified observer.

1.2 Applicability. This method is applicable for the determination of the opacity of emissions from stationary sources pursuant to § 60.11(b) and for qualifying observers for visually determining opacity of emissions.

2. *Procedures.* The observer qualified in accordance with paragraph 3 of this method shall use the following procedures for visually determining the opacity of emissions:

2.1 Position. The qualified observer shall stand at a distance sufficient to provide a clear view of the emissions with the sun oriented in the 140° sector to his back. Consistent with maintaining the above requirement, the observer shall, as much as possible, make his observations from a position such that his line of vision is approximately perpendicular to the plume direction, and when observing opacity of emissions from rectangular outlets (e.g. roof monitors, open baghouses, noncircular stacks), approximately perpendicular to the longer axis of the outlet. The observer's line of sight should not include more than one plume at a time when multiple stacks are involved, and in any case the observer should make his observations with his line of sight perpendicular to the longer axis of such a set of multiple stacks (e.g. stub stacks on baghouses).

2.2 Field records. The observer shall record the name of the plant, emission location, type facility, observer's name and affiliation, and the date on a field data sheet (Figure 9–1). The time, estimated distance to the emission location, approximate wind direction, estimated wind speed, description of the sky condition (presence and color of clouds), and plume background are recorded on a field data sheet at the time opacity readings are initiated and completed.

2.3 Observations. Opacity observations shall be made at the point of greatest opacity in that portion of the plume where condensed water vapor is not present. The observer shall not look continuously at the plume, but instead shall observe the plume momentarily at 15-second intervals.

2.3.1 Attached steam plumes. When condensed water vapor is present within the plume as it emerges from the emission outlet, opacity observations shall be made beyond the point in the plume at which condensed water vapor is no longer visible. The observer shall record the approximate distance from the emission outlet to the point in the plume at which the observations are made.

2.3.2 Detached steam plume. When water vapor in the plume condenses and becomes visible at a distinct distance from the emission outlet, the opacity of emissions should be evaluated at the emission outlet prior to the condensation of water vapor and the formation of the steam plume.

2.4 Recording observations. Opacity observations shall be recorded to the nearest 5 percent at 15-second intervals on an observational record sheet. (See Figure 9–2 for an example.) A minimum of 24 observations shall be recorded. Each momentary observation recorded shall be deemed to represent the average opacity of emissions for a 15-second period.

2.5 Data Reduction. Opacity shall be determined as an average of 24 consecutive observations recorded at 15-second intervals. Divide the observations recorded on the record sheet into sets of 24 consecutive observations. A set is composed of any 24 consecutive observations. Sets need not be consecutive in time and in no case shall two sets overlap. For each set of 24 observations, calculate the average by summing the opacity of the 24 observations and dividing this sum by 24. If an applicable standard specifies an averaging time requiring more than 24 observations, calculate the average for all observations made during the specified time period. Record the average opacity on a record sheet. (See Figure 9–1 for an example.)

3. *Qualifications and testing.*

3.1 Certification requirements. To receive certification as a qualified observer, a candidate must be tested and demonstrate the ability to assign opacity readings in 5 percent increments to 25 different black plumes and 25 different white plumes, with an error

[1] For a set, positive error=average opacity determined by observers' 25 observations—average opacity determined from transmissometer's 25 recordings.

not to exceed 15 percent opacity on any one reading and an average error not to exceed 7.5 percent opacity in each category. Candidates shall be tested according to the procedures described in paragraph 3.2. Smoke generators used pursuant to paragraph 3.2 shall be equipped with a smoke meter which meets the requirements of paragraph 3.3.

The certification shall be valid for a period of 6 months, at which time the qualification procedure must be repeated by any observer in order to retain certification.

3.2 Certification procedure. The certification test consists of showing the candidate a complete run of 50 plumes—25 black plumes and 25 white plumes—generated by a smoke generator. Plumes within each set of 25 black and 25 white runs shall be presented in random order. The candidate assigns an opacity value to each plume and records his observation on a suitable form. At the completion of each run of 50 readings, the score of the candidate is determined. If a candidate fails to qualify, the complete run of 50 readings must be repeated in any retest. The smoke test may be administered as part of a smoke school or training program, and may be preceded by training or familiarization runs of the smoke generator during which candidates are shown black and white plumes of known opacity.

3.3 Smoke generator specifications. Any smoke generator used for the purposes of paragraph 3.2 shall be equipped with a smoke meter installed to measure opacity across the diameter of the smoke generator stack. The smoke meter output shall display in-stack opacity based upon a pathlength equal to the stack exit diameter, on a full 0 to 100 percent chart recorder scale. The smoke meter optical design and performance shall meet the specifications shown in Table 9–1. The smoke meter shall be calibrated as prescribed in paragraph 3.3.1 prior to the conduct of each smoke reading test. At the completion of each test, the zero and span drift shall be checked and if the drift exceeds ±1 percent opacity, the condition shall be corrected prior to conducting any subsequent test runs. The smoke meter shall be demonstrated, at the time of installation, to meet the specifications listed in Table 9–1. This demonstration shall be repeated following any subsequent repair or replacement of the photocell or associated electronic circuitry including the chart recorder or output meter, or every 6 months, whichever occurs first.

TABLE 9–1—SMOKE METER DESIGN AND PERFORMANCE SPECIFICATIONS

Parameter:	*Specification*
a. Light source	Incandescent lamp operated at nominal rated voltage.
b. Spectral response of photocell.	Photopic (daylight spectral response of the human eye—reference 4.3).
c. Angle of view	15° maximum total angle.
d. Angle of projection.	15° maximum total angle.
e. Calibration error	±3% opacity, maximum.
f. Zero and span drift.	±1% opacity, 30 minutes.
g. Response time	≤5 seconds.

3.3.1 Calibration. The smoke meter is calibrated after allowing a minimum of 30 minutes warmup by alternately producing simulated opacity of 0 percent and 100 percent. When stable response at 0 percent or 100 percent is noted, the smoke meter is adjusted to produce an output of 0 percent or 100 percent, as appropriate. This calibration shall be repeated until stable 0 percent and 100 percent readings are produced without adjustment. Simulated 0 percent and 100 percent opacity values may be produced by alternately switching the power to the light source on and off while the smoke generator is not producing smoke.

3.3.2 Smoke meter evaluation. The smoke meter design and performance are to be evaluated as follows:

3.3.2.1 Light source. Verify from manufacturer's data and from voltage measurements made at the lamp, as installed, that the lamp is operated within ±5 percent of the nominal rated voltage.

3.3.2.2 Spectral response of photocell. Verify from manufacturer's data that the photocell has a photopic response; i.e., the spectral sensitivity of the cell shall closely approximate the standard spectral-luminosity curve for photopic vision which is referenced in (b) of Table 9–1.

3.3.2.3 Angle of view. Check construction geometry to ensure that the total angle of view of the smoke plume, as seen by the photocell, does not exceed 15°. The total angle of view may be calculated from: $\theta = 2 \tan^{-1} d/2L$, where θ = total angle of view; d = the sum of the photocell diameter + the diameter of the limiting aperture; and L = the distance from the photocell to the limiting aperture. The limiting aperture is the point in the path between the photocell and the smoke plume where the angle of view is most restricted. In smoke generator smoke meters this is normally an orifice plate.

3.3.2.4 Angle of projection. Check construction geometry to ensure that the total angle of projection of the lamp on the smoke plume does not exceed 15°. The total angle of projection may be calculated from: $\theta = 2 \tan^{-1} d/2L$, where θ = total angle of projection; d = the sum of the length of the lamp filament + the diameter of the limiting aperture; and L = the distance from the lamp to the limiting aperture.

3.3.2.5 Calibration error. Using neutral-density filters of known opacity, check the error between the actual response and the theoretical linear response of the smoke meter. This check is accomplished by first calibrating the smoke meter according to 3.3.1 and then inserting a series of three neutral-density filters of nominal opacity of 20, 50, and 75 percent in the smoke meter pathlength. Filters calibarted within ±2 percent shall be used. Care should be taken when inserting the filters to prevent stray light from affecting the meter. Make a total of five nonconsecutive readings for each filter. The maximum error on any one reading shall be 3 percent opacity.

3.3.2.6 Zero and span drift. Determine the zero and span drift by calibrating and operating the smoke generator in a normal manner over a 1-hour period. The drift is measured by checking the zero and span at the end of this period.

3.3.2.7 Response time. Determine the response time by producng the series of five simulated 0 percent and 100 percent opacity values and observing the time required to reach stable response. Opacity values of 0 percent and 100 percent may be simulated by alternately switching the power to the light source off and on while the smoke generator is not operating.

4. *References.*

4.1 Air Pollution Control District Rules and Regulations, Los Angeles County Air Pollution Control District, Regulation IV, Prohibitions, Rule 50.

4.2 Weisburd, Melvin I., Field Operations and Enforcement Manual for Air, U.S. Environmental Protection Agency, Research Triangle Park, N.C., APTD–1100, August 1972. pp. 4.1–4.36.

4.3 Condon, E. U., and Odishaw, H., Handbook of Physics, McGraw-Hill Co., N.Y., N.Y., 1958, Table 3.1, p. 6–52.

FIGURE 9-1
RECORD OF VISUAL DETERMINATION OF OPACITY

PAGE___of___

COMPANY_____
LOCATION_____
TEST NUMBER_____
DATE_____
TYPE FACILITY_____
CONTROL DEVICE_____

HOURS OF OBSERVATION_____
OBSERVER_____
OBSERVER CERTIFICATION DATE_____
OBSERVER AFFILIATION_____
POINT OF EMISSIONS_____
HEIGHT OF DISCHARGE POINT_____

	Initial			Final
CLOCK TIME				
OBSERVER LOCATION Distance to Discharge				
Direction from Discharge				
Height of Observation Point				
BACKGROUND DESCRIPTION				
WEATHER CONDITIONS Wind Direction				
Wind Speed				
Ambient Temperature				
SKY CONDITIONS (clear, overcast, % clouds, etc.)				
PLUME DESCRIPTION Color				
Distance Visible				
OTHER INFORMATION				

SUMMARY OF AVERAGE OPACITY

Set Number	Time	Opacity	
	Start--End	Sum	Average

Readings ranged from ____ to ____ % opacity

The source was/was not in compliance with ____ at the time evaluation was made.

FIGURE 9-2 OBSERVATION RECORD PAGE ___ OF ___

COMPANY _____
LOCATION _____
TEST NUMBER _____
DATE _____

OBSERVER _____
TYPE FACILITY _____
POINT OF EMISSIONS _____

Hr.	Min.	Seconds 0	15	30	45	STEAM PLUME (check if applicable) Attached	Detached	COMMENTS
	0							
	1							
	2							
	3							
	4							
	5							
	6							
	7							
	8							
	9							
	10							
	11							
	12							
	13							
	14							
	15							
	16							
	17							
	18							
	19							
	20							
	21							
	22							
	23							
	24							
	25							
	26							
	27							
	28							
	29							

FIGURE 9-2 OBSERVATION RECORD (Continued) PAGE ___ OF ___

COMPANY _____
LOCATION _____
TEST NUMBER _____
DATE _____

OBSERVER _____
TYPE FACILITY _____
POINT OF EMISSIONS _____

Hr.	Min.	Seconds 0	15	30	45	STEAM PLUME (check if applicable) Attached	Detached	COMMENTS
	30							
	31							
	32							
	33							
	34							
	35							
	36							
	37							
	38							
	39							
	40							
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	59							

[FR Doc.74-26150 Filed 11-11-74;8:45 am]

SUBCHAPTER E—PESTICIDE PROGRAMS

[FRL 293-2]

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Parathion or Its Methyl Homolog

A petition (PP 1F1091) was filed (36 FR 8465) by the National Agricultural Chemicals Association, 1155 15th Street, NW., Washington, DC 20005, on behalf of the NACA Industry Task Force for Parathion and Methyl Parathion, in accordance with provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a) proposing establishment of tolerances for residues of the insecticide parathion or its methyl homolog in or on the raw agricultural commodities rye grain at 0.5 part per million and in or on almonds, filberts, pecans, potatoes, safflower seed, sorghum, sugar beets, sugarcane, sweet potatoes, and walnuts at 0.1 part per million (negligible residue).

Subsequently, the petitioner amended the petition by (1) deleting the proposed tolerance for residues in or on rye grain and (2) proposing tolerances for residues in or on almond hulls and sorghum fodder and forage at 3 parts per million and in or on sugar beet tops and sugarcane fodder and forage at 0.1 part per million (negligible residue).

Based on consideration given the data submitted in the petition and other relevant material, it is concluded that:

1. The insecticide is useful for the purpose for which the tolerances are being established.

2. There is no reasonable expectation of residues in eggs, meat, milk, or poultry, and § 180.6(a)(3) applies.

3. The tolerances established by this order will protect the public health.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2)), the authority transferred to the Administrator of the Environmental Protection Agency (35 FR 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticide Programs (39 FR 18805), § 180.121 is amended by adding the new paragraphs "3 parts per million * * * and "0.1 part per million (negligible residue) * * *" after the paragraphs "5 parts per million * * *" and "0.1 part per million * * *", respectively, as follows:

§ 180.121 Parathion or its methyl homolog; tolerances for residues.

* * * * *

3 parts per million in or on almond hulls and sorghum fodder and forage.

* * * * *

0.1 part per million (negligible residue) in or on almonds, filberts, pecans, potatoes, safflower seed, sorghum, sugar beets, sugar beet tops, surgarcane, sugarcane fodder and forage, sweet potatoes, and walnuts.

Any person who will be adversely affected by the foregoing order at any time on or before December 12, 1974, file with the Hearing Clerk, Environmental Protection Agency, Room 1019E, 4th & M Streets, SW., Waterside Mall, Washington, D.C. 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memordanum or brief in support thereof.

Effective date. This order shall become effective on November 12, 1974.

(Sec. 408(d)(2), 68 Stat. 512; (21 U.S.C. 346a(d)(2)))

Dated: November 6, 1974.

HENRY J. KORP,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.74-26407 Filed 11-11-74;8:45 am]

[FRL 293-1]

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Certain Inert Ingredients in Pesticide Formulations

In response to the notice published by the Environmental Protection Agency in the FEDERAL REGISTER of September 3, 1970 (39 FR 31920), proposing establishment of an exemption from tolerance requirements under provisions of section 408 of the Federal Food, Drug, and Cosmetic Act for 10 inert (or occasionally active) ingredients in pesticide formulations, no comments or requests for referral to an advisory committee were received. However, since publication of the proposal, it has been determined that the available data are not adequate to grant an exemption for sodium pentachlorophenate at this time.

It is concluded that the proposal, with sodium pentachlorophenate deleted, should be adopted.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(e), 68 Stat. 514; 21 U.S.C. 346a(e)), the authority transferred to the Administrator of the Environmental Protection Agency (35 FR 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticide Programs (39 FR 18805), § 180.1001(d) is amended by revising the item "Diethylene glycol * * *" in the table and by alphabetically inserting new items, as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(d) * * *

Inert ingredients	Limits	Uses
* * * * *		
Coal (derived only from anthracite and bituminous coals).	Soil application only	Carrier, extender.
* * * * *		
Coke (from anthracite and bituminous coals only and petroleum).	do	Do.
* * * * *		
Cyclohexanol		Solvent, cosolvent.
* * * * *		
Diethylene glycol and diethylene glycol monobutyl, monoethyl, and monomethyl ethers.		Deactivator for formulations used before crop emerges from soil, stabilizer.
* * * * *		
Dipropylene glycol monomethyl ether		Stabilizer.
* * * * *		
Ferric chloride	Not greater than 2 percent of pesticide formulation.	Suspending, dispersing agent.
* * * * *		
Isobutyl alcohol		Solvent.
* * * * *		
Maleic anhydride methylvinyl ether copolymer; average molecular weight 250,000.	Not more than 3 percent of pesticide formulation.	Suspending, dispersing agent.
* * * * *		
Propylene glycol monomethylether		Solvent.
* * * * *		

Any person who will be adversely affected by the foregoing order may at any time on or before December 12, 1974, file with the Hearing Clerk, Environmental Protection Agency, Room 1019E, 4th & M Streets, SW., Waterside Mall, Washington, D.C. 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on November 12, 1974.

(Sec. 408 (c), (e) 68 Stat. 512, 514; (21 U.S.C. 346a (c), (e)))

Dated: November 6, 1974.

HENRY J. KORP,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.74-26406 Filed 11-11-74;8:45 am]

Title 43—Public Lands: Interior

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

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 5444]

REVOCATION OF WITHDRAWALS AFFECTING PATENTED OR PRIVATELY OWNED LANDS

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 FR 4831), it is ordered as follows:

1. All withdrawals heretofore made, or hereafter made, so far as they affect lands in which all right, title, or interest therein have been conveyed out of the United States, are hereby revoked, except for withdrawals for powersite reserves and powersite classifications pursuant to section 24 of the Federal Power Act of June 10, 1920, as amended, 16 U.S.C. section 818 (1970).

2. In the event the right, title, or interest in such lands are reconveyed to the United States, then the provisions of Executive Order No. 6910 of November 26, 1934, and Executive Order No. 6964 of February 5, 1935, or any other Executive Order or public land order, which by its terms indicates it is to become effective upon the acquisition of any right, title, or interest in the lands, shall become applicable to such lands.

JACK O. HORTON,
Assistant Secretary of the Interior.

NOVEMBER 4, 1974.

[FR Doc.74-26430 Filed 11-11-74;8:45 am]

Title 45—Public Welfare

CHAPTER XVII—NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

PART 1700—ORGANIZATION AND FUNCTIONS

PART 1701—DISCLOSURE OF INFORMATION

Establishment

Pursuant to the Freedom of Information Act, Pub. L. 90-23, 5 U.S.C. 552, and 20 U.S.C. Chapter 34, the National Commission on Libraries and Information Science hereby adopts the following regulations. A new Chapter XVII—National Commission on Libraries and Information Science is hereby established as set forth above in Title 45—Public Welfare of the Code of Federal Regulations consisting of a new "Part 1700—Organization and Functions," and a new "Part 1701—Disclosure of Information."

These parts describe the organization of the Commission and the availability to the public of records of the National Commission on Libraries and Information Science pursuant to the Freedom of Information Act, 5 U.S.C. 552. It states the Commission's policy of the fullest possible disclosure of records consistent with those obligations of confidentiality and administrative necessity which are recognized by the Act.

Notice and public procedure are not required by the Administrative Procedure Act since this regulation is a rule of agency practice and procedure. However, interested persons may submit written comments concerning these rules to the National Commission on Libraries and Information Science, Washington, D.C. 20036.

Parts 1700 and 1701 shall become effective on November 12, 1974.

Approved by the Chairman of the Commission on November 6, 1974.

FREDERICK BURKHARDT,
Chairman, National Commission on Libraries and Information Science.

PART 1700—ORGANIZATION AND FUNCTIONS

Secs.
1700.1 Creation.
1700.2 The Commission.
1700.3 Responsibilities.
1700.4 Functions, authority and duties.
1700.5 Executive Director.
1700.6 Office of the Commission.

AUTHORITY: (5 U.S.C. 552, 20 U.S.C. 1501 et seq.).

§ 1700.1 Creation.

The National Commission on Libraries and Information Science was created on July 20, 1970, by the National Commission on Libraries and Information Science Act (20 U.S.C. 1051 et seq.) as an independent agency within the executive branch.

§ 1700.2 The Commission.

The Commission is composed of fifteen members, fourteen of whom are appointed by the President, subject to confirmation by the Senate and one of whom is the Librarian of Congress. One of the members of the Commission is designated by the President as Chairman.

§ 1700.3 Responsibilities.

The Commission is responsible for the development of overall plans to provide library and information services adequate to meet the needs of the people of the United States and to utilize most effectively the nation's educational resources in assuring optimum provision of such services.

§ 1700.4 Functions, authority and duties.

(a) *Functions.* To fulfill its responsibilities, the Commission is empowered to perform the following functions:

(1) To advise the President, Congress and other Federal, state and local governmental agencies, as well as private organizations regarding library and information services.

(2) To conduct studies, surveys and analyses of the library and informational needs of the nation, including the special needs of rural areas, economically, socially or culturally deprived persons and the elderly, and the means by which these needs may be met through the establishment or improvement of information centers, libraries in educational institutions, and through public, research, special and other types of libraries.

(3) To evaluate current library and information resources and services and current library and information science programs.

(4) To develop overall plans for meeting national library and information needs and for coordinating activities at the Federal, state and local levels.

(5) To extend and improve the nation's library and information-handling capabilities by the promotion of research and development.

(b) *Authority.* In carrying out its functions, the Commission is authorized:

(1) To contract with public and private agencies.

(2) To publish and disseminate reports, findings, studies and records including, but not limited to, reports of consultants, transcripts of testimony, summary reports, and reports of other Commission findings, studies, and recommendations.

(3) To conduct hearings.

(c) *Duties.* The Commission is obligated to submit to the President and the Congress (not later than January 31 of each year) a report on its activities during the preceding fiscal year.

§ 1700.5 Executive Director.

The Executive Director is directly responsible to the Commission, works under the supervision of the Chairman, and assists him in carrying out the Commission's organizational and administrative responsibilities. His principal role is to see that other staff units work together and promptly dispose of matters for which they are responsible. He is directly responsible for internal administrative matters such as personnel and budget planning.

§ 1700.6 Office of the Commission.

The Office of the Commission is located at 1717 K Street NW., Suite 601, Washington, D.C. 20036.

PART 1701—DISCLOSURE OF INFORMATION

Secs.
1701.1 Statement of policy.
1701.2 Disclosure of records and informational materials.
1701.3 Procedure.
1701.4 Denial of a request for records.
1701.5 Appeals.

AUTHORITY: (5 U.S.C. 552, 20 U.S.C. 1501 et seq.)

§ 1701.1 Statement of policy.

The records of the National Commission on Libraries and Information Science shall be available to the fullest extent possible consistent with the terms and policies of 5 U.S.C. section 552 and on request will be promptly furnished to any member of the public.

§ 1701.2 Disclosure of records and informational materials.

(a) With the exception of records and materials exempt from disclosure pursuant to paragraph (b) of this section, any person in accordance with the procedure provided in § 1701.3 may inspect and copy any document of the National Commission on Libraries and Information Science.

(b) The provisions of 5 U.S.C. section 552 which require that agencies make their records available for public inspection and copying do not apply to Commission records which are:

(1) Specifically required by Executive Order to be kept secret in the interest of national defense or foreign policy;

(2) Related solely to the internal personnel rules and practices of the Commission;

(3) Specifically exempted from disclosure by statute;

(4) Trade secrets and information which is privileged or which relates to the business, personal or financial affairs of any person and which is furnished in confidence;

(5) Inter-agency and intra-agency memoranda or letters which would not be available by law to a private party in litigation with the Commission;

(6) Personnel, medical and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(7) Investigatory files compiled for law enforcement purposes except to the extent available by law to a party other than an agency;

(8) Contained in or related to examination, operating or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or

(9) Geological and geophysical information and data, including maps, concerning wells.

§ 1701.3 Procedure.

(a) A member of the public who requests records or materials from the National Commission on Libraries and Information Science shall provide a sufficiently specific description of the records or materials sought so that such records or materials may be located with reasonable search or inquiry. A request for a record which is not identified by a sufficiently specific description shall be denied.

(b) Requests for identifiable records or materials should be directed to the Associate Director, National Commission on Libraries and Information Science, Suite 601, 1717 K Street NW., Washington, D.C. 20036.

(c) Records or materials will be available for inspection and copying at the offices of the Commission during the normal business hours of regular business days or they may be obtained by mail.

(d) Requests for records which originated in another Department or agency and are in the custody of the Commission shall be coordinated with that Department or agency and the person submitting the request shall be so notified.

(e) Fees.

(1) To the extent permitted by law, fees may be charged for services required to process requests, including locating and copying records. A fee shall not exceed $5.00 per hour for time expended in identifying and locating records, nor shall it exceed $0.25 per page for copying.

(2) A fee may be waived in whole or in part when the requester is unable to afford a fee, or other circumstances indicate that a waiver is appropriate.

(3) The Commission may limit the number of copies of any document which will be provided to any person.

§ 1701.4 Denial of a request for records.

(a) A request for identifiable records or materials may be denied by the Associate Director upon the basis of one or more of the exemptions set forth in § 1701.2(b).

(b) The reasons for a denial shall be specified in writing and furnished to the person submitting the request.

§ 1701.5 Appeals.

Any person aggrieved by any determination made or taken pursuant to the foregoing provisions may request the Commission to review that determination or action. A letter or other written statement directed to the Executive Director of the Commission at the address set forth in § 1701.3(b) stating the pertinent facts along with a copy of prior correspondence relevant to the determination made or action taken shall constitute an appeal.

[FR Doc.74-26454 Filed 11-11-74;8:45 am]

Title 49—Transportation

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

[Docket 74-10; Notice 6]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Air Brake Systems

This notice responds to six petitions for reconsideration of recent amendments to Standard No. 121, Air brake systems, 49 CFR 571.121, which established a March 1, 1975, effective date for trucks and buses, and optional interim requirements until September 1, 1975, for trucks with certain heavy or front steerable drive axles. In addition, this notice also responds to several questions on the burnish procedure recently raised by International Harvester.

The NHTSA established the March 1, 1975, effective date for trucks and buses after comprehensive consideration of numerous petitions from manufacturers and users of air brake-equipped vehicles (39 FR 17550, May 17, 1974). Manufacturer concerns centered on the availability and reliability of components involved in the new brake systems, particularly antilock devices, and on leadtime necessary to modify vehicles to accept these components.

Ford Motor Company is the only manufacturer of air brake-equipped trucks which petitioned for reconsideration of the March 1, 1975, implementation date for the standard's basic provisions. After the time for petitions for reconsideration had closed, Chrysler Corporation reported on an accident which occurred during certification testing of a vehicle equipped with antilock devices, and urged the delay of Standard No. 121 for an indefinite period. The American Institute of Merchant Shipping also requested an indefinite delay in the standard's implementation.

Ford petitioned for a further 6-month delay in the standard as it applies to truck-tractors, and a one and one-half year delay as the standard applies to other trucks and buses. Ford asserts that the suspension and brake modifications necessary to meet the dry-stopping distance requirements will compromise vehicle handling and stability, increase the danger of load shifts, and force the introduction of antilock devices before Ford considers them reliable. The requested extension would be used to evaluate the effect of the new componentry on overall safety.

The issues in the Ford petition have been carefully considered by the NHTSA in the process of rulemaking and, with the exception of load shifting, were addressed in the preamble to the amendments which established the March 1, 1975, date. The NHTSA has reviewed each of Ford's concerns, and concludes that implementation of the standard as scheduled for trucks and buses is reasonable, practicable, and meets the need for motor vehicle safety.

With regard to the handling and stability problems experienced by some short-wheel-based vehicles in meeting the stopping distance requirements, the NHTSA maintains its determination that adequate time has been made available to make the major redesign necessary in some vehicles, or to make the decision to discontinue the production of models which are simply too short to meet the requirements despite design changes. International Harvester, in its comments on the rulemaking, indicated that it had been ready to meet the proposed January 1, 1975, effective date and would actually suffer economic losses in waiting for the March 1, 1975, implementation.

The availability and reliability of antilock systems which will be used by many manufacturers in meeting the requirements was questioned by Ford in its petition. In response to Ford's assertion that a manufacturer's report on field experience with 8,000 antilock units does not appear in the record, a letter from Kelsey-Hayes (February 1, 1974) containing this information was placed in the NHTSA Docket Section before March 1, 1974. The NHTSA continues to monitor antilock production and testing and cannot agree that the evidence indicates antilocks will decrease the safety of the new trucks in highway operation. Since May, the NHTSA engineering staff has visited six of the seven major antilock manufacturers to discuss antilock reliability and availability. At least half of these manufacturers pointed out that their plants were prepared for full production to meet the September 1, 1974, date, and that they had had to delay production schedules because of the six-month delay. Low volume production is presently available to vehicle manufacturers for their testing and evaluation.

Concerning antilock reliability, a substantial amount of proprietary information was reviewed as well as the publicly-known information that no highway accident has been attributed to the failure of antilock devices. Kelsey-Hayes pointed out that it is selling approximately 250 axle units each month for retrofit. Following these visits, the NHTSA sent the seven major antilock manufacturers requests for reliability data under its investigatory authority, which will become part of the record although it may be of a proprietary nature which would justify not making it public. This data will show millions of axle miles of antilock operation with a malfunction rate comparable to other equipment presently in highway service, and no highway accidents attributable to the device.

Chrysler Corporation reported on a proving-ground accident on May 16, 1974, in which an antilock-equipped truck rolled over after its rear wheels locked and caused skidding during a stop from 60 mph. The manufacturer of the antilock system reported that the device functioned as it was designed to but in response to a false signal. The important point, however, as noted in the May rulemaking, is that the accident occurred as a result of rear-wheel lockup during a panic-type, full brake application that would also have occurred if the vehicle had not been equipped with antilock. In other words, a panic stop always involves the risk of uncontrolled skid due to lockup, and the presence of the antilock only improves the chances of a safe stop in the vast majority of instances in which it functions properly.

Ford requested an interpretation of S5.5.1 of the standard that would permit use of a pressure limiting valve to the front axle that operates when it senses electrical failure of the antilock system. The NHTSA has advised Ford (and Bendix Corporation) that S5.5.1 does not prohibit use of such a valve designed to operate in the event of electrical failure.

Ford also raised the problem of load shift under heavy braking. The NHTSA has considered the effects of the standard and notes that, under normal circumstances, stops will continue to be made at the same deceleration as in the past, consistent with driver comfort and load stability. Only in emergency situations will the full torque of the new brakes be utilized and in this event, the NHTSA concludes that the shorter stopping distances outweigh the possible safety problem of load shift.

The Ford petition pointed out that any failure of component manufacturers to supply the new 121 components would make compliance with the standard impossible. As of this date the NHTSA finds that supplier production is on schedule and will provide components on time. As recently as July 26, 1974, Rockwell International assured the NHTSA that its production is on scheduled.

For these reasons the Ford petition and Chrysler request are denied. The NHTSA would like to establish the issuance of this notice as the final form of Standard No. 121 with regard to its effective date and the stopping distance requirements, for purposes of review under section 105(a)(1) of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. § 1394). Thus, while several areas treated later in this notice will be subject to further reconsideration, the effective dates and stopping distance requirements will be final as to any person who will be adversely affected by them.

While International Harvester supported the March 1, 1975, date for standard highway trucks and buses (it would have preferred a January 1, 1975, date), they did petition for reconsideration of the NHTSA decision to apply the full stopping distances to vehicles equipped with front steerable drive axles after September 1, 1975. White Motor Company and Diamond Reo Trucks, Inc., also petitioned for 1 year's delay in implementation of the full requirements for these axles.

The majority of front steerable drive axles are found on vehicles which use the road regularly at highway speeds and which require the same stopping capability as lighter vehicles. In most cases, their non-planetary construction permits an uncomplicated adaptation to the standard's torque requirements. Furthermore, one vehicle manufacturer indicates that it has successfully redesigned steerable drive axles in the 18,000- to 23,000-pound GAWR range to meet Standard No. 121. White, International Harvester, and Diamond Reo state that the lighter axles in this category are unavailable, but not technically unfeasible. The unavailability stems from supplier decisions to concentrate on the more common non-driving axles found on standard highway vehicles in great numbers. An August 8, 1974, letter from Rockwell Standard to Docket 74-10 supports the conclusion that the axles can be manufactured, but will not be available until September 1, 1976. Accordingly the NHTSA has reconsidered the present effective date of September 1, 1975, for full requirements applicable to front steerable drive axles and delays for one year the full requirements for those axle sizes which are not available until September 1, 1976.

Diamond Reo and White also requested reconsideration of the implementation of full requirements for vehicles equipped with a front steerable non-driving axle with a GAWR of 16,000 pounds or more, which are subject to interim dynamometer requirements from March 1, 1975, to September 1, 1975. The manufacturers base their requests for a 1-year delay on difficulties in securing a proven brake assembly capable of handling the higher torque levels. B. F. Goodrich recently dropped development of its heavy air-over-hydraulic disc brake system, to which at least one truck manufacturer, White Trucks, was committed. White states that disc brakes are necessary for heavy front axles and has encountered severe axle-to-axle imbalance problems in its attempts to use other disc brake assemblies at this date. A major axle supplier has notified the NHTSA that the axle itself can be ready by September 1975.

The NHTSA has evaluated the foundation brake assemblies available to this vehicle group and concludes that a year's field testing and experience is necessary and desirable to assure that the new components will perform as designed when placed in highway service. For this reason the full requirements of Standard No. 121 will become effective for vehicles with a front steerable axle of 16,000 pounds GAWR or more on September 1, 1976.

With regard to this vehicle group, International Harvester claimed that the requirement that the brakes be "fully applied" was unfairly introduced into the interim requirements and interferes with braking action. Apparently full pressure applications may cause erratic behavior in some large vehicles with very light bodies, during dry stops in the unloaded condition.

Full application is required to ensure that vehicles provide the lateral tractive capability of an unlocked wheel during panic braking. This interim requirement was proposed in March 1974 as relief from full requirements which have been in effect since February 1971. The NHTSA does not consider it unfair to propose and make final an optional stopping requirement which represents relief from more stringent requirements. More important, the NHTSA considers it crucial to maintain complete directional stability in a panic stop, loaded or unloaded, if the vehicle is unable to meet the stopping distance requirements in that condition. Accordingly, the International Harvester petition is denied.

Diamond Reo also requested that the interim stopping distances for standard highway vehicles be adopted as the full requirements. Their vehicles meet the shorter distances but not by a sufficient margin to absolutely assure them that every one of their vehicles will pass. The fact that the vehicles are capable of stopping well within the shorter distances persuades the NHTSA that this safety level can and should be maintained. Manufacturers are required by the Safety Act to "exercise due care" in certifying that vehicles comply with the applicable standards (15 U.S.C. 1397(b)(2)). In view of the statutory language, Diamond Reo's request for reconsideration is denied.

In a related matter, the NHTSA has been asked by the Office of the Federal Register to redesignate the present Table V as Table IIa, which is accomplished in this notice.

Manufacturers raised several matters which were not addressed by Notice 2 and are not, therefore, properly raised as petitions for reconsideration. The NHTSA finds it desirable, however, to respond to them in this notice, in view of the standard's imminent effective date.

Most important was a question by International Harvester in a July 27, 1974, visit by NHTSA engineers to their plant. They indicated that some 121 vehicles

may have difficulty in achieving the required burnish temperatures because of the use of the automatic pressure limiting valve that tailors the torque at the front axle. The burnish conditions of Standard No. 121 essentially standardize the preparation of new truck, bus, and trailer brakes for testing under the standard.

In the absence of a specification for these valves, it appears that manufacturers have instituted various practices to assure uniformly good burnishes. It is apparent that different vehicles respond to the burnish procedure with distinctive problems and require solutions tailored to their particular brake packages.

From a regulatory standpoint, however, an optional procedure complicates enforcement of a standard, particularly where a manufacturer has tested one way and the NHTSA tests the other. Test results with the limiting valve, for example, may not be easily comparable with test results in which the valve was bypassed. Both the manufacturer and the NHTSA need a specification that permits flexibility in achieving a uniform burnish in different vehicles, but does not permit two burnish options.

To end this confusion, the NHTSA further specifies the burnish procedure to require that a limiting valve be in use except in the event the temperature of the hottest brake on a rear axle exceeds the temperature of the hottest brake on the front axle by 125°F. In this way the manufacturer and the NHTSA will follow the same test procedure. It should be emphasized that this specification in no way invalidates the testing undertaken to date. Such data can be the basis of certification.

In answer to another International Harvester question, brake adjustments can be made during the burnishing to control brake temperatures. It should be noted that NHTSA is considering a limit on adjustments to three, to be made only during the first 250 snubs. Finally, the NHTSA has indicated to Kelsey-Hayes that it would add "after-stop" to the burnish procedures to describe the specified temperatures more precisely. The NHTSA intends to measure the temperatures within 30 seconds of brake release, but will not reject manufacturer readings taken at any time if they are reasonably related to the temperatures actually generated by the snubs. This latitude is necessary to avoid invalidation of manufacturer testing up to this time.

International Harvester asked that the parking brake requirements of S5.6.2 be modified to require 20 percent grade holding ability "to the limit of traction". The NHTSA has determined that the present grade holding capability is desirable, and it has already provided an alternative requirement in the standard that brakes with a specified static retardation force be provided on all axles. The NHTSA concludes that the option makes a reduction of the grade-holding requirements unnecessary.

Diamond Reo requested that air reservoir volume on trucks and buses be reduced from present requirements. The NHTSA has already reduced the volume from 16 times the combined service brake chamber volumes to 12 times that volume, and concludes that a further reduction is not in the interests of motor vehicle safety. The Diamond Reo request concerning the antilock electrical circuit has already been answered by a letter denial of June 28, 1974.

Wagner Electric requested a minor revision of Figure 1, Trailer Test Rig, which the NHTSA makes in the interests of consistency of terminology. The word "control" is substituted for "pedal".

Finally, the NHTSA has been receiving some indications that manufacturers may arbitrarily specify a higher GAWR than normal simply to avoid requirements of the standard. The NHTSA therefore takes this opportunity to explain the manufacturer's responsibility to specify the GAWR of axle systems on his products.

The NHTSA defines gross axle weight rating as follows:

> "Gross axle weight rating" or "GAWR" means the value specified by the manufacturer as the load-carrying capacity of a single axle system, as measured at the tire-ground interfaces.

Because the GAWR is measured at the tire-ground interfaces, it means that the tires, wheels, brakes, and suspension components are included in the determination. It is obvious that the GAWR of the whole system cannot exceed the rating of any one component, such as tires. Both the NHTSA in its compliance tests and defects investigations, and the Bureau of Motor Carrier Safety on the road, will judge the vehicle on the basis of the values assigned. Therefore it is in the interest of the manufacturer to assign values which accurately reflect the load-bearing ability of the vehicle and its tires and suspension.

In consideration of the foregoing, Standard No. 121 (49 CFR 571.121) is amended as follows:

1. S5.3.1.2 is amended to read:

S5.3.1.2 When stopped in accordance with S5.3.1, with its brakes fully applied, a truck manufactured before September 1, 1976, that has a front steerable non-driving axle with a GAWR of 16,000 pounds or more, or a front steerable drive axle with a GAWR of less than 18,000 pounds, and a truck manufactured before September 1, 1975, that has a front steerable drive axle of any GAWR, need not meet the requirement that it stop in the distances specified in Table II for stops on a surface with a skid number of 75 if its brakes conform to the retardation formula and values of S5.4.1 applied to the vehicle as a whole and to the front axle system separately. These vehicles must nevertheless meet the requirements of staying within the 12-foot lane and those relating to wheel lock-up.

2. The first sentence of S5.3.1.3 is amended by changing "Table V" to read "Table IIa".

3. S5.7.2.3.1 is amended to read:

S5.7.2.3.1 A truck manufactured before September 1, 1976, that has a front steerable non-driving axle with a GAWR of 16,000 pounds or more, or a front steerable drive axle with a GAWR of less than 18,000 pounds, and a truck manufactured before September 1, 1975, that has a front steerable drive axle of any GAWR, must stop in accordance with S5.7.2.3 without any part of the vehicle leaving the roadway, but need not stop in the distances specified.

4. S5.7.2.3.2 is amended by changing "Table V" to "Table IIa".

5. S6.1.8.1 is amended by replacing "a temperature" with "an after-stop temperature" and by the addition of two new sentences following the sentence which ends with "500°F.±50°F." to read:

Any automatic pressure limiting valve is in use to limit pressure as designed, except that any automatic front axle pressure limiting valve is bypassed if the temperature of the hottest brake on a rear axle exceeds the temperature of the hottest brake on a front axle by more than 125°F. A bypassed valve is reconnected if the temperature of the hottest brake on a front axle exceeds the temperature of the hottest brake on a rear axle by 100°F.

6. Table V is redesignated "Table IIa".

7. Figure 1 is amended by changing the word "pedal" to "control".

Effective date: March 1, 1975. Because the Standard's effective date for trucks and buses occurs sooner than 180 days and because these amendments create no additional burden, it is found for good cause shown that an earlier effective date than 180 days from the date of publication is in the public interest.

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

Issued on November 6, 1974.

JAMES B. GREGORY,
Administrator.

[FR Doc.74-26461 Filed 11-7-74;3:22 pm]

[Docket No. 1-8; Notice 17]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Retreaded Pneumatic Tires; Permanent Labeling Requirements

This notice amends Motor Vehicle Safety Standard No. 117, *Retreaded Pneumatic Tires*, to require additional permanent labeling for retreaded tires. A notice of proposed rulemaking regarding this amendment was published January 28, 1974 (39 FR 3571).

The permanent labeling required to be on each retreaded tire by this notice is the actual number of plies in the tire's sidewall and the actual number of plies in its tread area (if different), and the generic name of each cord material used in the plies (both sidewall and tread area) of the tire. These requirements are in addition to the existing requirement that each retreaded tire be permanently labeled with its maximum permissible load.

Under the rule as hereby amended, retreaders do not have to relabel the ply

and cord material information if it is retained on the casing sidewall through the retreading process. If the information is removed during processing, however, it must be relabeled so that it will be permanently affixed to the completed tire. If the information does not appear on the casing before retreading the casing may not be retreaded unless the retreader can otherwise determine the correct information.

The requirements for the permanent labeling of these information items are based specifically on section 201 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1421). The NHTSA did not include them in earlier versions of the standard, as it had concluded that their relationship to safety was not sufficient to justify permanent relabeling. In its opinion in "NTDRA v. Brinegar" 409 F. 2d 31 (D.C. Cir., 1974), however, the Court of Appeals stated that under the Safety Act the NHTSA was unauthorized to reach this conclusion, since Congress had determined that permanent labeling requirements for actual number of plies and cord material must be included in the standard. The proposal of January 28, 1974, was issued as a direct result of that opinion.

Many industry comments suggested that the NHTSA implement this aspect of the opinion by requiring the information to appear on completed retreaded tires only when the information was retained through the retreading process. In cases where the information could not be retained, one comment, from the National Tire Dealers and Retreader's Association (NTDRA), suggested the use of affixed paper or plastic labels to supply the information, so it could be available to the purchaser at the time of purchase. Most of the comments, however, suggested that when the information could not be retained, no requirement should be imposed. These comments argued that for the agency to require otherwise would present substantial burdens on retreaders because of the difficulties in labeling all of the possible combinations of ply and cord material. The industry comments further pointed out that the permanent labeling problem will eventually disappear because of the amendment to Standard No. 109, which requires all tires manufactured after July 1, 1973, to contain required labeling between the tire's maximum section width and bead. This labeling can be retained through the retreading process.

After careful consideration of the issues presented, the NHTSA has determined that it must issue the requirements in the form described. The agency is not unmindful that this will prevent the retreading of some casings otherwise usable, and will require relabeling of the information on others. The NHTSA believes that to issue the requirements in the form suggested by the industry comments would not be consistent with the requirements of section 201 of the Safety Act as interpreted by the Court of Appeals in "NTDRA v. Brinegar." To follow the industry suggestions would leave some tires without the information permanently labeled. It is impossible to reconcile this result with the statutory requirement as interpreted by the Court. Nor can the agency, in conformity with the statute, establish an effective date so far in the future as to provide sufficient time for tires not containing necessary labeling to enter the retreading process.

Based on its review of the record, the NHTSA does not find the requirement unreasonable or impracticable. Since the opinion in "NTDRA v. Brinegar," methods have been developed which allow for the permanent labeling or relabeling of retreaded tires using a rubber medallion which is cured to the sidewall of the tire when the tire is in the mold. The comments indicate that this method is presently being used to permanently label not only a tire's maximum permissible load, as required, but its size, ply rating, and whether it is tubeless or tube type as well. The technology for this labeling approach has been fully documented in retreading journals, and in communications to the docket. The NHTSA has furnished opinions stating that the use of the medallion conforms to the standard's permanent labeling requirements. The docket contains clear information regarding the cost of medallion labeling. Each label costs the retreader some 2.5 cents, and the record demonstrates that the cost of both label and application should not exceed 10 cents per tire. This differs from representations previously made regarding permanent labeling costs, which had been represented at $2.50 per tire.

An additional problem raised in the comments is that adding the two information items greatly increases the labeling burden due to the number of possible combinations of information. The NHTSA does not believe the record supports this contention. According to NHTSA estimates, the variations in ply and cord material are relatively few in bias and bias-belted constructions, with only six possible combinations of ply and cord material in the case of bias tires and ten possible combinations in bias-belted construction. Together, these constructions would necessitate a maximum of 16 labels. While NHTSA estimates show a greater number of possible combinations in the case of radial tires, the record in this rulemaking suggests that few radial tires are as yet being retreaded. It appears most radials used for retreading will have been manufactured after July 1, 1973, and will have casings on which no relabeling would be needed.

Furthermore, one comment, which claimed an increase from 67 to 2,000 possible labels, presumed that all of the information (size, ply rating, maximum permissible inflation pressure, tubeless or tube type, as well as maximum permissible load, number of plies, and generic name of the cord materials) is placed on one label. However, there is nothing to prohibit the use of an additional label for both ply and cord material information, or even an additional label for each. Finally, relabeling is necessary only when the specified information is not retained through the retreading process. Estimates furnished by the industry and placed in the docket show that the information added by this amendment is not in a retainable position in only 1 out of 10 tires otherwise suitable for retreading. The requirement would presently affect a maximum of 10% of retreaded tires, and by the time of its effective date that percentage should decrease.

Prior to this amendment, Standard No. 117 required that on or after August 1, 1974, the only casings that could be used for retreading would be those that bore, originally molded into or onto their sidewalls, the symbol DOT, the tire size, and the actual number of plies or ply rating. The notice of proposed rulemaking of January 28, 1974, proposed to delete the ply-rating alternative, making it necessary to use only casings that show the actual number of plies. It also proposed to add a requirement that the casings to be used would be only those that had originally been labeled with the generic names of their cord materials. These casing requirements were proposed on the assumption that the casing should already contain this information if it is to appear on the completed retreaded tire.

Several comments objected to these proposed requirements on the basis that they would cause a reduction in the number of retreadable casings in certain older and hard-to-find sizes. The NHTSA finds merit in these arguments, and the proposed requirements, that casings used for retreading must be only those that are originally labeled with their actual number of plies and their cord materials, are not adopted. Retreaded tires as they are finally produced must contain this information. But unlike "size" and "ply rating," which are crucial for safety and should only be based on original casing labeling, the NHTSA has decided that retreaders should be free to otherwise obtain information on the number of plies and cord materials and then place it permanently on the tire.

One objection raised in the comments with respect to the requirement that all casings bear the symbol DOT erroneously assumed that these requirements are part of the proposal. The requirement that on or after August 1, 1974, only DOT casings be retreaded was issued March 23, 1972 (37 FR 5950), because of the agency's concern over the continued use of older casings which were not manufactured to meet Standard No. 109. It was based on industry comments that a 6-year supply of casings was required to meet industry needs. August 1, 1974, is 6 years from the date that all new tires were required to be labeled with the specified safety information which is the source of both affixed and permanent labeling under this standard.

The existing casing requirements therefore remain unchanged: the only casings that may be used for retreading are those that bear original permanent labeling of the DOT symbol, size, and the actual number of plies or ply rating.

In light of the above, § 571.117 of Title 49, Code of Federal Regulations (Motor Vehicle Safety Standard No. 117), is amended as set forth below:

1. In § 571.117, paragraph S5.2.3 is amended, S5.2.4 is deleted, and a new S6.3.3 is added as follows:

§ 571.117 Standard No. 117, Retreaded pneumatic tires.

* * * * *

S5.2.3 Each retreaded tire shall be manufactured with a casing that bears, permanently molded at the time of its original manufacture into or onto the tire sidewall, each of the following:

(a) The symbol DOT;

(b) The size of the tire; and

(c) The actual number of plies or ply rating.

S5.2.4 [Reserved]

* * * * *

S6.3.2. Each retreaded tire manufactured on or after May 12, 1975, shall bear permanent labeling (through molding, branding, or other method that will produce a permanent label, or through the retention of original casing labeling) in at least one location on the tire sidewall, in letters and numbers not less than 0.078 inches high, consisting of the following information:

(a) The tires maximum permissible load,

(b) The actual number of plies in the tire sidewall, and the actual number of plies in the tire tread area, if different; and

(c) The generic name of each cord material used in the plies (both sidewall and tread area) of the tire.

Effective date: May 12, 1975.

(Secs. 103, 112, 113, 114, 119, 201; Pub L. 89-563; 80 Stat. 718 (15 U.S.C. 1392, 1401, 1402, 1403, 1407, 1421); delegation of authority at 49 CFR 1.51)

Issued on November 6, 1974.

JAMES B. GREGORY,
Administrator.

[FR Doc.74-26462 Filed 11-11-74;8:45 am]

Title 50—Wildlife and Fisheries

CHAPTER I—FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 33—SPORT FISHING

Audubon National Wildlife Refuge, N. Dak.

The following special regulation is issued and is effective on November 12, 1974.

§ 33.5 Special regulations; sport fishing for individual wildlife refuge areas.

NORTH DAKOTA

AUDUBON NATIONAL WILDLIFE REFUGE

Lake Audubon within Audubon National Wildlife Refuge is open to all fishing December 15, 1974 through March 23, 1975 and is closed from March 24 through December 14, 1975.

Sport fishing on the Audubon National Wildlife Refuge, Coleharbor, North Dakota is permitted on all water areas throughout the refuge. The water area, comprising 5,900 acres is delineated on maps available at refuge headquarters or at the office of the Area Manager, U.S. Fish and Wildlife Service, Bismarck, North Dakota 58501.

Sport fishing shall be in accordance with all applicable State regulations subject to the following conditions:

(1) The open season for sport fishing on the refuge extends from December 15, 1974 through March 23, 1975, inclusive.

The provision of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through March 23, 1975.

DAVID C. MCGLAUCHLIN,
Refuge Manager, Audubon National Wildlife Refuge, Coleharbor, North Dakota 58531.

NOVEMBER 5, 1974.

[FR Doc.74-26431 Filed 11-11-74;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 rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 967]

CELERY GROWN IN FLORIDA

Proposed Expenses and Rate of Assessment

Consideration is being given to authorize the Florida Celery Committee to spend not more than $75,065 for its operations during the fiscal period ending July 31, 1975, and to collect one cent per crate on assessable celery handled by first handlers under the program.

This committee was established under Marketing Agreement No. 149 and Order No. 967, both as amended (7 CFR Part 967). This marketing order program regulates the handling of celery grown in Florida, under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

All persons who desire to submit written data, views, or arguments in connection with these proposals shall file the same, in duplicate, with the Hearing Clerk, U.S. Department of Agriculture, Room 112–A, Washington, D.C. 20250, not later than November 26, 1974. All written comments will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The proposals are as follows:

§ 967.210 Expenses and rate of assessment.

(a) The expenses that are reasonable and likely to be incurred during the fiscal period ending July 31, 1975, by the Florida Celery Committee, for its maintenance and functioning, and for such purposes as the Secretary determines to be appropriate, will amount to $75,065.

(b) The rate of assessment to be paid by each handler in accordance with this part, shall be one cent ($0.01) per crate of celery handled by him as the first handler during the fiscal period.

(c) Unexpended income in excess of expenses for the fiscal period may be carried over as a reserve to the extent authorized in § 967.62.

(d) Terms used in this section shall have the same meaning as when used in the marketing agreement and this part.

Dated: November 6, 1974.

FRED DUNN,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.74-26446 Filed 11-11-74;8:45 am]

[7 CFR Parts 1002, 1004]

[Docket Nos. AO-160-A50, AO-71-A67]

MILK IN THE MIDDLE ATLANTIC AND NEW YORK-NEW JERSEY MARKETING AREAS

Tentative Marketing Agreements and Orders; Extension of Time

Notice is hereby given that the time for filing exceptions to the recommended decision with respect to the proposed amendments to the tentative marketing agreements and to the orders regulating the handling of milk in the Middle Atlantic and New York-New Jersey marketing areas which was issued October 15, 1974 (39 FR 37926) is hereby extended to December 13, 1974.

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

Signed at Washington, D.C., on: November 7, 1974.

RICHARD P. BARTLETT, JR.,
Acting Administrator, Agricultural Marketing Service.

[FR Doc.74-26482 Filed 11-11-74;8:45 am]

[7 CFR Part 1136]

[Docket No. AO-309-A20]

MILK IN GREAT BASIN MARKETING AREA

Final Decision on Proposed Amendments to Marketing Agreement and to Order

A public hearing was held upon proposed amendments to the marketing agreement and the order regulating the handling of milk in the Great Basin marketing area. The hearing was held, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice (7 CFR Part 900), at Pocatello, Idaho, on June 11–13, 1974, pursuant to notice thereof issued on May 17, 1974 (39 FR 18114).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Associate Administrator, on September 23, 1974, filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto (39 FR 34555).

The material issues, findings and conclusions, ruling, and general findings on the recommended decision are hereby approved and adopted and are set forth in full herein, subject to the following modifications:

1. Three new paragraphs are added immediately following the 22nd paragraph under the subheading "1. Expansion of the marketing area."

2. A new paragraph is added immediately following the 12th paragraph under the subheading "3. Modification of location adjustments."

The material issues on the record of the hearing relate to:

1. Expansion of the marketing area.
2. Modification of the pool plant provisions.
3. Revision of the handler location adjustment provisions.
4. Miscellaneous or conforming changes.

FINDINGS AND CONCLUSIONS

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. *Expansion of the marketing area.* The Great Basin marketing area should be expanded to include the Idaho counties of Bannock, Bear Lake, Bingham, Bonneville, Franklin, Jefferson, and Madison.

The counties are located immediately north of the present marketing area and have a total population (1970 census) of 172,190. The principal centers of population in the proposed expanded area are the cities of Pocatello and Idaho Falls which had a population in 1970 of 40,036 and 35,776, respectively. The total population of the area recommended herein to be added equals about 17 percent of the population in the present marketing area.

Expansion of the marketing area was proposed by the Upper Snake River Valley Dairymen's Association, Inc., Mountain Empire Dairymen's Association, and Western General Dairies, Inc. These producer associations initially proposed that the area be extended to include the seven southeastern Idaho counties of Bannock, Bear Lake, Bingham, Bonneville, Franklin, Jefferson, and Madison. At the hearing, proponents offered an alternative proposal which would extend the marketing area to include only the corporate limits of the towns of Blackfoot, Idaho Falls, Pocatello, Preston, and Rexburg. Under either proposal all of the principal dealers distributing milk in southeastern Idaho would become regulated.

Proponents testified that Federal regulation of milk marketing in southeastern Idaho is needed because:

(1) Marketing conditions for Grade A fluid milk distributed in southeastern Idaho markets have been seriously disrupted for more than two years.

(2) A comprehensive system for paying southeastern Idaho producers according to the utilization of their milk has been unattainable.

(3) Available fluid outlets for milk have not yielded an adequate Class I return.

Proponent's position was supported by a Great Basin regulated handler who supplies packaged milk products throughout southeastern Idaho to stores owned by the firm.

Six Idaho distributors and two handlers regulated under the Great Basin order distribute milk in the seven southeastern Idaho counties recommended herein for inclusion in the marketing area. Two of the Idaho distributors' plans are located at Pocatello, two at Idaho Falls, and one each at Boise and Rigby. Five of these plants are located within or immediately adjacent to the seven-county area. The Boise plant in southwestern Idaho is more than 225 miles from Idaho Falls and Pocatello.

Estimated current monthly distribution of fluid milk products in the total proposed area of extension is five million pounds. More than 90 percent of the fluid milk products comprising this distribution are processed at plants which would become regulated as a result of area expansion. It is expected that six additional distributing plants would become regulated. Total route disposition of the two Great Basin regulated handlers in the proposed area of extension averaged monthly about 441,000 pounds in 1973.

Disorderly marketing conditions prevail in the handling of milk in the proposed area of extension. For more than two years there has been a significant variation among handlers in payments to dairy farmers for fluid milk distributed within this area of southeastern Idaho. Three distributors with high Class I utilization pay their dairy farmers on a flat price basis. The prices paid by these distributors have averaged more than $1 per hundredweight below the Great Basin order Class I price which is paid by regulated handlers. A distributor operating a plant in Pocatello (Powers County, Idaho), with substantial fluid distribution throughout most of the proposed area of extension, purchases his entire supply on a classified use basis from one of the proponent cooperative associations. However, the Class I price paid by this handler is substantially less ($1 per hundredweight less in June 1974) than the Great Basin order price, and there is no provision in the terms of sale for auditing the utilization of milk.

Western General—a principal proponent of area expansion—operates an unregulated processing plant at Idaho Falls, Idaho. This plant has the largest distribution of fluid milk in the southeastern Idaho area here under consideration. The cooperative has been unable to obtain for its members returns in any way comparable to those of producers under the Great Basin order. Because it directly competes primarily with other unregulated southeastern Idaho plants that do not purchase their milk on a classified use basis, the cooperative has been unable to establish such a plan or to return prices to its members that reasonably reflect the use value of their milk. Consequently, the cooperative can only return to its members the prevailing "flat" rate even though the milk is disposed of for fluid use.

The Boise, Idaho, distributor has route disposition of fluid milk products throughout the proposed area of extension. In April 1974, this distributor's disposition in the proposed area of extension was about 19 percent of the receipts of Grade A milk at its plant. The milk supply for this plant is provided by one of the proponent cooperative associations, and the firm accounts to the association on a classified use basis at specified prices, but without audit. The association's Class I price generally applicable to this handler is the Minnesota-Wisconsin manufacturing milk price plus $1.50 per hundredweight for milk distributed in southwestern Idaho. However, the Class I price for that milk distributed in southeastern Idaho is about 40 cents less. The cooperative is forced to accept this price concession for milk sold in southeastern Idaho in order to retain the outlet for its milk.

Such price concessions undercut the market structure in southeastern Idaho, and contribute to market instability in the proposed area of extension. This is evidenced by the fact that the Boise plant, according to the testimony of a distributor witness, has made substantial inroads on the fluid milk sales of handlers located in southeastern Idaho.

Another factor contributing to disorderly marketing conditions in southeastern Idaho has been the proliferation of the use of "private label" milk distributed through stores at varying prices. Through the use of the various private labels, individual distributors have structured a multiple priced market. Because of this, distributors in southeastern Idaho do not actually know until after such private label sales are made (usually at the end of the month) how much they can "afford" to pay for Class I milk.

The principal Pocatello based distributor testified that since 1969 his company has experienced a significant continuing loss of milk sales in the area to private label milk packaged by processing plants far removed from the Pocatello area. Under this circumstance, the cooperative associations have been unable to achieve terms of sale by which their milk would be priced according to use.

At least one of the proponent cooperatives has had the nominal right to conduct audits of utilization at its buyers' plants, but it has not been possible, on a market basis, to conduct and enforce a comprehensive audit of the type made by a market administrator under a Federal order. As a group, producers have no means of achieving uniform milk classification, or of enforcing the payment of adjustments even if audits were made by any of the cooperative associations.

Several of the southeastern Idaho based distributors are supplied by dairy farmers who are not members of any cooperative association. Consequently, these dairy farmers have had little or no influence on the terms by which they are paid for their milk. Further, they do not have adequate verification of weights and butterfat tests of their milk, and they do not have access to marketwide data on which to evaluate marketing conditions under which their milk is sold.

A handler who operates both a pool distributing plant in Salt Lake City and an unregulated distributing plant in Boise, Idaho, testified that he did not object to the requested extension of the marketing area provided the Boise plant did not become fully regulated. This, he suggested, could be assured by limiting the area expansion to the five Idaho counties of Bannock, Bear Lake, Bingham, Bonneville, and Franklin, and by increasing the performance standard requirements of a fluid milk pool plant under the order.[1]

This handler's Boise operation, hereinbefore discussed, has substantial fluid milk distribution throughout the proposed area of extension. Notwithstanding, southeastern Idaho is, in fact, only a secondary area of distribution from the Boise plant since its principal area of sales is the southcentral and southwestern sections of Idaho. Based on its current distribution pattern, expansion of the marketing area to include the seven southeastern Idaho counties would almost certainly result in full regulation of this plant.

The handler asserted that full regulation would place him at a serious cost disadvantage since all of his competition in the primary area of distribution is not subject to Federal regulation. This was conceded by the proponents of area expansion.

Notwithstanding, regulation of the seven southeastern Idaho counties, recommended herein, is necessary in that it represents a compact area in which the same handlers generally compete for fluid milk sales. The Boise operation is a major distributor in this area. Currently this plant has about 20 percent of the total fluid sales in the seven southeastern Idaho counties recommended to be included in the marketing area.

This handler, however, has considerable flexibility in his operations to affect the regulatory status of his Boise operation. He could choose to serve the area in part or entirely from his presently regulated Salt Lake City plant,

[1] Modification of the pool plant provisions is treated as a separate issue at a later point in this decision.

from his Boise, Idaho, plant, or elsewhere. In choosing one alternative as compared to another, the final choice will be based largely on relative Class I prices and cost of transporting packaged milk. However, since this handler's Salt Lake City plant is located substantially closer to the recomended area of expansion than the Boise plant, it appears the seven Idaho counties area could best be served from its Salt Lake City plant.

At the hearing, and in his brief, the principal Pocatello based dealer contended that if Federal regulation is justified for any part of southern Idaho, it should be made applicable to all of southern Idaho. It was this dealer's position that if his operation were brought under full regulation as a result of area extension, his principal competitors must likewise be fully regulated.

In support of his position, this dealer argued that since he had substantial route disposition beyond the area herein adopted for regulation, he would be forced to compete with unregulated handlers. He estimated that between 30 and 40 percent of his total route disposition would be outside of the recommended area of extension. Considering the sparsely populated area in which such out-of-area sales would occur, it appears that disposition to this extent would be unlikely. Further, this area is also served by handlers that are presently regulated or would become regulated as a result of the recommended marketing area extension. Therefore, it is extremely unlikely that unregulated milk would be a serious competitive factor affecting this dealer's operation.

Exception was taken by the Pocatello dealer to extending regulation covering the seven southeastern Idaho counties as proposed in the recommended decision since the dealer's plant would become a fully regulated distributing plant under the expanded order. The dealer, in his exceptions, reiterated the position taken at the hearing that since his route disposition extended beyond the area proposed to be added to the Great Basin marketing area, he would be forced to compete with unregulated handlers. In this connection, he strongly excepted to the conclusion reached in the recommended decision that it was extremely unlikely that he would be at a significant competitive disadvantage with unregulated handlers in view that such out-of-area distribution is insignificant.

In his exceptions, the dealer continued to maintain that out-of-area route distribution would represent a significant portion of his total fluid milk sales. As additional support, he specifically referred to five Idaho counties located immediately west of the additional area recommended to be regulated that had sufficient population to provide a potential market for 30–40 percent of his Class I sales.[2] The record evidence showed that at the time of the hearing the dealer had Class I sales in only one of the five counties listed in the exception. Moreover, this county—Powers—was the least populated of any of the counties thus cited as a potential market outlet for his sales.

In view of the foregoing and based on a complete reevaluation of the record evidence regarding the marketing area expansion issue, the conclusion reached in the recommended decision that "it is extremely unlikely that unregulated milk would be a serious competitive factor affecting this dealer's operation" is hereby reaffirmed.

Conceivably, in view of existing operations in the recommended area of extension, such area might be distinguishable as a separate marketing area. In fact, however, the location of this proposed area of extension in relation to the present regulated area, the interrelationship of producers and the relative small volume of Class I milk in the area under consideration supports the need for a single expanded and integrated order. Moreover, there is a growing economic relationship between southeastern Idaho and Great Basin.

Additionally, the proponent cooperative associations for area expansion market more than 90 percent of the milk of producers in the Great Basin order and supply about 90 percent of the milk received at the Idaho plants that would become subject to regulation under the recommended marketing area extension. With such a close interrelationship in location, distribution patterns, milk supply and producer representation, orderly marketing in the area will best be achieved by adding the Idaho territory to the Great Basin marketing area.

It it concluded that a uniform price plan applicable to all handlers purchasing milk for sale in the expanded area will stabilize and inmprove marketing conditions in the area. Accordingly, regulation of southeastern Idaho will effectuate the declared policy of the Act by providing for:

1. The establishment of uniform prices to handlers for milk received from producers according to a classified price plan based upon the utilization made of the milk;

2. An impartial audit of handler's records to verify the payments of required prices;

3. A system for verifying the accuracy of weights and butterfat content of the milk purchases; and

4. Uniform returns to producers supplying the market based upon an equalization sharing among all producers supplying the expanded market of the lower returns for the sale of reserve milk which cannot be marketed as Class I milk.

The public interest will be served by establishing orderly marketing conditions for milk in the proposed area that will assure a continuing and adequate supply of fluid milk for the area at reasonable prices.

It is concluded also that, except as modified by this decision, the present provisions of the Great Basin order are equally appropriate for the extended marketing area and they are hereby adopted for the identical reasons advanced in the decision adopting such provisions in the order.

2. *Modification of pool plant definition.* The performance standards under which a fluid milk plant may qualify as a pool plant under the Great Basin order should be revised. The order should provide that a pool fluid milk plant shall have not less than 15 percent of its receipts of fluid milk products as route disposition in the marketing area. No change should be made with respect to the percentage requirements that a fluid milk plant's total receipts of fluid milk products which must be disposed of as route disposition.

The order now provides that a fluid milk plant must distribute not less than 40 percent in May–August, 45 percent in March–April and 50 percent in September–February of its receipts as Class I on routes and that 15 percent of such plant's total route disposition is distributed in the marketing area if it is to qualify as a pool plant.

The handler who operates a pool distributing plant in Salt Lake City and an unregulated distributing plant in Boise, Idaho, proposed a revision of the pool fluid milk plant qualification requirement from the present minimum of 15 percent of a plant's total route disposition which must be disposed of in the marketing area to a minimum of 20 percent of such plant's total Grade A milk receipts to be disposed of on routes in the marketing area. This proposal was supported, in principle, by the cooperative proponents of marketing area expansion.

The handler's proposal to increase the performance requirements for a pool fluid milk distributing plant under the order was made to additionally assure for his Boise plant partially regulated status under the extended order. The plant, otherwise, would become fully regulated unless the handler made certain adjustments in distribution as between his Great Basin and Boise plants.

Performance standards, provide the basis of determining which plants and what milk constitute the regular and normal sources of supply for the market that should be subject to full regulation. Such standards apply uniformly to all plants wherever located. Any plant regardless of location may be brought under regulation or it may remain outside the scope of regulation dependent on the mode of operation elected by the operator of each plant. The determination and decision as to how a plant shall be operated remains vested in the plant operator.

As indicated elsewhere in this decision, the operator of the Boise distributing plant has considerable flexibility to assure that such plant will have partially regulated status under the expanded order without changing the present performance standards of distributing plants.

Proponent cooperatives requested that the performance requirement of a pool

[2] Note that at the hearing the dealer testified that in terms of the proponent's area expansion proposal, and as herein adopted, his out-of-area fluid sales would represent 30 to 40 percent of his total fluid sales.

distributing plant be modified by requiring such plant to have at least 15 percent of its receipts of fluid milk products as route disposition in the marketing area. This modification, they contended, was necessary to provide additional assurance that the Class I sales of the recommended expanded marketing area will be shared among those producers who are an essential and regular part of the supply for the area.

Under current conditions, this requested modification of performance requirements by the proponent cooperatives would not affect the regulatory status of either the present order pool distributing plants or those additional plants that would become fully regulated under the recommended expanded order. Accordingly, this proposed revision of performance requirements of pool distributing plants is adopted in this decision.

3. *Modification of location adjustments.* The location adjustment provisions of the order should be revised to replace Ogden and Provo, Utah, with Salt Lake City as the basing point from which distances are measured in determining location adjustments.

The order now provides that the Class I and uniform prices be reduced 22 cents per hundredweight at a plant in the 150–160 mile zone from the nearest basing point of either Ogden or Provo, Utah. At a plant located beyond 160 miles, the location adjustment is increased 1.5 cents for each additional 10 miles or fraction thereof.

Proponents of extending regulation to southeastern Idaho proposed a complete restructuring of location adjustments. Under their proposal, four zones would be established. Zone I would include all territory located within 100 miles of the county courthouse in Provo, Utah, for which no location adjustment would be applicable. Zone II, under their proposal, would include specified Utah, Wyoming and Nevada counties located immediately adjacent to the area comprising Zone I. A 10 cents per hundredweight location adjustment would apply to this zone. Zones III and IV would be made up of certain designated Idaho and Utah counties. The applicable location adjustment for Zones III and IV would be 20 cents and 30 cents, respectively. Under proponents' proposal, the location adjustment at any plant outside of the designated zones would be 10 cents, plus 1.5 cents for each 10 miles or fraction thereof that such plant was situated in excess of 100 miles from Provo, Utah.

Their proposal, proponent contended, would: (1) Provide appropriate Class I prices at bottling plants that become regulated because of the marketing area expansion without changing the price structure at presently regulated plants; and (2) assure a more equitable pricing basis for milk not needed for processing at pool plants and diverted directly to nonpool manufacturing plants.

The immediate and primary problem of location pricing resulting from extending the marketing area is one of applying appropriate prices at all locations at which milk is delivered by producers; thereby facilitating the orderly movement of milk from farms to plants serving the principal market center.

Under the order milk is priced at the plant of physical receipt. No location adjustment is applicable when milk is received directly from the farm at a processing plant in the market center. Hence, the cost of transportation on milk so delivered is paid for by the individual producer through negotiation with haulers. When producers deliver their milk to a plant in the production area their hauling costs are naturally less than that of other producers in the same area who deliver to plants located in or near the market centers. This saving in transportation cost appropriately should be reflected in relative prices paid at different plant locations.

The southeastern Idaho plants that will become regulated under the area extension are all located a considerable distance from the principal population center of the marketing area and within an important production area from which presently regulated bottling plants in the market center obtain a substantial part of their milk supply. Under present order provisions, however, location adjustments would not apply to certain of these southeastern Idaho plants since such plants are located less than 150 miles from the nearest basing point of Ogden, Utah, as provided by the present order.

With Ogden, Utah, as a basing point (as presently provided) no location adjustment would apply to the Pocatello, Idaho, plants which are located less than fifty miles from the Idaho Falls plant. A location adjustment of 25 cents, however, would apply to the Idaho Falls plant. This situation could not promote continued orderly marketing over time since producers in this area delivering to plants in the central market area would net a lesser return because of the longer haul and hence higher hauling costs.

This result would not recognize the proper location value of milk received at the southeastern Idaho plants in relation to its value in the central market. Accordingly, the basing point at Ogden, Utah, should be discontinued.

An important consideration in establishing an appropriate basing point for computing location adjustments is to identify the major population center(s) of the expanded marketing area. The heaviest population center in the present and proposed expanded marketing area is Salt Lake City. The 1970 population of the Salt Lake City metropolitan area was 557,635, accounting for 47 percent of the population of the recommended expanded marketing area. Population of Ogden and Provo, the present basing points for location pricing, in 1970 was 126,278 and 137,776, respectively[1] These two cities represent the north-south extremities of the heaviest populated portion of the present and proposed expanded marketing area. More significantly, Salt Lake City is centrally located in this concentrated area. Ogden is about 35 miles north of Salt Lake City and Provo is 43 miles south of Salt Lake City.

Almost all of the pool distributing plants under the Great Basin order are now located in the Salt Lake City metropolitan area. In April 1974, nine of the 14 pool distributing plants under the order were located in the Salt Lake City metropolitan area. From these plants, fluid milk products are regularly distributed within a radius of about 150 miles.

In view of the foregoing, it is concluded, that Salt Lake City is the appropriate basing point for computing location adjustments at distant plants under current marketing conditions. The adoption of Salt Lake City as a basing point will result in no change in the applicable price at plants presently regulated under the order. The location adjustments applicable at Idaho plants that would be regulated as a result of the market area extension provided herein would approximate —23 cents at Pocatello, —31 cents at Idaho Falls, —32 cents at Rigby, and —49 cents at Boise.

Exceptors claimed that the recommended location adjustments applicable at Idaho Falls and Rigby plants provide such plants with a competitive advantage over plants located in Pocatello. The Idaho Falls and Rigby plants compete to a large extent with Pocatello based plants. The plants at Idaho Falls and Rigby are located 49 miles and 59 miles, respectively, from Pocatello. The record evidence showed that such handlers located there incur a larger expense in transporting packaged fluid milk than is provided at the bulk rate (location adjustment rate). Accordingly, for packaged milk delivered to Pocatello and its environs, the Idaho Falls handlers' cost of milk would equal or exceed the Pocatello handlers' cost for Class I milk. The same concept is applicable for fluid milk products packaged at Boise and sold in the Pocatello area. For fluid milk disposed of from Pocatello to Idaho Falls, virtually any location adjustment schedule will affect, of course, some handlers' costs relative to other handlers. The original issuance of an order, as in this case, is bound to alter handlers' costs in the absolute and in relation to one another as compared to conditions that existed prior to regulation. However, it is not unusual for handlers regulated under various orders to sell milk in lower-priced zones within the same market, or even into other regulated markets with somewhat lower Class I prices.

Under proponent's proposal a location adjustment of 10 cents would apply to milk diverted to manufacturing plants at Richmond and Smithfield, Utah. Both of these plants are located in close proximity of fluid milk plants in the Ogden-Salt Lake City area and under the present order no location adjustments are

[1] Official notice is taken of U.S. Census of Population, 1970 for Idaho, Nevada, Utah, and Wyoming, issued by the Bureau of Census U.S. Department of Commerce.

applicable. Any saving in the cost of transportation realized by diverting milk from farms to the same vicinity to these plants, as compared to hauling the milk to Ogden or Salt Lake City fluid processing plants could not be significant. Therefore diversions to such plants appropriately should not be subject to a location adjustment.

Beyond this, their proposal to establish location adjustments based on specified zones emanating from Provo as the center of the market was not supported with meaningful evidence. Further, the proposed zones were not geared to mileage considerations in such a manner that the adjustments would apply equally to plants similarly situated from a central basing point. For these reasons their proposed zoning procedure is not appropriate under the procedure here adopted.

Location adjustments would continue to be computed (as now provided by the Great Basin order) on a mileage basis, from a specified basing point. A rate of 1.5 cents per 10 miles (as now provided in the order) is appropriate to reflect the cost of hauling milk efficiently in bulk tank lots. It is recognized as a representative rate for transporting milk and is the rate most applicable in Federal orders throughout the United States. While proponents testified that transportation rates may be higher than those now provided in the Great Basin order, and in other Federal orders, no change in the rate was proposed.

To deter the uneconomic movement of reserve milk to the central market for manufactured uses from one pool plant to another, the present order provides a method of applying location adjustment credits by limiting the amount of such credit. For clarification purposes, only, this provision is revised herein to reflect greater specificity of the computation of location adjustment credits to transfers between pool plants.

4. *Miscellaneous or conforming changes.* (a) The method of accounting for milk and milk products on a handler system basis under the order should not be changed. Under this method of accounting milk and milk products are accounted for on the basis of the combined receipts and utilization at all pool plants operated by a single handler.

At the hearing, the operator of the Boise, Idaho, distributing plant proposed accounting for milk and milk products on an individual plant basis. Proponent held that handler system accounting results in unnecessary accounting problems for a multiple plant handler.

The proponent handler currently operates a pool distributing plant under the order. As indicated previously, it is possible that his Boise, Idaho, plant may also become fully regulated as a result of the recommended marketing area extension. Undoubtedly, the fact that both plants might be fully regulated, prompted the handler's proposal.

The record does not disclose what accounting problems proponent seeks to resolve through individual plant accounting. Moreover, under the present order, there is a multiple plant handler operating four pool distributing plants. Apparently, the handler system of accounting has operated satisfactorily in this instance. There has been no proposal for change from the Great Basin handler now subject to the provisions, and he introduced no supporting testimony at the hearing. In view of the foregoing, it would be inappropriate, at this time, to adopt the proposal.

(b) A handler proposed that, for the first month, the handlers who are to become newly regulated because of marketing area expansion should not be subject to the pricing and payment provisions of the order, but should report to the market administrator on a "dry run" basis as has been regularly practiced in the past with respect to newly promulgated orders.

It has been customary to provide the "dry run" period when an order has been newly promulgated. It is feasible to do so, at the inception of an order, because all handlers who would be regulated enter upon such regulation simultaneously. Consequently, a temporary period in which only reports are submitted and during which the pricing provisions would not apply would have uniform application among the handlers.

Such is not the case in an amendment proceeding. Any amendment to an order, including expanding the marketing area, is an integral part of the entire order and hence from the effective date of the amended order it is necessary to apply all provisions of the order to the affected handlers. Moreover, each newly regulated handler will have a minimum of 30 days' advanced notice of the terms and provisions of an amended order as prescribed in the final decision. This period should be adequate time for such handlers to apply the provisions of the amended order to their business. The proposal, therefore, is denied.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held;

(d) All milk and milk products handled by handlers, as defined in the tentative marketing agreement and the order as hereby proposed to be amended, are in the current of interstate commerce or directly burden, obstruct, or affect interstate commerce in milk or its products; and

(e) It is hereby found that the necessary expense of the market administrator for the maintenance and functioning of such agency will require the payment by each handler, as his pro rata share of such expense, 4 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to milk specified in § 1136.86 of the aforesaid tentative marketing agreement and the order as proposed to be amended.

Rulings on Exceptions

In arriving at the findings and conclusions, and the regulatory provisions of this decision, each of the exceptions received was carefully and fully considered in conjunction with the record evidence. To the extent that the findings and conclusions, and the regulatory provisions of this decision are at variance with any of the exceptions, such exceptions are hereby overruled for the reasons previously stated in this decision.

In an exception to the recommended decision, a request was made by a proprietary handler to reopen the hearing to review the proposed action contained in the recommended decision. Exceptor, however, did not provide any information from which it may be concluded that the hearing should be reopened. Moreover, the exceptor appeared at the hearing on which this decision is based and testified fully in opposition to any extension of the Great Basin area into southeastern Idaho. Accordingly, such request is hereby denied.

MARKETING AGREEMENT AND ORDER

Annexed hereto and made a part hereof are two documents, a marketing agreement regulating the handling of milk, and an order amending the order regulating the handling of milk in the Great Basin Marketing area which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That this entire decision, except the attached marketing agreement [2], be published in the FEDERAL REGISTER. The regulatory provisions of the marketing agreement are identical with those contained in the order as hereby proposed to be amended by the attached order which is published with this decision.

REFERENDUM ORDER TO DETERMINE PRODUCER APPROVAL; DETERMINATION OF REPRESENTATIVE PERIOD; AND DESIGNATION OF REFERENDUM AGENT

It is hereby directed that a referendum be conducted and completed on or before the 30th day from the date this decision is issued, in accordance with the procedure for the conduct of referenda (7 CFR 900.300 et seq.), to determine whether the issuance of the attached order as amended and as hereby proposed to be amended, regulating the handling of milk in the Great Basin marketing area is approved or favored by producers, as defined under the terms of the order (as amended and as hereby proposed to be amended), who during the representative period were engaged in the production of milk for sale within the aforesaid marketing area.

The representative period for the conduct of such referendum is hereby determined to be June 1974.

The agent of the Secretary to conduct such referendum is hereby designated to be Earl C. Born.

Signed at Washington, D.C., on November 6, 1974.

RICHARD L. FELTNER,
Assistant Secretary.

Order [1] amending the order, regulating the handling of milk in the Great Basin marketing area

FINDINGS AND DETERMINATIONS

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Great Basin marketing area. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure (7 CFR Part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held;

(4) All milk and milk products handled by handlers, as defined in the order as hereby amended, are in the current of interstate commerce or directly burden, obstruct, or affect interstate commerce in milk or its products; and

(5) It is hereby found that the necessary expense of the market administrator for the maintenance and functioning of such agency will require the payment by each handler, as his pro rata share of such expense, 4 cents per hundredweight of such agency will require the payment may prescribe, with respect to milk specified in § 1136.86.

Order relative to handling. It is therefore ordered that on and after the effective date hereof the handling of milk in the Great Basin marketing area shall be in conformity to and in compliance with the terms and conditions of the order, as amended, and as hereby amended, as follows:

The provisions of the proposed marketing agreement and order amending the order contained in the recommended decision issued by the Associate Administrator on September 23, 1974, and published in the FEDERAL REGISTER on September 26, 1974 (39 FR 34555) shall be and are the terms and provisions of this order, amending the order, and are set forth in full herein, subject to modification in §§ 1136.6, 1136.11, and 1136.53:

1. Section 1136.6 is revised as follows:

§ 1136.6 Great Basin marketing area.

"Great Basin marketing area" hereinafter called the "marketing area" means all the territory, including all government reservations and installations and all municipalities, within the places listed below:

UTAH COUNTIES

Box Elder	Morgan
Cache (city of Logan only)	Salt Lake
Carbon	Sanpete
Daggett	Sevier
Davis	Summit
Duchesne	Tooele
Emery	Uintah
Grand	Utah
Juab	Wassatch
Miller	Webber

NEVADA COUNTIES

Elko	White Pine

WYOMING COUNTIES

Uinta (town of Evanston only)

IDAHO COUNTIES

Bannock	Franklin
Bear Lake	Jefferson
Bingham	Madison
Bonneville	

2. In § 1136.11, paragraph (a) is revised as follows:

§ 1136.11 Pool plant.

* * * * *

(a) A fluid milk plant, except a producer-handler plant, from which not less than 50 percent in any month of September through February, not less than 45 percent in any month of March and April, and not less than 40 percent in any month of May through August of the fluid milk products, except filled milk, approved by a duly constituted health authority for fluid consumption that are physically received at such plant (excluding milk received at such plant from other order plants or dairy farms which is classified in Class III under this order and which is subject to the pricing and pooling provisions of another order issued pursuant to the Act) or diverted therefrom as producer milk to a nonpool plant pursuant to § 1136.13 is disposed of on routes, and not less than 15 percent of such receipts are on routes in the marketing area.

* * * * *

3. Section 1136.53 is revised as follows:

§ 1136.53 Location adjustments to handlers.

(a) For milk which is received from producers at a pool plant, or is diverted therefrom, or is delivered by a cooperative association pursuant to § 1136.9(c) to a pool plant and which is assigned to Class I milk, subject to the limitations pursuant to paragraph (b) of this section, and for other source milk for which a location adjustment is applicable, the price computed pursuant to § 1136.50(a) shall be reduced as follows:

[2] Filed as part of the original document.
[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

Distance (miles):	*Rate per hundredweight (cents)*
150 but not more than 160	22.0
For each additional 10 miles or fraction thereof in excess of 160	1.5

Such distance to be the shortest hard-surfaced highway distance as determined by the market administrator from the plant to the County Courthouse of Salt Lake County, Utah;

(b) In applying such credits to transfers of fluid milk products between pool plants, a Class I location adjustment credit for the transferor-plant shall be determined by the market administrator for skim milk and butterfat, respectively, as follows:

(1) From the pounds of skim milk remaining in Class I at the transferee-plant after the computations are made pursuant to § 1136.44(a)(10) subtract the pounds of skim milk in receipts of milk at the transferee-plant from producers and handlers described in § 1136.9 (c);

(2) Assign any remaining pounds of skim milk in Class I at the transferee-plant to the skim milk in receipts of fluid milk products from other pool plants, first to the transferor-plants at which no location adjustment applies and then in sequence beginning with the plant at which the least location adjustment applies;

(3) Compute the total amount of location adjustment credits to be assigned to transferor-plant pursuant to paragraph (b)(2) of this section by the applicable adjustment rate for each such plant, and add the resulting amounts;

(4) Assign the total amount of location adjustment credits computed pursuant to paragraph (b)(3) of this section to those transferor-plants that transferred fluid milk products containing skim milk classified as Class I milk pursuant to § 1136.44(a), in sequence beginning with the plant at which the least location adjustment applies. Subject to the availability of such credits, the credit assigned to each plant shall be equal to the hundredweight of such Class I skim milk multiplied by the applicable location adjustment rate for such plant. If the aggregate of this computation for all plants having the same location adjustment rate exceeds the credits that are available to those plants, such credits shall be prorated to the volume of skim milk in Class I transfers received from such plants; and

(6) Class I location adjustment credit for butterfat shall be determined in accordance with the procedure outlined for skim milk in paragraph (b) (1) through (5) of this section.

[FR Doc.74-26447 Filed 11-11-74;8:45 am]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[29 CFR Part 1955]

[Docket No. SP-6]

STATE PLAN APPROVAL

Withdrawal Procedures

Notice is hereby given that under the authority of sections 8(g)(2) and 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 657(g)(2) and 667) (hereinafter called the Act), it is proposed to amend 29 CFR Chapter XVII by adding a new part, designated Part 1955.

The purpose of Part 1955 is to set out the policies and procedures by which the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary), under a delegation of authority from the Secretary of Labor (Sec. Order 12-71, 36 FR 8754), will afford due notice and an opportunity for a hearing to a State in determining whether approval of that State plan should be withdrawn.

The circumstances that warrant withdrawal of approval are set out in the Act and implementing regulations. Under § 1902.2(b) of this chapter, plan approval shall be withdrawn when the Assistant Secretary finds, after due notice and an opportunity for a hearing, that a State has not substantially completed the developmental steps of the plan at the end of three years from the date of commencement of operations under the plan as defined in 29 CFR 1953.10(b). Plan approval may also be withdrawn when the Assistant Secretary finds, before the conclusion of the three year developmental period, that there is no longer a reasonable expectation that a State plan will meet the criteria in § 1902.3 of this chapter.

Approval of a State plan may also be withdrawn prior to as well as after an affirmative determination has been made under section 18(e) of the Act that the criteria in section 18(c) are being applied. In all such cases, a withdrawal proceeding shall be initiated under section 18(f) whenever the Assistant Secretary finds that in the operation or administration of a plan, or as a result of any modifications in a plan, there is a failure to comply substantially with any provision of the State plan, including any assurances required by the Act and implementing regulations.

The regulations contain examples of situations where procedures to withdraw plan approval would be warranted. These would apply either prior to or after a determination under section 18(e) of the Act on the effectiveness of the actual operations of the State plan.

Under sections 18 (b) and (c) of the Act, the State may also submit a modification of its plan, and if the plan as modified is approved as meeting the criteria of the Act and regulations, that approval will be taken into consideration in determining the scope of the decision on withdrawal of approval.

If after notice and an opportunity for a hearing, the Assistant Secretary finds that approval of a State plan should be withdrawn he shall give notice to the State. Where the State exercises its option to request a hearing on the withdrawal of approval finding of the Assistant Secretary, the procedures in this part providing for a formal determination by the Secretary of Labor shall apply. Issuance of a final withdrawal decision under these procedures operates as notice of termination of the grant awarded under section 23(g) of the Act for the administration of the plan (29 CFR 1951.25(c)). Upon receipt of the notice of the final decision on withdrawal of approval of a State plan, such plan shall cease to be in effect. But the State, in accordance with section 18(f) of the Act, may retain jurisdiction in any case commenced before receipt of such notice of the final decision withdrawing approval whenever the issues involved in those cases do not relate to the reason for the withdrawal of the plan.

The Act provides that the State may obtain judicial review of the final decision of the Secretary on withdrawal of approval in the United States court of appeals for the circuit in which the State is located. The standard for review will be substantial evidence in accordance with section 18(g) of the Act.

These regulations contain the rules of conduct for a formal proceeding to assure compliance with the Administrative Procedure Act, 5 U.S.C. 553 and 557. The rules provide that the Assistant Secretary shall have the burden of proof and that the State will submit a statement of which items in the Assistant Secretary's notice of proposed withdrawal are being contested along with a brief statement of the facts relied upon, including whether the use of witnesses is intended.

Participation as parties by persons other than the State and the Department of Labor may be permitted by the administrative law judge appointed under 5 U.S.C. 3105 where the decision will substantially affect them or they may contribute materially to the proceedings. In addition, other interested persons may file with the administrative law judge substantive written comments on the issues in the hearing.

The rules provide for pre-hearing conferences to determine or limit the issues and for submission of documentary evidence in advance of the hearing so as to

provide sufficient opportunity for preparation of rebuttal arguments. There are also provisions for consent findings or settlement and for a summary decision where there is no genuine issue of fact.

In order to assure separation of functions between those employees of the Department of Labor evaluating the plan and presenting the case for withdrawal before the administrative law judge and those who will make the final determination, the initial decision of the administrative law judge may be appealed to the Secretary of Labor who, with the advice of the Under Secretary of Labor and the Solicitor of Labor, will make the final decision.

Interested persons are given until December 27, 1974, to submit written comments, suggestions, or objections regarding the proposed Part 1955 to the Associate Assistant Secretary for Regional Programs, Room 850, [Docket No. SP-61], 1726 M Street, NW., Washington, D.C. 20210.

Comments received will be available for public inspection and copying during normal business hours at the above address. The proposed rules may be revised prior to final publication to reflect suggestions made by the comments.

In accordance with the above, Chapter XVII of Title 29 Code of Federal Regulations is amended by adding a new Part 1955 as follows: Subpart E of 29 CFR Part 1902—"Procedures for Withdrawal of Plan Approval [Reserved]"—is deleted.

PART 1955—PROCEDURES FOR WITHDRAWAL OF APPROVAL OF STATE PLANS

Subpart A—General

Sec.

1955.1 Purpose and scope.
1955.2 Definitions.
1955.3 General policy.
1955.4 Effect of withdrawal of approval.
1955.5 Petitions for withdrawal of approval.

Subpart B—Notice of Hearing

1955.10 Publication of notice of hearing.
1955.11 Contents of notice of hearing.
1955.12 Administrative law judge; powers and duties.
1955.13 Disqualification.
1955.14 Ex parte communications.
1955.15 Manner of service and filing.
1955.16 Time.
1955.17 Determination of parties.
1955.18 Provision for written comments.

Subpart C—Pre-Hearing Conference and Discovery

1955.20 Submission of documentary evidence.
1955.21 Pre-hearing conference.
1955.22 Discovery.
1955.23 Sanctions for failure to comply with orders.
1955.24 Fees of witnesses.

Subpart D—Consent Findings and Summary Decisions

1955.30 Consent findings and orders.
1955.31 Motion for a summary decision.
1955.32 Summary decision.

Subpart E—Hearing and Decision

1955.40 Hearings.
1955.41 Decision of the administrative law judge.
1955.42 Exceptions.
1955.43 Transmission of the record.
1955.44 Final decision.
1955.45 Effect of appeal of administrative law judge's decision.
1955.46 Finality for purposes of judicial review.
1955.47 Judicial review.

AUTHORITY: Sec. 8(g)(2), 18, 84 Stat. 1598, 1608 (29 U.S.C. 657(g)(2), 667).

Subpart A—General

§ 1955.1 Purpose and scope.

(a) This part contains rules of practice and procedure for formal administrative hearings on the withdrawal of initial or final approval of State plans in accordance with section 18(f) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667).

(b) These rules shall be construed to secure a prompt and just conclusion of the proceedings subject thereto.

§ 1955.2 Definitions.

As used in this part unless the context clearly requires otherwise:

"Act" means the Occupational Safety and Health Act of 1970;

"Secretary" means Secretary of Labor;

"Assistant Secretary" means Assistant Secretary of Labor for Occupational Safety and Health;

"Person" means an individual, partnership, association, corporation, business trust, legal representative, an organized group of individuals, or an agency, authority, or instrumentality of the United States or of a State;

"Party" includes the State agency or agencies designated to administer and enforce the State plan that is the subject of withdrawal proceedings, the Department of Labor, Occupational Safety and Health Administration (hereinafter called OSHA), represented by the Office of the Solicitor and any person participating in the proceedings pursuant to § 1955.17;

"Initial approval" means approval of a State plan, or any modification thereof under section 18(c) of the Act and Subpart C of 29 CFR Part 1902;

"Final approval" means approval of the State plan, or any modification thereof under section 18(e) of the Act and Subpart D of 29 CFR Part 1902.

"Notice of withdrawal of approval" means a notice of the Assistant Secretary's finding of withdrawal of approval where the State has not requested a hearing under this part, or the notice of the final decision on withdrawal of approval under § 1955.44 or § 1955.45, whichever is applicable.

§ 1955.3 General policy.

(a) The following circumstances shall be cause for initiation of proceedings under this part for withdrawal of approval of a State plan, or any portion thereof.

(1) Whenever the Assistant Secretary determines that under § 1902.2(b) of this chapter a State has not substantially completed the developmental steps of its plan at the end of three years from the date of commencement of operations as defined in § 1953.10(b) of this chapter, a withdrawal proceeding shall be instituted. Examples of a lack of substantial completion of developmental steps include but are not limited to the following: (i) a failure to develop the necessary regulations and administrative guidelines for an "at least as effective" enforcement program; (ii) failure to promulgate all or a majority of the occupational safety and health standards in an issue covered by the plan; or (iii) failure to enact the required enabling legislation.

(2) Whenever the Assistant Secretary determines that there is no longer a reasonable expectation that a State plan will meet the criteria of § 1902.3 of this chapter, including the completion of developmental steps, within the three year period immediately following commencement of operations as defined in § 1953.10(b) of this chapter, a withdrawal proceeding shall be instituted. Examples of a lack of reasonable expectation include but are not limited to the following: (i) A failure to enact enabling legislation in the first two years following commencement of operations where the remaining developmental steps cannot be completed within one year, and are dependent on the passage of enabling legislation; or (ii) repeal or substantial amendment of the enabling legislation by the State legislature so that the State program fails to meet the criteria of § 1902.3 of this chapter.

(3) Whenever the Assistant Secretary determines that in the operation or administration of a State plan, or as a result of any modifications to a plan, there is a failure to comply substantially with any provision of the plan, including assurances contained in the plan, a withdrawal proceeding shall be initiated in a State which has received final approval under section 18(e) of the Act, and may be initiated in a State which has received initial approval under section 18(c) of the Act. Examples of a lack of substantial compliance include but are not limited to the following: (i) Where a State over a period of time consistently fails to provide effective enforcement of standards; (ii) where the rights of employees are circumscribed in such a manner as to diminish the effectiveness of the program; or (iii) where a State, without good cause, fails to continue to maintain its program in accordance with the appropriate changes in the Federal program.

(b) A State may, at any time both before or after a determination under section 18(e) of the Act, voluntarily withdraw its plan, or any portion thereof, by notifying the Assistant Secretary in writing setting forth the reasons for such withdrawal. Such notification shall be accompanied by a letter terminating the application for related grants authorized under section 23(g) of the Act in accordance with 29 CFR 1951.25(d).

(c) Approval of a portion of a plan may be withdrawn under any of the paragraphs in this section when it is determined that that portion is reasonably separable from the remainder of the plan

in a manner consistent with the provisions in § 1902.2(c) of this chapter defining the scope of a State plan. As an example, such a partial withdrawal of approval would be considered appropriate where a State fails to adopt, without good cause shown, Federal standards within a separable issue, such as occupational health.

§ 1955.4 Effect of withdrawal of approval.

(a) After receipt of notice of the final decision on withdrawal of approval of a State plan, as defined in § 1955.2, such plan, or any part thereof, shall cease to be in effect and the provisions of the Federal Act shall apply within that State. But the State, in accordance with section 18(f) of the Act, may retain jurisdiction in any case commenced before receipt of the notice of the final decision withdrawing approval of the plan, in order to enforce standards under the plan, whenever the issues involved in the case or cases pending do not relate to the reasons for withdrawal of the plan.

(b) Such notice of withdrawal of approval shall operate constructively as notice of termination of all related grants authorized under section 23(g) of the Act in accordance with 29 CFR 1951.25 (c).

§ 1955.5 Petitions for withdrawal of approval.

(a) At any time following the initial approval of a State plan under section 18(c) of the Act, any interested person may petition the Assistant Secretary in writing to initiate proceedings for withdrawal of approval of the plan under section 18(f) of the Act and this part. The petition shall contain a statement of the grounds for initiating a withdrawal proceeding, including facts to support the petition.

(b)(1) The Assistant Secretary may request the petitioner for additional facts and may take such other actions as are considered appropriate such as: (i) Publishing the petition for public comment; (ii) holding informal discussion on the issues raised by the petition with the State and other persons affected; or (iii) holding an informal hearing in accordance with § 1902.13 of this chapter.

(2) Any such petition shall be considered and acted upon within a reasonable time. Prompt notice shall be given of the denial in whole or in part of any petition and the notice shall be accompanied by a brief statement of the grounds for the denial. A denial of a petition does not preclude future action on those issues or any other issues raised regarding a State plan.

Subpart B—Notice of Hearing

§ 1955.10 Publication of notice of hearing.

(a) The Assistant Secretary, prior to any finding of withdrawal of approval and notice of hearing under this subpart, may provide the State with an opportunity to show cause within 45 days why a proceeding should not be initiated for withdrawal of approval of a plan or any portion thereof.

(b)(1) Whenever the Assistant Secretary, on the basis of a petition under § 1955.5 or on his own initiative, determines that approval of a State plan or any portion thereof should be withdrawn, and the State has not waived its right under § 1955.3(b) or paragraph (a) of this section to a hearing, he shall publish a notice in the FEDERAL REGISTER as set out in § 1955.11 and cause such notice, in the form of a complaint, to be served on the State in accordance with § 1955.15.

(2) Not later than 5 days following the publication of the notice in the FEDERAL REGISTER, the State agency shall publish, or cause to be published, within the State reasonable notice containing a summary of the information in the Federal notice, as well as the location or locations where a copy of the full notice is available for inspection and public copying.

(3) Two copies of such notice shall be served on the Assistant Secretary in accordance with § 1955.15.

(c) Not less than 30 days following publication of the notice in the FEDERAL REGISTER, the State shall submit a statement of those items in the notice which are being contested and a brief statement of the facts relied upon, including whether the use of witnesses is intended. This statement shall be served on the Assistant Secretary in accordance with § 1955.15.

§ 1955.11 Contents of notice of hearing.

(a) A notice of hearing published under § 1955.10 shall include:

(1) A statement on the time, place, and nature of the hearing and addresses for filing all papers;

(2) The legal authority under which the hearing is to be held;

(3) A description of the issues;

(4) A specified period, generally not less than 30 days after publication of the notice in the FEDERAL REGISTER, for the State to submit a response to the statement of issues in the notice;

(5) A provision for designation of an administrative law judge under 5 U.S.C. 3105 to preside over the hearing.

(b) A copy of the notice of hearing stating the basis for the Assistant Secretary's determination that approval of the plan, or any portion thereof, should be withdrawn shall be referred to the administrative law judge.

§ 1955.12 Administrative law judge; powers and duties.

(a) The administrative law judge appointed under 5 U.S.C. 3105 and designated by the Chief Administrative Law Judge to preside over a hearing shall have all powers necessary and appropriate to conduct a fair, full, and impartial hearing, including the following:

(1) To administer oaths and affirmations;

(2) To rule upon offers of proof and receive relevant evidence;

(3) To provide for discovery, including the issuance of subpoenas authorized by section 8(b) of the Act and 5 U.S.C. 555(d) and 556(c)(2), and to determine the scope and time limits of the discovery;

(4) To regulate the course of the hearing and the conduct of the parties and their counsel;

(5) To consider and rule upon procedural requests, e.g. motions for extension of time;

(6) To hold pre-hearing conferences for the settlement or simplification of issues;

(7) To take official notice of material facts not appearing in the evidence in the record in accordance with § 1955.40(c);

(8) To render an initial decision;

(9) To examine and cross-examine witnesses;

(10) To take any other appropriate action authorized by the Act, the implementing regulations, or the Administrative Procedure Act, 5 U.S.C. 554–557 (hereinafter called the APA).

(b) On any procedural question not otherwise regulated by this part, the Act, or the APA, the administrative law judge shall be guided to the extent practicable by the pertinent provisions of the Federal Rules of Civil Procedure.

§ 1955.13 Disqualification.

(a) If an administrative law judge deems himself disqualified to preside over a particular hearing, he shall withdraw by notice on the record directed to the Chief Administrative Law Judge. Any party who deems an administrative law judge, for any reason, to be disqualified to preside, or to continue to preside, over a particular hearing may file a motion to disqualify and remove the administrative law judge, provided the motion is filed prior to the time the administrative law judge files his decision. Such motion must be supported by affidavits setting forth the alleged ground for disqualification. The Chief Administrative Law Judge shall rule upon the motion.

(b) Contumacious conduct at any hearing before the administrative law judge shall be ground for summary exclusion from the hearing. If a witness or party refuses to answer a question after being so directed, or refuses to obey an order to provide or permit discovery, the administrative law judge may make such orders with regard to the refusal as are just and proper, including the striking of all testimony previously given by such witness on related matters.

§ 1955.14 Ex parte communications.

(a) Except to the extent required for the disposition of ex parte matters, the administrative law judge shall not consult any interested person or party or their representative on any fact in issue or on the merits of any matter before him except upon notice and opportunity for all parties to participate.

(b)(1) Written or oral communications from interested persons outside the Department of Labor involving any substantive or procedural issues in a hearing directed to the administrative law judge, the Secretary of Labor, the Assistant Secretary, the Associate Assistant Secretary for Regional Programs, the Solicitor of Labor, or the Associate Solicitor

for Occupational Safety and Health, or their staffs shall be deemed ex parte communications and are not to be considered part of any record or the basis for an official decision, unless the communication is made by motion to the administrative law judge and served upon all the parties.

(2) To facilitate implementation of this requirement, the above-mentioned offices shall keep a log of such communications which shall be made available to the public and which may, by motion, be entered into the record.

(c) No employee or agent of the Department of Labor engaged in the investigation or presentation of the withdrawal proceeding governed by this part shall participate or advise in the initial or final decision, except as a witness or counsel in the proceeding.

§ 1955.15 Manner of service and filing.

(a) Service of any document upon any party may be made by personal delivery of, or by mailing a copy of the document by certified mail, to the last known address of the party or his representative. The person serving the document shall certify to the manner and date of service.

(b) In addition to serving a copy of any documents upon the parties, the original and two copies of each document shall be filed with the administrative law judge. With respect to exhibits and transcripts, only originals need be filed.

§ 1955.16 Time.

Computation of any period of time under these rules shall begin with the first business day following that on which the act, event or development initiating such period of time shall have occurred. When the last day of the period so computed is a Saturday, Sunday, or national holiday, or other day on which the Department of Labor is closed, the period shall run until the end of the next following business day. When such period of time is 7 days or less, each of the Saturdays, Sundays, and such holidays shall be excluded from the computation.

§ 1955.17 Determination of parties.

(a) The designated State agency or agencies and the Department of Labor, OSHA, shall be the initial parties to the proceedings. Other interested persons may, at the discretion of the administrative law judge, be granted the right to participate as parties if he determines that the final decision could substantially affect them or the class they represent or that they may contribute materially to the disposition of the proceedings.

(b) (1) Any person wishing to participate in any hearing as a party under paragraph (a) of this section shall submit a petition to the administrative law judge within 30 days after the notice of such hearing has been published in the FEDERAL REGISTER. The petition shall also be served upon the other parties. Such petition shall concisely state: (i) Petitioner's interest in the proceeding; (ii) how his participation as a party will contribute materially to the disposition of the proceeding; (iii) who will appear for petitioner; (iv) the issue or issues as set out in the notice published under § 1955.10 on which petitioner wishes to participate; and (v) whether petitioner intends to present witnesses.

(2) The administrative law judge shall, within 5 days of receipt of the petition, ascertain what objections, if any, there are to the petition. He shall then determine whether the petitioner is qualified in his judgment to be a party in the proceedings and shall permit or deny participation accordingly. The administrative law judge shall give each petitioner written notice of the decision on his petition promptly. If the petition is denied, the notice shall briefly state the grounds for denial. Persons whose petition for party participation is denied may appeal the decision to the Secretary within 5 days of receipt of the notice of denial. The Secretary will make the final decision to grant or deny the petition no later than 10 days prior to the commencement of the hearing.

(3) Where the petitions to participate as parties are made by individuals or groups with common interests, the administrative law judge may require all such petitioners to designate a single representative, or he may recognize one or more of such petitioners to represent all such petitioners.

§ 1955.18 Provision for written comments.

Any person who is not a party may submit a written statement of position with 4 copies to the administrative law judge at any time prior to or during the hearing, which statement shall be made available to all parties and may be introduced into evidence by a party. Mere statements of approval or opposition to the plan without any documentary support shall not be considered as falling within this provision.

Subpart C—Pre-Hearing Conference and Discovery

§ 1955.20 Submission of documentary evidence.

(a) The administrative law judge shall set a date by which all documentary evidence, which is to be offered during the hearing, shall be submitted to the administrative law judge and served on the other parties. Such submission date shall be sufficiently in advance of the hearing as to permit study and preparation for cross-examination and rebuttal evidence. Documentary evidence not submitted in advance may be received into evidence upon a clear showing that the offering party had good cause for failure to produce the evidence sooner.

(b) The authenticity of all documents submitted in advance shall be deemed admitted unless written objections are filed prior to the hearing, except that a party will be permitted to challenge such authenticity at a later date upon clear showing of good cause for failure to have filed such written objections.

§ 1955.21 Pre-hearing conference.

(a) (1) Upon his own motion, or the motion of a party, the administrative law judge may direct the parties to meet with him for a conference or conferences to consider: (i) Simplification of the issues; (ii) the necessity or desirability of amendments to documents for purposes of clarification, simplification, or limitation; (iii) stipulations of fact, and of the authenticity, of the contents of documents; (iv) limitations on the number of parties and of witnesses; (v) scope of participation of petitioners under § 1955.17; (vi) establishment of dates for discovery; and (vii) such other matters as may tend to expedite the disposition of the proceedings, and to assure a just conclusion thereof.

(2) The administrative law judge shall enter an order which recites the action taken at the conference, the amendments allowed to any documents which have been filed, and the agreements made between the parties as to any of the matters considered. Such order shall limit the issues for hearing to those not disposed of by admissions or agreements, and control the subsequent course of the hearing, unless modified at the hearing to prevent manifest injustice.

§ 1955.22 Discovery.

(a) (1) At any time after the commencement of a proceeding under this part, but generally before the pre-hearing conference, any party may request of any other party admissions that relate to statements or opinions of fact, or of the application of law to fact, including the genuineness of any document described in the request. Copies of documents shall be served with the request unless they have been or are otherwise furnished or made available for inspection or copying. The matter shall be deemed admitted unless within 30 days after service of the request, or within such shorter or longer time as the administrative law judge may prescribe, the party to whom the request is directed serves upon the party requesting the admission a specific written response.

(2) If objection is made, the reasons therefor shall be stated. The answer shall specifically deny the matter or set forth in detail the reasons why the answering party cannot truthfully admit or deny the matter. A denial shall fairly meet the substance of the requested admission and when good faith requires that a party qualify his answer or deny only a part of the matter on which an admission is requested, he shall specify so much of it as is true and qualify or deny the remainder. An answering party may not give lack of information or knowledge as the reason for failure to admit or deny unless he states that he has made reasonable inquiry and that the information known or readily obtainable by him is insufficient to enable him to admit or deny.

(3) The party who has requested the admission may move to determine the sufficiency of the answers or objections.

Unless the administrative law judge determinals that an objection is justified, he may order either that the matter is admitted or that an amended answer be served. The administrative law judge may, in lieu of these orders, determine that final disposition of the requests be made at a pre-hearing conference, or at a designated time prior to the hearing. Any matter admitted under this section is conclusively established unless the administrative law judge on motion permits withdrawal or amendment of the admission. Copies of all requests and responses shall be served on all parties and filed with the administrative law judge.

(b) (1) The testimony of any witness may be taken by deposition. Depositions may be taken orally or upon written interrogatories before any person designated by the administrative law judge or having power to administer oaths.

(2) Any party desiring to take the deposition of a witness may make application in writing to the administrative law judge setting forth: (i) The time when, the place where, and the name and post office address of the person before whom the deposition is to be taken; (ii) the name and address of each witness; and (iii) the subject matter concerning which each witness is expected to testify.

(3) Such notice as the administrative law judge may order shall be given by the party taking the deposition to every other party.

(c) (1) Each witness testifying upon deposition shall be sworn, and the parties not calling him shall have the right to cross-examine him. The questions propounded and the answers thereto, together with all objections made, shall be reduced to writing and shall be read to or by the witness unless such examination and reading are waived by the witness and the parties. Any changes in form or substance which the witness desires to make shall be entered upon the deposition by the officer with a statement of the reasons given by the witness for making them. The deposition shall then be signed by the witness and certified by the officer before whom the deposition was taken. Thereafter, the officer shall seal the deposition, with copies thereof, in an envelope and mail the same by registered or certified mail to the administrative law judge.

(2) Subject to such objections to the questions and answers as were noted at the time of taking the deposition, and to the provisions in § 1955.40(b)(1), any part or all of a deposition may be offered into evidence by the party taking it as against any party who was present, represented at the taking of the deposition, or who had due notice thereof.

(d) Whenever appropriate to a just disposition of any issue in the hearing, the administrative law judge may allow discovery by any other appropriate procedure, such as by interrogatories upon a party or request for production of documents by a party.

(e) Upon motion by a party or by the person from whom discovery is sought, and for good cause shown, the administrative law judge may make any order which justice requires to limit or condition discovery in order to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense.

§ 1955.23 Sanctions for failure to comply with orders.

(a) If a party or an official or agent of a party fails, without good cause, to comply with an order including but not limited to, an order for the taking of a deposition, written interrogatories, the production of documents, or an order to comply with a subpoena, the administrative law judge or the Secretary or both, for the purpose of permitting resolution of relevant issues and disposition of the proceeding without unnecessary delay despite such failure, may take such action as is just, including but not limited to the following:

(1) Infer that the admission, testimony, documents, or other evidence would have been adverse to the party;

(2) Rule that for the purposes of the proceeding, the matter or matters concerning which the order or subpoena was issued be taken as established adversely to the party;

(3) Rule that the party may not introduce into evidence or otherwise rely, in support of any claim or defense, upon testimony by such party, officer or agent, or the documents or other evidence;

(4) Rule that the party may not be heard to object to introduction and use of secondary evidence to show what the withheld admission, testimony, documents, or other evidence would have shown;

(5) Rule that a pleading, or part of a pleading, on a motion or other submission by the party, concerning which the order or subpoena was issued, be stricken or that decision on the pleading be rendered against the party, or both.

(b) Any such action may be taken by written or oral order issued in the course of the proceeding or by inclusion in the initial decision of the administrative law judge or an order or opinion of the Secretary. The parties may seek, and the administrative law judge may grant, such of the foregoing means of relief or other appropriate relief as may be sufficient to compensate for the lack of withheld testimony, documents, or other evidence.

§ 1955.24 Fees of witnesses.

Witnesses, including witnesses for depositions, shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. Fees shall be paid by the party at whose instance the witness appears, and the person taking a deposition shall be paid by the party at whose instance the deposition is taken.

Subpart D—Consent Findings and Summary Decisions

§ 1955.30 Consent findings and orders.

(a) (1) At any time before the reception of evidence in the hearing, or during the hearing, a reasonable opportunity may be afforded to permit negotiation by the parties of an agreement containing consent findings and a rule or order disposing of the whole or any part of the proceeding. The allowance of such opportunity and the duration thereof shall be in the discretion of the administrative law judge, after consideration of the nature of the proceeding, the requirements of the public interest, the representations of the parties, and the probability of an agreement which will result in a just disposition of the issues.

(2) Any agreement containing consent findings and a rule or order disposing of a proceeding shall also provide: (i) That the rule or order shall have the same force and effect as if made after a full hearing; (ii) a waiver of any further procedural steps before the administrative law judge and the Secretary; and (iii) a waiver of any right to challenge or contest the validity of the findings and of the rule or order made in accordance with the agreement.

(b) (1) On or before the expiration of the time granted for negotiations, the parties or their counsel may: (i) Submit the proposed agreement to the administrative law judge for his consideration; or (ii) inform the administrative law judge that agreement cannot be reached.

(2) In the event an agreement containing consent findings and a rule or order is submitted within the time allowed therefor, the administrative law judge may accept such agreement by issuing his decision based upon the agreed findings. Such decision shall be published in the FEDERAL REGISTER.

§ 1955.31 Motion for a summary decision.

(a) (1) Any party may, at least 20 days before the date fixed for the hearing, move, with or without supporting affidavits, for a summary decision on all or any part of the proceeding. Any other party may, within 10 days after service of the motion, serve opposing affidavits or file a cross motion for summary decision. The administrative law judge may, in his discretion, set the matter for argument and call for submission of briefs. The filing of any documents under this section shall be with the administrative law judge and copies of any such document shall be served on all the parties.

(2) The administrative law judge may grant such motion if the pleadings, affidavits, material obtained by discovery or otherwise obtained, or matters officially noticed, show that there is no genuine issue as to any material fact and that a party is entitled to summary decision. Affidavits shall set forth such facts as would be admissible in evidence in the hearing and shall show affirmatively that the affiant is competent to testify to the matters stated therein. When a motion for summary decision is made and supported as provided in paragraph (a)(1) of this section, the party opposing the motion may not rest upon the mere allegations or denials of his pleading; his response must set forth specific facts showing that there is a genuine issue of fact for the hearing.

(3) Should it appear from the affidavits of a party opposing the motion that he cannot, for reasons stated, present by affidavit facts essential to justify his opposition, the administrative law judge may refuse the application for summary decision or may order a continuance to permit affidavits to be obtained, or depositions to be taken, or discovery to be had, or may make such other order as is just.

(b) (1) The denial of all or any part of a motion or cross motion for summary decision by the administrative law judge shall not be subject to interlocutory appeal to the Secretary unless the administrative law judge certifies in writing: (i) That the ruling involves an important question of law or policy as to which there is substantial ground for difference of opinion; and (ii) that an immediate appeal from the ruling may materially advance the ultimate termination of the proceeding.

(2) The allowance of such an interlocutory appeal shall not stay the proceeding before the administrative law judge unless the Secretary so orders.

§ 1955.32 Summary decision.

(a) (1) Where no genuine issue of material fact is found to have been raised, the administrative law judge shall issue an initial decision to become final 30 days after service thereof upon each party unless, within those 30 days, any party has filed written exceptions to the decision with the Secretary. Requests for extension of time to file exceptions may be granted if the requests are received by the Secretary no later than 25 days after service of the decision.

(2) If any timely exceptions are filed, the Secretary may set a time for filing any response to the exceptions with supporting reasons. All exceptions and responses thereto shall be served on all the parties.

(b) (1) The Secretary, after consideration of the decision, the exceptions; and any supporting briefs filed therewith and any responses to the exceptions with supporting reasons, shall issue a final decision.

(2) An initial decision and a final decision under this section shall include a statement of: (i) Findings of fact and conclusions of law and the reasons and bases therefor on all issues presented; (ii) reference to any material fact based on official notice; and (iii) the terms and conditions of the rule or order made. The final decision shall be published in the FEDERAL REGISTER and served on all the parties.

(c) Where a genuine material question of fact is raised, the administrative law judge shall, and in any other case may, set the case for an evidentiary hearing.

Subpart E—Hearing and Decision

§ 1955.40 Hearings.

(a) (1) Except as may be ordered otherwise by the administrative law judge, the Department of Labor shall proceed first at the hearing.

(2) The Department of Labor shall have the burden of proof to sustain the contentions alleged in the notice of proposed withdrawal, but the proponent of any factual proposition shall be required to sustain the burden of proof with respect thereto.

(b) (1) A party shall be entitled to present his case or defense by oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts. Any oral or documentary evidence may be received, but the administrative law judge shall exclude evidence which is irrelevant, immaterial, or unduly repetitious.

(2) The testimony of a witness shall be upon oath or affirmation administered by the administrative law judge.

(3) If a party objects to the admission or rejection of any evidence, or to the limitation of the scope of any examination or cross-examination, or to the failure to limit such scope, he shall state briefly the grounds for such objection. Rulings on all objections shall appear in the record. Only objections made before the administrative law judge may be relied upon subsequently in the proceeding.

(4) Formal exception to an adverse ruling is not required.

(c) Official notice may be taken of any material fact not appearing in evidence in the record, which is among the traditional matters of judicial notice, or concerning which the Department of Labor by reason of its functions is presumed to be expert: *Provided*, that the parties shall be given adequate notice, at the hearing or by reference in the administrative law judge's and the Secretary's decision of the matters so noticed and shall be given adequate opportunity to show the contrary.

(d) When an objection to a question propounded to a witness is sustained, the examining party may make a specific offer of proof of what the party expects to prove by the answer of the witness orally or in writing. Written offers of proof, adequately marked for identification, shall be retained in the record so as to be available for consideration by any reviewing authority.

(e) Hearings shall be stenographically reported. Copies of the transcript may be obtained by the parties and the public upon payment of the actual cost of duplication to the Department of Labor in accordance with 29 CFR 70.62, as amended in 39 FR 10242, March 19, 1974.

(f) Corrections of the official transcript may be made only when they involve errors affecting substance and then only in the manner herein provided. Corrections may be ordered by the administrative law judge or agreed to in a written stipulation by all parties or their representatives. Where the parties are in disagreement, the administrative law judge shall determine the corrections to be made and so order. Corrections may be interlineated in the official transcript so as not to obliterate the original text.

§ 1955.41 Decision of the administrative law judge.

(a) Proposed findings of fact, conclusions, and rules or orders. Within 30 days after receipt of notice that the transcript of the testimony has been filed with the administrative law judge, or such additional time as the administrative law judge may allow, each party may file with the administrative law judge proposed findings of fact, conclusions of law, and rules or orders, together with a supporting brief expressing the reasons for such proposals. Such proposals and brief shall be served on all other parties and shall refer to all portions of the record and to all authorities relied upon in support of each proposal.

(b) (1) Within a reasonable time after the time allowed for the filing of proposed findings of fact, conclusions of law, and rules or orders, the administrative law judge shall make and serve upon each party his initial decision which shall become final upon the 30th day after entry thereof unless exceptions are filed thereto.

(2) The decision of the administrative law judge shall be based solely upon substantial evidence on the record as a whole and shall state all facts officially noticed and relied upon. The decision of the administrative law judge shall include: (i) A statement of the findings of fact and conclusions of law, with reasons and bases therefor upon each material issue of fact, law, or discretion presented on the record; (ii) reference to any material fact based on official notice; and (iii) the appropriate rule, order, relief, or denial thereof.

§ 1955.42 Exceptions.

(a) Within 30 days after service of the decision of the administrative law judge, any party may file with the Secretary written exceptions thereto with supporting reasons. Such exceptions shall refer to the specific findings of fact, conclusions of law, or terms of the rule or order excepted to; the specific pages of the transcript relevant to the suggestions; and shall suggest corrected findings of fact, conclusions of law, or terms of the rule or order. Requests for extension of time to file exceptions may be granted if the requests are received by the Secretary no later than 25 days after service of the decision.

(b) If any timely exceptions are filed, the Secretary may set a time for filing any response to the exceptions with supporting reasons. All exceptions and responses thereto shall be served on all the parties.

§ 1955.43 Transmission of the record.

If exceptions are filed, the Secretary shall request the administrative law judge to transmit the record of the proceeding to the Secretary for review. The record shall include the State plan; a copy of the Assistant Secretary's notice of proposed rejection; the State's statement of items in contention; the notice of the hearing; any motions and requests filed in written form and rulings thereon; the transcript of the testimony taken at the hearing, together with any documents or papers filed in connection with

the pre-hearing conference and the hearing itself; such proposed findings of fact, conclusions of law, rules or orders, and supporting reasons as may have been filed; the administrative law judge's decision; and such exceptions, responses, and briefs in support thereof as may have been filed in the proceedings.

§ 1955.44 **Final decision.**

After review of any exceptions, together with the record references and authorities cited in support thereof, the Secretary shall issue a final decision ruling upon each exception and objection filed. The final decision may affirm, modify, or set aside in whole or in part the findings, conclusions, and the rule or order contained in the decision of the administrative law judge. The final decision shall also include reference to any material fact based on official notice or other extra record fact.

§ 1955.45 **Effect of appeal of administrative law judge's decision.**

An administrative law judge's decision shall not be operative pending a decision on appeal to the Secretary. If there are no exceptions filed to the decision of the administrative law judge, the administrative law judge's decision shall be published in the FEDERAL REGISTER as a final decision and served upon the parties.

§ 1955.46 **Finality for purposes of judicial review.**

Only a final decision by the Secretary under § 1955.44 shall be deemed final agency action for purposes of judicial review. A decision of an administrative law judge which becomes final for lack of appeal is not deemed final agency action for purposes of 5 U.S.C. 704.

§ 1955.47 **Judicial review.**

The State may obtain judicial review of a decision by the Secretary in accordance with section 18(g) of the Act.

Signed at Washington, D.C., this 6th day of November 1974.

PETER J. BRENNAN,
Secretary of Labor.

[FR Doc.74-26483 Filed 11-11-74;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 87]

[FRL 293-3]

CONTROL OF AIR POLLUTION FROM SUPERSONIC AIRCRAFT

Public Hearings; Correction

A notice of public hearings on proposed standards for supersonic aircraft was published in the FEDERAL REGISTER on Thursday, October 17, 1974, page 37068. The notice announced that public hearings would be held on SST emission standards in Boston on November 14 and 15, 1974, and Los Angeles, November 26 and 27, 1974.

The address for the Los Angeles hearing has been changed to:

California State Building
107 South Broadway
Room 1138
Los Angeles, California 90012

Dated: November 5, 1974.

ALAN G. KIRK II,
Assistant Administrator for Enforcement and General Counsel (EG-329).

[FR Doc.74-26408 Filed 11-11-74;8:45 am]

SMALL BUSINESS ADMINISTRATION

[13 CFR Part 107]

SMALL BUSINESS INVESTMENT COMPANIES

Proposed Requirement for Performing As Management Services

Notice is hereby given that pursuant to authority contained in section 308 of the Small Business Investment Act of 1958, as amended, 15 U.S.C. 661 et seq., it is proposed to amend, as set forth below, sections 601 (a) and (b), Part 107 of Chapter I, Title 13 of the Code of Federal Regulations.

Prior to final adoption of such amendment, consideration will be given to any comments submitted in writing, in triplicate, to the Investment Division, Small Business Administration (SBA), Washington, D.C. 20416, on or before December 12, 1974.

Information. The amended sections would clarify SBA's requirements when a Licensee or its associate performs management services of any kind for small business concerns.

Services which are deemed to be merely advisory, and are provided by the Licensee to the portfolio concern would not need to have prior SBA approval, but records of time and charges must be kept and charges must be comparable to those of other professional consultants. Advice is defined as rejectable by the small concern to distinguish it from the actual performance of technical services.

Technical services by a Licensee to a portfolio concern must be performed pursuant to a written contract, require annual approval by the portfolio concern and by SBA, and also require recordkeeping and reasonable charges.

All services rendered by an associate of the Licensee to a portfolio concern must have prior SBA approval, and the Licensee must keep records for SBA's review.

The prior approval requirement stems from the close involvement of the SBIC or its associate with the business activities of a portfolio concern which could give rise to control or conflict-of-interest situations. The recordkeeping requirement makes it possible for SBA to review the services performed and fees charged to small concerns.

The reference to management services by independent contractors would be deleted, since no control or conflict-of-interest problem can arise between a portfolio concern of a Licensee and a professional acting on his own. Similarly, no such problem can arise between a Licensee or its associate, and a small concern that receives no financing from the Licensee, and the amendment would therefore make clear that SBA does not regulate such relations.

It is proposed that Part 107 be amended by revising § 107.601 (a) and (b) to read as follows:

§ 107.601 **Management services.**

(a) *General.* Management services may be advisory only or may, subject to § 107.901, include performance of any technical service relating to the financial, management, administrative or operating activity of a Small Concern. Services shall be deemed advisory only, where the Small Concern is free to accept or reject the advice rendered.

(b) *Conditions.* (1) Where a Licensee directly or indirectly provides management services to a Small Concern and such services are advisory only, no prior SBA approval is required. The Licensee shall maintain a record for examination by SBA of the time spent and charges made for such services and such charges shall not exceed comparable charges by established professional non-Licensee consultants.

(2) Where a Licensee directly or indirectly provides management services to a Small Concern which is being Financed by it and such services are not advisory only, such services shall be performed pursuant to a written contract with such Small Concern and approved annually by the Board of Directors or principals of the Small Concern and by SBA. An agreement to perform such services for a Small Concern which is not being Financed by the Licensee shall not require such annual approval. Records shall be kept and charges made in acordance wth subparagraph (1) of this paragraph.

(3) Where an Associate of a Licensee provides management services to a Small Concern which is being Financed by such Licensee and such services are advisory only, prior written approval by SBA is required. Such advice shall be rendered pursuant to a written contract, and approved annually by the Board of Directors or the principals of the small business concern and by SBA. The Licensee shall maintain records of time spent and charges made in accordance with subparagraph (1) of this paragraph. Such services rendered to a Small Concern not being Financed by such Licensee are not subject to regulation by SBA until such time as Financing is provided.

(4) Where an Associate of a Licensee provides management services to a Small Concern which is being Financed by such Licensee and such services are not advisory only, such services shall be performed pursuant to a written contract, and approved annually by the Board of Directors or the principals of the Small Concern, and by SBA. Records shall be kept and charges made in accordance with subparagraph (1) of this paragraph. Such services rendered to a Small Concern not being Financed by the Licensee are not subject to regulation by SBA until such time as Financing is provided.

* * * * *

THOMAS S. KLEPPE,
Administrator.

NOVEMBER 5, 1974.

[FR Doc.74-26438 Filed 11-11-74;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-188]

NATIONAL REVIEW BOARD FOR THE CENTER FOR CULTURAL AND TECHNICAL INTERCHANGE BETWEEN EAST AND WEST

Notice of Meeting

The National Review Board for the Center for Cultural and Technical Interchange Between East and West (East-West Center) will meet in open session at the East-West Center, 1777 East-West Road, Honolulu, Hawaii on December 9 and 10, 1974. The meeting will be held in the Asia Room from 9:00 a.m. to 4:30 p.m. each day. The Board will discuss incorporation of the East-West Center.

Dated: November 4, 1974.

CAROL M. OWENS,
Executive Secretary.

[FR Doc.74-26441 Filed 11-11-74;8:45 am]

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 74-286]

WHITE OR IRISH POTATOES, OTHER THAN CERTIFIED SEED

Tariff-Rate Quota

NOVEMBER 6, 1974.

The tariff-rate quota for white or Irish potatoes, other than certified seed, pursuant to item 137.25, Tariff Schedules of the United States, for the 12-month period beginning September 15, 1974, is 45,000,000 pounds.

The estimate of the production of white or Irish potatoes, including seed potatoes, in the United States for the calendar year 1974, made by the United States Department of Agriculture as of October 1, 1974, was 33,776,700,000 pounds.

In accordance with headnote 2, part 8A, of schedule 1, Tariff Schedules of the United States, the quantity is not increased because the estimated production is greater than 21,000,000,000 pounds.

[SEAL] VERNON D. ACREE,
Commissioner of Customs.

[FR Doc.74-26468 Filed 11-11-74;8:45 am]

DEPARTMENT OF DEFENSE

Office of the Secretary

DEFENSE SCIENCE BOARD

Advisory Committee Meetings

A special advisory committee to the Defense Science Board on "Export of U.S. Technology; Implications to U.S. Defense" will meet in closed session on December 3, 1974 in the Pentagon, Washington, D.C. The sub-committee meeting on this date will be concerned with Instrumentation.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Director of Defense Research and Engineering on overall research and engineering and to provide long range guidance in these areas to the Department of Defense. The special advisory committee will provide an assessment of the implications to U.S. defense of current and impending exports of U.S. technology to serve as a basis for determination of Defense policy.

In accordance with Pub. L. 92-463, section 10, paragraph (d), it has been determined that Defense Science Board meetings concern matters listed in section 552(b) of Title 5 of the United States Code, particularly subparagraph (1) thereof, and that the public interest requires such meetings to be closed insofar as the requirements of subsections (a)(1) and (a)(3) of section 10, Pub. L. 92-463 are concerned.

Dated: November 7, 1974.

MAURICE W. ROCHE,
Director, Correspondence and Directives, OASD (Comptroller).

[FR Doc.74-26418 Filed 11-11-74;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

FILLMORE DISTRICT #3 ADVISORY BOARD

Notice of Meeting

Notice is hereby given in accordance with Pub. L. 92-463 that a meeting of Fillmore District #3 Advisory Board will be held on December 3, 1974 at 9:00 a.m. at the Fillmore District Office, 10 East 5th North, Fillmore, Utah.

The agenda for the meeting will consist of: Consider Sec. 3 grazing applications, grazing, transfer applications, Sec. 4 applications, grazing fees, billing procedure change, exchange of use agreements, the National Advisory Committee Act, wild horse population, predator control program, wildlife projects, use of advisory board equipment, pending appeals and hearings, range improvement projects proposals and completions, range use problems and Gandy AMP Term Permits.

The meeting will be open to the public. Interested persons may make oral or written presentations to the board or file written statements. Such requests should be made to the official listed below at least one day prior to the meeting.

Further information concerning this meeting may be obtained from Lloyd H. Ferguson, District Manager, Bureau of Land Management, PO Box 778, Fillmore, Utah 84631. Minutes of the meeting will be available for public inspection and copying two weeks after the meeting at the address listed above.

LLOYD H. FERGUSON,
District Manager.

[FR Doc.74-26429 Filed 11-11-74;8:45 am]

FILLMORE DISTRICT #10 ADVISORY BOARD

Notice of Meeting

Notice is hereby given in accordance with Pub. L. 92-463 that a meeting of Fillmore District #10 Advisory Board will be held on December 5, 1974 at 9:00 a.m. at the Fillmore District Office, 10 East 5th North, Fillmore, Utah.

The agenda for the meeting will consist of: Consider Sec. 3 grazing applications, grazing transfer applications, Sec. 4 applications, grazing fee and billing procedure change, exchange of use agreements, the National Advisory Committee Act, wild horse population, predator control program, wildlife projects, use of advisory board equipment, pending appeals and hearings, range improvement project proposals and completions, range use problems and Gandy AMP Term Permits.

The meeting will be open to the public. Interested persons may make oral or written presentations to the board or file written statements. Such requests should be made to the official listed below at least one day prior to the meeting.

Further information concerning this meeting may be obtained from Lloyd H. Ferguson, District Manager, Bureau of Land Management, PO Box 778, Fillmore, Utah 84631. Minutes of the meeting will be available for public inspection and copying two weeks after the meeting at the address listed above.

Dated: November 4, 1974.

LLOYD H. FERGUSON,
District Manager.

[FR Doc.74-26428 Filed 11-11-74;8:45 am]

DEPARTMENT OF AGRICULTURE

Office of the Secretary

WHITE MOUNTAIN NATIONAL FOREST ADVISORY COMMITTEE

Notice of Renewal

The Assistant Secretary for Conservation, Research, and Education has re-

newed the White Mountain National Forest Advisory Committee for an additional 2-year period.

This is a local advisory committee established by the Forest Service in 1970 to advise the Forest Supervisor of the White Mountain National Forest in Laconia, New Hampshire, about policies, programs, and plans affecting management of the National Forest.

The Assistant Secretary has determined that continuation of this committee is in the public interest in connection with the duties imposed on the Department by law. This notice is given in compliance with Pub. L. 92–463.

JOSEPH R. WRIGHT, Jr.,
Assistant Secretary for Administration.

NOVEMBER 6, 1974.

[FR Doc.74–26445 Filed 11–11–74;8:45 am]

Soil Conservation Service

QUAPAW CREEK WATERSHED

Negative Declaration

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; § 1500.6(e) of the Council on Environmental Quality Guidelines (38 FR 20550) August 1, 1973; and § 650.8(b)(3) of the Soil Conservation Service Guidelines (39 FR 19651) June 3, 1974; the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for that portion of the Quapaw Creek Watershed project described below.

The environmental assessment of this federal action indicates that this portion of the project will not create significant adverse local, regional, or national impacts on the environment and that no significant controversy is associated with the action. As a result of these findings, Mr. Hampton Burns, State Conservationist, Soil Conservation Service, USDA Building, Farm Road and Brumley Street, Stillwater, Oklahoma, has determined that the preparation and review of an environmental impact statement is not needed for this action.

The project concerns a plan for watershed protection, flood prevent, recreation, irrigation, and municipal water supply. The portion of this project covered by the negative declaration includes the installation of remaining land treatment measures and 21 single-purpose floodwater retarding structures.

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

Soil Conservation Service
USDA Building
Farm Road and Brumley Street
Stillwater, Oklahoma

No administrative action on implementation of the proposal will be taken on or before November 27, 1974.

Dated: November 5, 1974.

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

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

[FR Doc.74–26416 Filed 11–11–74;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

EXPORTERS' TEXTILE ADVISORY COMMITTEE

Public Meeting

The Exporters' Textile Advisory Committee will meet at 10 a.m. on December 12, 1974, in Room 4833, Department of Commerce, 14th and Constitution Avenue NW., Washington, D.C. 20230.

The Committee, which is comprised of 26 members involved in textile and apparel exporting, advises Department officials concerning ways of increasing U.S. exports of textile and apparel products.

The agenda for the meeting is as follows:

1. Review of Export Trends.
2. Report on Conditions in the Export Markets.
3. Other Business.

A limited number of seats will be available to the public. The public will be permited to file written statements with the Committee before or after the meeting. To the extent time is available at the end of the meeting, the presentation of oral statements will be allowed.

Further information concerning the Committee may be obtained from Arthur Garel, Director, Office of Textiles, Main Commerce Building, U.S. Department of Commerce, Washington, D.C. 20230.

ALAN POLANSKY,
Acting Deputy Assistant Secretary for Resources and Trade Assistance, U.S. Department of Commerce.

[FR Doc.74–26442 Filed 11–11–74;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

PANEL ON REVIEW OF ORTHOPAEDIC DEVICES

Cancellation of Meeting

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92–463, 86 Stat. 770–776; 5 U.S.C. App.), the Food and Drug Administration announced in a notice published in the FEDERAL REGISTER of October 18, 1974 (39 FR 37230), public advisory committee meetings and other required information in accordance with provisions set forth in section 10(a) (1) and (2) of the act.

Notice is given that the meeting of the Panel on Review of Orthopaedic Devices scheduled for November 16, 1974 is cancelled.

Dated: November 6, 1974.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.74–26448 Filed 11–11–74;8:45 am]

Office of Education

FOREIGN LANGUAGE AND AREA STUDIES FELLOWSHIPS

Proposed Criteria for Funding of Applications for Fiscal Year 1975

Pursuant to the authority contained in section 601(b) of the National Defense Education Act of 1958, as amended, (20 U.S.C. 511(b)), notice is hereby given that the Commissioner of Education, with the approval of the Secretary of Health, Education, and Welfare, proposes to issue the criteria set forth below as the basis on which applications submitted under section 601(b) will be judged. Section 601(b) authorizes the Commissioner to pay stipends to individuals undergoing advanced training in modern foreign languages and area studies, international studies, and the international aspects of professional and other fields of study. In order to properly carry out this activity and to insure that such individuals receive training in programs of high quality, the Commissioner requests applications from institutions of higher education for quotas of fellowships. The Commissioner then allocates quotas of fellowships to institutions whose applications he has approved.

The criteria read as follows: In addition to evaluation on the basis of the criteria found in the Office of Education General Provisions at 45 CFR 100a.26(b) (38 FR 30654, November 6, 1973) the Commissioner will evaluate applications for quotas of foreign language and area studies fellowships from institutions of higher education in accordance with the following criteria:

(a) The quality of the institution's existing foreign language and area studies program as evidenced by course offerings, faculty, and library holdings;

(b) The degree to which the institution proposes to have intra-institutional cooperation with other foreign language and area programs and the nature and extent of coordination with the institution's professional schools and other special university programs;

(c) The degree of institutional commitment to the development of the program, as evidenced by faculty appointments, university scholarships and teaching assistantships, and funding of library acquisitions;

(d) The degree requirements of the institution's foreign language and area studies programs with special emphasis on the extent to which that degree requires proficiency in one or more foreign language;

(e) The extent to which the institution's foreign language and area studies program provides extracurricular activities which enhance the student's foreign language proficiency and knowledge of the world area he is studying; and

(f) Lowest priority will be given to applications for fellowships in French, German, or Iberian Spanish.

(20 U.S.C. 511(b))

Interested persons are invited to submit written comments, suggestions, or objections regarding these criteria to the International Studies Branch, Division of International Education, Office of Education, ROB 3, Room 3923, 7th and D Streets, SW., Washington, D.C. 20202. Comments received in response to this notice will be available for public inspection at the above office on Mondays through Fridays between 8:30 a.m. and 4:30 p.m. All revelant material must be received not later than December 12, 1974.

(Catalog of Federal Domestic Assistance Programs: 13.434 Foreign Language and Area Studies—Fellowships)

Dated: September 25, 1974.

T. H. BELL,
U.S. Commissioner of Education.

Approved: November 6, 1974.

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

[FR Doc.74-26464 Filed 11-11-74;8:45 am]

FOREIGN LANGUAGE AND AREA STUDIES FELLOWSHIPS

Closing Date for Receipt of Applications

Notice is hereby given that pursuant to the authority contained in section 601(b) of Title VI of the National Defense Education Act of 1958, as amended (20 U.S.C. 511(b)), applications are being accepted from institutions of higher education for quotas of fellowships under the Language and Area Studies Fellowships Program.

Applications must be received by the U.S. Office of Education Application Control Center on or before December 17, 1974.

A. *Applications sent by mail.* An application sent by mail should be addressed as follows: U.S. Office of Education, Application Control Center, 400 Maryland Avenue, SW., Washington, D.C. 20202, Attention: 13.434. An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than the fifth calendar day prior to the closing date (or if such fifth calendar day is a Saturday, Sunday, or Federal holiday, not later than the next following business day), as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare, or the U.S. Office of Education mail rooms in Washington, D.C. (In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.)

B. *Hand delivered applications.* An application to be hand delivered must be taken to the U.S. Office of Education Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets, SW., Washington, D.C. Hand delivered applications will be accepted daily between the hours of 8 a.m. and 4 p.m. Washington, D.C. time except Saturdays, Sundays, or Federal holidays. Applications will not be accepted after 4 p.m. on the closing date.

C. *Program information and forms.* Information and application forms may be obtained from the International Studies Branch, Division of International Education, Bureau of Postsecondary Education, Office of Education, Washington, D.C. 20202.

D. *Applicable regulations.* The regulations applicable to this program include the Office of Education general provisions regulations (45 CFR Part 100a) and the criteria relating to Foreign Language and Area Studies fellowships published in this issue of the FEDERAL REGISTER.

(Catalog of Federal Domestic Assistance Number 13.434; Higher Education—Language and Area Fellowships Program)

Dated: September 25, 1974.

T. H. BELL,
U.S. Commissioner of Education.

[FR Doc.74-26465 Filed 11-11-74;8:45 am]

Office of the Secretary

ADVISORY COMMITTEE ON POPULATION AFFAIRS

Meeting

The Services Task Force of the Advisory Committee on Population Affairs, established to advise the Secretary regarding all significant aspects of family planning and population research activities coming under the purview of the Department of Health, Education, and Welfare, is scheduled to hold a meeting on November 25, 1974. The meeting will be held in the Department's north building located at 330 Independence Ave. SW., Washington, D.C., Room 4137. The meeting is scheduled to convene at 9 a.m. and adjourn at 5:30 p.m.

The Task Force will discuss recommendations for the implementation of the World Population Plan of Action in the United States and related matters.

The meeting is open for public observation.

Dated: November 6, 1974.

LOUIS M. HELLMAN,
Chairman and Executive Secretary.

[FR Doc.74-26463 Filed 11-11-74;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[FRA General Docket No. H-74-2]

TRAIN AIR BRAKE TEST PROGRAM

Notice of Hearing

On October 15, 1974, a notice was published in the FEDERAL REGISTER (39 FR 36878) by the Railroad Safety Board announcing that the Board was considering the establishment of a limited cold weather test program. In general terms the proposed test program would provide information on the feasibility of increasing the maximum brake pipe leakage for freight trains hauled by locomotives equipped with pressure maintaining type automatic brake valves during below freezing weather conditions.

The Railroad Safety Board has sought the views and comments of interested parties on the appropriateness of such a test program as well as on the terms and conditions, including the suggested list of participating railroads, if such a test program is established. In furtherance of that effort and in response to a request from the Congress of Railway Unions, the Railroad Safety Board will hold a public hearing on this proposed test program. Accordingly, a public hearing is hereby set for 1:30 p.m. on November 20, 1974, Room 7200, Nassif Building, 400 Seventh Street SW., Washington, D.C.

The hearing will be an informal one, and will be conducted in accordance with Rule 31 of the FRA Rule-Making Procedures (49 CFR 211.31), by a representative designated by the Board.

The hearing will be a nonadversary proceeding and, therefore, there will be no cross-examination of persons presenting statements. The representatives of the Board will make an opening statement outlining the scope of the hearing. After all initial statements have been completed, those persons who wish to make brief rebuttal statements will be given the opportunity to do so in the same order in which they made their initial statements. Additional procedures, if necessary, for the conduct of the hearing will be announced at the hearing.

DONALD W. BENNETT,
Chief Counsel.

[FR Doc.74-26551 Filed 11-11-74;8:45 am]

Hazardous Materials Regulations Board

SPECIAL PERMITS ISSUED

Pursuant to Docket No. HM–1, rulemaking procedures of the Hazardous Materials Regulations Board, issued May 22, 1968 (33 FR 8277) 49 CFR Part 170, following is a list of new DOT Special Permits upon which Board action was completed during October 1974.

Special permit No.	Issued to—subject	Mode or modes of transportation
SP 6914	Hercules Incorporated, Wilmington, Delaware, to ship Hercudet blasting caps, non-electric as prescribed in § 173.66 except that inside packaging may also consist of polyethylene plastic bags.	Motor vehicle.
SP 6924	Sobin Chemicals, Inc., Boston, Massachusetts, to ship Chlorpicrin, liquid in DOT Specification 5A metal drums, made of 12 gage steel throughout, having rated capacity of 55-gallons.	Cargo vessel, Motor vehicle, Rail freight.
SP 6925	Economics Laboratory, Inc., St. Paul, Minn., to ship certain corrosive liquids in high density polyethylene bottles overpacked in an outside nonreuseable, non-DOT specification 200 pound test double-faced fiberboard box.	Cargo vessel, Motor vehicle, Rail freight.
SP 6928	McKesson Chemical Co., San Francisco, Calif., to ship Nitric acid in DOT Specification 5C steel drums except the hoops are made from ¾" x 1¼" carbon steel I-bar.	Motor vehicle, Rail freight.
SP 6929	U.S. Atomic Energy Commission, Washington, D.C., to ship semi-propulsive rocket motors, Class B explosives in packaging approved by the Bureau of Explosives (AAR).	Cargo vessel, Motor vehicle.
SP 6930	Coyne Chemical Co., Philadelphia, Pa., to ship Phosphoric acid not exceeding 85 percent strength in DOT Specification 57 stainless steel portable tanks.	Motor vehicle.
SP 6931	Celanese Chemical Company, Houston, Texas, to ship a propionic acid mixture in insulated aluminum tank cars built to AAR-201A80W specifications. Bottom outlets are prohibited.	Rail freight.
SP 6932	Ugine Kuhlmann of America, Inc., to ship Anhydrous hydrofluoric acid in a non-DOT specification portable tank constructed in accordance with Fauvet-Girel drawings.	Cargo vessel, Motor vehicle.
SP 6933	Osmose Wood Preserving Company, Buffalo, N.Y., to ship poisonous solids, n.o.s. in 15-gallon capacity metal drums complying with DOT Specification 17E except they are fabricated from 24 gauge steel.	Motor vehicle.
SP 6935	National Aeronautics and Space Administration, Washington, D.C., to make one shipment of Nitrogen tetroxide-nitric oxide mixture in DOT Specification 3A480 cylinders each equipped with gas tight valve and valve protection cap.	Cargo-only aircraft.
SP 6940	Agrico Chemical Company, Tulsa, Oklahoma, to ship Sulfuric acid concentration of greater than 77.5 percent to not over 95 percent in DOT Specification 103W tank car tanks. Bottom outlets are prohibited.	Rail freight.

ALAN I. ROBERTS,
Secretary.

[FR Doc.74–26268 Filed 11–11–74;8:45 am]

National Highway Traffic Safety Administration

[Docket No. 74–36; Notice No. 2]

HIGHWAY SAFETY ACT SANCTIONS REVIEW BOARD

Appointment of Members for Maryland Hearing; Postponement of Hearing

On October 11, 1974, the Federal Highway Administrator and the National Highway Traffic Safety Administrator acting jointly issued a notice (39 FR 37411, October 21, 1974) setting forth a proposed recommended determination to invoke the sanctions specified in 23 U.S.C. § 402 against the State of Maryland. The basis for the proposal was the failure of Maryland to enact a presumptive or prima facie blood-alcohol-concentration level set at 0.10 percent or lower before the end of the 1974 session of the Maryland legislature. The notice also announced that a public hearing would be held with respect to the proposed recommended determination on November 11, 1974.

Pursuant to § 1206.7 of Title 23, Code of Federal Regulations, a review board of three officials of the Department of Transportation has been appointed to conduct the hearing in accordance with the rules of procedure set forth in Part 1206 of Title 23, Code of Federal Regulations, for the purpose of receiving evidence and views from the State of Maryland and interested persons concerning the proposed recommended determination. The membership of the board is as follows:

Office of the Secretary Member and Presiding Officer: Glenn J. Sedam, Deputy Assistant Secretary for Environment, Safety and Consumer Affairs.

Federal Highway Administration Member: William G. Emrich, Director of the Office of Environment and Design, Region V.

National Highway Traffic Safety Administration Member: Frank Ephraim, Director of the Office of Program Evaluation.

On November 6, 1974, a request for postponement of the hearing was filed with the presiding officer on behalf of the State of Maryland. The request did not specify the duration of the requested postponement. The asserted grounds for the request were (1) that the parties are presently negotiating a settlement of the matter which could well result in the execution of a consent decree pursuant to the provisions of 23 CFR 1206.9, and (2) that the notice provided to Maryland was insufficient for purposes of preparing the presentation of the State's case.

The Federal Highway Administrator and National Highway Traffic Safety Administrator have advised the presiding officer that they are engaged in such negotiations and that they have no objection to a postponement of 14 days to carry on those negotiations.

Accordingly, so as to allow opportunity for the parties to pursue possible settlement negotiations and acting under the authority of 23 CFR 1206.7(b)(1), the hearing is hereby postponed until 10 a.m. on November 25, 1974. The location of the hearing remains the Department of Transportation Headquarters Building, Room 2230, 400 Seventh Street SW., Washington, D.C. 20590.

GLENN J. SEDAM,
Presiding Officer,
Sanctions Hearing Board.

NOVEMBER 7, 1974.

[FR Doc.74–26567 Filed 11–8–74;3:17 pm]

Urban Mass Transportation Administration

ELDERLY AND HANDICAPPED REGULATIONS

Meeting

The Urban Mass Transportation Administration (UMTA) is considering issuing regulations which will state UMTA's current requirements for grant applications in the area of transportation service to the elderly and the handicapped and also establish new requirements. These regulations would be issued under the authority of section 16 of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1612); section 165(b) of the Federal-Aid Highway Act of 1973 (23 U.S.C. 142nt.); and delegation of authority from the Secretary of Transportation to the Urban Mass Transportation Administrator at 49 CFR 150.

Prior to formal rulemaking, UMTA officials will meet with interested parties to discuss a draft of the regulations. Meetings will be held on the following dates on the indicated subjects:

Date:	*Subject*
November 25, 1974	The regulations from the perspective of the elderly and handicapped.
November 26, 1974	The regulations from the perspective of transit operators.
November 27, 1974	The regulations from the perspective of manufacturers of buses and fixed guideway stations.

All meetings will begin at 10 a.m. in Room 10330, Nassif Building, 400 7th St. SW., Washington, D.C. 20590. The meetings will be open to the public.

The latest UMTA draft of the proposed regulations will be distributed at the meetings. The same draft will be discussed at all three meetings. Copies of the draft are available prior to the meetings from the Office of the Chief Counsel, Urban Mass Transportation Administration, Department of Transportation, Room 9315, 400 7th St. SW., Washington, D.C. 20590.

After the meetings a revised draft of the proposed regulations will be published in the FEDERAL REGISTER in a Notice of Proposed Rulemaking. No final rules will be issued until after a period for written comment by the public.

Issued in Washington, D.C. on November 12, 1974.

SALLYANNE PAYTON,
Chief Counsel, Urban Mass Transportation Administration.

[FR Doc.74–26621 Filed 11–11–74;9:46 am]

ATOMIC ENERGY COMMISSION

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS SUBCOMMITTEE ON REGULATORY GUIDES

Meeting

NOVEMBER 6, 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 Regulatory Guides will hold a meeting at 9 a.m. on December 3, 1974, in Room 1046 at 1717 H Street NW., Washington, D.C. This meeting will be closed to the public.

The Subcommittee will meet in closed session with the AEC Regulatory Staff to discuss the following working papers:

(1) Emergency Plans for Nuclear Power Plants.

(2) Instrumentation for Light Water Cooled Nuclear Power Plant Conditions During and Following An Accident.

(3) Design of Main Steam Isolation Valve Leakage Control Systems for Direct Cycle Boiling Water Nuclear Power Plants.

(4) Assumptions Used for Evaluating the Potential Radiological Consequences of a BWR Radioactive Offgas System Failure.

(5) Investigation of Materials Under Nuclear Power Plant Foundations.

In connection with this matter, the Subcommittee may hold Executive Sessions, not open to the public, prior to and at the conclusion of the meeting with the AEC Regulatory Staff, to exchange opinions and formulate recommendations to the ACRS.

I have determined, in accordance with subsection 10(d) of Pub. L. 92-463, that the closed session will consist of exchanges of opinions and formulation of recommendations, the discussion of which, if written, would fall within exemption (5) of 5 U.S.C. 552(b). Any factual material that may be presented during this portion of the meeting will be inextricably intertwined with such exempt material and no separation of exempt and non-exempt material is considered practical. It is essential to close this meeting to protect the free interchange of internal views and to avoid undue interference with Subcommittee and agency operation.

JOHN C. RYAN,
Advisory Committee Management Officer.

[FR Doc.74-26410 Filed 11-11-74;8:45 am]

[Dockets Nos. STN 50-528 through 50-530]

ARIZONA PUBLIC SERVICE CO. ET AL.

Notice of Receipt of Application for Construction Permits and Facility Licenses and Availability of Applicants' Environmental Report; Time for Submission of Views on Antitrust Matters

Arizona Public Service Company on behalf of itself and five joint applicants—the Salt River Project Agricultural Improvement and Power District, Tucson Gas & Electric Company, El Paso Electric Company, Public Service Company of New Mexico, and Arizona Electric Power Cooperative, Inc. (the applicants), pursuant to section 103 of the Atomic Energy Act of 1954, as amended, have filed an application, which was docketed on October 7, 1974, for authorization to construct and operate three generating units utilizing three pressurized water nuclear reactors. The application was tendered on July 11, 1974. Following a preliminary review for completeness, the Environmental Report, the general and financial, and antitrust information were found to be acceptable for docketing. However, the Preliminary Safety Analysis Report was rejected on August 29, 1974, for lack of sufficient information. The applicant submitted additional information on September 30, 1974, and the Preliminary Safety Analysis Report was found to be acceptable for docketing. Docket Nos. STN 50-528, STN 50-529, and STN 50-530, have been assigned to the application, and they should be referenced in any correspondence relating to the application.

The proposed nuclear facility, designated by the applicants as the Palo Verde Nuclear Generating Station, Units 1, 2, and 3, is located in Maricopa County, Arizona, about 15 miles west of Buckeye and 36 miles west of Phoenix. Each of the units is designed for initial operation at 3,800 megawatts (thermal), with a net electrical output of 1,307 megawatts.

A Notice of Hearing with opportunity for public participation is being published separately.

Any person who wishes to have his views on the antitrust matters of the application presented to the Attorney General for consideration should submit such views to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Office of Antitrust and Indemnity, Directorate of Licensing, on or before December 23, 1974. The request should be filed in connection with Docket Nos. STN 50-528-A, STN 50-529-A, and STN 50-530-A.

A copy of the application is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW, Washington, D.C. 20545, and at the Phoenix Public Library, 12 East McDowell Road, Phoenix, Arizona 85004.

The applicants have also filed, pursuant to the National Environmental Policy Act of 1969 and the regulations of the Commission in 10 CFR Part 51, an environmental report dated October 2, 1974. The report, which discusses environmental considerations related to the construction and operation of the proposed facilities, is being made available for public inspection at the aforementioned locations and at the Department of Economic Planning and Development, State of Arizona, Phoenix, Arizona 85007, and at the Maricopa Association of Governments, 300 N. Central Avenue, Phoenix, Arizona 85012.

After the environmental report has been analyzed by the Commission's Director of Regulation or his designee, a draft environmental statement will be prepared by the Commission's Regulatory staff. Upon preparation of the draft environmental statement, the Commission will, among other things, cause to be published in the FEDERAL REGISTER a summary notice of availability of the draft statement, with a request for comments from interested persons on the draft statement. The summary notice will also contain a statement to the effect that comments of Federal agencies and State and local officials will be made available when received. Upon consideration of comments submitted with respect to the draft environmental statement, the Regulatory staff will prepare a final environmental statement, the availability of which will be published in the FEDERAL REGISTER.

Dated at Bethesda, Md., this 8th day of October, 1974.

For the Atomic Energy Commission.

RALPH A. BIRKEL,
Acting Chief, Light Water Reactor Project Branch 1-3, Directorate of Licensing.

[FR Doc.74-24442 Filed 10-21-74;8:45 am]

[Dockets Nos. 50-250 and 50-251]

FLORIDA POWER AND LIGHT CO.

Amendments to Facility Operating Licenses

The Atomic Energy Commission (the Commission) is considering the issuance of amendments to Facility Operating Licenses No. DPR-31 and DPR-41 issued to Florida Power and Light Company (the licensee) for operation of the Turkey Point Nuclear Generating Units 3 and 4 located in Dade County, Florida.

The amendments would revise the Technical Specifications in accordance with the licensee's applications dated October 24, 1974, and October 30, 1974. The revisions would modify those provisions in the Technical Specifications relating to fuel residence time and control rod insertion limits to allow operation through core cycle 2 for Turkey Point Nuclear Generating Unit 3 following refueling. The extended fuel residence time will allow operation of Unit 3 through core cycle 2 with cycle 1 fuel. The operating limits for Unit 4 set forth in its Technical Specifications will remain unchanged although the Technical Specifications will be modified to reflect the revisions to the Unit 3 Technical Specifications.

On or before December 12, 1974, any member of the public whose interest may be affected by the proceeding may file a request for a public hearing in the form of a petition for leave to intervene with respect to whether the amendments to the facility operating licenses should be issued.

Petitions for leave to intervene must be filed under oath or affirmation and in accordance with the provisions of § 2.714 of 10 CFR Part 2 of the Commission's regulations. A petition for leave to intervene must set forth the interest of the petitioner in the proceeding, how that interest may be affected by results of the proceeding, and the petitioner's contentions with respect to the proposed

licensing action. Such petitions must be filed in accordance with the provisions of the FEDERAL REGISTER notice and § 2.714, and must be filed with the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Docketing and Service Section by December 12, 1974. A copy of the petition and/or request for hearing should be sent to the Chief Hearing Counsel, Office of the General Counsel, Regulation, U.S. Atomic Energy Commission, Washington, D.C. 20545 and to Jack R. Newman, Esquire, Lowenstein, Newman, Reis & Axelrad, 1025 Connecticut Avenue NW., Washington, D.C. 20006, attorney for the licensee.

A petition for leave to intervene must be accompanied by a supporting affidavit which identifies the specific aspect or aspects of the proceeding as to which intervention is desired and specifies with particularity the facts on which the petitioner relies as to both his interest and his contentions with regard to each aspect on which intervention is requested. Petitions stating contentions relating only to matters outside the Commission's jurisdiction will be denied.

All petitions will be acted upon by the Commission or licensing board designated by the Chairman of the Atomic Safety and Licensing Board Panel. Timely petitions will be considered to determine whether a hearing should be noticed or another appropriate order issued regarding the disposition of the petitions.

In the event that a hearing is held and a person is permitted to intervene, he becomes a party to the proceeding and has a right to participate fully in the conduct of the hearing. For example, he may present evidence and examine and cross-examine witnesses.

For further details with respect to this action, see the applications for amendments dated October 24, 1974, and October 30, 1974, which are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Lily Lawrence Box Public Library, 212 NW. First Avenue, Homestead, Florida. As they become available, the Commission's related Safety Evaluation, and the proposed license amendments and attachments will also be available at the above locations. A copy of the Safety Evaluation and the proposed amendments and attachments, when available, may be obtained upon request addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545. Attention: Deputy Director for Reactor Projects, Directorate of Licensing—Regulation.

Dated at Bethesda, Maryland, this 7th day of November, 1974.

For the Atomic Energy Commission.

GEORGE LEAR, *Chief,*
Operating Reactors Branch No. 3,
Directorate of Licensing.

[FR Doc.74-26487 Filed 11-11-74;8:45 am]

[Docket No. 50-410]

NIAGARA MOHAWK POWER CORP.

Oral Argument

Notice is hereby given that, in accordance with the Atomic Safety and Licensing Appeal Board's Order dated October 31, 1974, oral argument on the exceptions filed to the June 14, 1974 initial decision of the Licensing Board in this construction permit proceeding will be heard at 10 a.m. on Wednesday, December 4, 1974, in the Main Courtroom (second floor), The U.S. District Court and Post Office Building, Erie Boulevard and Genessee Street, Syracuse, New York 13201.

Dated: November 6, 1974.

For the Atomic Safety and Licensing Appeal Board.

ROMAYNE M. SKRUTSKI,
Secretary to the
Appeal Board.

[FR Doc.74-26455 Filed 11-11-74;8:45 am]

[Docket Nos. 50-277, 50-278]

PHILADELPHIA ELECTRIC CO. ET AL.

Oral Argument

Notice is hereby given that, in accordance with the Atomic Safety and Licensing Appeal Board's Order dated October 31, 1974, oral argument on the exceptions filed by the applicant, intervenors and regulatory staff to the June 14, 1974 initial decision of the Licensing Board (RAI-74-6 1022) in these operating licensing proceedings, has been re-calendared for 10 a.m. on Wednesday, December 11, 1974, in the Appeal Panel Hearing Room, 5th floor, East West Towers Building, 4350 East-West Highway, Bethesda, Maryland.

Dated: November 6, 1974.

For the Atomic Safety and Licensing Appeal Board.

ROMAYNE M. SKRUTSKI,
Secretary to the
Appeal Board.

[FR Doc.74-26456 Filed 11-11-74;8:45 am]

[Docket Nos. 50-272, 50-311]

PUBLIC SERVICE ELECTRIC AND GAS COMPANY, ET AL.

Order Dismissing Party

By motion dated October 7, 1974, the Applicant herein has moved that the Intervenor Citizens Opposed to Radiation Pollution (CORP) be dismissed as a party to this proceeding for its failure to participate in requested discovery.
with appropriate discovery.

It appears that: 1. The Board's Order of November 26, 1973, directed the parties, from and after that date, to proceed

2. On or about June 14, 1974, Applicant served its Notice of Deposition upon Intervenor CORP, requiring the oral depositions of certain members of CORP to be given beginning on July 29, 1974. The Intervenor CORP failed or refused to respond to this notice of deposition, necessitating cancellation of all scheduled depositions.

3. The Board's order of September 6, 1974, compelled certain of the discovery sought by and described in Applicant's June 14, 1974, notice of deposition. The Intervenor CORP failed or refused to respond to the order compelling discovery and made no appearance at the session attempted to be held in accordance with that order.

The Intervenor CORP is in default under the Commission's rules of practice. This Board may impose an appropriate sanction for the default (10 CFR 2.707). For its failures hereinabove described, the Board hereby determines that the Intervenor CORP should be dismissed as a party to this proceeding.

The Applicant's motion of October 7, 1974, is granted, and Citizens Opposed to Radiation Pollution is hereby dismissed as a party to this proceeding.

There remaining no intervening parties and no request for hearing, under the Commission's rules of practice this proceeding must be, and it hereby is, dismissed.

Dated at Bethesda, Md., this 31st day of October 1974.

ATOMIC SAFETY AND LICENSING BOARD,
EDWARD LUTON,
Chairman.

[FR Doc.74-26411 Filed 11-11-74;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket No. 25280; Agreement C.A.B. 24735; Order 74-11-32]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Increased Fuel Costs

Issued under delegated authority November 6, 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 Traffic Conference 2 of the International Air Transport Association (IATA). The agreement, which was adopted by mail vote, has been assigned the above-designated C.A.B. agreement number.

The agreement would increase Europe-Middle East cargo rates by four percent and Middle Eastern cargo rates by two percent effective January 1, 1975 to account for increased fuel costs. The agreement applies in air transportation as defined by the Act only to the extent it involves general cargo rates, which are combinable with general cargo rates to/from United States points.

Pursuant to authority duly delegated by the Board in the Board's Regulations 14 CFR 385.14:

It is not found that Resolutions 200 (Mail 215) 003pp and 200(Mail 215) 003qq, which are incorporated in Agreement C.A.B. 24735 and which have indirect

application in air transportation as defined by the Act, are adverse to the public interest or in violation of the Act.

Accordingly, it is orderd, That:

Agreement C.A.B. 24735 be and hereby is approved.

Persons entitled to petition the Board for review of this order pursuant to the Board's Regulations, 14 CFR 385.50, may file such petitions within ten days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period, unless within such period a petition for review thereof is filed or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.74-26472 Filed 11-11-74;8:45 am]

[Docket No. 25513; Agreement C.A.B. 24734 R-1 and R-2; Order 74-11-30]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Passenger Fare Matters

Issued under delegated authority November 6, 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 was adopted at a Resolution 015a and 015b meeting at San Diego on September 12, 1974 and has been assigned the above C.A.B. agreement number.

The agreement adjusts proportional fares from Canada used to construct through fares between Canada and North/Central and South Pacific points to reflect a recent Canadian domestic fare increase. The agreement also adjusts certain U.S. transborder proportional fares to the extent necessary to maintain historical relationships *vis-a-vis* nearby Canadian points.

Pursuant to authority duly delegated by the Board in the Board's Regulations, 14 CFR 385.14, it is not found that the following resolutions, which are incorporated in Agreement C.A.B. 24734 as indicated, are adverse to the public interest or in violation of the Act:

Agreement CAB	IATA No.	Title	Application
24734:			
R-1	015b	North and Central Pacific Proportional Fares—North America	3/1 (N/C Pacific).
R-2	015a	South Pacific Proportional Fares—North America	3/1 (South Pacific).

Accordingly, it is ordered, That:

Agreement C.A.B. 24734 be and hereby is approved.

Persons entitled to petition the Board for review of this order pursuant to the Board's Regulations, 14 CFR 385.50, may file such petitions within ten days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period, unless within such period a petition for review thereof is filed or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc. 74-26473 Filed 11-11-74;8:45 am]

[Dockets 26057 and 26075, Agreements CAB 24753, 24754, 24755, 24756, 24757, and 24758]

PAN AMERICAN WORLD AIRWAYS, INC., ET AL.

Fuel-Saving Capacity Limitation Agreements

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 7th day of November, 1974.

Pan American World Airways, Inc. (Pan Am), Trans World Airlines, Inc. (TWA), British Caledonian Airways (BCAL), and British Airways jointly request prior Board approval, pursuant to section 412 of the Federal Aviation Act of 1958, as amended (the Act) and Subpart P of the Board's rules of practice, 14 CFR 302.1601, of capacity limitation agreements with respect to six United States-London markets. These agreements resulted from several discussion sessions held pursuant to authority granted by the Board in Order 73-11-34, November 8, 1973, as extended and expanded by Orders 74-4-29, April 4, 1974, and 74-7-33, July 8, 1974.[1]

The agreements establish maximum weekly nonstop scheduled frequencies to be operated by the applicants in the subject markets.[2] Provision is made for the temporary suspension of these limitations during a period of cessation of curtailment of operations by any of the parties resulting from a labor dispute or other cause beyond the control of the affected party. Allowance is also made for the use of unpublished extra sections either for operational reasons or to meet short periods of excessive demand. The agreements were to become effective, subject to prior Board approval, on November 1, 1974, and are to continue in effect until April 30, 1975, except for the New York-London agreement which is to terminate on April 15, 1975. Any party may terminate the agreement on 30 days' written notice.

In support of the application, the applicants assert that the agreements will result in a substantial reduction in fuel consumption. Specifically, the applicants estimate an aggregate fuel savings of approximately 40,303,323 gallons over the term of the agreement. The applicants also note that in extending the discussion authority originally granted in Order 73-11-34, the Board, in Order 74-7-33, broadened the basis for such discussions to include the radical price increase in, as well as the availability of, international aviation fuel.[3] In this respect, the applicants estimate that the fuel savings will translate into a total fuel-cost saving of approximately $13,874,880, even under the unlikely assumption that there are no further increase in fuel prices this winter.

The applicants emphasize that achieving these fuel and fuel-cost savings will not unwarrantedly reduce the level of United States-London services offered to the public. Assuming no growth in traffic

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[1] Meetings among the applicants looking toward these agreements were held in London on July 31, 1974, in New York on August 7-8, 1974, and in Washington, D.C. on September 18, 1974. Reports of these meetings were filed with the Board.

[2] The markets involved and the weekly nonstop service levels pursuant to the various agreements are as follows:

Agreement CAB 24753, New York-London:

British Airways	7 B-747, 7 B-707, or VC-10.
BCAL	7 B-707.
Pan Am	7 B-747, 7 B-707.
TWA	7 B-747, 7 B-707.

Agreement CAB 24754, Los Angeles-London:

British Airways	5 B-707 or VC-10.
BCAL	5 B-707.
Pan Am	5 B-747.
TWA	5 B-747.

Agreement CAB 24755, Boston-London:

British Airways	7 B-707 or VC-10.
Pan Am	7 B-707.
TWA	7 B-707.

Agreement CAB 24756, Chicago-London:

British Airways	4 B-747.
TWA	4 B-747.

Agreement CAB 24757, Washington-London:

British Airways	4 B-747.
Pan Am	5 B-747.

Agreement CAB 24758, Detroit-London:

British Airways	4 B-747 (via an intermediate stop at an east coast coterminal point).
Pan Am	7 B-707 (via an intermediate stop at an east coast coterminal point).

[3] See Order 74-7-33, July 8, 1974, second full paragraph on page 3, and ordering paragraph 1. The applicants also cite the Board's language on page 5 of Order 74-4-149, April 26, 1974, wherein the Board, in approving certain international capacity agreements, stated that such fuel conservation measures take on added significance in light of the financial crisis facing both Pan Am and TWA.

for these markets over the 1973–74 winter period, the applicants estimate load factors ranging from a low of 45 percent in the Los Angeles-London market to a high of 64 percent in the Washington-London market. Even these load-factor estimates may be high, as British Airways foresees a drop in traffic from last year of at least six percent for all of these markets. Thus, the applicants conclude that service levels under the agreements will be adequate to meet the demands of the traveling public.

The applicants also request that the 21-day period for the filing of answers to this application, pursuant to 14 CFR 302.1608, be waived to permit Board action by the effective date of the agreements. Additionally, Pan Am and TWA request an exemption from section 405 (b) of the Act and all regulations enacted in pursuance thereof, to the extent necessary to permit implementation of the proposed schedule changes without ten days' prior notice to the Postmaster General.

The National Air Carrier Association (NACA) has filed an answer to the application.[4] NACA does not oppose the application, but requests that a condition be imposed on any approval of the agreements to prevent the use of any freed capacity in the transatlantic charter market. Specifically, NACA requests a condition which would require that, during any year in which an international capacity agreement is in effect, each agreement carrier limit the number of seats it operates in transatlantic charter services to the number of seats it operated during the 12-month period preceding the first international capacity agreement entered into in this proceeding. To permit flexibility, NACA also suggests a provision in its condition which would allow any carrier which increases its revenue passenger-miles in transatlantic scheduled service during an agreement period, over the corresponding preagreement period, to proportionately increase its charter capacity.

Pan Am has filed a reply to NACA's answer, opposing the requested condition.[5]

No other comments relative to the application have been received to date.[6]

In consideration of the foregoing, the Board notes that to the extent that the applicants have justified the proposed capacity limitation agreements on both a fuel and fuel-cost savings basis, the application appears to raise issues which are currently being considered in the Capacity Reduction Agreements Case, Docket 22908. However, these agreements relate to international markets, are all for a relatively short term, and in each case the proposed service appears adequate to meet the needs of the traveling public. The Board has previously stated that mutual reductions in international capacity, when carefully monitored by the Board, can help to provide the public with optimum service in the face of the constraints imposed by the international fuel situation.[7] Therefore, we have decided to approve these agreements.[8] Our decision herein, however, should not be construed as prejudging in any manner the Board's final decision with respect to any of the issues currently being considered in the Capacity Reduction Agreements Case.

With respect to the charter operations condition requested by NACA, we believe that the public interest does not require the imposition of such a condition on approval of these agreements at this time. The Board has repeatedly stated that the transfer of released capacity to any non-agreement markets, including charter markets, will not be tolerated,[9] and we will impose reporting requirements similar to those imposed on other such agreements, which requirements should provide adequate protection against the predatory use of any freed capacity.[10] We will also retain jurisdiction for the purpose of amending or revoking the approval granted herein at any future date.[11]

So that the agreement may be effectuated quickly, the applicants' request for waiver of the 21-day period for the filing of answers to this application will be granted. However, the Board will receive and consider any documents filed in this docket as part of its continuing evaluation of the impact of the agreement. It is found that enforcement of section 405(b) of the Act, requiring ten days' prior notice of schedule changes to the Postmaster General, would be an undue burden upon the air carrier applicants and is not in the public interest.

Finally, we have considered the impact of the agreement on the employees of both Pan Am and TWA. Based on the limited amount of information currently before us, we are unable to conclude that the public interest requires the imposition of any labor protective conditions. As noted, however, the Board will retain jurisdiction, and could impose such a condition should a showing be made that the public interest so requires.

Accordingly, it is ordered, That:

1. Agreements CAB 24753, 24754, 24755, 24756, 24757, and 24758 be and they hereby are approved subject to the following conditions:

(a) Jurisdiction shall be retained to amend or revoke approval at any time or take whatever action may be in the public interest;

(b) Schedule deletions resulting from the agreements herein, which occur at any of the controlled high-density airports [12] and which result in the vacating of slots allocated by the Airline Scheduling Committees of the respective airports pursuant to authority granted in Order 72–11–72, shall not be refilled by the air carrier applicants, nor be reallocated to other carriers by the respective Airline Scheduling Committee; *provided, however,* That slots originally vacated may be reinstated by the vacating carrier to the extent such carrier vacates another flight at the same airport which operates plus or minus three hours of the flight to be reinstated;[13]

(c) All schedule changes resulting from this agreement shall be reported to the Board within 15 days of the end of each month, in accordance with the format of Appendix A [14] hereto,[15] and copies of such reports shall be provided to all carriers requesting them; and

(d) Within 28 days of the date of service of this order, the air carrier applicants shall file with the Board's Docket Section a report containing the following additional data for the subject markets:

a. Seats operated in 1973/1974 (November through March).

b. Passengers carried in 1974 to date.

c. Forecast passengers in 1974/1975 (November through March).

d. Projected seats in 1974/1975 (November through March).

e. Fuel use by month for the system of each carrier in 1974 to date.

f. Fuel use by month in the subject agreement markets in 1974 to date.

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[4] NACA represents the following supplemental air carriers: Capitol International Airways, Inc., Overseas National Airways, Inc., Saturn Airways, Inc., Trans International Airlines, and World Airways, Inc.

[5] Pan Am's reply was accompanied by a motion for leave to file an otherwise unauthorized document. Since Pan Am's reply falls within the standards established for such documents by 14 CFR 302.1608, that motion is unnecessary and will be dismissed.

[6] Copies of this application were served upon all persons upon whom copies of Order 73–11–34 were served, in accordance with 14 CFR 302.1605.

[7] See, for example, Order 73–11–34, November 8, 1973, and Order 74–1–111, January 23, 1974.

[8] The Board is aware of BCAL's current plans to terminate transatlantic service. We will approve as submitted those agreements to which BCAL is a party, so as not to preclude the reinstatement of transatlantic service by BCAL at some future date under the terms of the agreement. Even without BCAL in the transatlantic market, the load factors of the remaining applicants herein will not be unduly high during the effectiveness of these agreements.

[9] See, for example, Orders 73–10–110 (October 31, 1973), note 8a; 74–1–111 (January 23, 1974), at page 4; and 74–2–93 (February 22, 1974), at page 4.

[10] See ordering paragraph 1 and footnote 14, infra.

[11] Section 412(b) of the Act (49 U.S.C. 1382) requires the Board to disapprove any agreement, whether or not previously approved by it, which it finds to be adverse to the public interest or in violation of the Act.

[12] Airport scheduling agreements affect John F. Kennedy International Airport, O'Hare International Airport, Washington National Airport and LaGuardia Airport. See Order 72–11–72, November 16, 1972.

[13] Compare Order 73–12–32, December 7, 1973, at page 7.

[14] Appendix A filed as part of original document.

[15] In addition, Pan Am and TWA shall file with the Board's Docket Section a report stating, on a systemwide basis, average seat miles operated per gallon of fuel used, by type of equipment; and shall maintain records, subject to inspection by the Board or such other persons as the Board may authorize, detailing the fuel used each month, throughout their systems, on a city-pair and flight-by-flight basis (including charter operations).

2. The request of the applicants for a waiver of the 21-day period for the filing of answers be and it hereby is granted;

3. The request of Pan Am and TWA for an exemption from section 405(b) of the Act, and regulations promulgated pursuant thereto, to the extent necessary to permit implementation of the proposed schedules without ten days' prior notice to the Postmaster General, be and it hereby is granted;

4. NACA's request for the imposition of its proposed condition on the approval granted herein be and it hereby is denied;

5. Pan Am's motion for leave to file an otherwise unauthorized document be and it hereby is dismissed; and

6. Copies of this order shall be served on the United States Departments of Defense, Justice, and Transportation; the United States Postal Service; the Port Authority of New York and New Jersey; the Massachusetts Port Authority; the City of Chicago, Department of Aviation; the City of Los Angeles, Director of Aviation; the City of Detroit; and all certificated route and supplemental air carriers.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board:

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.74-26474 Filed 11-11-74;8:45 am]

[Docket Nos. 25864; 26878]

SATURN AIRWAYS, INC. AND AYHAN KAYMAK

Hearing Regarding Enforcement Proceeding

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that hearing in the above-entitled matter is assigned to be held on January 21, 1975, at 10:00 a.m. (local time) in Room 503, Universal Building, 1825 Connecticut Avenue, NW., Washington, D.C., before Administrative Law Judge Frank M. Whiting.

Dated at Washington, D.C., November 7, 1974.

[SEAL] ROBERT L. PARK,
Chief Administrative Law Judge.

[FR Doc.74-26471 Filed 11-11-74;8:45 am]

COMMISSION ON REVISION OF THE FEDERAL COURT APPELLATE SYSTEM

PRELIMINARY REPORT ON STRUCTURE AND INTERNAL OPERATING PROCEDURES

Meeting

Notice is hereby given that the Commission on Revision of the Federal Court Appellate System will meet Wednesday, November 20, 1974, at 9:30 a.m., in Room S-146 of The Capitol.

The purpose of the meeting is to discuss recommendations which may be included in the Commission's Preliminary Report on structure and internal operating procedures of the Federal courts of appeal system. Use of central staff, limitation of oral argument, practices concerning publication of opinions, and utilization of two-judge panels are among the specific topics to be considered. Specialized courts and compensation of attorneys representing judges who are sued in their official capacity are also to be discussed.

The meeting is open to all interested persons.

A. LEO LEVIN,
Executive Director.

[FR Doc.74-26417 Filed 11-11-74;8:45 am]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

FEDERATIVE REPUBLIC OF BRAZIL

Cotton Textiles and Cotton Textile Products

NOVEMBER 7, 1974.

On July 8, 1972, there was published in the FEDERAL REGISTER (37 FR 13498) a letter dated June 29, 1972, from the Chairman, Committee for the Implementation of Textile Agreements, to the Commissioner of Customs, establishing an administrative mechanism intended to preclude circumvention of the licensing system for exports to the United States of cotton textiles and cotton textile products, produced or manufactured in the Federative Republic of Brazil. One of the requirements is that the visa accompanying such shipments include the signature of a Brazilian official authorized to issue visas. The Government of the Federative Republic of Brazil has requested, and the Government of the United States has acceded to the request, that the following officials be authorized to issue visas in addition to those previously designated on January 25, 1974 (39 FR 3997):

Eduardo Jose Ferreira Barnes
Luiz Ramina
Publio Jackson Furiatti
Renato de Arruda Penteado Junior

Accordingly, there is published below a letter of November 7, 1974, from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs amending the letter of January 25, 1974, effective on November 18, 1974 to include the names of the aforementioned officials. Facsimiles of their signatures are filed as a part of the original document with the Office of the Federal Register.

SETH M. BODNER,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance, U.S. Department of Commerce.

NOVEMBER 7, 1974.

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C. 20229.

DEAR MR. COMMISSIONER: This directive further amends, but does not cancel, the directive of June 29, 1972 from the Chairman, Committee for the Implementation of Textile Agreements, that directed you to prohibit, under certain specified conditions, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textiles and cotton textile products in Categories 1 through 64, produced or manufactured in the Federative Republic of Brazil, for which that Government had not issued an appropriate visa. One of the requirements is that each visa include the signature of a Brazilian official authorized to issue visas.

Pursuant to the provisions of the Bilateral Cotton Textile Agreement of October 23, 1970, as amended, between the Governments of the United States and the Federative Republic of Brazil, and in accordance with the provisions of Executive Order 11651 of March 3, 1972, the directive of June 29, 1972 is further amended, effective on November 18, 1974, to authorize the following Brazilian officials to issue visas, in addition to those previously designated in our letter of January 25, 1974:

Eduardo Jose Ferreira Barnes
Luiz Ramina
Publio Jackson Furiatti
Renato de Arruda Penteado Junior

The actions taken with respect to the Government of the Federative Republic of Brazil and with respect to imports of cotton textiles and cotton textile products from Brazil have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

SETH M. BODNER,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance, U.S. Department of Commerce.

[FR Doc.74-26481 Filed 11-11-74;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 292-7]

CIBA-GEIGY CORP.

Establishment of Temporary Tolerances

CIBA-GEIGY Corp., Post Office Box 11422, Greensboro, NC 27409, submitted a petition (PP 4G1469) requesting establishment of temporary tolerances for negligible residues of the herbicide procyazine (2-[[4-chloro-6-(cyclopropylamino) - 1,3,5 - triazin - 2 - yl]amino] - 2-methylpropanenitrile) in or on the raw agricultural commodities fresh corn including sweet corn (kernels plus cob with husk removed), corn grain, and corn fodder and forage (excluding sweet corn fodder and forage) at 0.1 part per million.

It has been determined that these temporary tolerances will protect the public health. They are therefore established on condition that the herbicide be used in accordance with the temporary permit being issued concurrently and which provides for distribution under the CIBA-GEIGY Corp. name. (For a

related document, see this issue of the FEDERAL REGISTER, page 39869.)

These temporary tolerances expire November 6, 1975. Residues remaining in or on the above commodities after expiration of these tolerances will not be considered actionable if the pesticide is legally applied during the term and in accordance with provisions of the temporary permit/tolerances.

This action is taken pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(j), 68 Stat. 516; 21 U.S.C. 346a(j)), the authority transferred to the Administrator of the Environmental Protection Agency (35 FR 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticide Programs (39 FR 18805).

Dated: November 6, 1974.

HENRY J. KORP,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.74-26404 Filed 11-11-74;8:45 am]

[FRL 282-1]

HAZARDOUS MATERIALS ADVISORY COMMITTEE

Public Availability of Report on Closed Meeting

Pursuant to the provisions of section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463) and section 8d (3) of OMB Circular No. A-63, revised March 27, 1974, the Hazardous Materials Advisory Committee (HMAC), which held a partially closed meeting in 1973 has prepared a report on the activities of this meeting. Copies of the report have been filed and are available for public inspection at the following locations:

Library of Congress
Microform Reading Room
Room MB-140-B, Main Building
10 First Street, SE.
Washington, D.C. 20540

U.S. Environmental Protection Agency
Freedom of Information Center
Room 206, WSMW Tower
401 M Street, SW.
Washington, D.C. 20460

RUSSELL E. TRAIN,
Administrator.

NOVEMBER 5, 1974.

[FR Doc.74-26400 Filed 11-11-74;8:45 am]

[FRL 292-5; OPP-32000/139]

RECEIPT OF APPLICATIONS FOR PESTICIDE REGISTRATION DATA TO BE CONSIDERED IN SUPPORT OF APPLICATIONS

On November 19, 1973, the Environmental Protection Agency (EPA) published in the FEDERAL REGISTER (38 FR 31862) its interim policy with respect to the administration of section 3(c)(1)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended. This policy provides that EPA will, upon receipt of every application for registration, publish in the FEDERAL REGISTER a notice containing the information shown below. The labeling furnished by the applicant will be available for examination at the Environmental Protection Agency, Room EB-31, East Tower, 401 M Street SW., Washington, D.C. 20460.

On or before January 13, 1975, any person who (a) is or has been an applicant, (b) believes that data he developed and submitted to EPA on or after October 21, 1972, is being used to support an application described in this notice, (c) desires to assert a claim for compensation under section 3(c)(1)(D) for such use of his data, and (d) wishes to preserve his right to have the Administrator determine the amount of reasonable compensation to which he is entitled for such use of the data, must notify the Administrator and the applicant named in the notice in the FEDERAL REGISTER of his claim by certified mail. Notification to the Administrator should be addressed to the Information Coordination Section, Technical Services Division (WH-569), Office of Pesticide Programs, 401 M Street, SW., Washington, D.C. 20460. Every such claimant must include, at a minimum, the information listed in the interim policy of November 19, 1973.

Applications submitted under 2(a) or 2(b) of the interim policy will be processed to completion in accordance with existing procedures. Applications submitted under 2(c) of the interim policy cannot be made final until the 60 day period has expired. If no claims are received within the 60 day period, the 2(c) application will be processed according to normal procedure. However, if claims are received within the 60 day period, the applicants against whom the claims are asserted will be advised of the alternatives available under the Act. No claims will be accepted for possible EPA adjudication which are received after January 13, 1975.

APPLICATIONS RECEIVED

EPA Reg. No. 3533-53. Airkem, A Div. of Airwick Industries, Inc., 111 Commerce Rd., Carlstadt NJ 07072. AQUINOC GARBAGE COMPACTOR ODOR COUNTERACTANT INSECTICIDE. Active Ingredients: (5-Benzyl-3-furyl)methyl 2,2-dimethyl-3-carboxylate 0.250%; Related Compounds 0.034%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 8859-A. Aqualand Pool Co., Inc., Dakota at West Lake St., Minneapolis MN 55416. AQUALAND NEW FIRE RESISTANT CHLORINE CONCENTRATE. Active Ingredients: Sodium Dichloro-s-triazinetrione Dihydrate 100%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 8436-U. Berman Chemical Co., 1316 Locust St., PO Box 557, Toledo OH 43693. DISCENT DETERGENT-DEODORANT - SANITIZER - DISINFECTANT FUNGICIDE. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C18) dimethyl benzyl ammonium chlorides 2.25%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 2.25%; Sodium Carbonate 3.00%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 34132-G. Cealin Chemicals, 6141 Arlington Expressway, Jacksonville FL 32211. CERES B-60. Active Ingredients: Dimethyl benzyl ammonium chloride 10%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 34969-G. Central Solvents & Chemicals Co., 7601 S. 190th St., Kent WA 98031. HERCULES HERCO PINE OIL. Active Ingredients: Pine Oil 99.4%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 9404-EO. Chase & Co., PO Box 1697, Sanford FL 32771. SUNNILAND VAPAM SOIL FUMIGANT. Active Ingredients: Sodium methyl dithiocarbamate (anhydrous) 32.7%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA Reg. No. 3125-146. Chemagro, PO Box 4913, Kansas City MO 64120. BAYGON 70% WETTABLE POWDER. Active Ingredients: 2-(1-Methylethoxy) phenol methylcarbamate 70%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA Reg. No. 7056-37. Chem Spray Aerosols Inc., PO Box 38073, Houston TX 77088. CHEM-SPRAY VACIDE FLY AND MOSQUITO AEROSOL. Active Ingredients: 2,2-dichlorovinyl dimethyl phosphate 0.46%; related compounds 0.04%; Pyrethrins 0.03%; Technical Piperonyl Butoxide 0.06%; N-octyl Bicycloheptene Dicarboximide 0.10%; Petroleum distillate 14.31%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 4652-U. Crown Chemical Co., 1416 N. Dixie Hwy., Hollywood FL 33020. CROWN WONDER BUG KILLER. Active Ingredients: Pyrethrins 0.05%; Piperonyl Butoxide Technical 0.26%; 0,0-diethyl 0-(2-isopropyl-4-methyl-6-pyrimidinyl) phosphorothioate 0.50%; Petroleum Distillates 99.00%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA Reg. No. 3770-304. Economy Products Co., Inc., PO Box 427, Shenandoah IA 51601. RABON VMI LIVESTOCK DUST READY TO USE INSECTICIDE. Active Ingredients: 2-chloro-1-(2,4,5-trichlorophenyl) vinyl dimethyl phosphate 3.00%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 34862-E. Esco Products Inc., PO Box 748, Taft TX 78390. ESCO END-A-BUG. Active Ingredients: Chloropyrifos [0,0-diethyl 0-(3,5,6-trichloro-2-pyridyl) phosphorothioate] 0.50%; Pyrethrins 0.10%; Piperonyl butoxide, technical 0.20%; N-octyl bicycloheptene dicarboximide 0.33%; Aromatic petroleum derivative solvent 1.00%; Petroleum distillate 97.83%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 729-AE. Gulf Oil Corp., PO Box 1166, Pittsburgh PA 15230. GULF-SPRAY ANT ROACH KILLER FORMULA 20. Active Ingredients: o-Isopropoxyphenyl methylcarbamate 0.50%; Petroleum distillates 76.50%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 729-AN. Gulf Oil Corp. GULF-SPRAY LIQUID BUG KILLER FORMULA/5. Active Ingredients: Petroleum Distillates 99.32%; 0,0-diethyl 0-(2-isopropyl-4-methyl-6-pyrimidinyl) phosphorothioate 0.50%; Pyrethrins 0.08%; Perfume Oil 0.10%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 729-AR. Gulf Oil Corp. GULF-SPRAY LIQUID BUG KILLER FORMULA/8. Active Ingredients: o-Isopropoxyphenyl methylcarbamate 0.50%; Petroleum Distillates 91.47%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA Reg. No. 1598–110. FCX, Inc., PO Box 2419, Raleigh NC 27602. FCX SPECIAL BHC PINE TREE SPRAY. Active Ingredients: Gamma Isomer of Benzene Hexachloride 11.0%; Other Isomers of Benzene Hexachloride and Related Compounds 13.0%; Xylene 70.0%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 1598–EGU. FCX, Inc., PO Box 2419, Raleigh NC 27602. FCX TOXAPHENE—EPN 42 COTTON SPRAY. Active Ingredients: Toxaphene 40.0%; O-ethyl O-p - nitrophenyl phenylphosphorothioate 20.0%; Xylene 33.5%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA Reg. No. 279–2900. FMC Corp., Agricultural Chemical Div., 100 Niagara St., Middleport NY 14105. SPECTRUM 415 SPRAY OIL. Active Ingredients: Petroleum Oil 98.00%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA Reg. No. 8343–105. Gabriel Chemicals, Ltd., 204 21st Ave., Paterson NY 07509. AGRISECT BRAND MALATHION 57–E. Active Ingredients: Malathion (O,O-dimethyl Dithiophosphate of Diethyl Mercaptosuccinate) 57%; Aromatic Petroleum Solvent 37%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 4584–OE. Gem, Inc., 1 Gem Blvd., Byhalia MS 38811. AEROCOS RESIDUAL INSECT SPRAY. Active Ingredients: Pyrethrins 0.052%; n-Octyl Sulfoxide of isosafrole 0.230%; Related compounds 0.031%; O,O-diethyl-O-(2-isopropyl-6-methyl - 4 - pyrimidinyl) phosphorothioate 0.500%; Petroleum distillate 99.187%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 10107–RT. Harris Serum & Supply Co., Inc., PO Box 410, McCook NE 69001. HARRIS ENDRIN E–1.6. Active Ingredients: Endrin 19.5%; Xylene 76.5%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 935–EA. Hooker Chemicals & Plastics Corp., Specialty Chemicals Div., PO Box 344, Niagara Falls NY 14302. HOOKER THIOSULFAN TECHNICAL INSECTICIDE. Active Ingredients: Endosulfan minimum assay 96%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 8123–AA. Frank Miller & Sons, Inc., 13831 S. Emerald Ave., Chicago IL 60627. VEGETATION CONTROLLER. Active Ingredients: Diquat dibromide (6,7-dihydrodipyrido (1,2-a:2',1'-c) pyrazinediium dibromide) 0.464%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA Reg. No. 1157–31. Moorman Mfg. Co., 1000 N. 30th St., Quincy IL 62301. MOORMAN'S DUST WITH CO-RAL INSECTICIDE. Active Ingredients: O,O-Diethyl O-(3-chloro-4-methyl-2-oxo(2H)-1-benzopyran - 7 - yl) Phosphorothioate 1%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 7001–ENI. Occidental Chemical Co., A Div. of Occidental Petroleum Corp., PO Box 198, Lathrop CA 95330. LIME-SULFUR. Active Ingredients: Calcium Polysulfide 29.0%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 1969–RRN. Parsons Chemical Works, Inc., Box 146, Grand Ledge MI 48837. PARSONS MOL-BAN. Active Ingredients: Technical Chlordane 5%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 151–RL. Pioneer Chemical Co., 2051 Violet St., Los Angeles CA 90021. PIONEER SUPER 60. Active Ingredients: Didecyl dimethyl ammonium chloride 4.5% Tetrasodium ethylenediamine tetraacetate 2.0%; Sodium carbonate 1.0%; Sodium metasilicate, anhydrous 0.5%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 2125–TE. Science Products Co., Inc., 5801 No. Tripp Ave., Chicago IL 60646. SCIENCE NO-SEED TOMATO BLOSSOM-SET LIQUID CONCENTRATE. Active Ingredients: p-Chlorophenoxyacetic acid 0.1652%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 2125–TG. Science Products Co., Inc., 5801 No. Tripp Ave., Chicago IL 60646. SCIENCE NO-SEED TOMATO BLOSSOM-SET A HORMONE-TYPE SPRAY FOR TOMATOES. Active Ingredients: p-Chlorophenoxyacetic acid 0.005%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA Reg. No. 3743–302. Southern Agricultural Chemicals, Inc., PO Drawer 527, Kingstree SC 29556. ROYAL BRAND 20% LINDANE E C. Active Ingredients: Gamma Isomer of benzene hexachloride 20% (from Lindane) Petroleum Hydrocarbons 74%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 8597–G. Swimrite Inc., 15330 Oxnard St., Van Nuys CA 91408. SWIMRITE POOL CHLORINE CONCENTRATE. Active Ingredients: Sodium dichloro-s-triazinetrione dihydrate 99%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 6735–EDGE. Tide Products, Inc., PO Box 1020, Edinburg T–X 78539. TIDE SEVIMOL 4. Active Ingredients: Carbaryl (1-naphthyl methylcarbamate) 40.33%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 30464–G. Willis Pool & Chemical Co., 1802 Butternut, Abilene TX 79602. WILLS LEMON DISINFECTANT CONCENTRATE COEF. 7. Active Ingredients: Alkyl (C14 58%, C16 28%, C12 14%) dimethyl benzyl ammonium chloride 2.00%; Isopropanol 1.00%; Essential oils 0.25%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 30464–E. Willis Pool & Chemical Co. WILLS MINT DISINFECTANT CONCENTRATE. Active Ingredients: Alkyl (C14 58%, C16 28%, C12 14%) dimethyl benzyl ammonium chloride 4.00%; Isopropanol 4.00%; Methyl salicylate 1.00%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 30464–U. Willis Pool & Chemical Co. WILLS ALGICIDE CONCENTRATE. Active Ingredients: Alkyl (C14 58%, C16 28%, C12 14%) dimethyl benzyl ammonium chloride 10%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 30464–L. Willis Pool & Chemical Co. WILLS LEMON DISINFECTANT CONCENTRATE COEF. 15. Active Ingredients: Alkyl (C14 58%, C16 28%, C12 14%) dimethyl benzyl ammonium chloride 4.0%; Isopropanol 2.0%; Essential oils 0.5%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA Reg. No. 769–209. Woolfolk Chemical Works, Inc., PO Box 938, Fort Valley GA 31030. SECURITY BHC EMULSIFIABLE CONCENTRATE. Active Ingredients: Gamma Isomer of Benzene Hexachloride 11.7%; Other Isomers of Benzene Hexachloride 15.7%; Aromatic Petroleum Derivative Solvents 68.6%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA Reg. No. 769–159. Woolfolk Chemical Works, Inc., PO Box 938, Fort Valley GA 31030. SECURITY 20% LINDANE EMULSIFIABLE CONCENTRATE. Active Ingredients: Lindane 20%; Aromatic Petroleum Derivative Solvent 65.6%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 1270–RTT. Zep Manufacturing Co., PO Box 2015, Atlanta GA 30301. ZEP SUPER–5 INSECTICIDE. Active Ingredients: Pyrethrins 5%; Piperonyl butoxide, technical 25%; Petroleum distillate 70%. Method of Support: Application proceeds under 2(c) of interim policy.

REPUBLISHED ITEMS

The following item represents a correction in the list of Applications Received published in the FEDERAL REGISTER of October 22, 1974 (39 FR 37530).

EPA File Symbol 498–OI. Chase Products, Inc., 19th & Gardner Rd., Broadview IL 60153. SPRAYPAK DOUBLE-ACTION INSECT KILLER. Active Ingredients: (5-Benzyl-3-furyl) methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 0.350%; Related compounds 0.048%; Aromatic petroleum hydrocarbons 0.332%. Originally published as EPA File Symbol 498–01 and Active Ingredients: (5-Benzyl-3-furyl) methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 0.250%; Related compounds 0.034% * * *

The following item represents a correction in the list of Applications Received published in the FEDERAL REGISTER of October 23, 1974 (39 FR 37669).

EPA File Symbol 7473–RU. Chem-Pak Co., Box 757, So. Miami FL 33143. SCORCH NEW GRANULAR READY TO USE GRASS & WEED KILLER. Active Ingredients: Monuron Trichloroacetate [3-(p-chlorophenyl)-1,1-dimethylurea trichloroacetate] 22%. * * * Originally published as Active Ingredients: Monuron Trichloroacetate [3-(p-chlorophenyl)-1,1-dimethylurea trichloroacetate] 22%.

The following items represent corrections in the list of Applications Received published in the FEDERAL REGISTER of October 24, 1974 (39 FR 37808).

EPA File Symbol 704–GL. Chemical Systems Inc., 1735 W. Fullerton Ave., Chicago IL 60614. CHEMICAL SYSTEMS C.S.I. CONCENTRATE #3610. Originally published as EPA File Symbol 704–GI. Chemical Systems Inc., 1735 Fullerton Ave., Chicago IL 60614.

EPA File Symbol 1553–00. Momar Inc., 1830 Ellsworth Industrial Dr., N.W., Atlanta GA 30348. MOMAR BAN–BUG. Active Ingredients * * * Chloropyrifes (0,0-diethyl 0-(3,5,6-trichloro-2-pyridyl) phosphorothioate) 0.507%. Originally published as Active Ingredient * * * Chloropyrifos (0,0-diethyl 0-(3,5,6-trichloro-2-pyridyl) phosphorothioate) 0.500%.

The following items represent a correction in the list of Applications Received published in the FEDERAL REGISTER of October 25, 1974 (39 FR 38023).

EPA File Symbol 11687–TE. Transvaal, Inc., PO Box 69, Jacksonville AR 72076. TRANSVAAL FUNGI—RHAP CU–53 FUNGICIDE. Active Ingredients: Copper Oxide (Equivalent to 53% as Metalic Copper) 71.0%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 13026-U. Verpas Products, Inc., PO Box 825, URB. Industrial Julio N. Matos, Carolina PR 00630. DRAGON AEROSOL. Active Ingredients: Petroleum Distillates 69.19%; O,O-Diethyl O-(2-isopropyl-4-methyl-6-pyrimidinyl) phosphorothioate 0.50%; Piperonyl Butoxide Technical 0.26%; Pyrethrins 0.05%. Method of Support: Application proceeds under 2(c) of interim policy.

Dated: November 5, 1974.

JOHN B. RITCH, Jr.,
Director, Registration Division.

[FR Doc.74-26402 Filed 11-11-74;8:45 am]

[FRL 292-4; OPP-180009B]

STATE OF WYOMING

Strychnine Alkaloid in an Emergency Rabid Skunk Control Program; Amendment

The Environmental Protection Agency (EPA) granted a specific exemption from the registration provisions of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973), on March 14, 1974, to the Wyoming Department of Agriculture (hereafter referred to as the "Applicant") to use strychnine alkaloid in eggs or paraffin lard baits as a means of emergency control of rabid skunks in Campbell and Crook counties only. This control program was to terminate on May 31, 1974. However, EPA extended the exemption twice after additional rabid skunks were reported in the two counties.

On September 20, 1974, the Applicant requested another extension of the program, due to identification of still more rabid skunks in the counties involved. In light of the information provided, the EPA has approved this amendment to the specific exemption, authorizing the extension of the program from October 1 to November 30, 1974. The original program authorized is to continue in effect, particularly in regard to bait dosages and placement sites. This extension was contingent upon submission of an interim report on the program to EPA on or before October 21; this report has been received. A final report is also expected within three weeks after the end of the program.

This exemption, as amended, is subject to withdrawal if it is determined by the Administrator, EPA, that the State of Wyoming is not complying with the governing regulations or if such action is necessary to protect man or the environment.

The official file on this subject will be available for review by interested parties during regular working hours (8:00 a.m. to 4:30 p.m.) and will be maintained in the Office of the Director, Registration Division (WH-567), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street, SW., Room 347, East Tower, Washington, D.C. 20460.

Dated November 5, 1974.

JAMES L. AGEE,
Assistant Administrator for Water and Hazardous Materials.

[FR Doc.74-26401 Filed 11-11-74;8:45 am]

[FRL 291-5]

PORTLAND CEMENT ASSOCIATION

Standards of Performance for New Stationary Sources

On June 29, 1973, the U.S. Court of Appeals for the District of Columbia remanded to EPA the new source performance standard for Portland cement plants (40 CFR 60.60 et seq.) promulgated by EPA under section 111 of the Clean Air Act. EPA has reviewed its standards for these plants pursuant to the remand and has concluded that the standards other than the opacity standard should not be revised.

A copy of EPA's response to the remand is available from Emission Standards and Engineering Division, Environmental Protection Agency, Research Triangle Park, North Carolina 27711, Attention: Mr. Don R. Goodwin. This response includes the justification for revising the opacity standard. The revised opacity standard is published in the rules and regulations section of this FEDERAL REGISTER.

Dated: November 1, 1974.

JOHN QUARLES,
Acting Administrator.

[FR Doc.74-26149 Filed 11-11-74;8:45 am]

FEDERAL MARITIME COMMISSION

INDEPENDENT OCEAN FREIGHT FORWARDER LICENSE

Applicants

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 U.S.C. 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.

Oglethorpe International Forwarders

John B. Hohenstein, III d/b/a
7 Drayton Street
Savannah, Georgia

Full Service Forwarders, Inc.
7211 Thornley Drive
New Orleans, Louisiana 70126
Officers:
Ronald J. Regusa, President
Laura Conway Regusa, Secretary/Treasurer
John J. Klingman
233 Broadway
New York, New York 10007

Monti Forwarding Corp.
925 Bergen Street
Brooklyn, New York 11238
Officers:
Montiano Ascanio, President
Trinidad Ascanio, Secretary/Treasurer

Howard S. Reeder, Inc.,
1001 North America Way, Suite 202
Miami, Florida 33132
Officers:
Howard S. Reeder, President
Howard S. Reeder, Jr., Vice President
Lawrence M. Reeder, Secretary/Treasurer

Basa Cargo Services, Inc.
7442 N.W. 55th Street
Miami, Florida 33166
Officers:
Ruperto Saez, President
Moises Bale, Secretary

Packers, Ltd.
Packers Enterprises Inc. d/b/a
100 Broad Avenue
Wilmington, California 90744
Officers:
Lawrence V. Blashaw, President
Nita V. Blashaw, Vice President
Donald P. Clark, Secretary
Edward O. Daut, Treasurer

Dated: November 7, 1974.

By the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.74-26480 Filed 11-11-74;8:45 am]

FEDERAL MEDIATION AND CONCILIATION SERVICE

ARBITRATION SERVICES ADVISORY COMMITTEE

Meeting

Notice is hereby given that the Federal Mediation and Conciliation Service Arbitration Services Advisory Committee, in accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 86 Stat. 770) will meet on Monday, December 2, and Tuesday, December 3, 1974, starting at 10 a.m., in Conference Room 1106, Main Labor Building, 14th and Constitution Avenue NW., Washington, D.C.

The Committee will continue discussions involving the agenda items listed in the FMCS notice of the first meeting of the Arbitration Services Advisory Committee published in the FEDERAL REGISTER on Wednesday, August 28, 1974. Members of the public are invited to attend the proceedings.

Signed at Washington, D.C., this sixth day of November 1974.

W. J. USERY, Jr.,
National Director.

[FR Doc.74-26419 Filed 11-11-74;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. CI74-749, et al.]

CERTIFICATES, ABANDONMENT OF SERVICE AND PETITIONS TO AMEND CERTIFICATES [1]

Applications

NOVEMBER 5, 1974.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

applications should on or before November 29, 1974, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
CI74-749..... A 6-24-74 [1]	Placid Oil Co., 2500 First National Bank Bldg., Dallas, Tex. 75283.	Michigan Wisconsin Pipe Line Co., Vermillion Block 182, offshore Louisiana.	[1] [2] 43.86	15.025
CI75-184..... (G-5303) F 9-23-74	Herman Lang, d.b.a. L & B Oil & Gas Co., (successor to Skelly Oil Co., et al.), 625 North 11th St., Garden City, Kans. 67846.	Kansas-Nebraska Natural Gas Co., Inc., Hugoton Field, Finney and Haskell Counties, Kansas.	[3] 13.0	16.4
CI75-229..... A 10-15-74	Texas Oil & Gas Corp., Fidelity Union Tower Bldg., Dallas, Tex. 75201.	Transcontinental Gas Pipe Line Corp., Wearden Field, Jackson County, Tex.	[3] [4] 46.2	14.65
CI75-239..... A 10-17-74	Texas Gas Exploration Corp., (Operator) et al., 1100 First City National Bank Bldg., Houston, Tex. 77052.	Texas Gas Transmission Corp., West Chalkley Field Area, Calcasieu Parish, La.	[3] [4] 64.5	14.73
CI75-241..... A 10-18-74	Perry R. Bass and Bass Enterprises Production Co., 3100 Fort Worth National Bank Bldg., Fort Worth, Tex. 76102.	Natural Gas Pipeline Co. of America, Pecos Federal No. 1 Area, Eddy County, N. Mex.	[3] 60.0	14.65
CI75-242..... A 10-18-74	Pennzoil Producing Co., 900 Southwest Tower, Houston, Tex. 77002.	United Gas Pipeline Co., Crescent Farms Field, Terrebonne Parish, La.	[3] 60.0	15.025
CI75-243..... A 10-15-74	MAPCO, Inc., 1437 South Bolder Ave., Tulsa, Okla. 74119.	Florida Gas Transmission Co., North Montegut Field, Terrebonne Parish, La.	[3] 53.886	15.025
CI75-244..... A 10-15-74	Florida Gas Exploration Co., (Operator) et al., P.O. Box 44, Winter Park, Fla. 32789.	Florida Gas Transmission Co., ...do....	[3] 53.886	15.025
CI75-245..... (CS71-51) F 10-17-74	Sun Calvert Co. (successor to Calvert Exploration Co.), P.O. Box 2880, Dallas, Tex. 75221.	Arkansas Louisiana Gas Co., Lacy Area, Blaine and Kingfisher Counties, Okla.	19.105	14.65
CI75-246..... (CI64-299) F 10-18-74	Mitchell Energy Corp. (successor to Exxon Corp.), 3900 One Shell Plaza, Houston, Tex. 77002.	Natural Gas Pipeline Co. of America, Sal Del Rey Field, Hidalgo County, Tex.	[5] [7] 35.0	14.65
CI75-247..... (CS71-51) F 10-18-74	Sun Calvert Co. (successor to Calvert Exploration Co.)	Kansas-Nebraska Natural Gas Co., Inc., Camrick Field, Beaver County, Okla.	19.205	14.65
CI75-248..... (CS71-51) F 10-18-74	....do....	Panhandle Eastern Pipe Line Co., Six Mile Field, Beaver County, Okla.	19.0	14.65
CI75-249..... (CS71-51) F 10-18-74	....do....	Arkansas Louisiana Gas Co., Kinta and Wilburton Fields, Haskell and Latimer Counties, Okla.	[8] [9] 57.01	14.65
CI75-250..... (CS71-51) F 10-18-74	....do....	Natural Gas Pipeline Co. of America, Camrick Southeast Gas Pool, Beaver County, Okla.	19.511	14.65
CI75-251..... A 10-21-74	Exxon Corp., P.O. Box 2180, Houston, Tex. 77001.	Columbia Gas Transmission Corp., Pecan Island Field, Vermilion Parish, La.	[8] [9] 62.0	15.025
CI75-253..... A 10-21-74	Union Texas Petroleum, a division of Allied Chemical Corp., P.O. Box 2120, Houston, Tex. 77001.	El Paso Natural Gas Co., Crosby Deep Field, Lea County, N. Mex.	[3] 45.8119	14.73

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.
See footnotes at end of table.

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
CI75-255 (CS71-51) F 10-21-74	Sun Calvert Co. (successor to Calvert Exploration Co.), P.O. Box 2880, Dallas, Tex. 75221.	Northern Natural Gas Co., Mocane Field, Beaver County, Okla.	19.308	14.65
CI75-256 A 10-22-74	CIG Exploration, Inc., Five Greenway Plaza East, Houston, Tex. 77046.	Panhandle Eastern Pipe Line Co., acreage in Seward County, Kans.	19.0	14.65
CI75-257 A 10-22-74	CIG Exploration, Inc.	Colorado Interstate Gas Co., a division of Colorado Interstate Corp., acreage in Seward County, Kans.	[10] 49.2879 [11] 43.3033 [12] 49.6960	14.65 14.65 14.65
CI75-258 A 10-22-74	Texas Eastern Exploration Co., P.O. Box 2521, Houston, Tex. 77001.	Texas Eastern Transmission Corp., South Thornwell Field, Cameron Parish, La.	[2] [4] 65.0	15.025
CI75-259 A 10-22-74	Texas Eastern Exploration Co.	Texas Eastern Transmission Corp., Hospital Bayou Field, Lafourche Parish, La.	[2] [4] 65.0	15.025
CI75-260 A 10-22-74	CIG Exploration, Inc.	Panhandle Eastern Pipe Line Co., acreage in Seward County, Kans.	[9] 49.2879	14.65
CI75-261 (CI69-452) B 10-23-74	Blaik Oil Co., 203 Park Ave., Oklahoma City, Okla. 73102.	Northern Natural Gas Co., Unnamed field (wildcat area), Hutchinson County, Tex.	Uneconomical	

[1] Being renoticed, because by letter filed July 29, 1974, Applicant requests a certificate in accordance with Opinion No. 699.
[2] Subject to upward and downward Btu adjustment.
[3] Subject to downward Btu adjustment; estimated adjustment is 0.922 cents per Mcf.
[4] Applicant is willing to accept a certificate in accordance with Opinion No. 699.
[5] Includes 3.026 cents per Mcf upward Btu adjustment and 7 cents per Mcf tax reimbursement.
[6] Subject to downward Btu adjustment.
[7] Applicant requests a certificate in accordance with Opinion No. 699, however, the contract price is 35 cents per Mcf.
[8] Subject to upward Btu adjustment.
[9] Subject to upward and downward Btu adjustment; estimated upward adjustment is 0.28 cents per Mcf.
[10] Rate for gas from the Hauser No. 1 Well; includes 3.7215 cents per Mcf upward Btu adjustment and 2.7899 cents per Mcf tax adjustment.
[11] Rate for gas from the Lloyd No. 1 Well; includes 1.8394 cents per Mcf downward Btu adjustment and 2.4562 cents per Mcf tax adjustment.
[12] Rate for gas from the AGA No. 1 Well; includes 4.1065 cents per Mcf upward Btu adjustment and 2.8139 cents per Mcf tax adjustment.
[13] Includes 3.7215 cents per Mcf upward Btu adjustment and 2.7899 cents per Mcf tax reimbursement.

[FR Doc.74-26344 Filed 11-11-74;8:45 am]

[Docket No. RP73-23; PGA75-1]

LAWRENCEBURG GAS TRANSMISSION CORP.

Changes in Rates and Charges

NOVEMBER 5, 1974.

Take notice that Lawrenceburg Gas Transmission Corporation (Lawrenceburg) on October 15, 1974, tendered for filing Seventh Revised Sheet No. 3-A and Seventh Revised Sheet No. 18-B to its FPC Gas Tariff, Original Volume No. 1. The purpose of the filing, Lawrenceburg states, is to reflect the change in the cost of gas purchased pursuant to provisions of its FPC Gas Tariff. The proposed increase in rates and charges would reflect the rate increase filed by Texas Gas Transmission Corporation on October 4, 1974, which would be effective on November 2, 1974, in Docket No. RP72-156. Lawrenceburg requests waiver of the notice requirements of the Commission's regulations in order that its rate change may become effective on November 2, 1974, or on such other date as that on which Texas Gas' rate increase becomes effective.

Lawrenceburg states that copies of the tendered filing have been mailed to its two wholesale customers, Lawrenceburg Gas Company and Cincinnati Gas and Electric Company and to interested State commissions. (No notice for publication in the FEDERAL REGISTER, pursuant to § 35.8(a) of the Commission's regulations, was included in the tendered rate filing.)

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 11, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-26506 Filed 11-11-74;8:45 am]

[Docket No. CS75-172 etc.]

"SMALL PRODUCER" CERTIFICATES [1]

Applications

NOVEMBER 5, 1974.

Take notice that each of the Applicants listed herein has filed an application pursuant to section 7(c) of the Natural Gas Act and § 157.40 of the regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Any person desiring to be heard or to make any protest with reference to said applications should on or before November 29, 1974, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

Docket No.	Date filed	Applicant
CS75-172	Oct. 9, 1974	A. M. Park et al., Mt. Pulaski, Ill. 62548.
CS75-173	Oct. 10, 1974	Rye, 73, Ltd., 111 Casa Grande, Odessa, Tex. 79763.
CS75-174	do	Mary S. Mead, 5555 South Steele, Littleton, Colo. 80121.
CS75-175	do	Dorothy M. Allbright, 640 South Park Ave., Hinsdale, Ill. 60524.
CS75-176	Oct. 11, 1974	Sylvia Irene Layton, c/o Robert Lembke, 10333 East Colfax Ave., Aurora, Colo. 80010.
CS75-177	do	Aspen Drilling Co., P.O. Box 783, Great Bend, Kans. 67530.
CS75-178	do	Benjamin F. Hoffacker, Jr., 410 West Ohio, Midland, Tex. 79701.
CS75-179	do	Johnson-Mizel Venture Number 1, 2015 South Pontiac Way, Suite 1B, Denver, Colo. 80222.
CS75-180	do	Johnson-Mizel Oil Co.
CS75-181	Oct. 15, 1974	Ralph H. Bauman: 14004 West Omaha Station, Omaha, Nebr. 68514.
CS75-182	do	Wayman W. Buchanan, 444 Petroleum Commerce Bldg., San Antonio, Tex. 78205.
CS75-183	do	Delta Western Co., 801 First National Center, Oklahoma City, Okla. 73102.
CS75-184	Oct. 7, 1974	Southern States Petroleum Corp., 641 Denver Club Bldg., Denver, Colo. 80202.
CS75-185	Oct. 18, 1974	Donald W. Deitz, Rural Delivery Number 1, Clarion, Pa. 16214.
CS75-186	Oct. 17, 1974	Suntex Oil & Gas Co., Box 973, Perryton, Tex. 79070.
CS75-187	do	Eastman Dillon Oil & Gas Associates, 507 Park Tower, 5200 South Yale, Tulsa, Okla. 74135.
CS75-188	Oct. 21, 1974	McNeill Oil & Gas Co., 212 Riverside Ave., St. Marys, W. Va. 26170.
CS75-189	do	W. M. Cloud, 913 United Founders Tower, Oklahoma City, Okla. 73112.
CS75-190	do	Ray H. Potts, 2760 Liberty Tower, Oklahoma City, Okla. 73102.
CS75-191	do	Robert L. Stephenson, 2760 Liberty Tower, Oklahoma City, Okla. 73102.
CS75-192	do	Adobe Oil & Gas Corp., 1100 Western United Life Bldg., Midland, Tex. 79701.
CS75-193	do	Adobe Investment Corp.—1969 Program.
CS75-194	do	Adobe Investment Corp.—1970 Program.
CS75-195	do	Adobe Drilling Program—1971 Ltd.
CS75-196	do	Adobe Drilling Program—1972 Ltd.
CS75-197	do	Adobe Drilling Co.—1973 Program.
CS75-198	do	Adobe Drilling Co.—1974 Program.
CS75-200	Oct. 22, 1974	R. L. Hatcher, 1304 Carlton, Liberal, Kans. 67901.
CS75-201	do	Caliph Resources, Inc., Suite 1120, One Energy Square, Dallas, Tex. 75206.
CS75-202	do	Mogul Petroleum Corp., Suite 1120, One Energy Square, Dallas, Tex. 75206.
CS75-203	do	Grey Wolf Drilling Co., 2000 West Loop South—Suite 1730, Houston, Tex. 77027.
CS75-204	do	Gulfstream Resources U.S.A., Inc., 1018 Patterson Bldg., 555 17th St., Denver, Colo. 80202.
CS75-205	Oct. 23, 1974	Bond Oil Corp., 2600 Republic National Bank Bldg., Dallas, Tex. 75201.
CS75-206	do	Charles R. Glenn, Box 113, Corsica, Pa. 15829.

[FR Doc.74-26333 Filed 11-11-74;8:45 am]

FEDERAL RESERVE SYSTEM

AMERICAN BANCORPORATION, INC.

Proposed Acquisition of Glasser-American Mortgage Company

American Bancorporation, Inc., Saint Paul, Minnesota, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y, for permission to acquire Glasser-American Mortgage Company, Englewood, Cliffs, N.J. Notice of the application was published on August 1, 1974, in The St. Paul Dispatch, St. Paul Pioneer Press, a newspaper circulated in St. Paul, Minnesota; August 2, 1974, in The New York Times, a newspaper circulated in New York, New York; on August 9, 1974, in the regional editions of The Wall Street Journal, a newspaper circulated in Chicago, Illinois, New York, New York, Palo Alto, California, and Dallas, Texas.

Applicant states that the proposed *de novo* subsidiary would engage in the activities of making or acquiring, for its own account or for the account of others, loans and other extensions of credit such as are normally made by a mortgage company and the servicing of such accounts for itself and for others. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than November 25, 1974.

Board of Governors of the Federal Reserve System, November 4, 1974.

[SEAL] GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.74-26420 Filed 11-11-74;8:45 am]

AMERICAN FLETCHER CORP.

Order Denying Acquisition of Southwest Savings and Loan Association

American Fletcher Corporation, Indianapolis, Indiana, a bank holding company within the meaning of the Bank Holding Company Act of 1956, has applied for the Board's prior approval under section 4(c)(8) of the Act for permission to engage in the activity of the operation of a savings and loan association through the acquisition of Southwest Savings and Loan Association ("Southwest"), Phoenix, Arizona, a savings and loan association insured by the Federal Savings and Loan Insurance Corporation. Such activity has not previously been determined by the Board to be closely related to banking.[1]

Notice of the application, affording oportunity for interested persons to submit comments and views on whether such activity is closely related to banking, as well as on the public interest factors, has been duly published (38 FR 22802). The time for filing comments and views has expired and those filed, including testimony and exhibits received at the oral presentation before available members of the Board, held

[1] On February 17, 1972, and March 9, 1972, the Board approved separate affiliations of each of two savings and loan associations in Rhode Island with two banks in Rhode Island. 58 Fed. Res. Bulletins 313 and 417 (1972). At that time, the Board characterized the Rhode Island situation as "special" in view of the historical affiliation of mutual thrift institutions and commercial banks in that State and express State legislative provision for such affiliation. Therefore, the Board treated that situation "separately from the question whether operation of a savings and loan association by a bank holding company is so closely related to banking that it can be a permissible activity within the meaning of section 4(c)(8) of the Act."

October 30 and 31, 1973, have been considered.

Applicant[3] controls American Fletcher National Bank and Trust Company ("Bank"), Indianapolis, Indiana, the largest bank in that State, with total domestic deposits of $1.3 billion as of December 31, 1973. Through a nonbanking subsidiary, Applicant is engaged in mortgage banking activities in Indiana and nearby States.

Southwest (deposits of $116 million at year-end 1972) is the fourth largest savings and loan association in the State of Arizona and holds 7 per cent of the total deposits held by savings and loan associations in Arizona. It now operates 15 branch offices, 14 in central Maricopa County and one in Pima County. Southwest has two subsidiaries, one of which is engaged solely in providing advertising services to Southwest. Under section 4(a)(2) of the Act, a bank holding company may indirectly furnish services to its subsidiaries. The other subsidiary, Southwest Service Corporation, is engaged principally in providing bookkeeping and data processing services to Southwest, but also processes the accounts and billings for four mortgage servicing firms and rents the balance of available time on its data processing equipment to others who furnish their own personnel, supplies, and programs. This activity is generally permissible for bank holding companies.[3]

Savings and loan associations may be classified according to corporate structure into mutual, that is, depositor-owned, and stock, that is, non-depositor-owned. Only stock associations may be acquired by a bank holding company (or other corporate entity), and stock associations currently comprise only a minor part of the savings and loan industry. With certain limited exceptions, all federally-chartered savings and loan associations are mutual in form as are the majority of State-chartered savings and loan associations. As of December 31, 1972, there were 5,448 savings and loan associations in the United States, of which 665 (representing 12 per cent) were stock associations. Twenty-one States currently charter stock associations, and 438 of the 665 stock associations in existence at year-end 1972 were located in four of those States, California, Illinois, Ohio, and Texas. Conversion from mutual form to stock form would increase the number of savings and loan associations that would be potential candidates for acquisition by bank holding companies; however, Congress recently extended until June 30, 1976, with limited exceptions, a prohibition, originally imposed in 1965, against such conversions by savings and loan associations insured by the Federal Savings and Loan Insurance Corporation.[4]

Operation of a savings and loan association traditionally and basically consists of the receipt of deposits in the form of share, certificate, or deposit accounts for the purpose of lending funds so received to finance the construction, sale, or purchase of housing and other real estate, and the actual lending of these funds for such purposes, all in the ordinary course of business. Banks have traditionally received deposits and loaned funds so received for various purposes, including financing the construction, sale, and purchase of housing and other real estate. Banks and savings and loan associations are financial intermediaries whose liability structures are dominated by deposits and whose asset structures are dominated by loans. Specifically, both receive time deposits and make mortgage loans. That being the case, banks and savings and loan associations are more closely related than are banks and mortgage companies. The Board has previously concluded, as a general matter, that mortgage companies engage in activities that are "closely related to banking or managing or controlling banks".[5]

Further, there is a discernible trend toward lessening distinctions between banks and savings and loan associations. Geographic restrictions on mortgage lending by savings and loan associations have been liberalized. Recently, savings and loan associations were permitted by the Federal Home Loan Bank Board to participate in the Federal funds market, previously dominated by commercial banks.[6] Savings and loan associations recently were authorized to offer large negotiable certificates of deposits.[7] The role of savings and loan associations in the nation's payments mechanism is growing. The President's Commission on Financial Institutions and others have made proposals to expand the powers of savings and loan associations. The close relationship between banking and operation of savings and loan associations would become even closer should these proposals be implemented. Should this trend continue to the point where savings and loan associations both accept demand deposits and engage in the business of making commercial loans, savings and loan associations would actually become "banks" for purposes of the Act.[8]

The Board is not unmindful of the specialized function savings and loan associations serve in the economy, nor of the separate statutory frameworks regulating banks and savings and loan associations. However, neither of these propositions is inconsistent with the determination, compelled by reality, that the operation of a savings and loan association is "closely related to banking or managing or controlling banks".

Southwest would, as an affiliate of Applicant, continue to serve the specialized purpose for which it was formed. Neither its attention nor its resources would be diverted from the acceptance of savings deposits primarily for mortgage lending to finance purchases of single-family residential properties.[9] The Bank Holding Company Act and other applicable Federal and State regulatory provisions would limit the operations of Southwest to that purpose.

The existence of separate regulatory frameworks for various industries has not barred the affiliation of corporations in those respective industries. Bank holding companies may be affiliated with investment advisers, consumer finance companies, industrial loan companies, credit insurance underwriters, and courier companies. In instances of "grandfathered" one-bank holding companies, banks are affiliated with air carriers, title insurance companies, life and health insurance companies, radio and television broadcasting companies, casualty insurance underwriting companies, and cable television companies. Each operates under a separate regulatory framework from that of commercial banks, yet no regulatory body, to the Board's knowledge, has found the existence of such frameworks a bar to affiliation with commercial banks.[10] Similarly, certain companies operating savings and loan associations are "grandfathered" one-bank holding companies, and such affiliations were approved by the Federal Savings and Loan Insurance Corporation.

In 1933, Congress, seeing a need to separate two industries, enacted the Banking Act of 1933, parts of which are known as the Glass-Steagall Act, to separate investment banking from commercial banking. That Act expressly prohibits the affiliation of member banks and securities companies. Congress has not similarly evidenced an intent to separate operation of savings and loan associations from commercial banking, although, by passage of the Glass-Steagall Act, it evidenced its awareness of the means to separate other industries from banking.[11] Rather, Congress has dele-

[3] As of December 31, 1973, Applicant possessed consolidated resources of approximately $2.2 billion.

[4] 12 CFR 225.4(a)(8) and 12 CFR 225.123.

[4] As of December 31, 1972, 4,191 of the 5,448 savings and loan associations were federally-insured.

[5] 12 CFR 225.4(a)(1).

[6] 12 CFR 523.10(g)(4).

[7] 12 CFR 545.1-5.

[8] 12 U.S.C. 1841(c). Until that point is reached, if ever, savings and loan associations, although closely related to banking, may not be deemed "banks", and the affiliation of an out-of-State savings and loan association with a bank through common ownership by a bank holding company would not be prohibited by section 3(d) of the Act (12 U.S.C. 1842(d)).

[9] Provisions of the Savings and Loan Holding Company Act (12 U.S.C. 1730a) and enforcement of those provisions by the Federal Savings and Loan Insurance Corporation, as well as supervision of Southwest by the Federal Home Loan Bank Board, State Department of Banking of Arizona, and the Board, would effectively prevent improper diversion of funds from Southwest to Applicant and its subsidiaries.

[10] The list of common ownership of companies in two separately regulated industries is longer when expanded to include common ownership of two nonbanking industries; thus regulated air carriers own regulated radio and television broadcasters and vice-versa.

[11] Congress has also exhibited similar awareness in expressly prohibiting by statute the ownership of air carriers by other carriers. See 49 U.S.C. 1378(a)(5).

gated to the Board the decision whether commercial banks should be permitted to affiliate with companies engaged in nonbanking activities, through common ownership by bank holding companies, and has promulgated standards in section 4(c)(8) of the Act that the Board is to apply in deciding particular cases, that is, whether the activities of a particular company are "so closely related to banking or managing or controlling banks as to be a proper incident thereto". In the absence of explicit Congressional action concerning the affiliation of banks and savings and loan associations, the Board has no alternative but to consider any such proposed affiliation under the existing standards of section 4(c)(8).

The Board, based upon the record before it, is compelled to conclude, and does conclude, that the activity in which Southwest is engaged is closely related to banking. Whether it is a "proper incident thereto" requires application of a second standard promulgated by Congress in section 4(c)(8) of the Act, that is, whether its performance by Southwest, as an affiliate of Applicant, can reasonably be expected to produce benefits to the public that outweigh possible adverse effects.

In order to make such a determination in any particular case, the Board must, under section 4(c)(8) of the Act, consider the competitive effects of the proposed affiliation. A competitive analysis in the case of affiliation of a particular bank holding company with a particular savings and loan association would be essentially similar to that the Board has regularly applied in cases involving the affiliation of two banks or of a bank holding company and a company engaged in an activity closely related to banking. Thus, anticompetitive effects in this area could be identified and avoided in the same manner as anticompetitive effects have been avoided in other cases falling within the Board's jurisdiction under the Act.

Four savings and loan associations are headquartered in Phoenix.[12] The two largest held approximately 80 per cent of the total deposits held by savings and loan associations headquartered in Phoenix,[13] as of June 30, 1972. At that time, Southwest was the third largest of the four and held approximately 10 per cent of the total deposits held by savings and loan associations in Phoenix. Applicant does not operate a savings and loan association although it does indirectly, through Bank, engage in the receipt of deposits and, through both Bank and American Fletcher Mortgage Company ("AFMC"), engage in the making of mortgage loans.

Bank, as of December 31, 1972,[14] held 20 savings and other time deposit accounts which amounted to $122,000 for persons located in Maricopa County, Arizona.[15] These accounts represent substantially less than 1 per cent of Bank's total savings and time deposit accounts. Bank has not made any mortgage loans to persons located in the Phoenix area. AFMC operates offices in Indiana, Illinois, Ohio, Kentucky, Florida, and the District of Columbia and specializes in the making of real estate mortgage loans for industrial, commercial, and multi-family construction projects and for land development. AFMC has only one mortgage loan outstanding to a borrower in the Phoenix area; it amounts to $425,000. Southwest has limited its mortgage activity to residential real property and derives no deposits from Indiana and no mortgage business from Indiana, Illinois, Ohio, Kentucky, Florida, or the District of Columbia. The Board concludes that consummation of the proposed transaction would foreclose no significant actual competition between Applicant and Southwest for savings and time deposits or in the making of mortgage loans.

It does not appear that Southwest is a likely entrant into mortgage loan or deposit markets in which Applicant or its subsidiaries presently conduct significant operations. Southwest may lawfully neither establish offices beyond the boundaries of the State of Arizona, nor make loans on property located beyond the territorial limits of that State. Although there do exist alternative means of entry into the Phoenix mortgage market by Applicant, it does not appear that Applicant is one of the most likely potential entrants into that market, particularly in view of the distance between Phoenix and markets presently served by Applicant. Statutory and regulatory barriers effectively bar Applicant's entry into the Phoenix market for savings and time deposits. Accordingly, it does not appear that consummation of the proposed transaction would foreclose any substantial probability of development of competition between Southwest and Applicant; nor does it appear that either Southwest or Applicant presently exerts any influence on competition in the market or markets respectively served by the other.

It does not appear that the affiliation of Southwest with Applicant may result in an undue concentration of resources in any section of the country, decreased or unfair competition, or conflicts of interests. The Board has also considered whether the affiliation of Southwest with Applicant would adversely affect the flow of funds into any housing market. The record contains no evidence supporting assertions to that effect. As an insured savings and loan association, Southwest is restricted by statute in its dealings with its affiliates[16] and is subject to comprehensive regulation by State supervisory authorities, the Federal Savings and Loan Insurance Corporation, the Federal Home Loan Bank Board, and, in the event of consummation of the proposed transaction, by this Board. The combined effect of statutory and regulatory prohibitions against, and limitations upon, Southwest's transactions with Applicant and its subsidiaries and effective supervision by the appropriate agencies would effectively bar any significant diversion of funds from Southwest to Applicant and any adverse effect upon the flow of housing funds in the area served by Southwest.

Rather than reduce funds available for housing in markets served by Southwest, the affiliation of Southwest with Applicant may increase the availability of such funds. Southwest has experienced problems in the past in maintaining growth of its capital accounts commensurate with the growth of its deposits. State law requires that its capital accounts be maintained in an amount equal to at least 5 per cent of its deposits. Southwest's inability to attract periodic infusions of capital has forced it actually to discourage deposits at times. Those lost deposits, assuming that they were not placed in other savings and loan associations, represent funds that otherwise would have been available to support housing in markets served by Southwest. Applicant has expressed its willingness to maintain the level of capital of Southwest commensurate with the deposit growth of Southwest. That deposit growth has been projected to approximately $500 million by 1980, requiring an influx of approximately $17 million in additional capital. Applicant is prepared to make a commitment to provide that capital.

Southwest's difficulties in raising capital to support its deposit growth have impeded its ability to attract deposits and indirectly its ability to make mortgage loans. Its capacity to compete vigorously has accordingly been hampered by those difficulties. To the extent Applicant would remedy these difficulties, the proposed affiliation may increase competition in areas served by Southwest.

These public benefits, however, are virtually entirely dependent upon the continuing infusion of capital by Applicant into Southwest. Applicant and Bank

[12] It does not appear that inclusion of commercial banks in this market analysis would significantly alter the conclusions stated in the text.

[13] This datum is an approximation since deposits held by non-Phoenix offices of Phoenix savings and loan associations are included in reported head office totals and Phoenix deposit data for any particular association must be estimated by subtracting head office totals of other savings and loan associations headquartered in Phoenix from total savings and loan deposits deriving from the Phoenix area. Therefore, the market shares in the text may be somewhat overstated as the underlying data effectively attribute Phoenix deposits held by non-Phoenix-headquartered savings and loan associations to the two largest Phoenix associations.

[14] There is no reason to believe that any significant change has occurred in the textual data since December 31, 1972.

[15] Geographic markets for deposits in savings and loan associations are presumed to be local in nature as banking markets have been held to be.

[16] It appears that statutory provisions governing transactions between an insured savings and loan association that is a subsidiary of a savings and loan holding company and its affiliates are considerably more restrictive than are statutory provisions governing transactions between member banks and their affiliates. Compare 12 U.S.C. 1730a(d) with 12 U.S.C. 371c.

are both in generally satisfactory condition. However, Applicant's ratio of debt to equity is such that its capacity to deal with adverse conditions in the economic environment would be affected by the proposed acquisition of Southwest. Since Applicant would fund this acquisition with the proceeds of a loan from an unaffiliated bank, its leverage would be increased. In the Board's judgment, that should be avoided at this time.

The Board has previously expressed the view that at this time bank holding companies generally should slow their rate of expansion into new activities and should direct their energies toward strengthening existing operations, particularly where such expansion may be into new activities in which bank holding companies have not previously engaged.[17] That views is especially applicable to bank holding companies applying to acquire companies which are highly leveraged and which would require continuing infusions of capital.[18] The Board has frequently reiterated its view that the primary role of a bank holding company should be to serve as a source of financial strength and support for its subsidiaries. The financial and managerial resources of a bank holding company should not be unduly diverted from that role. Applicant has in the past two years consummated four significant nonbanking acquisitions. The acquisition of Southwest, even absent any commitment by Applicant to inject capital into Southwest, would further divert its resources away from Bank's possible future needs and would require a significant increase in Applicant's debt. Such diversion and increase in debt constitute significant adverse effects of the proposed affiliation which are not outweighed, at this time and under these circumstances, in the Board's judgment, by any benefits to the public that can reasonably be expected to be produced by the affiliation.

Based upon the foregoing and other considerations reflected in the record,[19] the Board is unable to determine, under section 4(c)(8) of the Act, that the proposed affiliation can reasonably be expected to produce benefits to the public that outweigh possible adverse effects. Accordingly, the application is hereby denied.

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[17] See Order of September 9, 1974, concerning the underwriting of real estate mortgage guaranty insurance, — Fed. Res. Bulletin —, 39 FR 33712, 33713 (September 19, 1974).

[18] See Order of June 29, 1973, denying application of Chemical New York Corporation to acquire CNA Nuclear Leasing, Inc., 59 Fed. Res. Bulletin 698, 699 (1973), 38 FR 18407, 18408 (July 10, 1973).

[19] Concurring statement of Governor Coldwell 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 Chicago.

[20] Voting for this action: Chairman Burns and Governors Mitchell, Bucher, Holland, Wallich and Coldwell. Absent and not voting: Governor Sheehan.

By order of the Board of Governors,[20] effective November 4, 1974.

[SEAL] THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.74-26421 Filed 11-11-74;8:45 am]

CULLEN BANKERS, INC.

Formation of Bank Holding Company

Cullen Bankers, Inc., Houston, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 100 per cent (less directors' qualifying shares) of the voting shares of the successors by merger to Cullen Center Bank & Trust, Houston, Texas and Citizens National Bank of Dallas, Dallas, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 21, 1974.

Board of Governors of the Federal Reserve System, November 4, 1974.

[SEAL] GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.74-26424 Filed 11-11-74;8:45 am]

F & M BANCORPORATION

Formation of Bank Holding Company

F & M Bancorporation, Tulsa, Oklahoma, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 100 per cent (less directors' qualifying shares) of the voting shares of The F & M Bank & Trust Company, Tulsa, Oklahoma. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

F & M Bancorporation, Tulsa, Oklahoma, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and section 225.4(b)(2) of the Board's Regulation Y, for permission to acquire 100 per cent of the beneficial interest in the shares of Famisco, Inc., Tulsa, Oklahoma, and to indirectly acquire 100 per cent of the shares of Inland Life Insurance Company, a Texas corporation, with its sole business office located on the premises of the F & M Bank & Trust Company. Notice of the application was published on September 28, 1974, in Tulsa World, a newspaper circulated in Tulsa, Oklahoma.

Applicant states that the proposed subsidiary, Famisco, Inc., would engage in the activity of owning and holding common shares of F & M Bank & Trust Company and 100 per cent of the shares of Inland Life Corporation, as well as certain other common shares and bonds. In addition, Inland Life Insurance Company, also a proposed subsidiary, would engage in the activity of reinsuring credit life and credit accident and health insurance policies directly related to extensions of credit by F & M Bank & Trust Company. Such activities have been specified by the Board in section 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of section 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than December 4, 1974.

Board of Governors of the Federal Reserve System, November 4, 1974.

[SEAL] GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.74-26425 Filed 11-11-74;8:45 am]

MERCANTILE BANCORPORATION, INC.

Acquisition of Bank

Mercantile Bancorporation, Inc., St. Louis, Missouri, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 90 per cent or more of the voting shares of Bank of Eldon, Eldon, Missouri. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than November 25, 1974.

Board of Governors of the Federal Reserve System, November 5, 1974.

[SEAL] GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.74-26426 Filed 11-11-74;8:45 am]

UNION COMMERCE CORP.

Proposed Acquisition of Union Commerce Life Insurance Company

Union Commerce Corporation, Cleveland, Ohio, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y, for permission to acquire voting shares of Union Commerce Life Insurance Company, Phoenix, Arizona. Notice of the application was published on September 13, 1974, in The Plain Dealer, a newspaper circulated in Cleveland, Ohio, and on September 14, 1974, in the Arizona Republic, a newspaper circulated in Phoenix, Arizona.

Applicant states that the proposed subsidiary would engage in the activities of acting as underwriter, on a reinsurance basis, of credit life insurance and credit accident and health insurance which is directly related to extensions of credit made by subsidiaries of the bank holding company system. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of §225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Cleveland.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than December 4, 1974.

Board of Governors of the Federal Reserve System, November 5, 1974.

[SEAL] GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.74-26427 Filed 11-11-74;8:45 am]

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Receipt and Approval of Proposals

The following requests for clearance of reports intended for use in collecting information from the public were received by the Regulatory Reports Review Staff, GAO, on October 17, 1974. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public of such receipt.

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; and the frequency with which the information is proposed to be collected.

Further information about the items on this list may be obtained from the Regulatory Reports Review Officer, 202-376-5425.

CIVIL AERONAUTICS BOARD

Request for approval of an amendment to CAB Form 41, Part 241—Uniform System of Accounts and Reports for Certificated Air Carriers. The amendment requires the reporting of fuel inventories on a system basis and fuel consumption by type of service and specific operational markets. Frequency is monthly; potential respondents are all route and supplemental air carriers; reporting burden is estimated at 4 hours for each respondent per response.

The CAB requested clearance under 10.9(d) of the GAO regulations because of the emergency need to begin receiving the information for the month of November. Pursuant to the requirements of the Administrative Procedures Act, the CAB found "good cause" to make the rule effective on less than 30 days' notice. Clearance was provided by GAO on November 4, 1974, under approval number B-180226 (R0087) and expires on September 30, 1976.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc.74-26412 Filed 11-11-74;8:45 am]

REGULATORY REPORTS REVIEW

Receipt and Approval of Proposals

The following requests for clearance of reports intended for use in collecting information from the public were received by the Regulatory Reports Review Staff, GAO, on November 1, 1974. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public of such receipt.

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; and the frequency with which the information is proposed to be collected.

Further information about the items on this list may be obtained from the Regulatory Reports Review Officer, 202-376-5425.

FEDERAL POWER COMMISSION

By the addition of new § 141.63 to Part 141—Statements and Report (Schedules) in Subchapter D—Approved Forms, Federal Power Act, Chapter I, Title 18 of the Code of Federal Regulations, the Commission issued Order (No. 515), directing utilities burning coal for all or part of their generation of electricity to make by telephone, telecopier or comparable rapid data transmission system weekly reports and projections of coal deliveries, coal stockpiles and coal consumption and system net generation on a company-by-company or system-by-system basis during the period November 3, 1974, through April 27, 1975. The first report is due by noon, Tuesday, November 5, 1974, for the utility reporting week ending November 1 or 2, 1974. The information provided in these reports will assist Federal government assessment of the national energy situation during the critical winter and early spring months. Information will also be made available to state and local governments for their use, and to the public. Potential respondents will number approximately 180; reporting burden is estimated to be about two man-hours per respondent per response. A Notice of Proposed Rulemaking was issued on October 15, 1974, and published in the FEDERAL REGISTER on October 21, 1974, 39 FR 37399.

The FPC requested clearance under 10.9(d) of the GAO regulations because of the emergency need to begin receiving the requested information the first week of November. Clearance was provided by GAO on November 4, 1974, under approval number B-180229 (R0091) and expires April 30, 1975.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc.74-26413 Filed 11-11-74;8:45 am]

REGULATORY REPORTS REVIEW

Receipt of Proposals

The following requests for clearance of reports intended for use in collecting information from the public were received by the Regulatory Reports Review Staff, GAO, on November 1, 1974. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public of such receipt.

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; and the frequency with which the informal is proposed to be collected.

Further information about the items on this list may be obtained from the Regulatory Reports Review Officer, 202-376-5425.

FEDERAL TRADE COMMISSION

Request for clearance of a survey which calls for information regarding the organization and operation of large agricultural cooperatives. Frequency is on occasion and potential respondents are a sample of large agricultural cooperatives. Respondent burden is estimated to be 1 to 3 man hours for each respondent.

Request for clearance of a standard format for special reports on acquisitions and mergers by corporations in the fluid milk products industry. Frequency is on occasion and potential respondents

are dairy processors involved in acquisitions and mergers. Respondent burden is estimated to be 15 hours for each response.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc.74-26414 Filed 11-11-74;8:45 am]

GENERAL SERVICES ADMINISTRATION

ARCHIVES ADVISORY COUNCIL

Meeting

Notice is hereby given that the Region 9 Archives Advisory Council will meet at the time and place indicated. Anyone who is interested in attending or wants additional information should contact the person shown below.

REGIONAL ARCHIVES ADVISORY COUNCIL
REGION 9

Meeting date: December 13, 1974.
Time: 9:30 a.m.–5 p.m.
Place: Federal Archives and Records Center, GSA, 1000 Commodore Drive, San Bruno, CA 94066.
Agenda: Region 9 Bicentennial workshops and symposia, Current legislation, Archives training programs, Reports of Council members.

For further information contact:

Artel Ricks, NARS Regional Commissioner, 1000 Commodore Drive, San Bruno, CA 94066. 415-876-9015.

Issued in Washington, D.C., on November 4, 1974.

JAMES B. RHOADS,
Archivist of the United States.

[FR Doc.74-26452 Filed 11-11-74;8:45 am]

DATA AND MANAGEMENT SYSTEMS; RECOMMENDATIONS OF COMMISSION ON GOVERNMENT PROCUREMENT

Opportunity for Comment; Correction

The purpose of this notice is to correct the Opportunity for Comment on an interagency task group proposal on Recommendations A–33 and A–34 of the Commission on Government Procurement, which was published in the FEDERAL REGISTER, Volume 39, No. 204, Monday, October 21, 1974 (39 FR 37433).

In numbered paragraph 2., third line, of the task group proposal for an executive branch position, the word "and" is hereby changed to "on" to reflect the intent of the recommendation. Paragraph 2. will now read as follows:

2. Establish government-wide criteria and policies for the application of management systems and data requirements on specific contracts.

Dated at Washington, D.C., on November 6, 1974.

R. E. ZECHMAN,
Associate Administrator for Federal Management Policy.

[FR Doc.74-26453 Filed 11-11-74;8:45 am]

NATIONAL ADVISORY COMMITTEE ON OCEANS AND ATMOSPHERE

PARTIALLY CLOSED MEETING

NOVEMBER 4, 1974.

The National Advisory Committee on Oceans and Atmosphere (NACOA) will hold a meeting Monday and Tuesday, December 16 and 17, 1974. The Monday session will be closed to the public under authorization of the Assistant Secretary of Commerce for Administration in a determination dated November 4, 1974,[1] and cosigned by the Assistant General Counsel for Administration, and attached to this notice. The Tuesday session will be open to the public and will be held in Room 6802 of the U.S. Department of Commerce Building, 15th and Constitution Avenue, NW., Washington, D.C., beginning at 9 a.m.

The Committee, consisting of 25 non-Federal members appointed by the President from State and local governments, industry, science, and other appropriate areas, was established by Congress by Pub. L. 92–125, on August 6, 1971. Its duties are to (1) undertake a continuing review of the progress of the marine and atmospheric science and service programs of the United States, (2) submit a comprehensive annual report to the President and to the Congress setting forth an overall assessment of the status of the Nation's marine and atmospheric activities on or before June 30 of each year, and (3) advise the Secretary of Commerce with respect to the carrying out of the purposes of the National Oceanic and Atmospheric Administration. All members of the Committee have appropriate security clearances.

A general agenda contains the following topics:

MONDAY—CLOSED

9:00 a.m. to noon. Briefings and discussion of the functions, missions, and requirements of the military and civil weather services and their interaction.

1:30 p.m. to 3:00 p.m. Briefing and discussion of the U.S. Navy's oceanographic research program.

TUESDAY—OPEN

9:00 a.m. to 1:00 p.m. NACOA work in progress, including working group reports on ocean engineering, IDOE,[2] and Coastal Zone Management.

The public is welcome at the Tuesday open session and will be admitted to the extent of the seating available. Persons wishing to make formal statements should notify the Chairman in advance of the meeting. The Chairman retains the prerogative to place limits on the duration of oral statements and discussions. Written statements may be submitted before or after each session.

[1] Determination filed as part of original document.

[2] International Decade of Ocean Exploration, National Science Foundation.

Additional information concerning this meeting may be obtained through the Committee's Executive Director, Dr. Douglas L. Brooks, whose mailing address is: National Advisory Committee on Oceans and Atmosphere, Department of Commerce Building, Room 5225, Washington, D.C. 20230. The telephone number is 967–3343.

DOUGLAS L. BROOKS,
Executive Director.

[FR Doc.74-26399 Filed 11-11-74;8:45 am]

NATIONAL CREDIT UNION ADMINISTRATION

NATIONAL CREDIT UNION BOARD

Meeting and Agenda

Pursuant to the provisions of the Federal Advisory Committee Act, Pub. L. 92–463, 86 Stat. 770, notice is hereby given that the National Credit Union Board will hold its quarterly meeting on December 10–11, 1974, at the offices of the National Credit Union Administration, 2025 M Street, NW., Washington, D.C. 20456. The meetings will commence at 9:00 a.m. daily in Room 4210.

The agenda for this meeting will consist of an update briefing regarding the activities of the several offices of the National Credit Union Administration, a briefing on the progress of the Administration's library project, a briefing on share insurance activities, and other aspects of the Administration.

Matters for discussion will include legislative activities.

This meeting of the National Credit Union Board will be open to the public. Members of the public may file written statements with the Board either before or after the meeting. To the extent that time permits, interested persons may be permitted to present oral statements to the Board only on items listed in the aforementioned agenda. Requests to present such oral statements must be approved in advance by the Chairman of the Board. Such requests should be directed to the Chairman, National Credit Union Board, National Credit Union Administration, Washington, D.C. 20456.

Dated: November 5, 1974.

HERMAN NICKERSON, Jr.,
Administrator.

[FR Doc.74-26440 Filed 11-11-74;8:45 am]

NATIONAL ENDOWMENT FOR THE ARTS

DANCE TOURING PROGRAM

Guidelines for State Arts Agencies

The following are guidelines for State Arts Agencies under the Dance Touring Program of the National Endowment for the Arts, an independent agency of the Federal government which makes grants to organizations and individuals concerned with the arts throughout the United States.

Publication of these guidelines is for informational purposes only since application for funds are made by the State Arts Agencies.

Organization heads who are interested in sponsoring a dance company should contact their State Arts Agency or the Dance Program, National Endowment for the Arts, Washington, D.C. 20506, (202) 634–6383.

Signed at Washington, D.C., on 23d October 1974.

FANNIE TAYLOR,
Director, Program Information.

INTRODUCTION

A Coordinated Residency Touring Program (CRTP) for dance companies was initiated in Fiscal Year 1968 as a pilot project. At that time four companies toured to eight communities in two states for a total of eight weeks. Since then the Program has grown with 74 companies touring in 52 states and jurisdictions for a total of 360 weeks during Fiscal Year 1975.

The CRTP, with the assistance of the State Arts Agencies, has fostered new sponsors for dance residencies, developed new audiences for American dance, and assisted those communities with a history of dance programs in presenting more of our nation's dance companies.

Integral to the Program since its inception have been the State Arts Agencies, without whose close involvement and active participation the Program could not have achieved its current success. In Fiscal Year 1975, State Arts Agencies, or their delegated organizations assumed primary administrative responsibility for the Program. The name was changed to the "Dance Touring Program."

State Arts Agencies are encouraged to assist their local sponsors in coordinating the three basic elements which contribute to a successful residency:

(1) Detailed advance work which will prepare the community for the residency so that it may take full advantage of the activities offered.

(2) Broad involvement of the community in the activities offered during the residency.

(3) Taking advantage of the "residual" benefits of the engagement.

In order to allow each local sponsor the flexibility to tailor each residency to its own needs and resources, and to use its own criteria in selecting the dance companies it wishes to engage, there is no longer a listing of companies based on qualitative review. Rather, any company meeting the quantitative criteria described in the Guidelines for Dance Companies, and meeting the qualitative judgments of the sponsor, may receive assistance. Sponsors, in other words, are given the responsibility for engaging companies on the basis of the sponsor's qualitative selection.

PURPOSE

The primary purpose of the Dance Touring Program is to provide professional dance residencies to the largest possible number of Americans. Through residency engagements and imaginative planning on the part of State Arts Agencies, sponsors, and companies, it is expected the following objectives will be achieved:

(1) To develop new audiences for dance, and to expand the public's awareness and appreciation of dance.

(2) To improve touring practices for both sponsors and companies.

It is hoped the State Arts Agencies will include the Dance Touring Program in the state's total plan for assistance to dance. Collaborative planning between the Dance Touring Program and other components of each state's program will greatly increase the effectiveness of all efforts.

PROCEDURES

ADMINISTRATIVE RESPONSIBILITIES

Outlined below are the basic procedures for the Dance Touring Program, followed by instructions for making application to the National Endowment for the Arts for funds.

Each State Arts Agency is given the option of administering the Dance Touring Program itself, or delegating another organization to administer it for the state. If the SAA chooses to delegate another organization, there are several routes it might take:

(1) It might select a willing state-wide organization capable of administering the Program within its state.

(2) It might join with several other neighboring states and delegate a single organization which would be willing and able to administer the Program for the several states involved. This is particularly advantageous in areas where there is to date little dance touring activity in any single state.

(3) It might, along with other member states, delegate an existing multistate organization willing and able to assume this responsibility.

In order to facilitate the Program, it is essential that each State Arts Agency notify the National Endowment for the Arts who will be responsible for administering the Dance Touring Program for the state (both the organization and individual in charge, with address and phone number) and for the designated organization to express its willingness to accept the responsibility in writing, by: October 1, 1974.

The National Endowment for the Arts will be happy to answer any questions concerning the selection of an administrative organization. Please feel free to write or call:

Dance Touring Coordinator
National Endowment for the Arts
Washington, D.C. 20506
(202) 634–6383

For the purposes of clarity, the term "State Arts Agency" (or "SAA") will be used when referring to "the State Arts Agency or its delegated administrative organization" for the remainder of these Guidelines. In general, the administrative organization should assume all responsibilities. If an individual State Arts Agency wishes to delegate only a portion of the responsibilities listed below, arrangements can be made with the Office of Dance Programs at the Endowment.

The State Arts Agency will be responsible for the following:

(1) Announcing and promoting the Dance Touring Program within its state or region. The Endowment will also send out an announcement of the Program nationally, and will inform the SAA which sponsors in their area have received Guidelines.

(2) Assisting sponsors within their state or region with carrying out the sponsor's part of the Program—selecting the companies, contracting the companies, preparing the schedule of community activities, et cetera.

(3) Receiving and reviewing company-sponsor contracts, and determining whether they meet the requirements of the Guidelines.

(4) Maintaining a master schedule of Dance Touring Program engagements in its state or region.

(5) Receiving and distributing the Endowment funds to each local sponsor promptly.

(6) Establishing and implementing evaluation procedures in accordance with the information requested by the Endowment.

(7) Where necessary, making application to the Endowment for assistance in planning and carrying out the Program, receiving these funds and administering them.

(8) Making application to the Endowment for the fee support funds for engagements taking place within the state or region, receiving these funds, and passing them on to the sponsors.

(9) Making final statistical and evaluative reports to the Endowment as requested in the grant letter. These reports will include only pertinent information, and are not expected to demand tremendous energies from the State Arts Agencies.

(10) All other financial management requirements as outlined in the "Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments" which appears as Attachment A of these Guidelines.

The Endowment will maintain direct contact with the State Arts Agencies in order to facilitate communications. However, there are other organizations and people who may be of assistance. In addition to the regional coordinators working throughout the country, there are evolving regional organizations, some particularly related to dance, and others concerned with a broad spectrum of activities. It is to the State Arts Agency's advantage to keep in close contact with these individuals and organizations since they can provide invaluable assistance with the Program. The Endowment can help you contact these people.

WHO MAY BE A SPONSOR

Given the purposes of the Program, it is expected that sponsors will be community-oriented organizations or individuals with the capability of relating the activities of the companies in residence to the community visited. Examples of sponsors who have participated in the past include colleges and universities, community arts councils, community service organizations, parks and recreation departments, fraternal organizations, local dance companies or associations, orchestras, private and public schools and school systems, community arts centers, museums, theaters, et cetera. Frequently a group of organizations will cooperate in sponsoring dance companies under this Program. Cooperative sponsorship permits greater impact in the community and a sharing of the financial obligations. Generally, sponsors are nonprofit, tax-exempt organizations.

It is hoped that in the future the State Arts Agencies will take an active part in finding and developing new sponsorship for touring attractions in their region, as well as provide assistance to current sponsors.

WHAT IS A RESIDENCY?

Residencies are a minimum of one-half week (2½ working days) in length. Residencies may be lengthened by one-day increments, with a one-week residency equalling 5½ working days. It is expected that the company and the sponsor will involve broad segments of the community during the residency. Each company is unique in the services it offers to sponsors. Therefore, there are no set rules or regulations as to what activities a residency should include. The sponsor and company are expected to arrive at an agreeable residency schedule which will best serve the needs of the community and the purposes of the Program.

The Program is designed to aid in touring engagements. A touring engagement is one which requires that the company remain overnight at the place of the residency rather than returning home each night. (The quoted touring engagement fees are based on figures which include lodging and transportation expenses.) Therefore, residencies

taking place within the immediate area of the company's home base are not eligible for support under this Program.

Except in extreme circumstances sponsors are expected to engage at least two companies for a minimum of one-half week each, or in some cases one company for a minimum of one week during Fiscal Year 1976. There are several reasons this is required. Given the great wealth and variety of American dance, communities are encouraged to experience at least two different companies which will bring the community some of the variety American dance offers or, in some cases, at least one company representing one artistic point of view in depth. Further, it is the strong feeling of the Endowment that a community should have the opportunity and the time to become involved in several activities in order to gain a better knowledge and appreciation of the dance. This is essential to audience development. Single "one shot" exposure inhibits the community in gaining a full appreciation of dance as a rich and varied art form.

The State Arts Agencies can be of great assistance to local sponsors by making them aware of the benefits of complying with these requirements, and by getting more than one sponsor together in a community so that individual financial and operational resources can be pooled to permit compliance.

In extenuating circumstances, the State Arts Agency can grant a waiver of the minimum residency requirement (i.e. two one-half week residencies or one full-week residency). The request for this waiver must be made in writing by the local sponsor, and the decision of the SAA must be conveyed to the sponsor in writing. A copy of these letters should be attached to the SAA's copy of the sponsor's contract for future reference.

When reviewing requests for waivers, the SAA should take into account the following:

(1) The over-all financial resources of the sponsor.

(2) The history of performing arts presentations in the community. Generally a community with a history of sponsorship in other forms can be expected to assume the minimum residency requirement.

(3) The appropriateness of the sponsor's choice of companies. There are many companies available with a great variety of fee structures. Sponsors should not be encouraged to engage companies which will tax their resources unduly. Communities have found it far more successful to keep their first residencies well within their resources, and to engage a variety of companies, rather than only one or two financially and technically demanding companies. As experience is gained and audiences are built, sponsors will find that they will quickly be able to assume sponsorship of these larger companies.

(4) Population. Obviously, very small and isolated communities face special problems.

(5) Other local conditions. Since the State Arts Agency is located in the immediate area of the sponsor, it will have personal knowledge of the local sponsor's situation.

If, after reviewing the waiver request, the SAA deems it absolutely essential a waiver be granted, it should be made clear to the sponsor that this is exceptional. *Waivers should be permitted for first-year sponsors only.*

The importance of granting this waiver as rarely as possible cannot be stressed enough. There is substantial evidence from the seven-year history of the Program that enforcement of the minimum residency requirement is essential to the success of the Program in each community. Only when a sponsor is committed to the presentation of dance in his community will the involvement necessary for successful and effective residencies readily be available.

ENDOWMENT FEE SUPPORT

The National Endowment, through direct grants to the State Arts Agencies, will provide sponsors of professional dance company residences with one-third (33⅓%) of the company's quoted minimum weekly, half-weekly or additional daily fee or $10,000 per week ($5,000 per half-week, $2,000 per day), whichever is less. The Endowment funds will be made available through the sponsors State Arts Agency with this organization making final payment to the sponsor.

From past experience, the Endowment has found that no formal application from the sponsor for the Endowment portion of the funding is required. Upon receipt of a contract (see "Contracts," page 8) the State Arts Agency may allocate the funds necessary for the residency on a first-come, first-served basis. However, some SAAs may wish to institute a more formal application procedure if they feel it is necessary. Sponsors should be notified when all funds have been allocated.

It is impossible to set a firm date for this occurrence, but in the past all funds have been allocated by late spring. The SAA should keep sponsors informed as funds become limited. Sponsors have been urged to confirm the availability of funds with their State Arts Agency before entering into a final contract with the companies.

Residencies taking place in the summer of 1975 (after July 1) will be included in the Fiscal Year 1976 Program. However, because of Congressional appropriation procedures, payment for these engagements may be delayed. Therefore, both the company and the local sponsor should plan to defer receipt of Endowment funds until late summer 1975. After that time sponsors may expect to receive the Endowment portion of the company fee from the SAA close to the time of the engagement.

COMPANIES AVAILABLE FOR TOURING UNDER THE PROGRAM

The application procedures for dance companies wishing to participate in the Program, and the review criteria to be applied to each company, are given in detail in the enclosed Guidelines for Dance Companies. State Arts Agencies are asked to read these Guidelines carefully.

THE "DIRECTORY OF DANCE COMPANIES"

All companies meeting the quantitative criteria will be included in a Directory of Dance Companies to be available from the Endowment in December. Companies not in the Directory are not eligible for participation in the FY 1976 Program. This Directory will provide potential sponsors with pertinent factual information about each company extracted from the Company Information Questionnaire. The Directory is intended only as an initial aid to sponsors, and cannot provide all the information needed by a sponsor to make final company selections. It includes only factual information and in no way implies any qualitative selection. Sponsors are advised to contact all companies in which they are interested in order to obtain more detailed information. It is the responsibility of the company to communicate directly with interested sponsors and to provide them with detailed information when requested.

NOTE: The administration of the touring engagements for the American Ballet Theatre, the City Center Joffrey Ballet and the New York City Ballet will continue to be handled directly by the Dance Program office of the Endowment. Because of the size and complexity of these few companies their touring activity requires somewhat different administrative and funding mechanisms. These companies are clearly marked in the Directory of Dance Companies and sponsors wishing to engage them should contact the Endowment directly.

SPONSOR SELECTION OF COMPANIES

Sponsors are expected to develop and apply their own qualitative criteria in selecting companies. Such criteria should take into acount the artistic quality, experience, style, size, repertory, and managerial stability of the company. Further, sponsors should seek to match the talents, resources, and available services of the companies with the needs and resources of the community.

The Directory will include lists of previous and current tour engagements for each company, and a listing of engagements taking place under the current FY 1975 Dance Touring Program. Sponsors should be encouraged to see companies in which they are interested whenever possible and to speak with sponsors who have previously engaged the company in order to make the most informed choices. State Arts Agencies can be of great help to sponsors in guiding them through the necessary evaluative steps, but should in no way participate in the final selection of companies. This qualitative decision is the full responsibility of the sponsor. The success of each residency is dependent upon the sponsor's careful selection.

CONTRACTS

Both sponsors and companies are advised in detail in the Guidelines for Sponsors and the Guidelines for Dance Companies on the contracting procedure to follow. It is in the area of contracting that many potential problems can be solved in advance. State Arts Agencies should aid sponsors, especially those new to sponsoring tour engagements, with the contracting procedures, making sure that all necessary items are included, and all questions answered. Please refer to the "Contracting the Company" section of the Guidelines for Sponsors.

Although sponsors are strongly urged to sign a formal contract, it is possible for the State Arts Agency to accept the following alternative agreements for the purpose of allocating fee support funds:

(1) A letter of agreement including all necessary items listed below.

(2) A "first priority" letter or contract including all necessary items listed below. (If a sponsor is unable to execute either a formal contract or letter of agreement because of a delay in budget approval or other internal funding problem which prevents commitment of funds to the engagement, the SAA can accept a letter or contract from the local sponsor which includes a clause certifying that, whether or not the sponsor's total budget is approved, the first monies received will be used for the engagements under the Dance Touring Program. The Endowment can provide a sample "first priority" agreement.)

If either a letter of agreement or first priority letter is used instead of a formal contract, sponsors should be strongly advised to obtain a formal contract as soon as possible. State Arts Agencies should be sure that letters of agreement and first priority letters contain all the necessary information listed below (No. 3, page 9).

It is the company's responsibility to provide a copy of all signed agreements to the appropriate State Arts Agency for the purpose of allocating the Endowment for support funds. Before confirming the availability of funds, the SAA should check the contract carefully to insure it is executed properly, and is in compliance with the Program Guidelines. Items which should be checked include:

(1) *The company's fee.* This fee must be at least equal to the minimum fee quoted in the Directory. It is possible for the company to negotiate a fee higher than this

minimum, and/or to include arrangements to share net income with the sponsor over and above a set figure. In no case, however, can the guaranteed fee quoted in contract be less than the one appearing in the Directory. (State Arts Agencies should note that many companies quote several different minimum fees depending on the geographic region, length of stay, size of company, live or taped music and other variables. The SAA is advised to check carefully to be sure the fee in the contract is the appropriate one.)

(2) *Residency length.* The duration of each residency must be two and one-half working days or longer. Residencies may be increased by one-day increments. The following applies to residency lengths and the corresponding fee:

(a) One week equals five and one-half working days.

(b) One-half week equals two and one-half working days.

(c) Residencies may be lengthened by additional full working days.

(d) The company's minimum weekly fee is quoted in the Directory of Dance Companies.

(e) The company's minimum half-week fee is equal to exactly one-half its minimum weekly fee.

(f) The company's minimum additional daily fee is equal to exactly one-fifth its minimum weekly fee.

(g) The company's subsequent week fee for residencies taking place in the same community is quoted in the Directory of Dance Companies. (Some companies offer weekly fee reductions for residencies in excess of one week, while others do not.)

(3) *Information required on all contracts.* All contracts should include all the following information:

(a) Name, address and phone number of the company.

(b) Name, address and phone number of the person actually in charge of scheduling the details of the residency for the company.

(c) Name, address and phone number of the sponsor.

(d) Name, address and phone number of the person actually in charge of scheduling the details of the residency for the sponsor.

(e) Fee for the engagement.

(f) Specific dates and place of the engagement including beginning and ending times.

(g) Name and address of the local sponsor (person or agency) to whom checks should be made payable for the Endowment share of the company fee.

(h) Signatures of both parties (sponsor and company).

FLOW OF ENDOWMENT FEE SUPPORT FUNDS

Each State Arts Agency will make application for the fee support funds required in its state or region. (The application procedures are given on page 13). Upon review of these applications and the awarding of the grant, the SAA will be notified. The SAA then requests the funds, receives them and distributes them directly to the local sponsors in the state or region. The sponsor is responsible for paying the total contracted fee to the company. State Arts Agencies should not make payments directly to the companies.

EVALUATIONS AND FINAL REPORTS

As part of the final reporting procedures, the SAA is asked to assemble statistical and evaluative information for FY 1976 including:

(1) The schedule of activities offered during each residency.

(2) Attendance at each activity, and a general description of the make-up of the participants (i.e. dance students, community residents, et cetera).

(3) Admission charge for each activity.

(4) The over-all budget for the residency, including total expenses and sources of income.

(5) A general description and evaluation of the successses and failures of the residency.

(6) Any suggestions or recommendations for improving the Program and better achieving the goals outlined for the Program.

Sponsor should be reminded to assemble this information so that it will be available to the State Arts Agency when requested.

It is suggested that State Arts Agencies develop a simple form which can be circulated to local sponsors in order to collect this information. If the SAA would like other additional information for its own records, feel free to include additional questions. However, the Endowment would like to urge that the evaluation procedures be kept relatively uncomplicated so as not to burden the local sponsors unnecessarily.

The information collected should be submitted with the final report for the Endowment grant.

GUIDELINES FOR SPONSORS AND COMPANIES

Accompanying these Guidelines for State Arts Agencies are the Guidelines for Dance Companies. The Guidelines for Sponsors and the Directory of Dance Companies will be sent in December 1974. These are what each of the sponsors or companies will receive, and from which they will be working. Although there is some duplication of material, there is substantial information that is not included in these Guidelines for State Arts Agencies. Please read the Company and Sponsor Guidelines carefully.

THE BICENTENNIAL

The Endowment recognizes that the arts will play an important role in the celebration of our country's bicentennial. The National Council on the Arts believes that efforts to make America's cultural resources available to all citizens, through programs such as touring, is an appropriate thrust for the bicentennial era. Therefore, if engagements taking place under this Program are planned to be related to the Bicentennial, the sponsor should supply the SAA with a brief description of this relationship, and the SAA should make this relationship known to the Endowment.

PLANNING SCHEDULE

Planning Schedule. Outlined below is the basic schedule of activities for the time period September 1974 through later summer 1975:

July 1974. Dance Touring Program Guidelines for companies for FY 1976.

September 1974. Dance Touring Program Guidelines available for SAA for FY 1976.

August 19, 1974. Postmark deadline for companies wishing to be included in the FY 1976 Directory of Dance Companies.

October 1, 1974. Deadline for SAA's to notify Endowment who will be administering the Program for their state.

December 1974. Guidelines for Sponsors and Directory of Dance Companies available.

December 1974–March 1975. Peak period for tour engagement booking activities. Sponsors indicate their interest in participating in the Program to their State Arts Agency.

January–April 1975. Agreements between sponsor and company should be finalized, with a copy of the signed agreement going to the sponsor's State Arts Agency.

March 1, 1975. Deadline for SAA applications to the Endowment for FY 1976 fee support funds.

Early Spring 1975. Allocated fee support funds usually begin to become limited. SAA's should notify sponsors of this. The Program closes when all available funds have been committed.

July 1, 1975. FY 1976 Program begins (i.e. actual engagements).

Late Summer 1975. Endowment fee support funds released to State Arts Agencies.

September 1975. Cycle begins again for FY 1977 Program.

APPLICATION PROCEDURES

The National Endowment for the Arts will continue to offer support under the Dance Touring Program for partial costs of dance company fees. Fee Support funds will be provided to the local sponsors via their State Arts Agency to be used toward the touring company's engagement fee.

WHO MAKES APPLICATION?

In all cases, applications should come from an individual State Arts Agency or a properly delegated administrative organization. Applications should come from the organization that is assuming full responsibility for administering the project. If the applicant is an agency of the state or local government it should use the short form OMB No. 80-R0185. If the application is coming from another nonprofit, tax-exempt organization not a government agency, it should use the NEA's Project Grant Application, NEA-3 (Rev.).

FEE SUPPORT

Applications for the Endowment fee support for residencies taking place in FY 1976 must be postmarked no later than: March 1, 1975.

Since very few engagements will be confirmed by this date, an estimated amount of funds needed for engagements anticipated should be requested. This estimate should be based on the confirmed engagements known to that date, the tentative engagement known to that date, and an estimate of anticipated engagements based on past years' activity within the state. The figure requested may not exceed one-third of the total contracted fees anticipated, and should represent Endowment assistance based on 33⅓% of each company's weekly, half-weekly, or additional daily fee, or $10,000 per week, $5,000 per half-week, $2,000 per additional day, whichever is less.

Once the Endowment is in receipt of all applications for fee support (March 1, 1975), the requests will be reviewed on the basis of the total funds anticipated to be available for the total national Program, and the State Arts Agencies will be given a tentative planning figure. State Arts Agencies should realize that the final commitments made as funds become limited must be carefully checked through the Endowment so that the Program is not over-committed.

REQUESTING CASH PAYMENTS

The Endowment is well aware that there have been some substantial problems in the past with disbursement of funds on time in this Program. One part of the problem has been in the area of the Cash Request itself.

As you know, funds may not be requested more than 90 days in advance of the time they are needed. Often this has been interpreted to mean that funds cannot be requested from the Endowment more than 90 days in advance of the residency of a dance company. A more realistic interpretation is that funds may be requested 90 days in advance of the date the SAA needs to receive

the funds, process them, get cash in hand to local sponsors, allow time for the local sponsor to process the same and get cash in hand to the dance company. Consequently, if it takes six weeks of processing to get the money from the hands of the SAA to the dance company's, the SAA should request cash of the Endowment as much as 4½ months in advance of the residency (6 weeks plus 90 days).

Please try to keep close track of this necessary timetable to insure that, once the SAA has received the grant award, each dance company will receive the Endowment portion of the fee before its residency ends. Set up a calendar, if necessary, to show when cash requests will have to be sent in. Group as many residencies as possible into each cash request. If there are questions about the appropriate way to fill out the cash request or what can be included on it, please call (202/634-6383) before sending it in. To receive the speediest treatment, cash requests should be sent directly to:

Dance Programs
National Endowment for the Arts
Washington, D.C. 20506

REMINDERS

October 1, 1974. State Arts Agencies must notify the Endowment who will administer the Dance Touring Program for their state.

March 1, 1975. Deadline for applications for Fee Support funds for FY 1976.

In all published material and announcements regarding residencies sponsored under the Dance Touring Program, including publicity and program material, it is suggested that special notice be made that: "This engagement is supported in part by a grant from (name of State Arts Agency or administrative organization) with funds provided by the National Endowment for the Arts, A Federal Agency." If the State Arts Agency or administrative organization is also providing financial support for the residency, this statement should be altered to acknowledge that support as well. The SAA should notify the sponsor of the appropriate wording to be used.

NARRATIVE

Following are notes on dance touring in general and the Dance Touring Program in particular. We hope this informal narrative will be of help to you in planning for the Dance Touring Program.

NARRATIVE FOR STATE ARTS AGENCIES

HOW THE DANCE TOURING PROGRAM CAN RELATE TO YOUR REGIONAL, STATE AND LOCAL DANCE NEEDS

While the Dance Touring Program has been in the past a national, Federally-initiated program, we believe that it has, can, and should be well-used to stimulate and complement activity on regional, state and local levels, and can dovetail with plans each State Arts Agency may have for developing and assisting local activity in dance as well as the other arts.

While the National Endowment for the Arts would like to encourage additional support from State Arts Agencies for Dance Touring Program residencies beyond the Endowment support, such additional funding is by no means required. Many of the SAAs do put funds into Dance Touring Program residencies and have developed several different methods for this. In some states it is done by formula: All Dance Touring Program residencies receive an additional one-sixth or one-third of the companies' minimum weekly fees beyond the Endowment portion. In other states, additional support is by application and based on need or on innovative community involvement projects. In some states it is used as a method of developing new sponsorship: such sponsors might receive aid for the first year or two. State funds could certainly be used to advantage to encourage sponsorship where it would otherwise be economically impossible, or to assist new sponsors in meeting the requirement of engaging two companies for a half-week each or in some cases one company for a full week. The State Arts Agency is in a position to know, while the Endowment is not, which sponsors have real financial difficulties and which communities in their state have the greatest need or could gain the greatest benefits from a Dance Touring Program residency.

We hope that those State Arts Agencies which do not already have a policy of financial support for Dance Touring Program residencies will seriously consider the possibility of doing so, and that each agency will find methods of support that best serve its particular needs. Careful structuring of additional support can help the community maximize the residual benefits of a residency.

The Endowment believes that the development of new sponsorship, which may be undertaken in connection with the Dance Touring Program, will encourage increased employment of dance companies not working under the DTP and groups in areas other than dance. The Program offers substantial possibilities for implementing increased community participation and cooperation in all arts activities, particularly in the areas of cooperative sponsorship among local performing arts organizations and museums. We hope that the Program will be of substantial benefit to the SAAs and the activities they wish to promote in their own states beyond the presentation of a touring dance company.

We believe that the Dance Touring Program will be supportive of state and local programs for dance. While touring under the DTP involves only professional companies with some touring history and other companies cannot be surprised directly through this program, many indirect benefits can accrue to them through the Program: development of sponsorship for dance, increased awareness of dance activities in the community and in the media locally, classes with the professional companies, and so forth. Improvement in the quality and extent of dance criticism across the country can be another beneficial side effect of the Program and SAA involvement with it.

Occasionally a State Arts Agency may find that the type of goals and activities a potential sponsor has in mind are actually more appropriately undertaken through the Dance Component of Artists-in-Schools. In such a case, the SAA may wish to point this out to the sponsor and plan with the sponsor to accomplish the goals through the AIS Program.

THE STATE ARTS AGENCIES' RELATIONSHIP WITH THE DANCE COMPANIES TOURING UNDER THE DANCE TOURING PROGRAM

Both the sponsors and the dance companies have been told that it is not the responsibility of the State Arts Agencies to find touring engagements for dance companies. Some SAAs will take a more active role than others in coordinating activities throughout the state or region and in putting parties in touch with each other and, particularly in some of the more sparsely populated states where sponsorship is hard to find, the SAA may be very active in bringing the residency to fruition. Nevertheless, the dance companies should never expect the SAAs to do their work for them: finding engagements is the responsibility of the company.

Several SAAs have already compiled and do maintain a list of potential sponsors in their state which they will mail out on request to companies seeking engagements in that state. Compiling such a list, if you do not already have one, might be a first step toward identifying new sponsorship, and could, of course, be of as much benefit to your local companies as the visiting ones. A listing of FY 1974 and tentative FY 1975 sponsors under the Program is available from the Endowment.

The Endowment feels that the SAAs would be well advised to stay out of actual contractual negotiations between company and sponsor except to see that the contracts fulfill the terms of the Guidelines for participation in the Program. Details of the residency are a matter between sponsor and company.

We'd like to comment on the need of dance companies financially. Touring is the life blood of most dance companies, sometimes providing as much as 90 percent of their work and income. In most cases, touring does not simply extend their contractual season, as it does for many orchestras and theaters: it is a matter of life and death for dance. Most dance companies have little or no financial reserves. They tend to live financially from month to month and have great difficulty accommodating cash flow crises. This is by way of stressing the importance of getting the money for the residences out on time (once we get the money to you, of course). Companies are incurring expenses all the time while touring—hotels, rented cars and trucks, et cetera, as well as salaries—and the money to cover those expenses and usually come out of fees received while on tour. Substantial delays can be catastrophic.

Many dance companies have come to depend very heavily on the Dance Touring Program for their livelihood. Some companies have been touring under the Program for as many as 8 years.

USING THE DIRECTORY

The Directory is simply an aid to the sponsor in preliminary inquiries and searches for a company which fits the sponsor's needs and meets the Endowment requirements. The companies in the Directory have met, to the best of our knowledge, a substantial list of quantitative requirements. No qualitative imprimatur is given or implied by inclusion in the Directory. The qualitative choices are made under the DTP by those most affected by the choice: the sponsors.

The dance companies included in the Directory offer a very wide variety of styles, sizes, prices and services. They include ballet, modern, ethnic and mime companies of all sorts of aesthetic persuasions. Sizes range from soloists to full ballet companies and prices show a corresponding variety. Paralleling the continuing growth of professional dance outside New York City, the Directory includes companies from almost every part of the United States. The companies perform in many different kinds of environments, in terms of both performance facilities and communities. There is, in short, a dance company in the Directory for virtually any sponsor need and budget.

The responsibility for making the qualitative decisions has been transferred from the Endowment to the sponsors for two principal reasons. First, the phenomenal growth in dance touring activity over the last eight years—and the corresponding growth in the number and variety of sponsors for dance companies—has made it difficult to apply any single set of qualitative review criteria nationally. And secondly, it is the sponsor who is most immediately and intimately affected by the choice. A poor qualitative decision will be reflected at the box office.

This shift in the decision-making has imposed a greater responsibility on the sponsor by providing a greater range of choices. The SAA can be invaluable in helping sponsors to meet this responsibility.

SAAs will be approached by sponsors, especially new ones, who need help in finding appropriate companies. You can help them in this task by first assisting them to identify their needs and be specific about their budgetary limitations. Once having identified their parameters, you can guide them to companies in the Directory that meet their needs.

The Directory will give a sponsor a good idea of how much touring experience a dance company has had, and will provide the names of several sponsors who have engaged the company previously. Sponsors searching for information on companies that interest them should be encouraged to contact previous sponsors of those companies.

You can also assist your sponsors by putting them in touch with other potential sponsors in your state or region. Joint sponsorship in a community where no single sponsor can afford a residency or has the expertise to carry out a residency could be developed out of these contracts. The dance companies and sponsors should keep you aware of which companies are planning on touring your state in a given season; passing this information on to sponsors who seek your assistance can save them a great deal of time in narrowing down the range of contacts.

All companies in the Directory will not be touring nationally. Some will prefer to tour only in their immediate region and some are managerially young enough that they should be touring in a limited geographic region closer to home. Others will tour more broadly and many will be available for national tours. Very few companies will be available to tour all parts of the country in a single year. Even if a company indicates its availability in the Directory as "Open," it will usually narrow down the possible geographic region as inquiries from sponsors come in. It is obviously to the company's advantage to arrange tours of coherent, logical bookings to minimize travel costs, as travel is usually amortized in the fee. If a sponsor is especially desirous of an engagement by a company not touring that region, the sponsor will usually have to pay the extraordinary travel costs to get the company there.

TRENDS IN SPONSORSHIP

Sponsorship in the early years of the Program was heavily college and university oriented. These organizations already had operative concert bureaus, appropriate physical facilities readily available, and built-in audiences, and their existing mechanisms were easily adaptable to the Dance Touring Program.

As the Program began to grow, however, the character of the sponsorship began diversifying substantially. This is a trend we wish to see encouraged and strengthened. College and university sponsorship continues to be extremely important to the success of the Program particularly as those institutions expand their activities into the community beyond the campus, but other sponsorship has come to assume growing importance in the success of the Program. Examples of the variety of previous sponsorship are given in the Guidelines (page 4), and each SAA can undoubtedly think of other types of organizations in the state that could, with appropriate assistance, be excellent sponsors of dance companies. We hope you will look beyond obvious sponsorship to discover new and untapped resources in what might at first seem unlikely places.

We would particularly like to encourage local dance companies, as well as other arts organizations, to consider sponsorship of a touring company. Such sponsorship can be extremely useful to the local company in such ways as expanding and diversifying subscription seasons, taking class with the touring company, focusing attention on local dance activity, and so forth. Additionally, a local dance company should have the knowledge of and sensitivity to dancer's needs and abilities and to their local community that will help make the residency a success.

ABOUT THE MINIMUM FEE

We wish we didn't need to mention this, but as a precaution we think we should.

The Program is structured around a system of certified minimum fees which the companies list in the Directory, and to which they must adhere for similar engagements whether the engagements are supported under this Program or not. The reason for this is to avoid a situation in which a company would be asked to reduce its fee when performing in a similar engagement without Endowment support.

Obviously, ways can be found to attempt to circumvent this guideline. These ways might range from provision of services by the company which are the sponsor's responsibility to direct financial kick-back. Such actions of course could severely undermine the Program and certainly are in direct conflict with the Program Guidelines.

SAAs should be alert to such attempts to circumvent the minimum fee, keeping in mind that these attempts may sometimes but not always show up in the contracts.

All questionable arrangements, whether implied or stated, should be checked by the SAA before committing funds to the engagement.

Discovery of an attempt to circumvent this requirement would place parties involved in violation of the Program Guidelines and could be grounds for suspending Endowment participation in the residency and possibly excluding the company and/or the sponsor from further participation in the Program.

FINAL REPORTS AND EVALUATIONS

We cannot emphasize too much the importance of the final reports. The Dance Touring Program is a large and varied one serving several different constituencies and attempting to meet the needs of the rapidly growing and changing field of dance. The Program can best be adapted and refined to meet the needs of participants in the Program—sponsors, dance companies, and State Arts Agencies—all participate in evaluating both the problems and successes of the Program.

ATTACHMENT A: UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS-IN-AID TO STATE AND LOCAL GOVERNMENTS

STANDARDS FOR GRANTEE FINANCIAL MANAGEMENT SYSTEMS

(1) This Attachment prescribes standards for financial management systems of grant-supported activities of State and local governments. Federal grantor agencies shall not impose additional standards on grantees unless specifically provided for in other Attachments to this Circular. However, grantor agencies are encouraged to make suggestions and assist the grantees in establishing or improving financial management systems when such assistance is needed or requested.

(2) Grantee financial management systems shall provide for:

(a) Accurate, current, and complete disclosure of the financial results of each grant program in accordance with Federal reporting requirements. When a Federal grantor agency requires reporting on an accrual basis and the grantee's accounting records are not kept on that basis, the grantee should develop such information through an analysis of the documentation on hand or on the basis of best estimates.

(b) Records which identify adequately the source and application of funds for grant-supported activities. These records shall contain information pertaining to grant awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays, and income.

(c) Effective control over and accountability for all funds, property, and other assets. Grantees shall adequately safeguard all such assets and shall assure that they are used solely for authorized purposes.

(d) Comparison of actual with budgeted amounts for each grant. Also, relation of financial information with performance or productivity data, including the production of unit cost information whenever appropriate and required by the grantor agency.

(e) Procedures to minimize the time elapsing between the transfer of funds from the U.S. Treasury and the disbursement by the grantee, whenever funds are advanced by the Federal Government. When advances are made by a letter-of-credit method, the grantee shall make drawdowns from the U.S. Treasury through his commercial bank as close as possible to the time of making the disbursements.

(f) Procedures for determining the allowability and allocability of costs in accordance with the provisions of Office of Management and Budget Circular No. A-87.

(g) Accounting records which are supported by source documentation.

(h) Audits to be made by the grantee or at his direction to determine, at a minimum, the fiscal integrity of financial transactions and reports, and the compliance with laws, regulations, and administrative requirements. The grantee will schedule such audits with reasonable frequency usually annually, but not less frequently than once every two years, considering the nature, size and complexity of the activity.

(i) A systematic method to assure timely and appropriate resolution of audit findings and recommendations.

(3) Grantees shall require subgrantees (recipients of grants which are passed through by the grantee) to adopt all of the standards in paragraph 2 above.

(No. A-102)

[FR Doc.74-26435 Filed 11-11-74;8:45 am]

EDUCATION PROGRAM

Artists-in-Schools; Guidelines

The following are guidelines for Artists-in-Schools under the Education Program of the National Endowment for the Arts, an independent agency of the Federal government which makes grants to organizations and individuals concerned with the arts throughout the United States.

Publication of these guidelines is for informational purposes only since application for funds are made by the State Arts Agencies.

Interested elementary and secondary public and non-public schools should direct inquiries to their state arts agency with information copies to their state education agency.

Signed at Washington, D.C., on 23d October 1974.

FANNIE TAYLOR,
Director, Program Information.

INTRODUCTION

HISTORY

The Artists-in-Schools Program of the National Endowment for the Arts (Endowment) is funded primarily through grants to state arts agencies (SAAs) and other cooperating organizations, such as the St. Paul Council of the Arts and Sciences, San Francisco Poetry Center and Poets and Writers, Inc. It involves the placement of professional artists in elementary and secondary schools to work and to demonstrate their artistic discipline.

The United States Office of Education, Department of Health, Education and Welfare has cooperated closely with the Arts Endowment in the development and funding of the program.

A pilot program was launched in 1969–70 with six states participating in a visual artist-in-residence program. Prior to this time, the Endownment had initiated a poets in schools program, now an integral part of Artists-in-Schools. Both these pilot programs were so successful that in the school year of 1970–71, 31 states participated in programs involving visual arts, theatre, dance, poetry and music residencies. During the 1971–72 school year, the film and architecture/environmental arts components were added and by the 1972–73 school year, all 50 states and the five special jurisdictions were operating one or more Artists-in-Schools components involving dancers, musicians, poets, painters, sculptors, graphic artists, photographers, craftsmen, actors, filmmakers, architects and environmentalists.

During the 1972–73 school year, for the first time, the Bureau of Indian Affairs joined with the Endowment and Office of Education to participate in a special Artists-in-Schools project involving drama, film, poetry and visual arts at the Institute of American Indian Arts in Santa Fe, New Mexico.

In the 1973–74 school year, funds appropriated under the Manpower Development and Training Act were provided for a special series of grants for training programs and technical assistance for artists (poets, dancers, filmmakers) throughout the United States. These funds were utilized primarily for workshops and seminars.

RESOLUTION BY THE NATIONAL ASSEMBLY OF STATE ARTS AGENCIES

In April 1974 at the request of the National Council on the Arts, state arts agency representatives met with staff representatives of the National Endowment for the Arts to discuss new directions for the Artists-in-Schools Program. Subsequently, at a meeting of the National Assembly of State Arts Agencies, the Assembly adopted a statement concerning future directions of Artists-in-Schools. The resolution follows:

The National Assembly of State Arts Agencies pledges its support of the National Endowment for the Arts' "Artists-in-Schools" program as it reflects the specific needs of all states and territories. The program is of great value to arts education in this nation and is reason for the following resolution:

"In reference to the 1975–76 (F.Y. 75 money) and future guidelines for the National Endowment for the Arts' "Artists-in-Schools" program, the National Assembly of State Arts Agencies resolves: (1) That the submission of a State Plan by each state arts agency be fundamental in the Artists-in-Schools guidelines; (2) that to insure that all schools have the opportunity for participation there should be the availability of matching the total State Plan on a dollar for dollar cash and/or in-kind basis rather than on an individual project basis; (3) that to assist the National Endowment for the Arts in formulating plans for future directions it is recommended that an advisory panel for the Artists-in-Schools program be established immediately; (4) that any proposed Artists-in-Schools budget format per art form be considered as frames of reference in preparation of State Plans, and may be adjusted to meet special circumstances which may exist in each state; (5) that the Artists-in-Schools program should substantially contribute to the advancement of the financial and creative life of the artists; and (6) that one of the prime functions of the advisory panel is to assist the National Endowment for the Arts in this national state-based program in maintaining the highest professional standards of excellence artistically and educationally." (Adopted by the National Assembly of State Arts Agencies, April 18, 1974.)

In May 1974 an advisory panel met in Washington and proposed modifications of the 1975–76 guidelines (Fiscal Year 1975 funds) to accord with the suggestions of state arts agencies and the recommendations of the National Council on the Arts.

PURPOSE

Artists-in-Schools is based on the reality that every citizen of the United States is required to make aesthetic decisions each day. Since the purpose of education is preparation for life, the development of aesthetic awareness and participation in the arts must be an integral part of learning experience in the school and the community.

Artists-in-Schools is a nationwide program to provide this experience through the cooperative efforts of professional artists, students and teachers. This exchange, which enriches the creativity of all three groups, should not be a casual or momentary encounter. It is intended to be a sustained interaction continuing through a significant portion of the school year which will be of mutual benefit to artists, teachers, students and the community.

The program is not designed to train a generation of professional artists. Its purposes are primarily to enhance children's powers of perception and their ability to express themselves and communicate creatively through using tools and skills they might not otherwise develop. The program is also intended to provide an opportunity for artists to function in schools and communities in a manner and under working circumstances conducive to their own artistic development. Artists-in-Schools recognizes the school is where the students are.

Within this overall framework, the program may provide a variety of different benefits for students, teachers, artists and the community:

For Students, it may:

Nourish the innate creativity of students.

Enhance perception, self-awareness and self-expression.

Establish a pattern of achievement in the arts leading to greater achievements in other subject areas.

Encourage more involvement in the arts—both as participants and as spectators.

Enhance knowledge of contemporary arts and artists, and of the artists' role in society.

Secure a fuller understanding of the creativity and artistic resources representative of all segments of the community.

For Teachers, it may:

Offer shared insights into the creative process.

Gain new respect for creativity in their students and in themselves.

Lead to shared methods for stimulating student interest in the arts, and in other subjects.

Enhance knowledge and understanding of contemporary arts and artists, and of the role of the arts in society.

For Artists, it may:

Enhance creative development through direct exchanges and cooperative efforts undertaken with students and teachers.

Create the opportunity and the ability to communicate with wider audiences.

Clarify the role of the artist in society.

For the Community, it may provide:

A growing interaction with students, parents, artists and schools.

A growing sense of the artists' role in the community and the importance of community participation in the creative process.

A recognition that there are artistic activities occurring in many segments of the community.

ELIGIBILITY

State Arts Agencies and Cooperating Organizations. Grants are made directly to state arts agencies and cooperating organizations to administer the Artists-in-Schools Program in each state.

Elementary and secondary public or nonpublic schools and professional artists may participate in the Program. Information concerning participation is listed under "Inquiries."

NOTE: (1) By statute the Endowment is limited to making grants to organizations only if no part of their net earnings inures to the benefit of a private stockholder or an individual and provided donations to such organizations are allowable as charitable contributions under Section 170(c) of the Internal Revenue Code of 1954, as amended. All organizations are required to submit a copy of their Internal Revenue Service tax exemption determination letter with each application.

(2) Organizations receiving National Endowment for the Arts support must conduct their operations in accordance with the requirements of Title VI of the Civil Rights Act of 1964, which bar discrimination in Federally assisted projects on the basis of race, color, or national origin.

INQUIRIES

Elementary and secondary public and nonpublic schools. Interested elementary and secondary public and non-public schools should direct inquiries to their state arts agency (see listing, page 22) with information copies to their state education agency.

Professional artists. Artists-in-Schools does not offer grants directly to individual professional artists. Artists interested in participating in one of the components should direct inquiries as follows:

Crafts Component

Education Program, National Endowment for the Arts, Washington, D.C. 20506 (Phone: 202/634–6028) or, State Arts Agency (see page 22).

Dance Component

Education Program, National Endowment for the Arts, Washington, D.C. 20506 (Phone: 202/634–6028).

Film Component

Center for Understanding Media, Inc., 75 Horatio Street, New York, New York 10014 (Phone: 212/989–1000) or, State Arts Agency (see page 22).

Poetry Component

Literature Program, National Endowment for the Arts, Washington, D.C. 20506 (Phone: 202/634–6044) or, State Arts Agency (see page 22).

except in—

California: San Francisco Poetry Center, San Francisco State College, San Francisco, California 94132 (Phone: 415/469–2227).

Minnesota: St. Paul Council of Arts and Sciences, 30 East 10th Street, St. Paul, Minnesota 55101 (Phone: 612/227–8241).

New York: Poets and Writers, Inc., 201 West 54th Street, New York, New York 10019 (Phone: 212/757–2766).

Visual Arts Component

State Arts Agency (see page 22).

NOTE: Three pilot components (Architecture/Environmental Arts, Music and Theatre) are not as yet open to applications.

GRANT AMOUNTS

State agencies and cooperating organizations should request only moderate increases for the 1975–76 school year above the amounts received for the 1974–75 school year. Where possible, applicants are urged to submit a program balanced by art form.

SCREENING CRITERIA

Grants will be awarded to state arts agencies and cooperating organizations on the basis of:

(1) Quality of the proposed project,

(2) Ability to match Endowment monies, and

(3) Availability of funds to the Endowment.

ADMINISTRATIVE RESPONSIBILITIES

From the inception of the program, the National Endowment for the Arts has encouraged state arts agencies and cooperating organizations, in coordination with state education agencies to assume primary responsibility for administration of the program. Selection of artists and schools and administration of grants is largely the responsibility of the state arts agencies in consultation with artists and advisory groups. State agencies are encouraged to shape the program in accordance with local needs and objectives.

STATE ARTS AGENCY ROLE

Specific responsibilities of the state arts agencies and cooperating organizations will be to:

(1) Plan and coordinate each component of Artists-in-Schools with state and local public and private schools.

(2) Select sites and artists in consultation with state and local education agencies.

(3) Prepare applications for submission to the Endowment.

(4) Receive and administer the National Endowment for the Arts grants, in accordance with these guidelines.

(5) Prepare or arrange for the preparation of financial and narrative reports to the Endowment as requested in the grant award letter.

ARTISTS-IN-SCHOOLS COMPONENTS

At the present time, the major components of the Artists-in-Schools Program include: Crafts, dance, film, poetry, visual arts (e.g. graphics, painting, photography, sculpture). Pilot programs are also in operation in architecture/environmental arts, music, and theatre. A pilot effort in folk arts is planned for the 1975–76 school year. Guidelines for each of the components are set out below. These guidelines will be used by the staff, Artists-in-Schools Advisory Panel and National Council on the Arts in reviewing applications of state arts agencies.

In preparing applications, it should be noted that states may provide cash or in-kind matching for the total Artists-in-Schools state plan as well as on an individual project basis. The National Council on the Arts has recommended that every effort be made to insure that a cash match is achieved at least in the overall funding provided to each state for Artists-in-Schools.

In developing a state plan, the items listed in the "Addendum" pages 26–28 should be reviewed.

CRAFTS COMPONENT

Funds are for placement of professional craftsmen in elementary and secondary schools. The residency is usually for a full school year, but the year can be divided among two or more craftsmen. A portion of each grant can be used for visiting craftsmen selected by the resident artist.

The craftsman devotes part time to students and teachers and must be allowed time for his or her own work. Participating schools must provide adequate studio space, facilities and equipment necessary for the craftsman. Appropriate projects with state or local arts organizations may be undertaken at the craftsman's discretion. The craftsman is viewed not as a member of the teaching staff, but rather as a practicing artist working at his or her craft in a school situation.

Amount of grants. Generally, grants are in the amount of $6,100 which must be matched in dollars to provide $12,200 for one resident craftsman for a full school year.

Grantee-budget and matching—Budget Format.

Compensation and supplies for resident craftsman	$10,800
Honoraria for visiting craftsmen selected by resident craftsman to complement his or her work	1,200
Documentation	200
Total for one craftsman	12,200
Federal share	6,100
Grantee match	6,100

This budget could be modified in consultation with the Endowment.

Matching. Endowment support in this component should be matched at least equally by non-federal funds. (However, matching can be on an overall state plan or on an individual project basis. The National Council on the Arts has recommended that every effort be made to insure that a cash match is achieved at least in the overall funding provided to each state for Artists-in-Schools.) The application must include a statement on the source(s) of matching funds, which may be provided from school budgets, other public funds or private groups or individuals. Local businesses, civic associations, or foundations may be interested in participating—perhaps as a bicentennial effort.

Selection of craftsmen. Selection is by a panel from within the State. Panel composition is approved by the Endowment. The Endowment's Crafts Coordinator (202/382–7068) will provide assistance as requested.

The panel should include the state arts agency Director (or designated representative), a professional artist, a professional craftsman, an art museum curator or director or a member of a professional arts school faculty, an art educator or art supervisor in schools. Consideration should be given only to thoroughly professional craftsmen who can relate to students and teachers—and can work at their craft in a school environment.

State Arts Agency role. (See page 7.)

DANCE COMPONENT [1]

The dance component of Artists-in-Schools is designed to utilize professional American dance companies and dance movement specialists in residency situations to:

(1) Present movement as an art form.

(2) Explore movement as a teaching tool.

(3) Employ movement as a means of encouraging self-expression and self-awareness in children.

Participating schools must provide release time for the in-school coordinators.

Amount of grants. Grants generally do not exceed $30,000 and in most cases will be considerably less. Endowment funds may be used only towards payment of the dance company(ies) in residence under Artists-in-Schools.

Matching. Endowment support in this component should be matched at least equally by *non-federal* funds. (However, matching can be on an overall state plan or an individual project basis. The National Council on the Arts has recommended that every effort be made to insure that a cash match is achieved at least in the overall funding provided to each state for Artists-in-Schools.) The application must include a statement on the source(s) of matching funds, which may be provided from school budgets, other public funds or private groups or individuals. Local businesses, civic associations, or foundations may be interested in participating—perhaps as a bicentennial effort.

Selection of artists. The state arts agency working with state and/or local education agencies selects the dance company and movement specialists for the residency from the Directory of Dance Companies and Dance Movement Specialists provided by the Endowment.

A national advisory group of experts in the field of dance and education reviews those dance companies and dance movement specialists who wish to be considered for inclusion in Artists-in-Schools dance component in terms of professional experience, artistic quality, in-school teaching experience, company stability and suitability for the program. In addition, companies must meet the following quantitative qualifications required for participation in the Endowment's Dance Touring Program.

(1) The company must be a non-profit, tax-exempt organization to which donations are deductible as charitable contributions under section 170(c) of the Internal Revenue Code of 1954, and must submit a copy of its Internal Revenue Service Tax-Exempt Determination Letter to the Endowment.

(2) The company must certify to the Endowment that while on tour, it pays all professional performers, related or supporting staff, laborers and mechanics no less than the minimum compensation level as determined by the appropriate union in accordance with Part 505 of Title 29 of the Code of Federal Regulations. The Company must also meet the applicable requirements of Title VI of the Civil Rights Act of 1964.

(3) The company must have performed at least 15 public appearances for which the dancers and staff were paid no less than the minimum compensation level as defined by the appropriate union during the 1972–73 season, and must project at least 15 such performances for the 1973–74 season.

(4) The company must have adequate management to provide potential tour sponsors with the necessary services to contract and carry out tour engagements.

(5) The company must have a history of sound administrative practices. If there is a reason to question the administrative function of the company, such as a history of cancelled contracts, commitments unfulfilled, deviation from the minimum fee requirements, et cetera, the company will be required to describe what it has done to correct these problems before it will be considered eligible for participation in the Program. If the problem remains, the company will be ineligible for participation. Each company's participation in the Program will be reviewed annually to determine that the company is functioning within the Guidelines of the Program.

[1] Detailed program information is provided to participating state arts agencies and state or local education agencies to assist with program planning.

Implementation of the Program—(1) *Planning/Orientation Workshops.* Summer workshops for program participants (in-school coordinators and school administrators, dance company members, dance movement specialists and state arts agency representatives) are held prior to the school year in order to insure careful and effective planning of the residencies.

(2) *The Residencies.* In order to achieve in-depth impact:

The dance company must be in residence at each locale for a minimum of two weeks. Generally, the company will present at least one performance at the end of its residency for those students, teachers, administrators, school board members, and parents who have been directly involved in the program, as well as for community leaders and the general public.

The dance movement specialist must be in residence for at least four weeks preceding and/or following the company's residency.

(3) *The National Coordinator.* Under the direction of the Endowment, the responsibilities of the National Coordinator for the Dance Component are:

To aid dance companies and dance movement specialists to plan and execute their participation in the school residencies.

To provide liaison, guidance and coordination for the implementation of state programs through consultation with state arts agencies, educational units, dance movement specialists and dance companies in order to maximize the effect of the residencies.

To serve as a clearinghouse for the dissemination of information among participants in the AIS dance component.

To respond to inquiries regarding all aspects of the AIS dance component.

The National Coordinator is Mr. Charles Reinhart. Ms. Susan Hunter is the project coordinator. Their address is:

Charles Reinhart Management, Inc.
510 Madison Avenue
New York, New York 10022
(Phone: 212/PL 9-8931)

(4) *Artists' Fees.* Endowment funds may be used only towards payment of the dance company(ies) in residence under Artists-in-Schools. All dance company activities (including public performance) as well as transportation costs are included in the fee. The production cost of the public performance is the responsibility of the local sponsor or presenting organization. Participating dance companies must receive at least the minimum fee certified to the Endowment.

The dance movement specialists' fees are paid directly by the National Coordinator's Office from a separate grant.

(5) *In-School Coordinators.* Participating school districts must assign two in-school coordinators, an administrator and a dance-trained co-coordinator to provide liaison between the artists, classroom teachers and school administrators before and during the residencies and to plan and implement the local follow-up when the residencies are completed. The administrative in-school coordinator should have administrative ability, knowledge of the school district and necessary influence within the district to make all arrangements essential to the smooth operation of the program. The dance in-school coordinator should have dance background and training and the ability to continue to stimulate and expand dance activities in the school after the completion of the residencies. Their specific responsibilities include:

Making recommendations for the best use of the dance company and dance movement specialist in the school(s).

Facilitating communication between teachers, administrators, parents and students about purposes, events and expectations of the residency well in advance of residency dates.

Making all necessary local arrangements for artists in consultation with the state arts agency and/or state or local educational agency, and

Facilitating development of dance activities in the school and community after the residencies.

State Arts Agency Role. (See page 7.)

FILM COMPONENT

Funds are for placement of professional filmmakers in elementary and secondary schools. One of the objects of the film component is to create a lasting resource for the school, one that does not terminate at the end of the project. In addition to placing a professional filmmaker or animator in a school, there is provision for training teachers and administrators.

Professional filmmakers and teachers work closely in planning and implementation at each site. Each site will have a competent teacher, adequate budget for film rental and filmmaking—and the services of a live-action filmmaker and/or animator. Many filmmakers also provide training and experience in the use of videotape.

Amount of grants. Grants to individual states range in amount from $7,500 to $15,000.

Budget and matching—Budget Formats.

	½ Federal		
	$15,000 sites	$20,000 sites	$30,000 sites
Artists:[1]			
Honoraria	$5,000	$7,500	$10,000
Travel	1,000	1,000	2,000
Per diem	1,500	1,500	3,000
Total	7,500	10,000	15,000
Teachers:			
Summer and inservice local training	2,000	1,500	3,000
Release time	1,000	1,500	2,000
Total	3,000	3,000	5,000
Equipment	2,000	3,000	5,000
Film, processing, supplies	1,500	3,000	4,000
Administration	1,000	1,000	1,000

[1] Since one purpose of the program is to support and encourage the role of practicing artists within the schools, at least 25 percent of the total budget should be assigned for honoraria, travel, and living expenses for the artists.

Matching. Endowment support in this component should be matched at least equally by non-federal funds. (However, matching can be on an overall program outline or on an individual project basis. The National Council on the Arts has recommended that every effort be made to insure that a cash match is achieved at least in the overall funding provided to each state for Artists-in-Schools.) The application must include a statement on the source(s) of matching funds, which may be provided from school budgets, other public funds or private groups or individuals. Local businesses, civic associations, or foundations may be interested in participating—perhaps as a bicentennial effort.

Selection of Artists. Filmmakers will be chosen to meet the needs at each site. This should be done in consultation with the state arts agency, Center for Understanding Media and appropriate education agencies.

Implementation of the Program.—Center for Understanding Media. The film component is coordinated by the Center for Understanding Media, Inc., 75 Horatio Street, New York, New York 10014 (Phone: 212/989-1000). The role of the Center is to provide guidance for state arts agencies in drawing up their initial project plans and budgets, assistance in the identification of competent professional filmmakers, provision of training programs for teachers and administrators, consultation on equipment, guidance in raising matching funds, and on-site visitations of projects. The project director for the Center is John Culkin. The project coordinator is Peter Haratonik. The Center should receive copies of all program plans and correspondence with the Endowment.

State Arts Agency Role. (See page 7.)

POETRY COMPONENT

The poetry component provides funds for the placement of professional creative writers in elementary and secondary classrooms. The poetry component is designed to:

(1) Encourage students to learn to use language for self-expression.

(2) Introduce students and classroom teachers to contemporary poetry and fiction.

(3) Provide teachers with suggested new techniques in the teaching of creative writing and inspiring children to read.

(4) Build audiences for contemporary writing.

(5) Effect positive changes in student attitudes toward learning.

Matching. Endowment support in this component should be matched at least equally by non-federal funds. (However, matching can be on an overall program outline or on an individual project basis. The National Council on the Arts has recommended that every effort be made to insure that a cash match is achieved at least in the overall funding provided to each state for Artists-in-Schools.) The application must include a statement on the source(s) of matching funds, which may be provided from school budgets, other public funds or private groups or individuals. Local businesses, civic associations, or foundations may be interested in participating—perhaps as a bicentennial effort.

Selection of artists. Participating artists must be professional, published poets. Selection is made jointly by the state arts agency and the participating schools.

A Directory of American Poets, compiled with the assistance of the Endowment's Literature Program, is available at $6.00 paperbound and $12.00 hardbound from Poets & Writers, Inc., 201 West 54th Street, New York, New York 10019. The cost of the directory also includes a subscription to the newsletter CODA which periodically updates the list of writers interested in readings or work in the schools. In addition, the Endowment's Literature Program will provide assistance as requested.

Implementation of the Program. Orientation/training sessions for teachers should be made a part of the program and strong emphasis should be given to acquainting teachers with the work of contemporary writers. Classroom teachers should be thoroughly briefed on the visiting poets' work prior to the residencies.

Poets should work no less than four times with the same groups of students, preferably more than this. Visits to classrooms need not be on consecutive days. Poets should not be scheduled for more than four periods during the normal school day. Allowances should be made within the budget for travel since one poet can reach a number of schools over a state or community during a relatively short period of time. One-time visits by a poet can be a useful introductory device, but should not be the continuing basis for allocating a poet's time in a community.

Writing done by students should be collected and reproduced, if possible, so that it may be returned to the students in time for the poet's next visit. Schools should be encouraged to assume responsibility for this service as an in-kind contribution. A selec-

tion of student writing should be part of the final report on the poetry component.

State Arts Agency Role. (See page 7.)

VISUAL ARTS COMPONENT

Funds are for placement of sculptors, painters, photographers, printmakers and other graphic artists, architects, and city planners in elementary and secondary schools. The residency is usually for a full school year, but the year can be divided among two or more artists. A portion of each grant can be used for visiting artists selected by the resident artist.

The artist devotes part time to students and teachers and part time to his or her own work. Participating schools must provide adequate studio space and time for the artist to pursue his or her own work. In practice, appropriate cooperative projects with state or local art organizations can occupy part of the artist's time, at the artist's discretion. The artist is viewed not as a member of the teaching staff, but rather as a practicing artist working in his or her own art in a school situation.

Amount of grants. Generally, grants to individual states are in the amount of $12,200.

Budget and matching. Minimum Budget Format—

Compensation and supplies for one resident artist	$10,800
Honoraria for visiting artists selected by resident artist to complement his or her work	1,200
Documentation	200
Total for one artist	12,200

This budget can be modified in consultation with the Endowment.

Matching. Endowment support in this component should be matched at least equally by non-federal funds. (However, matching can be on an overall program outline or on an individual project basis. The National Council on the Arts has recommended that every effort be made to insure that a cash match is achieved at least in the overall funding provided to each state for Artists-in-Schools.) The application must include a statement on the source(s) of matching funds, which may be provided from school budgets, other public funds or private groups or individuals. Local businesses, civic associations, or foundations may be interested in participating—perhaps as a bicentennial effort.

Selection of Artists. Selection is by a panel within a state. Panel composition is approved by the Education Program of the Endowment.

The panel should include the state arts agency Director (or designated representative), a professional artist, an art museum curator or director or a member of a professional arts school.

MATERIALS AVAILABLE ABOUT THE ARTISTS-IN-SCHOOLS PROGRAM

PUBLICATIONS

The Artist in the School: A report on the Artist-in-Residence Project, CEMREL, Inc. 1970.

Report on the 1969 pilot visual arts component Artists-in-Schools Program.

Distribution: CEMREL, Inc., 10646 St. Charles Rock Road, St. Ann, Missouri 63074, Price: $4.00 per copy.

Artists in Schools: Like a humming in the air, by Bennett Schiff, National Endowment for the Arts, 1973.

Report on Artists-in-Schools projects operating in Alabama, Minnesota, Wyoming, California, Nebraska and Rhode Island during 1971–72 school year.

Distribution: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, Price: $2.75 domestic post paid or $2.50 GPO book store, Stock number: 3600–00015.

Artists in the Classroom, Connecticut Commission on the Arts, 1973.

A "how-to" book on the AIS program published by the Connecticut Commission on the Arts, Education Programs.

Distribution: Connecticut Commission on the Arts, 340 Capitol Avenue, Hartford, Connecticut 06106.

A Directory of American Poets, Poets and Writers, Inc., 1973.

Includes names and addresses of 1300 poets and contemporary writers whose work has been published in the U.S. A 1974 volume will be available in September 1974.

Distribution: Poets and Writers, Inc., 201 West 54th Street, New York, New York 10019, Price: $6.00 paperbound, $12.00 hardbound.

A Documentation of the City Building Educational Program for the National Endowment for the Arts and Humanities Within the Los Angeles Unified School District, 1971–72.

Distribution: Doreen Nelson, Director, City Building Educational Program, Sulphur Springs Union School District, 18830 Soledad Canyon Road, Saugus, California 91351.

Joy To the Word! Writing Poems with Children in Georgia, Rosemary Daniell.

Distribution: Georgia Council for the Arts, Suite 706, 225 Peachtree Street, N.E., Atlanta, Georgia 30303.

FILMS

Dance Component[1]

Dancers in Schools, 16mm color, 28 minutes.

Filmmaker D. A. Pennebaker was commissioned to document aspects of the dance component of the Artists-in-Schools Program jointly sponsored by the National Endowment for the Arts and the U.S. Office of Education. Film captures the excitement of demonstration/workshops conducted in Alabama and California by Murray Louis, Virginia Tanner and Bella Lewitzky.

Distribution: Pennebaker, Inc., 56 West 45th Street, New York, New York 10036, Rental: $15.00, Sale: $250.00.

Move! 16mm color, 28 minutes.

Documentary film on aspects of Artists-in-Schools Dance Component. Includes San Francisco conference of dance company members, dance movement specialists and administrators (August 1972) and residency of Bella Lewitzky Dance Company and Susan Cambigue, dance movement specialist (Reno, Nevada—Spring, 1973). Filmmaker: Steeg Productions, Inc.

Distribution: Program Information, National Endowment for the Arts, Washington, D.C. 20506.

Film Component

Children of The Media, 16mm color, 28 minutes.

Film documents 1971–72 film component of the Artists-in-Schools Program. Filmmaker: Thomas McDonough.

Distribution: Center for Understanding Media, Inc., 75 Horatio Street, New York, New York 10014, Rental: $25.00, Sale: $250.00.

Poetry Component

Wishes, Lies, and Dreams, 16mm color, 28 minutes.

The distinguished New York poet, Kenneth Koch, is recorded in the poetry in the schools program in New York City Public Schools.

Distribution: Association-Sterling Films, 1701 N. Fort Myer Drive, Arlington, Virginia 22209, Rental: Free.

Music Component

Music in The Air, 16mm color, 28 minutes.

Documentary film on music component of Artists-in-Schools Program (1972–73 school year). Filmmaker: Don Lenzer Films.

Distribution: Program Information, National Endowment for the Arts, Washington, D.C. 20506.

Theatre Component

Children's Theatre of John Donahue, 16mm color, 28 minutes.

Filmmaker D. A. Pennebaker records the activities of the Children's Theatre Company of the Minneapolis Institute of the Arts in the Artists-in-Schools Program.

Distribution: Pennebaker, Inc., 56 West 45th Street, New York, New York 10036, Rental: $15.00, Sale: $250.00.

Visual Arts Component

Artist of the Arctic, 16mm color, 14 minutes.

Documentary film on the work of the Eskimo artist/craftsman in the schools at Point Barrow, Alaska. Filmmaker: Norman G. Dyhrenfurth.

Distribution: Alaska State Council on the Arts, 360 K Street, Suite 240, Anchorage, Alaska 99501.

See-Touch-Feel, 16mm color, 28 minutes.

Filmmaker Donald Wrye documents the 1969 pilot Artists-in-Schools Program in the visual arts.

Distribution: Association-Sterling Films, 1701 N. Fort Myer Drive, Arlington, Virginia 22209, Rental: Free.

GENERAL INFORMATION

THE BICENTENNIAL

The Endowment recognizes that the arts will play an important role in the celebration of our country's bicentennial. The Endowment welcomes this involvement on the part of artists and cultural organizations. The Endowment has an active interest in participating in these efforts, within funds available to it, and insofar as they are directed to professional creation and presentation of new works, improvement of artistic standards, preservation of our cultural heritage, and increasing the availability of the arts for all Americans. If funds under these guidelines are sought for projects deemed by the applicant to be related to the bicentennial, a brief description of this relationship should be made in the application.

RESOLUTION ON THE ACCESSIBILITY TO THE ARTS FOR THE HANDICAPPED

One of the main goals of the National Endowment for the Arts is to assist in making the arts available to all Americans. The arts are a right, not a privilege. They are central to what our society is and what it can be. The National Council on the Arts believes very strongly that no citizen should be deprived of the beauty and the insights into the human experience that only the arts can impart.

The National Council on the Arts believes that cultural institutions and individual artists could make a significant contribution to the lives of citizens who are physically handicapped. It therefore urges the National Endowment for the Arts to take a leadership role in advocating special provision for the handicapped in cultural facilities and programs.

The Council notes that the Congress of the United States passed in 1968 (Pub. L. 90–480) legislation that would require all public buildings constructed, leased or financed in whole or in part by the Federal Government

[1] A supplementary "How To" handbook for the Artists-in-Schools Dance Component accompanies the two dance component films. Filmmakers: Eric Breitbart and Alan Jacobs.

to be accessible to handicapped persons. The Council strongly endorses the intent of this legislation and urges private interests and governments at the State and local levels to take the intent of this legislation into account when building or renovating cultural facilities. (Adopted by the National Council on the Arts, September 15, 1973.)

LIST OF STATE ARTS AGENCIES AND OTHER COOPERATING ORGANIZATIONS

Alabama State Council on the Arts and Humanities, M. J. Zakrzewski, Executive Director, 322 Alabama Street, Montgomery, Alabama 36104, (205) 269–7804.

Alaska State Council on the Arts, Roy H. Helms, Executive Director, 360 K Street, Suite 240, Anchorage, Alaska 99501, (907) 279–3824 or 272–5342.

American Samoa Arts Council, Mrs. John M. Haydon, Chairman, Office of the Governor, Pago Pago, American Samoa 96920.

Arizona Commission on the Arts and Humanities, Mrs. Louise Tester, Executive Director, 6330 North 7th Street, Phoenix, Arizona 85014, (602) 271–5884 (office) or 228 Madison Avenue, Yuma, Arizona 85364, (602) 783–7244.

The Office of Arkansas State Arts and Humanities, Dr. R. Sandra Perry, Executive Director, 404 Train Station Square, Victory-at-Markham, Little Rock, Arkansas 72201, (501) 371–2539 or 2530.

California Arts Commission, James D. Forward, Executive Director, 808 "O" Street, Sacramento, California 95814, (916) 445–1530.

The Colorada Council on the Arts and Humanities, Robert N. Sheets, Executive Director, 1550 Lincoln Street, Room 205, Denver, Colorado 80203, (303) 892–2617 or 2618.

Connecticut Commission on the Arts, Anthony S. Keller, Executive Director, 340 Capitol Avenue, Hartford, Connecticut 06106, (203) 566–4770.

Delaware State Arts Council, Mrs. Sophie Consagra, Executive Director, Wilmington Tower, Room 803, 1150 Market Street, Wilmington, Delaware 19801, (302) 571–3540.

D.C. Commission on the Arts and the Humanities, Leroy Washington, Acting Director, 543 Munsey Building, 1329 E Street NW., Washington, D.C. 20004, (202) 347–5905 or 5906.

Fine Arts Council of Florida, S. Leonard Pas, Jr., Executive Director, c/o Department of the State, The Capitol Building, Tallahassee, Florida 32304, (904) 488–2416.

Georgia Council for the Arts, George Beattie, Director, 706 Peachtree Center, South Bldg., 225 Peachtree Street, NE., Atlanta, Georgia 30303, (404) 656–3990.

Insular Arts Council of Guam, Mrs. Louis Hotaling, Director, P.O. Box EK (University of Guam), Agana, Guam 96910, 729–2466.

Hawaii State Foundation on Culture and the Arts, Alfred Preis, Executive Director, 250 South King Street, Room 310, Honolulu, Hawaii 96813, (808) 548–4145.

Idaho State Commission on Arts and Humanities, Miss Suzanne Taylor, Executive Director, c/o State House, Boise, Idaho 83720, (208) 384–2119.

Illinois Arts Council, Mrs. Michele Brustin, Acting Director, 111 North Wabash Avenue, Room 1610, Chicago, Illinois 60602, (312) 793–3520.

Indiana Arts Commission, John Bitterman, Executive Director, Union Title Building, 155 East Market, Suite 614, Indianapolis, Indiana 46204, (317) 633–5649.

Iowa State Arts Council, Jack E. Olds, Executive Director, State Capitol Building, Des Moines, Iowa 50319, (515) 281–5297 or 262–2803.

Kansas Cultural Arts Commission, Jonathan Katz, Executive Director, 117 West 10th Street, Suite 100, Topeka, Kansas 66612, (913) 296–3335.

Kentucky Arts Commission, Miss Nash Cox, Executive Director, 100 W. Main Street, Frankfort, Kentucky 40601, (502) 564–3757.

Louisiana Council for Music and Performing Arts, Inc., Mrs. E. H. (Lucile) Blum, President, International Building, Suite 804, 611 Gravier Street, New Orleans, Louisiana 70130, (504) 525–7241.

Maine State Commission on the Arts and the Humanities, Alden C. Wilson, Acting Director, State House, Augusta, Maine 04330, (207) 289–2724.

Maryland Arts Council, James Backas, Executive Director, 15 West Mulberry, Baltimore, Maryland 21210, (301) 685–7470.

Massachusetts Council on the Arts and Humanities, Miss Louise G. Tate, 14 Beacon Street, Boston, Massachusetts 02108, (617) 727–3668.

Michigan Council for the Arts, E. Ray Scott, Executive Director, Executive Plaza, 1200 Sixth Avenue, Detroit, Michigan 48226, (313) 256–3735.

Minnesota State Arts Council, Ruth Humleker, Acting Director, 100 East 22nd Street, Minneapolis, Minnesota 55404, (612) 296–2059 or 339–7691.

Mississippi Arts Commission, Mrs. Shelby R. Rogers, Executive Director, State Executive Building, P.O. Box 1341, Jackson, Mississippi 39205, (601) 354–7336 or 266–7246, (University of Mississippi).

Missouri State Council on the Arts, Mrs. Emily Rice, Executive Director, 111 South Bemiston, Suite 410, St. Louis, Missouri 63105, (314) 721–1672.

Montana Arts Council, David E. Nelson, Executive Director, 235 East Pine, Missoula, Montana 59801, (406) 543–8286 or 543–8287.

Nebraska Arts Council, Gerald Ness, Executive Director, P.O. Box 1536, Omaha, Nebraska 68101, (402) 345–2542.

Nevada State Council on the Arts, Merle Snider, Acting Director, 560 Mill Street, Reno, Nevada 89502, (702) 784–6231 or 6232.

New Hampshire Commission on the Arts, John G. Coe, Executive Director, Phenix Hall, 40 North Main Street, Concord, New Hampshire 03301, (603) 271–2789.

New Jersey State Council on the Arts, Brann J. Wry, Executive Director, 27 West State Street, Trenton, New Jersey 08625, (609) 292–6130.

The New Mexico Arts Commission, John Wyant, Executive Director, Lew Wallace Building, State Capitol, Santa Fe, New Mexico 87501, (505) 827–2061.

New York State Council on the Arts, Eric Larrabee, Executive Director, 250 West 57th Street, New York, New York 10019, (212) 586–2040.

North Carolina Arts Council, Halsy North, Executive Director, N.C. Dept. of Cultural Resources, Raleigh, North Carolina 27611, (919) 829–7897.

North Dakota Council on the Arts and Humanities, John Hove, Chairman, Department of English, North Dakota State University, Fargo, North Dakota 58102, (701) 237–7143.

Ohio Arts Council, James W. Edgy, Executive Director, 50 West Broad Street, Suite 2840, Columbus, Ohio 43215, (614) 466–2613.

Oklahoma Arts and Humanities Council, William M. Andres, Executive Director, 4400 N. Lincoln Blvd., Suite 258, Oklahoma City, Oklahoma 73105, (405) 424–1606.

Oregon Arts Commission, Terry R. Melton, Executive Director, 328 Oregon Building, 494 State Street, Salem, Oregon 97301, (503) 378–3625.

Commonwealth of Pennsylvania Council on the Arts, Robert Bernat, Executive Director, 503 North Front Street, Harrisburg, Pennsylvania 17101, (717) 787–6883.

Institute of Puerto Rican Culture, Luis M. Rodriguez Morales, Executive Director, Apartado Postal 4184, San Juan, Puerto Rico 00905, (809) 723–2115.

Rhode Island State Council on the Arts, Mrs. Anne Vermel, Executive Director, 4365 Post Road, East Greenwich, Rhode Island 02818, (401) 884–6410.

South Carolina Arts Commission, Rick George, Executive Director, 1205 Pendleton Street, Columbia, South Carolina 29201, (803) 758–3442.

South Dakota State Fine Arts Council, Mrs. Charlotte Carver, Executive Director, 108 West 11th Street, Sioux Falls, South Dakota 57102, (605) 339–6646.

Tennessee Arts Commission, Norman Worrell, Executive Director, 222 Capitol Hill Building, Nashville, Tennessee 37219, (615) 741–1701.

Texas Commission on the Arts and Humanities, Maurice D. Coats, Executive Director, P.O. Box 13406, Capitol Station, Austin, Texas 78711, (512) 475–6593.

Utah State Division of Fine Arts, Wilburn C. West, Director, 609 East South Temple Street, Salt Lake City, Utah 84102, (801) 328–5895.

Vermont Council on the Arts, Inc., Peter Fox Smith, Executive Director, 136 State Street, Montpelier, Vermont 05602 (802) 828–3291.

Virginia Commission on the Arts and Humanities, Frank R. Dunham, Executive Director, 1215 State Office Building, Richmond, Virginia 23219, (804) 770–4492 or 770–3591.

Virgin Islands Council on the Arts, Stephen J. Bostic, Executive Director, Caravelle Arcade, Christiansted, St. Croix, U.S. Virgin Islands 00820, (809) 773–3075, x3.

Washington State Arts Commission, James L. Haseltine, Executive Director, 1151 Black Lake Boulevard, Olympia, Washington 98504, (206) 753–3860.

West Virginia Arts and Humanities Council, Norman Fagan, Executive Director, State Office Building 6, Rm. B–531, 1900 Washington Street, East, Charleston, West Virginia 25305, (304) 348–3711.

Wisconsin Arts Board, Jerrald Rouby, Executive Director, One West Wilson Street, Madison, Wisconsin 53702, (608) 266–0190.

Wyoming Council on the Arts, Michael Haug, Executive Director, 200 West 25th Street, Cheyenne, Wyoming 82002, (307) 777–7742.

COOPERATING ORGANIZATIONS

Center for Understanding Media, Inc., 75 Horatio Street, New York, New York 10014, (212) 989–1000.

New York Foundation for the Arts, Inc., 60 East 42nd Street, Room 935, New York, New York 10017, (212) 986–3140.

Poets and Writers, Inc., 210 West 45th Street, New York, New York 10019, (212) 757–2766.

San Francisco Poetry Center, San Francisco State College, San Francisco, California 94132, (212) 469–2227.

St. Paul Council of Arts and Sciences, 30 East 10th Street, St. Paul, Minnesota 55101, (212) 227–8241.

ADDENDUM

In submitting their application for Artists-in-Schools, SAAs will be formulating a program outline. The format of the program outline is suggested as follows:

FOR EACH COMPONENT

(1) Description of goals and objectives.

(2) Artist selection procedures.

(3) School responsibilities, provision of: Facilities, Personnel (in-school coordinators,

etc.), Ground transportation (if any) for artists.

(4) Component Implementation, Planning/Orientation: Workshops/meetings, Residencies, (A) Length, (B) Activities, Coordinator (if any).

(5) State Arts Agency Role.

(6) Other Related Aspects (e.g. Connection with Manpower Training Program, Elementary and Secondary Education Act, Emergency School Aid Act, consideration of questions itemized in this addendum, et cetera).

(7) Reporting, Format, and Deadline(s).

The following questions have been raised in discussions with the state arts agencies, artists, and Endowment consultants and are listed here in the belief that they may assist the states in the preparation of their program outlines.

QUESTIONS:

(1) How does the program outline insure the involvement of the best available professional and practicing artists in the AIS Program under the national guidelines?

How does the program outline insure standards and balance by art form consistent with the national guidelines?

(2) How is the program to avoid concentration in only affluent school districts?

(3) How does the program outline insure establishment of state selection panels (as required) in accordance with the national guidelines?

(4) How are matching funds to be secured?

(5) How will evaluation be accomplished? (Artists-in-Schools is an artist-oriented program, so evaluation efforts should be tailored to the special nature of the program. Strictly educational criteria may not always accommodate to the uniqueness of the Artists-in-Schools Program.)

What provision is being made for the inclusion of the artists' viewpoint to be included in the evaluation process?

(6) What indication is there of concentration on "in-depth" as opposed to "spread" activity?

(7) What plan exists to assure follow-up in the second year? (Follow up or take-over funding is an essential ingredient for a good program outline.)

(8) What provision is made for a state Artists-in-Schools coordinator? What provision is being made for in-school coordinators at the individual project sites? What provisions will be made for adequate release time for these coordinators? (Locally, someone on site should be able to free the artist from administrative work so he or she can spend the maximum amount of time doing what he or she was brought there to do.)

(9) What provision is being made to insure that artists meet together and with school personnel to discuss the program at the inception, mid-term and conclusion of the project?

(10) What provision is being made for the orientation of the teachers in the methods and techniques employed by artists?

(11) Is the flexibility required for the successful operation of the program provided? (e.g. joining of components, if desired).

(12) What joint planning is going on under AIS with state departments of education, local schools, state arts agencies, or other related state groups?

(13) How are artists being involved each step of the way in AIS planning along with teachers, coordinators, and administrators to insure that the artists are doing what they want to do and are capable of doing in the schools, and not what someone else thinks matching in yearly increments?

(14) What provision does the program outline have for avoiding misunderstanding by offering contracts which are carefully negotiated with artists? (consideration should be given to health and other benefits).

(15) What provision is there for showings of AIS films? What provision for dissemination of evaluation reports?

(16) Does the program outline encourage schools to assume a larger amount of cash matching in yearly increments?

(17) Does the program outline provide for early notification to the artist of continuation of the residency of the following year?

(18) What provision, if any, in the program outline is there for purchase of artists/works through state or local resources?

(19) What provision is there in the program outline for accreditation of teacher workshops given by artists?

(20) What provision is there in the program outline to assure optimum working spaces for artists?

(21) What provision is there in the program outline to explore with administrators the possibilities for allowing artists to work with students for more than the usual class period?

(22) What provision is there in the program outline for an exhibition of the work of the resident artist early in the school year? (This might help generate support and stimulate community interest in the project.)

[FR Doc.74-26434 Filed 11-11-74;8:45 am]

MUSEUM PROGRAM

Guidelines

The following are guidelines for the Museum Program under the National Endowment for the Arts, an independent agency of the Federal government which makes grants to organizations and individuals concerned with the arts throughout the United States.

Notice is hereby given that the deadlines for the various programs are as follows:

December 2, 1974—Museum Purchase Plan, Aid to Special Exhibitions, Services to the Field, Fellowship for Museum Professionals.

February 28, 1975—Utilization of Museum, Collections, Catalogue, Museum Training, Wider Availability of Museums.

June 13, 1975—Conservation, Renovation (Climate Control, Security, Storage), Services to the Field, Fellowships for Museum Professionals.

Interested persons should contact John Spencer, Director, Museum Program, National Endowment for the Arts, Washington, D.C. 20506, (202) 634-6164.

Signed at Washington, D.C., on 23d October 1974.

FANNIE TAYLOR,
Director, Program Information.

MUSEUM PROGRAM

INTRODUCTION

The Museum Program of the National Endowment for the Arts offers a number of program funding categories designed to:

(1) Assist museums in meeting the increased demands for their services by support of special exhibitions, or installation of the permanent collection (or its parts), of catalogues or cataloguing and in making the museum more accessible to its public.

(2) Assist in the training and preparation of the professional staff needed by museums to operate most efficiently and to serve in the best manner possible the needs of their public through support of training in museums and universities and through support of short leave programs for museum professionals.

(3) Assist museums in preserving the collections entrusted to their care through support of surveys for and installation of climate control, security and fire systems, improvement of storage facilities, through the training of conservators and through programs of aid in conserving individual objects.

(4) Assist museums and artists through purchase awards to museums for the acquisition of works of art by living American artists.

The Endowment will consider proposals for specific projects which do not fit into any one or a combination of the programs listed. See General Programs, page 10.

Applications will not be accepted for operating expenses, construction, the funding of new museums, or the acquisition of works, by other than living American artists. All such applications will be returned.

GENERAL INFORMATION

ELIGIBILITY

(1) By statute, the Endowment is limited to making grants to organizations only if no part of their net earnings inures to the benefit of a private stockholder or an individual and provided donations to such organizations are allowable as charitable contributions under Section 170(c) of the Internal Revenue Code of 1954, as amended. All organizations are required to submit a copy of their Internal Revenue Service tax exemption determination letter with each application.

(2) Organizations receiving National Endowment for the Arts support must conduct their operations in accordance with the requirements of Title VI of the Civil Rights Act of 1964, which bars discrimination in Federally assisted projects on the basis of race, color, or national origin.

(3) All laborers and mechanics employed by contractors or subcontractors on construction projects assisted by National Endowment for the Arts grant funds shall be employed and paid in accordance with applicable Federal minimum wags and labor standards (Parts 3 and 5, Title 29, Code of Federal Regulations).

(4) Museums, organizations serving museums, organizations providing museum functions, state arts agencies, regional arts groups, and currently employed museum professionals are eligible to apply. The Endowment generally uses the definition of museums developed by the American Association of Museums:

"* * * a nonprofit institution essentially educational or esthetic in purpose with professional staff, which owns and utilizes tangible objects, cares for them, and exhibits them to the public in some regular schedule."

Accreditation by the American Association of Museums is not a prerequisite for eligibility.

(5) Although there are no restrictions on the number of applications submitted by each organization, the limited funds available to the Endowment make it unlikely that more than one project can receive support under any one category or sub-category.

(6) To be eligible for consideration, projects should be of national or regional impact and should have aesthetic and cultural significance. Size of the institution is not a criterion, but rather, the nature of the project and the capacity of the institution to execute the project successfully.

(7) In general, to be eligible for consideration, organizations should be in operation two years prior to submitting an application.

(8) Although the Endowment welcomes the vitality of new programs and under all conditions encourages applicants to develop

new sources of funds, applications first and foremost should represent the genuine needs of the applicant organization. Accordingly, applicants may request support to strengthen existing programs. Also, under the Services to the Field, General Programs, Museum Training, Conservation (training and regional conservation centers), and Wider Availability of Museums categories, support may be requested for the same project for more than one year. In no instance, however, should organizations attempt to extend their programs beyond their capacity to accommodate and sustain the level of proposed expansion.

STATE/REGIONAL/NATIONAL COOPERATION

The Endowment actively encourages cooperation among museums, service organizations, state arts agencies, and regional arts groups. Applications may be submitted by any of these groups for projects under the appropriate categories listed in these guidelines. All applications which involve more than one group must include a list of participating organizations and a letter from each of them confirming its participation.

BICENTENNIAL PROJECTS

The Endowment recognizes that the arts will play an important role in the celebration of our country's bicentennial. The Endowment welcomes this involvement on the part of artists and cultural organizations. The Endowment has an active interest in participating in these efforts, within funds available to it, and insofar as they are directed to presentation of new works, improvement of artistic standards, preservation of our cultural heritage, and increasing the availability of the arts for all Americans. Bicentennial project applications will be considered within the context of the current program categories for museum assistance.

If funds under these guidelines are sought for projects deemed by the applicant to be related to the bicentennial, a brief description of this relationship should be made in the application. Applicants for bicentennial projects should observe the deadlines listed for the appropriate categories, e.g. Aid to Special Exhibitions, Renovation (Climate Control, Security, Storage), Conservation, Wider Availability of Museums, Catalogue, et cetera.

RESOLUTION ON ACCESSIBILITY TO THE ARTS FOR THE HANDICAPPED

"One of the main goals of the National Endowment for the Arts is to assist in making the arts available to all Americans. The arts are a right, not a privilege. They are central to what our society is and what it can be. The National Council on the Arts believes very strongly that no citizen should be deprived of the beauty and the insights into the human experience that only the arts can impart.

The National Council on the Arts believes that cultural institutions and individual artists could make a significant contribution to the lives of citizens who are physically handicapped. It therefore urges the National Endowment for the Arts to take a leadership role in advocating special provision for the handicapped in cultural facilities and programs.

The Council notes that the Congress of the United States passed in 1968 (Pub. L. 90-480) legislation that would require all public buildings constructed, leased or financed in whole or in part by the Federal Government to be accessible to handicapped persons. The Council strongly endorses the intent of this legislation and urges private interests and governments at the state and local levels to take the intent of this legislation into account when building or renovating cultural facilities.

The Council further requests that the National Endowment for the Arts and all of the program areas within the Endowment be mindful of the intent and purposes of this legislation as they formulate their own guidelines and as they review proposals from the field. The Council urges the Endowment to give consideration to all the ways in which the agency can further promote and implement the goal of making cultural facilities and activities accessible to Americans who are physically handicapped." (Adopted by the National Council on the Arts, September 15, 1973.)

METHODS OF FUNDING

(1) *Program funds method.* Generally, grants will be made on at least a dollar-for-dollar matching basis. Applicants requesting assistance from Program Funds must present evidence in the proper space (Section X) on the application (Project Grant Application/NEA-3 Rev.) that at least one-half of the total cost of the project will be provided by the applicant. Anticipated sources of matching must be identified. Budgeted funds, as well as newly raised funds, may be used for matching in all programs except Museum Purchase Plan.

Example:

If an applicant requests from NEA	$30,000
Then applicant lists match of at least	30,000
And total project budget reflects at least	60,000

(2) *Treasury fund method.* When the National Endowment for the Arts was created, Congress included a unique provision in its enabling legislation. This provision allows the Endowment to work in partnership with private and other non-Federal sources of funding for the arts. Designed to encourage and stimulate increased private funding for the arts, the Treasury Fund allows non-Federal contributors to join the Endowment in the grant-making process, generally for projects supported by the Endowment under the established program guidelines.

The Endowment encourages use of the Treasury Fund method as an especially effective way of combining Federal and private support, and as an encouragement to all potential donors, particularly those representing new or substantially increased sources of funds.

The Endowment may accept gifts in the form of money and other property. Bequests may be made to the Endowment as well. Donations to the Endowment are generally deductible for Federal income, estate, and gift tax purposes. Donations may be received from individuals (unless the person is a paid employee or paid consultant of the institution) and from groups or organizations. Donations may be made to the Endowment, under its regular program guidelines, for the support of a nonprofit, tax-exempt, cultural organization which has been notified that the Endowment intends to award it a grant—such as a museum, a symphony orchestra, a dance, opera, or theatre company—or for an Endowment program, such as fellowships, touring, conferences, or workshops. When a donation is received, it frees an equal amount from the Treasury Fund and the doubled amount is then made available to pay 50 percent of the project costs.

The Endowment also accepts unrestricted gifts to be used for projects recommended to the Chairman by the National Council on the Arts.

How a Treasury fund grant is arranged. Those interested in giving for a specific purpose should note the step by step process described below. We will use a museum as an example.

(1) If the project is eligible for consideration under the museum program guidelines, the museum submits to the Endowment a formal application, which may include a list of potential donors.

(2) The application is reviewed first by the appropriate Advisory Panel (in this case the Museum Advisory Panel) and then by the National Council on the Arts and is recommended for approval or rejection. Based on these recommendations, the Chairman makes the final determination and notification is sent to the museum.

(3) If the grant award is approved, the museum officials then request that the donors forward their contributions to the National Endowment for the Arts accompanied by a letter specifying the restricted purpose of the gift (i.e. the name of the museum and specific project supported).

Grantee as Collecting Agent. In order to simplify handling procedures for restricted donations which are to be matched by the Treasury Fund, grant recipients are encouraged to collect individual donations of cash or checks (including proceeds from benefits) made for the purpose of the grant and forward them to the Endowment in the form of a single check. If this method is used, the following conditions apply:

(1) The check representing the aggregate donations must be made payable to the National Endowment for the Arts and be accompanied by a list of donors' names, addresses, and amounts.

(2) A statement must also be forwarded with the aggregate check indicating that the check amount represents individual donations made to the grant recipient specifically for purposes of the Treasury Fund grant, and that the grant recipient will retain in its files evidence that the donation was made for such purposes. Generally a standard gift transmittal letter (of the type now in use) from each individual donor will suffice. In cases where benefit proceeds are to be so utilized, other material, such as benefit announcement circulars, posters, et cetera (which indicate donors had prior knowledge that their contributions would be used for the Treasury Fund), may be retained as evidence of donors' intent.

This procedure does not apply to pledges, each of which must be made to the National Endowment for the Arts and sent directly to National Endowment for the Arts. However, consistent with the above stated policy, payments on pledges may be made to and collected by the grantee organization, which then may forward such sums to the Endowment in aggregate form with a covering letter indicating that the sum is for application to, and reduction of, specifically named and unpaid pledges.

The process in terms of money

Donor's contribution(s) to the Endowment for	$25,000
Endowment matches from the Treasury Fund	25,000
	50,000
Therefore, amount of the Endowment grant is	50,000
Grantee's additional project cost	50,000
Total budget of project is at least	100,000

For further information, write to: Museum Program, National Endowment for the Arts, Washington, D.C. 20506.

APPLICATION REVIEW PROCEDURE

All applications will be evaluated with the following criteria in mind:

(1) The significance and the qualitative level of the project.

(2) The ability of the museum staff to undertake and successfully execute the project.

(3) The degree and nature of potential local, regional, and national impact of the project.

(4) The evident need for the project in relation to the museum's total program.

(5) A realistic appraisal of anticipated costs and income related to the project.

The Endowment's Museum Program staff initially reviews applications.

They are subsequently reviewed and considered by special committees, the Museum Advisory Panel and the National Council on the Arts. Upon recommendation of these bodies and action by the Chairman of the National Endowment for the Arts the applicant will be notified in writing by the Endowment. Details of the grant award procedure are explained in the letter of notification.

OTHER ARTS ENDOWMENT PROGRAMS

Applicants may be interested in other Arts Endowment Programs such as Architecture + Environmental Arts, Dance, Expansion Arts, Music, Public Media, Theatre, and Visual Arts. Guide to Programs, explaining all of the Endowment's programs, eligibility requirements, application deadlines may be obtained by writing Program Information, National Endowment for the Arts, Washington, D.C. 20506. Guidelines and application forms may be obtained only by contacting the appropriate Program office(s), National Endowment for the Arts, Washington, D.C. 20506.

OTHER FEDERAL PROGRAMS FOR MUSEUMS

National Endowment for the Humanities
Division of Public Programs
Museum Program
Washington, D.C. 20506

National Museum Act
Smithsonian Institution
Washington, D.C. 20560

National Science Foundation
Washington, D.C. 20550

CATEGORIES OF FUNDING

VISITING SPECIALISTS

(Applications accepted and reviewed throughout the year.). This program category provides matching grants for temporary consultation services for a specific project. As the title of the program implies, the Visiting Specialist should be:

(1) A person of considerable expertise.

(2) A person not in the employ of the applicant institution.

(3) A person who is not to be considered as permanent staff but rather a person who can make a significant contribution to the applicant institution during a brief tenure.

Some possible projects are:

(1) Research on the permanent collection.

(2) Preparatory research for projected exhibitions.

(3) Development of improved methods of museum operations, such as administration, registration, installation techniques, including lighting, handling, and storage.

(4) Establishment of suitable museum library systems.

(5) Studies to determine the changes necessary to make the building more accessible to the physically handicapped.

(6) Plans for membership drives and other fund raising activities.

(7) Guidance for better education and public service programs.

(8) Development of coordinated graphics program.

Applications for other types of museum consultation services will also be considered. Note: Applications for cataloguing all or a part of the permanent collection or for preparing catalogue copy for eventual publication will be considered under the Catalogue Category, see page 15. Applications for surveys of conservation needs of museum collections will be considered under the Conservation Category, see page 18. Applications for engineering surveys will be considered under the Renovation (Climate Control, Security, Storage) Category, See page 19.

Deadline. Applications are accepted and reviewed throughout the year. Eight months should be allowed for application review and notification.

Grant period and notification. Notices of approval or rejection will be sent no earlier than eight months after receipt of application. Programs should not be scheduled to begin before notification.

General range of grants. Up to $15,000.

How to apply. Please provide the following information in the project description (Section IV). (Attach no more than five additional pages if necessary.):

(1) Describe the project and the urgency of the need for a visiting specialist.

(2) How is the project related to the other activities of the museum?

(3) Identify the specialist and indicate his/her qualifications or attach a résumé (three copies). If you are considering a number of people for this project, submit their names and a description of their qualifications. In all cases, document the availability of the specialist.

GENERAL PROGRAMS

(Applications reviewed and accepted throughout the year.) The Endowment will consider proposals for specific projects which do not fit into any one or a combination of the categories listed. These grants will be awarded generally on a matching basis. Applications will not be accepted for operating expenses, construction, the funding of new museums or acquisition except under Museum Purchase Plan (see below).

Deadline. Applications are accepted and reviewed throughout the year. Eight months should be allowed for application review and notification.

Notification. Notices of approval or rejection will be sent no earlier than eight months after receipt of application. Projects should not be scheduled to begin before notification.

General range of grants. Up to $20,000.

How to Apply. Please provide the following information in the project description (Section IV). (Attach no more than five additional pages, if necessary.):

(1) The qualifications of person(s) involved in the project.

(2) The unique characteristics of the project.

(3) If this is an experimental or research project, the plans for disseminating information about the results of the project.

MUSEUM PURCHASE PLAN

(Deadline: December 2, 1974.) This program category provides matching grants of $5,000, $10,000, $15,000, or $20,000 to museums for the purchase of works by living American artists. The objectives of the program are to encourage museums to add to their collections of contemporary American art, to create and expand public response to works by living artists through display of their works, to raise new funds for this purpose specifically, and to provide direct financial assistance for artists.

Among the types of art works that might be purchased are paintings, sculptures, photographs, graphic, folk and craft arts, industrial designs, costume and fashion design, and film prints by independent filmmakers.

The terms of the grant are as follows:

(1) The grant and matching funds must be used for the direct costs of purchasing two or more works by living American artists. Insurance, crating, shipping, installation, salaries, and travel costs are not to be included.

(2) Museums may apply for a $5,000, $10,000, $15,000, or $20,000 grant. The funds must be matched on a dollar-for-dollar basis from new money raised during the grant period specifically for this purpose. Matching funds must not come from already budgeted funds and must be from non-Federal sources.

(3) The grant period will be from September 1, 1975, through August 31, 1976. If more time is needed the grant period may extend through August 31, 1977.

Deadline. Applications and Supplementary Information Sheets must be postmarked no later than December 2, 1974.

Notification. Projects should not be scheduled to begin earlier than September 1975. Also, the new funds raised specifically for the purpose of matching this grant may not be received before the beginning of the project or September 1975 whichever is later. Applicants may wish to identify possible sources of new funds on their applications. Notices of approval or rejection will not be sent before August 1975.

How to apply. (1) Previous Museum Purchase Plan recipients are eligible provided a final report on an earlier grant has been submitted to the Museum Program. If a final report has not been submitted, a copy must be submitted with the application.

(2) Be sure to complete and return with your application the Museum Purchase Plan Supplementary Information Sheets. See page 23.

AID TO SPECIAL EXHIBITIONS

(Deadline: December 2, 1974). This program category provides matching grants to organize temporary exhibitions of esthetic and cultural significance. Matching grants may be available, especially in the case of smaller museums, to borrow exhibitions.

Expenses for planning and organizing the exhibition, catalogue, services of an outside specialist and related events (excluding costs of opening reception) may be included in the total budget.

For touring exhibitions, the applicant (organizing institution) must indicate on the Supplementary Information Sheets how rental fees will be reduced if an Endowment grant is awarded. If a museum takes an exhibition that was funded by an Endowment grant, the applicant may include costs for installation and related events but not the rental fee. If, however a museum takes an exhibition that was not initially funded under an Endowment grant, it may include costs for installation, related events and the rental fee.

Applications for temporary exhibitions of the permanent collection should be submitted under the Utilization of Museum Collections category.

Exhibitions related to the bicentennial celebrations are encouraged and should be noted on the application.

Deadline. Applications and Supplementary Information Sheets must be postmarked no later than December 2, 1974.

Grant period and notification. Projects, which may include initial planning, should not be scheduled to begin earlier than September 1975. The grant period may exceed 12 months. Notices of approval or rejection will not be sent before August 1975.

General range of grants. Up to $75,000 for organizing institutions. Up to $20,000 for par-

ticipating institutions. Grant amounts exceeding $30,000 will generally be made through the Treasury Fund Method (see page 5).

How to Apply. (1) If a grant is awarded for an exhibition that includes catalogues, the grantee is required to deposit 150 complimentary copies of the catalogue with the USIA for distribution to their libraries abroad. Applicants are requested to make appropriate adjustment for the 150 copies in the budget.

(2) Please be sure to complete and return with your application the Aid to Special Exhibitions Supplementary Information Sheets. See page 27.

SERVICES TO THE FIELD

(Deadlines: December 2, 1974, June 13, 1975). This program category is designed to assist groups and organizations which provide services to the field such as research, publications, workshops. These grants will be awarded generally on a matching basis.

Deadline. Applications must be postmarked no later than the deadlines of December 2, 1974, or June 13, 1975.

Grant period and notification. For the December 2, 1974 deadline: Projects should not be scheduled to begin earlier than September 1975. Notices of approval or rejection will not be sent before August 1975.

For the June 13, 1975, deadline: Projects should not be scheduled to begin earlier than March 1976. Notices of approval or rejection will not be sent before February 1976.

General range of grants. Up to $30,000.

How to apply. Please provide the following information in the project description (Section IV). (Attach no more than five additional pages, if necessary.):

(1) The qualifications of person(s) involved in the project.

(2) How will the project benefit the field?

FELLOWSHIPS FOR MUSEUM PROFESSIONALS

(Deadline: December 2, 1974, June 13, 1975). Fellowships for museum professionals are to be awarded to professional members of museum staffs so that they may take leaves of absence for periods ranging from one to six months in order to study, conduct research, travel, write, engage in community projects or in other ways improve their professional qualifications. Proposals must be for specific projects and must clearly demonstrate in what way the leave of absence will improve the applicant's professional qualifications. Proposals, designed to be of direct benefit to the employing institutions should be made by the institution under the appropriate category and not by the individual.

Deadline. Applications must be postmarked no later than the deadlines, December 2, 1974, or June 13, 1975.

Grant period and notification. For the December 2, 1974, deadline: Projects should not be scheduled to begin earlier than September 1975. Notices of approval or rejection will not be sent before August 1975.

For the June 13, 1975, deadline: Projects should not be scheduled to begin earlier than March, 1976. Notices of approval or rejection will not be sent before February 1976.

Eligibility. Professional museum staff members of exceptional talent in areas such as administration, curatorial work, conservation or education.

General range of grants. Grants will be made to individuals on a non-matching basis with amounts varying according to the salaries of the applicants, travel requirements and the materials necessary for completion.

How to apply. (1) Applicants should use the "Individual Grant Application/NEA–2 (Rev.)."

(2) Each application should contain a description of the proposed project, an itemized budget including a salary item, travel (please provide a detailed breakdown of costs), and materials, if necessary.

(3) Applicants should indicate a specified period of time for the leave of absence.

(4) Complete the Career Summary Section of the application and/or attach a resume.

(5) Enclose a statement from the director of the museum to the effect that the museum is willing to grant the applicant a leave of absence for the specified time.

(6) Have three people complete the recommendation form (see page 35) and forward them to the Museum Program, National Endowment for the Arts, Washington, D.C. 20506, Attn: Fellowships for Museum Professionals.

Taxability of fellowships. The tax information on page 41 has been reprinted for your information. The Endowment cannot advise you as to the deductibility of all or any portion of a fellowship. Advice should be sought from your own tax counselor or local Internal Revenue Service Office.

UTILIZATION OF MUSEUM COLLECTIONS

(Deadline: February 28, 1975). This program category provides matching grants to assist museums in using their collections in imaginative ways for the benefit of the whole community they serve. The program provides funds for the innovative installation of permanent collections in museum galleries, or for the establishment of study-storage centers. Permanent collections may be construed to mean collections formerly in storage that are now to be put on view, recently received or acquired collections, objects presently on view that are now to be brought together or to be more effectively presented. Installation may be construed to include the materials and appurtenances requisite to effective presentation of the collection. Installation may not include major structural modifications of the building. Projects related to the bicentennial are encouraged and should be noted on the application.

Please Note. (1) Application for temporary exhibitions of the permanent collection should be submitted under this category and not under Aid to Special Exhibitions.

(2) Applications for costs of a catalogue or handbook to be produced in conjunction with a project supported under this category should be submitted under Catalogue.

Deadline. Applications must be postmarked no later than February 28, 1975.

Grant Period and Notification. The project should not be scheduled to begin earlier than December 1975. Notices of approval or rejection will not be sent before November 1975.

General range of grant. Up to $75,000. Grant amount exceeding $30,000 will generally be made through the Treasury Fund Method. See page 5.

How to apply. Please provide the following information in the project description (Section IV). (Attach no more than five additional pages, if necessary.):

(1) Be sure to identify the collection to be installed (has it ever been exhibited?) and the individual(s) who will be responsible. What are the qualifications of the person(s) involved?

(2) Include drawings of the proposed installation.

(3) How is the project related to your museum's purpose and direction and its existing programs and resources?

(4) Indicate any particular circumstances which give this project high priority in the museum's activities.

(5) Has the museum previously undertaken similar projects? If so, describe them.

CATALOGUE

(Deadline: February 28, 1975). This program category is designed to assist in the cataloguing of collections and in the publication of catalogues or handbooks on permanent collections of esthetic and cultural significance by matching grants. Projects related to the bicentennial are encouraged and should be noted on the application. Grants are available in the following areas:

Cataloguing. (1) Cataloguing of uncatalogued or inadequately catalogued permanent collections.

(2) Duplication of traditional catalogue information and/or conversion to machine readable form.

Publication. (1) Research and preparation of catalogue copy for publication. Services of an outside consultant may be included in the budget, if applicable.

(2) Publication of scholarly catalogues or handbooks of the whole or part of the permanent collection.

Where appropriate, applicants may wish to combine research and publication in the same application.

Deadline. Applications must be postmarked no later than February 28, 1975.

Grant period and notification. The project should not be scheduled to begin earlier than December 1975. The grant period may exceed 12 months. Notices of approval or rejection will not be sent before November 1975.

General Range of Grants. Up to $30,000.

How to Apply. Please provide the following information in the project description (Section IV). (Attach no more than five additional pages, if necessary.):

(1) The evident need for the project in relation to the museum's total need.

(2) A checklist or representative sample of the collection to be catalogued.

(3) The qualifications of the cataloguer.

(4) If you have catalogues of whole or part of the collection, submit a copy with your application (Note: These will not be returned).

(5) How many catalogues or handbooks will be published? Who will have the copyright? Please indicate approximate number of pages, black/white and color illustrations in the catalogue.

(6) If royalties are anticipated, please indicate amount.

(7) If a grant is awarded for a catalogue publication project, the grantee is required to deposit 150 complimentary copies of the catalogue with the USIA for distribution to their libraries abroad. Applicants are requested to make appropriate adjustments for the 150 copies in the budget.

MUSEUM TRAINING

(Deadline: February 28, 1975). This program category provides grants for the preparation of well-trained museum professionals. Grants in support of museum training are awarded to museums and universities on at least a dollar-for-dollar matching basis. Priority will be given to proposals which specifically include training for people from minority groups. Generally, the following types of projects will be considered for assistance:

(1) Graduate level programs in curatorial training, museum administration or museum education, conducted by universities, museums or both.

(2) Internships or other professional training provided by a museum. Specific programs designed to advance staff professionally will also be considered. For example, the program can support museum career training for persons who are suitably prepared in an appropriate discipline but who lack museum expertise. The program can also assist in provid-

ing in-house training to prepare permanent staff for more responsible positions.

(3) A few undergraduate programs especially those directed toward minorities or unique disciplines.

Deadline. Applications must be postmarked no later than February 28, 1975.

Grant period and notification. Projects should not be scheduled to begin earlier than November 1975. The grant period may exceed 12 months. Notices of approval or rejection will not be sent before October 1975.

General range of grants. Up to $60,000.

How to Apply. Please provide the following information in the project description (Section IV). (Attach no more than five additional pages if necessary.):

(1) The number of students.

(2) Teacher/student ratio.

(3) Qualifications of the teacher(s) involved.

(4) Description of intern program or of any other "on the job" training.

(5) Placement of most recent graduating class.

(6) Syllabus of the courses.

(7) If you have previously received an Arts Endowment grant for a training program, be sure to include a copy of the interim of final report with this application, if you have not already sent it to the Endowment.

WIDER AVAILABILITY OF MUSEUMS

(Deadline: February 28, 1975). This program category is directed toward encouraging full community participation in the activities of museums. This category is broadly conceived, and includes the means of taking the museum to its audience or of bringing the audience to the museum or programs to heighten awareness in the audience. Each proposal whether from a single museum or a cooperating group of museums must clearly indicate in what way or by what means the museum is to be made more widely available to its public. Proposals containing provisions for long-range continuity and effective evaluation will be given special consideration.

The educational programs of museums are an important factor in making museums more widely available to the public. Support will be provided, for example, to projects that seek ways to upgrade the quality of the museum experience, that seek ways to adopt for museum use educational techniques that were designed for the classroom, or that expand or explore effective approaches to museum education. Support can also be provided to existing projects that have been tested on a limited basis (perhaps as a pilot program) and are now judged by the applicant museum to have wider applicability.

Grants will generally be awarded on a matching basis. This program category does not support the creation of a new museum, operating expenses, construction or acquisition.

Deadline. Applications must be postmarked no later than February 28, 1975.

Grant period and notification. Projects should not be scheduled to begin earlier than November, 1975. Notices of approval or rejection will not be sent before October, 1975

General range of grants. Up to $60,000. Grant amounts exceeding $30,000 will generally be made through the Treasury Fund Method.

How to apply. Please provide the following information in the project description (Section IV). (Attach no more than five additional pages, if necessary.):

(1) Describe how this project relates to the museum's purpose, direction and past performance.

(2) Please indicate staff who will implement program and their qualifications.

(3) If you previously received an Arts Endowment grant for this project, be sure to include a copy of the Interim of Final Report with this application, if it has not already been submitted.

(4) How will the program be funded in the future?

CONSERVATION

(Deadline: June 13, 1975.) This program category provides matching grants for conservation projects, including staff support and purchase of equipment. Assistance is available within the following areas:

Training in conservation. (1) Support for existing training centers (grants up to $75,000).

(2) Assistance for new training centers (grants up to $100,000).

(3) Support for short-term training workshops for museum staff (grants up to $10,000).

Regional conservation centers. (1) Assistance for existing regional centers to increase capacity (grants up to $30,000).

(2) Assistance for new regional centers (grants up to $80,000).

Assistance to museums for conservation work on collections. (1) Technical consultation for planning programs for museum conservation work (grants up to $10,000).

(2) Implementation of conservation treatment (grants up to $10,000).

Deadline. Applications must be postmarked no later than June 3, 1975.

Grant period and notification. Projects should not be scheduled to begin earlier than March 1976. The grant period may exceed 12 months. Notices of approval or rejection will not be sent before February 1976.

General range of grants. Grant amounts exceeding $30,000 will generally be made through the Treasury Fund Method. See page 5.

How to apply. For Conservation Training Applications: Please provide the following information in the project description (Section IV). (Attach no more than five additional copies, if necessary.):

(1) The anticipated number of students.

(2) Describe the placement of the most recent graduating class.

(3) Describe the qualifications of the teaching staff.

(4) Describe the conservation facilities.

(5) If you previously received an Arts Endowment grant for this project, include a copy of the interim or final report with this application, if it has not already been submitted.

For Regional Conservation Centers Applications: Please provide the following information in the project description (Section IV). (Attach no more than five additional copies, if necessary.):

(1) Describe the nature of your regional center—cooperative association, confederation, et cetera.

(2) List the organizations you propose to serve. Have you received their agreement? If so, please attach copies.

(3) List your staff and briefly describe their qualifications.

(4) Describe your facilities and equipment.

(5) How soon do you expect to be self-supporting?

(6) If you previously received an Arts Endowment grant for this project, include a copy of the interim or final report with this application, if it has not already been submitted.

For Conservation of Collections Applications. Please provide the following information in the project description (Section IV):

(1) Describe your conservation needs.

(2) Where will the work be done and who is your conservator (consultant for planning)? Please describe his/her qualifications.

(3) Identify the work(s) to be treated and describe the nature of the treatment. If possible, please submit a condition report.

(4) What sum do you budget annually for conservation of the permanent collection?

RENOVATION (CLIMATE CONTROL, SECURITY STORAGE)

(Deadline: June 13, 1975). This category is designed to assist museums in preserving collections of aesthetic and cultural significance. It encourages renovation of facilities for climate control, security and storage in existing structures. Funds will not be available for new construction or for renovation of exhibition spaces except for climate control and/or security systems in these areas. The National Council on the Arts warmly endorses the President's statement of May 1972 urging the public and private sectors to preserve our treasures for generations to come and has recommended that this program be designated as a bicentennial program. Assistance is available within the following areas:

Survey. Priority will be given to requests for consultation services to assess renovation needs in the areas of climate control, security and storage and to suggest concrete measures to alleviate those needs. All grants for consultant's services will be awarded on at least a dollar-for-dollar matching basis.

Installation. Where surveys have already been completed, including a projected plan of renovation and cost estimates, the Endowment will consider funding renovation projects.

NOTE: All such grants will be awarded on the basis of at least three dollars from non-federal sources for every dollar of Endowment funds, i.e. the National Endowment for the Arts will be providing no more than 25% of the total project costs, and in most cases, much less. Grants will be made through the Treasury Fund Method. Applicants are encouraged to document their ability to use this Method, whenever possible on the application form. Please see page 5.

Deadline. Applications for this program must be postmarked no later than June 13, 1975.

Grant period and notification. Projects should not be scheduled to begin earlier than March 1976. The grant period (installation projects only) may exceed 12 months. Notices of approval or rejection will not be sent earlier than February 1976.

How to apply. For Survey Applications: Please provide the following information in the project description (Section IV). (Attach no more than five additional pages, if necessary.):

(1) Describe your collection.

(2) Who will do the survey? Submit copies of the estimates.

For Installation Applications: Please provide the following information in the project description (Section IV). (Attach no more than five additional pages, if necessary.):

(1) Describe your collection.

(2) Who will do the installation? Submit copies of the survey and bids or contracts.

TAX INFORMATION ON FELLOWSHIP GRANTS

FELLOWSHIPS

A fellowship grant generally means an amount paid or allowed to, or for the benefit of, an individual to aid him in the pursuit of study or research. The term also includes any amount received in the nature of a family allowance as a part of a fellowship grant.

A "research fellowship" grant awarded by the American Heart Association, Inc., to aid individuals in pursuing further training subject to the approval of the Association, qualifies as a fellowship grant.

However, "established investigatorship" awards given to individuals who have the ability to conduct independent research in the cardiovascular field are not fellowship grants since the primary purpose of the research activities is to benefit the grantor's program rather than to train the recipients.

Payments to National Teacher Corps teacher interns during training and in-service periods do not qualify as fellowships.

An award made by the National Foundation on the Arts and Humanities, an independent agency in the Executive Branch of the U.S. Government, to aid an individual in completion of his novel in progress, qualifies as a fellowship grant since it enables him to pursue a program of research, interpretation or original thought. Similarly, grants-in-aid by a tax-exempt foundation to creative writers to enable them to pursue their artistic talents without concern for making a living qualify as fellowship grants.

COMPENSATION FOR SERVICES

Payments that represent compensation for past, present, or future services performed by you are not excludable from gross income.

If the amounts you receive represent payment for services that are subject to the supervision or direction of the grantor, they do not qualify as "scholarships" or "fellowship" grants.

"Supervision or direction of the grantor" implies that the services are so subject to the grantor's discretion that they primarily benefit the grantor and only secondarily serve as an educational or research opportunity for the grantee.

In this context "supervision or direction of the grantor" goes beyond the supervision or direction which normally characterizes a student-teacher or instructor-trainee relationship.

Example 1. The constant direction or supervision a Certified Registered Nurse Anesthetist gives a student nurse so the student may receive the required clinical training to graduate is not "supervision or direction of the grantor" which would classify the compensation as primarily for the grantor's benefit and disqualify it as a scholarship or fellowship.

Example 2. A university established a work program as a requirement for a Bachelor of Science degree. Under the program the university assisted the students in securing outside employment.

Upon employment, it was solely within the discretion of the outside employer to determine what a student's activities were to be, based on the employer's needs. The students were paid amounts which equalled amounts received by regular employees with the same background.

Since the students were solely subject to the direction and supervision of the outside employer, their compensation could not be excluded from gross income as a scholarship or fellowship grant.

When resident physicians are paid stipends for medical research at a hospital and this research is optional, subject to the approval of the director of training, and the research findings are sometimes used in formulating management or treatment programs, the stipends are additional compensation and not scholarships or fellowship grants, since the duties performed primarily serve the operational needs of the hospital.

Amounts received by students for services performed on a research project, which a university contracted to perform for a consideration, are compensation regardless of how such consideration is designated. Such amounts are not converted to scholarships or fellowship grants merely because the research can be used for credits toward degrees or may be required to obtain a degree. Normally, if the services are required of all candidates for a particular degree (whether or not recipients of scholarships or fellowship grants) as a condition of receiving the degree, the compensation for the services may be excluded from gross income.

DOES YOUR GRANT QUALIFY

If there is some doubt as to the qualification of your grant, you first should consult the grantor. He may have received advice from the Internal Revenue Service about its appropriate tax treatment. You may also write to the District Director of the Internal Revenue Service for the district in which you reside or to the Commissioner of Internal Revenue, Washington, D.C. 20224, Attention: T:I:I:, for further information. Be sure to request the information as soon as possible, so that you can receive a timely answer for filing your return. If you request advice by mail be sure to include:

(1) A copy of the application for the grant.

(2) A copy of the grant itself.

(3) A statement as to whether you are a candidate for a degree. If not, include a list of grants received since January 1, 1954, while you were not a candidate for a degree, showing amounts excluded as scholarships and fellowship grants and the number of months for which such amounts were excluded.

(4) A statement as to whether any amounts are received specifically to cover expenses for travel, research, clerical help, or equipment incident to the scholarship or fellowship grant.

(5) A statement showing precisely what your duties and obligations are under the grant; for example, whether you have freedom of choice in your studies research or they are performed subject to supervision and control; also, whether they are accomplished during the course of a specific project of the grantor.

(6) A copy of any published literature or pamphlets describing the grant.

TAXATION OF SCHOLARSHIP AND FELLOWSHIP GRANTS

If your grant qualifies as a scholarship or fellowship grant, then the extent of the amount excludable from income will be determined by whether or not you are a candidate for a degree.

CANDIDATE FOR DEGREE

A candidate for a degree is an individual, whether an undergraduate or a graduate, who is pursuing studies or conducting research to meet the requirements for an academic or professional degree conferred by a college or university. It is not essential that the study or research be pursued or conducted at an educational institution that confers these degrees if its purpose is to meet the requirements for a degree of a college or university that does confer them. A student who receives a scholarship for study at a secondary school or other educational institution is considered to be a candidate for a degree.

The scholarship or fellowship grant of a candidate for a degree is fully excluded from income for the following:

(1) The basic scholarship or fellowship grant, which consists of the full amount of the grant and the value of any contributed services and accommodations (for example, room and board); plus

(2) Any amount received incident to the grant that is specifically designated to cover expenses for travel (including meals and lodging while traveling and an allowance for travel of the individual's family), research, clerical help, and equipment. To be excluded from income these amounts must actually be spent for the purpose of the grant.

Amounts received under the grant that represent payments for teaching, research, or other part-time employment required as a condition for receiving the grant are taxable, unless required as a condition of receiving a degree. If the grant also includes amounts for travel, research, clerical help, and equipment, the portion of these amounts attributable to the compensation is also included in income.

Studies leading to certification to practice a profession do not qualify you as a candidate for a degree.

Example 1. Miss Harris, a registered nurse, received a grant from a charitable foundation to attend a local university to take training leading to certification as a psychiatric nurse. Her studies for certification are not equivalent to being a candidate for a degree.

Example 2. Mr. Smith, who possesses a Ph. D. degree in psychology, accepted a grant from an educational institution to pursue a 4-year study program leading to certification enabling him to practice psychoanalysis.

The study program does not qualify Mr. Smith as a candidate for a degree.

GRADUATE STUDENT TEACHING ASSISTANTSHIPS

Generally, such teaching assistantships are includable in income. To be excludable from income, the graduate student teaching assistantship must meet the general requirements of a scholarship or fellowship grant. (See "Scholarship and Fellowship Grants," on page 2.)

It is immaterial that the teaching requirement is imposed on all candidates for the graduate degree since the exclusion from income is inapplicable unless it is first established that a scholarship or fellowship grant exists.

If you received 2 or more grants during the year, all the amounts should be totaled to determine what portion may be excluded from income. If these amounts are received during the same month or months within the year, each month is counted only once in determining the number of months in which you received amounts under the grants.

NOT A CANDIDATE FOR DEGREE

Individuals who are not candidates for degrees treat their scholarships or fellowship grants for tax purposes, in the following manner:

(1) The basic grant, which consists of the amount of the scholarship or fellowship plus the value of contributed services and accommodations such as room and board received incident to the grant, is excluded from income in any tax year to the extent of $300 times the number of months for which amounts under the grant were received during that year. There is a further limitation to the amount of this exclusion, discussed under the "36-month limit;" below.

(2) Amounts received incident to the grant that are specifically designated to cover expenses for travel (including meals and lodging while traveling, and an allowance for travel of the individual's family), research, clerical help, and equipment are fully excluded if actually spent for the stated purposes, but see below.

For an individual who is not a candidate for a degree to receive the tax benefit described above, the grantor of the scholarship or fellowship grant must be one of the following:

(1) A nonprofit organization exempt from Federal income tax and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or the prevention of cruelty to children or animals;

(2) A foreign government;

(3) An international organization, or a binational or multinational educational and cultural foundation or commission created or continued pursuant to the Mutual Educational and Cultural Exchange Act of 1961 (the Fulbright Hays Act); or

(4) The United States, or an instrumentality or agency thereof, a state, or a possession of the United States, or any political subdivision thereof, or the District of Columbia.

If the grantor is not one of these the grant is taxable income.

The limitation of $300 per month applies only to the basic grant. It does not apply to amounts received pertaining to the grant that are specifically designated to cover expenses for travel, research, clerical help, or equipment. Such amounts are generally entirely excludable if they are actually spent for these purposes during the term of the scholarship or fellowship grant or within a reasonable time before and after that term. If the amounts are not spent for these purposes they must be included in gross income unless they are returned to the grantor. If the amounts received to cover these expenses are not specifically so designated in the grant they are taxable whether or not spent.

36-month limit. The $300 per month exclusion may not be claimed for an aggregate of more than 36 months. These 36 months need not be consecutive. Each month for which such an individual receives (or has received) a grant counts, including those months during which he may have received less than $300. The claiming of the exclusion for the maximum period of 36 months by an individual who is not a candidate for a degree will not prevent the individual from claiming a further exclusion, as explained earlier in this publication, should he or she become a candidate for a degree.

If the basic grant becomes taxable because of the expiration of the 36-month benefit period, amounts pertaining to the basic grant received for travel, research, clerical help, or equipment also become taxable.

Example 1. Mr. Baker, who is not a candidate for a degree and has not exhausted his 36-month benefit period, was awarded a postdoctorate fellowship by a tax-exempt U.S. foundation to pursue specified studies at a university in State Y. Under the terms of the grant he is to receive $500 per month for the nine-month period beginning September 1972. He is also to receive $250 for research supplies. The State Y Educational Commission awarded him $400 to cover travel expenses. The university is contributing room and board, which has a value of $100 a month. He computes the amount of taxable income for the years 1972 and 1973 in the following manner:

1972:

Fellowship (4 mo×$500)	$2,000
Contributed room and board (4 mo×$100)	400
Travel expenses, $400 [1]	0
Research supplies, $250 [1]	0
Total	2,400
Exclusion (4 mo×$300)	1,200
Amount subject to tax	1,200

1973:

Fellowship (5 mo×$500)	2,500
Contributed room and board (5 mo×$100)	500
Total	3,000
Exclusion (5 mo×$300)	1,500
Amount subject to tax	1,500

[1] The last two items are excluded if they are spent for the designated purposes.

Example 2. All the facts are the same as in Example 1, except that Mr. Baker received his entire fellowship of $4,500 (9 months×$500) in September 1972.

1972:

Fellowship (9 mo×$500)	$4,500
Contributed room and board (4 mo×$100)	400
Total	4,900
Exclusion (9 mo×$300)	2,700
Amount subject to tax	2,200

1973:

Contributed room and board (5 mo×$100)	500
Exclusion	0
Total	500

Mr. Baker has no exclusion in 1973 because his $300 per month exclusion for the first five months of 1973 was applied in 1972. The grant must be considered for tax purposes in the year in which it is received. The amounts he received for travel and research supplies are not included in income if they are spent for the designated purposes.

Additional information and applications forms may be obtained from the Museum Program, National Endowment for the Arts, Washington, D.C. 20506.

[FR Doc.74-26433 Filed 11-11-74;8:45 am]

NATIONAL SCIENCE FOUNDATION

ROSS ICE SHELF PROJECT

Summary Statement of Proposed Federal Action Affecting the Environment

This summary statement is published pursuant to section 102 of the National Environmental Policy Act (P.L. 91-190) and the Guidelines of the Council on Environmental Quality (38 FR 20550, August 1, 1973).

The proposed Federal activity is in support of the Ross Ice Shelf Project (RISP) which involves investigations in the Antarctic of the physical, chemical, biological, and geological conditions on and in the Ross Ice Shelf, the water mass beneath the sea, and in the soft sediments and bedrock at the bottom of the sea.

The Ross Ice Shelf Project (RISP) will be conducted by the University of Nebraska on the Ross Ice Shelf in the Antarctic as a four-season field operation, 1973-74 and 1976-77. The main effort will involve drilling through the shelf to allow access to the water column and the sea floor below. The field effort of the first two years will employ explosion seismology and other suface geophysical and glaciological techniques to define details of a designated portion of the Ross Ice Shelf.

Several holes will be drilled: the first will be drilled to a depth of about 75 meters. Larger holes will then be drilled to allow access to the water and the sea floor beneath the ice shelf. Biological and oceanographic experiments in the sea water will then be possible. Drilling of the sea-floor bottom will also be done to remove sediment and rock samples.

Initially, a small base camp may be necessary near the first drill site; later, there will be a need for a camp to support up to 50 people for a period of five months.

No impacts of great magnitude or significance are anticipated. Those which do occur will be short-term and extremely localized, such as those associated with the field camp. Such impacts will be monitored throughout the RISP operations. Solid and liquid wastes will be removed from the site, or disposed of on-site by proven and accepted techniques which have been employed in both the Arctic and Antarctic.

During drilling into the sea bottom, there is the remote possibility of encountering an oil deposit under pressure. Planned preventive measures should render the uncontrolled release of hydrocarbons even less likely. Drilling will be held to reasonable depths with concurrent examination of cores for traces of hydrocarbons.

Copies of the draft Environmental Impact Statement are available from the Deputy Assistant Director for National and International Programs, National Science Foundation, Washington, D.C., 20550. Comments from Federal agencies, State and local entities, and private organizations and individuals, addressed as above, should be submitted on or before December 27, 1974.

Dated: November 4, 1974.

T. O. JONES,
Acting Assistant Director for National and International Programs.

[FR Doc.74-26436 Filed 11-11-74;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on November 7, 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), or from the reviewer listed.

NEW FORMS

DEPARTMENT OF DEFENSE

Department of the Army:
Kansas City Water Resources Urban Study Public and Private Water Supply Systems Survey Industrial and Power Utility Water Supply Systems Survey, Form ----, Single time, Weiner (395-4890), Lowry (395-3772), Water utilities and industries—Kansas City Region.
Kansas City Water Resources Urban Study Institutional Questionnaire Federal Institutions Questionnaire, Form ----, Single time, Weiner (395-4890), Lowry (395-3772), Water resource agencies in Kansas City Region.
Solar Control Window Film—User Information, Form CERL 104, Single time, Caywood (395-344), Bldg. owners or managers.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Outlook for Space Study Student Questionnaire, Form ----, Single time, ESD (395-3810), Caywood (395-3443), Students.

VETERANS ADMINISTRATION

Beneficiary Designation Form (VGLI and SGLI—Retired Reservists), Form SGL 175A Occasional, Caywood (395-3443), Retired reservists.

REVISIONS

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service: Regulations—Food Stamp Program and Disaster Procedures, Form ----, Occasional, Lowry (395-3772), State and local agencies.
Rural Electrification Administration: Monthly Operating Reports and Annual Supplement—REA Electric Borrowers, Form REA 12a, 12h, Annual, Lowry (395-3772), REA power supply borrowers.

EXTENSIONS

None.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.74-26595 Filed 11-11-74;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[File No. 500-1]

BBI, INC.

Suspension of Trading

NOVEMBER 4, 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 November 5, 1974 through November 14, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-26397 Filed 11-11-74;8:45 am]

[File No. 500-1]

NICOA CORP.

Suspension of Trading

NOVEMBER 4, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Nicoa Corporation being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from November 5, 1974 through November 14, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-26398 Filed 11-11-74;8:45 am]

SMALL BUSINESS ADMINISTRATION

SAN ANTONIO DISTRICT ADVISORY COUNCIL

Meeting

The Small Business Administration San Antonio District Advisory Council will meet at 9:30 a.m., Central Standard Time, Tuesday, December 3, 1974, at the Small Business Administration, Conference Room, 301 Broadway, San Antonio, Texas 78205, to discuss such business as may be presented by members, the staff of the Small Business Administration, and others attending. For further information, call or write James S. Reed, at the above address (512) 225-4966.

Dated: November 6, 1974.

JOHN JAMESON, *Director,*
Office of Advisory Councils,
Small Business Administration.

[FR Doc.74-26439 Filed 11-11-74;8:45 am]

TARIFF COMMISSION

[337-L-78]

CERTAIN HIGH FIDELITY AUDIO AND RELATED EQUIPMENT

Complaint Received

The United States Tariff Commission hereby gives notice of the receipt on July 26, 1974, of a complaint under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), filed by Audio Warehouse Sales, Inc., Washington, D.C., Douglas T.V. Hi-Fi Stereo Center Corp., Washington, D.C., and Plaza Audio Video, Inc., Hyattsville, Md., alleging unfair methods of competition and unfair acts, including but not limited to resale price maintenance, in the importation and sale of certain high fidelity audio and related equipment, which unfair acts have the effect or tendency to restrain or monopolize trade and commerce in the United States. The complaint names U.S. Pioneer Electronics Corp., Moonachie, N.J., and Pioneer Electronic Corp., Tokyo, Japan, as engaging in the unfair acts.

In accordance with the provisions of § 203.3 of its rules of practice and procedure (19 CFR 203.3), the Commission has initiated a preliminary inquiry into the issues raised in the complaint for the purpose of determining whether there is good and sufficient reason for a full investigation, and if so whether the Commission should recommend to the President the issuance of a temporary exclusion from entry under section 337(f) of the Tariff Act.

A copy of the complaint is available for public inspection at the Office of the Secretary, United States Tariff Commission, 8th and E Streets, NW., Washington, D.C., and at the New York City office of the Tariff Commission located at 6 World Trade Center.

Information submitted by interested persons which is pertinent to the aforementioned preliminary inquiry will be considered by the Commission if it is received not later than December 13, 1974. Extension of time for submitting information will not be granted unless good and sufficient cause is shown thereon. Such information should be sent to the Secretary, United States Tariff Commission, 8th and E Streets, NW., Washington, D.C. 20436. A signed original and nineteen (19) true copies of each document must be filed.

Issued: November 7, 1974.

By oredr of the Commission.

[SEAL] KENNETH R. MASON,
Secretary.

[FR Doc.74-26459 Filed 11-11-74;8:45 am]

DEPARTMENT OF LABOR

Office of the Secretary

VERMONT

Availability of Extended Unemployment Compensation

The Vermont Unemployment Compensation Law establishes a program of extended unemployment compensation in accordance with the provisions of the Federal-State Extended Unemployment Compensation Act of 1970, 84 Stat. 708. Extended unemployment compensation is payable under the program to unemployed workers who have received all of the regular unemployment compensation to which they are entitled, commencing when unemployment is high (according to indicators set forth in the law) and terminating when unemployment ceases to be high (according to indicators set forth in the law). Pursuant to section 203(b)(2) of the Federal-State Extended Unemployment Compensation Act of 1970, notice is hereby given that Madelyn Davidson, Commissioner of

the State of Vermont Department of Employment Security, has determined that there was a State "on" indicator in Vermont for the week ending October 5, 1974, and that an extended benefit period commenced with the week beginning October 20, 1974.

Signed at Washington, D.C., this 6th day of November 1974.

WILLIAM H. KOLBERG,
Assistant Secretary for Manpower.

[FR Doc.74-26432 Filed 11-11-74;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice 628]

ASSIGNMENT OF HEARINGS

NOVEMBER 7, 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 the date of this publication.

MC 138741 Sub 10, E. K. Motor Service, Inc., now being assigned January 14, 1975 (3 days), at Chicago, Ill., in Room 1086A, Everett McKinley Dirksen Building, 219 S. Dearborn St.

MC 117068 Sub 29, Midwest Harvestore Transport, Inc., now being assigned January 17, 1975 (1 day), at Chicago, Ill., in Room 1086A, Everett McKinley Dirksen Building, 219 S. Dearborn St.

MC 138896 Sub 6, Ajax Transfer Co. now assigned December 16, at St. Paul, Minn., is postponed indefinitely.

MC 119422 Sub 53, EE-Jay Motors Transports, Inc. Extension, now being assigned January 16, 1975, at the offices of The Interstate Commerce Commission, Washington, D.C.

MC 1872 Sub 79, Ashworth Transfer, Inc.; MC 32882 Sub 67, Mitchell Bros. Truck Lines; MC 95876 Sub 140, Anderson Trucking Service, Inc.; MC 107456 Sub 20, Harry L. Young and Sons, Inc.; MC 108119 Sub 40, E. L. Murphy Trucking Co.; MC 113855 Sub 258, International Transport, Inc.; MC 123407 Sub 134, Sawyer Transport Inc.; MC 123681 Sub 24, Wilding Transportation, Inc.; MC 125433 Sub 36, F-B Truck Line Company; and MC 127242 Sub 3, Houston Truck Lines, Inc., now assigned December 16, 1974, at Minneapolis, Minn., is postponed to February 3, 1975, at Minneapolis, Minn., in a hearing room to be later designated.

MC 108942 Sub 7, C. G. Todd Trucking Company, A Corporation; and MC 129635 Sub 3, Royal's Motor Service, Inc., now being assigned hearing January 14, 1975 (2 days), at Dallas, Texas, in a hearing room to be later designated.

MC 2229 Sub 182, Red Ball Motor Freight, Inc., now being assigned hearing January 16, 1975 (2 days), at Dallas, Tex., in a hearing room to be designated later.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74-26476 Filed 11-11-74;8:45 am]

FOURTH SECTION APPLICATIONS FOR RELIEF

NOVEMBER 7, 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 November 27, 1974.

FSA No. 42894—*Joint Water-Rail Container Rates—Kawasaki Kisen Kaisha, Ltd.* Filed by Kawasaki Kisen Kaisha, Ltd. (No. 12), for itself and interested rail carriers. Rates on general commodities, from rail stations on the U.S. Atlantic and Gulf Seaboard, to ports in Japan, Korea, Hong Kong, People's Republic of China, Taiwan, and The Republic of The Philippines.

Grounds for relief—Water competition.

Tariff—K-Line's Westbound Tariff No. 3, I.C.C. No. 3. Rates are published to become effective on December 10, 1974.

FSA No. 42895—*Joint Water-Rail Container Rates—Phoenix Container Liners, Ltd.* Filed by Phoenix Container Liners, Ltd. (No. 8), for itself and interested rail carriers. Rates on general commodities, from rail stations on the U.S. Atlantic and Gulf Seaboard, to ports in Japan, Korea, Hong Kong, and Taiwan.

Grounds for relief—Water competition.

Tariff—Phoenix Westbound Tariff No. 2, I.C.C. No. 2. Rates are published to become effective on December 10, 1974.

FSA No. 42896—*Joint Water-Rail Container Rates—Kawasaki Kisen Kaisha, Ltd.* Filed by Kawasaki Kisen Kaisha, Ltd. (No. 11), for itself and interested rail carriers. Rates on general commodities, between ports in The Republic of the Philippines, and rail stations on the U.S. Atlantic and Gulf Seaboard.

Grounds for relief—Water competition.

FSA No. 42897—*Joint Water-Rail Container Rates—Orient Overseas Line, Inc.* Filed by Orient Overseas Line, Inc. (No. 2), for itself and interested rail carriers. Rates on general commodities, between ports in Japan, Korea, Hong Kong, and Taiwan, and rail carriers-terminals on the U.S. Atlantic and Gulf Coasts.

Grounds for relief—Water competition.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74-26475 Filed 11-11-74;8:45 am]

[Notice 187]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

NOVEMBER 12, 1974.

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings on or before December 2, 1974. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-35458. By order of November 1, 1974, the Motor Carrier Board approved the lease to W. B. Tom, Jr., doing business as Swabo, Dayton, Texas, of Certificate of Registration No. MC-120571 (Sub-No. 1) issued October 11, 1973, to Dixie Vacuum Tanks, Inc., Beaumont, Texas, evidencing a right to engage in transportation in interstate commerce as described in a portion of Specialized Motor Carrier's Permanent Certificate of Convenience and Necessity No. 25479 issued by the Railroad Commission of Texas. Austin L. Hatchell, 1102 Perry Brooks Bldg., Austin, Texas, 78701, attorney for applicants.

No. MC-FC-75314. By order of November 4, 1974, the Motor Carrier Board approved the transfer to Travel & Tour Service, Inc., Milwaukee, Wisc., of License No. MC-12638, issued November 1974 to Regina Tours, Inc., Chicago, Ill., authorizing it to engage in operations as a broker of passengers and their baggage, beginning and ending at Chicago, Ill., and extending to points in the United States. William C. Dineen, 710 North Plankinton Ave., Milwaukee, Wisc. 53203, attorney for applicants.

No. MC-FC-75430. By order entered 10.30.74 the Motor Carrier Board approved the transfer to Greenwood Storage & Trucking Co., Inc., Greenwood,

Miss., of the operating rights set forth in Permits Nos. MC–111214, MC–111214 (Sub-No. 9), and MC–111214 (Sub-No. 11), issued by the Commission April 4, 1955, September 12, 1967, and April 9, 1974, respectively, to Clark V. Graham, doing business as Contract Trucking Company, Jackson, Miss., authorizing the transportation of cast building stone and concrete building blocks, precast concrete products, animal, fish, and poultry feed, and feed ingredients, from, to, or between points in Alabama, Arkansas, Louisiana, Mississippi, Misouri, and Tennessee. Donald B. Morrison, 717 Deposit Buaranty Bank Bldg., P.O. Box 22628, Jackson, Miss. 39205, attorney for applicants.

No. MC–FC–75460. By order of November 1, 1974, the Motor Carrier Board approved the transfer to Olin L. Chamberlain, Covington, Pa., of the operating rights in Certificate No. MC–115337 issued January 25, 1956, to John J. Antonio, Mansfield, Pa., authorizing the transportation of passengers and their baggage, in round-trip charter operations, and in special operations in round-trip sightseeing or pleasure tours, beginning and ending at Knoxville, Elkland, Lawrenceville, Westfield, and points in the Townships of Lawrence, Elkland, Osceola, Nelson, Deerfield, Brookfield, Westfield, and Farmington, Rioga County, Pa., and extending to points in New York, New Jersey, Maryland, Ohio, West Virginia, and the District of Columbia. Herbert R. Nurick, 100 Pine St. Harrisburg, Pa. 17108, attorney for applicants.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74-26477 Filed 11-11-74;8:45 am]

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY

Elimination of Gateway Applications

NOVEMBER 7, 1974.

The following applications 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(d)(2)), and notice thereof to all interested persons is hereby given as provided in such rules.

Carriers having a genuine interest in an application may file an original and three copies of *verified statements* in opposition with the Interstate Commerce Commission on or before December 12, 1974. (This procedure is outlined in the Commission's report and order in *Gateway Elimination*, 119 M.C.C. 530.) A copy of the verified statement in opposition must also be served upon applicant or its named representative. The verified statement should contain all the evidence upon which protestant relies in the application proceeding, including a detailed statement of protestant's interest in the proposal.

No. MC 59531 (Sub-No. 98G), (Correction), filed June 4, 1974, published in the FEDERAL REGISTER October 1, 1974. Applicant: AUTO CONVOY CO., 3020 South Haskell Ave., Dallas, Tex. 75223. Applicant's representative: Robert D. Schuler, 100 West Long Lake Road, Bloomfield Hills, Mich. 48013. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Automobiles, trucks, and chassis*, in initial and secondary movements, in truckaway and driveaway service, between points in Louisiana, on the one hand, and, on the other, points in Oklahoma and Texas. The purpose of this filing is to eliminate the gateway of Dallas, Tex. The purpose of this correction is to correct the gateway.

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 Nov. 22, 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 1931 (Sub-No. E51), filed June 2, 1974. Applicant: VONDER AHE VAN LINES, INC., 600 Rudder Ave., Fenton, Mo. 63026. Applicant's representative: Russell L. Von Der Ahe (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Maine, on the one hand, and, on the other, points in Arizona (points in Colorado and Utah*), points in Minnesota (Boston, Mass.*), points in Iowa (Boston, Mass.*), points in Mississippi (Boston, Mass., and points in Illinois*), points in that part of Alabama on, east, and north of a line beginning at the Alabama-Tennessee State line, thence along U.S. Highway 231 to junction Alabama Highway 12, thence along Alabama Highway 12 to junction U.S. Highway 29, thence along U.S. Highway 29 to the Alabama-Georgia State line (Boston, Mass., and points in Illinois or Florida*), and points in that part of New York on, west, and south of a line beginning at the St. Lawrence River, thence along Interstate Highway 81 to junction New York Highway 26, thence along New York Highway 26 to junction New York Highway 28, thence along New York Highway 28 to junction U.S. Highway 4, thence along U.S. Highway 4 to the New York-Vermont State line (Boston, Mass.*). The purpose of this filing is to eliminate the gateways designated by asterisks above.

No. MC 24999 (Sub-No. E12), filed November 1, 1974. Applicant: ALLEN TRANSFER COMPANY, INC., 221 Reeser Road, Camp Hill, Pa. 17011. Applicant's representative: Thomas R. Kingsley, 1819 H. Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, (1) between points in Minnesota, on the one hand, and, on the other, points in that part of Oklahoma in, east, and south of Jackson, Kiowa, Caddo, Canadian, Logan, Payne, Pawnee, and Osage Counties; (2) between points in that part of Oklahoma in and west of Harmon, Greer, Washita, Custer, Blaine, Kingfisher, Noble, and Kay Counties, on the one hand, and, on the other, points in that part of Minnesota in and east of Faribault, Blue Earth, Nicolett, Sibley, McLeod, Meeker, Stearns, Douglas, Otter Tail, Clay, Norman, Polk, Marshall, and Kittson Counties; (3) between points in Kansas, on the one hand, and, on the other, points in that part of Minnesota in and east of Lake of the Woods, Beltrami, Clearwater, Hubbard, Wadena, Todd, Morrison, Benton (except St. Cloud), Sherburne (except St. Cloud), Wright, McLeod, Sibley, Nicollet, Blue Earth, and Faribault Counties; and (4) between points in Minnesota in and west of Roseau, Marshall, Pennington, Red Lake, Polk, Mahnomen, Becker, Otter Tail, Douglas, Stearns, Meeker, Renville, Redwood, Brown, Watonwan, and Martin Counties, on the one hand, and, on the other, points in that part of Kansas in and east of Leavenworth, Johnson, Franklin, Anderson, Allen, Neosho, and Montgomery Counties. The purpose of this filing is to eliminate the gateways of Des Moines, Iowa, and Marshalltown, Iowa, and points within 100 miles thereof.

No. MC 59150 (Sub-No. E47), filed May 28, 1974. Applicant: PLOOF TRANSFER COMPANY, INC., P.O. Box 47, Station C, 1901 Hill Street, Jacksonville, Fla. 32206. Applicant's representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, Fla. 32207. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plywood*, (1) from points in that part of Florida in and east of Leon and Wakulla Counties, to points in Tennessee; and (2) from points in that part of Florida in and west of Gadsden, Liberty, and Franklin Counties, to points in that part of Tennessee in and east of Sumner, Wilson, Cannon, Coffee, Bedford, and Lincoln Counties. The purpose of this filing is to eliminate the gateway of the plantsite of Panel Products Company at or near Lithonia, Ga.

No. MC 83539 (Sub-No. E35), filed June 4, 1974. Applicant: C & H TRANSPORTATION, 2010 W. Commerce St., P.O. Box 5976, Dallas, Tex. 75222. Applicant's representative: Kenneth Weeks (same as above). Authority sought to op-

erate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Commodities*, which because of size or weight require the use of special equipment, and *parts* of such commodities when moving in connection therewith; and (2) *Self-propelled articles*, each weighing 15,000 pounds or more, and *related machinery, tools, parts, and supplies*, moving in connection therewith, between points in Missouri, on the one hand, and, on the other, points in Texas. Restriction: The operations authorized in (1) above are restricted against the stringing or picking up of commodities in connection with main or trunk pipelines. The operations in (2) above are restricted to commodities which are transported on trailers. The purpose of this filing is to eliminate the gateways of points in Kansas or points in that part of Texas north of U.S. Highway 80 and east of U.S. Highway 281.

No. MC 83539 (Sub-No. E36) filed June 4, 1974. Applicant: C & H TRANSPORTATION, 2010 W. Commerce St., P.O. Box 5976, Dallas, Tex. 75222. Applicant's representative: Wiley C. Willingham (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, which because of size or weight require the use of special equipment, and *related machinery parts* and *related contractor's materials and supplies*, when their transportation is incidental to the transportation by carrier of commodities which because of size or weight require special equipment, between points in that part of California in and south of Sonoma, Napa, Yolo, Sacramento, and El Dorado Counties, on the one hand, and, on the other, Duluth, Minn., and points in Carlton, Pine, Kanabec, Isanti, Chisago, Washington, Ramsey, Anoka, Hennepin, Dakota, Rice, Steele, Freeborn, Goodhue, Dodge, Mower, Wabasha, Olmsted, Winona, Fillmore, and Houston Counties, Minn. The purpose of this filing is to eliminate the gateway of points in Illinois.

No. MC 83539 (Sub-No. E37), filed June 4, 1974. Applicant: C & H TRANSPORTATION, 2010 W. Commerce Street, P.O. Box 5976, Dallas, Tex. 75222. Applicant's representtive: Kenneth Weeks (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Heavy machinery*, which because of size or weight requires the use of special equipment, between points in the District of Columbia, on the one hand, and, on the other, points in Vermont (except points in Bennington and Windham Counties). The purpose of this filing is to eliminate the gateway of Philadelphia, Penn., East Port Chester, Conn., Worcester, Mass., and points in New York.

No. MC 83539 (Sub-No. E38), filed June 4, 1974. Applicant: C & H TRANSPORTATION, 2010 W. Commerce St., P.O. Box 5976, Dallas, Tex. 75222. Applicant's representative: Kenneth Weeks (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Heavy machinery*, which because of size or weight requires the use of special equipment, between points in New Hampshire, on the one hand, and, on the other, points in Oregon, Washington (Worcester, Mass., points in New York, Pennsylvania, and points in that part of Montana on and south of a line extending north and south through Dupuyer and Butte *), and Wyoming (Worcester, Mass., points in New York and Pennsylvania *); and (2) *Commodities*, which because of size or weight require the use of special equipment, between points in Rhode Island, on the one hand, and, on the other, points in Arkansas (Philadelphia and Braddock, Pa.*). The purpose of this filing is to eliminate the gateways designated by the asterisks above.

No. MC 83539 (Sub-No. E58), filed June 4, 1974. Applicant: C & H TRANSPORTATION CO., INC., 2010 W. Commerce St., P.O. Box 5976, Dallas, Tex. 75222. Applicant's representative: Kenneth Weeks (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Commodities*, which because of size or weight, requires the use of special equipment, and *related machinery parts and related contractors' materials and supplies* when their transportation is incidental to the transportation of commodities, which because of size or weight require the use of special equipment; and (2) *Self-propelled articles*, each weighing 15,000 pounds or more, and *related machinery, tools, parts, and supplies* moving in connection therewith, between points in that part of Idaho on and north of U.S. Highway 12, on the one hand, and, on the other, points in Utah. Restriction: The operations authorized in (2) above are restricted to commodities which are transported on trailers. The purpose of this filing is to eliminate the gateway of points in that part of Montana on and west of a line extending north and south through Dupuyer and Butte.

No. MC 83539 (Sub-No. E59), filed June 4, 1974. Applicant: C & H TRANSPORTATION CO., INC., 2010 West Commerce St., P.O. Box 5976, Dallas, Tex. 75222. Applicant's representative: Kenneth Weeks (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, which because of size or weight, require the use of special equipment, and *parts* of such commodities when moving in connection therewith, between points in Texas, on the one hand, and, on the other, points in that part of Minnesota on and south of a line beginning at the Minnesota-South Dakota State line, thence along U.S. Highway 212 to junction U.S. Highway 23, thence along U.S. Highway 23 to Duluth. Restriction: The operations authorized herein are restricted against service performed in the stringing or picking up of the above commodities in connection with main or trunk pipelines. The purpose of this filing is to eliminate the gateway of points in Illinois.

No. MC 83539 (Sub-No. E60), filed June 4, 1974. Applicant: C & H TRANSPORTATION CO., INC., 2010 W. Commerce St., P.O. Box 5976, Dallas, Tex. 75222. Applicant's representative: Kenneth Weeks (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, which because of size or weight, require the use of special equipment, and *parts* of such commodities when moving in connection therewith, between points in Delaware, on the one hand, and, on the other, points in Mississippi (except points in that part of Mississippi in and south of Lauderdale, Newton, Scott, Smith, Simpson, Lawrence, and Walthall Counties). The purpose of this filing is to eliminate the gateway of Philadelphia and Braddock, Pa.

No. MC 106401 (Sub-No. E24), filed May 13, 1974. Applicant: JOHNSON MOTOR LINES, INC., P.O. Box 10877, Charlotte, N.C. 28234. Applicant's representative: Thomas G. Sloan (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), between points in Russell County, Ala., on the one hand, and, on the other, Graniteville, S.C. The purpose of this filing is to eliminate the gateway of Columbus, Ga.

No. MC 106401 (Sub-No. E25), filed May 13, 1974. Applicant: JOHNSON MOTOR LINES, INC., P.O. Box 10877, Charlotte, N.C. 28234. Applicant's representative: Thomas G. Sloan (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), between Russell County, Ala., on the one hand, and, on the other, that area of West Virginia on and north of a line extending from the Ohio-West Virginia State line near Point Pleasant along U.S. Highway 35 to the junction of U.S. Highway 60, thence along U.S. Highway 60 to Charleston, thence along U.S. Highway 119 to the junction of West Virginia Highway 4 at Clendenin, thence along West Virginia Highway 4 to the Braxton County line, thence along the southern and eastern boundary of Braxton County to the southern boundary of Lewis County to the Lewis-Upshur County line, thence along the southern boundary of Upshur County to junction of unnumbered highway east of Czar, thence along

unnumbered Highway via Blue Rock and Adolph to the junction of U.S. Highway 219 at Mill Creek, thence along U.S. Highway 250 via Huttonsville and Cheat Bridge to the Randolph County line, thence along the southern boundary line of Randolph County to the Randolph-Pendleton County line, thence along Pendleton County line to West Virginia Highway 28, thence along West Virginia 28 via Cherry Grove to junction U.S. Highway 33, thence along U.S. Highway 33 to the West Virginia-Virginia State line, and points in Pennsylvania on and west of U.S. Highway 219. The purpose of this filing is to eliminate the gateways of Columbus, Ga., and Belpre, Ohio.

No. MC 106401 (Sub-No. E26), filed May 13, 1974. Applicant: JOHNSON MOTOR LINES, INC., P.O. Box 10877, Charlotte, N.C. 28234. Applicant's representative: Thomas G. Sloan (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), between points in Russell County, Ala., on the one hand, and, on the other, points in Charleston, Georgetown, Horry, Berkeley, Dorchester and Colleton Counties, S.C. The purpose of this filing is to eliminate the gateways of Columbus, Ga., and Charleston, S.C., and points within 10 miles thereof.

No. MC–106401 (Sub-No. E27), filed May 13, 1974. Applicant: JOHNSON MOTOR LINES, INC., P.O. Box 10877, Charlotte, N.C. 28234. Applicant's representative: Thomas G. Sloan (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), from points in Alamance, Burke, Cabarrus, Caldwell, Catawba, Chatham, Cumberland, Davidson, Davie, Durham, Forsyth, Guilford, Granville, Harnett, Iredell, McDowell, Mecklenburg, Moore, Orange, Randolph, Rowan, Stokes, Surry, and Stanly Counties, N.C. (except points on U.S. Highway 29 between the Gaston-Mecklenburg County line and Charlotte, points on Highway 49 between Charlotte and the junction of unnumber Highway just south of Concord), points on unnumbered Highway between junction of North Carolina Highway 49 and Concord; points on Alternate U.S. Highway 29 between Concord and junction of U.S. Highway 29; points on U.S. Highway 29 between junction of Alternate U.S. Highway 29 and High Point; points on Alternate U.S. Highway 29 between High Point and Greensboro; points on Alternate U.S. Highway 70 between Greensboro and junction of U.S. Highway 70; points on U.S. Highway 70 between junction of Alternate U.S. Highway 70 and Durham; points on U.S. Highway 15 between Durham and Oxford; points on U.S. Highway 158 between Oxford and the Granville-Vance County line; points on U.S. Highway 220 between the Montgomery-Randolph County line and the junction of U.S. Highway 331, south of Randleman; points on U.S. Highway 311 between junction of U.S. Highway 220 and High Point; points on U.S. Highway 70 between Durham and junction of U.S. Highway 24 (formerly unnumbered U.S. Highway); points on North Carolina Highway 54 between junction of U.S. Highway 70 and the Durham-Wake County line; points on U.S. Highway 29 between Greensboro and the Guilford-Rockingham County line; points on U.S. Highway 70 between Salisbury and Hickory; points on U.S. Highway 321 between Hickory and junction of Alternate U.S. Highway 321; and points on Alternate U.S. Highway 321 between junction of U.S. Highway 321 to Valmead), to points in Russell County, Ala. The purpose of this filing is to eliminate the gateways of Graniteville, S.C., and Columbus, Ga.

No. MC 107515 (Sub-No. E477), filed June 4, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: R. M. Tettlebaum, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, 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, in vehicles equipped with mechanical refrigeration, from Galveston, Tex., to points in Ohio and that part of Kentucky on and east of Kentucky Highway 61. The purpose of this filing is to eliminate the gateway of Carrollton, Ga.

No. MC 107515 (Sub-No. E478), filed June 4, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: R. M. Tettlebaum, Suite 375, 3379 Peachtree Rd., NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products*, 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), in vehicles equipped with mechanical refrigeration, from Abilene, Tex., to points in that part of Ohio on and north of a line beginning at the Kentucky-Ohio State line at or near the junction of U.S. Highway 25 and Interstate Highway 275 southeast of Cincinnati, thence along Interstate Highway 275 to junction Ohio Highway 4, thence along Ohio Highway 4 to junction Ohio Highways 177, thence along Ohio Highway 177 to the Indiana-Ohio State line, Mariemont, Brentwood, and Newtown, Ohio, and points in their commercial zones. The purpose of this filing is to eliminate the gateway of Carrollton, Ga.

No. MC 107515 (Sub-No. E479), filed June 4, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: R. M. Tettlebaum, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from points in South Carolina, to that part of Kentucky on and west of a line beginning at the Kentucky-Ohio State line, thence along Interstate Highway 75 to Lexington, thence along U.S. Highway 27 to the Kentucky-Tennessee State line. The purpose of this filing is to eliminate the gateway of Gainesville, Ga.

No. MC 107515 (Sub-No. E480), filed June 4, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: R. M. Tettlebaum, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from that part of South Carolina on and west of a line beginning at the North Carolina-South Carolina State line, thence along U.S. Highway 25 to Greenville, thence along Interstate Highway 26 to the Atlantic Ocean, to that part of Ohio on and west of a line beginning at Lake Erie, thence along U.S. Highway 58 to junction Interstate Highway 71, thence along Interstate Highway 71 to Columbus, thence along U.S. Highway 23 to the Ohio-Kentucky State line. The purpose of this filing is to eliminate the gateway of Gainesville, Ga.

No. MC 107515 (Sub-No. E481), filed June 4, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: R. M. Tettlebaum, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts* as described in Section A of the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides, commodities in bulk, canned commodities, and chili con carne), in vehicles equipped with mechanical refrigeration, from Houston, Austin, and San Angelo, Tex., and the plantsite of Armour and Co., at Jetero, Tex., to Covington, Ky., and points in Ohio. The purpose of this filing is to eliminate the gateway of Carrollton, Ga.

No. MC 107515 (Sub-No. E482), filed June 4, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: R. M. Tettlebaum, Suite

375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from points in South Carolina, to points in Missouri, Minnesota, Nebraska, Iowa, Wisconsin, Illinois, Indiana, Texas, Oklahoma, and Arkansas. The purpose of this filing is to eliminate the gateway of Gainesville, Ga.

No. MC 107515 (Sub-No. E483), filed June 4, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: R. M. Tettlebaum, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen edible meats and meat products*, from points in South Carolina, to points in that part of Kentucky on and east of U.S. Highway 431. The purpose of this filing is to eliminate the gateway of Bristol, Tenn.

No. MC 107515 (Sub-No. E484), filed June 4, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: R. M. Tettlebaum, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fresh and cured meats*, in vehicles equipped with mechanical refrigeration, from points in South Carolina, to points in Texas, Oklahoma, and that part of Arkansas on and west of U.S. Highway 65. The purpose of this filing is to eliminate the gateways of (1) any point that is both within ten miles of Atlanta, Ga., and within the Atlanta commercial zone, except Atlanta, and (2) Montgomery, Ala.

No. MC 107515 (Sub-No. E485), filed June 4, 1974. Applicant: REFRIGERATED TRANSPORT CO., Inc., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: R. M. Tettlebaum, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cheese*, in vehicles equipped with mechanical refrigeration, from points in South Carolina, to points in Texas. The purpose of this filing is to eliminate the gateway of (1) any point that is both within ten miles of Atlanta, Ga., and within the Atlanta Commercial zone, except Atlanta, and (2) Chattanooga, Tenn.

No. MC 107515 (Sub-No. E487), filed June 4, 1974. Applicant: REFRIGERATED TRANSPORT CO., Inc., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: R. M. Tettlebaum, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fresh and cured meats*, from Burris, Tex., to points in that part of Florida on and east of Florida Highway 85. The purpose of this filing is to eliminate the gateway of Albany, Ga.

No. MC 107515 (Sub-No. E488), filed June 4, 1974. Applicant: REFRIGERATED TRANSPORT CO., Inc., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: R. M. Tettlebaum, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Unfrozen meats and meat products* (except commodities in bulk), from Norfolk, Va., to points in Massachusetts. The purpose of this filing is to eliminate the gateway of Gatesville, N.C.

No. MC 107515 (Sub-No. E489), filed June 4, 1974. Applicant: REFRIGERATED TRANSPORT CO., Inc., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: R. M. Tettlebaum, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Unfrozen meats and meat products*, from Norfolk, Va., to New York, N.Y., points in Nassau and Suffolk Counties, N.Y., Wisconsin, Minnesota, Illinois, Michigan, Indiana, Ohio, Rhode Island, New Hampshire, Vermont, Maine, Connecticut, and that part of Pennsylvania on and north of a line beginning at the New York-Pennsylvania State line, thence along U.S. Highway 220 to junction U.S. Highway 22, thence along U.S. Highway 22 to the Pennsylvania-Ohio State line. The purpose of this filing is to eliminate the gateway of Gatesville, N.C.

No. MC 107515 (Sub-No. E498), filed June 4, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: R. M. Tettlebaum, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas, coconuts, pineapples*, from West Palm Beach, Port of Palm Beach, Port of Everglades, and Tampa, Fla., to points in Minnesota, Ohio, and that part of Missouri on and north of a line beginning at the Illinois-Missouri State line, thence along Missouri Highway 74 to junction Missouri Highway 25, thence along Missouri Highway 25 to junction Missouri Highway 91, thence along Missouri Highway 91 to junction Missouri Highway 34, thence along Missouri Highway 34 to junction Missouri Highway 21, thence along Missouri Highway 21 to junction Missouri Highway 106, thence along Missouri Highway 106 to junction Missouri Highway 17, thence along Missouri Highway 17 to junction Missouri Highway 38, thence along Missouri Highway 38 to junction U.S. Highway 66, thence along U.S. Highway 66 to junction U.S. Highway 65, thence along U.S. Highway 65 to junction U.S. Highway 60, thence along U.S. Highway 60 to the Missouri-Oklahoma State line. The purpose of this filing is to eliminate the gateway of Louisville, Ky.

No. MC 110420 (Sub-No. E138), filed June 4, 1974. Applicant: QUALITY CARRIERS, INC., P.O. Box 186, Pleasant Prairie, Wis. 53158. Applicant's representative: E. Stephen Heisley, 666 Eleventh St. NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid sugar, in bulk*, in tank vehicles, from Cedar Rapids, Iowa; (1) to points in Clark, Jefferson, and Switzerland Counties, Ind., that part of Kentucky in and east of Jefferson, Bullett, Nelson, Larue, Hart, Glasgow, and Allen Counties, that part of Ohio in and south of Hamilton, Clermont, Brown, Highland, Pike, Jackson, Gallia, and Meigs Counties, that part of West Virginia in and south of Cabell, Putnam, Kanawha, Clay, Nicholas, Webster, Randolph, and Tucker Counties, and that part of Tennessee in and east of Sumner, Davidson, Williamson, Maury, and Giles Counties (Louisville, Ky.)*; and (2) to Huntington, W. Va. (South Ashland, Ky.)*. The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 110525 (Sub-No. E574) (Correction), filed May 20, 1974, published in the FEDERAL REGISTER October 31, 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 and coal tar products*, in bulk, in tank vehicles, from points in that part of Pennsylvania on and east of a line beginning at the New York-Pennsylvania State line, thence along U.S. Highway 219 to Ebensburg, thence along U.S. Highway 22 to Duncansville, thence along U.S. Highway 220 to the Pennsylvania-Maryland State line, to points in that part of Ohio on and south of Interstate Highway 70 and on and east of U.S. Highway 23. The purpose of this filing is to eliminate the gateway of Pittsburgh, Pa. The purpose of this correction is to correct the Pennsylvania route description.

No. MC 110525 (Sub-No. E840) (Correction), filed May 20, 1974, published in the FEDERAL REGISTER October 30, 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 points in Butler, Hamilton, Lake Mahoning, Trumbull, and Wayne Counties, Ohio, to points in that part of New Hampshire on and south of U.S. Highway 302 and on and east of U.S. Highway 3. The purpose of this filing is to eliminate the gateways of Jersey City, N.J., and Stoneham, Mass. The purpose of this correction is to clarify the points in New Hampshire to be served.

No. MC 110525 (Sub-No. E846) (Correction), filed May 20, 1974, published in the FEDERAL REGISTER October 31, 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 and coal tar products*, in bulk, in tank vehicles, from points in Oswego, Oneida, Lewis, Jefferson, and St. Lawrence Counties, N.Y., to points in that part of New Jersey on and south of a line beginning at the Pennsylvania-New Jersey State line, thence along New Jersey Highway 73 to Berlin, thence along U.S. Highway 30 to Atlantic City. The purpose of this filing is to eliminate the gateways of Johnstown, Pa. Claymont, Del., and Lima, Pa. The purpose of this correction is to clarify the origin points.

No. MC 110525 (Sub-No. E891) (Correction), filed May 20, 1974, published in the FEDERAL REGISTER October 30, 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: *Water gas tar*, in bulk, in tank vehicles, from Lancaster, Pa., to points in Connecticut, Massachusetts, and Rhode Island. The purpose of this filing is to eliminate the gateway of Kearny, N.J. The purpose of this correction is to clarify the destination territory.

No. MC 110525 (Sub-No. E892) (Correction), filed May 29, 1974, published in the FEDERAL REGISTER October 30, 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: *Petroleum products* (except classes A and B explosives), in bulk, in tank vehicles, from Allentown, Pa., and points within 5 miles thereof, (1) to points in that part of New York on and south of Interstate Highway 84 (Phillipsburg, N.J.) *, and (2) to points in Connecticut, Massachusetts, and Rhode Island (Phillipsburg, N.J., and New York, N.Y.) *. The purpose of this filing is to eliminate the gateways indicated by the asterisks above. The purpose of this correction is to clarify the origin point.

No, MC 110525 (Sub-No. E1023) (Correction), filed May 20, 1974, published in the FEDERAL REGISTER October 30, 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: *Dry chemicals* * * * (3) to points in Arkansas, Florida, Louisiana, Mississippi, and Texas (Springfield, Mass., and Atlanta, Ga.) *. The purpose of this filing is to eliminate the gateways indicated by the asterisks above. The purpose of this partial correction is to substitute Arkansas for Alabama. The remainder of the letter-notice remains as previously published.

No. MC 110525 (Sub-No. E1144) (Correction), filed May 20, 1974, published in the FEDERAL REGISTER October 30, 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 plant site of Lonza, Inc., located at or near Mapleton, Ill., (1) to points in Rockland County, N.Y., and Chester, Montgomery, Delaware, Schuylkill, and Philadelphia Counties, Pa. (New Castle, Del.) * * * The purpose of this filing is to eliminate the gateways indicated by the asterisks above. The purpose of this partial correction is to reflect the counties in Pennsylvania to be served. The remainder of the letter-notice remains as previously published.

No. MC 111545 (Sub-No. E87), filed May 22, 1974. Applicant: HOME TRANSPORTATION COMPANY, INC., P.O. Box 6426, Station A, Marietta, Ga. 30062. Applicant's representative: Robert E. Born (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which, because of size or weight, requires the use of special equipment, from points in South Carolina to points in that part of Arkansas on, north, and west of a line beginning at the Arkansas-Texas State line, thence along Interstate Highway 30 to Little Rock, thence along Interstate Highway 40 to the Arkansas-Tennessee State line. The purpose of this filing is to eliminate the gateway of points in Missouri or Oklahoma.

No. MC 111545 (Sub-No. E180), filed May 30, 1974. Applicant: HOME TRANSPORTATION COMPANY, INC., P.O. Box 6426, Station A, Marietta, Ga. 30062. Applicant's representative: Robert E. Born (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which, because of size or weight, requires the use of special equipment, (1) between points in that part of Alabama within 175 miles of Chattanooga, Tenn., on the one hand, and, on the other, points in that part of South Carolina on, north, and east of a line beginning at the South Carolina-Georgia State line, thence along U.S. Highway 301 to Allendale, thence along U.S. Highway 278 to Almeda, thence along South Carolina Highway 68 to Yemassee, thence along U.S. Highway 21 to Beaufort; and (2) between points in that part of Alabama on and north of a line beginning at the Alabama-Georgia State line, thence along U.S. Highway 78 to Birmingham, thence along U.S. Highway 11 to junction U.S. Highway 82, thence along U.S. Highway 82 to the Alabama-Mississippi State line, and within 175 miles of Chattanooga, Tenn., on the one hand, and, on the other, points in South Carolina. The purpose of this filing is to eliminate the gateway of points in that part of North Carolina on that part of South Carolina within 175 miles of Chattanooga, Tenn.

No. MC 111545 (Sub-No. E213), filed May 19, 1974. Applicant: HOME TRANSPORTATION COMPANY, INC., P.O. Box 6426, Station A, Marietta, Ga. 30062. Applicant's representative: Robert E. Born (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which, because of size or weight, requires the use of special equipment, between points in Wyoming, on the one hand, and, on the other, points in that part of Arkansas on and east of a line beginning at the Arkansas-Missouri State line, thence along U.S. Highway 167 to Little Rock, thence along U.S. Highway 65 to the Arkansas-Louisiana State line. The purpose of this filing is to eliminate the gateways of points in Iowa and Illinois.

No. MC 111545 (Sub-No. E218), filed May 19, 1974. Applicant: HOME TRANSPORTATION COMPANY, INC., P.O. Box 6426, Station A, Marietta, Ga. 30062. Applicant's representative: Robert E. Born (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which, because of size or weight, requires the use of special equipment, (1) between points in that part of South Carolina on and north of U.S. Highway 78, on the one hand, and, on the other, points in that part of Texas on and west of a line beginning at the Texas-Arkansas State line, thence along U.S. Highway 59 to Marshall, thence along U.S. Highway 80 to Longview, thence along U.S. Highway 259 to junction U.S. Highway 59, thence along U.S. Highway 59 to Victoria, thence along U.S. Highway 87 to Port Lavaca; and (2) between points in South Carolina, on the one hand, and, on the other, points in that part of Texas on and west of a line beginning at the Texas-Arkansas State line, thence along U.S. Highway 59 to Marshall, thence along U.S. Highway 80 to Longview, thence along U.S. Highway 259 to junction U.S. Highway 59, thence along U.S. Highway 59 to Lufkin, thence along Texas Highway 94 to Trinity, thence along Texas Highway 19 to Huntsville, thence along Texas Highway 30 to Roans Prairie, thence along Texas Highway 90 to Brenham, thence along U.S. Highway 290 to Giddings, thence along U.S. Highway 77 to Victoria, thence along U.S. Highway 87 to Port Lavaca. The purpose of this filing is to eliminate the gateway of points in Oklahoma.

No. MC 111545 (Sub-No. E237), filed May 19, 1974. Applicant: HOME TRANSPORTATION CO., INC., P.O. Box 6426, Station A, Marietta, Ga. 30062. Applicant's representative: Robert E. Born (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which, because of size or weight, requires the use of special equipment, restricted against the transportation of any such commodities to be used in, or in connec-

tion with, main or trunk pipelines; (1) from points in Arizona to points in that part of Arkansas on, north, and east of a line beginning at the Arkansas-Missouri State line, thence along U.S. Highway 71 to Fayetteville, thence along Arkansas Highway 16 to St. Paul, thence along Arkansas Highway 23 to junction Interstate Highway 40, thence along Interstate Highway 40 to the Arkansas-Tennessee State line; and (2) from Topock and Ehrenberg, Ariz., to points in that part of Arkansas on and north of a line beginning at the Arkansas-Oklahoma State line, thence along Arkansas Highway 24 to Camden, thence along Arkansas Highway 7 to the Arkansas-Louisiana State line. The purpose of this filing is to eliminate the gateway of points in that part of Missouri within 100 miles of Kansas City, Kans.

No. MC 111545 (Sub-No. E241), filed May 19, 1974. Applicant: HOME TRANSPORTATION COMPANY, INC., P.O. Box 6426, Station A, Marietta, Ga. 30062. Applicant's representative: Robert E. Born (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which, because of size or weight, require the use of special equipment; (1) between points in that part of Ohio and north of U.S. Highway 40, on the one hand, and, on the other, points in that part of Texas on and west of a line beginning at the Texas-Oklahoma State line, thence along U.S. Highway 75 to Houston, thence along U.S. Highway 59 to Victoria, thence along U.S. Highway 87 to Port Lavaca; (2) between points in that part of Ohio on and north of a line beginning at the Ohio-Indiana State line, thence along U.S. Highway 30 to junction U.S. Highway 30S, thence along U.S. Highway 30S to junction U.S. Highway 30, thence along U.S. Highway 30 to the Ohio-Pennsylvania State line, on the one hand, and, on the other, points in Texas; and (3) between points in Ohio, on the one hand, and, on the other, points in that part of Texas on and west of a line beginnnig at the Texas-Oklahoma State line, thence along Interstate Highway 35 to the International Boundary line between the United States and Mexico. The purpose of this filing is to eliminate the gateways of points in Iowa and Missouri.

No. MC 111545 (Sub-No. E266) (Correction), filed May 19, 1974, published in the FEDERAL REGISTER November 4, 1974. Applicant: HOME TRANSPORTATION COMPANY, INC., P.O. Box 6426, Station A, Marietta, Georgia 30062. Applicant's representative: Robert E. Born (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Commodities* (except commodities to be used in, or in connection with, main or trunk pipelines), the transportation of which, because of size or weight, requires the use of special equipment, between points in that part of Alabama within 175 miles of Chattanooga, Tenn., on the one hand, and, on the other, points in Utah. The purpose of this filing is to eliminate the gateways of (1) points in that part of Tennessee or that part of Kentucky within 175 miles of Chattanooga, Tenn., (2) points in Iowa, and (3) points in that part of Kansas within 100 miles of Kansas City, Kansas, and within 300 miles of Ames, Iowa, or that part of Missouri within 100 miles of Kansas City, Kansas. The purpose of this correction is to reflect the correct "E" number—previously published as E66.

No. MC 111545 (Sub-No. E266), filed May 19, 1974. Applicant: HOME TRANSPORTATION COMPANY, INC., P.O. Box 6426, Station A, Marietta, Georgia 30062. Applicant's representative: Robert E. Born (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Commodities* (except commodities to be used in, or in connection with, main or trunk pipelines), the transportation of which, because of size or weight, requires the use of special equipment, between points in that part of Alabama within 175 miles of Chattanooga, Tenn., on the one hand, and, on the other, points in Utah. The purpose of this filing is to eliminate the gateways of (1) points in that part of Tennessee or that part of Kentucky within 175 miles of Chattanooga, Tenn., (2) points in Iowa, and (3) points in that part of Kansas within 100 miles of Kansas City, Kansas, and within 300 miles of Ames, Iowa, or that part of Missouri within 100 miles of Kansas City, Kansas.

No. MC 111545 (Sub-No. E352), filed June 4, 1974. Applicant: HOME TRANSPORTATION CO., INC., P.O. Box 6426, Station A, Marietta, Ga. 30062. Applicant's representative: Robert E. Born (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Incinerators and refuse-treatment equipment, and parts, attachments, and accessories*, for incinerators and refuse-treatment equipment, the transportation of which, because of size or weight, requires the use of special equipment, from points in that part of West Virginia on and south of a line beginning at the West Virginia-Virginia State line, thence along West Virginia Highway 39 to Belva, thence along West Virginia Highway 16 to Gauley Bridge, thence along U.S. Highway 60 to Charleston, thence along U.S. Highway 119 to the West Virginia-Kentucky State line, to points in that part of Washington on and west of a line beginning at the International Boundary line between the United States and Canada, thence along U.S. Highway 97 to Wenatchee, thence along Washington Highway 28 to Quincy, thence along Washington Highway 281 to junction Interstate Highway 90, thence along Interstate Highway 90 to Moses Lake, thence along Washington Highway 17 to junction U.S. Highway 395, thence along U.S. Highway 395 to the Washington-Oregon State line. The purpose of this filing is to eliminate the gateways of points in North Carolina and Springfield, Mo.

No. MC 111545 (Sub-No. E265), filed May 19, 1974. Applicant: HOME TRANSPORTATION CO., INC., P.O. Box 6426, Station A, Marietta, Ga. 30062. Applicant's representative: Robert E. Born (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which, because of size or weight, require the use of special equipment, between points in Alabama within 175 miles of Chattanooga, Tenn., on the one hand, and, on the other, points in Virginia (except points in that part of Virginia within 175 miles of Chattanooga, Tenn.). The purpose of this filing is to eliminate the gateway of points in that part of North Carolina within 175 miles of Chattanooga, Tenn.

No. MC 111545 (Sub-No. E276), filed May 19, 1974. Applicant: HOME TRANSPORTATION COMPANY, INC., P.O. Box 6426, Station A, Marietta, Ga. 30062. Applicant's representative: Robert E. Born (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities* (other than machinery, equipment, materials, and supplies, used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products, and by-products, and machinery, materials, equipment, and supplies used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof), the transportation of which, because of size or weight, requires the use of special equipment; (1) between points in Mississippi, on the one hand, and, on the other, points in that part of Oklahoma on, south, and west of a line beginning at the Oklahoma-Texas State line, thence along U.S. Highway 77 to Oklahoma City, thence along U.S. Highway 270 to junction U.S. Highway 183, thence along U.S. Highway 183 to the Oklahoma-Kansas State line; and (2) betweeen points in that part of Mississippi on and south of Interstate Highway 20, on the one hand, and, on the other, points in Oklahoma. The purpose of this filing is to eliminate the gateway of points in Texas.

No. MC 111545 (Sub-No. E278), filed May 19, 1974. Applicant: HOME TRANSPORTATION CO., INC., P.O. Box 6426, Station A, Marietta, Ga. 30062. Applicant's representative: Robert E. Born (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities* (except knitting machines and commodities to be used in, or in connection with, main or trunk pipelines), the transportation of which, because of size or weight, requires the use

of special equipment, between points in that part of West Virginia on, east, and south of a line beginning at the West Virginia-Virginia State line, thence along U.S. Highway 52 to Welch, thence along West Virginia Highway 16 to Beckley, thence along U.S. Highway 19 to junction U.S. Highway 60, thence along U.S. Highway 60 to the West Virginia-Virginia State line, on the one hand, and, on the other, points in that part of Utah on and south of a line beginning at the Utah-Colorado State line, thence along U.S. Highway 40 to the Utah-Nevada State line. The purpose of this filing is to eliminate the gateways of Charlotte, N.C., and Kansas City, Kans., or points in that part of Kansas within 100 miles thereof.

No. MC 111545 (Sub-No. E288), filed May 19, 1974. Applicant: HOME TRANSPORTATION CO., INC., P.O. Box 6426, Station A, Marietta, Ga. 30062. Applicant's representative: Robert E. Born (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities* (except knitting machines and agricultural machinery and implements, other than hand, as defined by the Commission), the transportation of which, because of size or weight requires the use of special equipment; (1) between points in Kansas, on the one hand, and, on the other, points in that part of Florida on and east of Florida Highway 85; (2) between points in that part of Kansas on and north of a line beginning at the Kansas-Missouri State line, thence along U.S. Highway 54 to junction U.S. Highway 154, thence along U.S. Highway 154 to Dodge City, thence along U.S. Highway 50 to the Kansas-Colorado State line, on the one hand, and, on the other, points in Florida; (3) between points in that part of Florida on and east of a line beginning at the Florida-Georgia State line, thence along U.S. Highway 319 to Wakulla, thence along Florida Highway 363 to St. Marks, on the one hand, and, on the other, points in Oklahoma; and (4) between points in Florida, on the one hand, and, on the other, points in Indiana, Michigan, and Ohio. The purpose of this filing is to eliminate the gateway of Atlanta, Cartersville, or Marietta, Ga., or Columbia, S.C., or points in Georgia or South Carolina within 50 miles thereof.

No. MC 111545 (Sub-No. E293), filed May 17, 1974. Applicant: HOME TRANSPORTATION CO., INC., P.O. Box 6426, Station A, Marietta, Ga. 30062. Applicant's representative: Robert E. Born (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities* (except commodities to be used in, or in connection with, main or trunk pipelines), the transportation of which, because of size or weight, requires the use of special equipment, from points in that part of Arizona on and south of a line beginning at the Arizona-New Mexico State line, thence along U.S. Highway 60 to Springerville, thence along U.S. Highway 180 to Flagstaff, thence along U.S. Highway 66 to the Arizona-California State line, to points in Wisconsin. The purpose of this filing is to eliminate the gateways of points in Iowa, Arkansas, and that part of Missouri within 100 miles of Kansas City, Kans.

No. MC 111545 (Sub-No. E300), filed June 4, 1974. Applicant: HOME TRANSPORTATION CO., INC., P.O. Box 6426, Station A, Marietta, Ga. 30062. Applicant's representative: Robert E. Born (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cast iron pipe and fittings*, from points in that part of Tennessee on and east of a line beginning at the Tennessee-Alabama State line, thence along U.S. Highway 231 to Murfreesboro, thence along Tennessee Highway 96 to junction U.S. Highway 70, thence along U.S. Highway 70 to Smithville, thence along Tennessee Highway 56 to junction Interstate Highway 40, thence along Interstate Highway 40 to junction Tennessee Highway 42, thence along Tennessee Highway 42 to the Tennessee-Kentucky State line, to points in South Dakota, restricted to the transportation of commodities which, because of size or weight, requires the use of special equipment, where such transportation is performed on ordinary vehicular equipment, and special equipment is provided for loading and unloading and the loading and unloading is performed by the consignor or consignee, or both. The purpose of this filing is to eliminate the gateway of Chattanooga, Tenn.

No. MC 111545 (Sub-No. E391), filed June 4, 1974. Applicant: HOME TRANSPORTATION CO., INC., P.O. Box 6426, Station A, Marietta, Ga. 30062. Applicant's representative: Robert E. Born (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cast iron soil pipe and fittings and bituminized fibre pipe and fittings*, the transportation of which because of size or weight, requires the use of special equipment, from points in that part of Georgia within 175 miles of Chattanooga, Tenn., and on and south of a line beginning at the Georgia-Alabama State line, thence along Georgia Highway 20 to junction U.S. Highway 41, thence along U.S. Highway 41 to Atlanta, thence along U.S. Highway 78 to the Georgia-South Carolina State line, to points in that part of Missouri on and west of U.S. Highway 63. The purpose of this filing is to eliminate the gateway of Holt, Ala.

No. MC 111545 (Sub-No. E443), filed June 4, 1974. Applicant: HOME TRANSPORTATION CO., INC. P.O .Box 6426, Station A, Marietta, Ga. 30062. Applicant's representative: Robert E. Born (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Incinerators and refuse-treatment equipment and parts, attachments, and accessories* for incinerators and refuse-treatment equipment, the transportation of which, because of size or weight, requires the use of special equipment, from points in that part of West Virginia on, south, and east of a line beginning at the West Virginia-Kentucky State line, thence along U.S. Highway 119 to Charleston, thence along West Virginia Highway 4 to Sutton, thence along U.S. Highway 19 to the West Virginia-Pennsylvania State line, to points in New Mexico. The purpose of this filing is to eliminate the gateways of points in North Carolina and Springfield, Mo.

No. MC 111545 (Sub-No. E463), filed June 4, 1974. Applicant: HOME TRANSPORTATION CO., INC., P.O. Box 6426, Station A, Marietta, Ga. 30062. Applicant's representative: Robert E. Born (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Incinerators and refuse-treatment equipment and parts, attachments, and accessories* for incinerators and refuse-treatment equipment, the transportation of which, because of size or weight, requires the use of special equipment; (1) from points in Florida to points in Montana, Nevada, North Dakota, Oregon, South Dakota, Utah ,Washington, and Wyoming; and (2) from points in that part of Florida on and east of a line beginning at the Florida-Georgia State line, thence along U.S. Highway 319 to Wakulla, thence along Florida Highway 363 to St. Marks, to points in Arizona, California, and Colorado. The purpose of this filing is to eliminate the gateways of points in Georgia and Springfield, Mo.

No. MC 111545 (Sub-No. E523), filed June 2, 1974. Applicant: HOME TRANSPORTATION CO., INC., P.O. Box 6426, Station A, Marietta, Ga. 30062. Applicant's representative: Robert E. Born (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Heat exchangers or equalizers* for air, gas, or liquids; (2) *Machinery and equipment* for heating, cooling, conditioning, humidifying, dehumidifying, and moving air, gas, or liquids; and (3) *Parts, attachments, and accessories* for the use in installation and operations of items (1) and (2) above, from points in Maine, to points in that part of Tennessee on and west of a line beginning at the Tennessee-Alabama State line, thence along U.S. Highway 231 to Fayetteville, thence along U.S. Highway 64 to junction Tennessee Highway 50, thence along Tennessee Highway 50 to junction Tennessee Highway 55, thence along Tennessee Highway 55 to Manchester, thence along U.S. Highway 41 to Nashville, thence along Alternate U.S. Highway 41 to the Tennessee-Kentucky State line, restricted in (1), (2), and (3) above to the transportation of commodities which, because of size or weight, require the use of special equipment, where such transportation is performed on ordinary vehicular equipment, and special equipment is provided for loading and unloading and the loading and unloading is

performed by the consignor or consignee, or both. The purpose of this filing is to eliminate the gateways of the plant and warehouse facilities of the Trane Company at Clarksville, Tenn., and points in North Carolina within 175 miles of Chattanooga, Tenn.

No. MC 111545 (Sub-No. E528), filed June 2, 1974. Applicant: HOME TRANSPORTATION CO., INC., P.O. Box 6426, Station A, Forest Park, Ga. 30062. Applicant's representative: Robert E. Born (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Heat exchangers* or equalizers for air, gas, or liquids; (2) *Machinery and equipment* for heating, cooling, conditioning, humidifying, dehumidifying, and moving air, gas, or liquids; and (3) *Parts, attachments, and accessories* for the use in installation and operations of items (1) and (2) above, from points in that part of Iowa on, east, and north of a line beginning at the Iowa-Missouri State line, thence along U.S. Highway 69 to Osceola, thence along U.S. Highway 34 to junction U.S. Highway 169, thence along U.S. Highway 169 to Ft. Dodge, thence along U.S. Highway 20 to Holstein, thence along U.S. Highway 59 to the Iowa-Minnesota State line, to points in that part of Mississippi on, east, and south of a line beginning at the Mississippi-Louisiana State line, thence along U.S. Highway 51 to Winona, thence along U.S. Highway 82 to junction Alternate U.S. Highway 45, thence along Alternate U.S. Highway 45 to Shannon, thence along U.S. Highway 45 to the Mississippi-Tennessee State line, restricted in (1), (2), and (3) above to the transportation of commodities which, because of size or weight, require the use of special equipment, where such transportation is performed on ordinary vehicular equipment, and special equipment is provided for loading and unloading and the loading and unloading is performed by the consignor or consignee, or both. The purpose of this filing is to eliminate the gateway of the plant and warehouse facilities of the Trane Company at Clarksville Tenn.

No. MC 111545 (Sub-No. E561), filed May 31, 1974. Applicant: HOME TRANSPORTATION CO., INC., P.O. Box 6426, Station A, Marietta, Ga. 30062. Applicant's representative: Robert E. Born (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which, because of size or weight, requires the use of special equipment; (1) between points in Louisiana, on the one hand, and, on the other, points in Maine, Maryland, Massachusetts, New Hampshire, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and the District of Columbia; and (2) between points in that part of Louisiana on and south of U.S. Highway 80, on the one hand, and, on the other, points in that part of West Virginia on and east of a line beginning at the West Virginia-Kentucky State line, thence along U.S. Highway 119 to Charleston, thence along Interstate Highway 77 to the West Virginia-Ohio State line. The purpose of this filing is to eliminate the gateways of points in South Carolina and North Carolina.

No. MC 111545 (Sub-No. E609), filed May 27, 1974. Applicant: HOME TRANSPORTATION CO., INC., P.O. Box 6426, Station A, Marietta, Ga. 30062. Applicant's representative: Robert E. Born (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Heavy machiney and air compressors*, the transportation of which, because of size or weight, requires the use of special equipment, from points in that part of Iowa on and north of a line beginning at the Iowa-South Dakota State line, thence along Iowa Highway 10 to junction U.S. Highway 75, thence along U.S. Highway 75 to Le Mars, thence along Iowa Highway 3 to Humboldt, thence along U.S. Highway 169 to Fort Dodge, thence U.S. Highway 20 to the Iowa-Illinois State line, to points in that part of Alabama on, south, and east of a line beginning at the Alabama-Mississippi State line, thence along Interstate Highway 10 to Mobile, thence along Interstate Highway 65 to Montgomery, thence along U.S. Highway 80 to the Alabama-Georgia State line. The purpose of this filing is to eliminate the gateway of Atlanta or East Point, Ga.

No. MC 112422 (Sub-No. E167), filed June 3, 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: *Cheese*, from points in that part of Kansas on and north of a line beginning at the Kansas-Colorado State line, and extending U.S. Highway 40 to Junction City, thence along U.S. Highway 77 to Herington, thence along U.S. Highway 56 to the Kansas-Missouri State line, to points in California. The purpose of this filing is to eliminate the gateway of Logan, Smithfield, or Wellsville, Utah.

No. MC 112822 (Sub-No. E158), filed May 22, 1974. Applicant: BRAY LINES, INCORPORATED, 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: *Paper and paper products*, from the plant site of Bowaters Southern Corporation at Calhoun, Tenn., to points in Arizona, California, Nevada, and Oregon. The purpose of this filing is to eliminate the gateway of the plant sites of Southland Paper Mills, Inc., at Herty and Sheldon, Tex.

No. MC 112822 (Sub-No. E159), filed June 3, 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: *Petroleum products*, in containers, from points in that part of Kansas on, east, and south of a line beginning at the Kansas-Oklahoma State line, thence along U.S. Highway 75 to junction U.S. Highway 50, thence along U.S. Highway 50 to the Kansas-Missouri State line to points in that part of Nebraska east of U.S. Highway 281, North Dakota, and South Dakota (except Rapid City). The purpose of this filing is to eliminate the gateway of Kansas City, Kans.

No. MC 112822 (Sub-No. E162), filed June 3, 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: *Petroleum products*, from Tulsa, Okla., to points in Alabama, and points in that part of Tennessee on and east of a line beginning at the Kentucky-Tennessee State line, thence along U.S. Highway 45E to Jackson, thence along U.S. Highway 45 to the Mississippi-Tennessee State line. The purpose of this filing is to eliminate the gateway of Coffeyville, Kans.

No. MC 112822 (Sub-No. E163), filed June 3, 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: *Petroleum products*, from Enid, Okla., to points in Alabama; points in Mississippi on and north of a line beginning at the Mississippi-Arkansas State line and extending along U.S. Highway 82 to junction U.S. Highway 49W, thence along U.S. Highway 49W to junction U.S. Highway 49, thence along U.S. Highway 49 to junction U.S. Highway 84, thence along U.S. Highway 84 to the Mississippi-Alabama State line; points in that part of Louisiana bounded by a line beginning at the Louisiana-Mississippi State line and extending along Louisiana Highway 4 to Columbia, thence along U.S. Highway 165 to Alexandria, thence along U.S. Highway 167 to Lafayette, thence along U.S. Highway 90 to the Mississippi River, thence north along the Mississippi River to the point of beginning; and points in Tennessee on and east of Interstate Highway 65. The purpose of this filing is to eliminate the gateway of Coffeyville, Kans.

No. MC 112822 (Sub-No. E164), filed June 3, 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: *Cheese*, from points in Arkansas to points in that part of California north of the counties of Monterey, San Benito, Fresno, and Inyo. The purpose of this filing is to eliminate the gateway of Logan, Smithfield, and Wellsville, Utah.

No. MC 112822 (Sub-No. E166), filed June 3, 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: *Cheese*, from points in Kansas, to points in California in and north of Monterey, San Benito, Fresno, and Inyo Counties. The purpose of this filing is to eliminate the gateway of Logan, Smithfield, or Wellsville, Utah.

No. MC 112822 (Sub-No. E170), filed June 3, 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: *Petroleum products*, from Enid, Okla., to points in Georgia. The purpose of this filing is to eliminate the gateway of Wichita, Kans.

No. MC 119657 (Sub-No. E2), filed June 4, 1974. Applicant: GEORGE TRANSIT, 760–764 N.E. 47th Pl., Des Moines, Iowa 50313. Applicant's representative: Kenneth E. Dudley, P.O. Box 279, Ottumwa, Iowa 52501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Animal and poultry feed ingredients*, dry, in bulk, between points in Minnesota on the one hand, and, on the other, points in Missouri; (2) *Animal and poultry feed ingredients*, dry, in bulk, from points in Wisconsin to points in Nebraska and points in Kansas north of U.S. Highway 40; (3) *Animal and poultry feed ingredients*, dry, in bulk, from points in Indiana to points in Nebraska and South Dakota; (4) *Animal and poultry feed ingredients*, dry, in bulk, from points in Arkansas, to points in Minnesota. The purpose of this filing is to eliminate the gateway of points in Polk County, Iowa.

No. MC 127840 (Sub-No. E41), filed June 4, 1974. Applicant: MONTGOMERY TANK LINES, INC., 17730 S. Chicago Ave., Lansing, Ill. 60438. Applicant's representative: William H. Towle, Suite 1133, 127 N. Dearborn Street, Chicago, Ill. 60602. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Animal fats, animal oils, and vegetable oils, and edible blends and edible products of animal fats, animal oils, and vegetable oils* (except liquid chemicals), in bulk, in tank vehicles, from points in Mills, Montgomery, Adams, Union, Clarke, Pottawattamie, Cass, Adair, Madison, Warren, Marion, Mahaska, Harrison, Shelby, Audubon, Guthrie, Dallas, Polk, Jasper, Poweshiek, Iowa, Johnson, Cedar, Scott, Clinton, Jackson, Jones, Linn, Benton, Tama, Marshall, Story, Boone, Greene, Carroll, Crawford, and Monona Counties, Iowa to points in north and east of Newton, Benton, Tippecanoe, Montgomery, Hendricks, Morgan, Brown, Jackson, Scott, and Clark Counties, Ind., and in north and east of Jefferson, Bullitt, Nelson, Marion, Taylor, Adair, Russell, and Clinton Counties, Ky. The purpose of this filing is to eliminate the gateway of Chicago, Ill.

No. MC 127840 (Sub-No. E42), filed June 4, 1974. Applicant: MONTGOMERY TANK LINES, INC., 17730 S. Chicago Ave., Lansing, Ill. 60438. Applicant's representative: William H. Towle, Suite 1133, 127 N. Dearborn Street, Chicago, Ill. 60602. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Animal fats, animal oils, and vegetable oils, and edible blends and edible products of animal fats, animal oils, and vegetable oils* (except liquid chemicals), in bulk, in tank vehicles, from points in Fremont, Page, Taylor, Ringgold, Decatur, Lucas, Wayne, Monroe, Appanoose, Davis, Wapello, Keokuk, Washington, Muscatine, Louisa, Des Moines, Lee, Van Buren, and Jefferson Counties, Iowa, to points in, north and east of Lake, Jasper, Pulaski, Cass, Howard, Grant, Delaware, Randolph, and Wayne Counties and points in Ohio. The purpose of this filing is to eliminate the gateway of Chicago, Ill.

No. MC 127840 (Sub-No. E46), filed June 4, 1974. Applicant: MONTGOMERY TANK LINES, INC., 17730 S. Chicago Ave., Lansing, Ill. 60438. Applicant's representative: William H. Towle, Suite 1133, 127 N. Dearborn Street, Chicago, Ill. 60602. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Animal fats and animal oils* (except fatty acids), from points in Minnesota to points in Ohio east of Interstate Highway 71, points in that part of Kentucky on, south and east of a line beginning at the Kentucky-Ohio State line, thence along Interstate Highway 71 to its junction with Interstate Highway 65, thence along Interstate Highway 65 to its junction with U.S. Highway 62 to Paducah. The purpose of this filing is to eliminate the gateways of Chicago and Bradley, Ill.

No. MC 127840 (Sub-No. E47), filed June 4, 1974. Applicant: MONTGOMERY TANK LINES, INC., 17730 S. Chicago Ave., Lansing, Ill. 60438. Applicant's representative: William H. Towle, Suite 1133, 127 N. Dearborn Street, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal fats, animal oils, and vegetable oils, including products and blends of said commodities*, in bulk, in tank vehicles, from Chicago, Illinois, to points in Connecticut, Delaware, Maine (except points in Aroostock County other than Bangor, Maine) Maryland, Massachusetts, New Hampshire, Rhode Island, Vermont, and the District of Columbia. The purpose of this filing is to eliminate the gateway of Bradley, Ill.

No. MC 127840 (Sub-No. E48), filed June 4, 1974. Applicant: MONTGOMERY TANK LINES, INC., 17730 S. Chicago Ave., Lansing, Ill. 60438. Applicant's representative: William H. Towle, Suite 1133, 127 N. Dearborn St., Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vegetable oil*, in bulk, in tank vehicles, from Chicago, Ill., and Blue Island, Ill., to points in Washington, Oregon, California, Idaho, Colorado, Oklahoma, Kansas, Nebraska, North Dakota (except points east of a line beginning at Grand Forks on U.S. Highway 2 and extending to its intersection with North Dakota Highway 18, thence along North Dakota Highway 18 to its intersection with North Dakota Highway 200, thence along North Dakota Highway 200 to its intersection with North Dakota Highway 1, thence along North Dakota Highway 1 to the North Dakota-South Dakota State line), South Dakota (except points east of a line beginning at the South Dakota-North Dakota State line, thence along South Dakota Highway 37 to its intersection with South Dakota Highway 10, thence along South Dakota Highway 10 to the South Dakota-Minnesota State line), Minnesota (except points east of a line beginning at Ortonville, Minn., on U.S. Highway 75, thence along U.S. Highway 75 to its intersection with U.S. Highway 212, thence along U.S. Highway 212 to its intersection with U.S. Highway 59, thence along U.S. Highway 59 to its intersection with U.S. Highway 14, thence along U.S. Highway 14 to its intersection with U.S. Highway 71, thence along U.S. Highway 71 to its intersection with Minnesota Highway 60, thence along Minnesota Highway 60 to its intersection with Minnesota Highway 15, hence along Minnesota Highway 15 to its intersection with U.S. Highway 16, thence along U.S. Highway 16 to its intersection with U.S. Highway 169, thence along U.S. Highway 169 to the Minnesota-Iowa State line), Missouri (except points east of a line beginning at the Missouri-Iowa State line, thence along Missouri Highway 5 to its intersection with U.S. Highway 36, thence along U.S. Highway 36 to its intersection with Missouri Highway 11, thence along Missouri Highway 11 to its intersection with U.S. Highway 24, thence along U.S. Highway 24 to its intersection with Missouri Highway 13, thence along Missouri Highway 13 to its intersection with U.S. Highway 54, thence along U.S. Highway 54 to its intersection with Missouri Highway 39, thence along Missouri Highway 39 to its intersection with Interstate Highway 44, thence along Interstate Highway 44 to its intersection with Missouri Highway 97, thence along Missouri Highway 97 to its intersection with Missouri Highway 86, thence along Missouri Highway 86 to its intersection with Missouri Highway 76, thence along Missouri Highway 76 to its intersection with Arkansas Highway 94, thence along Arkansas Highway 94 to the Missouri-Arkansas State line), Arkansas (except points east of a line beginning at the Arkansas-Missouri State line, thence along Arkansas Highway 94 to its intersection with U.S. Highway 62, thence along U.S. Highway 62/71 to Ft. Smith, thence along U.S. Highway 71/59 to De Queen, thence along Arkansas Highway 41 to the Arkansas-Texas State line), Texas (except

points east of a line beginning at the Texas-Arkansas State line, thence along Texas Highway 8 to its intersection with U.S. Highway 59, thence along U.S. Highway 59 to its intersection with U.S. Highway 96, thence along U.S. Highway 96 to Port Arthur, Tex. The purpose of this filing is to eliminate the gateway of Des Moines, Iowa.

No. MC 127840 (Sub-No. E49), filed June 4, 1974. Applicant: MONTGOMERY TANK LINES, INC., 17730 S. Chicago Ave., Lansing, Ill. 60438. Applicant's representative: William H. Towle, Suite 1133, 127 N. Dearborn Street, Chicago, Ill. 60602. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Vegetable oils*, in bulk, in tank vehicles, from the plant site and storage facilities of Glidden-Durkee, a division of S.C.M. Corp., located at or near Lorenzo (Will County), Ill. to points in California, Idaho, Oregon, Washington, Oklahoma, and Texas (except points in Bowie, Morris, Cass, and Marion Counties), restricted to the transportation of shipments originating at the above-named plant site and storage facilities. The purpose of this filing is to eliminate the gateway Des Moines, Iowa.

No. MC 127840 (Sub-No. E50), filed June 4, 1974. Applicant: MONTGOMERY TANK LINES, INC., 17730 S. Chicago, Ave., Lansing Ill. 60438. Applicant's representative: William H. Towle, Suite 1133, 127 N. Dearborn Street, Chicago, Ill. 60602. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Vegetable oil*, in bulk, in tank vehicles, from Des Moines, Iowa, to points in Vermont, Delaware, and the District of Columbia. The purpose of this filing is to eliminate the gateway of Bradley, Ill.

No. MC 127840 (Sub-No. E54), filed June 4, 1974. Applicant: MONTGOMERY TANK LINES, INC., 17730 S. Chicago Ave., Lansing, Ill. 60438. Applicant's representative: William H. Towle, Suite 1133, 127 N. Dearborn St., Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vegetable oils*, in bulk, in tank vehicles, from points in Macon County, Ill., to points in North Dakota in and west of Bottineau, McHenry, Sheridan, Burleigh and Emmons Counties, N. Dak., and points in South Dakota in and west of Campbell, Walworth, Potter, Sully, Hughes, Lyman, and Gregory Counties, S. Dak. The purpose of this filing is to eliminate the gateways of Bradley and Chicago, Ill., and Des Moines, Iowa.

No. MC 127840 (Sub-No. E55), filed June 4, 1974. Applicant: MONTGOMERY TANK LINES, INC., 17730 S. Chicago Ave., Lansing, Ill. 60438. Applicant's representative: William H. Towle, Suite 1133, 127 N. Dearborn St., Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vegetable oil*, in bulk, in tank vehicles, from points in Lake, McHenry, Kane, Du Page, Cook, Kendall, Will, Grundy, Kankakee, Ford, Iroquois, Champaign, and Vermilion Counties, Ill., to points in Oklahoma in and west of Beaver County, and points in Texas in and west of Lipscomb, Hemphill, Wheeler, Collingsworth, Childress, Cottle, King, Stonewall, Fisher, Nolan, Coke, Tom Green, Schleicher, Sutton, Edwards, and Kinney Counties. The purpose of this filing is to eliminate the gateways of Bradley and Chicago, Ill., and Des Moines, Iowa.

No. MC 127840 (Sub-No. E57), filed June 4, 1974. Applicant: MONTGOMERY TANK LINES, INC., 17730 S. Chicago Ave., Lansing, Ill. 60438. Applicant's representative: William H. Towle, Suite 1133, 127 N. Dearborn St., Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Inedible animal and vegetable oil residues* (except fatty acids), in bulk, in tank vehicles, from Rochester, N.Y., to points in Colorado, Illinois, Iowa, Kansas, Minnesota, Nebraska; and to points in Lake, Porter, Newton, Jasper, Benton, Warren, Tippecanoe, Fountain, Montgomery, Parke, Vermillion, Putnam, Vigo, Clay, Owen, Sullivan, Greene, Knox, Daviess, Martin, Gibson, Pike, DuBois, Posey, Vanderburgh, Warrick, and Spencer Counties, Ind.; and to points in Ballard, Carlisle, Hickman, Fulton, McCracken, Graves, Livingston, Marshall, Callaway, Crittenden, Lyon, Trigg, Union, Webster, Caldwell, Henderson, Hopkins, Christian, Muhlenberg, McLean, and Daviess Counties, Ky. The purpose of this filing is to eliminate the gateway of Bradley, Ill.

No. MC 127840 (Sub-No. E59), filed June 4, 1974. Applicant: MONTGOMERY TANK LINES, INC., 17730 S. Chicago Ave., Lansing, Ill. 60438. Applicant's representative: William H. Towle, Suite 1133, 127 N. Dearborn St., Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vegetable oils residues*, in bulk; (1) from Rochester, N.Y., to points in Washington, Oregon, Idaho, California, North Dakota, South Dakota, Texas, Oklahoma, and points in Missouri in and north and west of Putnam, Sullivan, Linn, Chariton, Saline, Pettis, Beaton, St. Clair, and Bates Counties; (2) from Yorkville, Ohio, to points in Washington, Oregon, Idaho, California, North Dakota, South Dakota, and points in Missouri in and west of Worth, Gentry, DeKalb, Clinton, Clay, Jackson, and Cass Counties and points in Texas in and west of Grayson, Collin, Dallas, Rockwell, Ellis, Hill, McLennon, Bell, Williamson, Bastrop, Gonzales, Karnes, Live Oak, Duval, Jim Hogg, and Starr Counties, and points in Oklahoma in and west of Alfalfa, Major, Blaine, Caddo, Comanche, and Cotton Counties. The purpose of this filing is to eliminate the gateways of Bradley, Ill., and Des Moines, Iowa.

No. MC 127840 (Sub-No. E62), filed June 4, 1974. Applicant: MONTGOMERY TANK LINES, INC., 17730 S. Chicago Ave., Lansing, Ill. 60438. Applicant's representative: William H. Towle, Suite 1133, 127 N. Dearborn St., Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities as are dealt in or used by meat packinghouses* (except petroleum products, fertilizers, and chemicals), in bulk, in tank vehicles, from Denver, Colo., to points in Wisconsin, Duluth, Minn., and points in Houston, Fillmore, Olmsted, Winona, Wabasha, Washington, Chisago, Pine, and Carlton Counties, Minn. The purpose of this filing is to eliminate the gateway of Dubuque, Iowa.

No. MC 127840 (Sub-No. E63), filed June 4, 1974. Applicant: MONTGOMERY TANK LINES, INC., 17730 S. Chicago Ave., Lansing, Ill. 60438. Applicant's representative: William H. Towle, Suite 1133, 127 N. Dearborn St., Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Inedible animal and vegetable oil residues* (except fatty acids, fertilizers, and chemicals), in bulk, in tank vehicles, from Rochester, N.Y., and Yorkville, Ohio, to points in Wisconsin in and west of Iron, Prince, Taylor, Clark, Jackson, Monroe, Vernon, Richland, and Grant Counties. The purpose of this filing is to eliminate the gateways of Bradley, Ill., and Dubuque, Iowa.

No. MC 127840 (Sub-No. E64), filed June 4, 1974. Applicant: MONTGOMERY TANK LINES, INC., 17730 S. Chicago Ave., Lansing, Ill. 60438. Applicant's representative: William H. Towle, Suite 1133, 127 N. Dearborn St., Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fruit and citrus juices and concentrates thereof*, in bulk, in tank vehicles, from Frostproof, Fla., to points in Wisconsin and Minnesota. The purpose of this filing is to eliminate the gateway of Lyons, Ill., and Dubuque, Iowa.

No. MC 127840 (Sub-No. E65), filed June 4, 1974. Applicant: MONTGOMERY TANK LINES, INC., 17730 S. Chicago Ave., Lansing, Ill. 60438. Applicant's representative: William H. Towle, Suite 1133, 127 N. Dearborn St., Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Milk and milk products*, in bulk, in tank vehicles, from Dubuque, Iowa, to points in Nebraska, Colorado, New Mexico, Florida, Massachusetts, New Jersey, points in Pennsylvania in and east of Wayne, Lackawanna, Luzerne, Schuylkill, Dauphin, and York Counties, points in New York in and east of Oswego, Onondaga, Madison, Chenango, and Delaware Counties, points in Louisiana in and south of Beauregard, Allen, Evangeline, St. Landry, and Pointe Coupee Counties, points in Texas (except points in Cass, Morris, Camp, Titus, Hopkins, Franklin, Lamar, Red River, and Bowie Counties), and points in Oklahoma in and west of Kay, Noble, Payne, Lincoln, Seminole, Pontotoc, Johnston, and Bryan Counties. The purpose of this

filing is to eliminate the gateway of Spring Grove, Minn.

No. MC 127840 (Sub-No. E66), filed June 4, 1974. Applicant: MONTGOMERY TANK LINES, INC., 17730 S. Chicago Ave., Lansing, Ill. 60438. Applicants' representative: William H. Towle, Suite 1133, 127 N. Dearborn Street, Chicago, Ill. 60602. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Milk and milk products,* in bulk, in tank vehicles, from Denver, Colo., to points in Massachusetts, New Jersey, New York, Pennsylvania, and Ohio in and north of Belmont, Guernsey, Coshocton, Knox, Morrow, Marion, Hardin, Allen, and Van Wert Counties. The purpose of this filing is to eliminate the gateway of Spring Grove, Minn., and Dubuque, Iowa.

No. MC 129872 (Sub-No. E1), filed May 24, 1974. Applicant: SCHUSTER TRANSPORT, INC., Canpp, Wisconsin 54749. Applicants' representative: Bradford E. Kistler, P.O. Box 80228, Lincoln, Nebr. 68501. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Farm machinery, (1) between points in Illinois and Wisconsin, on the one hand, and, on the other, points in Nebraska and South Dakota; and (2) between points in Missouri, on the one hand, and, on the other, points in South Dakota and Minnesota. The purpose of this filing is to eliminate the gateway of LeMars, Iowa, and points within 25 miles thereof.

No. MC 134838 (Sub-No. E2), filed June 4, 1974. Applicant: SOUTHEASTERN TRANSFER & STORAGE CO., INC., Plant Atkinson Road NW., P.O. Box 39236, Bolton Station, Georgia 30318. Applicant's representative: James F. Flint, 1250 Connecticut Ave. NW., Washington, D.C. 20036. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Poles and posts,* (1) (a) from points in Bladen, Pender, and Columbus Counties, N.C., to points in that part of Virginia in and west of Bland, Wythe, and Grayson Counties, Va. (Florence, S.C.*), (b) from points in Aiken County, S.C., to points in Virginia (Augusta, Ga.*), (c) from points in Richland and Lexington Counties, S.C., to points in that part of Virginia east of Giles, Montgomery, Floyd, and Patrick Counties (Florence, S.C.*), (d) from points in Chester and Fairfield Counties, S.C., to points in that part of Virginia east of Shenandoah, Rappahannock, Culpeper, Orange, Louisa, Goochland, Cumberland, Prince Edward, and Charlotte Counties, (Florence, S.C.*), (e) from points in Chester and Fairfield, S.C., to points in Patrick, Henry, Pittsylvania, and Halifax Counties, Va. (Florence, S.C.*), and (f) from points in York County, S.C., to points in Southampton, Nansemond, Northampton, and York Counties, Va. (Florence, S.C.*); and (2) *Rough Lumber,* between points in that part of Alabama in and south of Washington, Clarke, Monroe, Butler, Crenshaw, Pike, and Barbour Counties, on the one hand, and, on the other, points in that part of Tennessee in and east of Fentress, Cumberland, Bledsoe, and Hamilton Counties (Atlanta, Ga.*). The purpose of this filing is to eliminate the gateways designated by asterisks above.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74-26478 Filed 11-11-74;8:45 am]

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

PROCUREMENT LIST 1975

Notice of Establishment

The Committee for Purchase from the Blind and Other Severely Handicapped was established by Pub. L. 92-28, June 23, 1971 (85 Stat. 77, 41 U.S.C. 46-48) (hereinafter the Act) for the purpose of directing the procurement of selected commodities and services by the Federal Government to qualified workshops serving blind and other severely handicapped individuals with the objective of increasing the employment opportunities for these individuals. The Committee is required to establish and publish in the Federal Register a procurement list of:

(1) Commodities produced by any qualified nonprofit agency for the blind or by any qualified nonprofit agency for other severely handicapped, and

(2) The services provided by any such agency

which the Committee determines are suitable for procurement by the Government pursuant to the Act.

The Act further provides that any entity of the Government which intends to procure any commodity or service on the procurement list, shall procure such commodity or service, at the price established by the Committee, from a qualified nonprofit agency for the blind or such agency for the other severely handicapped if the commodity or service is available within the normal period required by that Government entity. However, this requirement shall not apply to the procurement of any commodity which is available from Federal Prison Industries, Inc.

A Government entity is defined as any entity of the legislative branch or judicial branch, any executive agency or military department (as such agency and department are respectively defined by sections 102 and 105 of title 5, United States Code), the U.S. Postal Service, and any nonappropriated fund instrumentality under the jurisdiction of the Armed Forces.

Notice is hereby given pursuant to section 2 of the Act that Procurement List 1975 is established as set forth below. Procurement List 1975 supersedes Procurement List 1974, November 29, 1973 (38 FR 33038) and subsequent changes thereto through November 7, 1974.

By the Committee.

C. W. FLETCHER,
Executive Director.

ASSIGNMENT CODES

Central nonprofit agency:	*Code*
Goodwill Industries of America	GI
International Association of Rehabilitation Facilities	RP
Jewish Occupational Council	JO
National Easter Seal Society for Crippled Children and Adults	ES
National Industries for the Blind	IB
United Cerebral Palsy Association	CP

COMMODITIES

CLASS 1005

Sling, Adjustable, Small Arms (IB)
1005-00-167-4336

CLASS 1095

Scabbard, Bayonet-Knife (IB)
1095-00-508-0339

CLASS 1730

Chock Assembly, Wheel (IB)
Unpainted
1730-00-294-3694
1730-00-063-4095
1730-00-294-3696
1730-00-294-3695
1730-00-945-8450
Painted
1730-00-294-3694
1730-00-063-4095
1730-00-294-3696
1730-00-294-3695
1730-00-945-8450
Codit reflecting
1730-00-294-3694
1730-00-063-4095
1730-00-294-3696
1730-00-294-3695
1730-00-945-8450

CLASS 2540

Belt, Automobile, Safety (IB)
2540-00-894-1273
2540-00-894-1274
2540-00-894-1275
2540-00-894-1276

CLASS 3510

Net, Laundry (IB)
3510-00-273-9738
3510-00-273-9739

CLASS 5140

Bag, Tool (IB)
5140-00-772-4142

CLASS 5330

Packing, Preformed (Grommets) (IB)
5330-00-543-7172
5330-00-543-7173
5330-00-242-3676
5330-00-543-7174
5330-00-242-3679
5330-00-543-7175
5330-00-242-3675
5330-00-543-7176

Packing, Preformed (Grommets) (IB) (Continued)
5330-00-543-7177
5330-00-543-7178
5530-00-543-7179

CLASS 5440

Stepladder (IB)
5440-00-514-4483
5440-00-514-4485
5440-00-514-4487

Note: IB will furnish requirements for GSA Regions 8, 9, and 10 only.

CLASS 5510

Stakes, Wood (RF)
Location Stakes
5510-00-171-7701
5510-00-171-7700
5510-00-171-7734
Hub Stakes
5510-00-171-7733
5510-00-171-7732

Note: RF will furnish requirements for GSA Region 10 only.

CLASS 6230

Light, Marker, Distress (RF)
6230-00-067-5209

CLASS 6505

Ammonia Inhalant Solution, Aromatic (JO)
6505-00-106-0875

CLASS 6515

Kit, Shaving, Surgical Preparation (IB)
6515-00-676-7372

Tourniquet, Non-Pneumatic (IB)
6515-00-383-0565

CLASS 6530

Catheter, External (IB)
6530-00-290-8292

Cover, Litter (IB)
6530-00-784-1035
6530-00-784-1250

CLASS 6530 cont'd

Drape, Surgical (IB)
6530-00-299-9608
6530-00-299-9607
6530-00-299-9605
6530-00-299-9604

Strap, Webbing, Patient Securing (IB)
6530-00-784-4205

Wrapper, Sterilization (IB)
6530-00-299-9603
6530-00-719-0000
6530-00-299-9602
6530-00-719-0030
6530-00-299-9601
6530-00-719-0035
6530-00-299-9600
6530-00-719-0040
6530-00-299-9599
6530-00-719-0045
6530-00-850-8613
6530-00-197-9223
6530-00-197-9228
6530-00-197-9283
6530-00-926-4902
6530-00-926-4903
6530-00-926-4904
6530-00-926-4905

CLASS 6532

Cap, Operating, Surgical (IB)
6532-00-299-9614
6532-00-299-9613
6532-00-299-9612
6532-00-543-7378
6532-00-122-0468
6532-00-250-5041
6532-00-250-5042

Clothing, Operating Room (JO)
6532-00-261-9005
6532-00-290-1887
6532-00-172-3509
6532-00-172-3507
6532-00-172-3506
6532-00-158-9890
6532-00-009-7174

Gown, Operating, Surgical (JO)
6532-00-009-2034
6532-00-009-2035

Pillowcase, Disposable (IB)
6532-00-634-9828

Robe, Dressing, Nomex (JO)
6532-00-003-3057
6532-00-006-3482

CLASS 6532 cont'd

Smock, Man's, Dental Operating (JO)
6532-00-159-4881
6532-00-926-9964
6532-00-926-9975
6532-00-926-9976

CLASS 6540

Case, Spectacle (IB)
6540-00-735-5157

CLASS 6625

Test Set, Lead (RF)
6625-00-553-1442

CLASS 6695

Kit, Spectro Oil Analysis (IB)
6695-00-925-2982

Sampler-Spectro, Analysis Oil Kit (IB)
6695-00-758-1355

CLASS 7195

Bulletin Board (IB)
7195-00-989-2370
7195-00-989-2371
7195-00-989-2372
7195-00-990-0615
7195-00-844-9036
7195-00-844-9037
7195-00-844-9038
7195-00-843-7938

CLASS 7210

Bedspread (IB)
7210-00-728-0188
7210-00-728-0186
7210-00-728-0189
7210-00-728-0190
7210-00-728-0191
7210-00-728-0187
7210-00-728-0176
7210-00-728-0173
7210-00-728-0177
7210-00-728-0178
7210-00-728-0179
7210-00-728-0175

Bedspring (IB)
7210-00-582-7540
7210-00-582-0984
7210-00-110-8104
7210-00-582-7541
7210-00-110-8105
7210-00-559-5085
7210-00-559-6025

Cover, Mattress (IB)
7210-00-291-8419
7210-00-205-3083
7210-00-205-3082

CLASS 7210 cont'd

Cover, Mattress (IB) (Continued)
7210-00-067-7969
7210-00-998-7745
7210-00-883-8492
7210-00-883-8492 (GFM)
7210-00-171-1091
7210-00-935-6619
7210-00-230-1041
7210-00-241-9718

Mattress (IB)
Cotton-Felt
7210-00-531-6517
7210-00-205-3574 7210-00-205-3893
7210-00-205-3575 7210-00-680-0938
7210-00-205-3576 7210-00-205-3894
7210-00-139-6555
7210-00-205-3579 7210-00-205-3889
7210-00-252-9628 7210-00-716-0500
7210-00-274-3780 7210-00-274-7001
7210-00-205-3581 7210-00-205-3485
7210-00-139-6538
7210-00-531-6477 7210-00-531-6480
7210-00-205-3906 7210-00-205-3532
7210-00-205-3907 7210-00-205-3454
7210-00-253-4649 7210-00-205-3455
7210-00-253-4648 7210-00-269-9198
7210-00-205-3904 7210-00-205-3915
7210-00-205-3905 7210-00-205-3916
7210-00-205-3902 7210-00-205-3913
7210-00-205-3900 7210-00-205-3896

Innerspring
7210-00-205-3585
7210-00-205-3535
7210-00-139-6424
7210-00-716-0706
7210-00-551-5497
7210-00-139-6411
7210-00-205-3534
7210-00-205-3488
7210-00-205-3489
7210-00-205-3490
7210-00-139-6434
7210-00-139-6428
7210-00-110-8102
7210-00-110-8103

Innerspring, Plastic-Coated
7210-00-995-1093
7210-00-682-7146

Foam Rubber

	Order Quantity
7210-00-682-6503	1 to 20
	21 to 99
	100 or over
7210-00-682-6504	1 to 20
	21 to 99
	100 or over

CLASS 7210 cont'd

Mattress and Bedspring Set (IB)
Innerspring

Mattress	Bedspring
7210-00-139-6428	7210-00-582-0984
7210-00-139-6411	7210-00-559-5085
7210-00-139-6411	7210-00-582-7540
7210-00-139-6434	7210-00-559-6025
7210-00-139-6434	7210-00-582-7541

Pad, Mattress (IB)
7210-00-227-1526
7210-00-753-3042

Pillow, Bed (IB)
7210-00-619-8262
7210-00-894-1144

Pillowcase (IB)
7210-00-299-9609
7210-00-170-5478
7210-00-171-1100
7210-00-205-3101
7210-00-716-9000
7210-00-761-1472
7210-00-054-7910
7210-00-259-9005
7210-00-259-9006
7210-00-119-7356
7210-00-231-2373
7210-00-259-9004
7210-00-259-8897
7210-00-081-1380

Protector, Hospital Bed, Pillow, (IB)
7210-00-958-9118

Sheet, Bed (Crib) (IB)
7210-00-634-1288

Sheet, Crib (IB)
7210-00-717-0000

Towel, Dish (IB)
7210-00-171-1144

Washcloth (IB)
7210-00-060-6008
7210-00-082-2065

CLASS 7220

Mat, Floor (IB)
7220-00-205-3099
7220-00-224-6491
7220-00-205-3100
Standard Size
7220-00-224-6489
7220-00-205-2807
7220-00-205-2808

CLASS 7220 cont'd

Mat, Floor (IB) (Continued)
7220-00-224-6490
7220-00-224-6487
7220-00-238-8852
7220-00-224-6488
7220-00-224-6486
Special size made to order.
48 x 96" is largest size made in one piece. Larger sizes are made in sections.

7220-00-205-2805
Standard Size

7220-00-238-8854
Special size made to order.

48 x 96" is largest size made in one piece. Larger sizes are made in sections.

7220-00-205-2806

Door Mat (IB)
7220-00-165-7020

CLASS 7230

Curtain, Shower (IB)
7230-00-205-1762

CLASS 7290

Cover, Ironing Board (IB)
7290-00-130-3271

CLASS 7330

Pad, Bakery (IB)
7330-00-379-4439
Note: IB will furnish requirements for GSA Regions 5 and 8 only.

CLASS 7360

Dining Packet (IB)
7360-00-935-6407

Dining Packet, Inflight (IB)
7360-00-660-0526

CLASS 7430

Cover, Typewriter (RF)
7430-00-823-8080
7430-00-823-8081
7430-00-823-8082
7430-00-823-8083

CLASS 7430 cont'd

Cover, Typewriter (RF)(Continued)
7430-00-823-8084
7430-00-823-8085
7430-00-823-8090
7430-00-823-8086
7430-00-823-8087

CLASS 7510

Binder, Looseleaf (IB)
7510-00-281-4309
7510-00-281-4314
7510-00-582-4201
7510-00-281-4310
7510-00-281-4311
7510-00-281-4313
7510-00-281-4315
7510-00-286-7792
7510-00-286-7794
7510-00-582-5488
7510-00-286-7791
7510-00-582-3807
7510-00-782-2663
7510-00-782-2664

Binder, Note Pad (IB)
7510-00-286-6954
7510-00-145-0296
7510-00-728-8060

Calendar Pad (ES)
7510-00-405-9305 (1976)
7510-00-405-9306 (1977)

Eraser, Mechanical (IB)
7510-00-865-5292
7510-00-082-2665

Pencil (IB)
7510-00-286-5757
7510-00-281-5234
7510-00-281-5235
Note: Procurement from IB is limited to 60% of the Government's annual requirement.

Pencil Pointer (GI)
7510-00-237-4926

Portfolio (IB)
7510-00-558-1572
7510-00-616-7241
7510-00-551-9813
7510-00-558-1573
7510-00-616-7239
7510-00-558-1571
7510-00-995-4856
7510-00-995-4857
7510-00-995-4854
7510-00-995-4852

CLASS 7510 cont'd

Portfolio (IB) (Continued)
7510-00-995-4853
7510-00-995-4850

Refill, Ballpoint Pen (IB)
7510-00-543-6792
7510-00-543-6793
7510-00-754-2687
7510-00-543-6795
7510-00-754-2688
7510-00-754-2689
7510-00-754-2690
7510-00-754-2691

CLASS 7520

Arch Board File (IB)
7520-00-281-4848
7520-00-240-5498
7520-00-191-1074
7520-00-191-1075
7520-00-281-4845
7520-00-255-7081

Ballpoint Pen (IB)
7520-00-935-7136
7520-00-935-7135
7520-00-664-5198
7520-00-664-5200
7520-00-663-0059
7520-00-664-5197
7520-00-298-7045
7520-00-754-2516
7520-00-298-7046
7520-00-754-2517
7520-00-543-7149

Book Ends (IB)
7520-00-264-5479

Box, Filing (GI)
7520-00-285-3147
7520-00-285-3143

Box, Filing (RF)
7520-00-285-3144
7520-00-285-3145
7520-00-285-3146
7520-00-285-3148

Case, Maintenance and Operational Manuals (IB)
7520-00-559-9618

Clipboard, File (IB)
7520-00-281-5918
7520-00-254-4610
7520-00-240-5503
7520-00-274-5496
7520-00-281-5892

CLASS 7520 cont'd

Marker, Tube Type (IB)
7520-00-973-1059
7520-00-973-1060
7520-00-079-0285
7520-00-973-1061
7520-00-079-0286
7520-00-079-0287
7520-00-973-1062
7520-00-079-0288
7520-00-558-1501
7520-00-904-1265
7520-00-904-1268
7520-00-935-0979
7520-00-904-1267
7520-00-935-0981
7520-00-935-0982
7520-00-904-1266
7520-00-935-0980
7520-00-051-5031
7520-00-051-5035
7520-00-116-2888
7520-00-051-5036
7520-00-116-2886
7520-00-116-2889
7520-00-051-5033
7520-00-116-2887

Pencil, Mechanical (IB)
7520-00-223-6672
7520-00-223-6673
7520-00-223-6674
7520-00-268-9913
7520-00-223-6675
7520-00-223-6676
7520-00-268-9912
7520-00-577-4570
7520-00-285-5826
7520-00-285-5822
7520-00-285-5823
7520-00-205-1645
7520-00-724-5606
7520-00-285-5817
7520-00-161-5664
7520-00-164-8950
7520-00-268-9915
7520-00-285-5818
7520-00-268-9916
7520-00-634-3475

Pen Set, Desk (IB)
7520-00-106-9840

Stand, Calendar Pad (IB)
7520-00-162-6153
7520-00-139-4286
7520-00-139-4335

Trimmer, Paper (IB)
7520-00-224-7621
7520-00-282-2137

CLASS 7530

Card, Guide, File (IB)
7530-00-989-0184
7530-00-989-2425
7530-00-988-6541
7530-00-988-6542
7530-00-988-6543
7530-00-988-6549
7530-00-988-6550
7530-00-988-6551
7530-00-988-6544
7530-00-988-6545
7530-00-988-6546
7530-00-988-6547
7530-00-988-6548
7530-00-988-6515
7530-00-988-6516
7530-00-988-6520
7530-00-988-6521
7530-00-988-6517
7530-00-988-6518
7530-00-988-6522

Card Set, Guide, File (IB)
7530-00-989-0698
7530-00-989-0697
7530-00-989-0683
7530-00-082-2635
7530-00-989-0684
7530-00-989-0686
7530-00-989-0692
7530-00-989-0694
7530-00-989-0693
7530-00-989-0695

Folder, File (IB)
7530-00-889-3555
7530-00-559-4512
7530-00-281-5907
7530-00-281-5908
7530-00-926-8978
7530-00-273-9845
7530-00-926-8980

Folder Set, File (IB)
7530-00-281-5905

Pad, Writing Paper (IB)
IB will provide requirements for GSA regions shown in parentheses.

7530-00-285-3090 (1,6)
7530-00-239-8479 (1,4,5,6,7,8)
7530-00-285-3088 (1,2,3,4,6,7,8)
7530-00-285-3083 (1,5,6)
7530-00-285-3090 (GFM) (1,6)
7530-00-239-8479 (GFM) (1,4,5,6,7,8)

CLASS 7690

Decalcomania (RF)
NO SMOKING
7690-00-857-9662
7690-00-857-9574
7690-00-857-9700
7690-00-857-9613
7690-00-858-3403
7690-00-858-3365
7690-00-310-6627
7690-00-311-7272
7690-00-328-9517
7690-00-329-0205
U.S. ARMY
7690-00-857-9575
7690-00-857-9663
7690-00-857-9614
Code 600 USPSW
Code 607 USPSW
7690-00-311-7276
7690-00-329-0206
7690-00-858-3405
7690-00-858-3366
7690-00-310-9208
MAX SPEED
7690-00-857-9572
7690-00-857-9660
Code 633 USPSW
7690-00-857-9611
7690-00-857-9698
7690-00-328-9507
7690-00-329-0204
NO RIDERS
Code 635 USPSW
7690-00-857-9573
Code 636 USPSW
7690-00-857-9612
7690-00-857-9699
LIFT HERE
Code 622 L-USPSW
FOR OFFICIAL USE ONLY
7690-00-329-0538
Code 669 L-USPSW
Code 666 L-USPSW
Code 672 L-USPSW
Code 667 L-USPSW
Code 675 L-USPSW
Code 668 L-USPSW
NUMBERS AND LETTERS
7690------1-1/2"
7690------2"
7690-00-311-7128
7690------4"

CLASS 7920

Broom, Push (IB)
7920-00-267-2967

CLASS 7920 cont'd

Broom, Upright (IB)
7920-00-292-4371
7920-00-292-4375
7920-00-292-4372
7920-00-291-8305

Broom, Whisk (IB)
7920-00-240-6350

Brush, Chassis and Running Gear (IB)
7920-00-255-7536

Brush, Cleaning (IB)
7920-00-281-7009 Tampico Fibers
Polypropylene Fibers

Brush, Dusting (IB)
7920-00-178-8315

Brush, Floor Sweeping (IB)
7920-00-238-2442
7920-00-243-3407
7920-00-238-2443
7920-00-292-2363
7920-00-263-9848
7920-00-292-2367
7920-00-292-2366
7920-00-264-4638
7920-00-292-2362
7920-00-292-2365

Brush, Sanitary (IB)
7920-00-772-5800
7920-00-234-9317

Brush, Scrub (IB)
7920-00-240-7174
7920-00-951-8795
7920-00-282-2470 Tampico Fibers
Styrene Fibers
7920-00-297-1511
7920-00-324-2746
7920-00-619-9162

Brush, Shoe and Stove (IB)
7920-00-852-8170

Brush, Wire, Scratch (IB)
7920-00-291-5815
7920-00-282-9246
7920-00-246-8501
7920-00-223-7649

Brush, Wire, Stainless Steel (IB)
7920-00-958-1157

Brush Set, Shoe and Stove (IB)
7920-00-205-0200

CLASS 7920 cont'd

Cloth, Polishing (IB)
7920-00-205-1656
7920-00-205-3170
7920-00-664-0103

Handle, Mop (IB)
7920-00-205-1168
7920-00-267-1218
7920-00-205-1167
7920-00-550-9902
7920-00-550-9911
7920-00-550-9912
7920-00-998-2485
7920-00-998-2486
7920-00-851-0140
7920-00-851-0142
7920-00-246-0930
7920-00-205-1170

Handle, Paint Roller (IB)
7920-00-682-6512

Handle, Wood (IB)
7920-00-177-5106
7920-00-141-5452
7920-00-263-0328

Mop, Dusting, Cotton (IB)
7920-00-205-0481
7920-00-205-0483
7920-00-205-0484
7920-00-245-8289

Mop, Wet (IB)
7920-00-224-8726

Mop, Wet, Cellulose (IB)
Mop, Complete
7920-00-432-7117
7920-00-728-1167
Sponge Refill
7920-00-471-2876

Mophead, Dusting, Cotton (IB)
7920-00-634-0201
7920-00-267-4921
7920-00-998-2482
7920-00-998-2483
7920-00-998-2484
7920-00-851-0141
7920-00-205-0485
7920-00-205-0487
7920-00-205-0488

Mophead, Wet (IB)
7920-00-205-0425
7920-00-205-0426
7920-00-141-5549
7920-00-171-1148
7920-00-141-5550

CLASS 7920 cont'd

Mophead, Wet (IB) (Continued)
7920-00-141-5547
7920-00-141-5548
7920-00-141-5544
7920-00-141-5542
7920-00-245-8290
7920-00-141-5543
7920-00-923-0448
7920-00-141-5541
7920-00-926-5492
7920-00-926-5493
7920-00-926-5494
7920-00-926-5495
7920-00-926-5496
7920-00-926-5497
7920-00-926-5498
7920-00-926-5499
7920-00-926-5500
7920-00-926-5501
7920-00-926-5502
7920-00-926-5503
7920-00-634-0202
7920-00-634-0203

Scraper and Squeegee (IB)
7920-00-045-2556

Squeegee (RF)
7920-00-224-8339

CLASS 8105

Bag, Cloth (IB)
8105-00-282-8183

Bag, Cotton (IB)
8105-00-183-6981
8105-00-281-3924
8105-00-183-6982
8105-00-179-0089
8105-00-271-1511
8105-00-183-6985
8105-00-174-0836
8105-00-183-6989
8105-00-290-3360

Bag, Lunch (RF)
8105-00-664-3715

Bag, Motion Sickness (IB)
8105-00-835-7212

CLASS 8115

Box, Set-Up, Mailing, Dental (IB)
8115-00-511-5750

CLASS 8120

Cap, Compressed Gas Cylinder (IB)
8120-00-178-9814
8120-00-179-0076

CLASS 8345

Case, Flag, Interment (IB)
8345-00-782-3010

Flag, Signal (IB)
8345-00-935-0588
8345-00-935-0589
8345-00-935-0590
8345-00-935-0591
8345-00-935-0592
8345-00-935-0594
8345-00-935-0595
8345-00-935-0597
8345-00-935-0598
8345-00-935-0599
8345-00-935-0602
8345-00-935-0604
8345-00-935-0607
8345-00-935-0608
8345-00-935-0633
8345-00-935-1840
8345-00-935-0634
8345-00-935-0638
8345-00-935-0639
8345-00-935-0640
8345-00-926-9977
8345-00-926-9216
8345-00-926-9978
8345-00-926-6804
8345-00-926-6806
8345-00-926-9979
8345-00-926-6807
8345-00-926-6809
8345-00-926-9980
8345-00-926-9219
8345-00-935-0582
8345-00-926-9984
8345-00-926-6003
8345-00-926-9985
8345-00-935-0619
8345-00-935-1839
8345-00-935-0620
8345-00-935-0623
8345-00-935-0409
8345-00-935-0624
8345-00-935-0445
8345-00-926-6803
8345-00-935-0446
8345-00-926-6805
8345-00-935-0447
8345-00-926-9987
8345-00-935-0448
8345-00-926-6810
8345-00-926-9988
8345-00-935-0450
8345-00-935-0451
8345-00-935-0453
8345-00-926-6002
8345-00-926-6814
8345-00-935-0436
8345-00-935-0437
8345-00-935-0438

CLASS 8345 cont'd

Flag, Signal (IB) (Continued)
8345-00-935-0408
8345-00-935-0441
8345-00-935-0442
8345-00-935-0464
8345-00-935-0465
8345-00-935-0466
8345-00-935-0467
8345-00-935-0468
8345-00-935-0470
8345-00-935-0471
8345-00-935-0473
8345-00-935-0474
8345-00-935-0475
8345-00-935-0478
8345-00-935-0480
8345-00-935-0483
8345-00-935-0484
8345-00-935-0626
8345-00-935-1838
8345-00-935-0627
8345-00-935-0407
8345-00-935-0630
8345-00-935-0631

Pennant, Signal, and Special Flags (IB)
8345-00-935-0420
8345-00-935-0517
8345-00-935-4755
8345-00-825-1847
8345-00-935-3201
8345-00-935-4756
8345-00-935-0522
8345-00-914-6086
8345-00-935-4753
8345-00-935-4754
8345-00-935-0404
8345-00-935-0514
8345-00-825-1868
8345-00-935-0406
8345-00-935-0509
8345-00-926-5988
8345-00-935-0512
8345-00-921-4497
8345-00-935-3199
8345-00-825-1839
8345-00-935-0526
8345-00-914-6076
8345-00-914-6080
8345-00-914-6083
8345-00-935-0524
8345-00-926-5987
8345-00-926-5989
8345-00-935-0539
8345-00-926-5991
8345-00-825-1840
8345-00-935-0521
8345-00-914-6087
8345-00-926-6026
8345-00-935-0403

CLASS 8345 cont'd

Pennant, Signal, and Special Flags (IB)
8345-00-935-0536
8345-00-926-9210
8345-00-926-9213
8345-00-926-6028
8345-00-935-0508
8345-00-935-0519
8345-00-935-0415
8345-00-914-6085
8345-00-926-9215
8345-00-935-0411
8345-00-926-9212
8345-00-914-7411
8345-00-914-6079
8345-00-914-6082
8345-00-935-0523
8345-00-935-0417
8345-00-926-5990
8345-00-935-0421
8345-00-926-9207
8345-00-935-0542
8345-00-935-0520
8345-00-935-0492
8345-00-935-0493
8345-00-926-9214
8345-00-935-0513
8345-00-935-0490
8345-00-935-0495
8345-00-926-9208
8345-00-935-0518
8345-00-935-0511
8345-00-914-6084
8345-00-935-0405
8345-00-935-0410
8345-00-935-0525
8345-00-914-6075
8345-00-914-6077
8345-00-914-6081
8345-00-935-0419
8345-00-935-0416
8345-00-935-0537
8345-00-935-0538
8345-00-935-0540
8345-00-935-0541
8345-00-926-9211
8345-00-935-0499
8345-00-935-0500
8345-00-935-0501
8345-00-825-1818
8345-00-935-0497
8345-00-935-0504
8345-00-935-1841
8345-00-935-0418
8345-00-825-1819
8345-00-926-1551
8345-00-935-0503
8345-00-935-0534
8345-00-935-1843
8345-00-926-1548
8345-00-926-1549
8345-00-926-1552

CLASS 8410

Havelock (IB)
8410-00-782-2782

CLASS 8415

Apron (IB)
Construction Worker's
8415-00-205-3895
8415-00-257-4290
8415-00-257-4290 (GFM)
Food Handling
8415-00-255-8577
8415-00-634-0205
8415-00-051-1173

Band, Helmet, Camouflage (IB)
8415-00-576-2873

Cap, Food Handler's (IB)
Cloth furnished by Government agency.
8415-00-234-7677
8415-00-234-7678
8415-00-234-7679

Cover, Helmet (IB)
Cotton duck furnished by Government agency.
8415-00-261-6833

Traffic Safety Clothing (IB)
See also Class 8465
8415-00-177-4978
8415-00-177-4974

CLASS 8430

Slide Fastener Unit, Laced Boot (IB)
8430-00-465-1888
8430-00-465-1889
8430-00-465-1890

CLASS 8440

Neckerchief (IB)
8440-00-240-4922

Necktie (IB)
8440-00-926-6604
8440-00-926-6604 (GFM)
8440-00-926-4933
8440-00-926-4933 (GFM)
8440-00-426-1999
8440-00-426-1999 (GFM)
8440-00-216-6130
8440-00-216-6130 (GFM)
8440-00-316-2519
8440-00-316-2519 (GFM)

CLASS 8460

Kit Bag, Flyer's (IB)
8460-00-606-8366

CLASS 8465

Bag, Barrack (IB)
8465-00-530-3692
8465-00-530-3692 (GFM)

Bag, Duffel (IB)
8465-00-265-4928

Bag, Sleeping (IB)
8465-00-338-5415

Bag, Sleeping, Firefighter's (IB)
8465-00-081-0798
IB will be responsible for providing one-third of Government requirements.

Bag, Soiled Clothes (IB)
8465-00-286-5455

Bag, Soiled Clothes, Submarine (IB)
8465-00-762-7671 Nylon duck to be furnished by ordering office

Belt, M.P. (IB)
8465-00-527-8843

Case, Field, First Aid Dressing (IB)
8465-00-935-6814

Case, Maintenance Equipment, Small Arms (IB)
8465-00-781-9564

Clothes Stop (IB)
8465-00-377-5701

Cover, Water Canteen, Nylon (IB)
8465-00-860-0256
Note: Procurement from IB is limited to 30% of the Government annual requirement.

Pocket, Ammunition Magazine (IB)
8465-00-782-2239 (GFM)

Protector, Trousers, Pistol Holster (IB)
8465-00-682-6741

Suspenders, Field Pack (IB)
8465-00-577-4922
8465-00-577-4923
8465-00-823-7231

CLASS 8465 cont'd

Traffic Safety Clothing (IB)
See also Class 8415
8465-00-177-4977
8465-00-177-4975
8465-00-177-4976

CLASS 8470

Strap, Soldier's Steel Helmet,
M-1 (IB)
8470-00-030-8003

CLASS 8940

Condiment Packet (Dietetic) (IB)
8940-00-177-4958
8940-00-177-4959
8940-00-177-4960
8940-00-177-4961
8940-00-177-4962
8940-00-177-4963
8940-00-935-6416
8940-00-935-6417
8940-00-935-6420
8940-00-935-6421

CLASS 8950

Condiment Packet (IB)
8950-00-935-6408
8950-00-935-6409
8950-00-935-6410
8950-00-935-6411
8950-00-935-6412
8950-00-935-6413

CLASS 9920

Ash Receiver, Tobacco (IB)
9920-00-682-6757

MILITARY RESALE COMMODITIES

Procedures for ordering military resale commodities are contained in Section 51-5.6, Code of Federal Regulations, Title 41.

ITEM NO.	ITEM NAME
903	Broom, Parlor (IB)
904	Broom, Corn (IB)
905	Broom, Plastic Filament (IB)
906	Broom, Corn, Fan-Flare (IB)
909	Broom, Whisk (IB)
910	Broom, Whisk (IB)
911	Brush, Floor, with handle (IB)
913	Brush, Lint (IB)
915	Brush, Counter (IB)
916	Brush, Sanitary (IB)
918	Brush, Scrubbing (IB)
919	Brush, Scrubbing (IB)
920	Handle, Spring-Lever (IB)
921	Mop, Self-wringing (IB)
922	Applicator, Wax (IB)
924	Mop, Block Sponge (IB)
925	Mop, Dusting (IB)
926	Mop, Stick or Yacht, Wet (IB)
928	Mop, Cotton, Wet (IB)
929	Mop, Dusting (IB)
930	Applicator, Wax (IB)
931	Refill, Wring-Easy Mop (IB)
932	Refill, Wax Applicator (IB)
934	Refill, Sponge (IB)
936	Mophead, Viscose & Rayon (IB)
937	Mophead, Cotton, Wet (IB)
938	Refill, Wax Applicator (IB)
939	Refill, Mophead, Dusting (IB)
941	Cloth, Dish, (Pg. of 4) (IB)
942	Cloth, Dish, (Pg. of 2) (IB)
943	Cloth, Dishwashing (IB)
944	Scrubber (IB)
945	Towel, Kitchen, (Pg. of 2)(IB)
946	Potholder (IB)
949	Mitt, Oven (IB)
950	Mop, Dish & Bottle (IB)
951	Mop, Glassware and Dishware (IB)
952	Brush, Percolator (IB)
953	Scrubber (IB)
954	Scrubber, Nylon (IB)
955	Brush, Vegetable (IB)
956	Brush, Bottle (IB)
957	Brush, Dish & Pan (IB)
958	Brush, Grooming (IB)
959	Brush, Pastry & Basting (IB)
962	Cover & Pad Set, I.B. (IB)
964	Cover, Ironing Board (IB)
967	Bag, Laundry (IB)
968	Bag, Dampening (IB)
969	Cover, Ironing Board (IB)
970	Bag, Washing Machine (IB)
974	Clothesline, Plastic (IB)
980	Cloth, All-purpose, Pg. of 4 (IB)
981	Cloth, All-purpose, Pg. of 2 (IB)
982	Cloth, Polishing and Dusting, Pg. of 2 (IB)
983	Cloth, Polishing and Dusting Pg. of 4 (IB)
984	Cloth, Wash, Pg. of 2 (IB)
985	Bib, Terrycloth, Pg. of 2 (IB)
986	Cloth, Wash, Pg. of 4 (IB)
988	Opener, Pour & Store, Set of 3 (IB)
992	Mat, Floor (IB)
993	Sponge, Body (IB)
994	Swatter, Fly (IB)
995	Dustpan (IB)
997	Duster, All-purpose (IB)

SERVICES

Services are identified by industrial group number as provided in the Standard Industrial Classification Manual prepared by the Technical Committee on Industrial Classification, Statistical Policy Division, Office of Management and Budget.

SIC 0782
GROUNDS MAINTENANCE
Naval Air Station
Whidbey Island, Washington (RF)

Special Training Building & Complex
U. S. Secret Service
Beltsville, Maryland (RF)

SIC 7211
LAUNDERING OF WOOL BLANKETS
Naval Administrative Command Supply Depot
Great Lakes, Illinois (GI)

SIC 7331
MAILING SERVICE
U. S. Dept. of Agriculture
Washington, D.C. (D.C. metropolitan area only, excluding Foreign Agriculture Services, Management Services Division) (RF)

U. S. Dept. of H.E.W., for following offices only:
Office of the Secretary, Washington, D.C. (RF)
National Institutes of Health, Bethesda, Maryland (RF)
Center for Disease Control, Bethesda, Maryland (RF)
Office of Assistant Secretary for Health, Rockville, Maryland (RF)
Health Services Administration, Rockville, Maryland (RF)
Health Resources Administration, Rockville, Maryland (RF)
Food & Drug Administration, Rockville, Maryland (RF)
Alcohol, Drug Abuse & Mental Health Adminsitration, Rockville, Maryland (RF)

U. S. Coast Guard Academy
New London, Connecticut (ES)

SIC 7349
JANITORIAL/CUSTODIAL SERVICE
Boise Interagency Fire Center
Boise, Idaho (RF)

Homestead Air Force Base, Florida
Dental Clinic (Building 686) (JO)
Hospital (Building 990) (JO)

U. S. Courthouse & Federal Building
Rapid City, South Dakota (RF)

SIC 7374
KEYPUNCH AND VERIFICATION
GSA Region 2, Automated Data Management Services Division overflow requirements (JO)

SIC 7395
FILM DEVELOPING
Photographic Processing for the GSA self-Service Store #1
Denver Federal Center
Denver, Colorado (IB)

3

SIC 7699
ASSEMBLY
#Belt, Trousers (IB)

#Food Packet, Isolated Site (8 Menus) (IB)

#Food Packet, Survival, Abandon Ship (IB)
TPK-1 (Regular packing)
TPK-2 (Weather-resistant packing)

#Food Packet, Survival, General Purpose, Individual (IB)

MICROFILM STRIPPING
Defense Logistics Service Center
Battle Creek, Michigan (GI)

SEWING SERVICE
Redstone Arsenal, Alabama (ES)
(Provide specified end items produced through use of customized heavy duty sewing service)

SIC 7641
FURNITURE REHABILITATION
Houston, Texas, plus 50-mile radius (GI)

Lackland and Randolph Air Force Bases
San Antonio, Texas (GI)

Long Beach, California, plus 100-mile radius, excluding San Diego County and San Clemente (GI)

Monterey, California, plus 10-mile radius, including Fort Ord (GI)

Sacramento, California, plus 60-mile radius, excluding San Joaquin County (RF)

Seattle, Washington, plus 30-mile radius (RF)

Spokane, Washington, plus 30-mile radius from city limits (GI)

Tacoma-Auburn, Washington, plus 30-mile radius, including McChord Air Force Base and Fort Lewis (RF)

Wright-Patterson Air Force Base
Dayton, Ohio (GI)

Lockbourne Air Force Base
Columbus, Ohio (GI)

SIC 7699
MATTRESS AND BOX SPRING REHABILITATION (IB)
IB will provide requirements for mattress and box spring renovation for GSA Regions 3, 4, 5, 6, and 7 only.

REPAIR & MAINTENANCE OF OFFICE MACHINES & CALCULATORS
26 Federal Plaza
New York, New York (JO)

U. S. Customs, 6 World Trade Center
New York, New York (JO)

TYPEWRITER REPAIR & MAINTENANCE
26 Federal Plaza
New York, New York (JO)

U. S. Customs, 6 World Trade Center
New York, New York (JO)

Veterans Administration Center & Hospital
Wood, Wisconsin (JO)

Veterans Administration Regional Office
Milwaukee, Wisconsin (JO)

SIC 8231
LENDING LIBRARY SERVICE
50 States, Washington, D.C., and the Commonwealth of Puerto Rico (CP)
(Domestic portion only)

#All Government requirements.

[FR Doc.74-26225 Filed 11-11-74;8:45 am]

federal register

TUESDAY, NOVEMBER 12, 1974

WASHINGTON, D.C.

Volume 39 ■ Number 219

PART II

ENVIRONMENTAL PROTECTION AGENCY

■

1975 AND SUBSEQUENT MODEL YEAR VEHICLES

Protection of Emission Control Systems

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 80]

[FRL 275-2]

FUELS AND FUEL ADDITIVES

Protection of Emission Control Systems; 1975 and Subsequent Model Year Vehicles

The Environmental Protection Agency promulgated regulations on January 10, 1973, that provide for the general availability of one grade of unleaded gasoline by July 1, 1974 (38 FR 1254). The regulations as amended[1] also prohibit the introduction of leaded gasoline into any motor vehicle which is labeled "unleaded gasoline only" or which is equipped with a gasoline tank filler inlet designed for the introduction of unleaded gasoline. The purpose of these regulations is to protect the emission control systems that will be installed on 1975 and subsequent model year vehicles. The regulations also establish labeling and equipment requirements for pumps for the sale of unleaded gasoline.

On July 3, 1974, EPA promulgated laboratory test procedures to measure the lead and phosphorus content of gasoline. These test methods will be utilized to test samples of gasoline represented as unleaded to determine whether the fuel has been contaminated. If these tests indicate that the gasoline contains excessive lead or phosphorus, EPA will initiate proceedings to determine which party in the chain of distribution caused the violation. Civil penalties will subsequently be assessed upon those ultimately held responsible.

The necessity for monitoring unleaded gasoline results from the degradation of certain emission control devices when exposed to gasoline contaminated with lead or phosphorus. In particular, catalytic converters which will be installed on 65 percent to 80 percent of 1975 model year vehicles are sensitive to very small quantities of these elements. The catalyst oxidizes the exhaust gas pollutants of carbon monoxide and hydrocarbons to carbon dioxide and water. Lead and phosphorus form compounds which coat the active materials in the converter and create a barrier which the exhaust gases must penetrate before oxidation can occur. As this barrier increases, the efficiency of the catalyst diminishes and eventually the pollutant emissions emanating from the vehicle exceed federal standards. For this reason, unleaded gasoline containing no more than 0.05 gram of lead per gallon and 0.005 gram of phosphorus per gallon will be required for 1975 and later model year vehicles equipped with catalytic converters.

Since the deleterious effect of excess lead and phosphorus on catalyst efficiency is cumulative, it is imperative that every effort be made to avoid the contamination of gasoline represented as unleaded and, when it does occur, to prevent its introduction into catalyst-equipped cars. Thus, when contaminated unleaded gasoline is discovered through the EPA enforcement activities, it is not sufficient to merely assess penalties against those parties liable for causing the violation. In addition, EPA must be able to immediately stop the sale of contaminated unleaded gasoline as soon as it becomes apparent that contamination exists.

Section 80.22(a) prohibits retailers from selling, dispensing, or offering for sale contaminated gasoline as unleaded and from causing or allowing the introduction of leaded gasoline into a vehicle labeled "unleaded gasoline only." The purpose of the regulations proposed below is to supplement § 80.22(a) by providing a procedure that will more readily permit the enforcement of the prohibitions against the introduction of contaminated gasoline into a vehicle requiring unleaded fuel.

In order to facilitate enforcement of § 80.22(a), EPA has been working in conjunction with the American Society of Testing and Materials (ASTM) to develop a standardized field test method for measuring the lead content in gasoline dispensed from unleaded pumps. As a result, ASTM has developed a test which may be utilized by EPA fuel inspectors in the field to determine with a 99 percent or greater level of confidence whether the amount of lead in a sample of gasoline exceeds the federal maximum. EPA now proposes to adopt the ASTM test method for a field determination of lead in gasoline represented to be unleaded (hereafter referred to as the "field test").

The field test will usually be performed at the retail outlet where gasoline is stored and dispensed. The test results will be the inspector's basis for notifying the retailer that the fuel samples are in apparent violation of the federal standard of 0.05 gram of lead per gallon. Then, under the proposed regulations, sale of any gasoline from a pump served by the storage tank containing the contaminated fuel will be prohibited. By prohibiting the sale of this gasoline from an unleaded pump to any vehicle, both those requiring unleaded fuel as well as those which can operate on leaded product, an EPA inspector can verify by a meter reading that this contaminated gasoline was not dispensed through the unleaded pumps after the retailer was notified. Pumps served by the storage tank containing the contaminated gasoline would also be posted with a notice of contamination under these proposed regulations. This notice would remain posted until such time as the contamination is cured or disposal is made of the gasoline.

Prohibition of sales on the basis of an on-site field test is required in order to preclude catalyst deactivation during the period of time between detection of the apparent violation and confirmation by the laboratory test. In addition to constituting a violation under the present § 80.22(a), the regulation proposed below will add an additional paragraph which will make it a separate violation to sell contaminated gasoline from a pump subject to a notice of contamination after the retailer has been notified of the contamination.

At this time, no field test to determine the amount of phosphorus in gasoline is proposed for adoption. However, EPA will take immediate action to notify retailers whose gasoline has been found to be contaminated on the basis of the phosphorus laboratory test as well as from a lead laboratory test whether or not the field test has been performed on the sample.

The statutory authority for the prohibition discussed above is contained in section 211(c)(1)(B) of the Clean Air Act which states, in part, that the Administrator may "by regulation, control or prohibit the manufacture, introduction into commerce, offering for sale, or sale of any fuel or fuel additive for use in a motor vehicle or motor vehicle engine * * * if emission products of such fuel or fuel additive will impair to a significant degree the performance of any emission control device or system which is in general use * * *."

The sale or introduction of gasoline represented to be unleaded and contaminated with lead or phosphorus into a motor vehicle equipped with a catalyst constitutes a circumstance in which significant impairment of the catalyst will occur. Control of unleaded gasoline for this purpose was explicitly approved by the Senate Public Works Committee when it reported the Clean Air Act Amendment to the Senate. As stated in Senate Report No. 91-1196 of September 17, 1970:

> Another reason for prohibiting or controlling the sale of a fuel involves its effect on an emission control device or system. The most obvious example that came to light in hearings is the effect of leaded gasoline on a catalytic muffler. Such mufflers have been proposed to control emissions of hydrocarbons and carbon monoxide from vehicle engines. The effect of lead on catalysts can reduce the effectiveness of such mufflers by up to 90 percent. Since the use of catalytic mufflers may be essential for compliance with standards established under section 202, the Committee has adopted language permitting the Secretary to control fuels in order to facilitate the use of emission control systems.

The field test proposed by these regulations will be contained in detail in Appendix C to Subpart A, 40 CFR Part 80, Regulation of Fuels and Fuel Additives. A Subpart C is proposed covering procedures in case of contamination, as follows:

(a) A sample of gasoline from a pump dispensing gasoline represented as unleaded will be collected by the EPA inspector.

(b) The sample will usually be tested for lead content in a mobile laboratory or its equivalent in accordance with the field test described in Appendix C. A measurement by that procedure of 0.07 gram per gallon or above for one sample, for example, indicates at least a 99 percent level of confidence that the gasoline contains lead additives in excess of 0.05 gram per gallon.

[1] 38 FR 28301, October 12, 1973; 39 FR 13174, April 11, 1974; 39 FR 16123, May 7, 1974; 39 FR 16137, May 7, 1974.

(c) If the field test indicates with an adequate level of confidence that the gasoline contains lead in excess of the federal standards, contamination will be indicated. In order to assure test accuracy, it is contemplated that tests indicating contamination will be interspersed at appropriate intervals with the same test conducted on a standard fuel sample which contains a predetermined quantity of lead. If the results of the test of the standard correspond with the known amount of lead in the sample, the inspector will be certain that the testing equipment is properly calibrated, the reagents are in good working order, and he is following proper testing procedures. A second fuel sample may be taken from the unleaded pump and tested as described in (b) to increase EPA's confidence in the test results.

(d) The retailer or his employee or agent will then be notified of the contamination. This written notification will be signed by the Regional Administrator or his delegate and will inform the retailer: (i) That further sale of gasoline as leaded or unleaded from all pumps serviced by the same storage tank which serviced the pump from which the contaminated fuel sample was taken is prohibited by regulation; (ii) that the contaminated gasoline must be disposed of or otherwise brought within allowable limits of lead concentration, and for retailers required by § 80.22(b) of the regulations to make unleaded gasoline available, unleaded gasoline must be made available for sale within 6 days after the notification of the contamination; and (iii) that the retailer or his employee or agent will be notified in writing as to the procedure which will be used to remove the notice of contamination.

(e) The EPA inspector or the retailer, as directed by the Regional Administrator or his delegate, will post a notice of contamination on each pump dispensing the contaminated gasoline, in a prominent position, indicating that the gasoline is contaminated with lead or phosphorus and that further sale of gasoline from the pump is prohibited until the contaminated gasoline is disposed of or made to comply with federal specifications, and the notice is removed.

(f) The Fuel Inspector will use the second sample of gasoline for confirmatory laboratory testing.

Disposition or cure of the gasoline will be allowed in any reasonable manner, but not by sale or otherwise dispensing it from a pump which is subject to a notice of contamination. The retailer, for instance, may transfer the contaminated gasoline (but not by dispensing from a pump subject to a notice of contamination) into storage tanks containing leaded gasoline and sell the gasoline through pumps labeled for sale of leaded gasoline, or he may introduce sufficient quantities of unleaded gasoline into the storage tank containing the contaminated gasoline so as to dilute it until the mixture is in compliance with regulations. Alternatively, the retailer may return the contaminated gasoline to his supplier and replace it with unleaded. The retailer will in most cases be automatically released from the prohibition of the regulation upon the mailing to the Regional Administrator or his delegate of a notarized statement indicating the method of disposition or cure of the contaminated gasoline. However, the Regional Administrator or his authorized representative may inform the recipient of the notification that he will require confirmation by specific procedures provided for in the regulations that gasoline is uncontaminated before the release of the prohibition is authorized. He may, further, provide procedures for the retailer to obtain extensions of the 6-day time period if circumstances beyond the control of the retailer make compliance impossible.

An additional alternative available to the retailer to obtain release from the prohibition is for him to have the atomic absorption laboratory test for lead (or the laboratory test for phosphorus, as applicable) performed on the gasoline subject to the notice by the procedures prescribed in § 80.3, Appendix B (or § 80.3, Appendix A, as applicable). If the results from the test indicate that the sample contains 0.05 or less gram of lead per gallon (or 0.005 or less gram of phosphorus, as applicable), and this is uncontradicted by laboratory test results obtained by the Agency, which have been made known to the retailer, the retailer will be released from the prohibition upon submission of a notarized statement of satisfactory test results to the appropriate personnel at the EPA regional office. Documentation of the test results and that the proper procedures were followed may be required by the regional office.

The procedures outlined by the proposed regulations are necessary both to reduce the possibility of catalyst control system deactivation and to reestablish the availability of unleaded gasoline as quickly as practicable. In order to ensure that the proposed requirements are fully complied with, the proposed regulations explicitly identify actions on the part of the retailer which will constitute violations and will render him liable to the civil penalty provision provided for the § 80.5. These violations are in addition to those already existing under § 80.22. Specifically these actions are: (i) The sale, offering for sale or dispensing of contaminated gasoline from a pump subject to a notice of contamination after the retailer has been notified of the contamination and prior to the disposition or cure of the contaminated gasoline and removal of the notice of contamination; (ii) the removal of a notice of contamination prior to the time that the conditions for removal of such notice have been complied with; and, (iii) the filing with the Regional Administrator or his delegate of false or misleading information concerning a material fact in regard to the release of the prohibition on sale of the contaminated gasoline. A delay in making unleaded gasoline available, if no extension of the time period has been granted, is also a violation, but it covered under § 80.22(b).

Interested persons may submit written comments on the proposed test and regulatory provisions in triplicate to the Director, Mobile Source Enforcement Division (EG–340), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. All relevant comments postmarked on or before December 12, 1974, will be considered. Comments received will be available for public inspection during normal working hours (8:00 a.m. to 4:30 p.m.) at the Freedom of Information Center, Waterside Mall, 401 M Street, SW., Washington, D.C. 20460.

This notice of proposed rulemaking is issued under the authority of sections 211 and 301 of the Clean Air Act, as amended (42 U.S.C., 1857f–6(c), 1857g (a)).

Dated: November 1, 1974.

JOHN QUARLES,
Acting Administrator.

It is proposed to amend Part 80 of Chapter I, Title 40 of the Code of Federal Regulations as follows:

1. In § 80.2, Paragraph (o) is added as follows:

§ 80.2 Definitions.

* * * * *

(o) "Contaminated Gasoline" means leaded gasoline as defined by paragraph (f) of this section which is sold, offered for sale, or dispensed from a pump labeled for the sale of unleaded gasoline in accordance with § 80.22(e)(1) or which is otherwise represented to be unleaded gasoline.

2. Section 80.3 is revised as follows:

§ 80.3 Test methods.

(a) The lead and phosphorus content of gasoline shall be determined in accordance with test methods set forth in the Appendices to this part.

(1) The laboratory test for the determination of phosphorus content in gasoline is described in Appendix A to this part and is essentially identical to the ASTM "Method of Test for the Determination of Phosphorus in Gasoline," #D3221–73 and shall be hereafter referred to as "Lab Test for Phosphorus" (LTP).

(2) The laboratory test for the determination of lead content in gasoline is described in Appendix B and is essentially identical to the ASTM "Standard Method of Test for Lead in Gasoline by Atomic Absorption Spectrometry," #D3237–73 and shall be hereafter referred to as "Lab Test for Lead" (LTL).

(3) The field test for the determination of lead content in gasoline shall be the "Field Test for Lead" (FTL) set forth in Appendix C of this part.

§ 80.22 [Amended]

(3) Renumber § 80.22(a) as § 80.22 (a)(1).

(4) Establish new § 80.22(a)(2).

(2) Any of the following actions on the part of a retailer or his employee or

agent shall constitute a violation of this subpart and subject the retailer to penalties as set forth in § 80.5.

(i) Sale, offering for sale, or dispensing gasoline from a pump after the retailer or his employee or agent has been notified pursuant to § 80.30(b) or § 80.30 (c) that gasoline in a storage tank which serves that pump is contaminated gasoline and prior to removal of a notice of contamination in accordance with § 80.32.

(ii) Removal or defacement of a notice of contamination from a pump prior to the time that each of the conditions of § 80.32 has been fully complied with.

(iii) Filing of false or misleading information with regard to a material fact in any submission to EPA regarding disposition or cure of contaminated gasoline, or the results of any test on gasoline.

(5) The first sentence of § 80.23 is revised to refer to paragraph (a)(1) of § 80.22.

(6) A new Subpart C is added as follows:

Subpart C—Notice of Contamination

Sec.
80.30 Testing: Notice of contamination.
80.31 Disposition or cure of contaminated gasoline.
80.32 Removal of notice of contamination.

AUTHORITY: Secs. 211, 301(a), Clean Air Act, as amended, (42 U.S.C. 1857f-6(c), 1857g(a)).

Subpart C—Notice of Contamination

§ 80.30 Testing: Notice of contamination.

(a) The Regional Administrator or his authorized representative may test gasoline samples from pumps dispensing gasoline represented as unleaded.

(b) If the result of a FTL, LTL, or LTP indicates that gasoline is contaminated, the retailer or his employee or agent will be so notified in writing.

(c) A notice will be affixed by an EPA inspector or the retailer as directed by the Regional Administrator or his authorized representative to each pump serviced by the underground tank servicing the pump from which the sample of contaminated gasoline was taken, in a prominent and conspicuous location, stating: "The gasoline in this pump has been found contaminated by excess lead or phosphorus additives. Federal law prohibits sale of gasoline from this pump until the contamination is eliminated, and this notice is removed in accordance with EPA regulations (40 CFR 80.32)." *Provided, however,* That the notice need not be affixed if the retailer notifies the Regional Administrator or his authorized representative that the gasoline represented by the sample found to be contaminated has been sold or disposed of and replaced by unleaded gasoline in conformity with the requirements of this part.

§ 80.31 Disposition or cure of contaminated gasoline.

(a) Disposition or cure of contaminated gasoline shall be made in any reasonable manner, but may not be accomplished by sale as unleaded gasoline or as leaded gasoline from any pump labeled for the sale of unleaded gasoline or from a pump subject to a notice of contamination.

(b) (1) Disposition or cure of contaminated gasoline shall be accomplished within 6 days following issuance of the notice of contamination. The retailer or his employee or agent shall notify the Regional Administrator or his authorized representative by mailing information detailing the method of disposition or cure of the gasoline or mailing results of an LTL or LTP, as applicable, showing that the gasoline is not, in fact, contaminated. This information shall be contained in a notarized statement.

(2) Any retailer required by § 80.22(b) to make unleaded gasoline available shall make unleaded gasoline available within 6 days following issuance of the notice of contamination.

(3) Extension of the 6 day time period may be granted by the Regional Administrator or his authorized representative upon receipt of an application for extension from the retailer demonstrating to the satisfaction of the Regional Administrator why he cannot comply with such time period. Such application may be made verbally.

§ 80.32 Removal of notice of contamination.

(a) The provision of § 80.22(a)(2) (i) and (ii) shall no longer apply upon satisfaction of the following conditions:

(1) Disposition or cure of the contaminated gasoline has been completed or results of an LTL or LTP, as applicable, obtained by the retailer or his employee or agent demonstrate that the gasoline in question is not contaminated. If EPA has tested this gasoline by an LTL or LTP, as applicable and has determined that the gasoline is contaminated and has so notified the retailer or his employee or agent, the notice of contamination may be removed only by disposition or cure of the contaminated gasoline;

(2) A notarized statement containing information regarding disposition, cure or satisfactory test results has been sent to the Regional Administrator or his authorized representative; and

(3) Fulfillment of the following additional requirements, if any, which the Regional Administrator or his authorized representative has made known to the notice recipient at the time of notification, to provide confirmation that the cured or replacement gasoline is uncontaminated:

(i) Submission of a sample of the cured or replacement unleaded gasoline,

(ii) Submission of the results of an LTL or LTP, as applicable, obtained by the retailer or his employee or agent of a sample of the cured or replacement unleaded gasoline,

(iii) Submission of a notarized statement signed by a distributor, his employee, or agent that unleaded gasoline was delivered to cure or replace the contaminated gasoline at the retail outlet. The statement shall contain such additional information with regard to the delivered gasoline as the Regional Administrator or his authorized representative may require. These requirements will be considered fulfilled when the sample, test result, and/or statement have been sent to the Regional Administrator or his authorized representative.

7. A new Appendix C is added as follows:

FIELD TEST FOR LEAD (FTL)

APPENDIX C—FIELD TEST FOR DETERMINATION OF LEAD CONTENT IN UNLEADED GASOLINE

1. *Scope.*

1.1 This method is intended for use in the field by nontechnical people for the quantitative measurement of lead in unleaded gasoline in the range from 0.01 to 0.10 g Pb/U.S. gal. The method applies to all commercial gasolines and responds to all types of lead alkyls as well as to other organic and inorganic forms of lead.

2. *Summary of Method.*

2.1 The gasoline is treated with iodine and tetraethyl ammonium chloride in chloroform and subjected to ultraviolet light. The lead alkyls form water-soluble lead alkyl iodides, which are removed from the gasoline by shaking it with an aqueous ammonium nitrate solution. The aqueous extract is filtered into a solution of 4-(2-pyridylazo)-resorcinol disodium salt (PAR) and ammonium hydroxide. The lead is determined by measuring its PAR complex colorimetrically at 490 nm using a previously prepared calibration curve.

3. *Apparatus.*

3.1 "Ultraviolet Lamp," long wavelength, 3660 Å, placed in a standard 4-watt fluorescent fixture.

3.2 Measuring Block, aluminum, drilled to hold an 18 by 150-mm test tube, with a mark at a level equal to 5.0 ml of liquid in the test tube.

3.3 "Colorimeter, portable," capable of operating at 490 mm. Any equivalent instrument capable of measurement near 514 mm (the optimum Pb-PAR complex wavelength) may be used.

3.4 "Test tubes" borosilicate, 18 by 150 mm.

3.5 "Pipets," glass, dropping, capable of delivering 2.0 ml with a 2-ml bulb.

NOTE 1: Caution. Gasoline or any of the reagents must not come in contact with rubber. If this happens, discard the bulb and pipet and start again.

3.6 "Funnel," plastic, 2.5 inch inside diameter.

3.7 "Filter paper," ashless, 11.00 cm in diameter.

3.8 "Graduated cylinder," plastic, 10-ml.

3.9 Glass Vials, with caps, disposable, 1-oz. capacity.

4. *Reagents.*

4.1 *Purity of reagents.* Reagent grade chemical shall be used in all tests. Unless otherwise indicated, it is intended that all reagents conform to the specifications of the Committee on Analytical Reagents of the American Chemical Society, where such specifications are available. Other grades may be used, provided it is first ascertained that the reagent is of sufficiently high purity to permit its use without lessening the accuracy of the determination.

4.2 Ammonium Hydroxide (sp. gr. 0.90)—Concentrated ammonium hydroxide (NH_4OH).

4.3 Ammonium Nitrate Solution (Reagent B)—Dissolve 15.0±0.1 g of ammonium

nitrate (NH_4NO_3) in 750 ml of water in a 1-litre volumetric flash. Dilute to the mark with water.

4.4 *Chloroform ($CHCl_3$).*

4.5 *Disodium Salt of 4-(2-pyridylazo) Resorcinol Dihydrate (PAR, $2H_2O$) (Reagent C).* Dissolve 25.0±0.1 mg of PAR in 750 ml of water in a 1 liter volumetric flask. Add 10.0±0.1 ml concentrated NH_4OH. Dilute to the mark with water. Store this in brown bottles out of direct sunlight or in the dark.

NOTE 2: Caution—Low results are obtained if the mono-sodium or unsalted PAR is used in this test.

4.6 *Gasoline, Lead-Free.* Gasoline containing less than 0.001 g PB/gal.

4.7 *Iodine.*

4.8 *Iodine/TEAC/$CHCl_3$ Solution (Reagent A).* Dissolve 1.000 g±1 mg of iodine in 75 ml of chloroform ($CHCl_3$) in a 100-ml volumetric flask. Add 1.000 g±1 mg of tetraethylammonium chloride (TEAC) and mix until dissolved. Dilute to the mark with $CHCl_3$.

NOTE 3: Solutions 4.3, 4.5, and 4.8 have been found to be stable for at least 2 months.

4.9 *Lead Standards.* This method was developed using lead standards prepared by addition of known amounts of various lead alkyls to be blended unleaded gasoline to cover the range of this method.

4.11 *Tetraethylammonium Chloride Monohydrate (TEAC).*

5. *Calibration.*

5.1 Prepare a calibration curve to be used with the portable colorimeter. Such a curve should be prepared as frequently as necessary to assure that accurate test results are being obtained. Use at least four gasoline standards of known lead content that cover the range from 0.01 to 0.10 g Pb/gal. to prepare the curve.

5.1.1 Rinse the 2-ml graduated pipet three times with the gasoline sample. Add 2.0 ml of the sample to a 1-oz glass vial. Add 2.0 ml of iodine/TEAC/$CHCl_3$ solution (Reagent A) from another pipet, to the vial containing the gasoline. Tightly cap the vial.

5.1.2 Place the vial on the ultraviolet light and set the timer to give the sample a 3-minute exposure. *Caution.* Ultraviolet light can be harmful to the eyes. Do not remove any protective shields. DO NOT stare at the light.

5.1.3 After exposure, remove and uncap the vial. Measure 10.0 ml of ammonium nitrate solution (Reagent B) into the 10-ml graduated cylinder. Add this to the vial containing the sample. Recap and shake the vial vigorously for 1 minute.

5.1.4 Place a clean 18-mm test tube in the aluminum measuring block. Add 5.0 ml of PAR solution (Reagent C) to the test tube using the mark on the block such that the upper level of liquid in the tube is equal to the mark on the block. Place the plastic funnel in the test tube. Fold a piece of filter paper and place in the funnel.

5.1.5 When the two layers of liquid in the vial have separated (5.1.3), pour the entire contents of the vial inside the filter paper. The aqueous layer will remain in the filter paper. Tap the funnel to add any remaining drops of aqueous solution to the test tube. Remove the funnel and discard its contents. Swirl the test tube gently using a wrist action to obtain a uniform color.

NOTE 4: The lead-PAR complex formed in 5.1.5 must be measured within 10 minutes after starting 5.1.5.

NOTE 5: A few drops of the organic layer may come through the filter paper. This will not alter the results and can therefore be tolerated. However, if more than 10 drops do come through, refilter the aqueous layer through a fresh filter paper into a clean empty test tube.

NOTE 6: Swirling may cause air bubbles to be trapped in the liquid. Wait for these to settle before continuing. Wipe the test tube off with a clean towel to remove any fingerprints that may be present on the surface of the tube.

5.2 Zero and standardize the colorimeter as follows:

5.2.1 Set the colorimeter at 490 nm. Set zero absorbance (100 percent transmittance) with water in an 18-mm test tube. Read and record the absorbance (or percent transmittance) obtained for the standards prepared under 5.1.5.

5.2.2 Plot the absorbance values versus concentration on rectangular coordinate paper. (If percent transmittance values are used, plot them versus concentration using semilog paper, with the percent transmittance value on the log scale.) Draw a best fit line by eye. When plotting absorbance versus concentration, note that the curve does not pass through the origin.

6. *Procedure.*

6.1 Prepare the sample in accordance with the directions given in 5.1.1 through 5.1.5.

6.2 Place the test tube containing the water in the colorimeter and set the absorbance to zero, or the transmittance to 100%.

6.3 Place the sample in the colorimeter and read the absorbance or percent transmittance.

NOTE 7: *Time limit.* The PAR-lead solution obtained for the sample in 6.1 must be read within 10 minutes after the step described in 5.1.5.

6.4 From the calibration curve, find the lead content of the sample. Determine the lead content to the nearest 0.001 g/gal value.

6.4.1 Round the value obtained in 6.4 to the nearest 0.01 g/gal value. This will be the value reported.

7. *Precision.*

7.1 The following criteria should be used for judging the acceptability of results (95 percent confidence):

7.1.1 *Repeatability.* Duplicate results by the same operator should be considered suspect if they differ by more than 0.01 g/gal.

7.1.2 *Reproducibility.* The results submitted by each of two laboratories should not be considered suspect unless the results differ by more than 0.02 g/gal.

APPENDIX D—[REDESIGNATED]

2. Appendix C—List of counties with population densities less than 50 persons per square mile (excluding cities with populations equal to or greater than 50,000 persons) is changed to Appendix D.

[FR Doc.74-26153 Filed 11-11-74;8:45 am]

federal register

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Volume 39 ■ Number 219

PART III

ENVIRONMENTAL PROTECTION AGENCY

■

UNLEADED GASOLINE

Availibility: Information and Reports

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 80]

FUELS AND FUEL ADDITIVES

[FRL 275–3]

Availability of Unleaded Gasoline: Information and Reports

Regulations were promulgated on January 10, 1973 by the Environmental Protection Agency to require certain gasoline retail outlets to offer unleaded gasoline for sale in order to protect catalytic emission control systems that will be installed on a substantial number of 1975 and subsequent model year light duty motor vehicles. Those regulations obligate every owner or operator of a retail outlet at which 200,000 or more gallons of gasoline were sold during any calendar year beginning with 1971 to offer for sale one grade of unleaded gasoline after July 1, 1974. The regulations require that unleaded gasoline contain no more than 0.05 gram of lead per gallon and a maximum of 0.005 gram of phosphorus per gallon. They also impose certain labeling, sign, and equipment requirements which must be complied with by all retailers (38 FR 1254). On May 7, 1974, EPA proposed to amend the regulations to increase the availability of unleaded gasoline in rural counties (39 FR 16137). If the proposed rule is adopted, certain retail outlets located in rural counties (counties with a population density of fewer than 50 persons per square mile, excluding cities with a population of 50,000 or more persons) will be required to offer one grade of unleaded gasoline for sale if 150,000 or more gallons of gasoline were sold at that outlet during any year of the base period.

Notice is hereby given that the Agency proposes to amend the regulations by adding a provision that requires refiners, distributors, and retailers to provide certain enforcement-related information to the Administrator, the Regional Administrator, or their delegates upon request. A new § 80.7 would be added. Section 80.7(a) would require any refiner, distributor, or retailer to provide information regarding the receipt, transfer, delivery, or sale of gasoline within the previous six months to the Administrator, the Regional Administrator, or their delegates upon request. Under § 80.7(a)(1) any refiner or distributor would be required to provide (1) the business or corporate names and addresses of distributors and retail outlets to which gasoline represented to be unleaded has been transferred, sold, or delivered; (2) the quantity of gasoline involved, (3) the date of delivery, (4) the particular delivery vehicle utilized, and (5) the storage location from which the shipment originated. Section 80.7(a)(2) would require retailers to provide for each bulk shipment of gasoline represented to be unleaded (1) the business name and address of the distributor, (2) the quantity of gasoline received, and (3) the date of receipt. Section 80.7(a)(3) would require any retailer to provide information regarding the annual total gallonage of gasoline sold at each of his retail outlets during 1971 or any year thereafter.

Section 80.7(b) of the proposed regulations would require any refiner, distributor, or retailer to provide other information which the Administrator, the Regional Administrator, or their delegates may require to determine compliance with section 211(c) of the Act and the regulations thereunder. Such information shall be provided to the Administrator, the Regional Administrator, or their delegates upon request, and the section confers the right to reproduce any relevant records which have been provided. The proposed requirements are often the sole source of such information to the Administrator.

The need to control the content of lead and phosphorus in gasoline arises from the deleterious effect these elements have on the catalytic converter which will be installed on 1975 and subsequent model year cars. The catalyst oxidizes the exhaust pollutants of carbon monoxide and hydrocarbons into carbon dioxide and water. A catalyst-equipped vehicle which has been operated on more than one tankful of leaded gasoline will manifest an increase in exhaust emissions as the efficiency of the catalyst is diminished by the lead and phosphorus contaminants.

The EPA regional offices will monitor compliance with the unleaded gasoline regulations by means of a field inspection program. EPA fuels inspectors will visit gasoline retail outlets and perform an on-site inspection to determine whether unleaded gasoline is available and whether the labeling, sign, and equipment specifications of the regulations are being followed. At those retail outlets which offer unleaded gasoline for sale, the inspector will sample the product being dispensed from an unleaded gasoline pump and perform an on-site test of the sample to determine its lead content.

If unleaded gasoline is not being offered for sale by a retail outlet, EPA regional personnel may initiate follow-up action to determine whether the outlet is required to carry the product and whether a violation of the general availability provisions of the regulations has occurred. If unleaded gasoline is offered for sale but is found to be contaminated, follow-up investigatory action by the fuels inspector may be undertaken in an effort to determine the source of contamination.

In order to implement a successful field inspection program to monitor compliance with the regulations and to perform follow-up investigation, it will be necessary to be able to obtain, on occasion, information which identifies those retail outlets which are required to offer unleaded gasoline for sale under the regulations. Information of this kind (i.e., annual gasoline sales volume) is kept by many retail outlets owners and operators, and by distributors who retain such information for the retail outlets they supply.

Upon the discovery of contaminated gasoline by the inspector, successful implementation of a subsequent investigation may require that he be able to obtain information which identifies other retail outlets supplied by the same distributor who supplied the retail outlet at which the contaminated gasoline was found. Information of this nature will serve two purposes. First, it may enable a fuels inspector to detect a batch of contaminated gasoline and to prevent its further distribution and sale as unleaded gasoline. Secondly, the results of follow-up visits may eliminate or confirm certain parties in the distribution system as causes of the contamination. This information can be used to narrow the scope of inquiry at subsequent proceedings to determine liability and assess penalties, thus aiding a prompt resolution of some of the factual issues.

It is the Administrator's understanding that the information proposed to be reported is currently collected by many of the affected parties in conjunction with ordinary business and tax recordkeeping activities. Therefore, the proposed regulations are not expected to impose any new or additional recordkeeping duties and little, if any, additional burden would be imposed on the refiners, distributors, and retailers affected. The Administrator has considered imposing comprehensive periodic reporting requirements on refiners, distributors, and retailers as an alternate means of obtaining the desired information. The proposed requirement that information be made available upon request should obviate the need for such periodic reporting requirements.

Any interested person may file comments on this proposal on or before December 12, 1974. Comments should be sent in triplicate to the Director, Mobile Source Enforcement Division (EG–340), 401 M Street, SW, Washington, D.C. 20460. All relevant comments postmarked within the stipulated time will be considered. Comments received pursuant to this proposal will be available for public inspection during normal working hours (8:00 a.m. to 4:30 p.m.) at the Freedom of Information Center, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

This notice of proposed rulemaking is issued under the authority of sections 211 and 301(a) of the Clean Air Act as amended, (42 U.S.C. 1857f–6(c), 1857g (a)).

Dated: November 1, 1974.

JOHN QUARLES,
Acting Administrator.

§ 80.7 Information and reports.

(a) Any refiner, distributor or retailer shall report to the Administrator, the Regional Administrator, on their delegates upon request the following information regarding receipt, transfer, delivery, or sale of gasoline and shall allow the reproduction of such information at all reasonable times.

(1) For any bulk shipment of gasoline represented to be unleaded gasoline which is transferred, sold, or delivered within the previous six months by a refiner or a distributor to a distributor or a retail outlet, the refiner or distributor shall provide the following information as applicable:

(i) Business or corporate name and address of distributors to retail outlets to which the gasoline has been transferred, sold, or delivered.

(ii) Quantity of gasoline involved.

(iii) Date of delivery.

(iv) Identification of delivery vessel (e.g., truck number). If delivery vessel was a contract or common carrier, include the name and address of the carrier.

(v) Storage location of gasoline prior to transit via delivery vessel (e.g., location of a bulk terminal).

(2) For any bulk shipment of gasoline represented to be unleaded gasoline received by a retail outlet within the previous six months, whether by purchase or otherwise, the retailer shall provide the following information:

(i) Business or corporate name and address of the distributor.

(ii) Quantity of gasoline received.

(iii) Date of receipt.

(3) Any retailer shall, upon request, provide documentation of his annual total sales volume in gallons of gasoline for each retail outlet for each calendar year beginning with 1971.

(b) Any refiner, distributor, or retailer shall provide such other information as the Administrator, the Regional Administrator, or their delegates may reasonably require to enable him to determine whether such refiner, distributor, and retailer has acted or is acting in compliance with section 211(c) of the Act and the regulations thereunder and shall, upon the request of the Administrator, the Regional Administrator, or their delegates, produce and allow reproduction of any relevant records at all reasonable times.

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PART IV

ENVIRONMENTAL PROTECTION AGENCY

■

REGULATION OF FUELS AND FUEL ADDITIVES

Administrative Procedures For Challenging Liability and Penalty Assessment

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 80]

[FRL 275-4]

REGULATION OF FUELS AND FUEL ADDITIVES

Administrative Procedures for Challenging Liability and Penalty Assessment

Regulations were promulgated by the Environmental Protection Agency on January 10, 1973 to ensure the general availability of suitable unleaded gasoline for use in 1975 model year motor vehicles. These regulations, as amended,[1] required compliance by July 1, 1974. These regulations were recently sustained in most major respects by the United States Court of Appeals for the District of Columbia Circuit. "Amoco Oil Company v. EPA" 6 ERC 1481 (1974). Section 80.5, pursuant to authority granted in section 211 of the Clean Air Act, as amended (42 U.S.C. 1857f-6(c)), provides that violators of these regulations may be required to pay a civil penalty of $10,000 for each day of noncompliance. Furthermore, it provides that the Administrator may remit or mitigate such penalties upon application by the violators. However, those regulations are silent as to the nature of the administrative proceedings which should be utilized in the assessment and mitigation or remission of the penalties. Therefore, regulations have been developed to explain the administrative proceedings and are now being proposed for promulgation.

The regulations which follow would establish a formal administrative hearing procedure to determine both liability for penalties and their amount. The fact-finding would be done by an Administrative Law Judge assigned to EPA or by an impartial Presiding Officer not connected with enforcement activities and his decision would be subject to review by the appropriate Regional Administrator. Judicial review of the final administrative decision would be available to determine whether it was "unsupported by substantial evidence" within the meaning of 5 U.S.C. 706(2)(E). This formal hearing procedure will only be used where less formal settlement negotiations between EPA and the alleged violator had failed to produce a mutually satisfactory agreement.

It is EPA's position that under the principle of exhaustion of administrative remedies, fact-finding would always take place at the administrative level under these procedures and the record made in this fashion would be the only subject for judicial review.

These procedures, in our opinion, are authorized by the language of section 211(d). That section provides that the Administrator "shall have authority to determine the facts" whenever an application for remission or mitigation of penalties is made. This language will not have any real meaning unless it is interpreted to say that the Administrator's factual determinations are entitled to deference on judicial review. The language quoted would not add anything to the content of the statute if the Administrator's factual determinations could automatically be put aside in court and a trial de novo held.

If the Administrator's findings are to be legally entitled to this deference, however, the full range of procedural protections available to those who are the subject of administrative enforcement actions should be afforded. For this reason, the fact-finding procedure proposed is a formal hearing under the formal hearing provisions of 5 U.S.C. 556 and 557. Though in certain cases the Presiding Officer may not be an Administrative Law Judge, he will in all cases be organizationally separate from agency enforcement and air pollution control activities.

We believe that there are significant policy advantages to a reading of the language of section 211 that fixes the fact-finding function at the administrative level. These are well summarized in Recommendation 72-6 of the Administrative Conference of the United States, adopted December 17, 1972, and in the accompanying study by Professor Harvey Goldschmid of Columbia Law School, Goldschmid: "An Evaluation of the Present and Potential Use of Civil Money Penalties as a Sanction by Federal Administrative Agencies." (Report to the Committee on Compliance and Enforcement Proceedings of the Administrative Conference of the United States, November 17, 1972). A copy of this report is in the public comment file.

In that recommendation, the Administrative Conference listed seven factors which, when present, make the assessment of civil penalties through administrative hearings desirable. Six of those seven factors are present in the unleaded gasoline program. One factor—the likelihood that an impartial forum will be establfshed—will be satisfied by the formal hearing procedure called for by these regulations. Five other factors, turning basically on the facts of the particular regulatory scheme, further support the use of administrative hearings under section 211(d). These are:

1. *An anticipated large number of cases.* Approximately one-half of the 350,000 retail gasoline outlets in this country will be required to offer unleaded gasoline under the regulations in question. In addition, many of the remaining outlets are expected to voluntarily carry the product. Each of these outlets is, at least potentially, the subject of EPA regional enforcement activity. The substantial number of cases that are expected to result would place a significant burden on the district courts in each region.

2. *Speedy adjudication is important to the enforcement scheme.* The purpose of the substantive regulations to be enforced by these proposed procedures is to greatly increase the availability and the freedom from contamination of unleaded gasoline provided by the petroleum distribution system. Unleaded gasoline must be generally available to serve vehicles produced during the 1975 model year since most cars and light-duty trucks will be equipped with lead-sensitive catalytic converters to reduce exhaust emissions. These catalysts are deactivated by lead and phosphorus in gasoline. Since the timetable for the introduction of catalyst-equipped vehicles is fixed, and the number of these vehicles is expected to grow steadily from the time of introduction, it is imperative that the supply of uncontaminated unleaded gasoline be increased commensurately. To ensure this, a quick and flexible enforcement scheme is required.

3. *There is a need for specialized knowledge and Agency expertise.* EPA plans to enforce the regulations at issue here through mobile laboratories that will examine samples of gasoline from an individual station by a field test. If contamination is suspected, the sample will be returned to a laboratory for analysis by atomic absorption spectrometry for lead content and by a complex wet chemical test for phosphorus determination. These sophisticated test procedures will take some time to explain in formal proceedings. It would be far more economical to assign the fact-finding function to a few qualified Hearing Officers who would become sufficiently familiar with the technical issues that will be common to almost all cases than to assign it to perhaps scores of Federal District Judges each of whom would have to have the technical issues explained to him for the first time.

4. *Issues of law will be rare.* The basic issues of law have been settled already by the Amoco case, supra. The questions arising during enforcement proceedings can be expected to be almost exclusively issues of fact, involving whether the gasoline being sold is contaminated by lead or phosphorus and, if it is, which party should be held responsible for its shortcomings.

5. *Greater consistency of outcome is important.* Gasoline retailers are composed of many individual entrepreneurs with economic and business problems and practices that are often similar. Given the similarity of conditions that can thus be expected to arise from case to case, it is particularly important that there be coherence to the pattern of penalties assessed in individual circumstances.

To aid in ensuring that this last objective is attained, the EPA will utilize the "Guidelines for Assessment of Civil Penalties under section 211(d) of the Clean Air Act" and the "Civil Penalty Assessment Table" in the assessment of penalties. Both are published as appendices to the proposed regulations. A prospectus of the manner in which these two documents will combine to form an assessment and mitigation procedure will also be published as an appendix.

It should be noted that under the rules laid down by these documents, the maxi-

[1] 38 FR 1254, January 10, 1973 (promulgated), 38 FR 28301, October 12, 1973 (proposed rulemaking), 39 FR 16123, May 7, 1974 (promulgated), 39 FR 16137, May 7, 1974 (proposed rulemaking).

mum penalty collected will be considerably less than the statutory maximum of $10,000 per day in the overwhelming majority of cases.

Interested persons may submit written comments on these proposed regulations, in triplicate, to the Director, Mobile Source Enforcement Division (EG-340), Office of Enforcement and General Counsel, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

All relevant comments postmarked on or before December 12, 1974 will be considered. The 30-day comment period is necessary due to the introduction of catalyst-equipped vehicles in September 1974. Comments received will be available for public inspection during normal working hours (8 a.m. to 4:30 p.m.) at the Office of Public Affairs, Room 329C, Environmental Protection Agency, Waterside Mall, 401 M Street, SW., Washington, D.C. 20460.

Dated: November 1, 1974.

JOHN QUARLES,
Acting Administrator.

A new Subpart D is added as follows:

Subpart D—Rules for Assessment of Civil Penalties

GENERAL

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80.306 Filing and service of rulings, orders, and decisions.
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80.330 Final Order.

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80.331 Motion to reopen hearings, to rehear or reargue proceedings, or to reconsider a final order.
80.332 Procedure for disposition of motions.

AUTHORITY: Section 211 of the Clean Air Act, as amended (42 U.S.C. 1857 f-6c).

Subpart D—Rules for Assessment of Civil Penalties

GENERAL

§ 80.301 Scope of these rules.

(a) These rules of practice shall govern all proceedings conducted in the assessment against any person of any civil penalty pursuant to the provisions of section 211(d) of the Clean Air Act (as amended) (84 Stat. 1698; 42 U.S.C. 1857f-6c(d)).

(b) In the absence of specific provisions in these rules, and where appropriate, questions arising at any stage of the proceeding shall be resolved at the discretion of the Presiding Officer or of the Regional Administrator as appropriate pursuant to the provisions of section 80.315(c) hereof.

§ 80.302 Use of number and gender.

As used in these rules of practice, words in the singular shall be deemed to import the plural and words in the masculine gender shall be deemed to import the feminine and vice versa, as the case may require.

§ 80.303 Definitions.

As used herein:

(a) The term "Act" means the Clean Air Act, as amended (42 U.S.C. 1857 et seq.) and any other legislation supplementary thereto and amendatory thereof.

(b) The term "Presiding Officer" means an Administrative Law Judge appointed pursuant to 5 U.S.C. 3105 (see also 5 CFR Part 930, as amended by 37 FR 16787). Such term is synonymous with the term "Hearing Examiner" as used in the Act or in Title 5 of the United States Code. In cases where an Administrative Law Judge is not available to serve as Presiding Officer, the Regional Administrator may designate one of the Regional Judicial Officers to serve as Presiding Officer instead. In such cases, the hearing shall in all respects other than the nature of the Presiding Officer be conducted in conformity with the requirements of 5 U.S.C. sections 556 and 557. Where circumstances warrant, the Regional Administrator may also designate persons having the qualifications of Regional Judicial Officers to serve exclusively as Presiding Officers at the hearing level and without responsibility for appellate review.

(c) The term "Administrator" means the Administrator of the United States Environmental Protection Agency.

(d) The term "Agency" means the United States Environmental Protection Agency.

(e) The term "Complainant" means the Agency acting through any person authorized by the Regional Administrator to issue a complaint to persons alleged to be in violation of the Act. The complainant shall not be the Regional Judicial Officer or the Regional Administrator.

(f) The term "Complaint" or "Complaint and Notice of Opportunity for Hearing" means a written communication issued by the complainant to a person alleging one or more violations of specific provisions of the Act or regulations promulgated thereunder. The required contents of the complaints are set forth in § 80.314(a).

(g) The term "Consent Agreement" means any written document containing stipulations of fact, conclusions regarding material issues of law, fact, or discretion, and a specified proposed penalty acceptable to both complainant and respondent which results from any settlement conference conducted pursuant to § 80.318.

(h) The term "Default Order" means an order issued pursuant to § 80.317 disposing of a matter of controversy between respondent and the Agency upon (1) the failure of respondent to file a timely answer to the complaint, or (2) motion of the complainant to the Regional Administrator or the Presiding Officer as appropriate pursuant to § 80.315(c) because of respondents' failure to comply with an order of the Regional Administrator or Presiding Officer.

(i) The term "Final Order" means an order issued by the Regional Administrator disposing of a matter of controversy between any respondent and the Agency. No matter of controversy which reaches conclusion upon the (1) default of the respondent; (2) ratification of a consent agreement; (3) completion of a hearing; or (4) rendering of an accelerated decision pursuant to the provisions of § 80.320 may be disposed of except by a final order of the Regional Administrator.

(j) The term "Hearing" means a hearing open to the public and conducted pursuant to the provision of Chapter 5 Subchapter II of Title 5 of the United States Code and these rules of practice.

(k) The term "Hearing Clerk" means the Hearing Clerk, United States Environmental Protection Agency, Washington, D.C. 20460.

(l) The term "Initial Decision" means the decision issued by the Presiding Officer based upon the record of the hearing out of which it arises or upon the rendering of an accelerated decision pursuant to the provisions of § 80.320.

(m) The term "Party" means any person, group, organization, agency, or department that participates in a hearing as complainant, respondent, or intervenor.

(n) The term "Person" includes any individual, partnership, association, corporation, and any organized group of persons whether incorporated or not.

(o) The term "Regional Administrator" means the Administrator of any Regional Office of the Agency or any officer or employee thereof to whom authority is duly delegated, to act in his stead. Where the Regional Administrator has

authorized the Regional Judicial Officer to act, the term "Regional Administrator" shall include the "Regional Judicial Officer."

(p) The term "Regional Hearing Clerk" means an individual duly authorized by the Regional Administrator to serve as hearing clerk for a given Region. Correspondence may be addressed to the Regional Hearing Clerk, United States Environmental Protection Agency (address of Regional Office).

(q) The term "Regional Judicial Officer" means an officer or employee of the Agency duly authorized by the Regional Administrator to serve as the Judicial Officer for the region as provided in these rules of practice.

(r) The term "Respondent" means any person proceeded against in the complaint.

(s) The term "Regulations" means any regulations set forth under this Part 80.

(t) Terms defined in the Act and not explicitly defined herein are used herein with the meanings given in the Act.

§ 80.304 Powers and duties of the Regional Administrator, Regional Judicial Officer and the Presiding Officer; disqualification.

(a) *Regional Administrator.* The Regional Administrator shall exercise all powers and duties as prescribed or delegated under the Act and these rules of practice.

(b) *Regional Judicial Officer.* (1) *Office.* One or more Regional Judicial Officers may be designated by the Regional Administrator to perform functions hereinafter provided within the Region of their designation.

(2) *Qualifications.* A Regional Judicial Officer shall be an attorney who is a permanent or temporary employee of the Agency and who may perform other duties within the Agency. Such Regional Judicial Officer shall not be employed by the Region's Air and Water Programs Division, Surveillance and Analysis Division or Enforcement Division, and shall have had no connection with the preparation or presentation of evidence for any hearing in which he participates as Regional Judicial Officer. He may be a member of the staff of the Regional Counsel.

(3) *Functions.* The Regional Administrator may delegate to the Regional Judicial Officer all or part of his authority to act in a given proceeding. The Regional Administrator may separately delegate to the Regional Judicial Officer his authority to make findings of fact and draw conclusions regarding material issues of law, fact or discretion in a particular proceedings. This delegation shall not, however, preclude the Regional Judicial Officer from referring any motion or case to the Regional Administrator when such referral is appropriate.

(c) *Presiding Officer.* It shall be the duty of the Presiding Officer to conduct a fair and impartial hearing, assure that the facts are fully elicited, adjudicate all issues, and avoid delay. The Presiding Officer shall have authority to:

(1) Conduct administrative hearings held pursuant to section 211(d) of the Act and these rules of practice;

(2) Rule upon motions, requests, and offers of proof and issue all necessary orders;

(3) Administer oaths and affirmations and take affidavits;

(4) Examine witnesses, receive documentary or other evidence, and for good cause, upon motion or sua sponte, order the production of persons, documents, or other nonprivileged evidence, failing which adverse inferences may be drawn;

(5) Admit or exclude evidence;

(6) Hear oral argument on facts or law; and

(7) Do all other acts and take all measures necessary for the maintenance of order and for the efficient, fair and impartial adjudication of issues of fact and law arising in proceedings in section 211(d) of the Act.

(d) *Disqualification; withdrawal.* The Regional Administrator, Regional Judicial Officer or Presiding Officer may not perform functions provided for in these rules of practice regarding any matter in which he (1) has a financial interest; (2) has any relationship with a party or with the subject matter which would make it inappropriate for him to act; or (3) is unable for any reason to act. Any party may at any time by motion made to the Regional Administrator request that the Regional Judicial Officer, or Presiding Officer, be disqualified from the proceeding. The Regional Administrator shall then rule upon such motion. Any party may at any time by motion to the Administrator request that the Regional Administrator be disqualified from the proceeding. The Administrator shall then rule upon such motion. The Regional Administrator, Regional Judicial Officer or Presiding Officer may at any time withdraw from any proceeding in which he deems himself disqualified or unable to act for any reason.

(e) *Effect of disqualification or withdrawal.* In the event of the disqualification or withdrawal of the Regional Administrator or Regional Judicial Officer, the Administrator or Regional Administrator, respectively, shall select a qualified individual with no such conflicting interest in the matter or with no such inability to act who shall serve as may be necessary in the proceeding. In the event of disqualification or withdrawal of the Presiding Officer, a new Presiding Officer with no such conflicting interest in the matter or with no such inability to act shall likewise be assigned. This assignment shall be made by the Chief Administrative Law Judge if the original Presiding Officer was an Administrative Law Judge. If the original Presiding Officer was not an Administrative Law Judge, or if the Chief Administrative Law Judge certifies to the Regional Administrator that no Administrative Law Judge is available as a replacement, the Regional Administrator shall designate the new Presiding Officer. In all cases of disqualification or withdrawal, upon designation of a replacement, the proceeding shall continue without abatement unless otherwise ordered to facilitate the proceeding and to protect the interests of the parties.

§ 80.305 Filing and service of pleadings and documents.

(a) *Filing of pleadings and documents prior to the filing of an answer to the complaint.* Documents filed after the complaint is issued and prior to the filing of an answer to the complaint shall be served directly upon all other parties to the proceeding. The file of the complainant shall be the official file of the proceeding prior to the filing of an answer to the complaint. No file of a proceeding shall be maintained by the Regional Hearing Clerk prior to the filing of an answer to the complaint. Each document shall contain the docket number assigned pursuant to § 80.313. A certificate of service shall accompany each document served or filed.

(b) *Filing of pleadings and documents after the filing of an answer to the complaint.* (1) After the filing of an answer to the complaint, complainant shall prepare and shall file with the Regional Hearing Clerk the original and one copy of each document in the official file of the proceedings. The original shall be included in the file maintained by the Regional Hearing Clerk and the duplicate shall be forwarded by the Regional Hearing Clerk to the Presiding Officer assigned to preside over the proceeding pursuant to § 80.321. The Presiding Officer shall promptly notify the parties that he has been assigned to preside over the proceeding.

(2) Thereafter, the original of any document served in the proceeding shall be forwarded directly to the Regional Hearing Clerk by the party serving the document and a duplicate copy shall be forwarded to the Presiding Officer. Except as otherwise provided, a party filing documents with the Regional Hearing Clerk shall serve copies thereof upon all other parties at the same time. Each document filed shall contain the docket number assigned pursuant to § 80.313. A certificate of service shall accompany each document filed.

(3) When the Presiding Officer corresponds directly with the parties, the original of such correspondence shall be sent to the Regional Hearing Clerk and a duplicate copy shall be maintained by the Presiding Officer in the duplicate file. Parties who correspond directly with the Presiding Officer shall in addition to serving all other parties send a duplicate copy of all such correspondence to the Regional Hearing Clerk. A certificate of service shall accompany each document served under this subsection.

(c) *Service of Complaint.* (1) Service of the complaint may be made personally on the respondent (or his representative), or by certified mail, return receipt requested.

(2) Service upon a domestic or foreign corporation or upon a partnership or other unincorporated association which is subject to suit under a common

name shall be made by personal service or certified mail, as prescribed by paragraph (c)(1) of this section, directed to an officer, a managing or general agent, or to any other agent authorized by appointment or by Federal or State Law to receive service or process.

(3) Proof of service of the complaint shall be made by affidavit of the person making personal service, or by properly executed return receipt. Such proof of service shall be filed with complainant immediately upon completion of service.

(d) *Service of documents other than complaint.* All documents other than the complaint may be served personally or by regular mail. Copies shall be served upon all parties of a proceeding unless otherwise ordered by the Presiding Officer. Documents to be served by mail upon the complainant shall be addressed in accordance with the address set forth in the complaint. A certificate of service shall accompany each document served.

§ 80.306 Filing and service of rulings, orders, and decisions.

All rulings, orders, decisions, or other documents made or signed by the Regional Administrator, the Regional Judicial Officer or the Presiding Officer as appropriate pursuant to § 80.315(c) shall be filed with the complaint if made prior to the filing of an answer to the complaint and thereafter with the Regional Hearing Clerk except as provided in § 80.305(b)(3). Such rulings, orders, decisions or other documents shall be served directly upon all parties by the Regional Administrator, Regional Judicial Officer, or Presiding Officer as appropriate pursuant to § 80.315(c).

§ 80.307 Computation and extension of time.

(a) *Computation.* In computing any period of time prescribed or allowed in these rules of practice, except as otherwise provided, the day of the act, event, or default from which the designated period begins to run shall not be included in computing the time allowed for the filing of any document or paper. Saturdays, Sundays, and legal holidays shall be included in computing the time allowed for such filing. When such time expires on a Saturday, Sunday, or legal holiday, however, such period shall be extended to include the next following business day.

(b) *Extensions of time.* A prescribed period of time within which a party is required or permitted to do an act shall be computed from the time of service. Extensions of time for the filing of any pleading, document, or motion shall be granted sua sponte or upon timely motion of a party to the proceeding only for good cause shown and after consideration of prejudice to other parties. Such motions may be made ex parte and need not be served upon other parties. Motion for an extension of time shall be filed in advance of the date on which the pleading, document or motion is due to be filed, unless the failure of a party to make timely motion for extension of time was the result of excusable negligence. Such motions shall be decided in accordance with the provisions of § 80.315(c).

(c) *Service by mail.* Service shall be deemed complete upon mailing. However, where service of a pleading or document is by mail, three (3) days shall be added to the time allowed by these rules of the filing of a responsive pleading.

§ 80.308 Ex parte discussion of proceeding.

At no time after the issuance of the complaint shall be Regional Administrator, Regional Judicial Officer, or Presiding Officer discuss ex parte the merits of the proceeding with any person who is connected with the proceeding in an advocative, investigative, or expert capacity, or with any representative of such person. The Regional Administrator, the Regional Judicial Officer, or the Presiding Officer may discuss the merits of the case with any such person only if all parties to the proceeding, or their representatives, have been given reasonable notice and opportunity to be present. Any memorandum or other communication addressed to the Regional Administrator, Regional Judicial Officer or the Presiding Officer during the pendency of the proceeding, and relating to the merits thereof, by or on behalf of any party, shall be regarded as argument made in the proceeding and shall be served upon all other parties. Such other parties may be given an opportunity to reply thereto. Nothing in this section shall limit discussion between respondent and complainant for the purpose of exploring settlement of the case.

§ 80.309 Examination of documents filed.

(a) Subject to the provisions of law restricting the public disclosure of confidential information, any person may, during Agency business hours, inspect and copy any document filed in any proceeding. Such documents may be made available by complainant if the request to inspect is made prior to the filing of an answer to the complaint by the Regional Hearing Clerk if the request to inspect is made after the filing of an answer to the complaint.

(b) The cost of duplicating documents filed in any proceeding shall be borne by the person seeking copies of such documents filed.

PARTIES AND APPEARANCES

§ 80.310 Appearances.

(a) *Representatives.* Any party may appear in person or by counsel or other representative; a partner may appear on behalf of a partnership and an officer may appear on behalf of a corporation. Persons who appear as counsel or other representative must conform to the standards of conduct and ethics as required of practitioners before the courts of the United States.

(b) *Failure to appear.* Any party to the proceeding, who after being duly notified and without good cause being shown, fails to appear at any prehearing conference shall be subject to whatever orders or determinations the Presiding Officer may make in his discretion. The failure of a party to appear at a hearing shall constitute a waiver of the right to present evidence at such hearing. Where respondent fails to appear at a hearing, the Presiding Officer shall require the presentation by complainant of such evidence as the Presiding Officer deems necessary to develop a prima facie case against respondent. Upon conclusion of the hearing, the Presiding Officer shall cause a copy of the initial decision to be served upon respondent.

§ 80.311 Intervention.

(a) *Motion.* Any person may file a motion for leave to intervene in any proceeding conducted under these rules of practice. Such motion must set forth the grounds for the proposed intervention, the position and interest of movant in the proceedings, and the likely impact that such intervention will have on the expeditious progress of the proceeding.

(b) *When filed.* A motion for leave to intervene in a proceeding must ordinarily be filed prior to the first prehearing conference or, in the absence of a prehearing conference, prior to the initiation of correspondence pursuant to § 80.319(d), or if there is no such correspondence, prior to the setting of a time and place for a hearing. Any motion filed after that time must include in addition to the information set forth in paragraph (a) above, a statement of good cause for the failure to file in a timely manner. Such motion for leave to intervene shall be granted only upon a finding that (1) extraordinary circumstances justify the granting of the motion; and (2) the intervenor shall be bound by any agreements, arrangements and other matters previously made in the proceeding.

(c) *Disposition.* Leave to intervene will be granted only insofar as movant demonstrates that (1) there exist common questions of fact or law; (2) he may be adversely affected by a final order of the Regional Administrator; and (3) his presence in the case would not unreasonably broaden the issues as already presented, or unduly prolong or otherwise prejudice the adjudication of the rights of the original parties. If leave is granted, the movant shall thereby become a party to the proceeding. Any party, or the movant if leave is denied, may request that the ruling on any motion for leave to intervene on a proceeding conducted under these rules of practice be certified on interlocutory appeal to the Regional Administrator as provided in § 80.328.

(d) *Amicus curiae.* Persons not parties to the proceeding who wish to file briefs therein may, upon good cause shown, so move the Presiding Officer or the Regional Administrator as apropriate pursuant to § 80.315(c). Such motion for leave to file briefs shall identify the interest of the applicant and shall state the reasons why the proposed amicus

brief is desirable. In the event such motion is granted, the Presiding Officer or Regional Administrator shall issue an order setting the time for filing such brief. An amicus curiae shall be eligible to participate in any briefing following the granting of his motion, and shall be served with all brief, reply briefs, motions and orders relating to issues to be briefed.

§ 80.312 Consolidation and severance.

(a) *Consolidation.* The Regional Administrator may, by motion or sua sponte, consolidate any or all matters at issue in two or more proceedings docketed under these rules of practice in his Region where there exist common parties, common questions of fact and law, and where such consolidation would expedite or simplify consideration of the issues. Consolidation shall not prejudice any rights granted parties to proceedings conducted under these rules of practice and shall not affect the right of any party to raise issues that could have been raised if consolidation had not occurred.

(b) *Severance.* The Presiding Officer may, by motion or sua sponte, for good cause shown, order any proceedings severed with respect to some or all parties or issues.

PREHEARING PROCEDURES

§ 80.313 Issuance of complaint; docket number.

If the complainant has reason to believe that a person has violated any provision of the Act or the regulations, he may institute a proceeding for the assessment of a civil penalty by issuing a complaint. Prior to service of the complaint to respondent, complainant shall consult with the Regional Hearing Clerk for the assignment of a docket number. Thereafter, each document filed in the proceeding shall bear such assigned docket number.

§ 80.314 Contents of the complaint.

(a) *Alleged violation.* Each complaint shall include (1) specific reference to each provision of the Act or regulations which respondent is alleged to have violated; (2) the amount of the civil penalty which is proposed to be assessed; (3) a statement indicating the appropriateness of the proposed penalty; and (4) notice of respondent's right to request a hearing on any material fact contained in the complaint, or on the appropriateness of the amount of the proposed penalty.

(b) *Derivation of proposed civil penalty.* The dollar amount of the civil penalty which is proposed to be assessed in the complaint shall be determined on the basis of (1) the gravity of the violation, (2) the size of the respondent's business, and (3) respondent's history of compliance with the Act and the regulations and such penalty shall be derived by complainant in accordance with the guidelines for the Assessment of Civil Penalties published as an Appendix to these rules of practice.

(c) *Amendment of the complaint.* At any time prior to the filing of an answer to the complaint the complainant may amend the complaint as a matter of right. Respondent shall have twenty (20) additional days from the date of service of the amended complaint to file his answer. At any time after the filing of an answer to the complaint, the complaint may be amended upon motion granted by the Presiding Officer.

§ 80.315 Motions.

(a) *General.* All motions, except those made orally on the record during a hearing, shall (1) be in writing; (2) state with particularity the grounds therefor; (3) set forth the relief or order sought; and (4) be accompanied by any affidavit, certificate or other evidence relied upon. Such motions shall be served in accordance with the provisions of § 80.305.

(b) *Response to motions.* Except as otherwise provided by the Presiding Officer or the Regional Administrator, as appropriate pursuant to § 80.315(c), any party may file a response in support of or in opposition to any written motion within ten (10) days after service of such motion. This response shall be accompanied by any affidavit, certificate, or other evidence relied upon. If no response is filed within the designated period, the parties shall be deemed to have waived any objection to the granting of the motion. The Presiding Officer may set a shorter time for response, or make such other orders concerning the disposition of motions as he deems appropriate.

(c) *Decision.* The Regional Administrator shall rule upon all motions filed or made prior to the filing of an answer to the complaint or after the filing of an initial decision. The Presiding Officer shall rule upon all motions filed after filing of an answer to the complaint and prior to the filing of his initial decision. Oral argument on motions will be permitted where the Presiding Officer or the Regional Administrator deems it necessary or desirable.

§ 80.316 Answer to the complaint.

(a) *General.* Where respondent (1) contests any material fact alleged in the complaint to constitute a violation of the Act or regulations, or (2) contends that the amount of the penalty proposed in the complaint is inappropriate to such violation; or (3) contends that he is entitled to judgment as a matter of law, he shall file a written answer to the complaint with the Regional Hearing Clerk. Any such answer to the complaint must be filed with the Regional Hearing Clerk within twenty (20) days after service of the complaint. The initiation of informal conferences with the Agency pursuant to § 80.318 does not enlarge this twenty (20) day period.

(b) *Contents of the answer.* The answer shall clearly and directly admit, deny or explain each of the factual allegations contained in the complaint with regard to which respondent has any knowledge. Such answer shall state (1) the circumstances or arguments which are alleged to constitute the grounds of defense, (2) the facts which respondent intends to place at issue, and (3) whether a hearing is requested.

(c) Request for hearing upon the issues raised by the complaint and answer shall be held upon request of respondent in the answer. In addition, a hearing may be held at the discretion of the Presiding Officer, sua sponte, or upon grant of request therefor of any party other than the respondent.

(d) *Failure to answer specifically.* Failure of respondent to plead specifically to any material factual allegation contained in the complaint shall constitute a binding admission of such allegation.

(e) *Withdrawal of the complaint.* At any stage in the proceeding where on the basis of new information or evidence complainant concludes that no violation of the Act or the Regulations has been committed by respondent or that the issuance of the complaint was otherwise inappropriate, the complainant may withdraw the complaint once without prejudice.

§ 80.317 Failure to answer the complaint: Default order.

(a) *Default.* Respondent may be found to be in default upon his (1) failure to file a timely answer to the complaint; (2) failure to comply with prehearing or hearing order of the Regional Administrator or the Presiding Officer, as appropriate pursuant to § 80.315(c), or (3) failure to appear or to proceed at a prehearing conference or at a hearing. Default of respondent shall constitute an admission of all facts alleged in the complaint and a waiver of respondent's right to a hearing on such factual allegations. The penalty proposed to be assessed in the complaint shall become due and payable by respondent without further proceedings upon the issuance by the Regional Administrator of a final order issued upon default.

(b) *Procedures upon default.* (1) Where a default results from respondent's failure to file a timely answer to the complaint, complainant shall prepare and transmit to the Regional Administrator a proposed final order to be issued upon default.

(2) Where the Presiding Officer finds a default to have occurred after the filing of an answer to the complaint, the Presiding Officer may render a proposed default order to be issued against the defaulting party. For the purpose of appeal pursuant to § 80.329 such order shall be deemed to be the initial decision of the Presiding Officer.

(c) Contents of a final order issued upon default. A final order issued upon default shall include findings of fact, conclusions regarding all material issues of law, fact, or discretion, and the penalty which is therein assessed. An order issued by the Administrator upon the default of respondent shall constitute a final order in accordance with the terms of § 80.330.

§ 80.318 Informal settlement and consent agreement.

(a) *Settlement policy.* The Agency encourages settlement of the proceeding at

any time after the issuance of a complaint if such settlement is consistent with the provisions and the objectives of the Act and the Regulations. Whether or not respondent request a hearing, he may confer with complainant concerning the facts stated in the complaint or concerning the amount of the proposed civil penalty. In the event a settlement is reached, the terms of any settlement agreement shall be expressed in a written consent agreement. Conferences with complainant concerning possible settlement shall not affect the requirement to file a timely answer pursuant to § 80.316.

(b) *Consent agreement.* A written consent agreement signed by the parties shall be prepared by complainant and forwarded to the Regional Administrator whenever settlement or compromise is proposed. The consent agreement shall state that, for the purpose of this proceeding, respondent (1) admits the jurisdictional allegations of the complaint; (2) admits the facts as stipulated in the consent agreement or neither admits nor denies specific factual allegations contained in the complaint; and (3) consents to the assessment of a given proposed civil penalty. The consent agreement shall include (i) the terms of the agreement; (ii) any appropriate conclusions regarding material issues of law, fact or discretion as well as reasons therefor; and (iii) a proposed final order of the Regional Administrator.

(c) *Final order.* No settlement and no consent agreement shall be dispositive of any action pending under section 211 (d) of the Act without a final order of the Regional Administrator. In preparing such final order, the Regional Administrator may require that any or all of the parties to the settlement appear before him to answer inquiries relating to the proposed consent agreement.

§ 80.319 Prehearing conference.

(a) *Purpose of prehearing conference.* When it appears that such procedure will expedite the proceeding, the Presiding Officer, at any time prior to the commencement of the hearing, may request the parties and their counsel or other representative to appear at a conference before him to consider:

(1) The possibility of settlement of the case,

(2) The simplification of issues and stipulation of facts not in dispute;

(3) The necessity or desirability of amendments to pleadings;

(4) The possibility of obtaining admissions or stipulations of fact and of documents which will avoid unnecessary proof;

(5) The limitation of the number of expert or other witnesses;

(6) The setting of a time and place for the public hearing, given consideration to the convenience of all parties and witnesses and to the public interest; and

(7) Any other matters as may expedite the disposition of the proceeding.

(b) *Exchange of witness lists and documents.* Unless otherwise ordered by the Presiding Officer each party shall at the prehearing conference make available to each other the names of the expert and other witnesses he intends to call, together with a brief narrative summary of their expected testimony. Copies of all documents and exhibits which the party intends to introduce into evidence shall be marked for identification as ordered by the Presiding Officer. Thereafter, witnesses, documents, or exhibits may be added and narrative summaries of expected testimony amended only upon motion by a party.

(c) *Record of the prehearing conference.* No transcript of any prehearing conference shall be made unless ordered upon motion of a party or sua sponte by the Presiding Officer. The Presiding Officer shall prepare and file for the record a written summary of the action taken at such conference. Such summary shall incorporate any written stipulations or agreements made by the parties, all rulings upon matters considered at such conference, and appropriate orders containing directions to the parties. Such summary shall direct the subsequent course of the proceeding, unless modified by the Presiding Officer, on motion or sua sponte, to prevent manifest injustice.

(d) *Location of Prehearing Conference.* Unless otherwise agreed in writing by all parties, the prehearing conference shall be held in the city in which the Environmental Protection Agency Regional Office is located.

(e) *Unavailability of a prehearing conference.* Where circumstances render a prehearing conference unnecessary or impracticable, the Presiding Officer, on motion or sua sponte, may request the parties to correspond with him for the purpose of accomplishing any of the objectives set forth in this section. The Presiding Officer shall include such correspondence for the record and a written summary of any stipulation or agreements reached by means of such correspondence as provided in § 80.319(c).

§ 80.320 Accelerated decision.

(a) *General.* The Presiding Officer or the Regional Administrator as appropriate pursuant to §80.315(c) upon motion or sua sponte, may at any time render an accelerated decision in favor of complainant or respondent as to all or any portion of the proceeding, without further proceedings or upon such limited additional evidence such as affidavits as he may require, under any of the following conditions:

(1) Failure to state a claim upon which relied can be granted, or direct or collateral estoppel; or

(2) There is no genuine issue or any material fact and a party is entitled to judgment as a matter or law; or

(3) Such other and further reasons as are just.

(b) *Effect.* (1) In the event an accelerated decision is issued by the Presiding Officer, the decision shall be treated for the purpose of these rules of practice in the same manner as an initial decision of the Presiding Officer rendered after completion of a hearing under § 80.327.

(2) In the event an accelerated decision is issued by the Regional Administrator, the Regional Administrator shall proceed to issue a final order disposing of all or part of the case as may be appropriate under § 80.330.

HEARING PROCEDURE

§ 80.321 Scheduling the hearing.

(a) *Assignment of Presiding Officer.* Upon filing of an answer the Regional Hearing Clerk shall refer the proceeding to the Chief Administrative Law Judge who shall assign himself or another Administrative Law Judge as Presiding Officer, or shall certify to the appropriate Regional Administrator that no Administrative Law Judge is available to serve as Presiding Officer. Upon receipt of such a certification the Regional Administrator shall assign the Presiding Officer.

(b) *Notice of hearing.* In the event that a hearing is requested by respondent in his answer, or is ordered by the Presiding Officer pursuant to the provisions of § 80.316(c), the Presiding Officer shall, after consideration of the convenience of the parties, forthwith serve upon parties a notice of a hearing. This notice may set a time and place for such hearing and may contemplate a future prehearing conference between the parties.

(c) *Postponement of hearing.* Except for good cause shown, no request for postponement of a hearing will be granted. Such request must be received in writing at least three (3) days in advance of the time set for the hearing. In case of postponement, the hearing shall be rescheduled for a date as early as circumstances will permit.

(d) *Location of hearing.* Unless otherwise agreed in writing by all parties, the hearing shall be held in the city in which the Environmental Protection Agency Regional Office is located.

§ 80.322 Evidence.

(a) *General.* The Presiding Officer shall admit all evidence which is relevant, competent and material, and is not unduly repetitious. Relevant, competent and material evidence may be received at the hearing although such evidence may be inadmissible under the rules of evidence applicable to judicial proceedings. The weight to be given all evidence shall be determined by its reliability and probative value. In the presentation, admission, disposition, and use of evidence, the Presiding Officer shall preserve the confidentiality of trade secrets and other privileged commercial and financial information. The confidential or trade secret status of any evidence shall not, however, preclude its being introduced into evidence. The Presiding Officer may make such orders as may be necessary to consider such evidence in camera, including the preparation of a supplement initial decision to consider questions of fact and conclusions regarding material issues of law, fact or discretion which arise out of that portion of the evidence which is confidential or which includes trade secrets.

(b) *Examination of witnesses.* Except as otherwise provided in these rules of practice or by the Presiding Officer, witnesses shall be examined orally, under oath or affirmation. Parties shall have the right to cross-examine a witness who appears at the hearing provided that such cross-examination is not unduly repetitious.

(c) *Verified statements.* The Presiding Officer may admit and insert into the record as evidence in lieu of oral testimony, statements of fact or opinion prepared by a witness. The admissibility of the evidence contained in such statement shall be subject to the same rules as if such testimony were produced under oral examination. The witness shall be subject to oral cross-examination on the contents of such statements. Before any such statement is read or admitted into evidence, the witness shall deliver a copy of the statement to the Presiding Officer, the reporter, and opposing counsel. The witness presenting the statement shall swear to or affirm the statement and shall be subject to oral cross-examination upon the contents thereof. Such statements shall not be admitted when it appears to the Presiding Officer that the memory or the demeanor of the witness is of importance.

(d) *Exhibits.* Except where the Presiding Officer finds it impracticable, an original and one copy of each exhibit shall be filed with the Presiding Officer for the record and a copy shall be furnished to each party. A true copy of an exhibit may be substituted for the original.

(e) *Official notice.* Official notice may be taken of any matter judicially noticed in the Federal courts, and of other facts within the specialized knowledge and experience of the Agency. Opposing parties shall be given adequate opportunity to show that such facts are erroneously noticed.

§ 80.323 Objections and offers of proof.

(a) *Objection.* Any objection concerning the conduct of the hearing, the admission or rejection of evidence, the limitation of the scope of any examination or cross-examination, or a ruling by the Presiding Officer may be stated orally if on the record, or in writing. The party raising the objection must supply a short statement of the grounds for the objection. The transcript shall not include any argument or debate thereon, unless the Presiding Officer orders that such argument be transcribed. The ruling and the reasons given therefor by the Presiding Officer on any objection shall be a part of the transcript. An exception to each objection overruled shall be automatic and is not waived by further participation in the hearing.

(b) *Offer of proof.* Whenever evidence is excluded from the record, the party offering such evidence may make an offer of proof, which shall be included in the transcript. The offer of proof for excluded oral testimony shall consist of a brief statement describing the nature of the evidence excluded. The offer of proof for excluded documents or exhibits shall consist of the insertion in the record of the documents or exhibits excluded. Where the Regional Administrator decides that the ruling of the Presiding Officer in excluding the evidence was both erroneous and prejudicial, the hearing may be reopened to permit the taking of such evidence, or, where appropriate, the Regional Administrator may evaluate such improperly excluded evidence in preparing his final order. In the event that the Regional Administrator in the preparation of his final order relies upon any evidence excluded at the hearing by the Presiding Officer, he shall explicitly identify in the final order any such excluded evidence relied upon and his reasons therefor.

§ 80.324 Burden of presentation; burden of persuasion.

In establishing that the violation occurred as set forth in the complaint and that the civil penalty assessed is appropriate, the complainant has the burden of going forward with and of proving an affirmative case. Following the establishment of a prima facie case, respondent shall have the burden of presenting and of going forward with any affirmative defense (subject to any limitation provided for in this Part) to the allegations set forth in the complaint. Each matter of controversy shall be determined by the Presiding Officer upon a preponderance of the evidence.

§ 80.325 Filing the transcripts.

The hearing shall be transcribed verbatim. Promptly following the taking of the last evidence, the reporter shall transmit to the Regional Hearing Clerk as many copies of the transcript of testimony as are called for in the reporter's contract with the Agency, and shall transmit to the Presiding Officer the original transcript. A certificate of service shall accompany each copy of the transcript. The Regional Hearing Clerk shall promptly furnish all parties with a copy of the transcript of the hearing without cost. Any person not a party to the proceeding may receive a copy of such transcript upon payment of the costs of reproduction of such transcript.

§ 80.326 Filing of briefs, proposed findings of fact and conclusions of law, and proposed order.

Unless otherwise ordered by the Presiding Officer, each party may within twenty (20) days after service of the transcript of a hearing as provided in § 80.325 file with the Regional Hearing Clerk and serve upon all other parties proposed findings of fact, conclusions regarding material issues of law, fact or discretion, a proposed order based solely upon the record, and a brief in support thereof, together with references to relevant pages of the transcript and to relevant exhibits. Within ten (10) days thereafter each party may file a reply brief concerning matters contained in opposing briefs and containing alternative findings of fact, conclusions regarding material issues of law, fact or discretion and proposed orders. Oral argument may be had at the discretion of the Presiding Officer on motion of any party or sua sponte. The hearing shall be deemed closed at the conclusion of the briefing period.

§ 80.327 Initial decision.

(a) *Contents of initial decision.* The Presiding Officer shall as soon as practicable after the close of the hearing, evaluate the record before him, and prepare and file his initial decision with the Regional Hearing Clerk. The initial decision shall contain his findings of fact, conclusions regarding all material issues of law, fact or discretion as well as reasons therefor, a recommended civil penalty assessment, and a proposed final order assessing a civil penalty. The Regional Hearing Clerk shall, in accordance with provisions made for service in section 80.305(d) serve upon each of the parties a copy of the initial decision, and shall also serve one copy upon the Regional Administrator, and shall transmit two copies to the Hearing Clerk.

(b) *Evaluation of proposed civil penalty.* In determining the dollar amount of the recommended civil penalty assessed in the initial decision, the Presiding Officer shall consider all elements regarding the appropriateness of civil penalty set forth in section 80.330(b). In determining the appropriate penalty to be assessed, the Presiding Officer may consult and rely upon the guidelines for the Assessment of Civil penalties, published as an Appendix to these rules of practice. The Presiding Officer may at his discretion increase or decrease the assessed penalty from the amount proposed to be assessed in the complaint.

(c) *Effect of initial decision.* The initial decision of the Presiding Officer shall become the final order of the Regional Administrator within thirty (30) days after transmission thereof by the Regional Hearing Clerk to the Regional Administrator and without further proceedings unless (1) an appeal to the Regional Administrator is taken from it by a party to the proceedings, or (2) the Regional Administrator elects, sua sponte, to review the initial decision.

APPEALS AND ADMINISTRATIVE REVIEW

§ 80.328 Appeal from or review of interlocutory orders or rulings.

(a) *Request for interlocutory appeal.* Except as provided in this section, appeals to the Regional Administrator shall obtain as a matter of right only from an initial decision of the Presiding Officer. Appeals from other orders or rulings shall lie only if the Presiding Officer, upon motion of a party, certifies such orders or rulings to the Regional Administrator on appeal. Requests to the Presiding Officer for such certification shall be filed in writing within five (5) days of notice of the ruling or service of the order and shall state briefly the grounds to be relied upon on appeal.

(b) *Availability of interlocutory appeal.* The Presiding Officer may certify

a ruling for appeal to the Regional Administrator when (1) the order or ruling involves an important question of law or policy concerning which there is substantial ground for difference of opinion; and (2) either (i) an immediate appeal from the order and ruling will materially advance the ultimate termination of the proceeding, or (ii) review after the final order is issued will be inadequate or ineffective.

(c) *Decision.* If the Regional Administrator determines that certification was improvidently granted, or if he takes no action within thirty (30) days of the certification, the appeal shall be deemed dismissed. When the Presiding Officer declines to certify an order or ruling to the Regional Administrator on interlocutory appeal, it may be reviewed by the Regional Administrator only upon appeal from the initial decision, except when the Regional Administrator determines, upon motion of a party and in exceptional circumstances, that to delay review would be deleterious to the public interest. Such motion shall be made within five (5) days of service of an order of the Presiding Officer refusing to certify a ruling for interlocutory appeal to the Regional Administrator. Ordinarily, the interlocutory appeal will be decided on the basis of the submissions made by the Presiding Officer. The Regional Administrator may, however, allow further briefs and oral argument.

(d) *Stay of proceedings.* The Presiding Officer may stay the proceedings pending a decision by the Regional Administrator upon an order or ruling certified by the Presiding Officer for an interlocutory appeal, or upon the denial of such a certification by the Presiding Officer. Except in extraordinary circumstances proceedings will not be stayed. Where a stay is granted, a stay of more than thirty (30) days must be separately approved by the Regional Administrator.

§ 80.329 Appeal from or review of initial decisions.

(a) *Exceptions and request for oral argument.* (1) Within twenty (20) days after service of the Presiding Officer initial decision, any party may take exception to any matter set forth in such decision or to any adverse order or ruling to which he objected during the hearing and may appeal such exceptions to the Regional Administrator. Appeal may be made by filing exceptions in writing with the Regional Hearing Clerk. Such exceptions shall contain alternative findings of fact, conclusions regarding material issues of law, fact or discretion and a proposed order together with references to the relevant pages of the record and initial decision. A copy of each such document taking exception to the initial decision shall be served upon each other party and amicus curiae. Within the same period of time each party filing exceptions and amicus curiae shall file with the Regional Hearing Clerk and shall serve upon all parties a brief concerning each of the exceptions being appealed. The party shall include in its brief, page references to the relevant portions of the record and to the Presiding Officer's initial decision.

(2) With ten (10) days of the service of exceptions and briefs under paragraph (1) of this section, any other party or amicus curiae may file and serve a reply brief responding to exceptions or arguments raised by any party, together with references to the relevant portions of the record, initial decision, or opposing brief. Reply briefs shall not, however, raise additional exceptions.

(b) *Sua sponte review by Regional Administrator.* Whenever the Regional Administrator determines sua sponte to review an initial decision, notice of such intention shall be served upon the parties by the Regional Hearing Clerk within thirty (30) days after the date of service of the initial decision. Such notice shall include a statement of issues to be briefed by the parties and a time schedule for the service and filing of briefs.

(c) *Scope of appeal or review.* Except when the Regional Administrator determines that additional issues should be argued, the appeal of the initial decisions shall be limited to the issues raised by appellant. Where it is determined that additional issues should be argued, counsel for the parties shall be given reasonable written notice of such determination to permit preparation of adequate argument.

(d) *Argument before the Regional Administrator.* Failure of a party to request oral argument on the exceptions filed shall constitute a waiver of oral argument. The Regional Administrator may, nonetheless, sua sponte, set a matter for oral argument. The time and place for such oral argument shall be assigned after giving consideration to the convenience of the parties.

FINAL ORDER

§ 80.330 Final Order.

(a) *Contents of the final order.* As soon as practicable after service upon the Regional Administrator of the initial decision of the Presiding Officer, the Regional Administrator shall issue his final order. Such final order shall include findings of fact, conclusions regarding material issues of law, fact or discretion as well as reasons therefor, and an order assessing a civil penalty. Such final order may accept or reject all or part of the initial decision of the Presiding Officer.

(b) *Evaluation of civil penalty.* The final order of the Regional Administrator shall consider the appropriateness of the penalty proposed to be assessed in the consent agreement, (§ 80.318(b), default order (§ 80.319(b) or the initial decision (§ 80.320 or § 80.327) out of which the final order originates.

(1) In evaluation the appropriateness of such proposed penalty, the Regional Administrator must consider (i) the gravity of the violation, (ii) the size of respondent's business, (iii) respondent's history of compliance with the Act, (iv) the action taken by respondent to remedy the specific violation, (v) the effect of such proposed penalty on respondent's ability to continue in business, and (vi) in extraordinary situations where equity cannot be achieved by application of the preceding five criteria, other special circumstances as approved by the Director, Mobile Source Enforcement Division.

(2) In determining the appropriate penalty to be assessed, the Regional Administrator may consult and rely upon the guidelines for the Assessment of Civil Penalties, published as an Appendix to these rules of practice. The Regional Administrator may, at his discretion, increase or decrease the assessed penalty from the amount recommended to be assessed in the initial decision, or in the guidelines for the Assessment of Civil Penalties.

(c) *Payment of a civil penalty.* (1) Motions made pursuant to § 80.331 or § 80.332 or petitions seeking judicial review of a final order of the Regional Administrator, payment of the full amount of the civil penalty assessed in the final order shall be made within sixty (60) days of service upon respondent of the final order. Such payment shall be made by forwarding to the Regional Hearing Clerk a cashier's check or certified check in the amount of the penalty assessed in such final order. Such check shall be payable to the United States of America.

(2) Failure to make timely payment of the penalty assessed in the final order shall result in reference of the matter to the Attorney General who shall recover such amount by action in the appropriate United States District Court pursuant to section 311(d) of the Act.

MOTION TO RECONSIDER

§ 80.331 Motion to reopen hearings; to rehear or reargue proceedings; or to reconsider a final order.

(a) *Filing and service.* A motion to reopen a hearing to take further evidence, to rehear or reargue any matter related to such proceeding, or to reconsider any final order, must be made by motion to the Regional Administrator, in accordance with § 80.315(a), and filed with the Regional Hearing Clerk. Every such motion must state the specific grounds upon which relief is sought.

(b) *Motion to reopen hearing.* A motion to reopen a hearing for the purpose of taking further evidence may be filed at any time after the service of the initial decision of the Presiding Officer and prior to the issuance of the Regional Administrator's final order. Each such motion shall state briefly the nature and purpose of the evidence to be adduced, shall show that such evidence is not cumulative, and shall set forth a good reason why such evidence was not adduced at a hearing.

(c) *Motion to rehear, reargue, or reconsider.* Motions to rehear or reargue any matter related to a hearing or to reconsider the final order shall be filed within ten (10) days after the date of service of the final order. Every such motion must state specifically the matters

claimed to have been erroneously decided. The nature of any alleged error must be briefly stated.

§ 80.332 Procedure for disposition of motions.

Within ten (10) days following the service of any motion provided for in § 80.331 any other party to the proceeding may file with the Regional Hearing Clerk and serve on all other parties an answer thereto. As soon as practicable thereafter, the Regional Administrator shall announce his intent to grant or to deny such motion. Unless the Regional Administrator determines otherwise, implementation of the final order shall not be stayed pending the decision to grant or to deny the motion. The conduct of any proceeding which may be required as a result of the granting of any motion allowed in this section shall be governed by the provisions of the applicable section of these rules.

APPENDIX E—GUIDELINES FOR ASSESSMENT OF CIVIL PENALTIES UNDER SECTION 211(d) OF THE CLEAN AIR ACT (42 U.S.C. 1857f-6(c))

I. *Purpose.* Section 211(d) of the Act and § 80.5 of the regulations provide for the assessment of a civil penalty in the amount of $10,000 per day against anyone who violates the substantive provisions of section 211 or the regulations promulgated thereunder. In addition, both sections provide that the Administrator may, upon application by the violator, remit or mitigate such penalty, and that he shall have authority to determine the facts upon all such applications. Furthermore, §§ 80.314(b) and 80.330(b)(1) of the regulations provide that the following criteria form the basis for determining the amount of the penalty: (1) the gravity of the offense, (2) the respondent's history of performance under the regulations, (3) the appropriateness of the penalty in relation to the size of the respondent's business, (4) the action taken by the respondent to remedy the specific violation, (5) the respondent's inability to continue in business, and (6) in extraordinary situations where equity cannot be achieved by application of the preceding five criteria, other special circumstances may be considered.

These guidelines establish a procedure which can be utilized to determine the proper penalty in accordance with the criteria stated above. This procedure is designed to ensure that penalties of generally uniform magnitude will be assessed among regions for violations where similar circumstances prevail.

II. *Determination of an alleged violation and complaint.* Section 80.303(e) of the regulations authorizes the Regional Administrator to designate a person to act for the Agency as the complainant in cases where a violation is alleged to have occurred. This person may not be the Regional Administrator. In cases where the complainant has reason to believe that a violation has occurred, he may issue a complaint, pursuant to § 80.313 of the regulations. The basis for the complaint will be the fuel inspector's report and a chemical analysis of the gasoline according to § 80.3, Appendix A or B. The complaint must specifically state the violation or violations which the respondent is alleged to have committed, and must also describe with particularity the facts upon which such allegations are based. Sections 80.4, 80.7, 80.21, 80.22, and 80.23 of the regulations combine to specifically state twelve independent and distinguishable violations. They are described with appropriate section references in Appendix F. The allegations of the complaint shall be limited to these twelve violations.

The complaint will also state the amount of the penalty that is proposed to be assessed for every day of the continuance of the violation. This amount shall be referred to as the "unadjusted" penalty (see section III below).

Finally, the complaint will apprise the respondent of the courses of action available to him. These include the following: (1) He is entitled to a formal hearing before an administrative law judge to decide both the validity of the allegations in the complaint and the reasonableness of the proposed assessment. In order to preserve his right to a hearing, he must file an answer to the complaint within 20 days of its receipt, and must respond to the allegations of the complaint and/or state the basis for his belief that the proposed assessment is inappropriate. Failure to file an answer will result in a default, in which case the proposed penalty becomes the assessed penalty. (2) Whether or not he requests a hearing, he may request a mitigation of the proposed penalty. This will be accomplished by means of informal settlement negotiations and, in the event agreement is reached, a consent decree. The mitigated penalty amount shall be determined within the restrictions of the appropriate criteria, and it shall be referred to as the "adjusted" penalty (see section III below). If the parties agree to enter a consent decree, the adjusted penalty becomes the assessed penalty. However, if the respondent decides to proceed with a hearing in lieu of accepting the settlement offer, the unadjusted penalty remains the assessed penalty. (3) He may elect to pay the proposed penalty in lieu of requesting either a formal hearing or a settlement conference.

III. *Determination of the Amount of the Assessed Penalty.* As explained above, the assessed penalty may either be the unadjusted or the adjusted penalty, depending on the procedure which the respondent elects to follow. The unadjusted penalty is determined through a purely objective procedure which utilizes a Civil Penalty Assessment Table. The table consists of a series of schedules in which graduated penalties are set out in accordance with the applicable criteria as they are discussed below (see Section III below). There is a schedule for each of the violations stated in Appendix F.

The procedure provides for no administrative discretion in establishing the penalty initially assessed for a particular individual violation. Rather, administrative discretion was utilized during the initial determination of the appropriateness of the criteria to be used and penalty amounts to be assigned when the schedules were developed. In contrast, the adjusted penalty is arrived at through a subjective process wherein the complainant is empowered to exercise administrative discretion in reaching the conclusion that the circumstances of a particular case justify the further mitigation of the unadjusted penalty. However, this conclusion must be based on an analysis of the appropriate criteria and be justified by adequate documentation (see Section III–C below).

A. *Factors Considered in Determining the Unadjusted Penalty.* Three of the six criteria listed in the Regulations are involved in the selection of the appropriate unadjusted penalty. These are the respondent's history of performance, the size of his business, and the gravity of the offense.

1. *History of Performance.* This criterion is a direct function of the number of violations which the respondent has committed prior to the one in question. It is restricted to previous occurrences of the same type of violations that the respondent is currently being charged with. A prior history of committing other acts prohibited by the Regulations will not affect the penalty applicable in the present action. However, prior complaints which culminated in assessments against the respondent but which did not result from a formal hearing (i.e., default judgments and consent decrees) will be considered when applying the past history criterion. Penalties are graduated in each schedule on the basis of whether the respondent has had zero, one, two, or three or more previous violations.

2. *Size of the Business.* The appropriateness of a given penalty is also a function of the size of the respondent's business. When the respondent is a business entity, size is expressed in terms of the gross sales (i.e., total business revenues from all business operations) for the respondent's prior fiscal year. When the respondent is an individual, size is expressed in terms of the individual's gross income from all sources for the individual's prior fiscal year. Each schedule is graduated into four categories of size. Category I includes respondents whose gross sales (or income, as applicable) were less than $250,000. Category II encompasses the range from $250,000 to less than $1,000,000. Category III, $1,000,000 to less than $5,000,000; and Category IV includes those respondents which had gross sales (or income, as applicable) of $5,000,000 and above. (If the data for the last fiscal year are demonstrably unrepresentative of the respondent's general performance in terms of gross sales (or income, as applicable), gross sales (or income, as applicable) for the three previous years may be analyzed in determining a representative figure.

3. *Gravity of the Violation.* The criterion that primarily influenced the penalty amounts assigned to the schedule cells was the gravity of the offense. First, a determination was made as to the relative severity of the violations possible under the regulations. (They are listed in order of decreasing gravity in Appendix F.) This determination was made on the basis of the potential for the violation to cause vehicle emissions to exceed standards and the influence of the violation on the effective enforcement of the program. Then the maximum per day penalty for each schedule was assigned based on the relative rank that violation occupies in the order of severity. The assigned maximums were determined in consideration of the statutory maximum of $10,000. Finally, the penalties were assigned to the individual cells of each schedule by graduation down from the maximum as size of business, gravity of violation, and number of past violations decreased.

Special notice should be taken of the manner in which the gravity of the violation criterion affects the selection of the unadjusted penalty for two particular violations. Both violations involve the sale, offer for sale, dispensing, or transfer of contaminated unleaded gasoline. Unadjusted penalties for these violations are shown in schedules 2 and 3. Like the other ten violations, the gravity of the violation influences both the maximum penalties assigned to the schedules and the rate at which they are reduced within each schedule. However, unlike the other ten, these two violations are sub-categorized within each cell. That is, the severity of these particular violations is also a function of the lead or phosphorus content of the gasoline found to be in violation of the standard. Thus, these two schedules also reflect this added aspect of the violations. This is done by stating the penalty of each schedule cell as a range rather than as a single amount. If a violation involves gasoline which only

slightly exceeds the maximum federal standard of 0.05 grams of lead per gallon or 0.005 grams of phosphorus per gallon, the low end of the range becomes the unadjusted penalty. If the lead or phosphorus content substantially exceeds the standard, however, the high end of the range is applied.

B. *Using the Civil Penalty Assessment Schedule.* The seven schedules that correspond to the twelve violations of Appendix F are shown in Appendix G. The history-of-violations criterion for each is listed on the vertical axis and increases in number of violations from bottom to top. The size-of-the-business criterion is listed along the horizontal axis and increases in category number from left to right. The appropriate unadjusted penalty dollar amount for each possible violation is found by first selecting the proper schedule and then locating the cell which corresponds to the respondent's violation history and business size. In addition, if violations 2 or 3 are involved, the proper point within the range stated in the cell must be determined. This monetary figure would be multiplied by the number of days over which the violation continued.

C. *Adjusting the Unadjusted Penalty.* The procedures outlined in section II place the burden on the respondent to justify any further mitigation of the proposed penalty. The procedure for establishing the unadjusted penalty provides for a measure of mitigation initially in light of the statutory provision for a $10,000 penalty per violation. However, if the respondent believes that he should not have been charged with liability or the circumstances of his case justify a further mitigation of the penalty, the procedures empower him to request a settlement conference. Then the complainant may further reduce the penalty if he feels the circumstances justify it. However, he is limited to the restrictions of the criteria outlined below.

1. *Action Taken to Remedy the Violation.* This is the fourth criterion listed in § 80.330 (b) (1) of the regulations. It can be analyzed in terms of the respondent's good faith in reacting as quickly as possible to remedy the conditions which caused the violation and to initiate action to ensure that similar violations will be less apt to occur in the future. The complainant may, at his discretion, mitigate the unadjusted penalty upon a showing by the respondent of the remedial action taken to an amount he determines is reasonable for businesses in Categories I and II but may only reduce the maximum to 75 percent of the unadjusted penalty for businesses in Categories III and IV. The burden of persuasion rests with the respondent, and the complainant shall base the amount of mitigation allowed upon the degree to which he is persuaded of the respondent's good faith.

2. *Inability to Continue in Business.* An unlimited adjustment may be made in the unadjusted penalty upon consideration of the effect that the proposed penalty will have upon the respondent's ability to continue in business. This consideration is merely the logical extreme of the criterion that relates the penalty to the size of the business for it is questionable if a penalty is ever apropriate, regardless of the previous year's gross sales (or income, as applicable), if a business must be terminated because of its current financial status. Again, the burden of persuasion rests with the respondent, and any such showing must include total business revenues (or income, as applicable) from all sources. A determination of such adverse effects shall be made only upon an analysis by the complainant of a certified financial report of the business or its equivalent. Such reports shall be provided to the Agency at the respondent's expense. These documents must be founded upon generally recognized accounting procedures.

3. *Special Circumstances.* Should a case arise in which the complainant determines that equity cannot be served by adjusting the penalty within the limitations described above, he may petition the Director of the Mobile Source Enforcement Division to make an extraordinary adjustment in the proposed penalty. Such petition should state with particularly (1) the facts of the case, (2) why the penalty provided by the Assessment Table would be inequitable, (3) why the criteria for adjusting the unadjusted penalty are insufficient, and (4) how the public interest would be protected by such an extraordinary adjustment in the penalty.

D. *Record of the Settlement Conference.* A summary of the settlement conference, in the form of a memorandum, shall be filed by the complainant, and shall become part of the record of the case that will be retained by the complainant. It shall state the nature of the evidence which the respondent presented in support of his request for a penalty adjustment and shall also describe in detail the evidence and the conclusions upon which the complainant relied in either granting or rejecting the request for adjustment. Copies of all relevant documents submitted by the respondent shall be attached to the summary.

APPENDIX F.—*Possible violations*

Schedule No.	Section reference	Description
1	80.22(a)(1) (80.23(d) liability).	Introduction of leaded gasoline from a leaded pump into a vehicle requiring unleaded gasoline.
1	80.22(a)(2)(i)	Sale of gasoline from a pump subject to a notice of contamination.
1	80.22(a)(2)(ii)	Unauthorized removal of a notice of contamination.
1	80.22(a)(2)(iii)	Filing of false or misleading information to EPA concerning disposition or cure of contaminated gasoline.
1	80.4	Refusal of retailer or distributor to permit entry, inspection, sampling, or testing.
2	80.22(a)(1) (80.23 (a), (b), and (c) liability).	Dispensing or offering for sale gasoline represented to be unleaded which does not conform to the lead or phosphorus standards (contamination).
3	80.21	Sale or transfer of leaded gasoline represented to be unleaded to a distributor or retailer.
4	80.22(b)	Failure to offer for sale a grade of unleaded gasoline.
4	80.7	Failure to provide information upon request of the Regional Administrator or his authorized delegate.
5	80.22(f)	Failure to equip gasoline pumps with proper nozzles.
6	80.22(e)	Failure to properly label gasoline pumps.
7	80.22(d)	Failure to post the required sign at a retail outlet.

APPENDIX G.—Civil penalty assessment table

Schedule No.	Number of previous violations	I	II	III	IV
1	3 or more	7,000	10,000	10,000	10,000
	2	4,000	6,000	8,000	9,000
	1	2,000	4,000	7,000	8,000
	0	1,000	2,000	6,000	7,000
2	3 or more	6,000-7,000	8,000-10,000	9,000-10,000	9,000-10,000
	2	3,000-4,000	5,000- 6,000	7,000- 8,000	8,000- 9,000
	1	1,000-2,000	3,000- 4,000	6,000- 7,000	7,000- 8,000
	0	500-1,000	1,000- 2,000	5,000- 6,000	6,000- 7,000
3	3 or more	5,000-6,000	7,000- 8,000	9,000-10,000	9,000-10,000
	2	2,000-3,000	4,000- 5,000	6,000- 7,000	7,000- 8,000
	1	800-1,500	2,000 3,000	5,000- 6,000	6,000- 7,000
	0	400- 800	800- 1,500	4,000- 5,000	5,000- 6,000
4	3 or more	5,000	7,000	9,000	9,000
	2	2,000	3,000	6,000	7,000
	1	1,000	2,000	4,000	5,000
	0	500	1,000	2,000	3,000
5	3 or more	1,500	2,000	2,500	3,000
	2	1,150	1,500	2,000	2,500
	1	800	1,100	1,500	2,000
	0	500	800	1,000	1,500
6	3 or more	1,400	1,600	1,800	2,000
	2	1,050	1,250	1,450	1,650
	1	700	900	1,100	1,300
	0	450	600	800	950
7	3 or more	700	800	900	1,000
	2	600	700	800	900
	1	500	600	700	800
	0	400	500	600	700

NOTE.—The dollar amount in each cell should be multiplied by the number of days over which the violation continued.

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NOTICE TO FEDERAL REGISTER READERS

As part of its continuing program to improve the quality of the daily FEDERAL REGISTER and CODE OF FEDERAL REGULATIONS, the Office of the Federal Register is soliciting the views of interested persons on the effectiveness of individual Federal Register documents and on regulations contained in the CODE OF FEDERAL REGULATIONS.

Our goal is twofold:

First—to make each document published in the FEDERAL REGISTER easily understandable, thus making compliance easier, more efficient, and less costly; and

Second—to identify and correct any existing Federal regulations which are obsolete, unnecessarily wordy, or unclearly stated.

We believe this effort is consistent with the objectives stated by President Ford in his October 8th speech on the economy in which he announced "a joint effort by the Congress, the executive branch and the private sector to identify and eliminate existing Federal rules and regulations that increase costs to the consumer without any good reason in today's economic climate."

The Office of the Federal Register welcomes your comments and suggestions. The survey blank below is provided for that purpose. All comments received will be maintained in a public docket and will be available for inspection in the Office of the Federal Register to any interested persons or agencies. Comments which point out the need for substantive changes in existing regulations also will be forwarded to the responsible agency.

- -

I. For the following reasons I found it difficult to understand the document from ____________ (agency) in column ______, page ______ of the ____________ (date) issue of the FEDERAL REGISTER:

☐ only technical language was used; ☐ document contained long and difficult sentences; ☐ preamble did not contain a clear and concise explanation of the document's purpose; ☐ other (explain) ____________________

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A. The document from ____________ (agency) in column ______, page ______ of the ____________ (date) issue of the FEDERAL REGISTER, or

B. Section(s) ______ of Title ______ of the CODE OF FEDERAL REGULATIONS

impose(s) an: ☐ unnecessary; ☐ unreasonable; ☐ impractical; or ☐ obsolete requirement on those persons subject to that regulation.

My reasons are: ____________________

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III. (Optional) I suggest that the provision(s) mentioned above be rewritten as follows:

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